

**TOWN OF ACTON**  
472 Main Street  
Acton, Massachusetts 01720  
Telephone (978) 264-9636  
Fax (978) 264-9630

**Planning Department**

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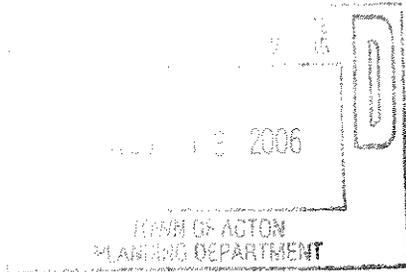
***INTERDEPARTMENTAL COMMUNICATION***

**To:** Planning Board **Date:** November 17, 2006  
**From:** Kristin K. Alexander, AICP, Assistant Town Planner *YKA*  
**Subject:** 215 Newtown Road – M.G.L. Chapter 61A Notice of Intent

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Miss Isabella Choate, the owner of 215 Newtown Road (tax map C-3, parcel 22), has submitted the attached notice of intent to convert to residential use a portion of her property currently taxed under Massachusetts General Law Chapter 61A (Ch. 61A – agricultural and horticultural land). Whenever the owner of land under the Ch. 61A program plans to sell or convert the land to residential, commercial, or industrial use, the Town has the option to purchase the land.

Staff has reviewed the notice of intent and property information. The land Miss Choate is planning on selling for residential use is 2.37 acres in size, with 265 feet of frontage, and is a portion of a larger tract of land she owns encompassing +/- 9.3 acres. The entire tract of land is zoned Residence 10/8 (R-10/8) which requires at least 100,000 square feet per lot (approx. 2.3 acres) and 250 feet of frontage per lot. The tract of land is also located in zoning Affordable Housing Overlay Sub-District A. The land Miss Choate is planning on selling is not adjacent to Town-owned land, does not appear to be near any resources of special interest to the Town, is not located in estimated habitat of rare wildlife or priority habitat of rare species areas, and does not appear to contain any historical or archaeological sites. For these reasons, staff would not recommend that the Town purchase Miss Choate's 2.37 acres of land. On November 28, 2006, please inform staff whether you agree or disagree with this recommendation and we will then advise the Board of Selectmen accordingly.



225 Newtown Road  
Acton, Massachusetts 01720  
November 9, 2006

Planning Board  
Town of Acton  
472 Main Street  
Acton, Massachusetts 01720

To whom it may concern:

This is notice as required under M.G.L. ch 61A, s 14, of my intent to convert to residential use a portion of parcel C3-22 at 215 Newtown Road, currently taxed under Chapter 61A. Enclosed is a copy of the Purchase & Sale, revised lot plan dated 10/27/06, and a copy of my letter to the Board of Selectmen.

Yours truly,

(Miss) Isabella V. Choate

enc: 3

certified mail # 7006 2150 0003 0745 9779

225 Newtown Road  
Acton, Massachusetts 01720  
November 9, 2006

Board of Selectmen  
Town of Acton  
472 Main Street  
Acton, Massachusetts 01720

To the honorable Board of Selectmen:

This is notice as required under M.G.L. ch 61A, s 14, of my intent to convert to residential use a portion of parcel C3-22, located at 215 Newtown Road, currently taxed under Chapter 61A. Enclosed is a copy of the Purchase & Sale Agreement in the amount of \$450,000 along with a revised plan dated October 27, 2006 showing 2.37 acres and 265 feet of frontage in the proposed lot.

If there are any questions as to the specifics or if you wish staff to walk the property please do not hesitate to contact me.

Yours truly,

  
(Miss) Isabella V. Choate

enc: 2

cc: Don P. Johnson, Town Manager, by hand  
Board of Assessors, Town of Acton, certified mail  
Conservation Commission, Town of Acton, certified mail  
Planning Board, Town of Acton, certified mail

