

CB22



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GRANTOR: The Town of Stow
GRANTEE: Stow Conservation Trust, Inc.
ADDRESS OF PREMISES: Off South Acton
Road and Tuttle Lane, Stow MA
FOR GRANTOR'S TITLE SEE: Middlesex
County South Registry of Deeds at Book
71090, Page 379

**CONSERVATION RESTRICTION
Kunelius Property**

The Town of Stow, acting through and by its Conservation Commission by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, with an address at 380 Great Road, Stow, Massachusetts, 01775, being the sole owner, for itself and its heirs, successors and assigns ("Grantor"), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to the Stow Conservation Trust, Inc., a Massachusetts non-profit land trust, with an address of P.O. Box 397, Stow, Massachusetts, and its permitted successors and assigns ("Grantee"), for nominal consideration, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on a parcel of land located in the Town of Stow, Massachusetts, containing 42.04 acres ("Premises"), which Premises is more particularly described in Exhibit A and shown in the attached plan in Exhibit B, both of which are incorporated herein and attached hereto.

I. PURPOSES

This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be maintained in perpetuity for conservation purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would impair or interfere with its conservation and preservation values ("conservation values").

The Premises was acquired using M.G.L. c. 44B Community Preservation Act funds, and a copy of the Town Meeting Vote authorizing the use of such funds is attached hereto as Exhibit C.

Return to: Stow Conservation Commission
380 Great Road
Stow, MA 01775

The conservation values include the following:

- (1) Protection of Wetlands and Wildlife Habitat. Preservation of the Premises will protect a large block of high quality forested wetland and interior forest wildlife habitat which abuts other conserved land owned by Grantor and Grantee.
- (2) Flood Plain Protection. The majority of the Premises is located within the 100-year floodplain. The protection of this floodplain will ensure the continued availability of this flood storage during major storm events.
- (3) Protection of Potential Water Supply. The Premises protects an area near Lower Village in Stow and has the potential to serve as the location of a future water supply for the Town of Stow. The Premises is the subject of pump tests that have demonstrated the viability of this aquifer.
- (4) Open Space Protection. The Premises abuts and contributes to the protection of a very large block of protected open space with interconnected trails which includes Captain Sargent Conservation Area (owned by Grantor) and Red Acre Woodlands (owned by Grantee). This large block of open space anchors and protects the scenic and natural character of the northeastern quadrant of the Town of Stow.
- (5) Enhances Nature's Resilience to Impacts of Climate Change. Protection of the Premises links the Captain Sargent Conservation Area (owned by Grantor) and Red Acre Woodlands (owned by Grantee), substantially increasing connectivity of conserved land in the vicinity, which enhances nature's resilience to the impacts of climate change.
- (6) Consistency with Clearly Delineated Federal, State, or Local Governmental Conservation Policy. Preservation of the Premises will advance the goals of the 2016 Stow Open Space and Recreation Plan, which specifically include: protection of areas for passive recreation; protection of surface and groundwater resources; protection of areas that link and connect existing conservation lands; and protection of important natural habitats and wildlife corridors.
- (7) Public Access. Preservation of the Premises will provide for passive outdoor recreation for the general public on a network of trails interconnecting conservation areas in this portion of Stow.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report ("Baseline Report") prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES

A. Prohibited Acts and Uses

Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;
- (2) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises except for

vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or as necessary for the mobility impaired;

- (7) Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (8) The use of the Premises for business, residential or industrial use, or for more than *de minimis* commercial recreation;
- (9) The disruption, removal, or destruction of the stone walls or granite fence posts on the Premises; and
- (10) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

B. Reserved Rights and Exceptions

The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the conservation values or purposes of this Conservation Restriction.

- (1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including trails, stone walls and fence lines;
- (2) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;
- (3) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting are in locations where the presence of such activities will not impair the conservation values of this Conservation Restriction. All exercise of this reserved right shall take into account sensitive areas and be in compliance with the Wetlands Protection Act and Town of Stow Wetlands Bylaw;
- (4) Wildlife Habitat Improvement. With prior notice to the Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species, or the conduct of other ecological restoration activities for the purpose of maintaining or restoring native

species of vegetation and creating or improving native wildlife habitat, provided that such activities do not impair non-target species or water quality;

- (5) Archaeological Investigations. The right to conduct archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only (a) after written notification to and approval by Grantee, and (b) in accordance with an archaeological field investigation plan prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historic Commission (“MHC”) State Archaeologist as required by Massachusetts General Laws. A copy of the results of any scientific investigation on the Premises is to be provided to the Grantee. Plans for restoration of the site of any archaeological activity shall be submitted to the Grantee in advance of restoration, and such restoration shall be conducted only in accordance with a plan approved by the Grantee.

