

TOWN OF SUDBURY COMMUNITY PRESERVATION COMMITTEE

PROJECT SUBMISSION FORM

Submitter: Maureen Valente, Town Manager

Submission Date: Nov. 12, 2010

Group or Committee Affiliation (if any): Board of Selectmen

Submitter's address and phone number:

Purpose (please select all that apply):

278 Old Sudbury Road
Sudbury, MA 01776
978-639-3381

- Open Space XX
- Community Housing
- Historic
- Recreation

Submitter's email address: valentem@sudbury.ma.us

Project Name: Fairbank Farm Agricultural Preservation Restriction

Project Description: Purchase an agricultural restriction on approximately 33 acres of land. See attached for more detailed description.

Costs:

Fiscal Year	Total Project Cost	CPC Funds Requested	Other Funding Sources (amount and source)
2012	\$750,000+	\$750,000	Project may be eligible to receive LAND Grant funding
2013			
2014			
2015			
2016			
Total	\$750,000	\$750,000	

How does this project meet the General Criteria and Category Specific Criteria for CPC projects (see attached)? *See below*

Does this project fall within the jurisdiction or interest of other Town Boards, Committees or Departments? If so, please list the boards, committees or departments, whether applications and/or presentations have been made, and what input or recommendations have been given.

For Community Preservation Committee Use:

Form Received on: _____

Project Presented to CPC on: _____

Reviewed by: _____

Determination: _____

Project Description

The Town has been offered the opportunity to purchase the development rights on approximately 33 acres of land located on Old Sudbury Road, known as the Fairbank Farm, by Bill Fairbank, the owner of the property. It is anticipated that an Agricultural Preservation Restriction (APR) would be placed on the property restricting the development of the property into residential homes, but allowing the property to be farmed, including all uses that are presently existing. The land is in MGL c. 61A and the Town has a right of first refusal. However, the owner has chosen not to submit a Purchase and Sale Agreement, but to offer the development rights directly to the Town. An appraisal has been submitted with the offer, and the Town is in the process of preparing its own appraisal.

The farm is presently improved with a large barn (4,000 sq. ft.), a small barn (1,800 sq. ft.), several small accessory agricultural structures and a farm stand. Current uses include a composting operation (under a permit from the MA Dept. of Agriculture), crop fields, pasturing of animals and sale of products at the farm stand. Zoning in this area is C-Residential and the property is within the Sudbury Center Historic District.

The parcel is identified on the 2009-2013 Open Space and Recreation Plan. It ranks in the upper 1/3 of the list. The parcel is also listed as a parcel of Critical Concern on the Town's Heritage Landscape Inventory. The property has considerable views along a major gateway into Sudbury, and the large barn on the property may have historical significance.

Items which will be negotiated in the APR include:

- Allowance to construct one single family dwelling and the potential for farm worker housing. It is anticipated that a building envelope location will be approved where all residential development shall occur. Both of these accommodations are recited in MGL c. 184, s.31 (attached).
- Allowance to utilize the land for agricultural operations, including expansion of current operations.
- Allowance to construct agricultural buildings.
- No public access is contemplated by the landowner due to the active working nature of the farm. The Town will review any trail linkages in the vicinity and may propose some access. This property is directly adjacent to Wolbach Farm, and abuts a small town-owned conservation parcel at the top of the hill off Puritan Lane. No other conservation land abuts the property, however it is in close proximity to Piper Farm and King Philip Woods.
- There may be the possibility of requesting additional funds now or in the future for the placement of a Historic Preservation Restriction on the barn. The scenic value of the barn is high, and there is likely historical value. Historic Preservation Restrictions can prohibit removal of a structure, can require certain repairs be made, and can protect just the façade or just the interior. Whatever the eventual outcome, any restriction will be tailored to the needs and requirements of the landowner and the Town.

