

TOWN OF STOW

SPECIAL TOWN MEETING

MONDAY, OCTOBER 24, 2005

7:00 P.M.

HALE MIDDLE SCHOOL
HUGH MILL AUDITORIUM

SPECIAL TOWN ELECTION

TUESDAY, OCTOBER 25, 2005

7:00 A.M. TO 8:00 P.M.

CENTER SCHOOL AUDITORIUM/GYMNASIUM

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WARRANT FOR 2005 SPECIAL TOWN MEETING

To either of the Constables of the Town of Stow, in the County of Middlesex, GREETINGS:

In the name of the Commonwealth of Massachusetts, you are directed to notify and warn the inhabitants of the Town of Stow, qualified to vote in Elections and Town Affairs, to assemble in

HUGH MILL AUDITORIUM AT THE HALE MIDDLE SCHOOL

In said Town on

**MONDAY, THE TWENTY-FOURTH DAY OF OCTOBER 2005
AT 7:00 P.M.**

Then and there to act on the following Articles, namely:

Article 1. Rescind Article 43 of 2003 Annual Town Meeting

To see if the Town will vote to rescind the borrowing authority granted under Article 43 of the 2003 Annual Town Meeting to purchase the parcel of land consisting of 36 +/- acres, shown as Parcel Number 65, Map R-10 on the Assessors' maps of Stow, the so-called Villages at Stow Development; or take any other action relative thereto.

(Treasurer/Collector)

The Finance Committee recommends approval of this article.

Article 2. Acquisition of the Cushing Chapter 61 Land

To see if the Town will vote to acquire by purchase or as otherwise provided by General Laws, on such terms and conditions as are in the Town's best interest, 70+/- acres of land consisting of a portion of Map R-01 Lot 27 on Walcott Street, Stow, known as the so-called Cushing Property, for one or more of the following uses: open space, active and passive recreation, affordable housing, or other municipal purposes so long as areas designated for separate purposes shall be clearly identified and delineated. Further, to authorize the Treasurer, with the approval of the Selectmen, to borrow, transfer from available funds, receive from gifts and/or grants, and/or expend from the Conservation Fund and/or the Community Preservation Fund Reserves in accordance with the provision of Massachusetts General Laws Chapter 44B, the Community Preservation Act, One Million Eight Hundred Thousand Dollars (\$1,800,000.00), or any lesser sum, for the acquisition thereof, and the costs associated therewith including legal, title, appraisal, engineering, and other costs or fees incidental thereto; and further to authorize the

Board of Selectmen to enter into such agreements, execute such documents and apply for and accept such federal or state grants as may be available for reimbursement to the Town for these purposes; and further to sell a portion of the fee interest for the development of market rate housing or for other purposes, in accordance with Chapters 30B and 44B as applicable, convey all or part of the land to the care, custody and control of the Conservation Commission and/or the Recreation Commission, and/or convey easements and conservation restrictions, the proceeds of any conveyances to be used to reimburse the Town for the costs of this acquisition; or take any other action relative thereto.

(Board of Selectmen and Community Preservation Committee)

The Finance Committee will make a recommendation at Town Meeting.

Article 3. Employee Salary Changes

To see if the Town will vote to raise and appropriate or appropriate and transfer from available funds the sum of Ninety-five Thousand Dollars (\$95,000.00), or any other sum, for the purpose of providing salary increases to specific Town employees as recommended by the Salary Survey Study Committee; or take any other action relative thereto.

(Salary Survey Study Committee)

The Finance Committee will make a recommendation at Town Meeting.

Article 4. Fuel Oil And Gasoline Supplements

To see if the Town will vote to raise and appropriate or appropriate and transfer from available funds the sum of Three Thousand Seven Hundred and Eighty-eight Dollars (\$3,788.00), or any other sum, for the Municipal Building Account; and Ten Thousand Dollars (\$10,000.00), or any other sum, for the Fuel Expense Account for the purpose of off-setting expected increases in both fuel oil and gasoline costs during FY 2006; or take any other action relative thereto.

(Town Administrator)

The Finance Committee recommends approval of this article.

