

# **Sweetwilliam Farm**

## **North Street, Upton**

Prepared by Upton Open Space Committee  
Date: October 1, 2010

### **1. Objective**

Open space preservation, preservation of agricultural land, passive recreation and historic preservation.

### **2. Background**

The owner of Sweetwilliam Farm has asked for help in preserving the farm. The 92 acre farm includes pasture, agriculture fields, a working Community Supported Agriculture (CSA) Farm and woodlands. Looking to the west from North Street, the property includes one of the most dramatic vistas in Upton. The Upton Open Space Committee, Sudbury Valley Trustees, Metacomet Land Trust, and MA Division of Conservation and Recreation, MA Department of Agricultural Resources, and others have been contacted over the last several years for assistance. Although development is not the owner's first choice, it will occur unless funding is available to preserve the property.

Figures and photographs describing the property are attached.

### **3. Property Location and Description**

Sweetwilliam Farm consists of three parcels (see Tax Maps 4 and 5, attached). Parcel 5 - 4 consists of 44.5 acres west of North Street. The parcel includes about 10 acres of pasture and a horse barn. Parcel 5 - 16 and 5 - 17 are on the east side of North Street; and encompass 45.8 acres, including 8.6 acres of active agricultural land. Structures present on Parcel 5-17 include a 18<sup>th</sup> century farm house, a barn, a store, and a four season cabin.

The farm abuts the Warren Brook Conservation Area and a landlocked parcel of town-owned land on the west side of North Street and Upton State Forest and the Howarth Conservation Area on the east side of North Street.

### **4. Resources**

#### **4.1 Historic and Cultural**

The entire farm was owned by the Whitney family between the mid 1700's and the late 1800's, so it is of great historical significance. The house dates to ca. 1755. The 2007 Upton Open Space study done for the town by Dodson Associates mapped the North Street area and Sweetwilliam Farm as a significant cultural resource and a preservation priority. Two other early homes built by the Whitney Family are within ¼ mile of Sweetwilliam Farm.

The west side parcel includes a pasture which slopes dramatically from North Street down towards Warren Brook. This open field serves as a reminder of the town's rich agrarian history and creates one of the most spectacular views in Upton. The view includes an unnamed hill that is the highest elevation (approx. 625 ft.) in Upton south of the Massachusetts Turnpike.

Within the fenced pasture is a modern era horse barn built on the foundation of a much older barn which was destroyed in a fire, a modern greenhouse, and a farm pond.

The property includes numerous well-preserved interior and exterior stone walls, an ancient stone culvert which crosses Warren Brook, and a shallow stone well.

#### 4.2 Agricultural

The farm includes 8.6 acres of hayfield on the eastern parcels and 10 acres of pasture on the western parcel. Soils in the hayfields are classified as Woodbridge Fine Sandy Loam (3-8% slope) according to the Southern Worcester County Soil Survey. This soil type is classified as "prime farmland". Soils in the pasture are classified as Paxton Fine Sandy Loam (8-15% slope). This soil type is classified as a "farmland soil of state or local importance".

The property is the location of the Sweetwilliam Farm Community Supported Agriculture (CSA) Farm. The three year old CSA has more than 100 subscribers for the 2010 growing season. The farm includes a country store which hosts summer concerts and education events. The hayfields produce hundreds of bales of hay each year.

#### 4.3 Natural Resources/Open Space

Approximately 80 percent (76 acres) of the property is forested. Forests are dominated primarily by hardwoods (oak, maple, birch). About five acres of forest west of North Street are dominated by mature white pine. The property has not been logged recently.

Approximately 20 percent of the farm property; is wetland. Nearly all the wetland on the property is forested and dominated by mature red maple.

The headwaters of Warren Brook, a cold-water stream, flows through the western parcel and is well shaded by riparian vegetation. The property includes several other seasonal streams, a farm pond, and a potential vernal pool.

The 2007 Upton Open Space study done for the town by Dodson Associates mapped the Warren Brook corridor as a "Natural Resources Priority Area".

If conserved, Sweetwilliam Farm would be part of a complex of over 2,000 acres of permanently protected land, including Upton State Forest, the Warren Brook Watershed Conservation Area, the Howarth Glen and Howarth Conservation Areas, and the Pell Farm in Grafton.

The parcel is also within the 8,700 acre Miscoe, Warren, and Whitehall Area of Critical Environmental Concern (ACEC). The property is classified as BioMap Supporting Natural Landscape by the MA Natural Heritage and Endangered Species Program (NHESP).

The western parcel features an unusually large marble (quartzite) outcrop, a high rock ledge with nearly vertical sides, an unusual rock outcrop composed of a feldspar and mica rich schist, and a glacial kame or drumlin.

#### 4.4 Passive Recreation

The recreational significance of this land lies in the view off North Street and its potential as a one mile long trail corridor connecting Upton State Forest to the east and the Warren Brook Conservation Area to the west. If conserved, Sweetwilliam Farm trails would be part of an extensive trail network extending into Grafton and Hopkinton. The trails are used by horseback riders, hikers, cyclists, skiers, birders and others who enjoy the outdoors. Sweetwilliam Farm is, by far, the best remaining opportunity for an east-west connecting trail in northern Upton. Access to the trails would be enhanced by the availability of parking in the farm stand parking lot.

The east parcel currently has a well developed trail system, including a very old east-west cart path. There is also a limited trail system on the west side.

#### **5.0 Preservation Plan**

The recommended plan would purchase the forested western and eastern ends of the property which together total about 60 acres. The remainder of the property (to be known as Sweetwilliam Farm), which includes the west side pasture and the eastern hayfields, would be protected by the purchase of a Conservation Restriction (CR). The Sweetwilliam Farm CR would strictly limit activity on the west side pasture to protect the view from North Street. The CR would exclude an envelope around the historic farmhouse and the store. It would also exclude a three (3) acre area on the east side of North Street located between the street and the hay fields where a new single family home could be constructed. The location of the 3 acre excluded area is to be determined and subject to approval by the Upton Planning Board and Conservation Commission. The CR would also permit the continued use and maintenance of the cabin on the east side and the modest expansion of the garage and barn for agricultural use, with applicable approvals and permits from town boards and the Conservation Commission. The CR protected property, including the 3 acre unrestricted area, could be subdivided, and the store could be subdivided and converted into a residence. The CR would require the pasture and hayfields to be maintained in their current state as open (non wooded) agricultural land.

A trail easement through the Sweetwilliam Farm CR protected property and the store property would link the eastern and western parcels purchased by the town. Public access to the eastern hayfields during the fall and winter would also probably be permitted. Public access to the hayfields would be restricted during the spring summer to prevent damage to the hay or other crops. The trail easement along the pasture would be fenced. Public access to the pasture and hunting on the CR protected land would be allowed only with permission of the owner. Town

owned land would be open to hunting. Trails would be developed to connect the property to Upton State Forest and the Howarth and Warren Brook Conservation Areas.

The project would include an easement to provide for public parking on the store lot (5 spaces). An easement would also provide the town vehicular access through the CR protected land to the eastern and western forested parcels. The easement would allow vehicular access for forest management, trail maintenance, and emergencies.

The Upton Land Stewardship Committee would develop and implement a management plan for the CR protected land and lands purchased in Fee. Subject to town meeting vote, the fee protected land would be known as the Whitney Conservation Area. The CR on Sweetwilliam Farm would be monitored by the Upton Conservation Commission and the Sudbury Valley Trustees. The Whitney Conservation Area would be managed by the Upton Land Stewardship Committee.

## **6.0 Conservation Restrictions**

Thousands of acres of land in Massachusetts are preserved by conservation restrictions. A CR purchased with funds from the CPA and LAND Grant was used to preserve the Chestnut Hill Farm in Southborough in 2006. A CR was recently used to preserve a portion of the Pell Farm in Grafton.