certified mail # 7006 2150 0003 0745 9748

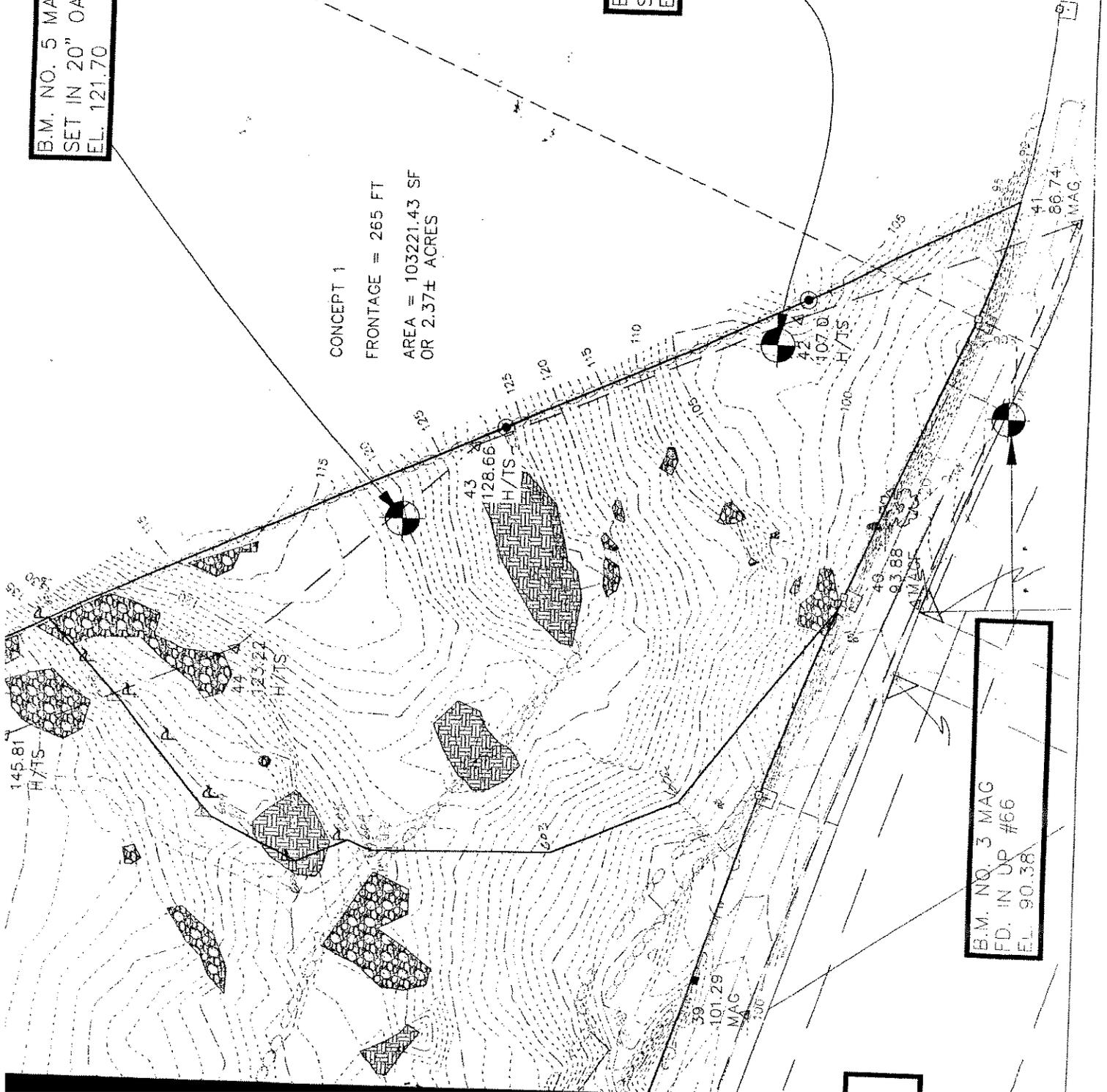
B.M. NO. 5 MAG  
SET IN 20" OAK  
EL. 121.70

B.M. NO. 4 MAG  
SET IN 14" OAK  
EL. 104.55

CONCEPT 1  
FRONTAGE = 265 FT  
AREA = 103221.43 SF  
OR 2.37± ACRES

B.M. NO. 3 MAG  
FD. IN UP #66  
EL. 90.38

WORKING PLOT  
051060  
CHOATE/ACTON  
SCALE: 1"=30'  
DATE: 10/27/06



STANDARD LAND  
PURCHASE AND SALE AGREEMENT [#505]  
(With Contingencies)



The parties make this Agreement this 31st day of August, 2006. This Agreement supersedes and replaces all obligations made in any prior Contract To Purchase or agreement for sale entered into by the parties.

