

(Final)



Town of Orleans

19 School Road Orleans Massachusetts 02653-3699
Telephone (508) 240-3700 – Fax (508) 240-3388

COMMUNITY PRESERVATION PROJECT APPLICATION

Submission Date: November 22, 2019

Project Title: 12 Peck's Way, Areys Pond

Applicant: Orleans Open Space Committee (*public*)

Address: Chair Robert Cunningham, Open Space Committee Mailbox, Orleans Town Hall

Telephone: (781) 223-1968 (cell)

Email: Lordrob4@gmail.com

Federal Tax Identification Number (if non-profit): NA

Contact Person (Name & Telephone): Vice Chair Stephanie Gaskill: (508) 237-4493 (cell)

Project purpose (Check all that apply):

Open Space Historic Preservation Community Housing Recreation

Project Location/Address: 12 Peck's Way, Orleans, MA

Community Preservation Funding Request: To be determined after discussion with Board of Selectmen.

Brief Project Summary, Including Justification of Project Category Checked Above:

On February 19, 2006, three former parcels constituting the Peck holding, were formally subdivided into five parcels, Lot 1 through 5. The Town of Orleans, represented by the Land Bank/Open Space committee acquired, at the same time, Lots 1 and 2. The Town named the two lot combination the *Marion Hadley and Samuel Watson Peck Conservation Area*. Currently, Lot 3, 4 and 5 are held by Peck family members, with a small cottage occupying Lot 4 and two small outbuildings on a small portion of Lot 5 (called Lot 5B). The large portion of Lot 5 is "5A", and has been offered for sale to the public. *Lot 3 is being offered to the Town as a "private sale". (cf Attachment 1, Feb 17, 2006)*

Lot 3 is 2.54 acres in total, with a conservation restriction perimeter bordering the East along Peck's Way, the South alongside of the Town's current Conservation Area, and to the West along the Namequoit, leading to the mouth of Areys Pond. The Conservation Restriction encompasses 1.12 acres, resulting in a "**building envelope**" of 1.42 acres.

The Open Space Committee now proposes to acquire Lot 3 (**cf. Attachment 2, "12 Peck's Way"**), which abuts Lots 1 and 2. When combined, the three lots will create a very substantial Town Conservation area. It would be maintained in its natural state as an "**Open Space**", with a loop trail (for passive recreation) extending from a Town owned parking area on the East side, to the Namequoit River and to the entrance to Areys Pond on the West. If acquired, Lot 3 would be a valuable addition to our open space at the location. It would... **1)** create an expanded **recreational opportunity** with an easy extension of the existing loop trail; **2)** eliminate the possibility of residential development on three of the five Peck lots; and **3)** prevent an additional residential wastewater loading threat to Areys Pond.

Of **historical importance**, the Peck Site was a part of a major Indian Village in the 1600s and 1700s, and includes a shell midden on Lot 2 of the current Conservation Area.

(Final)

Detailed Narrative:

The Management Plan for Lot 3 would adhere to the Marion Hadley and Samuel Peck Management Plan of June 1, 2006, and is intended to comply with goals and objectives of the 2005 Town of Orleans Open Space and Recreational Plan, and the Division of Conservation Services' "Land Use and Management Plan Guidelines" as well. This is the goal as stated in that Plan:

Overall Goal: Under the presumed direct management of the Town of Orleans Conservation Commission, the goal for Lot 3 acquisition would be identical to the current objectives of the existing Peck Conservation Area:

- To preserve the significant natural features of the property.
- To avoid or minimize threats to the conservation values of the site.
- To allow only passive recreation (e.g. walking trails).
- To continue protection of plant and animal species and their habitat within the Conservation Area.