General information about Conservation Restrictions along with a copy of the Chestnut Hill Conservation Restriction is included as an attachment.

It is anticipated that the Sweetwilliam Farm CR would include, at a minimum, the following key provisions:

- No further development of the property
- No activity which would alter the view from North Street unless permitted in the CR
- No removal of stone walls.
- Timber harvest permitted under approved Forest Management Plan
- Limited expansion of garage on west side permitted for agricultural use
- Limited expansion of barn and greenhouse permitted so long as it did not interfere with view. No new structures (e.g. riding stables) permitted.
- No storage of non-agricultural materials or wastes on-site
- No excavation for sand or gravel removal; no soil removal.
- No expansion of roads.
- No conversion of fields or pasture to non-agricultural use. Owner agrees to maintain fields and pastures.
- Property to be managed in accord with approved Land Management Plan and the CR.
- Maintenance of trails.
- CR would be held by Sudbury Valley Trustees and the Town of Upton Conservation Commission.

## 7.0 Funding Sources

Funding would come from the following sources:

- CPA Funds
- LAND grant from state (formerly the Self Help program)
- Grants from private foundations (with assistance from the Sudbury Valley Trustees).
- Private donations (with assistance from Metacomet Land Trust and Sudbury Valley Trustees).

## 8.0 Project Plan

The following steps will be required to execute this project. The project would be directed by the Open Space Committee, with assistance from the Sudbury Valley Trustees, and oversight by the Town Manger and/or Selectmen.

Once the short term project elements are complete we anticipate no additional need of funding from the CPA or Town Meeting. Trails will be developed and maintained by the Land Stewardship Committee using volunteer labor, Land Stewardship Committee funds, and grants.

### 8.1 Short-term

- Obtain CPA approval for project contingent on receipt of LANDS Grant and other funding totaling at least \$595,000. [October 2010.]
- Successful town meeting vote. A Draft article is attached. [Fall 2010]
- Apply for LAND Grant from MA DCS. Application to include Draft CR [July 2010]
- Sudbury Valley Trustees to apply for private grants [Fall 2010]
- Private fundraising appeal organized by Friends of Sweetwilliam Farm, SVT, and the Metacomet Land Trust [October - March 2010]
- DCS award of LAND grant [Fall 2010]
- Due Diligence (Title Search, Environmental Site Assessment) [Fall 2010]
- Finalization of CR. Includes approval by CPA committee, selectmen (or Town Manager), and MA Executive Office of Energy and Environmental Affairs [January 2010]
- Funding from miscellaneous sources provided to CPA Fund (escrow account)
- Baseline Site Condition Report and Photo documentation [Fall 2010]
- Closing and recording of deed and CR [Winter or Spring 2011]
- LAND Grant Reimbursement to CPA fund from DCR.
- Install Signage [Spring 2011]
- Prepare long term Land Management Plan for property consistent with the recorded CR. The plan would be written by the Land Stewardship Committee, approved by CPA Committee and DCS, and recorded at the registry of deeds (required by LAND Grant and CR) [Summer or Fall 2011].

## 8.2 Long-term

- Development and maintenance of trails by Upton Land Stewardship Committee
- Long-term monitoring of Conservation Restriction by Designated Authority (Upton Conservation Commission and Sudbury Valley Trustees. [yearly site inspections in peperuity]
- Maintenance of the property by Owner according to the Land Management Plan. Updates of the Plan will be done periodically, with updates approved by the Upton Conservation Commission, CPA Committee, and DCS. Activities prohibited by the CR would not be allowed in updated Land Management Plans.

## 9.0 **Budget**

Item	Estimated Cost (\$\$ funded by CPA)	Estimated Cost (\$\$ funded by donations & grants)	Notes
Land Acquisition	1,275,000		
Title Search	500		
Environmental Baseline Study	1500		For land acquired in Fee only
Closing Costs	1500		Includes recording costs at Registry of Deeds
Survey	10,000		Includes installation of permanent bounds
Baseline CR Report		NC	Prepared at no cost by Upton Land Stewardship Committee
Signage		1,000	Materials only; Installation by Upton Land Stewardship Committee
Trails and Fencing		5,000	Materials only, work done by Upton Land Stewardship Committee and other volunteer labor
CR Endowment		10,000	Funded by grant to SVT
Stewardship Endowment		5,000	Trust fund held by town for Upton Conservation Commission
Total Cost	1,288,500	21,000	\$21,000 funded by grants and donations
Total Cost to CPA Less Reimbursements	714,500	0	Includes \$ 574,000 in reimbursements to CPA from LAND grant, other grants, and donations.

Note: legal costs (Town Counsel) excluded but estimated at \$2,500.  
The cost of appraisals, \$11,550, is not reimbursable.

## 10. Need

The project would preserve one of Upton's last remaining historic farms and most dramatic landscape, and provide an important east-west trail corridor. The need is great because the farm is at high risk to development.

## 11. Responsible Departments

The project would be implemented by the Upton Open Space Committee and the Land Stewardship Committee. Both are subcommittees of the Upton Conservation Commission.

## 12. Criteria for Community Preservation Funding

Criteria	Evaluation
Eligible for Community Preservation Act (CPA) funding according to the requirements described in the CPA legislation;	Yes
Preserve the essential character of the town as described in the Master Plan;	Yes
Respond to documented needs;	Yes. Preservation of agricultural land, other open space, and development of trail system are identified as priorities in the 2010 Upton Open Space Recreation Plan. The Dodson study identified the North Street area, including Sweetwilliam Farm as a priority cultural preservation area.
Save resources that would otherwise be threatened;	Yes. Open space, passive recreation, historic preservation.
Demonstrate practicality and feasibility, and demonstrate that they can be implemented expeditiously and within budget;	Yes. Upton has a good track record obtaining LAND (Self Help) funding. The Upton Land Stewardship Committee has a demonstrated ability to plan and implement land management.
Produce an advantageous cost/benefit value;	The CR property will continue to pay taxes and there will be no increase in cost of services as could result if the property were developed.
Leverage additional public and/or private funds;	A minimum of 45 percent of total project cost would come from grants and donations.
Preserve or utilize currently owned town assets;	Trail easements would improve access to existing town owned land.
Receive endorsement by other municipal boards or departments;	A request of support from Historical Commission is pending. The project received funds from the CPA Committee in 2009 for appraisals.
Serve the whole community or a significant part of the population.	Yes

## **Figures**



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ORIGINAL				REVISIONS				REVISIONS			
DATE	BY	REV. DATE	DESCRIPTION	MADE	CHK'D	AP'VD	REV. DATE	DESCRIPTION	MADE	CHK'D	AP'VD
DESIGNED		1 7/77	1976 TRANSFERS	R.R.	DON	J.R.	7 2/86	ERRS TRANSFERS	TOU	JAG	LSJ
CHECKED		2 5/78	1977 TRANSFERS	R.R.	DON	J.R.					
SUPERVISOR		3 6/81	1980 TRANSFERS	R.R.	DON	J.R.					
REVIEWED		4 4/82	1981 UPDATING	J.W.B.	ONE	S.D.					
REVIEWED		5 10/83	1982 UPDATING	S.W.B.	WJ	LSJ					
APPROVED		6 4/85	1984 TRANSFERS	D.D.	DON	J.R.					

**NOTE**  
 THE AREAS, BOUNDARIES AND DIMENSIONS SHOWN ON THIS TAX MAP ARE DERIVED FROM AERIAL PHOTOGRAPHS, GROUND SURVEYS AND RECORDED PLANS, MAPS, DEEDS AND WILLS AND ARE TO BE USED FOR TAX ASSESSMENT PURPOSES ONLY AND NOT FOR CONVEYANCE.

