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September 5, 2023

VIA OVERNIGHT MAIL AND EMAIL TO M. LIPE at Michele.Lipe@southwindsor-ct.gov

Chair Bart Pacekonis, and Planning and Zoning
Commission Members
Town of South Windsor
1540 Sullivan Avenue
South Windsor, CT 06074

Michele Lipe, Town Planner
Town of South Windsor
1540 Sullivan Avenue
South Windsor, CT 06074

**Re: Application of Metro Realty for Rezoning of 240 Deming Street and part of
440 Buckland Road**

Dear Chair Pacekonis, Commission Members, and Ms. Lipe:

We are writing on behalf of Metro Realty to address the filing by Attorney Parks,
representing opponents, at the August 15, 2023 public hearing. That filing made three claims:

1. Metro's pending rezoning application (and eventual development plan) violates a 2004 covenant that restricts occupancy at Berry Patch to people over the age of 62;
2. The proposed rezoning should not be approved because it includes the triangular parcel at the north/east boundary that is already encumbered by a conservation easement that was part of the 2004 Berry Patch approval; and
3. The parcel to be rezoned, due to its current GD Zoning, does not qualify for rezoning to MAHZ under § 7.22.1.A. of the Zoning Regulations.

Attorney Parks' filing is factually and legally deficient, as explained below:

Age Restriction

The claims are incorrect. *Occupancy of the residential units* at Berry Patch is subject to an age restriction. The age restriction applies to the units themselves, not the real property on which they are located. Put another way, the restriction is an occupancy/tenancy rule, for units, not a restriction on the use of the underlying land. The proposed rezoning and eventual

Chair Bart Pacekonis, Planning and Zoning
Commission Members and Michele Lipe
September 5, 2023
Page 2

development will not in any way alter or shorten the age restriction period at Berry Patch. Also, Attorney Parks' clients have no legal interest in age-restriction compliance, which is a regulatory compliance matter among the occupants of Berry Patch, the development owner, the Commission, its Zoning Enforcement Officer, and the Connecticut Housing Finance Authority. The development will remain in compliance. Finally, the proposed rezoning does not propose any units on Berry Patch land.

Conservation Easement

As shown on the attachments, at Tabs 1 and 2, the 2004 Conservation Easement to the South Windsor Land Trust does not include any of the land proposed for rezoning in the presently pending application, including the triangle. In addition, the Conservation Easement states, in its first paragraph, that ["This] easement shall not encumber any portion of the land of the Grantor [Berry Patch II Associates, L.P.] which is an upland review area (i.e., area not located within the limits of inland wetlands areas as designated by the applicable regulatory authority)." The same limitation appears on page 4 of the easement.

MAHZ § 7.22.1.A

This claim is incorrect in several ways. First, the MAHZ regulation allows parcels zoned GD to be proposed for rezoning to MAHZ: "Commercial properties adjacent to residential areas may be considered for MAHZ." All of the proposed rezoning parcels are zoned GD, a commercial zone. Second, the "triangle" is part of an overall parcel to be rezoned; it only makes sense to evaluate what is proposed for rezoning rather than existing parcels that may be separate lots. Third, the regulation refers to "adjacent" land, which means nearby but not necessarily having a common boundary. "Contiguous" is different from "adjacent."

Thank you for your attention.

Very truly yours,



Timothy S. Hollister

TSH:afz
Enclosure

cc: Attorney John Parks
Metro Realty
SLR Consulting

Tab 1

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Berry Patch II Assoc LP
6 Executive Dr. S.100
Farmington, Ct 06032

VOL 2588 PAGE 0001

002888

GRANT OF CONSERVATION RESTRICTION AND EASEMENT

KNOWN ALL MEN BY THESE PRESENTS, that **BERRY PATCH II ASSOCIATES LIMITED PARTNERSHIP**, of the Town of Farmington, State of Connecticut ("Grantor"), for the consideration of One (1) Dollar and other good and valuable consideration received to its full satisfaction of the **SOUTH WINDSOR LAND TRUST**, of the Town of South Windsor ("Grantee"), does hereby give, grant, bargain, sell and convey unto the Grantee, its successors and assigns, forever, a perpetual Conservation Restriction and Easement within the terms of C.G.S. Sec. 47-42a in, over, along and across a portion of land owned by the Grantor, situated in the Town of South Windsor and generally shown on a map entitled "Perimeter Survey ALTA/ACSM Survey Resurvey Prepared For: Berry Patch II Associates Limited Partnership Grandview Terrace & Deming Street South Windsor, Connecticut Sheets 1 and 2 of 2 Date: 7/20/04, Revised to 12/14/04 scale 1 inch = 50 ft., prepared by Design Professionals, Inc." ("Map") which map is filed as Map No. 3172 in the in the office of the South Windsor Town Clerk, to which reference may be had. The specific portion of Grantor's land subject to this easement is more particularly is described in Exhibit A attached hereto ("Property"). Notwithstanding anything contained herein to the contrary, this easement shall not encumber any portion of the land of the Grantor which is an upland area (i.e. area not located within the limits of inland wetlands areas as designated by the applicable regulatory authority). The easement is granted for the following purposes:

PURPOSES

1. Subject to the Exceptions set forth below, to have the Property remain in its present natural and open condition in order for it to fulfill its present historic, scenic, vegetative, wildlife and/or hydrological functions.
2. To permit the Grantee to enforce by proceeding in equity, pursuant to C.G.S. Sec. 47-42b and Sec. 47-42c, the covenants hereinafter set forth, including but not limited to the right to require the restoration of the Property to the condition at the time of this grant. In no event shall the Grantee have any right to receive any damages whatsoever from the Grantor or the Grantor's successors or assigns in the event of any violation by the Grantor or the Grantor's successors or assigns or any other party of any of the provisions of this easement, the Grantee hereby acknowledging and agreeing that the Grantee's only remedies for any such violation shall be equitable remedies (e.g., specific performance and injunctive relief).
3. To enable the Grantee to enter the Property at all reasonable times for the purpose of inspecting the Property to determine if the Grantor, its successors and assigns, are complying with the covenants and purposes of this grant.