Related Sub-Objectives: Editing objectives a bit from the 2006 Plan, we would envision the following objectives for the combined site in 2020:

- Expand the trails and install sitting benches, providing walking access to nearby the Namequoit River. There are as yet (Nov 2019) no sitting benches in the Conservation Area. (See attachment 3 for depiction of current trail).
- Further document and protect native American artifacts and their cultural significance, with direct attention to the shell midden site.
- If possible, expand the parking area at the trailhead site on Peck's Way, while maintaining privacy for abutting neighbors.
- Monitor the expanded property to determine and respond to any changes in intensity of use.
- Provide annual monitoring of the conservation restriction over the adjacent (after purchase of Lot 3) 5.0-acre Peck parcel

Ownership History: *(What follows is text primarily drawn from the 2006 Management Plan)*

In May 2005 the parcel including Lots 1 and 2 of the Peck property, was the last one voted to be acquired through the Cape Cod Open Space Acquisition Program (also known as Cape Cod Land Bank, Chapter 293 of the Acts of 1998). The Land Bank was superseded by Orleans' adoption of the Community Preservation Act in 2005. The 8-acre property was part of a larger 16-acre parcel known as the Peck property for over 50 years. Its marsh front and wooded hillside can be viewed from the tidal Namequoit River and Areys Pond, a small, sheltered salt pond with an active small-craft boatyard and mooring area.

The Pecks summered at the hill in a modest cabin for 50 years. Their family's main activity was enjoyment of the natural surroundings including swimming, fishing, and boating. The dense woods of the hill provided privacy and quietude for the Pecks. With Dr. and Mrs. Peck's deaths, the estate needed to be distributed in an equitable way among the five heirs. That meant subdividing the parcel into multiple lots, which would have destroyed the parcel's integrity as one of the largest remaining undeveloped waterfront parcels in Orleans. It had long (20 years) been a priority for the Town Open Space Committee.

This Committee negotiated a complex deal in which half of the hill (8.2 acres), and all the Namequoit River frontage, would be purchased for conservation, and the remaining land (7.5 acres) would be limited to no more than three single family house lots.¹ A perpetual conservation restriction held by the Town Conservation Commission secures that 3-house lot limit. At this time (November 2019), the three Peck heirs own the 7.5 acres, but have offered Lot 5A (closest to Areys boatyard and marina) for sale to the public. After brief discussions in mid-October, 2019 between the heirs and the Pecks'

(Final)

realtor, and between the realtor and the Chair of the Open Space Committee, the heirs also indicated their willingness to offer Lot 3 in a private sale to the Town of Orleans. Which brings us to today.

Site Description

The Marion Hadley and Samuel Watson Peck Conservation Area (expanded by Lot 3) consists of the south and part of the west-facing slopes from the 66-foot high hill previously owned by the Pecks. It is well-wooded throughout with vegetation typical of the pine-oak forest found throughout Cape Cod. In addition to pitch pine and white and black oaks, and Dr. Peck's conifers, there is a sparse understory of bayberry, Virginia creeper, poison ivy, bearberry, greenbrier, spotted wintergreen, field grasses and will sarsaparilla. There is no widespread intrusion of evasive species. In fact, the hill's groundcover is fairly open under the shady canopy. Large exposed boulders add interest to a trail-walker's forest scene.

The more interesting ecotone is found along the 900+ feet (expanded by Lot 3) of shoreline along the Namequoit River, fronting the (approx.) 10.7 acres. The forest edge is cantilevered over a broad fringing salt marsh. The *Spartina* marsh is enhanced with sea lavender, wild seaside rye grass and halberd-leaved orach. The Pecks have seen otters slipping from the forest edge onto the marsh to the river and back again. The Namequoit River is a fairly shallow tidal river connecting Areys Pond with the upper reaches of Little Pleasant Bay. There is no upland erosion. A short stretch of marsh bank has slumped into the head of Namequoit River at the mouth of Areys Pond. According to the Pecks, this slumping resulted from channel dredging of the river years ago.

Although no rare species of plants or animals have been documented on the site, the property lies within the state's Bio Map Core for Pleasant Bay, and partially within the state Area of Critical Environmental Concern for Pleasant Bay. The State's Natural Heritage Program identifies threatened diamondback terrapins nesting on Pleasant Bay shores. The heavily vegetated character of the Peck hill makes it unlikely that there is any active nesting of terrapins there now, since these marine turtles prefer exposed sandy shores and banks. It is much more likely that eastern box turtles, a Species of Special Concern under state law, would be found in these woods.