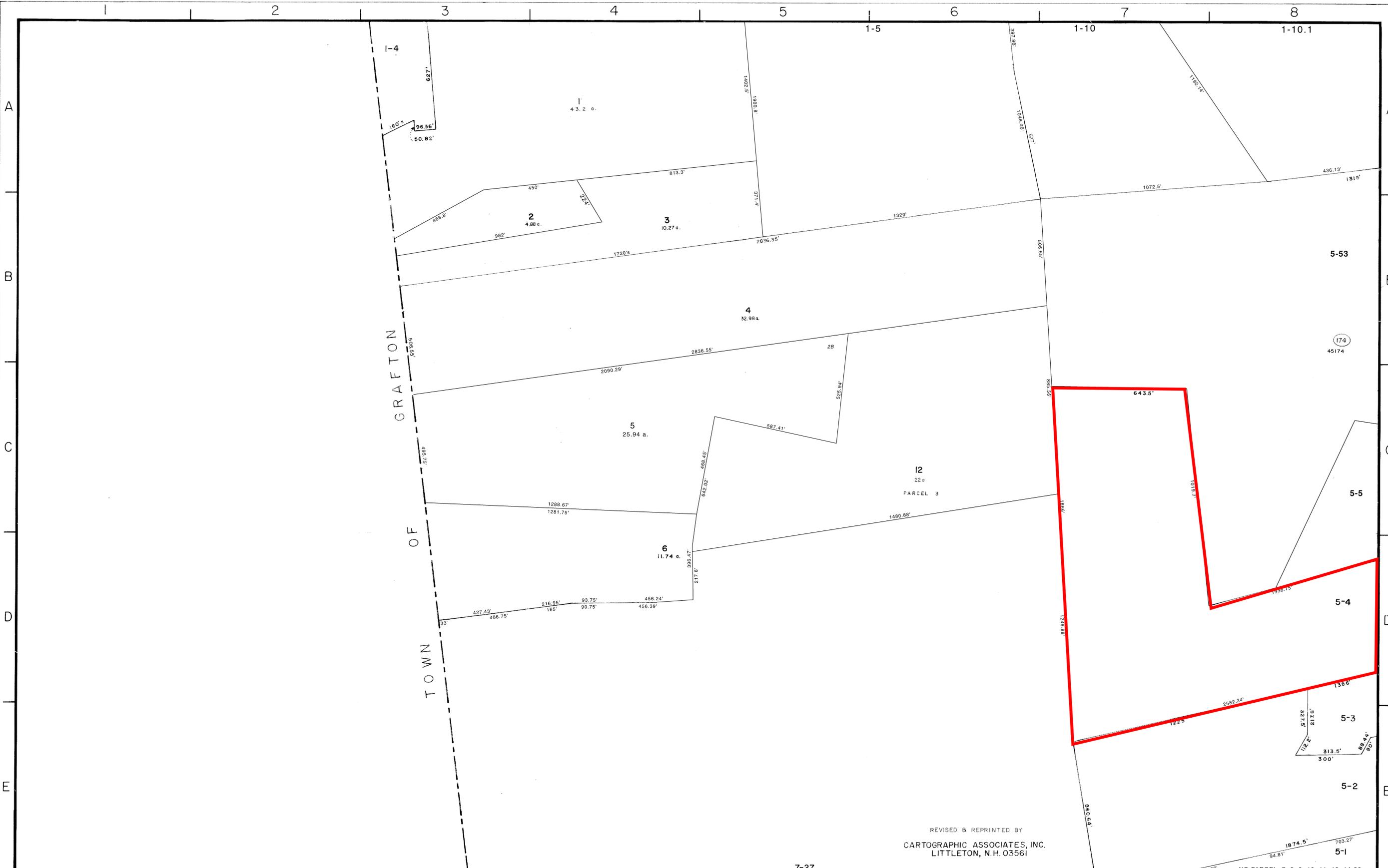
MAPPING PREPARED BY:

STURBRIDGE ABSTRACT CO.  
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**ASSESSORS TAX MAP**  
**TOWN OF UPTON**  
 WORCESTER COUNTY, MASSACHUSETTS

SCALE: 1" = 200'

2	MAP NUMBER	6
4	<b>5</b>	8
	2-11	



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7-27

ORIGINAL				REVISIONS				REVISIONS					
DATE	BY	REV	DATE	DESCRIPTION	MADE	CHK'D	AP'VD	REV	DATE	DESCRIPTION	MADE	CHK'D	AP'VD
DESIGNED		1	7/77	1976 TRANSFERS	R.I.	DDJ	LDJ	7	4/85	1984 TRANSFERS	R.D.	DDJ	LDJ
CHECKED		2	3/78	1977 TRANSFERS	R.I.	DDJ	LDJ	8	2/86	1985 TRANSFERS	R.D.	JAC	LSJ
SUPERVISOR		3	1/79	CHANGED PARCEL NO. 12	JMB	DDJ	LDJ	9					
REVIEWED		4	6/81	1980 TRANSFERS	JMB	DDJ	LDJ	10					
REVIEWED		5	4/82	1981 UPDATING	JMB	DDJ	LDJ	11					
APPROVED		6	10/83	1982 UPDATING	JMB	DDJ	LDJ	12					



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**ASSESSORS TAX MAP**  
**TOWN OF UPTON**  
 WORCESTER COUNTY, MASSACHUSETTS

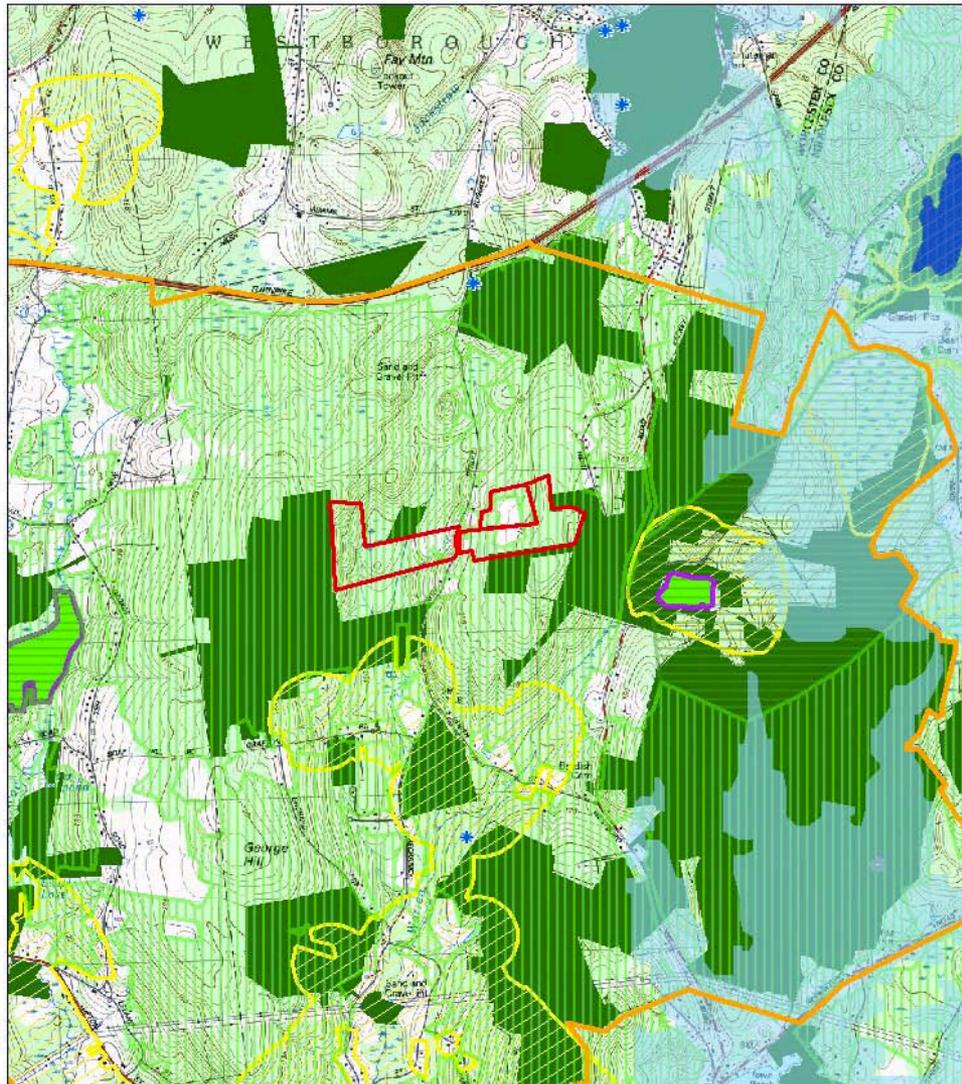


SCALE: 1" = 200'