Attachments:

- Locus Plan of property
- Financial Comparison
- MGL c. 184, s. 31

General Criteria

- This project is eligible for Community Preservation Act (CPA) funding according to the requirements described in the CPA legislation. *Purchase of land/development rights for open space preservation is allowed under the statute.*
- This project is consistent with the town's Master Plan, Land Use Priorities Committee Report, and Community Housing Plan, which have received wide scrutiny and input and have been adopted by the town. *Preservation of this parcel is a stated goal of the town— 2009-2013 Open Space and Recreation Plan, 2007 Heritage Landscape Report.*
- This project has received endorsement by other municipal boards or departments. *To date, the Board of Selectmen has been the leading board on this project. Comments from other boards will be forthcoming, including the Conservation Commission, Historic Districts Commission, Agricultural Commission, Planning Board and Historical Commission.*
- This project will preserve the essential character of the town as described in the Master Plan. *The parcel is located at a gateway to the Town and is within the Sudbury Center Historic District. Keeping this property in its existing state and prohibiting development will preserve the character of the town at a very visible entrance at its eastern boundary.*
- This project will save resources that would otherwise be threatened and/or serve a currently under-served population. *Agricultural resources are threatened throughout the country. Preserving family farms from development will conserve resources.*
- This project will serve more than one CPA purpose (especially in linking open space, recreation and community housing). *The parcel abuts open space owned by the Town of Sudbury and other entities, and there is the potential for trail linkage through this property.*
- This project demonstrates practicality, feasibility, urgency. *The Town has been offered to purchase the develop rights at the current time. Delaying the project could result in withdrawal of the offer, and proceeding to development. Although the Town has a right of first refusal on this property, it is preferable to negotiate directly with a landowner.*
- This proposal demonstrates that the project can be implemented expeditiously and within budget. *The Town will not be responsible for maintaining the property. The cost of the restriction will be the only cost for this project.*
- This proposal produces an advantageous cost/benefit value. *Attached is a cost analysis of other land acquisition projects and their cost per acre.*
- This project leverage additional public and/or private funds. *An application for a LAND Grant from the Executive Office of Energy and Environmental Affairs may be filed for reimbursement of up to \$500,000 of the cost of the restriction.*

Open Space Criteria

- This project permanently protects important wildlife habitat, including areas that are of local significance for biodiversity, or contain a variety of habitats, with a diversity of geologic features and types of vegetation. *The property contains a variety of habitat areas, including open fields, forested areas, hedge rows and stone walls, wetland areas, and significant elevations.*
- This project preserves Sudbury's rural and agricultural character. *Sudbury's remaining farms, including Fairbank Farm, were noted in the 2007 Heritage Landscape Report as being parcels of critical concern due to the widespread conversion of farms to development.*
- This project protects wildlife corridors, promote connectivity of habitat or prevent fragmentation of habitat. *The significant size of the property, and the abutting open spaces, naturally provides buffers from adjacent development for a variety of wildlife species.*
- This project preserves important surface water bodies, including wetlands, vernal pools or riparian zones. *There is a wetland area on the eastern property boundary which will be protected.*
- This project preserves scenic views. *Old Sudbury Road is a gateway into the Town Center Historic District, and this farm, along with Wolbach Farm, creates an historical feel as motorists drive into Sudbury.*
- Preserve a parcel identified in the 2009-2013 Open Space and Recreation Plan. *Fairbank Farm is a listed parcel for preservation on the current Open Space and Recreation Plan.*

Introduction

Identification of the Real Estate – Legal Description

The subject property is identified by the Town of Sudbury Tax Assessor as Parcels 200 and 203 on Map H-10.

- Parcel 200 is additionally identified as Lot 3 on the plan entitled, “Plan of Land in Sudbury, Mass. owned by Winthrop H & Rebecca Fairbank” dated March 12, 1990, addition March 14, 1990 and recorded in the Middlesex County Registry of Deeds Southern Districted in Book 204890, page 310 on April 10, 1990. This plan is reproduced on the next page.
- Parcel 203 is additionally identified as Lot 3 on the plan entitled, “Fairbank Farm’ Plan of Land in Sudbury, Mass., Owner-Applicant, Developer & Subdivider: Fairbank Development Trust, Deborah Hurtig & William Fairbank, Trustees” dated October 20, 1998, last revised August 4, 1999 and recorded in the Middlesex County Registry of Deeds Southern Districted in Book 1999, page 1182 on October 21, 1999. This plan is reproduced on the page after next.



