

**Acknowledgement and ~~Receipt~~ Acceptance of ~~Conditional~~ Restricted  
Donation  
of Garden Located on Upper Bayview Park**

~~[Should there be a lead paragraph that defines the "Agreement"?)~~

Whereas ~~the~~ Stephen and Laurie Kazilionis (the "Donors") have offered to install and maintain a garden (the "Garden") at their sole expense to be located on property of the Northport Village Corporation ("NVC");

Whereas, the Donors submitted the proposal attached hereto as **Exhibit A**, along with a landscape plan attached hereto as **Exhibit B** and a plant material selection list attached hereto as **Exhibit C**;

Whereas the Garden design and proposal has been reviewed by the NVC Parks and Trees Committee ~~and endorsed by the Committee members in an assessment presented to the NVC Board of Overseers ("Overseers") on July 9, 2023, attached hereto as **Exhibit D**~~;

Whereas, the NVC Board of Overseers ("Overseers") on July 9, 2023 recognized the generosity of the Donors but also recognized that a new garden poses a potential burden on a public space which requires ongoing maintenance, ~~potential expenses~~, and, ~~if not well maintained, could become a hazard or unattractive expense~~;

Whereas the NVC has the sole and exclusive power vested in it by its Charter, and pursuant to its Policy for the Preservation of Public Lands, to manage its Lands;

Whereas, the Donors and the Overseers understand that a cooperative and meaningful installation and maintenance plan is essential to ensure the best interests of the NVC and its citizens are met ~~if this donation were to be accepted~~;

Whereas, the Donors are receiving no goods or services of any value nor any other consideration from the NVC in exchange for the Garden; and

Whereas, the Overseers voted on July 9, 2023 to accept the gift on the condition that the Donors enter, acknowledge, and agree to the conditions imposed by the Overseers herein,

It is hereby agreed that:

1. The Garden shall be located on the lower portion of upper Bayview Park as depicted in the landscape plan attached as Exhibit B (subject to the correction of the compass rose error noted on the exhibit), solely on NVC land and no larger than the scale shown on ~~the~~ Exhibit B.
2. The Garden shall be installed and maintained at the sole cost of the Donors for a period of ten (10) years (the “Term”), subject to revocation by the NVC ~~should it become necessary to use this property for other~~ in the event of compelling public purposes need. The Term shall commence upon the ~~completion~~ commencement of the installation of the Garden. The Term may be extended by ~~the NVC in its sole discretion upon request~~ mutual agreement of the NVC and the Donors ~~and subject to terms and conditions the Overseers, or, alternatively, the NVC may deem appropriate at the time of any extension~~ elect to take over maintenance of the Garden.
3. The Garden shall be installed by LG Whitcomb Landscaping or Plants Unlimited in conformance with Exhibits B and C. Before undertaking work, the installer shall supply proof of insurance, ~~appropriate~~ any necessary licenses, and other information reasonably required by the NVC ~~for all construction activities on NVC property. If the Garden is not installed prior to [April 15, 2024], this agreement shall terminate~~.
4. The Donors shall be permitted to install a small, ground-level plaque noting “This garden is gift for the enjoyment of the Bayside Community from the Kazilionis family.”
5. The plantings shall be installed and maintained ~~in such a manner so as to not create an unnecessary visual obstruction from ground level to any residences on upper Bayview Park, and in no case any more obstructive than~~ consistent with the height and width limitations depicted in the illustration attached hereto as Exhibit ED;
6. All maintenance shall be overseen by and performed in accordance with ~~generally accepted standards of an arborist~~ the best practices for maintenance of a public garden under the ~~direction and approval~~ guidance of the NVC Village Agent. ~~[Discuss whether this is too vague~~ Parks ~~and whether Bill has the necessary knowledge to oversee maintenance of a complex, large~~

Commented [EMM1]: I think this should be horticulturist. Arborist just deal with trees.