Doc ID: 002500000007 Type: LAN
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File# 02888

COVENANTS

And in furtherance of the foregoing affirmative rights, the Grantor, for itself, heirs, successors and assigns, makes the following covenants, which covenants shall run with and be binding upon the Property in perpetuity:

1. No buildings, camping accommodations, or mobile homes shall be placed or erected upon the Property.
2. No signs, billboards or other such advertising materials or structures of any kind or nature will be placed or erected upon, below or above the Property.
3. The topography of the landscape of the Property shall be maintained in its present condition and no topographic changes shall be made, provided that nothing herein shall prevent any changes in the Property that occur as a result of acts of nature and the Grantor shall not be obligated to restore the Property after any such changes. Topographic changes shall include, without exclusion, cutting of trees (except as may be required by good tree husbandry and maintenance or as may be required as part of any landscaping of the Property, after receiving written approval of the Grantee), filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rocks, or minerals, alteration of natural or existing watercourses or drainage, or the construction and installation of roads, driveways, or utilities, except as provided in the Exceptions set forth below.
4. There shall be no draining of wetlands, burning of marshlands or disturbance or change in the natural habitat of the Property, except as provided in the Exceptions set forth below.
5. There shall be no manipulation or alteration of natural watercourses, lakeshores, marshes or other water bodies, nor shall any uses of or activities upon the Property be permitted which uses or activities could be detrimental to water purity or to any vegetative, wildlife or hydrological function, except as provided in the Exceptions set forth below.
6. The Grantor shall not authorize the operation of vehicles, snowmobiles, dune-buggies, motorcycles, mini-bikes, go-carts, all-terrain vehicles, or any other type of motorized vehicle upon the Property, except as provided in the Exceptions set forth below.
7. There shall be no dumping or placing of trash, ashes, leaves (except for a limited number in a sightly manner), waste, rubbish, garbage or junk upon the Property. In the event that such materials are placed on the Property, the Grantor, upon notice from the Grantee, will remove said materials within 30 days of such notice.
8. There shall be no storage or placement of any equipment, natural or man-made materials or substances upon the Property.

The Grantee or its successors or assigns, does not waive or forfeit the right to take action as may be necessary or required in order to insure compliance with said covenants and/or the purposes of this grant by any prior failure to act.

EXCEPTIONS

The Grantor with the written consent of the Grantee, may enter upon the Property to conduct the following activities:

1. Removal of debris, dead trees, or brush for the purpose of promoting safety and aesthetic quality;
2. Pruning and thinning of live trees and brush for the purpose of promoting safety and aesthetic quality;
3. Planting of trees, shrubs, or other vegetation for the purpose of enhancing wildlife or aesthetic quality.

The Grantor shall notify the Grantee by written notice of an intention to undertake any activity in question. If the Grantee does not give written notice of objection within thirty (30) days of receipt of Grantor's written request, Grantee's approval shall be deemed to have been given. Grantee's approval for exempted activities may be withheld only upon a reasonable determination by the Grantee that the action as proposed would be inconsistent with the purpose of this easement. Consideration shall be given to the manner in which such activity is to be undertaken to insure no detrimental impact to the natural character of the land. In addition the wildlife value of brush and dead trees proposed to be removed shall be considered and weighed against the purpose of the request.

The above procedure shall not abrogate the requirement to acquire any permits required by local, state or federal law.

In addition, the Grantor may conduct the following activities upon the Property, without the written consent of the Grantee (and notwithstanding in this Grant of Conservation Restriction to the contrary):

- a. The Grantor may landscape the Property, including without limitation, planting and cutting of grass, and the use of fertilizers, pesticides and other materials normally used in landscaping.
- b. The Grantor may install, or permit the installation of, underground utilities through the Property, provided no trees shall be removed to accommodate any such underground utilities unless such trees are replaced with comparable trees that are acceptable to the Grantee.

- c. The Grantor may remove all existing construction debris from the Property, so as to restore the Property to grade.
- d. The Grantor may use the Property for recreational purposes, including without limitation, for athletic purposes (such as baseball or soccer games), as long as no structures are constructed on the Property in connection therewith.

In addition, the Grantor shall have no responsibility for ensuring that third parties do not use the Property for any activity that is prohibited herein.

Any act for which the Grantor has obtained the approval of, or a permit from, the South Windsor Inland Wetlands and Watercourses Agency shall be deemed to be permitted under this easement.

LIMITATION ON RIGHT TO AMEND

If circumstances arise under which an amendment to or modification of this easement would be appropriate, Grantor and Grantee may jointly amend this easement, provided that no amendment shall be allowed that will affect the qualification of this easement or the status of the Grantee under any applicable laws including Sections 47-42a through 47-42c of the Connecticut General Statutes, Revision of 1958, as amended, or Section 170(h) of the Internal Revenue Code of 1954, as amended; and any amendment shall be consistent with the purpose of this easement and shall not affect its perpetual duration. Any such amendment shall be recorded in the land records of the Town of South Windsor, Connecticut.

The grant of this easement does in no way grant to the public the right to enter upon said Property for any purpose whatsoever.

ZONING REQUIREMENTS

The Grantor shall retain the right to utilize the acreage of the Property as part of the Grantor's property as shown on the Map.

CONDEMNATION

If said Property, or any part thereof, shall be taken by condemnation, then this easement shall automatically terminate as to that property taken, so that the Grantor, its successors and assigns, may be fully compensated as though this easement had never been granted.

NO AFFECT ON ADJACENT PROPERTY

In no event shall the covenants, restrictions and easements contained herein in any way affect, encumber or apply to the Adjacent Property.

SUCCESSORS AND ASSIGNS

This easement shall be binding upon the Grantor's successors and assigns as owners of the Lots. This easement shall not be assignable by the Grantee and may only be enforced by the Town of Farmington.

HABENDUM

TO HAVE AND TO HOLD said Property unto the said Grantee, its successors and assigns, forever.