Spring 2008 satellite image, provided by MassGIS online map viewer. Not to scale.

Open Space Purchases
FINANCIAL COMPARISON
11/10

PROPERTY	TYPE	COST	SIZE	# LOTS	Avg. Cost/lot	Avg. Cost/Ac.
Meachen	OSP	\$4,010,000	55 acres	11	\$365,000	\$73,000
Weisblatt	OSP	\$4,950,000	44 acres	23	\$215,000	\$112,500
Piper	OSP	\$2,550,000	70 acres	9	\$283,000	\$36,400
Dickson	CPA	\$440,000	2.39 acres	1	\$440,000	\$184,100
Cutting	CPA	\$4,700,000	58 acres	21	\$223,800	\$81,000
Libby	CPA	\$2,631,439	24.06 acres	6	\$438,500	\$109,370
Nobscot	CPA	\$8,600,000	303 acres	47	\$183,000	\$28,400
FAIRBANK	CPA	\$750,000	33 acres	3	\$250,000	\$22,727
AVERAGE					\$299,787	\$80,937
Hawes (not purchased)	61A	\$540,000	5.2 acres	2	\$270,000	\$103,800
Hodder (not purchased)	61A	\$1,320,000	5.6 acres	4	\$330,000	\$235,700
Prichett (not purchased)	61A	\$5,700,000	57.1 acres	13	\$438,500	\$99,800
AVERAGE					\$346,000	\$146,400

OSP – Open Space Purchase

CPA – Community Preservation Act funds



PART II REAL AND PERSONAL PROPERTY AND DOMESTIC RELATIONS
(Chapters 183 through 210)

TITLE I TITLE TO REAL PROPERTY

CHAPTER 184 GENERAL PROVISIONS RELATIVE TO REAL PROPERTY

Section 31 Restrictions, defined

Section 31. A conservation restriction means a right, either in perpetuity or for a specified number of years, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land or in any order of taking, appropriate to retaining land or water areas predominantly in their natural, scenic or open condition or in agricultural, farming or forest use, to permit public recreational use, or to forbid or limit any or all (a) construction or placing of buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground, (b) dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials, (c) removal or destruction of trees, shrubs or other vegetation, (d) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such manner as to affect the surface, (e) surface use except for agricultural, farming, forest or outdoor recreational purposes or purposes permitting the land or water area to remain predominantly in its natural condition, (f) activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or (g) other acts or uses detrimental to such retention of land or water areas.

A preservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land or in any order of taking, appropriate to preservation of a structure or site historically significant for its architecture, archeology or associations, to forbid or limit any or all (a) alterations in exterior or interior features of the structure, (b) changes in appearance or condition of the site, (c) uses not historically appropriate, (d) field investigation, as defined in section twenty-six A of chapter nine, without a permit as provided by section twenty-seven C of said chapter, or (e) other acts or uses detrimental to appropriate preservation of the structure or site.

An agricultural preservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land appropriate to retaining land or water areas predominately in their agricultural farming or forest use, to forbid or limit any or all (a) construction or placing of buildings except for those used for agricultural purposes or for dwellings used for family living by the land owner, his immediate family or employees; (b) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance in such a manner as to adversely affect the land's overall future agricultural potential; and (c) other acts or uses detrimental to such retention of the land for agricultural use. Such agricultural preservation restrictions shall be in perpetuity except as released under the provisions of section thirty-two. All other customary rights and privileges of ownership shall be retained by the owner including the right to privacy and to carry out all regular farming practices.

A watershed preservation restriction means a right, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land appropriate to retaining land predominantly in such condition to protect the water supply or potential water supply of the commonwealth, to forbid or limit any or all (a) construction or placing of buildings; (b) excavation, dredging or removal of loam, peat, gravel, soil, rock or other mineral substance except as needed to maintain the land and (c) other acts or uses detrimental to such watershed. Such watershed preservation restrictions shall be in perpetuity except as released under the provisions of section thirty-two. All other customary rights and privileges of ownership shall be retained by the owner, including the right to privacy.