

5/19/99

MEMORANDUM OF UNDERSTANDING

1. The City of Newton, acting through its Conservation Commission, and the individuals listed below, being all members of a Massachusetts corporation known as The Friends of Cabot Woods, Incorporated, agree: (i) to withdraw the appeals docketed at Nos. 98-161 and 98-164 (the "Appeals") of the superseding order of conditions dated November 30, 1998 (the "Order") issued by the Massachusetts Department of Environmental Protection ("DEP") to the Trustees of Boston College ("BC") allowing BC to construct a regulation-sized soccer field (the "Regulation Field"), a practice field, and related improvements (the "Work") and (ii) to consent to approval by DEP of the work described below pursuant to condition 14 of the Order, all as may be necessary to permit completion of the Work in accordance with the applicable requirements of the Massachusetts Wetlands Protection Act, M.G.L. c.131, § 40 (the "Act") and implementing regulations.
2. The pathway between the BC parking area and the Regulation Field will be constructed of crushed stone. Boston College will direct soccer game patrons to park for games in the parking lot adjacent to the Quonset Hut, or other parking lots on the Newton Campus. This will be the only standard access to the Regulation Field. Sufficient campus personnel and/or signage will be employed to direct patrons to the parking lot and to direct patrons not to park in Colby Street, or in or along Rochester Road, and Westchester Road.

The emergency vehicle pathway at the intersection of Colby Street, Rochester Road, and Westchester Road will be limited to emergency vehicles and infrequently used oversized equipment. Standard maintenance vehicles will use the regular entrance.

If parking and traffic issues develop in the course of events, the Boston College/City Liaison Committee will discuss options for resolution. Nothing will restrict the right of the City of Newton to regulate traffic, parking and other safety issues in accordance with applicable law.

- 3A. BC will use a sufficient number of zones in its irrigation system to ensure that the water pressure in the neighborhood will not be negatively affected. BC will begin with the zones farthest from the abutting residences and be mindful of the noise. If the timing of irrigation becomes an issue, BC will meet with the Liaison Committee.

- 3B. Should BC install a well for irrigation purposes, BC will provide documentation that there are no negative effects on the wetlands in Edmands Park.

BC will continue using its Integrated Pest Management (IPM) approach regarding the application of chemicals to the soccer field and will submit its IPM plan for information to the Liaison Committee.

In the event of chemical pesticide application, BC will notify the Newton Conservation Commission (Environmental Planner), the Liaison Committee and the Cabot School (when in session) and post signage as far in advance as possible.

4. The initial construction phase of the Regulation Field does not include lighting. Prior to the installation of lighting, notice will be given to the Liaison Committee. Lighting will be placed in such a way as to minimize the impact on the neighborhood and Edmands Park to the greatest extent practicable consistent with good safety practices, and to comply with applicable legal requirements.

The construction by Boston College of the separate playing field beyond the Quonset Hut will include the installation of lighting. Lighting will be placed in such a way as to minimize the impact on the neighborhood and Edmands Park to the greatest extent practicable consistent with good safety practices and to comply with applicable legal requirements.

- 5 A. Boston College intends to place temporary grandstands on the site. Boston College will discuss this matter with the Liaison Committee.

5B. No permanent grandstands are proposed.

6. Bathroom facilities will be utilized in the Quonset Hut. In the event temporary facilities are needed, they will be located adjacent to the Quonset Hut on the BC parking lot side only.

7. Boston College will erect a black vinyl clad chain link fence 6 ft. high around the field area as per the March 12, 1999 plan. Boston College will erect a stockade fence adjacent to the Rochester Road abutters. Boston College will provide buffer plantings around the field on both sides of the fence in accordance with the plan. If after completion of the planned screenings and buffer along Rochester Road the residents still feel that screening is insufficient, Boston College will consider extending the stockade fence along Rochester Road to the corner of Westchester Road.

8. Boston College will maintain the existing allee of trees along the Colby Street pathway to the greatest extent possible. The evergreens adjacent to the Quonset Hut and the practice soccer field will be maintained when possible. Boston College will plant, as part of the

Work, three new, approximately 12' - 14' mature evergreens adjacent to the Quonset Hut to replace those recently cut.