Article 5. Road Construction

To see if the Town will vote to appropriate and borrow the sum of One Hundred Sixty-one Thousand Four Hundred Thirty-five Dollars (\$161,435.00), or any other sum, for construction, reconstruction and/or improvements to Town roads, as requested by the Board of Selectmen, to be reimbursed by the Commonwealth pursuant to Chapter 291B of the Acts of 2004; or take any other action relative thereto.

(Highway Department)

The Finance Committee recommends approval of this article.

Article 6. Well Repair at Town Center

To see if the Town will vote to raise and appropriate or appropriate and transfer from available funds the sum of Six Thousand One Hundred Twenty-seven Dollars and Fifty-four Cents (\$6,127.54), or any other sum, to pay for repairs to the Town of Stow well pump and piping within the well; or take any other action relative thereto.

(Building Department)

The Finance Committee recommends approval of this article.

Article 7. Purchase of a Council on Aging Van

To see if the Town will vote to raise and appropriate or appropriate and transfer from available funds the sum of Seven Thousand Six Hundred Dollars (\$7,600.00), or any other sum, which represents twenty percent (20 %) of the cost, to be paid to The Commonwealth of Massachusetts Executive Office of Transportation and Construction's Mobility Assistance Program/Section 5310 Capital Grant used for the purchase of a 10-person van to be used to transport the elderly, persons with disabilities (regardless of age), and individuals transitioning from public assistance to employment where other forms of mass transportation are unavailable, insufficient, or inappropriate, and to authorize the Town Administrator to sell or otherwise dispose of the existing van in connection therewith, in conformance with G.L. c.30B; or take any other action relative thereto.

(Council on Aging)

The Finance Committee will make a recommendation at Town Meeting.

Article 8. Purchase of Police Department Telephone Equipment

To see if the Town will vote to raise and appropriate, or appropriate and transfer from available funds, the sum of Five Thousand Dollars (\$5,000.00) for the purchase of new telephones and equipment including installation for the police department; or take any other action relative thereto.

(Police Department)

The Finance Committee will make a recommendation at Town Meeting.

Article 9. Charter Amendment – Submission of Budget and Budget Message

To see if the Town will vote to amend the Charter, adopted in 1991, amended in 1996, by amending Section 6-2 as set forth in subsection A below, and to amend Article 4 of the General Bylaws by inserting a new Section 10, to read in its entirety as set forth in subsection B; or take any action relative thereto.

(Charter Review Committee)

The Finance Committee recommends approval of this article.

A. Delete Section 6-2(a) in its entirety and re-letter Section 6-2 (b) to 6-2 (a).

Section 6-2: Submission of Budget and Budget Message

(a) At least sixty days prior to the date scheduled for town meeting in accordance with the bylaws, the town administrator, after consultation with the board of selectmen, shall submit to the finance committee a proposed operating budget for the ensuing fiscal year with an accompanying budget message and supporting documents. The town administrator shall simultaneously provide for the publication, in a newspaper of general circulation in the town, of a general summary of the proposed budget. The summary shall specifically indicate any major variations from the operating budget for the current fiscal year and the reason for such changes. The notice shall further indicate the times and places at which complete copies of the proposed operating budget are available for examination by the public.

B. Insert a new Section 10 to Article 4. Town Finance and Administration of the General Bylaws to read in its entirety as stated below.

Section 10. No later than one hundred days prior to the date scheduled for the town meeting in accordance with the bylaws herein, the town administrator shall call a public meeting of the finance committee, the school committee(s), representatives of any regional school committees, the assessors, the capital planning committee and the board of selectmen to review the financial condition of the town, revenue and expenditure forecasts and other information relevant to the budget in preparation for the annual town meeting.

CHARTER REVIEW COMMITTEE SUMMARY

The mandate in Section 6-2(a) for a public budget discussion belongs in the bylaws, not the Charter. The Charter is intended to set policies defining structures of governance, not schedules for committee meetings. It is not easily amended, nor is it flexible. The bylaws, in contrast, are intended to govern town meetings and may be readily amended, if necessary. The town budget process is fluid and subject to rapid change. Thus, language that mandates a public budget discussion belongs in the bylaws. The proposed bylaw will foster communication among the boards and citizens during the budgetary process, while keeping the process flexible.