[signature to follow on next page]

Signed, sealed and delivered

**BERRY PATCH II ASSOCIATES LIMITED
PARTNERSHIP**

By: **Berry Patch II GP, LLC**
General Partner

Sandra Pipicelli
Sandra Pipicelli

Julie T. Moulton
Julie T. Moulton

By Geoffrey W. Sager
Its Managing Member

STATE OF CONNECTICUT)

) ss: Farmington

COUNTY OF HARTFORD)

Personally appeared the said Geoffrey W. Sager, Managing Member of Berry Patch II GP, LLC, general partner of Berry Patch II Associates Limited Partnership, signer and sealer of the foregoing instrument, and acknowledged the same to be his free act and deed and the free act and deed of said Berry Patch II Associates Limited Partnership, before me.

Wendy L. Paciotti
Commissioner of the Superior Court
Notary Public **Wendy L. Paciotti**
My Commission Expires 5/31/19

EXHIBIT "A"

Description of Conservation Easement

The certain piece or parcel of land shown as "Proposed Conservation Easement in Favor of South Windsor Land Trust" (the "Property") on a map (the "Map") entitled "Perimeter Survey ALTA/ACSM Survey Resurvey Prepared For: Berry Patch II Associates Limited Partnership Grandview Terrace & Deming Street South Windsor, Connecticut Sheets 1 and 2 of 2 Date: 7/20/04, Revised to 12/14/04 scale 1 inch = 50 ft., prepared by Design Professionals, Inc." which Map is filed as Map No. 3172 in the office of the South Windsor Town Clerk, to which reference may be had and more particularly described as follows:

Beginning at a point at the northwest corner of the property herein described, said point being in the southerly property line of N/F Dennis C. & Sharon E. Platt as shown on the Map and also being approximately 6.00 feet from an iron pin, in a northeasterly direction, as shown on the Map;

Thence N 79°-20'-46" E, along property now or formerly of Dennis C. & Sharon E. Platt, a distance of 170.00 feet to a merestone; thence N 03°-11'-09" W, along property now or formerly of Dennis C. & Sharon E. Platt, a distance of 126.31 feet to a 1 inch pin; thence N 78°-43'-09" E, along property now or formerly of The Grillo Family Limited Partnership, a distance of 104.89 feet to a merestone; thence N 24°-45'-17" W, along property now or formerly of The Grillo Family Limited Partnership, a distance of 77.46 feet to a merestone; thence N 42°-25'-33" E, along property now or formerly of The Grillo Family Limited Partnership and property now or formerly of Harold L. Dodd, partly by each, in all a distance of 149.52 feet to a merestone with a drill hole; thence S 76°-20'-14" E, along property now or formerly of DEW Properties LLC and property now or formerly of Marian & Teresa Malyszczewski, partly by each, in all a distance of 677.63 feet to an ¾ inch I.P.; thence S 77°-24'-18" W, a distance of 190.00 feet to a point; thence S 59°-08'-47" W, a distance of 378.82 feet to a point; thence S 22°-15'-08" W, a distance of 195.00 feet to a point; thence S 68°-02'-08" W, a distance of 220.00 feet to a point; thence S 55°-41'-01" W, a distance of 210.00 feet to a point; thence N 03°-48'-46" W, a distance of 419.07 feet to the point and place of beginning.

Excepting therefrom any area within the Property which is uplands (i.e. area not located within the limits of inland wetlands areas as designated by the applicable regulatory authority.)

Received for Record 05/17/2017
 At 9:00 am
 Recorded in South Windsor, CT
 By [Signature]
 Asst. Town Clerk

SURVEY NOTES

- THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 20-200N-1 THAT TO 100% OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT PREPARED AND ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. SEPTEMBER 26, 1996.
- THIS SURVEY IS AN IMPROVEMENT LOCATION SURVEY - RECORD - AND IS INTENDED TO DEPICT THE LOCATION OF IMPROVEMENTS RELATIVE TO PROPERTY LINES.
- THIS IS A DEPENDENT RESURVEY BASED ON MAP REFERENCE #1.
- HORIZONTAL ACCURACY MEETS CLASS A-2 STANDARDS AND VERTICAL ACCURACY MEETS CLASS 1-2 STANDARDS.

NOTE

1. SEE MAP FOR ENCLAVES (NOT TO PROPERTY)

LEGEND

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MATCHLINE (SEE INSET "A")

ZONE GD

N/F
MARIAN & TERESA
MALYSZCZYCKI

N/F
Fred S. Katten

PRIORITIZED CONSERVATION EASEMENT
IN FAVOR OF THE
SOUTH WINDSOR LAND TRUST

ZONE AA-30

N/F
DENNIS C. & SHARON E. PLATT

LIMITS OF NOT UPLAND REVIEW AREA

LIMITS OF NOT UPLAND REVIEW AREA

N/F
THE VILLAGE AT BUCKLAND COURT
LIMITED PARTNERSHIP

N/F
MILDRED S. & KENNETH
SIMLER

INSET "A"

DODD

ALTY

N/F
MELVIN D. STEIN

ZONE RC

ZONE GD

MAP REFERENCE

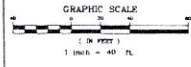
1. TOPOGRAPHIC PLAN PREPARED FOR BERRY PATCH II, GRANDVIEW TERRACE & DEWING STREET SOUTH WINDSOR, CONNECTICUT SHEET 40 OF 11 DATE 11/04/03 REVISED 2-24-06 SCALE 1"=40' BY DESIGN PROFESSIONALS, INC.

UTILITIES NOTE

UNDERGROUND UTILITY STRUCTURE AND FACILITY LOCATIONS DEPICTED AND NOTED HEREON HAVE BEEN COMPILED, IN PART, FROM RECORD DRAWINGS SUPPLIED BY THE RESPECTIVE UTILITY COMPANIES OR GOVERNMENTAL AGENCIES, FROM PUBLIC RECORDS AND FROM OTHER SOURCES. THESE LOCATIONS MUST BE CONFIRMED AS APPROPRIATE IN THE FIELD. ADDITIONALLY, OTHER UTILITIES MAY BE LOCATED ON THE SITE. THE EXISTENCE OF WHICH AND DEPTHS TO DESIGN PROFESSIONALS, INC. THE SIZE, LOCATION AND EXISTENCE OF ALL SUCH FEATURES MUST BE FIELD DETERMINED AND VERIFIED BY THE APPROPRIATE AUTHORITIES PRIOR TO CONSTRUCTION. CALL BEFORE YOU DIG. 1-800-422-4455

I HEREBY DECLARE TO OWN, THAT TO THE BEST OF MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON

Guene R. Hush
LAWRENCE H. GERRARD, JR.
12327
LIC. NO.