~~garden.~~ Trees Committee. Any plant that does not survive or becomes diseased during the Term shall be replaced with the same ~~or similar plant type.~~ Any chemical treatment of the Garden shall comply with applicable laws and application guidelines, and such treatments shall consider the potential runoff of chemicals into nearby waterways. ~~or similar plant type.~~

**Commented [EMM2]:** I think this should be consistent with how other gardens are treated on NVC property.

7. The ~~NVC shall not be~~ Donors acknowledge they are responsible for the construction, care, or maintenance of the Garden ~~and, at, If the end of the Term~~ Donors are unwilling or if the Donors fail ~~unable to install or~~ maintain the Garden in accordance with this Agreement, the NVC has the right to remove the Garden at the sole cost of the Donors and revert the property to grass or other groundcover as the Overseers deem appropriate, or, in the alternative, to seek a replacement donor or to undertake maintenance at the NVC's expense.

8. In order to ensure the preservation of public lands, and to protect the NVC from incurring costs related to the deconstruction and removal or ongoing maintenance of the Garden, the Donors, prior to any work being undertaken on the Garden, shall ~~escrow~~ give with the NVC ~~[\$1,000] [\$●]~~ (the "Escrowed Restoration Funds") ~~[Finance Committee suggested further discussion of this Donors to propose an appropriate amount, as it seems too low. Should it also include a component for maintenance costs? The Finance Committee also suggested an escrow rather than a bond. Need to discuss mechanics of how the escrow will be documented and administered.] after consultation with installer.]~~ to ~~partially~~ cover the anticipated cost to remove the Garden and revert the land to its current ~~state should the Donors become unable or unwilling to maintain the Garden during the Term. The NVC shall hold the Escrowed Funds for the Term and a period not to exceed five (5) years following the end of the Term or the expiration or termination of this Agreement for any reason. [Why is there a five year tail?] condition.~~

**Commented [EMM3]:** That was my suggestion because it becomes a bookkeeping nightmare to hold funds indefinitely.

**Commented [EMM4]:** This is superfluous as the crux of the agreement is that they will maintain the garden at their expense.

9. ~~If at any time the Donors fail to meet the conditions expressed herein, The undersigned parties agree they shall, at their sole expense, restore the Garden area to its current appearance and condition as determined by the Overseers.~~

**Commented [EMM5]:** This seems redundant.

SO AGREED:

{Add signature blocks}

9. ~~[Should have completed the NVC Donation Evaluation Checklist be attached as an exhibit to the agreement?] hereto as **Exhibit E** and incorporated herein.~~

Agreed to on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by signature below.

\_\_\_\_\_  
**Northport Village Corporation**  
**By its President, as authorized by the Board of**  
**Overseers at its meeting on**

\_\_\_\_\_  
By: Janae Novotny  
**NVC President**

\_\_\_\_\_  
Stephen Kazilionis  
**Donor**

\_\_\_\_\_  
Laurie Kazilionis  
**Donor**

**Exhibit A**  
**Donors' Proposal**

***Upper Bayview Park - garden proposal***

I am writing with an offer to install a garden on the lower part of Upper Bayview Park for the enjoyment of the Bayside community.

This is a very lightly used, highly visible park, ripe for beautification. The work recently done in Merithew Park, with the positive visual improvements, served as a model for what might be possible. To that end I decided to make this offer.

The garden was designed by Jason White, a landscape architect at Plants Unlimited in Rockport. It features native cultivars that are deer resistant, attract birds and butterflies, with variety that will provide color from Spring to Fall. The installation will be at my expense; I will also commit to pay for maintenance expenses for at least 10 years (perhaps longer but my crystal ball is a bit fuzzy that far out). The garden will be located just above the ditch on George Street (approx. 10') and will also have a 10' space on either side (from the woods and from Rogers Lane).