Activities detrimental to archeological and historic resources, including but not limited to earth moving and the alteration of historic stone walls/cellar holes/features, shall not be deemed to be detrimental to archeological and historic resources if a description of the proposed activity and its location is submitted in writing (e.g., on a Project Notification Form) with a plan of land (or assessors map) and a USGS map with the Premises outlined thereon, to MHC and MHC issues a letter stating that the proposed activity is not within a resource area or is determined not to have an adverse effect on said resources. Grantor and Grantee shall make every reasonable effort to prohibit any person from conducting archaeological field investigations on the Premises, including metal detecting, digging, or artifact collecting, without approval of the MHC State Archaeologist (or appropriate successor official), and shall promptly report any such prohibited activity to the MHC State Archaeologist (or appropriate successor official). Grantor and Grantee shall include the prohibition against digging, artifact collecting, or metal detecting in any list of rules for visitors to the Premises;

- (6) Trails. The marking, clearing, and maintenance of trails for passive recreational use of the Premises by the public, including the construction of boardwalks or bridges or the installation of culverts and creating openings in stone walls, provided the maintained width of trails be no greater than eight (8) feet in width. Notice shall be provided to Grantee of any new trail construction that will require boardwalks, bridges, or culverts.
- (7) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, ownership of the Premises, the Grantee's interest in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, and the protected conservation values;
- (8) Outdoor Passive Recreational Activities. Hiking, cross-country skiing, horseback riding, bicycling, hunting, trapping, fishing, ice skating, snow shoeing, wildlife observation, and other non-motorized outdoor recreational and educational

activities (but including motorized wheelchairs or similar equipment reasonably necessary to enable handicapped members of the public to access the Premises) that do not materially alter the landscape, do not degrade environmental quality, and do not involve more than minimal use for commercial recreational activities;

- (9) Forestry and Cutting. Conducting or permitting others to conduct sound silvicultural uses of the Premises, including the right to commercially harvest forest products (as such term may be defined from time to time in General Laws, Ch. 61, Sec. 1, or successor law) and the establishment of new woods roads in accordance with prudent and sound silvicultural practices that conform at least to the minimum standards set forth in the Massachusetts Forest Cutting Practices Act (General Laws, Ch. 132, or its successor) and carried out pursuant to a Forest Stewardship Plan.

Before any harvest of forest products occurs on the Premises, Grantor shall submit a Forest Stewardship Plan to the Grantee, the Massachusetts Department of Conservation and Recreation (or appropriate successor agency) and to any other required state agencies for their approval. The Stewardship Plan shall be prepared by a forester licensed through the Massachusetts Department of Conservation and Recreation in conformance with the "Directions for the Preparation of the Chapter 61 Forest Management Plans and Forest Stewardship Plans" and such statutes, regulations and directions in effect at the time of the approval of said Stewardship Plan. The Stewardship Plan shall include provisions designed to minimize soil erosion, conserve surface and groundwater quality, scenic views, wildlife habitat, and to protect the conservation values of this Conservation Restriction.

The Stewardship Plan shall be effective for a ten (10) year period and shall be resubmitted once every ten (10) years as necessary if additional timber harvests occur. All cutting plans and designated access routes shall avoid any stone structures or historical and cultural resources and shall be reasonably required to prevent any damage thereto. All cutting operations shall be supervised by a licensed forester who, when feasible, shall be the licensed forester that prepared the Stewardship Plan;

- (10) Public Structures. The construction, maintenance, repair and replacement of minor structures for use by the public for educational and passive recreational purposes, including but not limited to interpretive signs and kiosks, and benches. Said structures shall be designed and located so as not to impair the conservation values of this Conservation Restriction;
- (11) Existing Structures. The maintenance and use or demolition, but not expansion, of the existing sauna structure located in the southeastern-most portion of the Premises, as shown as "Existing Building to be Razed" on the Premises in the attached plan in Exhibit B, for conservation-related or property management purposes;