Design Professionals, inc.
Civil Engineers • Planners • Surveyors • GIS
105 South Satellite Road • South Windsor • Connecticut 06074

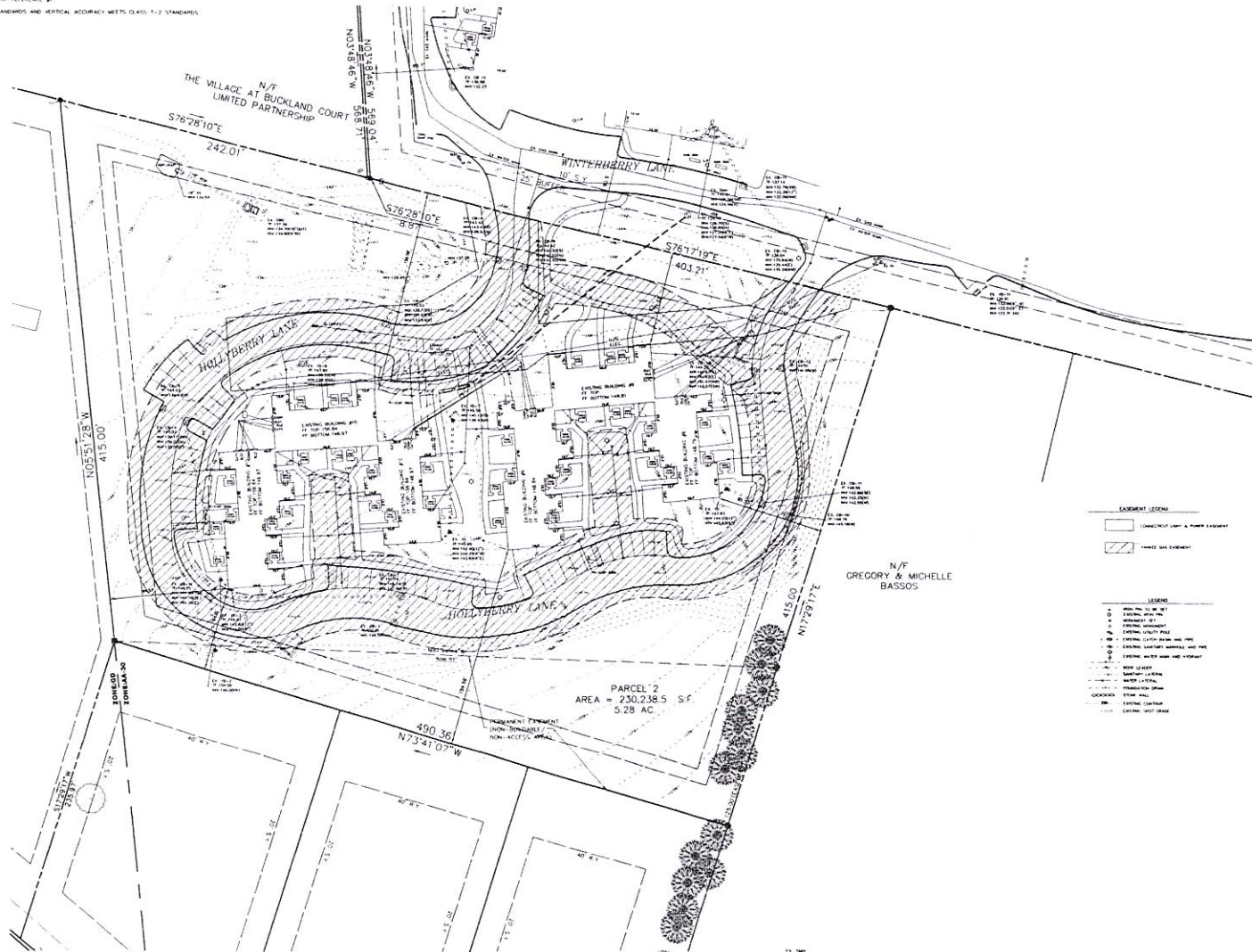
860 291 8755
**ALTA/ACSM SURVEY
IMPROVEMENT LOCATION PLAN**
DESIGN: *Guene R. Hush* CHECKED: LNC
JOB NO. 1823 DATE 12/26/06
DRAWING NO. 1823(1) 4.31 1823-3-A.3.dwg

PREPARED FOR
**BERRY PATCH II
BOYSENBERRY & BLUEBERRY LANE
SOUTH WINDSOR CONNECTICUT**

SHEET
1
3

SURVEY NOTES:

- THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300B-1, 20-300B-2, 20-300B-3, 20-300B-4, 20-300B-5, 20-300B-6, 20-300B-7, 20-300B-8, 20-300B-9, 20-300B-10, 20-300B-11, 20-300B-12, 20-300B-13, 20-300B-14, 20-300B-15, 20-300B-16, 20-300B-17, 20-300B-18, 20-300B-19, 20-300B-20, 20-300B-21, 20-300B-22, 20-300B-23, 20-300B-24, 20-300B-25, 20-300B-26, 20-300B-27, 20-300B-28, 20-300B-29, 20-300B-30, 20-300B-31, 20-300B-32, 20-300B-33, 20-300B-34, 20-300B-35, 20-300B-36, 20-300B-37, 20-300B-38, 20-300B-39, 20-300B-40, 20-300B-41, 20-300B-42, 20-300B-43, 20-300B-44, 20-300B-45, 20-300B-46, 20-300B-47, 20-300B-48, 20-300B-49, 20-300B-50, 20-300B-51, 20-300B-52, 20-300B-53, 20-300B-54, 20-300B-55, 20-300B-56, 20-300B-57, 20-300B-58, 20-300B-59, 20-300B-60, 20-300B-61, 20-300B-62, 20-300B-63, 20-300B-64, 20-300B-65, 20-300B-66, 20-300B-67, 20-300B-68, 20-300B-69, 20-300B-70, 20-300B-71, 20-300B-72, 20-300B-73, 20-300B-74, 20-300B-75, 20-300B-76, 20-300B-77, 20-300B-78, 20-300B-79, 20-300B-80, 20-300B-81, 20-300B-82, 20-300B-83, 20-300B-84, 20-300B-85, 20-300B-86, 20-300B-87, 20-300B-88, 20-300B-89, 20-300B-90, 20-300B-91, 20-300B-92, 20-300B-93, 20-300B-94, 20-300B-95, 20-300B-96, 20-300B-97, 20-300B-98, 20-300B-99, 20-300B-100.
- THE REGULATIONS OF CONNECTICUT STATE REGARDS TO STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT, PREPARED AND ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC., SEPTEMBER 26, 1996.
- THIS SURVEY IS AN IMPROVEMENT LOCATION SURVEY - RECOVERED - AND IS INTENDED TO DETECT THE LOCATION OF IMPROVEMENTS RELATIVE TO PROPERTY LINES.
- THIS IS A DEFERRED RECOVERY BASED ON MAP REFERENCE #1.
- HORIZONTAL ACCURACY MEETS CLASS A-2 STANDARDS AND VERTICAL ACCURACY MEETS CLASS 1-2 STANDARDS.