1	MAP NUMBER	1-9
0	<b>4</b>	5
	1-7	
	7	

NO PARCEL 7, 8, 9, 10, 11, 13, 14-26





- |  |  |
|--|--|
|  Sweetwilliam Farm            |  NHESP Living Waters Core Habitats                  |
|  Open Space                   |  NHESP Living Waters Critical Supporting Watersheds |
|  NHESP Natural Communities    |  NHESP Biomap Core Habitat                          |
|  NHESP Certified Vernal Pools |  Areas of Critical Environmental Concern (ACEC)     |
|  |  NHESP Biomap Supporting Natural Landscapes         |

*Property has been identified as being ACEC, and Biomap Supporting Natural Landscapes.*



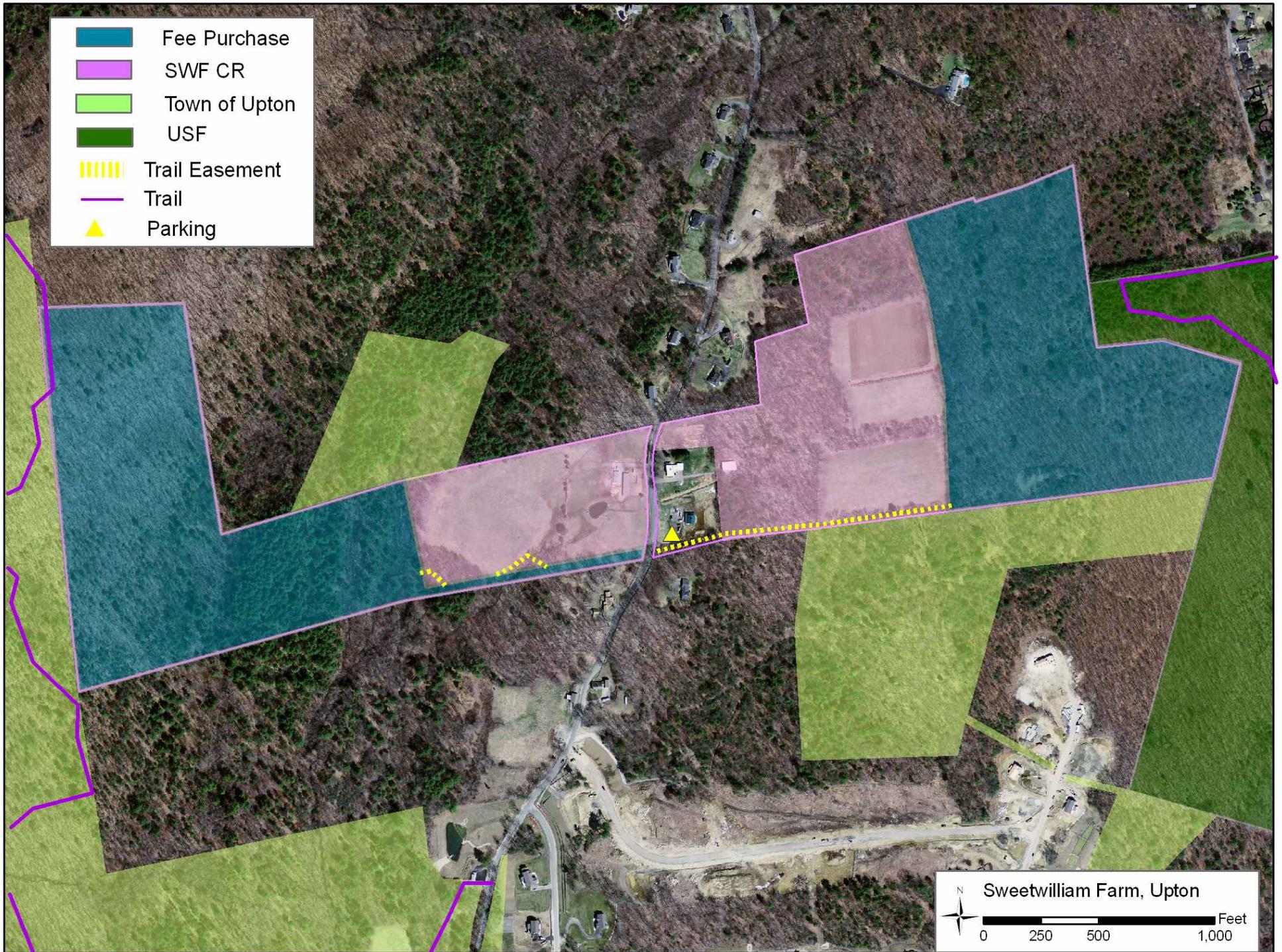
SUDBURY  
VALLEY  
TRUSTEES



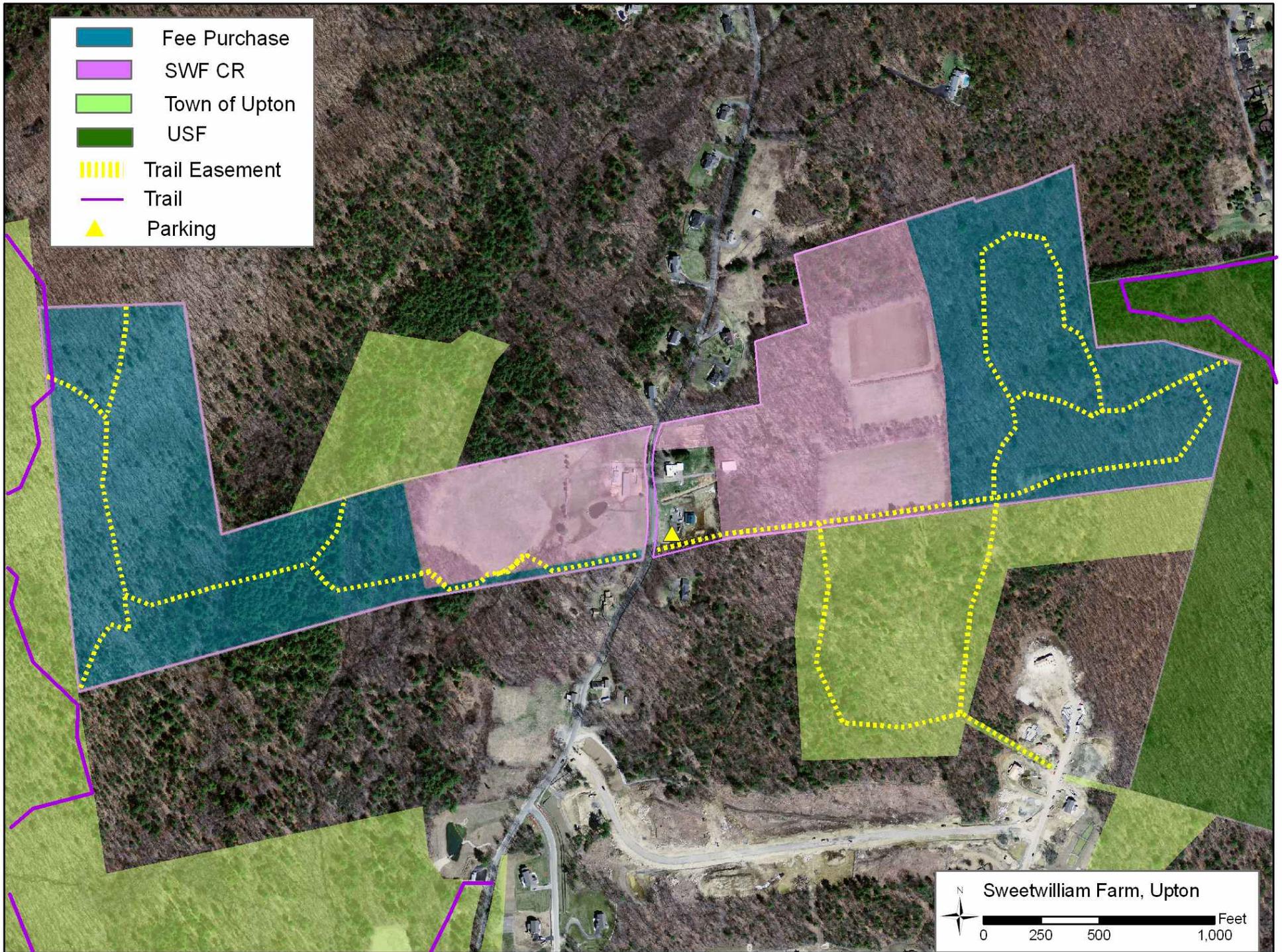
March 8, 2009



Data Provided by: InsoGIS & Dodson  
This Map should be used for reference only.  
Sudbury Valley Trustees, Inc. does not guarantee  
the accuracy of the data presented here.



Alternative 5



**Alternative 5 Trails**

## **Photographs**

# The View From North Street



# West Side - View Towards North Street



West Side – View from Proposed Trail Easement and Warren Brook



## East Side - Stone Walls and Cart Path



## East Side – One of Three Hayfields



# Sweetwilliam Farm Store



# CSA and Education/Outreach



## **Draft Town Meeting Article**

DRAFT

Article xx: To see if the Town will vote to transfer from available funds in the Treasury in accordance with M.G.L. Chapter 293, the Community Preservation Act, the sum of \$ 1,288,500 for the purposes of acquiring a Conservation Restriction, partial fee interest, and a trail easement on land totaling 88 acres, more or less, known as the "Sweetwilliam Farm." Said property, located on North Street, is owned by Ms. Gail Harrington, and described on Assessors Map 5, Parcels 5-4, 5-16, 5-17, and 5-17.1. Approximately 60 acres of the property will be owned in fee by the town of Upton and known as the Whitney Conservation Area. Approximately 27 acre of the property will remain in private ownership and be protected from future development by a Conservation Restriction. Interest in the property shall be acquired for conservation and passive outdoor recreation purposes, to be held in the care and custody of the Upton Conservation Commission, pursuant to MGL, Ch. 40, s. 8C or any other enabling authority, and that said Conservation Commission be authorized to file on behalf of Upton any and all applications deemed necessary for grants and/or reimbursements from the Commonwealth of Massachusetts under