- (12) Vehicles. The use of vehicles and other motorized equipment as necessary for permitted uses and land stewardship activities by Grantor permitted by the provisions of this Conservation Restriction and for all-persons accessibility;
- (13) Water Supply Well. With prior notice to and approval by Grantee, the siting of one or more municipal water supply wells and associated facilities reasonably necessary to install, access, and operate the well(s) on the Premises, such as water supply lines, electric lines, an access road, and other such necessary facilities, provided that the following conditions are met: all utilities are installed underground; the well(s) and associated facilities as described herein are sited to minimize impact on the conservation values of the Premises; and all surface areas are restored substantially to their pre-existing condition. The cumulative footprint of all such well(s) and associated facilities as described herein shall not exceed 5000 square feet.
- (14) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in this Section II(B) shall seek to minimize disturbance to the Conservation Values and other natural features within the Premises that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in this Section II(B), any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report;
- (15) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under this Section II(B) shall be in compliance with zoning, the Wetlands Protection Act, and all other applicable federal, state and local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued; and
- (16) Best Management Practices. The exercise of any right reserved by Grantor under this Section II(B) shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

C. Notice and Approval.

1. Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof of receipt, in writing, not less than 60 days

prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the purposes of this Conservation Restriction.

2. Subject to any applicable law or regulation, failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice, the requested activity is not prohibited herein, and the activity will not impair the conservation values or purposes of this Conservation Restriction. This Section II(C)(2) shall not apply to Section II(B)(13).

III. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and have the boundaries permanently marked.

B. Non-Waiver

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

C. Disclaimer of Liability

By acceptance of this conservation restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

D. Acts Beyond the Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

IV. ACCESS

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

The Grantor agrees to take no action to prohibit, discourage, or charge a fee for access to and use of the Premises by the general public, but only for daytime use and only as described in Section II(B)(8), provided that such agreement by Grantor is subject to the Grantor's reserved right to establish reasonable rules, regulations, and restrictions on such permitted recreational use by the general public for the protection of the purposes and conservation values of this Conservation Restriction. Grantor has the right to control, limit, or prohibit by posting and other reasonable means activities or uses of the Premises whether or not authorized in Section II(B)(8). The Grantor's right to grant public access across the Premises is subject to the restrictions described in this Conservation Restriction. Any public use which is permitted by the terms of this Conservation Restriction constitutes permission to use the Premises for purposes described in the

Massachusetts General Laws Chapter 21, Section 17C and the Grantor and Grantee hereto benefit from exculpation from liability to the extent provided in such section. The Grantee may require the Grantor to post the Premises against any use that may result in rutting or erosion or other damage to the natural resources of the Premises.

Grantor hereby releases and agrees to hold harmless, indemnify, and defend Grantee and Grantee's officers, directors, members, personal representatives, successors and assigns of each of them from and against any and all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, orders or judgments, including reasonable attorneys' fees, arising from or in any way connected with damage to the property of, or injury to or death of any employee, agent, invitee, licensee, or agent, of Grantee directly or indirectly resulting from any such entry onto the Premises.

V. EXTINGUISHMENT

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantees, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Section V(B) below, subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantees shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

B. Proceeds. Grantee acknowledges that Grantor is conveying this restriction in accordance with M.G.L. Chapter 44B, Section 12 and Grantor and Grantee further agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in Grantee, with a fair market value at any time equal to ten percent (10%) of the then-current fair market value of the Premises as if unencumbered by this Conservation Restriction (excluding any increase in value after the date of this grant attributable to improvements made by Grantor). Said ratios shall remain constant.

C. Grantor/Grantee Cooperation Regarding Public Action. Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed to the Grantor and the Grantee in accordance with Section V(B) above, after complying with the terms of any law, gift, grant, or funding requirements, including the Community Preservation Act. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of

the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

VI. DURATION & ASSIGNABILITY

A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the Assignee is not an owner of the fee in the Premises, and the Assignee, at the time of the assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

VII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

VIII. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall, within forty-five (45) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

IX. NON MERGER

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

X. AMENDMENT

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31-33 of Chapter 184 of the General laws of Massachusetts. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Art. 97 of the Amendments to the Massachusetts Constitution, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Middlesex South County Registry of Deeds.

XI. EFFECTIVE DATE

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the General Laws have been obtained, and it has been recorded in a timely manner in the Middlesex County Registry of Deeds.

XII. NOTICES

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Stow Conservation Commission
Town Building
380 Great Road
Stow MA 01775

To Grantee: Stow Conservation Trust, Inc.
P.O. Box 397
Stow, Massachusetts 01775

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

XIII. GENERAL PROVISIONS

- A. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.
- B. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purpose of this Conservation Restriction and the policy and purposes of Chapter 184, Sections 31, 32, and 33 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.
- C. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.
- D. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Restriction, all of which are merged herein.