Article 10. General Bylaw Amendment – Wetland Protection

To see if the Town will vote to amend the Town of Stow General Bylaws, Article 9 Wetland Protection, Section 7.2.j. and Section 7.4.c. and the second paragraph so that the amended sections of the Wetlands Protection Bylaw shall read in its entirety as stated below; or to take any other action relative thereto.

(Conservation Commission)

The Finance Committee recommends approval of this article.

Amend Section 7.2 by deleting the following words in subsection j, *whether or not said stream or body of water is located within the Town of Stow* to read as follows:

SECTION 7.2 ALTER

The term “alter” shall include, without limitation, the following actions when undertaken in areas subject to this Bylaw:

- a. Removal, excavation or dredging of soil, sand, gravel, peat or aggregate materials of any kind.
- b. Changing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, and flood retention characteristics.
- c. Drainage or other disturbance of water level or water table.
- d. Dumping, discharging or filling with any material that may degrade water quality.
- e. Placement or removal of material, which would alter elevation.
- f. Driving of piles, erection of buildings or structures of any kind.
- g. Placing of obstructions whether or not they interfere with the flow of water.
- h. Destruction of plant life, including cutting of trees.
- i. Changing of water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water.
- j. Any activities, changes or work that pollute a stream or body of water.
- k. Incremental activities, which have, or may have, a cumulative adverse impact on the resource areas protected by this Bylaw.

CONSERVATION COMMISSION SUMMARY

Subsection j., The powers granted under the Home Rule Amendment do not permit local bylaws to regulate areas outside a municipality’s geographical limit as flagged by the Attorney General as inconsistent with General Laws Chapter 40, Section 21.

Amend Section 7.4 by amending subsection b. and deleting subsection c. and subsections c.(1), c.(2), c.(3) in its entirety to read as follows:

SECTION 7.4. AGRICULTURAL PRACTICES

- a. The term “land in agricultural use” shall mean any qualifying wetland within a farm which is qualified or eligible to be qualified under the Farmland Assessment Act, Mass. General Laws, Chapter 61A, Sections 1 through 5, including but not limited to land primarily used in the raising of animals, the raising of plants for human or animal feed, the production of flowers, trees, nursery and greenhouse products, or ornamental plants and shrubs, or any combination thereof.

- b. The term “qualifying wetland” shall mean only inland fresh water wetland areas, which are seasonally flooded or basins or flats or inland fresh water meadows.

CONSERVATION COMMISSION SUMMARY

Subsection b. amended for grammatical correction and Subsection c. (1), (2), (3), The term “normal maintenance” of land in agricultural was flagged by the Attorney General as inconsistent with the protections accorded to agriculture under state law.

Article 11. Zoning Bylaw Amendment – Table Of Dimensional Requirements

To see if the Town will vote to amend the Zoning Bylaw by amending Section 4.4, by correcting the section number referenced in footnote (1), to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

4.4 Table of Dimensional Requirements

These requirements shall be satisfied entirely within each district.

Zoning District	Minimum LOT Area in sq. ft.	Minimum LOT Frontage in ft.	Minimum FRONT YARD in ft.	Minimum SIDE YARD in ft.	Minimum REAR YARD in ft.	Minimum OPEN SPACE in percent	Maximum FLOOR AREA RATIO
R/C	40,000	150 (2)	100	50	100	80%	.10
Res	65,340	200 (2)	30	25	40	10%	NR
Bus	40,000	150 (2)	50	None (1)	50 (1)	20%	.30
Comm	40,000	150 (2)	50	25 (1)	50 (1)	30%	.30
Ind	40,000	150 (2)	100	25 (1)	50 (1)	40%	.30
C/B	65,340	200	50	None (1)	40 (1)	30%	.30
R/D	300,000	150	300 (3)	150 (3)	150 (3)	80%	.10

NR = Not Regulated

Footnote to Table of Dimensional Requirements

- (1) If the LOT abuts a residential or recreation-conservation district, whether directly or separated by a public or railroad right-of-way, the side and rear YARDS abutting the residential or recreation-conservation district shall be increased as follows and shall include a 50' landscaped buffer that consists of an opaque screen as defined in Section 7.7.4.1 of the Zoning Bylaw.