1. **Parties:**

ISABELLA V. CHOATE [insert name] the "SELLER," agrees to sell and RICHARD J. NAPOLI [insert name] the "BUYER," agrees to buy, the premises described in paragraph 2 on the terms set forth below. BUYER may require the conveyance to be made to another person or entity ("Nominee") upon notification in writing to SELLER at least five business days prior to the date for performance set forth in paragraph 5. Designation of a Nominee shall not discharge the BUYER from any obligation under this Agreement and BUYER hereby agrees to guarantee performance by the Nominee.

2. **Description Of Premises.** The premises (the "Premises") consist of land containing approximately 2.5 acres, more or less, described as lots A on a conceptual lot layout done by BPR, being a portion of the premises, as more specifically described in a deed recorded in the \_\_\_\_\_ Registry of Deeds at Book 20816, Page 365, Certificate No. \_\_\_\_\_, a copy of which  is not [choose one] attached.

3. **Purchase Price:** The purchase price for the Premises is four hundred fifty thousand dollars of which \$ \_\_\_\_\_ were paid as a deposit with Contract To Purchase; and \$ 45,000.00 are paid with this Agreement; and \$ 405,000.00 are to be paid at the time for performance by bank, cashier's or certified check or by wire. \$ 450,000.00 Total

4. **Escrow.** All funds deposited or paid by the BUYER shall be held in a non-interest bearing escrow account, by See Addendum A, as agent for the SELLER, subject to the terms of this Agreement and shall be paid or otherwise duly accounted for at the time for performance. If a dispute arises between the BUYER and SELLER concerning to whom escrowed funds should be paid, the escrow agent may retain all escrowed funds pending written instructions mutually given by the BUYER and the SELLER. The escrow agent shall abide by any Court decision concerning to whom the funds shall be paid and shall not be made a party to a lawsuit solely as a result of holding escrowed funds. Should the escrow agent be made a party in violation of this paragraph, the escrow agent shall be dismissed and the party asserting a claim against the escrow agent shall pay the agent's reasonable attorneys' fees and costs.

5. **Time For Performance.** The SELLER shall deliver the deed and the BUYER shall pay the balance of the purchase price at \_\_\_\_\_ o'clock \_\_\_\_\_ m. on the See Addendum A day of \_\_\_\_\_, \_\_\_\_\_, at the MIDDLESEX SOUTH Registry of Deeds, or at such other time and place as is mutually agreed. TIME IS OF THE ESSENCE AS TO EACH PROVISION OF THIS AGREEMENT. Unless the deed and other documents required by this Agreement are recorded at the time for performance, all documents and funds are to be held in escrow, pending prompt rundown of the title and recording (or registration in the case of registered land). SELLER'S attorney or other escrow agent may disburse funds after 5:00 p.m. of the next

RJN  
BUYER'S Initials

W/C  
SELLER'S Initials



business day following the date for performance, provided that the recording attorney has not reported a problem outside the recording attorney's control.

6. **Title/Plans.** The SELLER shall convey the Premises by a good and sufficient quitclaim deed running to the BUYER or to the BUYER'S nominee, conveying good and clear record and marketable title to the Premises, free from liens and encumbrances, except:

- (a) Real estate taxes assessed on the Premises which are not yet due and payable;
- (b) Betterment assessments, if any, which are not a recorded lien on the date of this Agreement;
- (c) Federal, state and local laws, ordinances, bylaws, rules and regulations regulating use of land, including building codes, zoning bylaws, health and environmental laws;
- (d) Any easement, restriction or agreement of record presently in force which does not interfere with the reasonable use of the Premises for residential single-family dwelling;
- (e) Utility easements in the adjoining ways;
- (f) Matters that would be disclosed by an accurate survey of the Premises; and
- (g) \_\_\_\_\_

*[insert in (g) references to any other easement, restriction, lease or encumbrance which may continue after title is transferred]*

If the deed refers to a plan needed to be recorded with it, at the time for performance the SELLER shall deliver the plan with the deed in proper form for recording or registration.

7. **Title Insurance.** BUYER'S obligations are contingent upon the availability (at normal premium rates) of an owner's title insurance policy insuring BUYER'S title to the premises without exceptions other than the standard exclusions from coverage printed in the current American Land Title Association ("ALTA") policy cover, the standard printed exceptions contained in the ALTA form currently in use for survey matters and real estate taxes (which shall only except real estate taxes not yet due and payable) and those exceptions permitted by paragraph 6 of this Agreement.