XIV. MISCELLANEOUS

- A. Pre-existing Public Rights. Approval of this Conservation Restriction pursuant to Chapter 184, Section 32 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and Environmental Affairs is not to be construed as

representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

B. Subordination. The Grantor attests that there is no mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease, financing statement or any other agreement which gives rise to a surety interest affecting the Premises

C. Attached hereto and incorporated herein by reference are the following:

Signature pages:

Grantor

Grantee Acceptance

Approval by Town of Stow Select Board

Approval of the Secretary of Energy and Environmental Affairs.

Exhibits

Exhibit A: Description of the Premises

Exhibit B: Plan of the Premises

Exhibit C: Copy of Town Vote Authorizing Use of CPA Funds

We, the undersigned, being a majority of the Conservation Commission of the Town of Stow, Massachusetts, hereby certify that at a public meeting duly held on June 7, 2019 2019, the Conservation Commission voted to approve and grant the foregoing Conservation Restriction to the Stow Conservation Trust, Inc., pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby grant the foregoing Conservation Restriction.

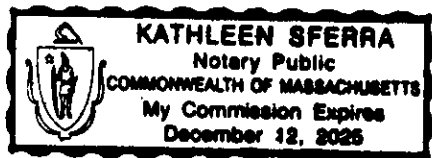
Stow Conservation Commission

By: [Signature]
Courtney
Sandra Grund
Hegemann Clark

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 7th day of June, 2019, before me, the undersigned notary public, personally appeared Jeff Saunders, Courtney, Sandra Grund, Imogene Hegemann Clark proved to me through satisfactory evidence of identification, which was my personal knowledge of the principal's identity, to be the person whose name is signed on the preceding document, and acknowledged to me that (he)(she) signed it voluntarily for its stated purpose on behalf of the Stow Conservation Commission.



Kathleen Sferra
Notary Public
My Commission Expires:

ACCEPTANCE OF GRANT

The Conservation Restriction from the Town of Stow acting by and through its Conservation Commission was accepted by the Stow Conservation Trust, Inc. this 8th day of June, 2019.

STOW CONSERVATION TRUST, INC.

Robert T. Wilber

By: Robert T. Wilber

Its: President, duly authorized

COMMONWEALTH OF MASSACHUSETTS

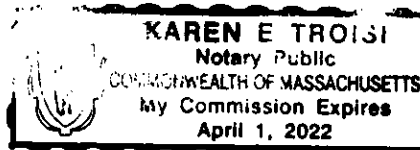
Middlesex, ss.

On this 8th day of June 2019, before me, the undersigned notary public, personally appeared Robert Wilber and proved to me through satisfactory evidence of identification, which was my personal knowledge of the principal's identity, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose as President of Stow Conservation Trust, Inc.

Karen E Troisi

Notary Public


My Commission Expires:



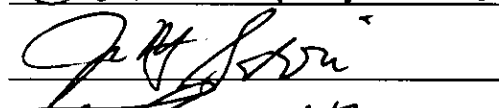
APPROVAL OF SELECT BOARD

We, the undersigned, being a majority of the Select Board of the Town of Stow, Massachusetts, hereby certify that at a public meeting duly held on _____, 2019, the Select Board voted to approve the foregoing Conservation Restriction from the Town of Stow acting by and through its Conservation Commission to the Stow Conservation Trust, Inc. as being in the public interest pursuant to Section 32 of Chapter 184 of the General Laws of Massachusetts.

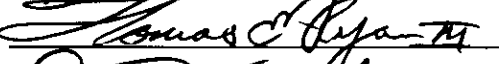
SELECT BOARD:




 Donald P. Hawkes



 Jeff Sison



 Thomas Ryan

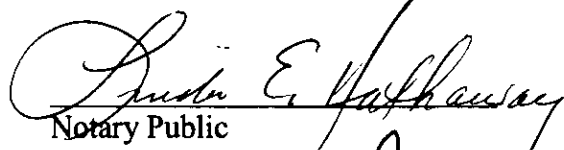


 Cortez F. Blum

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this 25th day of June 2019, before me, the undersigned notary public, personally appeared ^{BRITTA RYAN, DONALD HAWKES, JAMES SALVO, THOMAS RYAN, CORTA, FRECHA} _____ proved to me through satisfactory evidence of identification which was personally known to me to be the person whose name is signed on the preceding document, and acknowledged to me that they signed it in their stated capacity, duly authorized, and voluntarily for its stated purpose.