Minimum Side or Rear YARD

Compact Business District	50 feet
Business District	50 feet
Commercial District	50 feet
Industrial District	100 feet

- (2) The minimum frontage on Route 117 (Great Road) shall be 200 feet.

- (3) In the Refuse Disposal District, one hundred feet (100') of the FRONT, REAR and SIDE YARDS must be densely planted with natural screening, or otherwise screened. YARD requirements may be waived as a condition of the special permit for that portion of a parcel of land abutting an operational REFUSE disposal facility. Such YARD requirements are to be measured from the LOT boundaries and the outer-most limits of the excavation or any BUILDING for the REFUSE disposal facility.
- (4) Wireless Service Facilities shall be exempt from the provisions of Section 4 but shall be subject to minimum front, side and rear YARD setbacks stated in Section 4.4 and setbacks and other limitations established in Section 3.11 of the Zoning Bylaw.
- (5) An Active Adult Neighborhood shall be exempt from the provisions of Section 4 and shall be subject to minimum front, side and rear YARD setbacks and other limitations established in Section 8.8 of the Zoning Bylaw.

PLANNING BOARD SUMMARY

This proposed amendment changes the current section number referenced in Footnote (1) from 7.7.5.1, which doesn't exist, to the correct Section 7.7.4.1.

Article 12. Zoning Bylaw Amendment – Definition Of Open Space

To see if the Town will vote to amend the Zoning Bylaw by amending Section 1.3.42, by changing the word "impermeable" to "permeable", to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

1.3.42 OPEN SPACE – An area of natural or landscaped vegetated growth. This may include within said area recreation areas, playing fields, benches, trails, footpaths, bodies of water and certain other surfaces such as gravel, cobblestone, brick, pavers or other similar materials when used to construct permeable walkways as may be approved by the Special Permit Authority or Site Plan Approval Authority.

PLANNING BOARD SUMMARY

By changing the word "impermeable" to "permeable" this proposed amendment corrects an apparent error, and makes the word consistent with the obvious intent of the definition.

Article 13. Zoning Bylaw Amendment – Common Driveways

To see if the Town will vote to amend the Zoning Bylaw by amending Section 6.2.2, by adding the second sentence, to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

- 6.2.2 The maximum length of the common drive shall be five hundred (500) feet and shall be measured from the near side line of the street along the center line of the common drive to the throat of the furthest junction. As part of an approved subdivision or special permit granted by the Planning Board, the length of a common drive may be longer than five hundred (500) feet.

PLANNING BOARD SUMMARY

The Planning Board believes that the use of common drives should be promoted rather than discouraged. This proposed amendment will allow the use of common drives where multiple parallel single drives might otherwise be required, thereby reducing impervious surface area and site disturbance.

Article 14. Zoning Bylaw Amendment – Inclusion Of Affordable Housing

To see if the Town will vote to amend the Zoning Bylaw by amending Section 8.9.2.1, by changing the word "will" to "could" in the second line, to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

- 8.9.2.1 Beginning with the effective date of this Bylaw, any development or division of land subject to Massachusetts General Law Chapter 41, Sections 81-K through 81-GG, which could result in the creation of six (6) or more DWELLING UNITS, shall require a Special Permit from the Planning Board, and shall include as a condition of said permit that:

- A. At least 10% of the units be priced for QUALIFIED AFFORDABLE HOUSING PURCHASERS;
- B. The mix of AFFORDABLE DWELLING UNITS and market rate housing built in any one year be equivalent to the overall mix for the entire development;
- C. Deed restrictions, acceptable to the Town, and established in accordance with the standards of DHCD or successor or additional programs adopted by the Commonwealth or its agencies, shall be placed on the appropriate property to ensure that AFFORDABLE DWELLING UNITS created under this section shall remain AFFORDABLE DWELLING UNITS in perpetuity or for as long a period as is allowed by law.