9. Boston College will provide advance notice to the Liaison Committee of all soccer games scheduled on the Regulation Field.
10. Construction Management/mitigation plan (access, hours, complaint procedures):
  - Limit-of-work area will not be outside the area of finished construction to the greatest extent reasonably possible.
  - Boston College will post signs warning of construction vehicles using pathway adjacent to the field.
  - Boston College will provide name of construction superintendent. (Robert Leblanc, Boston College)
  - Boston College will provide a phone number of 24-hour emergency contact. (617-552-4444)
  - Boston College will provide construction schedule to Liaison Committee of types and timing of construction services.
  - Upon completion of construction, Boston College will fill ruts, regrade Colby Street and restore to its pre-construction condition as nearly as possible.
- 11A. In place of a permanent public address system, Boston College will agree to install a permanent soccer scoreboard with no sound component subject to applicable legal requirements.
- 11B. Boston College will ban alcohol use by game patrons. If crowd control becomes an issue, the matter will be referred to the Newton Chief of Police and/or the Liaison Committee.
12. Traffic Control:
  - As stated in the paragraph above, Boston College will utilize campus personnel and/or signage to direct all game patrons to park in the adjacent campus parking lot and direct them not to park in Colby Street, or in or along Rochester Road and Westchester Road.
  - Boston College will block off Colby Street/Westchester Road intersection on weekend games for an hour before, during, and after scheduled weekend games.

- In the event traffic or related issues arise, the Liaison Committee will discuss options and/or the issue may be referred to the Newton Police Chief.
13. There will be a Boston College/Newton Liaison Committee as referenced above for the purpose of information and communication regarding the Regulation Field and practice field use and future modification. It shall consist of a designated member and alternate, when the member cannot attend, of the following groups or organizations:
- Boston College
  - Newton Commissioner of Parks and Recreation
  - Rochester Road neighbors
  - Westchester Road neighbors
  - Friends of Cabot Woods

The Mayor or a representative of this office shall be an ex-officio member.

14. The field shall be 350 by 225 ft. as shown on a plan dated March 12, 1999 and located 7 1/2 ft. closer to the Rochester Road property line than on the 10/22/98 preferred plan. This March 12, 1999 plan was approved by the Massachusetts Department of Environmental Protection pursuant to condition 14 of the superseding order by letter dated March 24, 1999.
15. Boston College shall have its consultant Geller Associates prepare a conceptual master plan for the restoration of Edmands Park, in consultation with the Newton Parks and Recreation Department and appropriate parties, including the groups represented on the Liaison Committee.
16. Boston College will contribute two separate \$10,000 donations to the City of Newton when matched by other sources (city or other entity) to be used for the future benefit of Edmands Park. Other cooperative endeavors, such as Boston College student G.I.S. mapping, will be explored where appropriate.
17. The intent of this agreement is to establish the terms and conditions under which BC may proceed with the Work allowed by the Order in compliance with the Act, and to establish an understanding between the parties to assure that the use and operation of the soccer fields comprising the Work remains reasonably compatible with the enjoyment of Edmands Park and the needs of the adjacent neighborhood. This Memorandum of Understanding is intended to be a binding agreement between the parties enforceable under the laws of the Commonwealth of Massachusetts, to the full extent set forth in this paragraph. Nothing herein shall be construed as creating any property right or restriction limiting Boston College's right to develop its land for any lawful purposes in addition to or as an alternative to recreational fields. Instead, the parties agree that:

(a) items 7, 8, 10 and 14 above shall be treated as contractual conditions pertaining to BC's construction of the Regulation Field, and shall be enforceable as such by the City of Newton.

(b) items 15 and 16 above are enforceable contractual obligations of BC given in consideration of the withdrawal of the Appeals and full and final authorization of the Work under the Order to the extent subject to the Act;

(c) items 3A, 5B, 6, and 11A, above are a statement of the current plans and expected operations of BC governing use of the Regulation Field for NCAA soccer games which will not be changed for a period of three years from the date hereof, and thereafter will not be modified without first giving written notice to the Liaison Committee described above and providing a forum in which the proposed changes are discussed with the Liaison Committee; and

(d) items 3B, 2, 4, 5A, 9 11B, 12 and 13 will not be changed or modified so long as the land subject to the Work is used as soccer fields without the prior approval of the Office of the Mayor, which approval will not be unreasonably withheld or delayed following a request by the College setting forth the changes in circumstances or other adequate reasons giving rise to the request.

To the extent reasonable, each party shall provide advance written notice to the other parties of any issues, differences, or alleged non-compliance with the terms and intent of this Memorandum of Understanding, and attempt to resolve these matters through open communication and discussions. In signing this agreement, the parties hereto are not waiving their rights under any applicable statutes, ordinances or regulations, except as enumerated in Paragraph 1 regarding dismissal of the Appeals and approval of the Work.

EXECUTED AS AN INSTRUMENT UNDER SEAL AS OF MAY 19, 1999.

TRUSTEES OF BOSTON COLLEGE

by, 

W. Paul White  
Associate Vice President  
State and Community Relations

NEWTON CONSERVATION COMMISSION

by its attorney,

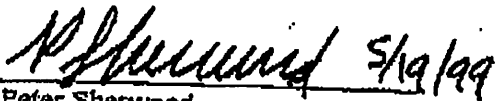
  
Catherine L. Farrell  
Assistant City Solicitor

CITY OF NEWTON  
by,



David Cohen  
Mayor

THE FRIENDS OF CABOT WOODS  
by,



Peter Sherwood  
President