

MODIFICATION AND PARTIAL RELEASE OF DECLARATION OF RESTRICTION

This MODIFICATION AND PARTIAL RELEASE OF THE DECLARATION OF RESTRICTION ("Modification and Partial Release ") is made as of this ____ day of _____, 2016 by Crosswinds Properties, LLC, a Massachusetts limited liability company, having an address of 217 West Central Street, Natick, MA (the "Declarant"), the Conservation Commission of the Town of Upton ("Commission") and the Board of Selectmen of the Town of Upton ("Board"), the Commission and Board each having an address at One Main Street, Upton, MA 01568.

WITNESSETH

WHEREAS, the Declarant is presently the owner in fee simple of those certain parcels of land located in Upton, Worcester County, Massachusetts, shown as Lots 19, 20, 21, 23 and 24 (the "Affected Lots") in the Town of Upton, County of Worcester, Massachusetts, all as shown on a plan entitled " 'Cross Winds' Definitive Plan of Land in Upton, Mass. Owners: Highland Ridge Corp. P.O. Box 295 – 126 Main Street Milford, Mass. 01757 and Vahan Sarkisian P.O. Box 176 Milford, Mass. 01757 Scale: 1" = 150' Date: January 13, 2004 Guerriere & Halnon, Inc. Engineering & Land Surveying 333 West Street, Milford, Mass. 01757," which plan is recorded with the Worcester South District Registry of Deeds in **Plan Book 843, Plan 113** (the "Plan"), to which Plan reference may be had for a more particular description of said Affected Lots; and

WHEREAS, the Upton Conservation Commission has required, as a condition to the Order of Conditions relating to the Affected Lots, that the Declarant restrict the use of portions of the Affected Lots, said portions designated as "Conservation Restriction Easement" on the Plan (the "Restricted Area"), for the purpose of preserving the wetlands and other natural and environmentally sensitive areas located thereon; and

WHEREAS, the Declarant, the Commission and the Board are all parties to the Declaration of Restriction dated August 12, 2015 (the "Original Restriction"), which Original Restriction is recorded in the Worcester South District Registry of Deeds in **Book 54154, Page 87**, and sets forth on the record title of the Affected Lots the terms and provisions relating to the Restricted Area; and

WHEREAS, Declarant seeks to remove and release certain portions of Lots 20, 21, 23 and 24 from the Restricted Area and at the same time to amend the Restricted Area by adding a portion of Lot 19 to the Restricted Area; and

WHEREAS, as set forth in Section 6 of the Original Restriction, in order to amend the Original Restriction and or to release any portion of the Restricted Area, a majority of the Board and a majority of the Commission must vote to do so; and

WHEREAS, a majority of the Board and a majority of the Commission have voted to (i) release certain portions of Lots 20, 21, 23, and 24 from the Restricted Area and (ii) to amend the Restricted Area by adding a portion of Lot 19 to the Restricted Area.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties do hereby agree as follows:

- 1) There are attached to this Modification and Partial Release, "Exhibit A" and "Exhibit B" (collectively the Exhibits). The Exhibits are plans prepared by Guerriere & Halnon, Inc, Engineering & Land Surveying, 333 West Street, Milford, Mass. 01757. Exhibit A shows Lots 19, 20 and 21; Exhibit B shows Lots 23 and 24. The Exhibits are incorporated herein and shall be deemed to be part of this Modification and Partial Release.
- 2) The portion of Lot 19 consisting of 6,264.98 square feet and designated as upland area of 3,133.25 s.f. and wetland area of 3,131.73 s.f. as shown on Exhibit A shall be added to the Restricted Area and shall hereinafter be subject to the terms, provisions and covenants of the Original Restriction.
- 3) The portion of Lot 20 and Lot 21 shown as the hatched area consisting of 3,047.35 s.f. of upland as shown on Exhibit A is hereby released from the Restricted Area and shall no longer be subject to the terms, provisions and covenants of the Original Restriction.
- 4) The portion of Lot 23 and Lot 24 shown as the hatched area consisting of 925 s.f. of upland as shown on Exhibit B is hereby released from the Restricted Area and shall no longer be subject to the terms, provisions and covenants of the Original Restriction.
- 5) The Declarant hereby agrees to incorporate this Modification and Partial Release in full or by reference into all deeds transferring an interest in Lots 19, 20, 21, 23 and 24, or any portion thereof.
- 6) The Declarant shall record this Modification and Partial Release with the Worcester South District Registry of Deeds prior to the conveyance or other transfer of any interest in any of the Lots 19, 20, 21, 23 and 24. The Declarant further agrees to provide the Conservation Commission with a copy of the recorded Restriction.
- 7) This Modification and Partial Release shall become effective upon its recordation with the Worcester Registry of Deeds.
- 8) All other terms, provisions and covenants of the Original Restriction not specifically amended, modified or released by this Modification and Partial Release shall continue to have full force and effect.