PLANNING BOARD SUMMARY

The change of the word "will" to "could" will allow the Planning Board to address the issue of the creation of affordable units on a parcel that could at some point in the future support the creation of six or more dwelling units even if the proposal before them at the time creates less than six dwelling units. One possibility then open to the Planning Board would be the requirement of placing an affordability deed restriction on the parcel, or a portion thereof, in the event it is further subdivided.

One possible drawback would be that if the Board chooses to place a deed restriction on one of five or fewer lots being created, it may give an incentive to a developer to create more lots initially.

Article 15. Zoning Bylaw Amendment – Inclusion Of Affordable Housing

To see if the Town will vote to amend the Zoning Bylaw by amending Sections 8.9.2.1 and 8.9.6 to read in their entirety as stated below in subsections (A) and (B) of this article; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

(A) - Amend Section 8.9.2.1, by deleting the words "subject to Massachusetts General Law Chapter 41, Sections 81 K through 81 GG", so that the first paragraph is to read in its entirety as stated below:

8.9.2.1 Beginning with the effective date of this Bylaw, any development or division of land, which will result in the creation of six (6) or more DWELLING UNITS, shall require a Special Permit from the Planning Board, and shall include as a condition of said permit that:

(B) - Amend Section 8.9.6, by replacing the words "Authority or its designee" with the words "Partnership and/or Stow Affordable Housing Trust Fund," to read in its entirety as stated below:

8.9.6 Fees-in-Lieu of AFFORDABLE DWELLING UNIT Provision - As an alternative to the requirements of Section 8.9.2.1, and as allowed by law and with the approval of the Planning Board, an applicant may contribute an amount in cash equal to the costs of constructing such AFFORDABLE DWELLING UNITS, and satisfactory to the Planning Board in consultation with other relevant Town boards, to the Town of Stow Housing Partnership and/or Stow Affordable Housing Trust Fund, for the development and preservation of affordable housing, in consultation with the Planning Board and other appropriate Town Boards, in lieu of constructing and offering AFFORDABLE DWELLING UNITS within the locus of the proposed development or off-site, as set forth in Section 8.9.6.1 below.

PLANNING BOARD SUMMARY

Note that in part (A) above, the amendment will be moved with the word "could" in place of the word "will" if the previous article passes.

Part (A) of this article proposes to delete reference to sections of MGL Ch. 41, which is the Subdivision Control Law, because there is a belief that these provisions should apply to any development of a parcel, not just by subdivision.

Part (B) of this article allows for a developer to make contributions to the newly created Housing Partnership or Affordable Housing Trust Fund rather than the Housing Authority, which serves a different function.

Article 16. Zoning Bylaw Amendment – Accessory Apartments

To see if the Town will vote to amend the Zoning Bylaw by amending Section 8.1.2.3 by adding the words "secondary and" to subsection 1; correcting the reference "(Sanitary Code – Title V)" to "(Sanitary Code – Title 5)" and deleting the current language in subsection 6 and

replacing it with the words “this subsection language deleted October 24, 2005”, to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

8.1.2.3 provided that all of the following requirements are met:

1. The ACCESSORY APARTMENT shall be a use secondary and incidental to the single-family DWELLING and shall contain no more than 700 square feet of GROSS FLOOR AREA.
2. No more than one ACCESSORY APARTMENT shall exist on the LOT.
3. Either the single-family DWELLING or the ACCESSORY APARTMENT shall be occupied by the owner of the LOT. For the purposes of this section, the "owner" shall be one or more individuals who holds legal or beneficial title to said LOT and for whom the DWELLING is the primary residence for voting and tax purposes.
4. Both the single-family DWELLING and the ACCESSORY APARTMENT shall satisfy the requirements of 310 CMR 15.00 (Sanitary Code - Title 5) and Stow Board of Health regulations.
5. The LOT on which the single family DWELLING or ACCESSORY BUILDING is located shall contain no less than 1.5 acres.
6. *this subsection language deleted October 24, 2005*
7. Any entrance required by the inclusion of an ACCESSORY APARTMENT shall be clearly secondary to the main entrance of the primary DWELLING UNIT.
8. Any modification to the existing entrances on the front facade of the single-family DWELLING shall result in the appearance of a single main entrance.
9. A minimum of two (2) off-street parking spaces shall be provided for each DWELLING UNIT. There shall be adequate provision for ingress and egress from all parking spaces.
10. There shall be no more than one (1) driveway per LOT.