I have spoken to owners who might be impacted by this installation as well as the families I have seen using the park. Their responses were positive, which encouraged me to make this offer for your consideration. Of particular note; none of the plantings will grow to a height that will impact views from the Webster or Crowe cottages.

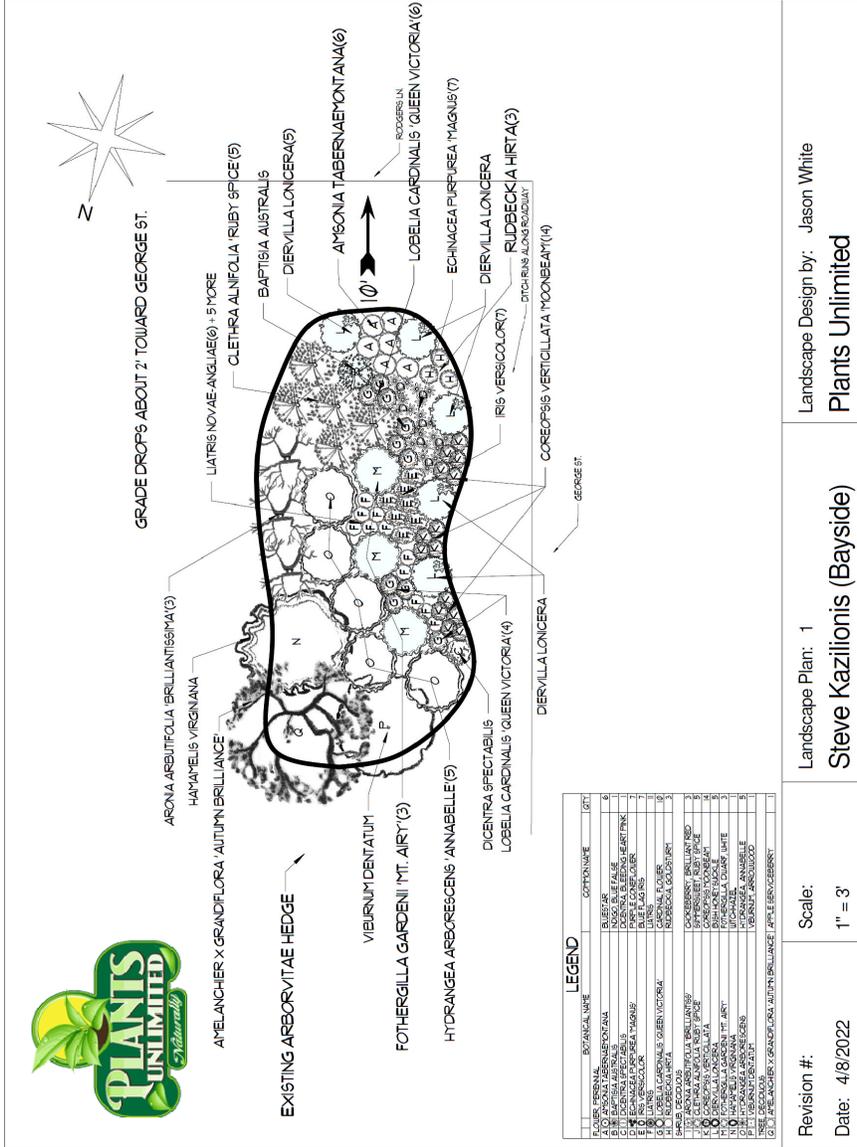
My only request is that I be allowed to install a small, ground level plaque – “This garden is gift for the enjoyment of the Bayside Community from the Kazilionis family”.

I have attached the garden design and the list of plants for your information. I plan to retain LG Whitcomb Landscaping to do the installation as they have done work for the Village and have the requisite insurance coverage.

Looking forward to your response, happy to answer any questions you may have.

Steve Kazilionis

## Exhibit B Landscape Plan



Note: The orientation of the compass rose on this landscape plan is incorrect. Its orientation is off by 180 degrees.