Cultural History:

The Pecks' hill was historically known as "Likey's Shore," which took its name from Eliakim Higgins who settled there and is said to have had a tide mill in the River near where the Indians had an eel weir. A few boulders indicating the tidal mill in the River are still to be seen at low tide. There is a narrow bottleneck entering the pond that would have made an opportune place to have an eel weir.

The "Peck Site" is documented with the Massachusetts Historical Commission as a confirmed Contact Period (c.1500-1620) site (MHC #19-BN-214). Professional archaeological investigation dates the exposed shell midden to the Woodland Period (c. 3,000 – 4,000 B.P. "years Before Present"). It is part of what was the Portanimituc village, centered around Areys Pond, Pilgrim Lake and the Namequoit River. The village was a major Indian reservation during the 1600s and 1700s, which included a meetinghouse and graveyard north of Areys Pond.

Action Plan and Timeline:

Upon acceptance of our application by the Community Preservation Commission, the Open Space Committee will work with the Conservation Commission, the Board of Selectmen, the Finance Committee, and any other committees or groups to clarify and present all information helpful to a successful outcome at Town Meeting. The short supply of undeveloped waterfront parcels in Orleans makes this pristine location an important addition to the Town's inventory of conservation lands.

The Peck heirs they have been informed regarding the decision calendar for the property purchase, from CPC application, to acceptance by the CPC, and subsequent presentation as an article on the Warrant for the Spring Town Meeting. They are aware of this extensive timeline, and are comfortable with a possible closing in early Fall, 2020 (FY21).

(Final)

When the Open Space Committee is successful and the property transfer occurs, we will work with Conservation Committee to identify trail expansion alternatives, linking the current trail with new opportunities presented by the acquisition of Lot 3.

We also intend to work with appropriate committees and Town officials to identify attractive bench sites and proceed to their prompt installation. The Committee notes that “sitting benches” have been listed in the management plan for the Peck conservation area, but have not yet been installed.

Finally, it may be useful to expand slightly the small parking lot at the trailhead to the Conservation Area.

Financial Data: We received permission from the Community Preservation Committee to hire a Property Appraiser, and in late October, and he submitted his finished appraisal to us yesterday, November 20. The sellers have clarified their asking price via their realtor. We also feel that we have a strong acquisition case for a grant as noted below, and for a tax credit from the State. We will present these multiple financial elements to the Select Board in Executive Session. That session will identify our path forward with respect to purchase price negotiations. The Chair will be with the Town Administrator as soon as possible to see when a hearing in Executive Session might be possible

Grants and Tax Credits: The Open Space Committee intends, with professional assistance, to submit a grant application to the **“Local Acquisitions for Natural Diversity (LAND) Grant Program.**

This grant program is the successor grant program to the Self-Help program which provided \$500,000 towards the Town acquisition of parcels 1 & 2 in 2006. The LAND grant program is explicitly targeted to the acquisition of land for conservation purposes. The acquisition of land which already abuts Town owned conservation land is a strong plus in terms of the LAND grant selection criteria. The current maximum grant for FY21 is the lesser of \$400,000, or 52% of the acquisition price. We have indications that our application to this program would be well-received.

In addition, we have been informed that we might well be very qualified for a **MA State Tax Credit of \$75,000** on the purchase.

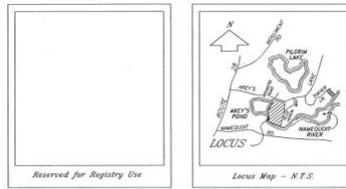
Together, these two funding sources present the very real possibility that the Town’s acquisition of 12 Peck’s Way could be achieved at a very reasonable cost to the Town, with substantial benefits to the Town’s open space objectives.

Attachments

- 1) The Subdivision of the Peck Site, depicting all five lots, as of Feb 17, 2006.
- 2) Street number updates for the five Peck site lots. “12 Peck” is Lot 3.
- 3) The “Loop Trail” on the Town’s Conservation Area at Peck’s Way.
- 4) Topography Map of Peck Site
- 5) Photographs of key elements of the 12 Peck’s Way Acquisition.