[Signature Page Follows]

IN WITNESS WHEREOF, the Declarant has executed this Modification and Partial Release under seal this _____ day of _____, 2016.

CROSSWINDS PROPERTIES, LLC

By: 
Name: CHAD R. BOARDMAN
Title: MANAGER

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 13th day of July, 2016, before me, the undersigned notary public, personally appeared Chad R. Boardman, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, oath or affirmation of a credible witness, personal knowledge of the undersigned, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

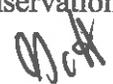



Notary Public:

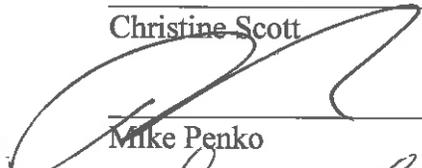
APPROVAL BY UPTON CONSERVATION COMMISSION

We, the undersigned, being a majority of the members of the Conservation Commission of the Town of Upton, Massachusetts, hereby certify that at a public meeting duly held on July 13, 2016, it was voted to approve the foregoing Modification and Partial Release

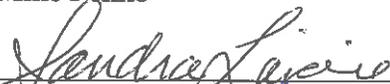
TOWN OF UPTON,
By its Conservation Commission



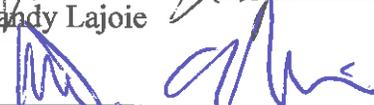
Christine Scott



Mike Penko



Sandy Lajoie



Marcella Stasa



Scott Heim



Tom Jango



Alan Miano

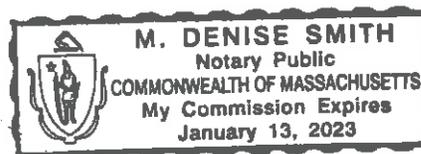
COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

On this 13 day of July, 2016 before me, the undersigned notary public, personally appeared Christine Scott, member of the Upton Conservation Commission, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.



Notary Public
My Commission Expires: 1-13-2023



APPROVAL BY UPTON BOARD OF SELECTMEN

We, the undersigned, being a majority of the members of the Board of Selectmen of the Town of Upton, Massachusetts, hereby certify that at a public meeting duly held on _____, 2016, the Selectmen voted to approve the foregoing Modification and Partial Release