Revision #:	Landscape Plan: 1	Landscape Design by: Jason White
Date:	Steve Kazilionis (Bayside)	Plants Unlimited
Scale:	1" = 3'	

**Exhibit C**  
**Plant Material Selection List**

**Steve Kazilionis**  
February 23, 2023



**Common Name** Apple Serviceberry  
**Botanical Name** Amelanchier x grandiflora 'Autumn Brilliance'  
**Classification** Tree, Deciduous  
**Height** 10' (3 m)      **Width** 10' (3 m)  
**Color** Blue-green foliage  
**Flower Color** White  
**Flower Season** Early Spring  
**Sun** Full Sun, Light Shade  
**Soil** Average, well-drained  
**Climate Zones** 4,5,6,7,8,9

Hybrid apple serviceberry cultivar is a deciduous, early-flowering large shrub or small tree which typically grows 15-25' tall. Features 5-petaled, showy, slight fragrant, white flowers in drooping clusters which appear before the leaves emerge in early spring. Finely toothed, obovate, bluish green leaves change to brilliant orange-red in autumn. Flowers give way to small, round green berries which turn red and finally mature to a dark purplish black in early summer.



**Common Name** Chokeberry, Brilliant Red  
**Botanical Name** Aronia arbutifolia 'Brilliantiss'  
**Classification** Shrub, Deciduous  
**Height** 10' (3 m)      **Width** 5' (1.5 m)  
**Color** White flowers; red fruit and leaves in fall  
**Flower Color** Red, White  
**Flower Season** Spring, Late Spring, Early Summer, Summer, Late Summer, Early  
**Sun** Full Sun, Full Shade, Light Shade  
**Soil** Moist soil  
**Climate Zones** 4,5,6,7,8,9

Multistemmed flowering shrub, leaves are 2-3 long, smooth, shiny and pale green. Fruits ripen in late summer, persist into winter. Pruning rarely needed. Best in moist conditions, will adapt to drier soils. Useful as hedge, accent, and in shrub border.



**Common Name** Fothergilla, Dwarf, white  
**Botanical Name** Fothergilla gardenii 'Mt. Airy'  
**Classification** Shrub, Deciduous  
**Height** 6' (1.8 m)      **Width** 4' (1.2 m)  
**Color** Creamy-white flowers; foliage turns yellow-orange-red  
**Flower Color** Red, Yellow, White, Orange  
**Flower Season** Early Spring, Spring, Late Spring, Early Summer, Summer, Late  
**Sun** Full Sun, Full Shade, Light Shade  
**Soil** Acid, peaty, moist loam, well-drained  
**Climate Zones** 5,6,7,8

Upright shrub produces clusters of fragrant blossoms before leaves unfurl in spring. Dark green leaves color consistently well each fall. Grow in groups, shrub borders, with rhododendrons.

**Exhibit C**  
**Plant Material Selection List**



**Common Name** Hydrangea, Annabelle  
**Botanical Name** Hydrangea arborescens  
**Classification** Shrub, Deciduous  
**Height** 8' (2.5 m)      **Width** 8' (2.5 m)  
**Color** White  
**Flower Color** White  
**Flower Season** Early Summer, Summer, Late Summer, Early Fall, Fall  
**Sun** Full Sun, Full Shade, Light Shade  
**Soil** Moist, fertile  
**Climate Zones** 4,5,6,7,8

It features pure white flowers which are much larger, up to 12 inches across. The strong, straight stems hold the blooms up well. Blooms in late spring to summer, often continuing into fall. This full, lush shrub needs plenty of room to show off its spectacular beauty.