the LAND program, (formerly known as the Self-Help program), Chapter 132A, s11, Federal Land & Water Conservation Fund, P.L. 88-568, 78 Stat 897, and//or any other source(s) which might provide funding for activities falling within the scope and intent of this article, and with approval of the Town Manager, execute all such agreements as may be necessary on the part of the Town to effect such acquisition and/or such reimbursement, including the conveyance of a perpetual conservation restriction granted by the owner in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended. Said conservation restriction may be granted to any organization qualified and willing to hold such a restriction. This article is contingent on the Town's CPA Fund receiving \$574,000 or more in reimbursements to defray the cost of the project, or act or do anything in relation thereto.

## **Supplemental Information**

**Excerpts from 2007 Upton Open Space Study by Dodson Associates**

## Composite Resource Priorities

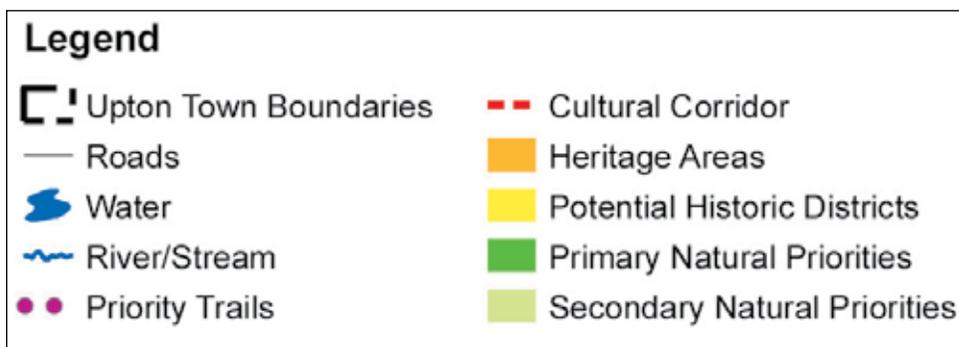
While Upton’s various boards and committees will continue to make decisions based on their particular mission, one of the goals of this project is to look for areas where Natural, Cultural, and Recreational resources converge. The map at right shows these concentrations of multiple resource types. In dark green are the Primary Natural Priorities, with Secondary Priorities in light green. Cultural Priorities are overlaid in orange, the Potential Historic District in yellow and the Cultural Corridors in red. Finally, priority trails are depicted in purple.

This map highlights areas and corridors with an unusual concentration of different open space resources: because of the value of these areas to the visual character and quality of life in the town, they should be studied closely as part of what might be called a “heritage landscape preservation plan.” Some of these areas, such as the Upton State Forest, have already been recognized and preserved. Many others have not.

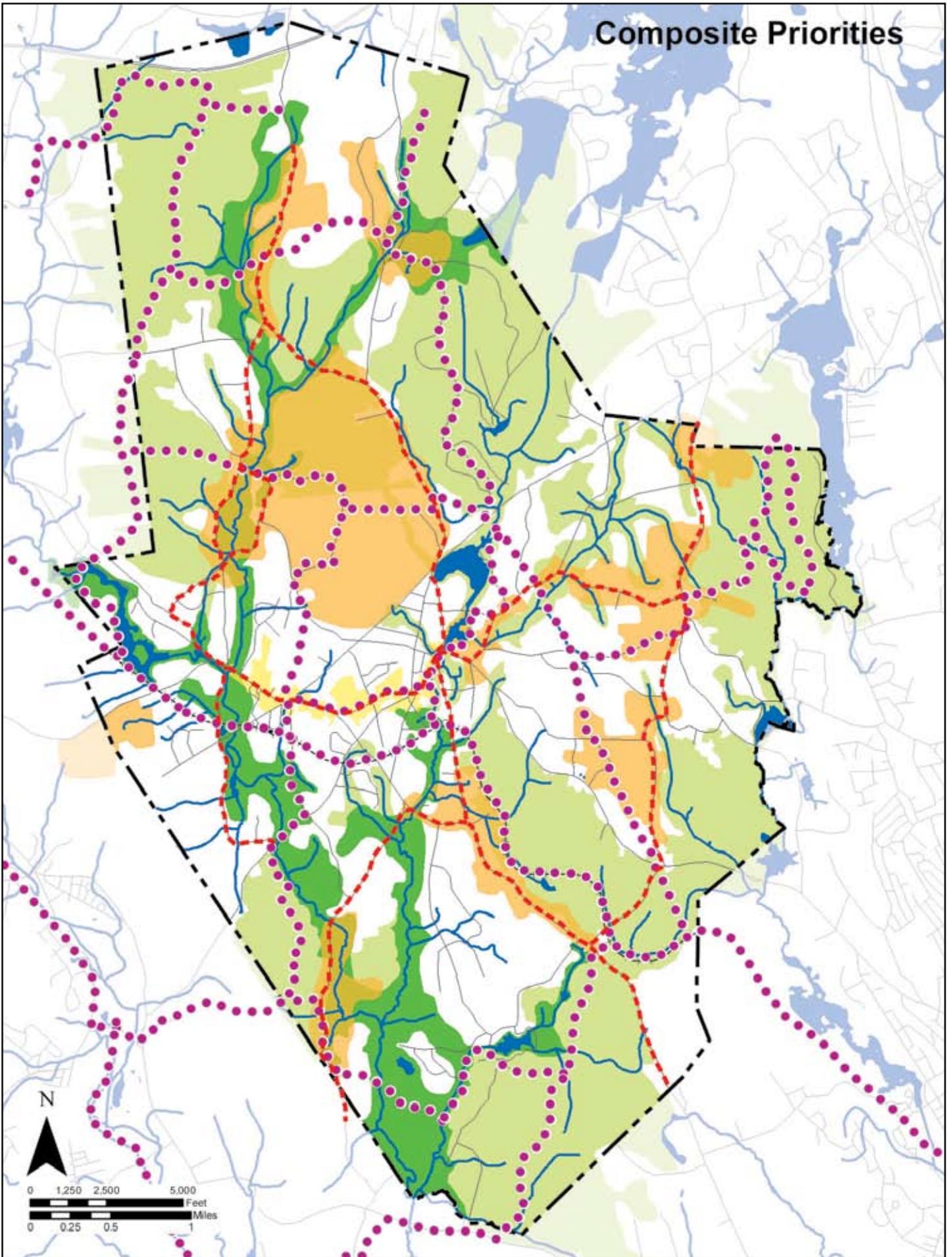
To some extent this is understandable. Traditional conservation efforts tend to focus on large tracts of undeveloped land, and are commonly funded by state agencies that are most interested in natural resources. These heritage landscapes, however, are by definition complex combinations of natural and cultural features: in fact it is the braiding together of the two that often makes them such interesting and beautiful places to visit.