8. **Closing Certifications and Documents.** The SELLER shall execute and deliver simultaneously with the delivery of the deed such certifications and documents as may customarily and reasonably be required by the BUYER'S attorney, BUYER'S lender, BUYER'S lender's attorney or any title insurance company insuring the BUYER'S title to the Premises, including, without limitation, certifications and documents relating to: (a) parties in possession of the Premises; (b) the creation of mechanics' or materialmen's liens; (c) the underlying financial terms of the purchase and sale; (d) the citizenship and residency of SELLER; and (e) information required to permit the closing agent to report the transaction to the Internal Revenue Service. At the time of delivery of the deed, the SELLER may use monies from the purchase to clear the title, provided that all documents related thereto are recorded with the deed or within a reasonable time thereafter acceptable to the BUYER and, provided further, that discharges of mortgages from banks, credit unions, insurance companies and other institutional lenders may be recorded within a reasonable time after recording of the deed in accordance with usual conveyancing practices. The SELLER'S spouse hereby agrees to release all statutory, common law or other rights or interest in the Premises and to execute the deed, if necessary.

9. **Possession And Condition Of Premises.** At the time for performance the Premises also shall comply with the requirements of paragraph 6 and there shall be no outstanding notices of violation of any zoning, health, environmental or other law, bylaw, code or regulation, except as agreed. The BUYER shall have the right to examine the Premises within forty-eight (48) hours prior to the time for performance or such other time as may be agreed and upon reasonable notice to SELLER for the purpose of determining compliance with this paragraph.

Rjh  
BUYER'S Initials      BUYER'S Initials

We  
SELLER'S Initials      SELLER'S Initials



10. **Extension Of Time For Performance.** If the SELLER cannot convey title as required by this Agreement or cannot deliver possession of the Premises as agreed, or if at the time of the delivery of the deed the Premises do not conform with the requirements set forth in this Agreement, upon written notice given no later than the time for performance from either party to the other, the time for performance shall be automatically extended for thirty (30) days, except that if BUYER'S mortgage commitment expires or the terms will materially and adversely change in fewer than thirty (30) days, the time for performance set forth in paragraph 5 shall be extended to one business day before expiration of the mortgage commitment. SELLER shall use reasonable efforts to make title conform or to deliver possession as agreed, or to make the Premises conform to the requirements of this Agreement. Excluding discharge of mortgages and liens, about which the SELLER has actual knowledge at the time of signing this Agreement, the SELLER shall not be required to incur costs or expenses totaling in excess of five thousand and 00/100 dollars (\$ 5,000.00 ) to make the title or the Premises conform or to deliver possession as agreed. If at the expiration of the time for performance, or if there has been an extension, at the expiration of the time for performance as extended, the SELLER, despite reasonable efforts, cannot make the title or Premises conform, as agreed, or cannot deliver possession, as agreed, then, at the BUYER'S election, any payments made by the BUYER pursuant to this Agreement shall be immediately returned. \* Upon return of all such funds, all obligations of the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER nor SELLER shall have further recourse or remedy against the other. \* Except as provided in Addendum A.

11. **Acceptance Of Deed.** The BUYER shall have the right to accept such title to the Premises as the SELLER can deliver at the time for performance and if extended, shall have such right at the time for performance, as extended. The BUYER shall also have the right to accept the Premises in the then current condition and to pay the purchase price without reduction of price. Upon notice in writing of BUYER'S decision to accept the Premises and title, the SELLER shall convey title and deliver possession. Acceptance of a deed by the BUYER or BUYER'S nominee, if any, shall constitute full performance by the SELLER and shall be deemed to release and discharge the SELLER from every duty and obligation set forth in this Agreement, except any duty or obligation of the SELLER that the SELLER has agreed to perform after the time for performance. Notwithstanding the foregoing, all warranties made by the SELLER shall survive delivery of the deed.

12. **Adjustments.** At the time for performance of this Agreement adjustments shall be made as of the date of performance for current real estate taxes. The net total of such adjustments shall be added to or deducted from the purchase price payable by the BUYER at the time for performance. If the real estate tax rate or assessment has not been established at the time for performance, apportionment of real estate taxes shall be made on the basis of the tax for the most recent tax year with either party having the right to request apportionment within twelve months of the date that the amount of the current year's tax is established.