TOWN OF UPTON,
By Its Board of Selectmen

James Brochu

Robert Fleming

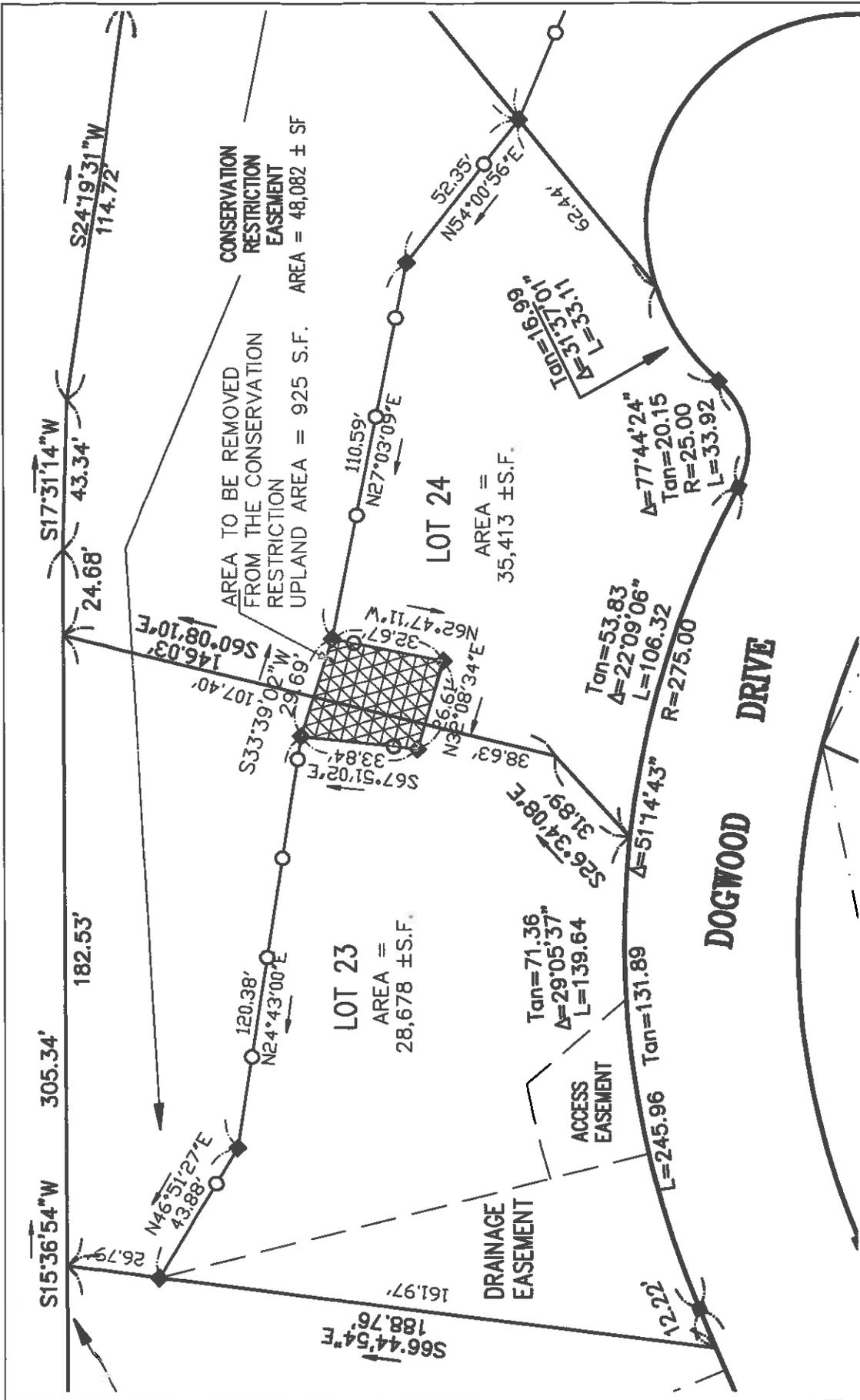
Gary Daugherty

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

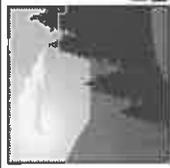
On this day of _____, 2016 before me, the undersigned notary public, personally appeared _____, Selectman of the Town of Upton, and proved to me through satisfactory evidence of identification, which was _____, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:



NOTE:
 1. PER DECLARATION OF RESTRICTION IN BOOK 54154 PAGE 87 PARAGRAPH 6 RECORDED AT THE WORCESTER DISTRICT REGISTRY OF DEED. AN AMENDMENT TO THE ORIGINAL CONSERVATION RESTRICTION AS SHOWN ON DEFINITIVE SUBDIVISION PLAN RECORDED AT THE WORCESTER DISTRICT REGISTRY OF DEEDS IN BOOK 843, PLAN 113 IS REQUESTED AS SHOWN ABOVE.

"EXHIBIT B"
 PLAN OF LAND
 IN
UPTON, MA
 SCALE: 40 FEET TO AN INCH
 DATE: JUNE 22, 2016



Guerriere & Halnon, Inc.
 Engineering & Land Surveying
 355 WEST STREET, MILFORD, MASS. 01757
 (508) 473-6630 FAX: (508) 473-8243
 www.gandhengr.com