This includes many areas that may have been overlooked in previous conservation efforts: the scenic area around North Street, the agricultural complex along Taft Street and Christian Hill Road, and the Mendon Street corridor. These “hidden gems” include urban landscapes as well, including the historic district from Elm Street to West Upton and the West River District. In each of these places, there may not be any one feature of particular importance -- instead it is the combination of resources, together with recreational opportunities, that provides the value that makes these special places worth preserving.

As shown on the following page, using this analysis, the areas with the highest value for multiple resources and recreational opportunities can be readily identified. Some may be so special or sensitive to development that they need to be protected outright. Most however, can be largely preserved with a combination of acquisition, private management, and careful development that respects the existing character of each site and its context. As described in the next section, there are many tools that towns can use to implement this approach. The process of Open Space mapping and analysis shown here, however, is a critical step in identifying which tools are most appropriate to any given area or parcel of land.



# Composite Priorities



## **A Brief History of Sweetwilliam Farm**

A Brief History of Sweetwilliam Farm  
By William Taylor  
May, 2010

Sweetwilliam Farm's history reflects Upton's cultural and agricultural heritage. In the late 18<sup>th</sup> and early 19<sup>th</sup> centuries Upton consisted primarily of dispersed farms. In the later part of the 19<sup>th</sup> century, Upton's economy diversified from predominately agricultural into a mix of agriculture, primarily butter, cheese, milk and meat, wood products, and the manufacture of shoes and straw hats. It was common for the farmers of this era to supplement their dairy and meat income with the sale of lumber from their woodlots and for their sons and daughters to work in the shoe and straw-hat industries. It was also common for the farm to be kept in the family. Farms started to disappear in the late 19<sup>th</sup> and early 20<sup>th</sup> century and those that survived into the 20<sup>th</sup> century were largely dairy farms. Sweetwilliam Farm's history follows this pattern.

Sweetwilliam Farm's origin dates back to 1739 when Nathaniel Whitney of Westborough, Eli Whitney's grandfather, acquired 100 acres in Upton from one of the early Sutton proprietors. In 1750 and 1754 he gave this land to his two sons, Ephraim and Oliver, respectively. Ephraim's portion of the land was the beginning of what became Sweetwilliam Farm. Ephraim acquired more land and split it between his two sons, Ephraim Jr. and Amos. The three 18<sup>th</sup>-century homes clustered together on North Street are the original Whitney homes. The farm stayed in the Whitney family until 1890 through two more generations, Ephraim Junior's son, Moses, and Moses' son-in-law, Seth Chapin. During the time the Whitney family farmed the land, they used it primarily to raise milk cows, with some of the land in pasture, some in hay and some in Indian corn, Irish potatoes and other grains. They also had a woodlot, an orchard, one horse, two oxen, chickens, and probably had a kitchen garden. The size of the farm, about 100 acres, and its use were typical for the era.

The Whitneys were active in town affairs. Among other town positions held by them, Ephraim Senior and Junior served as Selectmen in 13 of the 46 years between 1754 and 1800. Ephraim Junior served in the Revolutionary War. Ephraim Senior was Town Clerk when Upton voted unanimously to approve the confederation of the thirteen United States of America.

In 1890, Seth Chapin's widow, Rowena (Whitney) Chapin sold the farm to James Colbert, an Irish immigrant, who owned a similar farm located between Warren Street and Lake Wildwood. James later sold the farm to his son, David. Judging from the length of time the Colbert's held the farm, they may have bought it for investment purposes (David went on to sell real estate in Rochester, NY.) In 1893, the Colbert family sold it to William Prowse, a farmer from Prince Edward Island. In 1898, William sold it to his son, Cornelius, after offering it for sale through an

auction conducted on May 4<sup>th</sup>, 1898 (the advertisement for the auction offers a vivid description of the farm at that time.) Cornelius, who was not a farmer, lost it to foreclosure in 1904 to Lewis Allen, who sold it to Joseph Poirier, an immigrant from French Canada, in 1911. The places of origin for the three immigrants that bought the land between 1890 and 1911, Ireland, English Canada and French Canada, were common for immigrants to Upton. The Poirier family sold it to the current owner in 1994. As was common for Upton farms in the 20<sup>th</sup> century, it was used to raise milk cows and grow hay for much of the time between 1890 and 1994.

## **Information about Conservation Restrictions**

## **Conservation Restrictions**

*Adapted from MA Audubon Conservation Restriction Handbook (2006)*

Over the last 30 years, the conservation restriction (known in most other states as a conservation easement) has become increasingly popular as a land protection tool. Since receiving legislative recognition in 1969, more than 77,000 acres have been protected by conservation restrictions held by municipal conservation commissions and land trusts in Massachusetts. Conservation restrictions divide interests in land among two or more parties with the landowner retaining ownership of the property and the land conservation organization, such as a land trust or a public agency, holding the conservation restriction. The conservation organization is responsible for enforcing the terms of the conservation restriction to ensure that the conservation values of the property are protected in perpetuity.

The value of the conservation restriction is calculated as the difference between the value of the land before and after the imposition of the restriction. For example, a lot worth \$100,000 may only be worth \$20,000 if a conservation restriction is placed on it that prohibits construction of any kind. The value of the gift would then be the value before the restriction minus the value with the restriction, or \$80,000. These values must be determined by a qualified appraiser.

A conservation restriction (“CR”) is a legal document by which a landowner (or “grantor” in legal terms) conveys a partial interest in land to a qualified conservation organization or public agency (known as a “grantee” or “holder” of the conservation restriction). By granting a conservation restriction, a landowner agrees to forgo or limit future development and use of the property in order to preserve identified conservation values – the particular features or qualities of the property that are to be protected. These might include wildlife habitat, scenic views, agricultural land, watershed protection lands or other important resources.