Attachment 1: Subdivision of the Peck Site

**DEFINITIVE SUBDIVISION
PLAN OF LAND**
SITuated in
ORLEANS, MA
PREPARED FOR
**Katherine Peck,
Marcia Peck,
Diana Peck and
Susan Peck**
SCALE: 1" = 30'
December 14, 2005
RFD&R & WILCOX, INC.
P.L. & D.L.S.
30 ORLEANS, MA



Cynthia S. May, Clerk of the Town of Orleans
herby certifies that the notice of approval of this
plan by the Planning Board has been received and
recorded in this office and no notice of appeal was
received during the forty days next after such
receipt and recording of said notice.
Date: **February 17, 2006**
Town Clerk: *Cynthia S. May*

I certify that this plan has been prepared in
conformity with the rules and regulations of the
registry of deeds.
Philip O. Soderstrom 12-10-05
Professional Land Surveyor Date



REFERENCE
Assessors Map 69 Parcel 12
Deed Book 7487 Page 263
Plan Book 82 Page 111

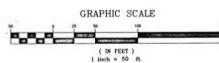
ZONE:
RESIDENTIAL

RECORD OWNER AND APPLICANT:
Katherine Peck
Marcia Peck
Diana Peck
Susan Peck individually
and as Trustee for
Catherine Trust

**ORLEANS PLANNING BOARD
APPROVAL REQUIRED**
Date approved: _____
Date signed: *Susan Peck*

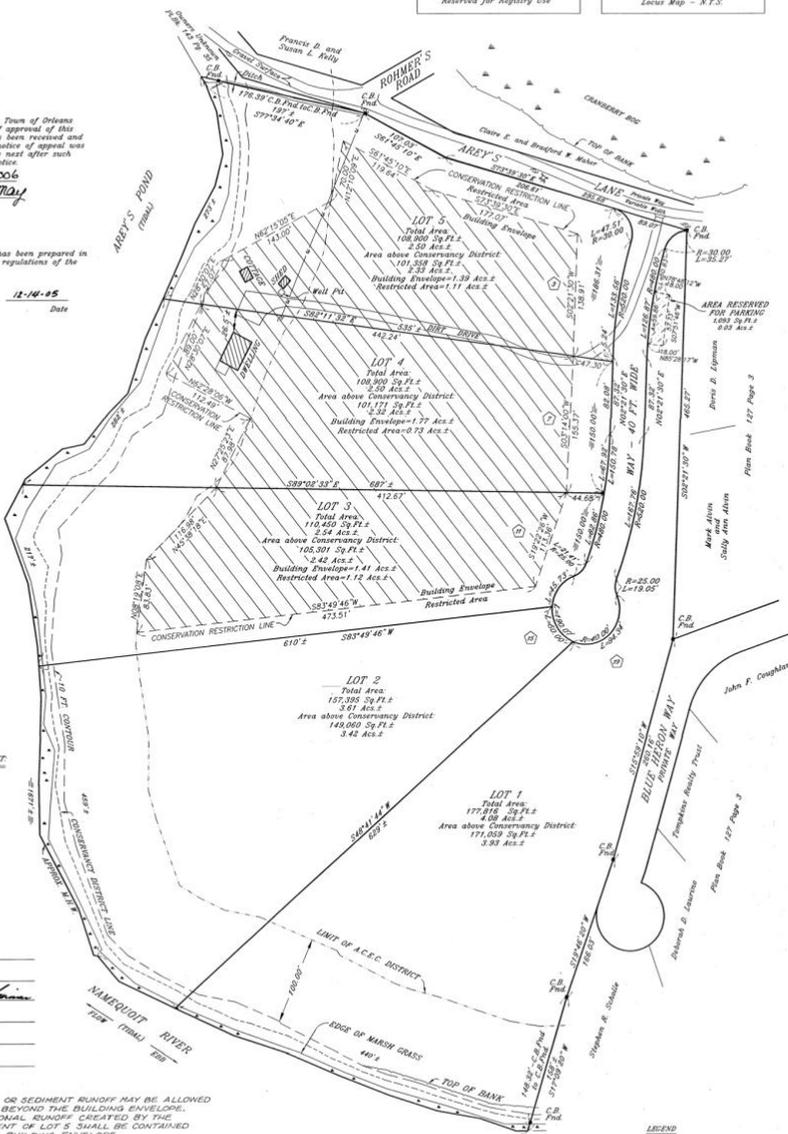
NOTE:
NO EROSION OR SEDIMENT RUNOFF MAY BE ALLOWED
TO EXTEND BEYOND THE BUILDING ENVELOPE.
ANY ADDITIONAL GROUNDS CREATED BY THE
DEVELOPMENT OF LOT 5 SHALL BE CONTAINED
WITHIN THE BUILDING ENVELOPE.