PLANNING BOARD SUMMARY

The current language in subsection 6, which this article proposes to delete, states: “All stairways to the ACCESSORY APARTMENT shall be enclosed”. The Planning Board believes that this issue is adequately addressed in the Building Code. The current language creates the apparently unintended consequence of forcing stairs from decks to be enclosed.

The changes in subsections 1 and 4 are merely for clarification.

Article 17. Zoning Bylaw Amendment – Swimming Pools Fencing

To see if the Town will vote to amend the Zoning Bylaw by amending Section 6.6.3, to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

6.6.3 Swimming Pools Fencing:

- 6.6.3.1 Every outdoor swimming pool, whether or not filled with water, shall be completely surrounded at all times by a FENCE or WALL, in compliance with The Massachusetts State Building Code, 780 CMR, Section 421.

PLANNING BOARD SUMMARY

The Planning Board believes that the extensive and detailed language in the current version of the Bylaw is adequately dealt with in the Building Code and need not be part of our Bylaw, especially where the possibility exists of conflicting language between our Bylaw and the Building Code.

Article 18. Zoning Bylaw Amendment – Dimensional Regulations

To see if the Town will vote to amend the Zoning Bylaw by amending Section 4.1.2, by adding the words "commercial, or industrial", to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

- 4.1.2 Only one main BUILDING may be built or placed on any LOT within the Town except within a business, commercial, or industrial district. Any main BUILDING hereafter ERECTED shall be on a LOT which has frontage upon a STREET as defined in this Bylaw.

PLANNING BOARD SUMMARY

The Planning Board believes that it was not the original intent of this section to allow only one building on lots within the commercial and industrial districts, but rather that it was just an oversight in the language.

Article 19. Zoning Bylaw Amendment – Definitions

To see if the Town will vote to amend the Zoning Bylaw by amending Section 1.3.39, to read in its entirety as stated below; or to take any other action relative thereto.

(Planning Board)

The Finance Committee recommends approval of this article.

- 1.3.39 MULTI-FAMILY DWELLING - A BUILDING for residential USE, other than a DWELLING conversion or ACCESSORY APARTMENT, containing more than one DWELLING UNIT but not more than 4 DWELLING UNITS.

PLANNING BOARD SUMMARY

The current definition of Multi-family is buildings that contain more than two dwelling units. This proposal changes the definition of Multi-family to include buildings with more than one dwelling unit, but adds an exception for dwellings with accessory apartments which are dealt with separately. This proposed change will allow two-family dwellings (duplexes) where multi-family dwellings are allowed, such as in Active Adult Neighborhoods (AANs).

Article 20. Town Election

To vote by ballot on October 25, 2005 at Center School Auditorium/Gymnasium in said Town of Stow the following question:

Question 1 Debt Exclusion on Cushing Chapter 61 Land

Shall the Town of Stow be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued to finance the acquisition, for any municipal purpose, of approximately 70 +/- acres of land, shown as Parcel 27 on Map R-01 of the Assessors Maps of the Town of Stow, located off of Walcott Street, Stow and known as the "Cushing property", and to fund the costs associated with said acquisition, including legal, appraisal, engineering and other costs or fees associated thereto?

And you are directed to serve this warrant by posting copies attested by you calling same at the Town Building and at each of at least seven (7) other public places at least fourteen (14) days before the time of holding said meeting.

Hereof, fail not and make due return of the warrant with your doings thereon to the Town Clerk or Selectmen on or before the time of said meeting.

Given under our hands this twenty-seventh day of September in the year 2005.

BOARD OF SELECTMEN

Edward R. Perry, Jr., Chairman
John Clayton, Jr.
Stephen Dungan
Carole Makary
Janet Wheeler