

CONSERVATION RESTRICTION

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I. GRANTOR CLAUSE:

The undersigned, Willow Brook Associates Limited Partnership, a Massachusetts limited partnership, with an address c/o Pulte Home Corporation of Massachusetts, 176 East Main Street, Westboro, MA 01581-1763 (the "Grantor", which term shall include its successors and assigns), being the sole owner of the land described on Exhibit A attached hereto and made a part hereof (the "Conservation Restriction Area"), for One Dollar (\$1.00) and good and valuable consideration, acting pursuant to Sections 31, 32 and 33 of Chapter 184 of the General Laws, grant, with quitclaim covenants, to the Town of Wayland, a body politic of Middlesex County, Massachusetts, acting by and through its Conservation Commission established under Section 8C of Chapter 40 of the General Laws (the "Grantee") which term shall include its successors and assigns in perpetuity and exclusively for conservation purposes a conservation restriction over, under and across the Conservation Restriction Area pursuant to the terms and conditions set forth herein.

II. PURPOSES:

The Conservation Restriction Area, comprised of approximately 8.93 acres of land (and/or water) contain unusual, unique or outstanding qualities the protection of which in their predominantly natural or open condition will provide valuable benefits to the public, including scenic values, preservation of wetlands and water resources, and protection of wildlife habitat.

The specific terms and conditions of the "Conservation Restriction" are as set forth below and are designed to preserve the Conservation and Recreation Easement Area in its natural state for the scenic enjoyment and outdoor recreation use by those persons lawfully entitled to the use of the Conservation Restriction Area.

III. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES:

A. Prohibited Acts and Uses. Subject to the exceptions set forth in paragraph B below, the following acts and uses are prohibited on the Conservation Restriction Area:

1. Constructing or placing of any building, tennis court, landing strip, mobile home, swimming pool, fence, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, below or above the Conservation Restriction Area;
2. Mining, excavating, dredging or removing from the Conservation Restriction Area of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit.
3. Placing, filing, storing or dumping on or below the Conservation Restriction Area, of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, solid or chemical 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. The subdivision of the Conservation Restriction Area;
6. Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, prevention of pollution, protection of groundwater or wildlife habitat;

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- 45.00
- 418
- 07/28/97
- PLAN NUMBER: 00000772
- 27515-454
- SEE PLAN IN RECORD BOOK PAGE
- 41 COGNITIVATE RD, WAYLAND, MA 01778
- MSD 07/28/97 12:25:23

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se of motorized vehicles of any nature or kind, including but not limited to cars, trucks, motorcycles, terrain vehicles and snow mobiles but excepting emergency vehicles such as fire and police vehicles.

8. Commercial camping, hunting, fishing or trapping; and
9. Any other use of the Conservation Restriction Area or activity which would materially impair significant conservation interests unless necessary for the protection of the conservation interests that are the subject of this Conservation Restriction.

B. Exceptions to Otherwise Prohibited Acts and Uses. The following acts or uses otherwise prohibited in subparagraph A are permitted but only if such acts or uses do not materially impair significant conservation interests as determined by the Wayland Conservation Commission:

1. The right to maintain trees, and shrubs as may be deemed necessary;
2. Excavation and removal from the Conservation Restriction Area of soil, gravel or other mineral resource or natural deposits as may be incidental to the installation or maintenance or removal of underground tanks, septic systems, utilities, and other underground structures or to the maintenance of good drainage, soil conservation practices or to other permissible use of the Conservation Restriction Area. The right to install, connect with, make use of, maintain, repair and replace any and all utility lines, pipes, wires, conduits or appurtenances which may from time to time be located in, upon or under the Conservation Restriction Area, in order to take such action as Grantor deems necessary or convenient in connection with the development of adjacent land. Provided, however, that Grantor shall use reasonable efforts to restore the Conservation Restriction Area to substantially the same condition existing prior to the exercise of the rights contained herein;
3. The right to drain any and all water runoff from the housing development to be constructed on the land owned by Grantor, pursuant to the Special Permit, all as shown on a plan entitled "WILLOW BROOK" A Project of THE FINCH GROUP, as drawn by Sasaki Associates, dated June 13, 1990 (the "Annotated Plan"), which includes the Conservation Restriction Area (the "Development"), onto and under the Conservation Restriction Area;
4. The right to trim, cut and remove, selectively, bushes, shrubs, trees and other vegetation for the purpose of maintaining the aforementioned utilities and roadway. Selective cutting of trees for fire protection, road maintenance, or otherwise to preserve the present condition of the Conservation Restriction Area, including vistas;
5. Erection of signs no larger than four square feet (4) by the Grantor or Grantee identifying the Grantee as holder of the restriction and to educate the public about the conservation values protected and any limitations relating to public access;

C. Permitted Acts and Uses. Except as expressly limited herein, all acts and uses not prohibited by subparagraphs A and B are permissible.

D. Compliance with Applicable Law. The exercise of any right reserved by Grantor, its successors and assigns of this Conservation Restriction shall be in compliance with the then current Zoning By-law of the Town of Wayland, the state Wetlands Protections Act (Massachusetts General Laws Chapter 131, section 40), and all other applicable federal, state, and local law. The inclusion of any reserved right requiring a permit from a public agency does not imply that Grantees take any position on whether such a permit should be issued.

IV. LEGAL REMEDIES OF THE GRANTEE(S):**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 Conservation Restriction Area to its condition prior to the time of the injury complained of (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee.

B. Grantee Disclaimer of Liability

By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Conservation Restriction Area.

C. Severability Clause

If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

D. Non-Waiver

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.