13. **Acknowledgment Of Fee Due Broker.** The SELLER and BUYER acknowledge that a fee of \_\_\_\_\_ (\$ \_\_\_\_\_) for professional services shall be paid by the SELLER to \_\_\_\_\_, the "Broker" at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement with BROKER, the terms of the prior fee agreement shall control unless BROKER has expressly agreed to a change in writing. The BUYER and SELLER acknowledge receipt of a notice from BROKER, pursuant to 254 of the Code of Massachusetts Regulations Section 3.0 (13), regarding any agency relationship of the BROKER with the BUYER and/or the SELLER. The BUYER and SELLER understand that \_\_\_\_\_, [insert name] a real estate agent, is seeking a fee from \_\_\_\_\_ [name of listing agent, seller or buyer, if applicable] for services rendered as a seller's / subagent's agent [choose one]. The BUYER further represents and warrants that there is no other broker with whom BUYER has dealt in connection with the purchase of the Premises.

PH  
BUYER'S Initials

\_\_\_\_\_  
BUYER'S Initials

AK  
SELLER'S Initials

\_\_\_\_\_  
SELLER'S Initials



14. **Buyer's Default.** If the BUYER or BUYER'S nominee breaches this Agreement, all escrowed funds paid or deposited by the BUYER shall be paid to the SELLER as liquidated damages. Receipt of such payment shall constitute the SELLER'S sole remedy, at law, in equity or otherwise, for BUYER'S default. The BUYER and SELLER agree that in the event of default by the BUYER the amount of damages suffered by the SELLER will not be easy to ascertain with certainty and, therefore, BUYER and SELLER agree that the amount of the BUYER'S deposit represents a reasonable estimate of the damages likely to be suffered.

15. **Buyer's Financing.** *(Delete If Waived)* The BUYER'S obligation to purchase is conditioned upon obtaining mortgage financing in the amount of \$ \_\_\_\_\_ at prevailing rates and terms by \_\_\_\_\_. If, despite reasonable efforts, the BUYER has been unable to obtain such financing the BUYER may terminate this Agreement by giving written notice that is received by SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above. In the event that notice has not been actually or constructively received, this condition is deemed waived. In the event that due notice has been received, all monies deposited or paid by the BUYER shall be returned and all obligations of the BUYER and SELLER pursuant to this Agreement shall cease and this Agreement shall become void. In no event shall the BUYER be deemed to have used reasonable efforts to obtain financing unless the BUYER has submitted at least one (1) application to a licensed mortgage lender by \_\_\_\_\_ and acted reasonably promptly in providing any additional information requested by the mortgage lender.

16. **Tests/Survey.** *(Delete If Waived)* The BUYER'S obligations under this Agreement are subject to BUYER'S right to obtain test(s), inspection(s) and a survey of the Premises or any aspect thereof, including, but not limited to, percolation, deep hole, septic/sewer, water quality, and water drainage by consultant(s) regularly in the business of conducting said test(s), inspections and surveys, of BUYER'S own choosing, and at BUYER'S sole cost within \_\_\_\_\_ days after SELLER'S acceptance of this agreement. If the results are not satisfactory to BUYER, in BUYER'S sole discretion, BUYER shall have the right to give written notice received by the SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above, terminating this agreement. Upon receipt of such notice this agreement shall be void and all monies deposited by the BUYER shall be returned. Failure to provide timely notice of termination shall constitute a waiver. In the event that the BUYER does not exercise the right to have such test(s), inspection(s) and survey or to so terminate, the SELLER and the listing broker are each released from claims relating to the size suitability or condition of the Premises that the BUYER or the BUYER'S consultants could reasonably have discovered. *See Addendum A.*

20. **Warranties And Representations.** The SELLER further represents and warrants that SELLER has full authority to enter into this Agreement. The BUYER acknowledges that BUYER has not relied upon any warranties or representations other than those incorporated in this Agreement, except for the following additional warranties and representations, if any, made by either the SELLER or any real estate agent

NONE

*[If none, state "none"; if any listed, indicate by whom the warranty or representation was made.]*

21. **Notices.** All notices required or permitted to be made under this Agreement shall be in writing and delivered in hand, sent by certified mail, return receipt requested or sent by United States Postal Service overnight Express Mail or other overnight delivery service, addressed to the BUYER or SELLER or their authorized representative at the address set forth in this paragraph. Such notice shall be deemed to have been given upon delivery or, if sent by certified mail on the date of delivery set forth in the receipt or in the absence of a receipt three business days after deposited or, if sent by overnight mail or delivery, the next