LOT NO.	TOTAL AREA	AREA OF CONSERVATION RESTRICTION	AREA OF BUILDING ENVELOPE
1	177,816 S.F. 4.03 AC.	N/A	N/A
2	157,995 S.F. 3.57 AC.	N/A	N/A
3	110,450 S.F. 2.51 AC.	48,845 S.F. 1.11 AC.	61,605 S.F. 1.40 AC.
4	106,900 S.F. 2.42 AC.	56,600 S.F. 1.27 AC.	50,300 S.F. 1.14 AC.
5	106,900 S.F. 2.42 AC.	48,180 S.F. 1.09 AC.	58,720 S.F. 1.33 AC.
WAY	62,540 S.F. 1.42 AC.	N/A	N/A



LEGEND

- Town of Orleans State Number
- Concrete Bound Fund
- Utility Pole
- Overhead Utility Line
- Fire Hydrant
- ▭ Building Envelope



(Final)

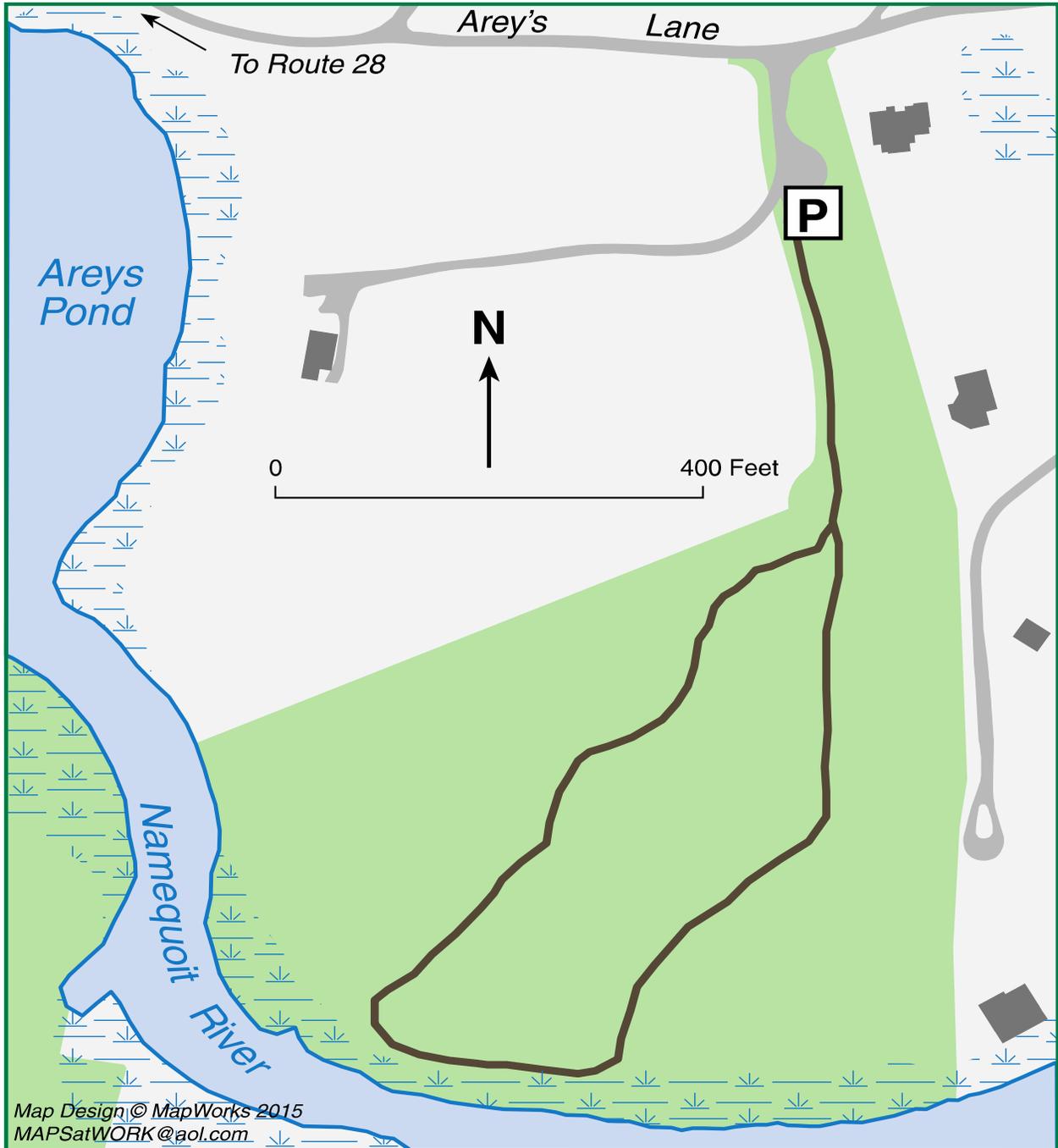
Attachment 2: Street Number Updates for the Peck Lots