E. Enforcement

The Grantor, and thereafter the successors and assigns of the Grantor, covenant and agree to reimburse the Grantee for all reasonable costs and expenses (including without limitation counsel fees) incurred in enforcing this Conservation Restriction or in remedying or abating any violation thereof.

V. ACCESS:

The Conservation Restriction hereby conveyed does not grant to the Grantee, to the general public, or to any other person any right to enter upon the Conservation Restriction Area except there is granted to the Grantee and its representative the right to enter the Conservation Restriction Area at reasonable times in a reasonable manner for the purpose of inspecting the same to determine compliance herewith and remedying any violation thereof.

Except for the easement set forth above, the right to enter onto and use the Conservation Restriction Area is expressly reserved for the Grantor and those lawfully entitled thereto.

SSIGNABILITY:**A. Running of the Burden**

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

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 themselves and their successors and assigns appoint the Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf. Without limiting the foregoing, the Grantor and their successors and assigns agree themselves to execute any such instrument upon request.

C. Running of the Benefit

The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instances and from time to time:

(1) as a condition of any assignment, the Grantee requires that the purpose of this Conservation Restriction continue to be carried out, and

(2) 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 under Section 32 of Chapter 184 of the General Laws as an eligible donee to receive this Conservation Restriction directly.

(3) as a condition of any assignment, Grantee shall comply with Article 97 of the Amendments to the State Constitution as the same may apply.

VII. SUBSEQUENT TRANSFERS:

The Grantor is to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Conservation Restriction Area .

VIII. ESTOPPEL CERTIFICATES:

Upon request by the Grantor, the Grantee shall within twenty (20) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

IX. 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, or if registered land, it has been registered.

X RECORDATION:

The Grantor shall record this instrument in timely fashion in the Middlesex County South District Registry of Deeds.

Executed under seal this 12TH day of JUNE, 1997.

GRANTOR:

WILLOW BROOK ASSOCIATES
LIMITED PARTNERSHIP

By: its General Partner

PULTE HOME CORPORATION
OF MASSACHUSETTS



By: Brian P. Lever

Its Attorney-in Fact

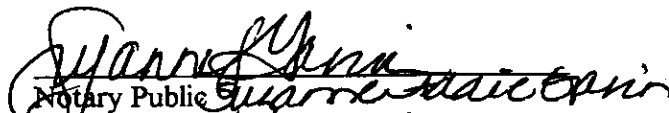
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COMMONWEALTH OF MASSACHUSETTS

Worcester County ss

June 12, 1997

Then personally appeared the above named Brian P. Lever, Attorney-in-Fact for Pulte Home Corporation of Massachusetts, General Partner of Willow Brook Associates Limited Partnership, duly authorized, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of Pulte Home Corporation of Massachusetts, and Willow Brook Associates Limited Partnership, before me,


Notary Public
My commission expires: 6/14/02

ACCEPTANCE OF GRANT

We, the undersigned being a majority of the Conservation Commission of the Town of Wayland, voted to accept the foregoing Conservation Restriction pursuant to M.G.L. c.40, s. 8c, this 5 th day on June, 1997,

, Chairman

John P. Antonelli
Cheryl Lynn Hunt
J. Andrew Irwin

Barbara Hull
Wendy B. Levine

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

June 5, 1997

Then personally appeared Members of the Wayland Conservation Commission members on the Wayland Conservation Commission, and acknowledged the foregoing to be their free act and deed as members of the Wayland Conservation Commission, before me,

Carela Hunt

Notary Public

My Commission Expires:

February 14, 2003

APPROVAL BY SELECTMEN

We, the undersigned, being a majority of the Selectmen of the Town of Wayland, Massachusetts, hereby certify that at a meeting duly held on June 9, 1997, 1997, the Selectmen voted to approve the foregoing Conservation Restriction pursuant to M. G. L. Ch. 184, §.32 and C. 40, §.8c.

Marcia F. Rowland

[Signature]

[Signature]

[Signature]

[Signature]

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. June 9, 1997

Then personally appeared the above-named Board of Selectmen and acknowledged the foregoing to be his or her free act and deed, before me.

Carol A. Stewart

Notary Public

My Commission Expires:

February 14, 2003

APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Town of Wayland has been approved in the public interest pursuant to M. G. L. Ch. 184, §. 32. Said approval is not to be construed as representing the existence or non-existence of any preexisting rights of the public, if any, in and to the Property, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

Date: July 1, 1997

Trudy Cox
Secretary of Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

Then personally appeared the above-named Trudy Cox and acknowledged the foregoing to be his or her free act and deed, before me July 1, 1997

Sharon M. Pelosi
Notary Public
My Commission Expires:

Sharon M. Pelosi
NOTARY PUBLIC
My Commission expires June 21, 2002

EXHIBIT A

The Conservation Restriction Area is the wetland area below the elevation of the line labeled "Wetland Line" and also including the area shown as "Replacement Wetlands" on that certain plan entitled "Willow Brook/A Project of the Finch Group/Annotated Plan", as drawn by Sasaki Associates, Inc., dated June 13, 1990 (the "Annotated Plan") and recorded herewith, said Conservation Restriction Area being a portion of the same premises conveyed to Willow Brook Associates Limited Partnership by deed of The Finch Group, Inc., dated October 18, 1996 and recorded at Book 26757, Page 481.

Also being a portion of Lot 3 as shown on Land Court Plan Number 18387D and conveyed to Willow Brook Associates Limited Partnership by deed of James A. Radley dated October 2, 1996, filed as Document Number 105183 and described in Certificate of Title Number 206524, Book 1162, Page 174.

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