\_\_\_\_\_  
BUYER'S Initials

\_\_\_\_\_  
BUYER'S Initials

*JAC*  
SELLER'S Initials

\_\_\_\_\_  
SELLER'S Initials



business day after deposit with the overnight mail or delivery service, whether or not a signature is required. Acceptance of any notice, whether by delivery or mail, shall be sufficient if accepted or signed by a person having express or implied authority to receive same. Notice shall also be deemed adequate if given in any other form permitted by law.

BUYER: RICHARD J NAPOLI  
23 LINCOLN DRIVE  
ACTON, MA 01720

SELLER: ISABELLA V. CHOATE  
225 NEWTOWN ROAD  
ACTON MA 01720

22. **Counterparts / Facsimiles / Construction Of Agreement.** This Agreement may be executed in counterparts. Signatures transmitted by facsimile shall have the effect of original signatures. This Agreement shall be construed as a Massachusetts contract; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and is intended to benefit the BUYER and SELLER and each of their respective heirs, devisees, executors, administrators, successors and assigns; and may be canceled, modified or amended only by a written agreement executed by both the SELLER and the BUYER. If two or more persons are named as BUYER their obligations are joint and several. If the SELLER or BUYER is a trust, corporation, limited liability company or entity whose representative executes this Agreement in a representative or fiduciary capacity, only the principal or the trust or estate represented shall be bound, and neither the trustee, officer, shareholder or beneficiary shall be personally liable for any obligation, express or implied. The captions and any notes are used only as a matter of convenience and are not to be considered a part of this Agreement and are not to be used in determining the intent of the parties. Any matter or practice which has not been addressed in this Agreement and which is the subject of a Title Standard or Practice Standard of the Massachusetts Conveyancers Association at the time for performance shall be governed by the Standards and Practices of the Massachusetts Conveyancers Association.

23. **Additional Provisions.**

See Addendum A, which becomes a part  
of this agreement.

If there is a conflict between this agreement  
and Addendum A, the Addendum prevails.

UPON SIGNING, THIS DOCUMENT WILL BECOME A LEGALLY BINDING AGREEMENT. IF NOT UNDERSTOOD, SEEK ADVICE FROM AN ATTORNEY.

[Signature] 8-31-06  
BUYER Date

Isabella V. Choate 8/31/06  
SELLER Date

\_\_\_\_\_  
BUYER Date

\_\_\_\_\_  
SELLER, or spouse Date

**Escrow Agent.** By signing below, the escrow agent agrees to perform in accordance with paragraph 4, but does not otherwise become a party to this Agreement.

\_\_\_\_\_  
Date

Form No. 505

**Addendum A.**

1) A deposit of \$45,000.00 having been paid with the signing of this agreement to be held by the Seller. \$25,000.00 of the deposit is non-refundable and is not to be held in escrow, and not withstanding any other provisions becomes the property of the Seller upon signing of this agreement. The remaining \$20,000.00 of the deposit becomes non-refundable upon notice that the Town will not exercise its rights under Ch 61A.

2) Closing to take place within 30 days of receipt of notice Town of Acton will not exercise its rights under Ch 61A, but in no case later than December 31, 2006.

3) Seller will complete septic design and secure septic permit for a ~~four~~<sup>five</sup>-bedroom system. Seller agrees to transfer septic permit to the Buyer upon closing. MC

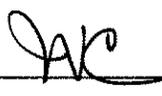
4) Seller will file for ANR approval for lot similar to Lot A shown on Conceptual Lot Layout done by GPR for IVC dated August 24, 2006, with adjustments to frontage and lot lines to conform more to existing contours.

5) Seller will notify Town of intent to sell as soon as final lot configuration is completed.

6) Buyer is responsible for securing a building permit and any other necessary permits. The Seller assumes no responsibility or liability in connection with securing any of these permits, and further the sale of said Lot is not contingent on the Buyer's receiving these permits.

7) Buyer to receive Seller's approval of final site plan prior to applying for building permit, said approval will not be unreasonably withheld.