EASEMENT LEGEND

- CONNECTICUT LIGHT & POWER EASEMENT
- UNDEVELOPED EASEMENT

LEGEND

- EXISTING LOT 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

MAP REFERENCE:

1. TOPOGRAPHIC PLAN PREPARED FOR BERRY PATCH II, GRANDVIEW TERRACE & DENING STREET SOUTH WINDSOR, CONNECTICUT SHEET 4A OF 11 DATE: 11/04/03 REVISED 2-24-04 SCALE 1"=40 FT. BY DESIGN PROFESSIONALS, INC.

UTILITIES NOTE:

UNDERGROUND UTILITY, STRUCTURE AND FACILITY LOCATIONS DETECTED AND NOTED HEREON HAVE BEEN COMPILED, IN PART, FROM RECORD MAPPING SUPPLIED BY THE RESPECTIVE UTILITY COMPANIES OR GOVERNMENTAL AGENCIES, FROM PUBLIC RECORDS, AND FROM OTHER SOURCES. THESE LOCATIONS MUST BE CONSIDERED AS APPROXIMATE, AS NATURE, ADDITIONALLY, OTHER FACTS REVEALED WHILE WORKING ON THE SITE, THE EXISTENCE OF WHICH ARE UNKNOWN TO DESIGN PROFESSIONALS, INC. THE SIZE, LOCATION AND EXISTENCE OF ALL SUCH FEATURES MUST BE FIELD VERIFIED AND APPROVED BY THE APPROPRIATE AUTHORITIES PRIOR TO CONSTRUCTION. CALL BEFORE YOU DIG 1-800-422-4455.

2.2.2

- UNLESS OTHERWISE NOTED, EXISTING UTILITY LOCATIONS AND DEPTHS ARE BASED ON AVAILABLE INFORMATION. ALL EXISTING UTILITIES SHOULD BE FIELD VERIFIED PRIOR TO CONSTRUCTION.
- ALL UTILITIES ARE TO BE STAKED IN THE FIELD BY A LICENSED LAND SURVEYOR PRIOR TO CONSTRUCTION.
- THE DEPTH OF EXISTING UTILITIES IS TO BE FIELD VERIFIED AND APPROVED BY THE APPROPRIATE AUTHORITIES PRIOR TO CONSTRUCTION. CALL BEFORE YOU DIG 1-800-422-4455.

NO.	DATE	DESCRIPTION	BY

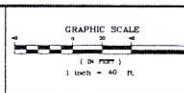
I HEREBY CERTIFY TO CHIEF OF MAP TO THE BEST OF MY KNOWLEDGE AND BELIEF, THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

Laurie R. Heath

Laurie R. Heath, Jr.

12/27/06

12/27/06



design Professionals, inc.

Civil Engineers • Planners • Surveyors • GIS

180 South Satellite Road • South Windsor, Connecticut 06074

REG-291-B755

ALTA/ACSM SURVEY IMPROVEMENT LOCATION PLAN

DESIGN: DRAWN: MHA CHECKED: LRC

JAN 10: 1802.3 DATE: 12/26/06

DRAWING NO. 182.1A.1/182.1-A.3.dwg

PREPARED FOR:

BERRY PATCH II

BOYSENBERRY & BLUEBERRY LANE

SOUTH WINDSOR CONNECTICUT

SHEET

2

3

Policy number: 1413.1137001
Date of policy: December 21, 2004

Schedule B Exemptions

1. Reversion rights of other in and to a watercourse crossing the northwesterly portion of the insured premises owned Farm House and Plum Grady Road.
2. Easement for Water by Town of South Windsor dated April 10, 1971, recorded in Volume 136, Page 243 of the South Windsor Land Records.
3. Water Main Easement by the Town of South Windsor dated November 2, 1972, recorded in Volume 136 at Page 244 of the South Windsor Land Records.
4. Easement rights in favor of the State of Connecticut as contained in a Certificate of Easement dated January 11, 1991, recorded in Volume 1075 at Page 178 of the South Windsor Land Records.
5. Special Easement dated February 9, 2004 and recorded February 20, 2004 in Volume 1179, Page 63 of the South Windsor Land Records.
6. Easement for Water by Town of South Windsor dated May 11, 1971 in Volume 137, Page 84 of the South Windsor Land Records, (as to two foot strip only).
7. Special Easement dated July 10, 2001 and recorded December 19, 2001 in the South Windsor Land Records, (as to two foot strip only).
8. Declaration (regarding WPCA approval) dated December 18, 2003, and recorded December 19, 2003 in Volume 1303 at Page 510 of the South Windsor Land Records, (as to two foot strip only).
9. Declaration of Restrictive Covenants dated December 18, 2003, and recorded December 19, 2003 in Volume 1304 at Page 71 of the South Windsor Land Records, (as to two foot strip only).
10. Declaration of Restrictive Covenants dated December 21, 2004, by Berry Patch II Associates Limited Partnership and recorded December 22, 2004 in the South Windsor Land Records.
11. Declaration (regarding WPCA) dated December 21, 2004, by Berry Patch II Associates Limited Partnership and recorded December 22, 2004 in the South Windsor Land Records.
12. Declaration of Restrictive Covenants dated December 21, 2004, and recorded December 22, 2004 in the South Windsor Land Records.
13. Reciprocal Easement Agreement between Berry Patch Associates Limited Partnership and Berry Patch II Associates Limited Partnership dated December 21, 2004 and recorded December 22, 2004 in Volume 1076 at Page 179 of the South Windsor Land Records.
14. Declaration of Restrictive Covenants (regarding No Development/No Access Area) dated December 21, 2004 and recorded December 22, 2004 in the South Windsor Land Records.
15. Extended Low Income Housing Commitments between Berry Patch II Associates Limited Partnership and Connecticut Housing Finance Authority dated December 21, 2004 and recorded in the South Windsor Land Records.
16. Declaration and Agreement of Restrictive Covenants by and between Berry Patch II Associates Limited Partnership and Connecticut Housing Finance Authority dated December 21, 2004, and recorded on December 22, 2004 in the South Windsor Land Records.
17. Easement Agreement by and between CP Windsor SH L.L.C., Berry Patch Associates Limited Partnership and Berry Patch II Associates Limited Partnership dated December 15, 2004 and recorded December 15, 2004 in Volume 1074 at Page 128 of the South Windsor Land Records.
18. Multi-family Open End Mortgage, Assignment of Rents and Security Agreement from the Village of Haddam Court Limited Partnership to Chase Financial Group, Inc. to secure the mortgage payment of \$11,200,000 dated October 15, 2002 and recorded October 16, 2002 in Volume 1304 at Page 107 of the South Windsor Land Records, which mortgage was assigned to Fannie Mae by Assignment dated October 15, 2002 and recorded in Volume 1304 at Page 177 of the South Windsor Land Records as modified by Assignment Modification and Release Agreement dated December 15, 2004 and recorded in Volume 1474 at Page 151 of the South Windsor Land Records.
19. An Assignment of Lease and Rents from the Village of Haddam Court Limited Partnership to Chase Financial Group, Inc., dated October 15, 2002 and recorded October 21, 2002 in Volume 1304 at Page 162 of the South Windsor Land Records, which was assigned to Fannie Mae by Assignment of Lease and Rents dated October 15, 2002 and recorded in the South Windsor Land Records, (as to apartment right granted) in Easement Agreement with CP Windsor SH L.L.C. only).
20. A U.C.I. Financing Statement with the Village of Haddam Court Limited Partnership, as debtor and Chase Financial Group, Inc. as secured party and Fannie Mae as second party, and Fannie Mae as second party, recorded in Volume 1304 at Page 161 of the South Windsor Land Records as amended by a U.C.I. Financing Statement Agreement recorded in Volume 1074 at Page 166 of the South Windsor Land Records, (as to apartment right granted in Easement Agreement with CP Windsor SH L.L.C. only).
21. Notice of Lease dated December 15, 2004 between CP Windsor SH L.L.C. as Landlord and CP Windsor Senior Housing L.L.C. as Tenant and recorded in Volume 1074 at Page 304 of the South Windsor Land Records as affected by a Subordination, Assignment and Security Agreement dated December 15, 2004 and recorded in Volume 1074 at Page 179 of the South Windsor Land Records, as affected by a U.C.I. Financing Statement with CP Windsor Senior Housing L.L.C. as debtor and Fannie Mae, as second party, recorded in Volume 1074 at Page 177 of the South Windsor Land Records, and as affected by a Subordination, Assignment and Security Agreement dated December 15, 2004 and recorded in Volume 1074 at Page 179 of the South Windsor Land Records, (as to apartment right granted in Easement Agreement with CP Windsor SH L.L.C. only).
22. Multi-family Open End Mortgage, Assignment of Rents and Security Agreement from CP Windsor SH L.L.C. to Chase Financial Group, Inc. to secure the mortgage payment of \$11,200,000 dated December 15, 2004 and recorded in Volume 1074 at Page 227 of the South Windsor Land Records, which mortgage was assigned to Fannie Mae by Assignment dated December 15, 2004 and recorded in Volume 1074 at Page 202 of the South Windsor Land Records, (as to apartment right granted in Easement Agreement with CP Windsor SH L.L.C. only).

Schedule C

1. Easement for Water by Town of South Windsor dated May 11, 1971 in Volume 137, Page 84 of the South Windsor Land Records, (as to two foot strip only).
2. Special Easement dated July 10, 2001 and recorded December 19, 2001 in the South Windsor Land Records, (as to two foot strip only).
3. Declaration (regarding WPCA approval) dated December 18, 2003, and recorded December 19, 2003 in Volume 1303 at Page 510 of the South Windsor Land Records, (as to two foot strip only).
4. Declaration of Restrictive Covenants dated December 18, 2003, and recorded December 19, 2003 in Volume 1304 at Page 71 of the South Windsor Land Records, (as to two foot strip only).
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Schedule D

1. Easement for Water by Town of South Windsor dated May 11, 1971 in Volume 137, Page 84 of the South Windsor Land Records, (as to two foot strip only).
2. Special Easement dated July 10, 2001 and recorded December 19, 2001 in the South Windsor Land Records, (as to two foot strip only).
3. Declaration (regarding WPCA approval) dated December 18, 2003, and recorded December 19, 2003 in Volume 1303 at Page 510 of the South Windsor Land Records, (as to two foot strip only).
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NOTES:

1. THIS MAP IS DEPENDENT ON THE MAP REFERENCED HEREIN.
2. THE PURPOSE OF THIS MAP IS TO IDENTIFY EXISTING CONDITIONS AND EXISTING RECORDS.
3. THIS MAP IS NOT TO BE USED FOR ANY OTHER PURPOSE.
4. SEE MAPS FOR FURTHER INFORMATION.