A conservation restriction is recorded in the chain of title of a property at the appropriate Registry of Deeds or Land Court so all present and future owners have notice that the property is subject to the conservation restriction and that they are required to comply with its terms. The landowner continues to own the property and has the ability to sell or convey the property to anyone at any time, subject to the terms and conditions of the conservation restriction. The organization or agency, as “holder” of the restriction, assumes the responsibility of periodically monitoring the property to safeguard the conservation values and enforce compliance with the terms of the conservation restriction.

Conservation restrictions have a number of significant benefits as a method of protecting land. They are particularly useful when the landowner wishes to continue to own or use the property but wants to ensure that the conservation values will be protected in perpetuity. In addition, a conservation restriction is highly adaptable to the needs and wishes of the landowner and the conservation resources of the property. By leaving

ownership in private hands, conservation restrictions also help to maintain the local tax base.

A conservation restriction may be written to prohibit all activities that may alter the natural condition of the property, or it may allow agriculture, forestry or other uses that are consistent with protection of the conservation values of the property. It may even permit limited development (such as an additional house or construction of a barn), but must specify the type, extent and location of such development. For example, if a new structure or septic system is to be permitted within the conservation restriction, a suitable building envelope must be identified within the restricted area. The specific terms of each conservation restriction must be tailored to the property that is being protected.

Conservation restrictions are generally placed on land in one of three ways:

A landowner who wishes to see his or her property preserved in perpetuity may donate a conservation restriction to a conservation organization or a public agency.

A conservation organization or public agency may purchase a conservation restriction from a landowner. In some cases, only the restriction is purchased, leaving the fee ownership of the property in the hands of the original owner. In other cases – for example, in an agreement between a land trust and a public agency to protect a property – one entity may acquire ownership of the property (the fee interest) while the other acquires a conservation restriction.

A developer or landowner may be required by a municipal or state permitting process to place a conservation restriction on a portion of a parcel that is being developed.

The legislation authorizing conservation restrictions in Massachusetts (MGL Chapter 184, Sections 31 to 33) was adopted in 1969. The law requires that all conservation restrictions held by land trusts and municipalities must be of Environmental Affairs (EOEA). Prior to obtaining signatures from the landowner and holder, a conservation restriction should be sent to the Massachusetts Executive Office of Environmental Affairs for review to ensure that it meets the requirements for the Secretary's signature. If the restriction is held by a private nonprofit organization, it must also be approved by the municipality (generally the Board of Selectmen, or Council and Mayor/City Manager). After the landowner and holder (and any local officials) sign the document, it receives final approval and signature by the Secretary of Environmental Affairs.

## **Chestnut Hill Farm Conservation Restriction**

## *Conservation Restriction*

### Philip C. Beals Trust Conservation Restriction to The Town of Southborough



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#### I. GRANTOR CLAUSE:

We, Philip C. Beals and Thomas R. Mountain, Trustees of the Philip C. Beals Trust, u/d/t dated July 31, 1935 and recorded with the Worcester District Registry of Deeds in Book 4828, Page 68, c/o Philip C. Beals, 2 Chestnut Hill Road, Southborough, MA 01772, and our successors and assigns ("Grantors"), acting pursuant to Sections 31, 32 and 33 of Chapter 184 of the General Laws, grant with quitclaim covenants to the Town of Southborough, a Massachusetts municipality with a mailing address of 17 Common Street, Southborough, MA 01772, under the care, custody, and control of its Conservation Commission pursuant to M.G.L. c. 40 § 8C and their successors and permitted assigns (collectively, the "Grantee") in perpetuity and exclusively for conservation purposes, the following described Conservation Restriction on several parcels of land located on Chestnut Hill Road and Main Street in the Town of Southborough, Massachusetts, constituting approximately 108.91 acres, said parcels being a portion of the property described (i) in a deed recorded in the Worcester South Registry of Deeds (the "Registry") in Book 4725 at Page 594 and shown as "Parcel A" on a plan of land (entitled "Plan of Land in Southborough, Mass.;" dated August 29th, 1960) recorded in the Registry as Plan Book 250 Plan 38, excepting therefrom 16,487 sq. ft. deeded to David C. Ekberg and Sandra N. Ekberg by deed dated October 18, 1974 recorded in Book 5605 Page 219 and shown on a plan recorded in Plan Book 404 Plan 35 and (ii) in a deed recorded in the Registry in Book 4593 at Page 444 and shown as "Lot B-2" on a plan of land (entitled "Plan of Land in Southborough, Mass.;" dated August 6th, 1965) recorded in the Registry as Plan Book 292 Plan 78, which description is attached hereto as Exhibit A (hereinafter referred to as the "Premises").

#### II. PURPOSES:

The Premises, defined above, contain unusual, unique or outstanding qualities the protection of which in their predominately natural, vegetated or open condition will be of benefit to the public (the "Purposes"). These qualities include:

- (a) Upland meadows currently used for agriculture and animal husbandry, including some Prime Farmland as identified in the USDA Soil Survey of Worcester County, the continuation of which will preserve uses that are integral to the history of the Premises and of the Town;
- (b) Scenic views from Main Street and Chestnut Hill Road identified as "Noteworthy" and "Distinctive" in the Massachusetts Landscape Inventory (MA

MAIL TO  
ALDO A. CIPRIANO ESQ. -1-  
110 MAIN ST.  
SOUTHBOROUGH MA. 01772.

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Department of Environmental Management, 1981), the preservation of which is a primary purpose of this Conservation Restriction

- (c) Approximately 109 acres of managed woodlands, meadows, wetlands, and agricultural fields, providing quality wildlife habitat, river and watershed protection, flood prevention and pollution mitigation;
- (d) General public access for the purposes of Passive Recreation as defined in Article III, including but not limited to walking and cross-country skiing, and further described in Section VIII of this conservation restriction;
- (e) Direct adjacency to approximately 4.4 acres of land owned by Sudbury Valley Trustees, to approximately 29.8 acres of land owned by the Southborough Open Land Foundation, to approximately 48 acres of land held under a Conservation Restriction granted to Sudbury Valley Trustees (the "Beals CR"), and to the Hultman Aqueduct and abutting lands owned by the Commonwealth of Massachusetts, Department of Conservation and Recreation, which connect to conservation lands in the Town of Westborough owned both by the Commonwealth of Massachusetts and by Sudbury Valley Trustees, Inc.. Furthermore, protection of the Premises will buffer these adjacent conservation areas as recommended in the Greenways Plan for the SuAsCo Watershed (Sudbury Valley Trustees, April 2000), and;
- (f) Identification as a property "of Conservation and Recreation Interest" in the Town of Southborough's 1999 Open Space and Recreation Plan.

### III. DEFINITIONS OF TERMS

- (a) Commercial Recreation: Recreation conducted or allowed for profit.
- (b) Educational Activities: A program of instruction for the development of knowledge related to fostering the Purposes of this Conservation Restriction.
- (c) Farmstead: The Farmstead Area defined in Section IV.B.1 below.
- (d) Passive Recreation: Low impact, quiet, generally contemplative, non-motorized recreation (except that motorized wheel chairs or similar equipment reasonably necessary to enable handicapped members of the public to access the Premises shall be allowed) which is compatible with the Purposes of this Conservation Restriction, including, but not limited to: walking, trail running, cross-country skiing, snowshoeing, sledding, bird watching, nature study, photography, sketching, and painting.