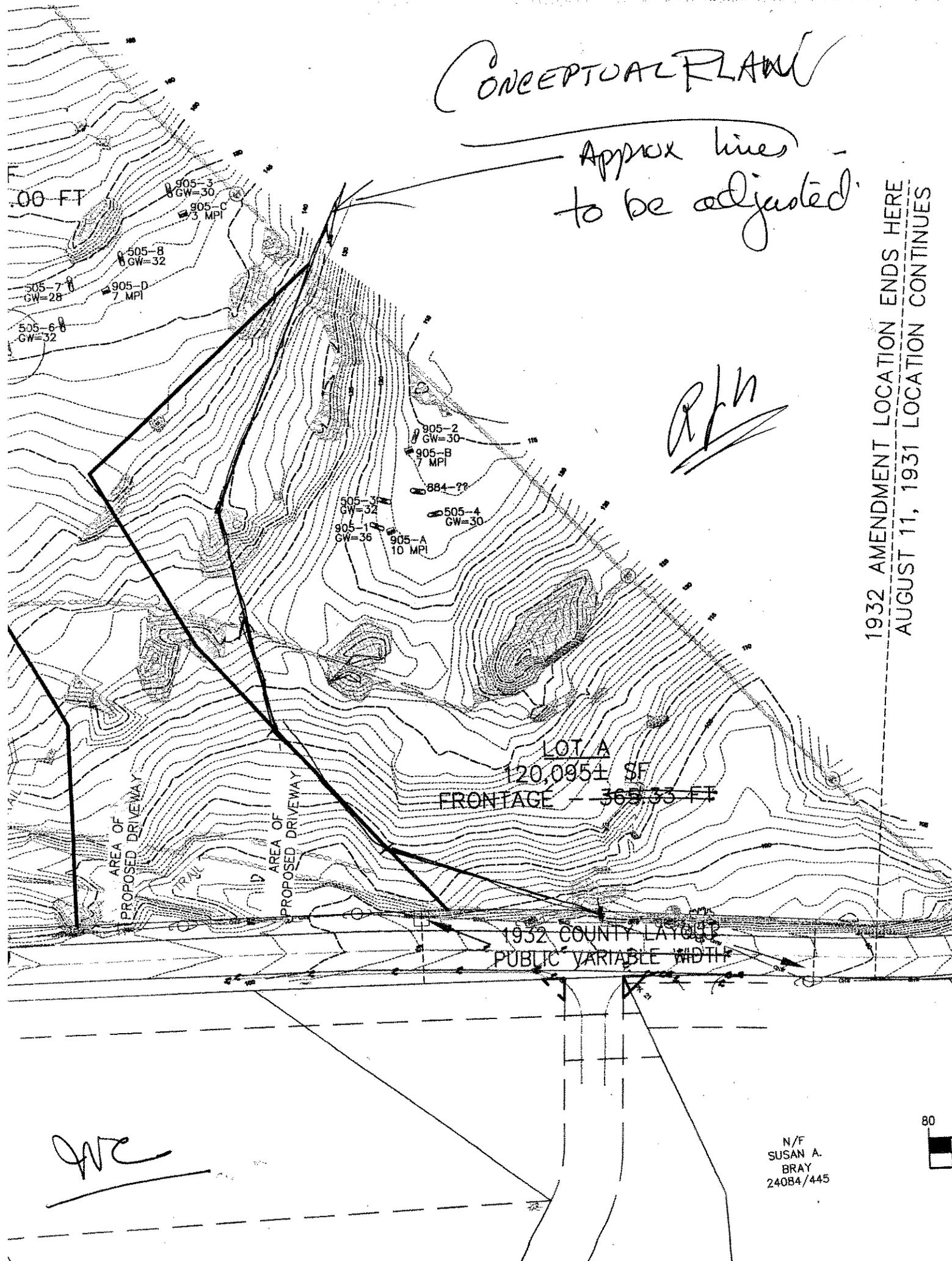
  
Buyers Initials

  
Sellers Initials

# CONCEPTUAL PLAN

Approx lines  
to be adjusted.

R/h



1932 AMENDMENT LOCATION ENDS HERE  
AUGUST 11, 1931 LOCATION CONTINUES

LOT A  
120,095± SF  
FRONTAGE - 365.33 FT

1932 COUNTY LAYOUT  
PUBLIC VARIABLE WIDTH

JWC

N/F  
SUSAN A.  
BRAY  
24084/445

