

#10479

CONSERVATION EASEMENT AND RESTRICTIVE COVENANTS

THIS CONSERVATION EASEMENT AND RESTRICTIVE COVENANTS is established this 8th day of November, 2004, by TOWN OF CUMBERLAND, RHODE ISLAND (hereinafter referred to as "the Town").

WITNESSETH:

WHEREAS, the Town is the owner in fee simple of certain real property containing approximately 525 acres of land bounded by Diamond Hill Road to the east and Angell Road to the north in the Town of Cumberland, County of Providence, State of Rhode Island, more particularly described in Exhibit "A" attached hereto and made a part hereof (hereinafter referred to as the "Premises"); and

WHEREAS, the Premises is presently comprised of open, natural, ecological, archeological and historic land in addition to existing buildings of great historical significance which are used for municipal purposes; and

WHEREAS, the Town recognizes the value and special character of the Premises and acknowledges a purpose to conserve the values of the Premises, and to conserve and protect the historic buildings on the premises as well as the natural beauty of the property and to prevent its use or development for any purpose or in any manner that would conflict with the present use of the Premises, in its current, natural, scenic and historic condition; and

WHEREAS, the Town as owner of the Premises intends to preserve and protect the said historic conservation values of the Premises in perpetuity.

NOW THEREFORE, in consideration of the above covenants and restrictions contained herein the Town hereby voluntarily establishes a Conservation Easement And Restrictive Covenants in perpetuity over the Premises, of the nature and character, and to the extent hereinafter set forth.

1. Purpose. It is the purpose of this Conservation Easement And Restrictive Covenants to assure that the Premises will be retained forever in its open, natural, scenic, historic, ecological, or educational condition and to prevent any use of the Premises that will significantly impair or interfere with the conservation values of the Premises. The Town intends that this Conservation Easement will confine the use of the Premises to the uses as are consistent with the purpose of this Conservation Easement and the Conservation Management Plan developed by the Town (hereinafter referred to as the "Management Plan") and adopted by the Cumberland Town Council on October 20, 2004, which Management Plan sets forth specific procedures by which the Premises shall be maintained including, but not limited, to the adequate maintenance of the Premises to preserve the natural values, public access and other matters as may be required for the preservation of the Premises. Grantor shall have the right from time to time to amend the Management Plan.
2. Prohibited Uses. Any activity on or use of the Premises inconsistent with the purpose of this Conservation Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:
 - a. The subdivision or development of the Premises or the disturbance or change in the natural habitat in any manner.

- b. The placement of construction of any new buildings, structures, or other improvements of any kind including without limitation, camping accommodations or mobile homes, fences, signs, billboards or other advertising material, tennis courts, swimming pools, asphalt driveways, roads, parking lots, utility poles, towers, conduits, or lines or other structures, other than those located thereon.
 - c. The enlargement or addition to the existing footprint of any building existing on the premises upon the date of the passage of this Resolution.
 - d. Any ditching, draining, diking, filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock, minerals or other materials, or any building of roads or change in the topography of the land in any manner except the maintenance of existing foot trails and operation and management of the drinking water supply.
 - e. Any removal, destruction or cutting of trees or plants or planting of trees or plants (except as is necessary to maintain the Premises and to construct foot trails) use of fertilizers, spraying with biocides, introduction of non-native animals, except as may be set forth in the Management Plan.
 - f. The dumping or storing of ashes, trash, garbage, wastes, refuse, debris, or other unsightly or offensive material, and the changing of the topography through the placing of soil or other substance or material such as land fill or dredging spoils, nor shall any activities be conducted directly on the Premises, or on adjacent property which could cause erosion or siltation on the Premises.
 - g. The manipulation or alteration of natural ponds, water courses, lake shores, marshes or other surface or subsurface water bodies, or activities which would be detrimental to water purity or to the protection of the watershed, which includes the subject property, or which could alter natural water level and/or flow.
 - h. The operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles, or any other types of motorized vehicles, except such motorized vehicles as are necessary for the maintenance of the Premises or to protect the Premises during an emergency.
 - i. The hunting or trapping of animals except as set forth in the Management Plan.
3. Reserved Rights. The Town reserves for itself, its heirs, successors and assigns, the following reserved rights provided, however, that the exercise of such rights

will not interfere with or have an adverse impact on, the essential natural, open and scenic quality of the Premises:

- a. To use the Premises for all purposes not inconsistent with this Conservation Easement and Restrictive Covenants and the Management Plan.
 - b. To maintain and/or improve any of the existing buildings located thereon at the time of the recording of this Conservation Easement and Restrictive Covenants.
4. Access. The rights of access to any portions of the Premises are as set forth in the Management Plan.
 5. Costs and Liabilities. The Town retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Premises, including the maintenance of adequate comprehensive general liability insurance coverage. The Town shall keep the Premises free of any liens arising out of any work performed for, materials, furnished to, or obligations incurred by The Town.
 6. Non-Assignment. This Conservation Easement is not assignable.
 7. General Provisions.
 1. Rhode Island Law. This Conservation Easement shall be and is deemed to be a conservation restriction under the laws of the State of Rhode Island only, and shall be construed and given effect in accordance with the laws of the State of Rhode Island and not otherwise.
 2. Severability. If any provision of this Conservation Easement or the application hereof to any person or circumstance shall be to any extent invalid or unenforceable, the remainder of this Conservation Easement and the application to persons or circumstances other than those as to which it is invalid or unenforceable shall not be effected thereby, and each term

and provision of this Conservation Easement shall be valid and enforceable to the fullest extent permitted by law.

3. Waiver. No consent or waiver, express or implied by the Town or of any breach in the performance by the Town hereunder shall be construed as a consent or waiver to or of any breach in the performance by the Town or any other agreement. The failure on the part of the Town to complain of any such action or inaction on the part of the Town or to declare the other in default, no matter how long such failure may continue, shall not be deemed to be a waiver by the Town of any of its rights hereunder.
4. Construction. This Conservation Easement shall not be construed, without regard to any presumption or other rule requiring construction, against the party causing this Conservation Easement to be drafted.

IN WITNESS WHEREOF, the Town of Cumberland, by and through its Mayor, has hereunto set his hand and seal on the day and date first above written.

WITNESS:

Thomas E. Heffer

**STATE OF RHODE ISLAND
COUNTY OF PROVIDENCE**

TOWN OF CUMBERLAND

By:

Daniel J. McKee
Daniel J. McKee, Mayor

In Cumberland, in said County and State on the 8th day of November, 2004, before me personally appeared Daniel J. McKee, the Mayor of the TOWN OF CUMBERLAND, RHODE ISLAND, to me known and known by me to be the party executing the foregoing instrument for and on behalf of the TOWN OF CUMBERLAND, RHODE ISLAND, and he acknowledged said instrument by him executed to be his free act and deed, his free act and deed in his capacity as aforesaid, and the free act and deed of the TOWN OF CUMBERLAND, RHODE ISLAND.

Thomas E. Heffer
Notary Public THOMAS E. HEFFER

My Commission Expires: 6/26/05

EXHIBIT A

Town of Cumberland Assessor's Plat 20, lots 1, 2, 4, 8, 10 and 31.

Town of Cumberland Assessor's Plat 22, lots 8 and 13.

RECEIVED

Town of Cumberland

NOV 8 2004 11:05 AM

L. Jean Simonneau AP
Town Clerk