I, Lawrence H. Givens, Jr., a Professional Land Surveyor duly licensed in the State of Connecticut do hereby certify to the Connecticut Housing Finance Authority, Fidelity National Title Insurance Company of New York and to Berry Patch II Associates Limited Partnership as follows:

The survey of the Property depicted on this map was actually made upon the ground on September 2, 1998 and updated through March 20, 2004. The survey and boundary measurements shown on this map are correct and accurate within the standards of a Property Survey and are conforming to the standards of accuracy for a Horizontal Class A Survey. This is a Dependent Survey. This survey may have been prepared in accordance with Sections 20-30(a) through 20-30(b) of the Regulations of Connecticut State Agencies, "Standards for Surveys and Maps in the State of Connecticut" as adopted by the Connecticut Association of Land Surveyors, Inc. on September 26, 1996. This survey was prepared to depict the existing conditions of the subject Property (including any leased areas and associated easements). It is intended to be used to depict the portions of boundaries with respect to locations of all boundary measurements, adjacent improvements and features, record easements and physical evidence of the use thereof; record apparent areas of ingress and egress; lines of occupation; deed restrictions pertaining to the location of the buildings and other improvements; unrecorded conflicts with maps and descriptions; all apparent boundary measurements, and existing buildings.

Except as shown herein: (i) title lines and lines of actual possession are the same; (ii) all buildings and improvements are located as shown; are erected upon the subject Property, and do not encroach over or upon the street, title or building lines or any right of way or easements or rights of way affecting the Property; (iii) there are no utility or other easements or rights of way affecting the Property; (iv) there are no encroachments or projections on or over the Property or on rights of way or easements appurtenant to the subject building or improvements created on adjacent land; and (v) the buildings and improvements on this Property do not violate any building or zoning regulations, covenants, deed restrictions or other regulation of government relating to the location thereof.

Portions of the Property are located within a Special Flood Hazard Boundary as defined by the Federal Emergency Management Agency and are reflected on Flood Insurance Rate Maps No. 0902-01-0077J, with a date of identification of February 23, 2001, and the Property has direct access to United Road and Fall Road, each of which is a dedicated public street.

I further certify that the map and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys" promulgated and adopted by ALTA, ACSM and NSPS in 1995, and includes items 1, 1.1, 1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.1.5, 1.1.6, 1.1.7, 1.1.8, 1.1.9, 1.1.10, 1.1.11, 1.1.12, 1.1.13, 1.1.14, 1.1.15, 1.1.16, 1.1.17, 1.1.18, 1.1.19, 1.1.20, 1.1.21, 1.1.22, 1.1.23, 1.1.24, 1.1.25, 1.1.26, 1.1.27, 1.1.28, 1.1.29, 1.1.30, 1.1.31, 1.1.32, 1.1.33, 1.1.34, 1.1.35, 1.1.36, 1.1.37, 1.1.38, 1.1.39, 1.1.40, 1.1.41, 1.1.42, 1.1.43, 1.1.44, 1.1.45, 1.1.46, 1.1.47, 1.1.48, 1.1.49, 1.1.50, 1.1.51, 1.1.52, 1.1.53, 1.1.54, 1.1.55, 1.1.56, 1.1.57, 1.1.58, 1.1.59, 1.1.60, 1.1.61, 1.1.62, 1.1.63, 1.1.64, 1.1.65, 1.1.66, 1.1.67, 1.1.68, 1.1.69, 1.1.70, 1.1.71, 1.1.72, 1.1.73, 1.1.74, 1.1.75, 1.1.76, 1.1.77, 1.1.78, 1.1.79, 1.1.80, 1.1.81, 1.1.82, 1.1.83, 1.1.84, 1.1.85, 1.1.86, 1.1.87, 1.1.88, 1.1.89, 1.1.90, 1.1.91, 1.1.92, 1.1.93, 1.1.94, 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Tab 2

LEGEND

- EXISTING IRON PIN
- EXISTING MONUMENT
- EXISTING DRAINAGE MANHOLE
- EXISTING SANITARY MANHOLE
- EXISTING UTILITY POLE
- EXISTING WATER VALVE
- EXISTING METER PIT
- EXISTING GAS VALVE
- EXISTING CATCHBASIN
- EXISTING HYDRANT
- EXISTING SANITARY SERVICE
- EXISTING DRAINAGE SERVICE
- EXISTING GAS MAIN
- EXISTING WATER MAIN

PROPERTY TO BE CONVEYED TO THE
TOWN OF SOUTH WINDSOR
AREA = 7,229.3 S.F.
0.16 Ac.

Conservation Easement Boundary

AREA = 840,793 sq. ft.
19.30 ac.

I, Richard P. Martel, a Professional Land Surveyor duly licensed in the State of Connecticut do hereby certify to the Connecticut Housing Finance Authority, Fidelity National Title Insurance Company of New York; and to Berry Patch II Associates Limited Partnership (Mortgagee) as follows:

The survey of the Property depicted on this map was actually made upon the ground on July 20, 2004. The survey and bounds and measurements shown on this map are correct and accurate within the standards of a Perimeter Survey and are conforming to the standards of accuracy for a Horizontal Class A-2 survey. This is a Resurvey. This survey map has been prepared in accordance with Sections 20-300b-1 through 20-300b-20 of the Regulations of Connecticut State Agencies "Standards for Surveys and Maps in the State of Connecticut" as adopted by the Connecticut Association of Land Surveyors, Inc. on September 25, 1996. This survey was prepared to depict the existing conditions of the subject Property (including any leased areas and associated easements). It is intended to be used to depict the position of boundaries with respect to locations of all boundary monumentation; apparent improvements and features; record easements and physical visible evidence of the use thereof; record apparent means of ingress and egress; lines of occupation; deed restrictions pertaining to the location of the buildings and other improvements; unresolved conflicts with maps and descriptions; all apparent boundary encroachments; and existing buildings.

Except as shown hereon: (i) title lines and lines of actual possession are the same, (ii) all building lines and improvements are located as shown, are erected entirely within Property lines, and do not encroach over or upon the street, title and building lines or any right of way or easement on or appurtenant to the Property, (iii) there are no utility or other easements or rights of way affecting the Property, (iv) there are no encroachments or projections on or over the Property or on rights of way or easements appurtenant to the same by buildings or improvements erected on adjacent land, and (v) the buildings and improvements on this Property do not violate any building or zoning regulation, covenant, deed restriction or other regulation or requirement relating to the location thereof.