**Common Name** Viburnum, Arrowwood  
**Botanical Name** Viburnum dentatum  
**Classification** Shrub, Deciduous  
**Height** 15' (4.5 m)      **Width** 12' (3.7 m)  
**Color** White  
**Flower Color** Blue, White  
**Flower Season** Spring, Fall  
**Sun** Full Sun, Full Shade, Light Shade  
**Soil** Almost any well drained.  
**Climate Zones** 2,3,4,5,6,7,8

Arrowwood Viburnum is a rounded multi stemmed shrub with spreading, arching branches. White spring flowers and fall bluish fruit. Excellent for hedges, groupings and filler in shrub border. Medium growth rate.



**Common Name** Bluestar  
**Botanical Name** Amsonia tabernaemontana  
**Classification** Flower, Perennial  
**Height** 48" (1.2 m)      **Width** 4' (1.2 m)  
**Color** Green foliage turns golden-yellow in the fall.  
**Flower Color** Blue  
**Flower Season** Late Spring, Early Summer  
**Sun** Full Sun, Light Shade  
**Soil** Moderately fertile, moist yet well-drained  
**Climate Zones** 5,6,7,8,9

Willow-like foliage is topped with pale blue star-shaped flowers in the spring. The light green foliage turns a beautiful golden-yellow in the fall. A low maintenance perennial and easily grown.

**Exhibit C**  
**Plant Material Selection List**



**Common Name** Cardinal Flower  
**Botanical Name** Lobelia cardinalis 'Queen Victoria'  
**Classification** Flower, Perennial  
**Height** 48" (1.2 m)      **Width** 4' (1.2 m)  
**Color** Bright scarlet  
**Flower Color** Red  
**Flower Season** Summer  
**Sun** Full Sun, Light Shade  
**Soil** Well-drained, moist, rich  
**Climate Zones** 4,5,6,7,8,9

Vigorous perennial with showy deep red flowers on spikes that rise above crisp saw-toothed burgundy leaves. Often short-lived though selfseeding perpetuates display. Grow in border, natural areas.



**Common Name** Dicentra, Bleeding Heart Pink  
**Botanical Name** Dicentra spectabilis  
**Classification** Flower, Perennial  
**Height** 36" (90 cm)      **Width** 30" (75 cm)  
**Color** Green foliage  
**Flower Color** Pink, White  
**Flower Season** Early Spring, Spring, Late Spring, Early Summer, Summer, Late Summer  
**Sun** Full Shade, Light Shade  
**Soil** Fertile, humus-rich, moist but well-drained and well mulched  
**Climate Zones** 3,4,5,6,7,8,9

Dainty heart-shaped, pink flowers. Suitable for cutting. Great alone or in mixed shady beds.



**Common Name** Rudbeckia, Goldsturm  
**Botanical Name** Rudbeckia hirta  
**Classification** Flower, Perennial  
**Height** 24" (60 cm)      **Width** 2' (60 cm)  
**Color** Yellow  
**Flower Color** Yellow  
**Flower Season** Summer  
**Sun** Full Sun, Light Shade  
**Soil** Moist, well-drained, loam  
**Climate Zones** 3,4,5,6,7,8,9,10

Easy to grow. Produces masses of golden daisy-like flowers with brownish centers on hairy stems. A popular favorite for sunny mixed beds and borders.

**Exhibit C**  
**Plant Material Selection List**



**Common Name** Purple Coneflower  
**Botanical Name** Echinacea purpurea 'Magnus'  
**Classification** Flower, Perennial  
**Height** 48" (1.2 m)      **Width** 1' (30 cm)  
**Color** Green leaves with pink flowers.  
**Flower Color** Pink  
**Flower Season** Summer, Fall  
**Sun** Full Sun  
**Soil** Moist to wet soil, well-drained/loamy, sandy or clay.  
**Climate Zones** 4,5,6,7,8,9  
 Flowers are showy, great for cut flowers and as dried flowers.



**Common Name** Coreopsis Moonbeam  
**Botanical Name** Coreopsis verticillata  
**Classification** Shrub, Deciduous  
**Height** 18" (45 cm)      **Width** 18" (46 cm)  
**Color** Green leaves with yellow flowers.  
**Flower Color** Yellow  
**Flower Season** Summer  
**Sun** Full Sun  
**Soil**  
**Climate Zones** 3,4,5,6,7,8,9  
 Its has pale yellow flowers in great abundance above delicate, needlelike foliage.