The Town already owns #s 16 and 20. OSC proposes to acquire 12 Peck's Way.



seeks to acquire 12 Peck Way (Lot 3).

Attachment 3: Current “Loop Trail” at Peck’s Way
(To be extended upon acquisition)





- FEMA NFHL POLY
 - A
 - AE
 - AH
 - AO
 - V
 - VE
 - ANI
 - X500
 - D
 - UNDES
- Buildings
- Topography
 - 10 ft
 - 10 ft
 - 50 ft
- Driveways
 - Paved Driveway
 - Unpaved Driveway
- Sidewalks
 - Paved Sidewalk
 - Unpaved Sidewalk
- Parking
 - Paved Driveway
 - Unpaved Driveway
- Road Polys
 - Paved Road
 - Unpaved Road
- Parcels
- MA Highways
 - Interstate
 - US Highway
 - Numbered Routes
- Town Boundary
- Streets
- Abutting Towns (Opaque)
- Abutting Towns
- Town Mask
- Bathymetry
 - 0-5 ft
 - 5-10 ft
 - 10-15 ft
 - 15-20 ft
 - 20-30 ft
 - 30-40 ft
 - 40-50 ft
 - 50-60 ft
 - 60-70 ft
 - 70+ ft

The data shown on this site are provided for informational and planning purposes only. The user assumes all liability for any use of the data and its consequences or misrepresentation of the data.

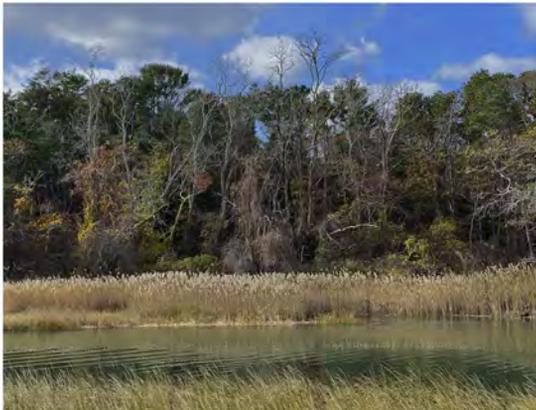
Proposed Conservation Area, Peck Lot 3



Existing Town Parking Area



Trailhead for Town Land to join with Peck Lot 3



Namequoit River from Peck Lot 3



Peck Lot 3 Woods



Looking east from Peck Lot 3 Namequoit River



Looking West From Peck Lot 3 Towards Arey's Pond



Osprey Environs across Namequoit from Peck Lot 3



Looking West, Town land towards Peck Lot 3