 Notary Public
 My commission expires: January 27, 2023

**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL
AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from the Town of Stow acting by and through its Conservation Commission to the Stow Conservation Trust, Inc. has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: 7/15, 2019

K. Theoharides
KATHLEEN A. THEOHARIDES
Secretary of Energy and
Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

On this 15th day of July 2019, before me, the undersigned notary public, personally appeared KATHLEEN A. THEOHARIDES, proved to me through satisfactory evidence of identification which was personal knowledge to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Denise Pires
Notary Public
My commission expires: 12/28/23

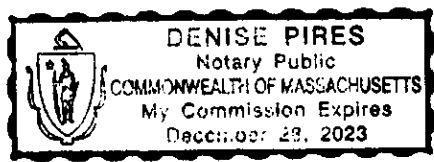


EXHIBIT A - Legal Description of the Premises

The land subject to this Conservation Restriction, herein referred to as the Premises, is described as that portion of the land consisting of 42.04 acres conveyed by Marilyn Kunelius to the Town of Stow and placed under the care, custody, and control of the Conservation Commission for water supply, open space, and passive recreational purposes pursuant to MGL Chapter 40, Section 8C by deed recorded on May 31, 2018 at the Middlesex South Registry of Deeds in Book 71090, Page 379, said Premises being shown as Parcel A on a plan entitled, "Plan of Land, Assessors Map R-31 Lot 57, 144 Red Acre Road, Stow, Massachusetts, Prepared for: Town of Stow, 380 Great Road, Stow, MA 01775, dated May 11, 2018" drawn by Merrill Engineers and Land Surveyors and recorded in the Middlesex South Registry of Deeds as Plan 442 of 2018, a reduced copy of which is attached hereto as Exhibit B.

EXHIBIT B – Copy of Sketch Plan of the Premises
 Recorded 5/31/2018, Middlesex South Registry of Deeds Plan Book 2018, Page 442