**Common Name** Liatris  
**Botanical Name** Liatris  
**Classification** Flower, Perennial  
**Height** 24" (60 cm)      **Width** 2' (60 cm)  
**Color** Pink, lavender, or white  
**Flower Color** Pink, White, Lavender  
**Flower Season** Summer, Late Summer, Early Fall, Fall  
**Sun** Full Sun, Full Shade, Light Shade  
**Soil** Loamy, well-drained  
**Climate Zones** 4,5,6,7,8,9  
 Easy to grow. Produces feathery spike flowers popular in fresh or dried flower arrangements. Looks great combined with ornamental grasses.

**Exhibit C**  
**Plant Material Selection List**



**Common Name** Indigo, Blue False  
**Botanical Name** Baptisia australis  
**Classification** Flower, Perennial  
**Height** 36" (90 cm)      **Width** 2' (90 cm)  
**Color**  
**Flower Color** Yellow, Orange  
**Flower Season** Summer, Late Summer  
**Sun** Full Sun, Light Shade  
**Soil** Dry to medium wet soils  
**Climate Zones** 3,4,5,6,7,8,9

This Indigo is a showy, tall grass treasured for its lush blue-green foliage and stunning deep blue, flowering spikes. Blooming in the summer, Baptisia has an enormous, deep reaching root system and is long lived, so give it a few growing seasons to reach the mature size.



**Common Name** Summersweet, Ruby Spice  
**Botanical Name** Clethra alnifolia 'Ruby Spice'  
**Classification** Shrub, Deciduous  
**Height** 5' (1.5 m)      **Width** 2' (60 cm)  
**Color** White, also shades of pale pink  
**Flower Color** Pink  
**Flower Season** Summer  
**Sun** Full Sun, Full Shade, Light Shade  
**Soil** Moist, acid, moisture retentive  
**Climate Zones** 3,4,5,6,7,8,9

Medium size shrub with vertical branches produces 3-5 spires of tiny fragrant flowers in mid- to late summer. Deep green leaves grow 2-4" long, turn clear yellow in fall. Tolerates coastal climate. Use as accent, foundation planting, near ponds or along seashore.

**Common Name** Bush Honeysuckle  
**Botanical Name** Diervilla lonicera  
**Classification** Shrub, Deciduous  
**Height** 36" (90 cm)      **Width** 36"  
**Color** Green - orange, red and yellow in the fall  
**Flower Color** Yellow  
**Flower Season** Early Summer, Summer  
**Sun** Full Shade, Light Shade  
**Soil** Adaptable. Average moisture, well-drained.  
**Climate Zones** 3,4,5,6,7

**Exhibit C**  
**Plant Material Selection List**

**Common Name** Witchhazel  
**Botanical Name** Hamamelis virginiana  
**Classification** Shrub, Deciduous  
**Height** 15' (4.5 m)      **Width** 12'  
**Color** Green with yellow fall foliage  
**Flower Color** Yellow  
**Flower Season**  
**Sun**  
**Soil** Tolerates wet soils, well drained soil that may be clay based  
**Climate Zones** 4,5,6,7,8

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**Common Name** Blue Flag Iris  
**Botanical Name** Iris versicolor  
**Classification** Flower, Perennial  
**Height** 36" (90 cm)      **Width** 2'  
**Color**  
**Flower Color** Blue, Purple  
**Flower Season** Spring, Early Summer  
**Sun** Full Sun, Light Shade  
**Soil** Moist to wet  
**Climate Zones** 3,4,5,6,7,8,9

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**Exhibit D**  
**Recommendation by NVC Parks and Trees Committee**

**Bayside Parks and Trees Committee**

Notes regarding a perennial garden in upper Bayview Park

The Committee has studied the proposal for a garden in Upper Bayview, a gift from the Kazilionis family. There have been numerous reactions to this proposal, both pro and con. The committee has carefully considered each point made by community members in making its decision.