Portions of the Property are located within a Special Flood Hazard Boundary as defined by the Federal Emergency Management Agency and are reflected on Flood Insurance Rate Map No. 090036-00070, with a date of identification of February 23, 2001.

I further certify that this map and the survey on which it is based were made in accordance with "Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys", jointly established and adopted by ALTA, ACSM and NSPS in 1999, and includes items 1, 3, 4, 10, 11(b), 13, 15 and 16 of Table A thereof. Pursuant to the Accuracy Standards as adopted by ALTA, NSPS and ACSM and in effect on the date of this certification, the undersigned further certifies that the Positional Uncertainties resulting from the survey measurements made on the survey do not exceed the allowable Positional Tolerance.

Property has access to Oakland Road and Felt Road, which are Public Roads, through property of Berry Patch Associates Limited Partnership and also to Buckland Road, which is a Public Road, through property of the Village at Buckland Court Limited Partnership.

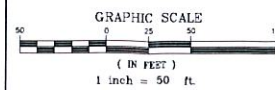
Due to present construction activity on the site, the items depicted on this map do not include the interior of the property.

The word certify is meant to express a professional opinion and not a warranty or guarantee.

To the best of my knowledge and belief, this map is substantially correct as noted above.

Richard P. Martel

12882
Lic. No.



Design Professionals, Inc.
civil engineers · planners · surveyors
landscape architects · gis · gps
165 South Satellite Road, South Windsor, Connecticut 06074
Tel. 860.291.8755
Fax 860.291.8757

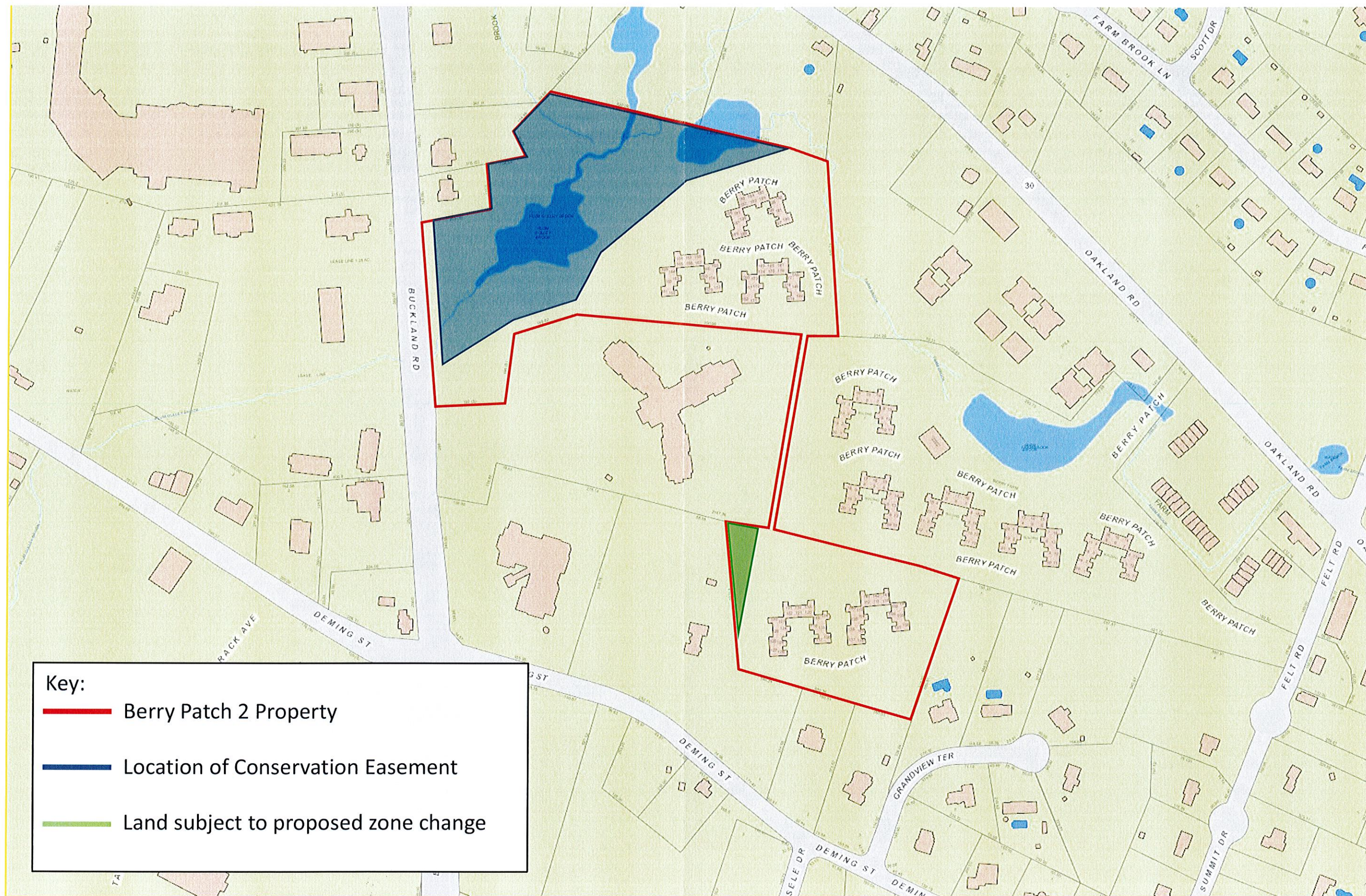
PERIMETER SURVEY
ALTA/ACSM SURVEY

DESIGN: [] DRAWN: DMG CHECKED: RPM
JOB NO.: 1823 DATE: 7/20/04
DRAWING NO.: 1823/1823-ALTA DWG

RESURVEY PREPARED FOR:
Berry Patch II Associates Limited Partnership
Grandview Terrace & Deming Street
SOUTH WINDSOR, CONNECTICUT

SHEET
2
2





Key:

- Berry Patch 2 Property
- Location of Conservation Easement
- Land subject to proposed zone change