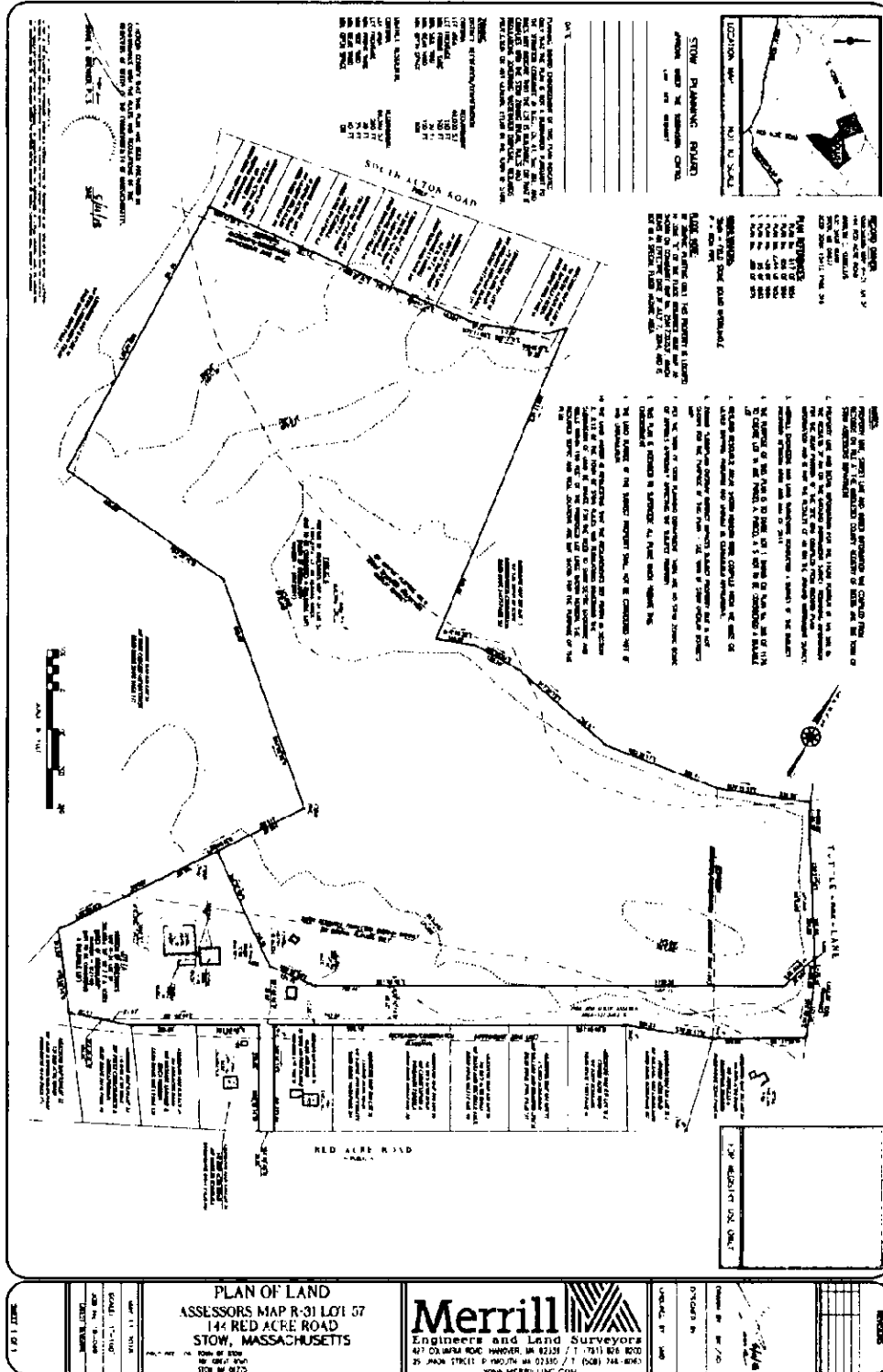


EXHIBIT C

Town Meeting Vote for CPA Funding



Town of Stow
OFFICE OF THE TOWN CLERK
Town Building - 380 Great Road
Stow, Massachusetts 01775-2127
(978) 897-4514 x 1
FAX (978) 897-4534

May 22, 2018

To Whom It May Concern:

The following is a true copy of actions taken at the annual town meeting held in the Hugh Mill Auditorium, Hale School, Stow on May 7, 2018.

Article 46. Purchase of Kunelius Property

On motion of Selectman Brian P. Burke the Town voted unanimously in favor to authorize the acquisition by purchase, gift, eminent domain or otherwise and to raise and appropriate or otherwise expend the sum of Four Hundred and Fifty Thousand Dollars (\$450,000), or any lesser sum, for approximately 49.75 acres of land on Red Acre Road and Tuttle Lane, Stow, shown on Assessors' Map Sheet R31, Parcel 57, known as the Kunelius property, for the purposes of 1) conservation, passive recreation, and water supply development and/or protection, and 2) the development of community housing, said two designated areas to be clearly identified and delineated such that each of the two designated areas be contained on a parcel of land separate and distinct from the other; AND

further, to authorize the expenditure of Two Hundred and Fifteen Thousand Eight Hundred and Seventy-Five Dollars (\$215,875) from the Community Preservation Unreserved Fund Balance to acquire approximately 41 acres of said parcel for conservation, passive recreation, and water supply purposes in accordance with the provisions of MGL Chapter 44B, the Community Preservation Act, and to expend a portion of said funds for 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, solicit grants or receive gifts for said purchase, AND

further, to authorize the conveyance of any conservation, community housing or other restrictions or easements required by MGL Chapter 44B or MGL Chapter 44, Section 55C and/or to further of the purpose and intent of this acquisition, AND

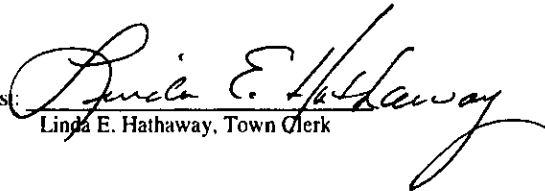
further, that the 41 acres acquired for open space, passive recreation and water supply purposes shall be placed under the care, custody and control of the Conservation Commission in accordance with MGL Chapter 40, Section 8C, AND

Annual Town Meeting
May 7, 2018
Article 46

further, subject to the payment of Two Hundred and Twenty-Five Thousand Dollars (\$225,000) from funds held by the Stow Municipal Affordable Housing Trust, that the remaining portion of the property (approximately 8.75 acres) acquired for community housing purposes be placed under the custody of the Stow Municipal Affordable Housing Trust in accordance with MGL Chapter 44, Section 55C provided however, that no more than six (6) dwelling units, as that term is defined by the Stow Zoning Bylaw, shall be placed or constructed on said 8.75 acres+/- ,
AND

further, to authorize the Conservation Commission and the Stow Municipal Affordable Housing Trust to accept the above noted real property in separate and recordable instruments.

A true copy. Attest:


Linda E. Hathaway, Town Clerk