Critiques of the proposal were in five general areas which the Committee answers as follows:

1. Precedent

There have been many precedents of non-monetary gifts to the Village, including numerous memorial park benches, playground equipment (funds raised privately), Brockway models, fences, benches, and paving at the library, paving the CH parking area, etc. Gift proposals involving village property do not automatically have to be accepted. They are accepted or rejected by the Overseers on their own merits.

2. Financial burden to the Village

There will be no cost to the village. The Kazilionis family is paying for the garden installation and all maintenance for 10 years. At that time, they may decide to continue that support or not. If they don't, the village can either require them to remove the garden and replant grass – returning the park to its former condition; OR the village may or seek another donor; OR decide that they wish to keep the garden and take over the maintenance as part of the Parks budget. The acceptance of the gift does not necessitate the latter option. The garden maintenance should be required to be done by an insured service, like all Village work. Plants Unlimited, who will be doing the work, will need to provide proof of insurance.

3. Change in views (i.e., "It's always been that way")

In Bayside's history, the most constant thing is change. Looking at the material on the walls in the current exhibit will make that obvious. Bayview Park has not always been an unobstructed lawn. As late as the early 20<sup>th</sup> C, there were many trees planted in Lower Bayview, according to photos from the BHPS. A recent picture of the day of Society Cottages, showed that the grass was not mowed then. Bayside is a living, breathing organism and changes, big and small, have been made throughout its history. And no landscape lasts forever.

4. Views from residences on upper Bayview will be blocked

On a walk-through by the committee, the basic outline of the proposed garden was laid out according to the design. Photos were taken from below the porch steps of the property of Don Webster at the top of the park including a pole scaled to provide for measurements on a diagrammatic simulation of the plantings, their locations and heights. Plant sizes on the diagram were obtained from the Missouri Botanical Garden

**Exhibit D**  
**Recommendation by NVC Parks and Trees Committee**

Plant Finder, an authoritative source. The simulation shows that the mature plants will not block views of the water when viewed from the ground level at the Webster's. More elevated views from the first and second stories of the house will be still higher above the plantings.

5. Deer/bears

The garden design has been prepared by an landscape architect specifically with the deer problem in mind. He has used plants that deer are not attracted to – like the arbor vitae, a favorite deer food, they are now browsing in the park. Many of these plants exist in other Bayside gardens, even out of the central village, where they are not bothered by deer. Thus, they will not attract deer to areas where they are not already a problem. Regarding bears: there have been no bear sightings in Bayside in recent memory.

The views from above and below the garden will, of course, change. Looking from the water, there will now be a bright spot of color on the park during three seasons, instead of just a swath of green. Bayside has many gardens and many of them are on public property (the rights-of-way of most village streets extend to porches and the lovely gardens on those streets are mostly on public land). There will remain several major open swaths of grass, including lower Bayview and Ruggles Parks. Aside from the residents on Rogers Lane, Upper Bayview Park is not widely used by the general public.

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Nobody doesn't like flowers. The gardens of Mary Brown, Carlton Smith, Linda Ellis, and Ned Lightner, to name just a few, delight the senses of everyone throughout the summer. Different individuals have different tastes in landscaping, which the Committee respectfully acknowledges. The offer of the Kazilionis family would create another lovely experience, not only for the residents around the park, but for everyone who walks or drives past it.

Accordingly, the Parks and Trees Committee has voted to recommend that the overseers of the NVC accept the Kazilionis family's gift with the provisos listed above.

Exhibit D  
Illustration by NVC Parks and Trees Committee



**Exhibit E**

**Illustration by NVC Parks and Trees Committee NVC Donation Evaluation Checklist  
for Garden**