#### IV. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES

(A) Prohibited Acts and Uses. Subject to the exceptions set forth in Sections IV (B) and V below, the following acts and uses are prohibited on the Premises:

- 1) Constructing or placing of any building, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line, wind turbines, or other temporary or permanent structure, utility, or facility on, under, or above 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 except as necessary for proper soil conservation and then only in a manner which does not impair the Purposes of this Conservation Restriction;
- 3) The demolition or removal of existing stone walls. However, notwithstanding the foregoing, subject to all state and local statutes, regulations and bylaws, including but not limited to local and state scenic road statutes, Grantors reserve the right to widen or to make new breaks in existing stone walls so long as the new or existing break does not exceed 20 (twenty) feet in width, as needed for agricultural and forestry activities as permitted in Sections V (6) and V (7) herein, so long as these uses continue. Grantors also reserve the right to construct, maintain, repair, and replace new stone walls on the Premises, provided such activity is consistent with the Purposes of this Conservation Restriction;
- 4) Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste or other substance or material whatsoever or the installation of underground storage tanks;
- 5) Cutting, removing or otherwise destroying trees, shrubs, grasses or other vegetation, including leaf litter;
- 6) The conveyance of a part or portion of the Premises alone, or the division or subdivision of the Premises is prohibited without notice to and the approval of the Grantee, as provided for in Section VI. However, the conveyance of the Premises in its entirety, or the conveyance of the additional legal lot reserved pursuant to Section IV in B.1) below shall be permitted, subject to the express prior written consent of Grantee, which consent shall not be unreasonably withheld;
- 7) Activities detrimental to wildlife habitat, drainage, flood control, water conservation, water quality, erosion control or soil conservation including without limitation the use of motorized recreational vehicles, except for emergency and handicapped access vehicles;
- 8) Commercial recreational activities;
- 9) Commercial hog farming and commercial piggeries; and

10) Any other activity on or use of the Premises that is inconsistent with the Purposes of this Conservation Restriction as specified herein and pursuant to Sections 31, 32, and 33 of Chapter 184 of the General Laws of Massachusetts.

(B) Reserved Rights. Notwithstanding any provisions of Section IV A above, Grantors reserve to themselves and to their successors and assigns the right to conduct or permit the following activities on and uses of the Premises, but only if such uses and activities do not materially impair the Purposes of this Conservation Restriction:

1) Exclusively within the "Farmstead Area" as shown on a plan of land (entitled "Farmstead and Parking Area Plan of Land in Southborough, Mass.;" dated May, 2006) filed with the Grantee and attached hereto in reduced form as Exhibit B (hereinafter referred to as the "Farmstead") which may be subject to modification to resolve boundary line ambiguities with the written consent of Grantors and Grantee:

- (a) Following written notice to Grantee pursuant to Section IV A below, subdivision of the Farmstead to create no more than one (1) additional legal lot which may be separately conveyed, provided, however, that the resulting additional lot shall be no larger than the smallest buildable lot authorized by the Town of Southborough zoning bylaw then in effect (the "Small Parcel"), and on such parcel the construction, use, maintenance, repair, renovation, replacement and alteration of no more than one (1) single family residence shall be authorized with appurtenant structures or improvements customary for a single family residence, one (1) paved or unpaved driveway, a septic system, a water supply well and utilities (above or below ground) to serve such residence, provided that all structures in the aggregate on such "Small Parcel" (excluding the driveway and the septic system) do not exceed 4,000 square feet of floor area, including any garages, porches, or decks;
- (b) The use, maintenance, repair, interior renovation, or alteration, of the two (2) existing residential structures,
- (c) The use, maintenance, or repair of existing driveways, septic systems, water supply wells and utilities (above or below ground) to serve any of the foregoing uses, structures and improvements that are located within the Premises. The demolition, reconstruction, exterior renovation or alteration, addition to, or removal and/or replacement of said residences, appurtenant structures, driveway, septic system, water supply well or utilities is also permitted, provided, however, Grantors first notify Grantee according to Section VIA below and further provided that the residence located at 9 Chestnut Hill Road shall not exceed 3,500 square feet, including any garages, porches, or decks; and further provided that the residence at 7 Chestnut Hill Road shall not expand beyond its existing footprint, including the existing deck.

- (d) Pruning, clearing, and planting of vegetation without limitation, including landscaping and gardening;
- (e) The construction, use, maintenance, repair, renovation, replacement and alteration of appurtenant structures or improvements customary for agricultural uses, and containing in the aggregate no more than 10,000 additional square feet of floor area, provided that any such agricultural structures must be incidental to agricultural or animal husbandry operations, carried on in accordance with sound agricultural practices as described under Section V, paragraph 6 below, permissible under the then current zoning bylaw of the Town of Southborough, and must not include structures that are used for the indoor riding of animals;
- (f) The construction, use for the marketing of agricultural products of which 51% or more are grown on the Premises, maintenance, repair, renovation, replacement and alteration of one (1) retail farmstand, not to exceed 2,000 square feet of floor area, provided, however, that said farmstand shall be located on the Farmstead and its use shall be consistent with all municipal limitations, laws, zoning, rules, and regulations regarding farmstands.
- (g) The excavation and removal from or the import, placement, and fill to the Farmstead of soil, gravel or other mineral resource or natural deposit shall be authorized only to the limited extent as may be required to construct authorized buildings, structures, improvements and landscaping; for the installation, maintenance, or removal of septic systems, utilities, and other underground structures; for the removal of underground tanks, if any; for the maintenance of good drainage or soil conservation practices; or for other permissible uses of the Farmstead; provided, however the foregoing permitted activities shall comply with all applicable laws and regulations.

**V. ADDITIONAL RESERVED RIGHTS TO THE GRANTORS: THE FOLLOWING ITEMS IN THIS SECTION ARE APPLICABLE TO THE ENTIRE PREMISES:**

- 1. Subject to prior notice and approval as outlined in Section VI below, the installation, maintenance, replacement, or removal of one (1) septic system, together with associated underground utilities and other underground structures, outside of the Farmstead to serve the structures and uses allowed under Section IV B and Section V Paragraph 6, provided no reasonable solution exists within the Farmstead. Excavation and removal from the Premises of soil, gravel or other mineral resource or natural deposit as may be incidental to such approved activities is also allowed, provided that such activities follow generally accepted soil conservation practices, and that disturbed areas are re-vegetated with native plant materials.
- 2. Subject to prior notice and approval as outlined in Section VI below, excavation and removal from the Premises of soil, gravel or other mineral resource or natural deposit as may be incidental to the maintenance or removal of existing 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 Premises, provided that (a) such activities follow generally accepted soil conservation practices, (b) that any topsoil so excavated must remain on the Premises, and (c) disturbed areas are re-vegetated with native plant materials.

3. The maintenance of piles of limbs, brush, manure, leaves, compost, and similar biodegradable material, but not stumps, provided such piles are not unduly conspicuous from any public way, public trail, or public land, are not placed in any wetlands, and do not otherwise interfere with the Purposes of this Conservation Restriction.
4. Subject to prior notice, the placing of sight-pervious fences that do not interfere with the passage of wildlife to, from, and through the Premises or with the Purposes of this Conservation Restriction.
5. Subject to prior notice and approval as outlined in Section VI below, the digging or drilling of water wells, provided that such wells are for use of the extracted water principally on the Premises, and provided no reasonable solution exists within the Farmstead.
6. Agricultural, animal husbandry, and open meadow wildlife habitat management operations, in such a manner as to minimize negative impacts on water quality, reduce the physical disturbance to sensitive areas and reduce the discharge of sediment, animal waste, nutrients, and chemicals to surface waters using Best Management Practices that comply with the Clean Water Act and the Environmental Protection Agency's Nonpoint Pollution Control Program, including, without limitation:
  - (a) clearing, semi-annual mowing, and prescribed burning of vegetation;
  - (b) The grazing and pasturing of livestock according to the Farm Plan and sound agricultural practices as described therein and subject to all DEP and EPA clean water standards in the grazing of cows and storage of manure;
  - (c) The planting, maintenance, and harvest of crops or fruit- or nut-bearing trees, including the plowing of agricultural fields and the spreading of livestock manure and compost. No Christmas tree plantings or other plantings that impair scenic views shall be permitted within 600 (six hundred) feet of Chestnut Hill Road. Such plantings in excess of 10 acres or within 600 feet of Chestnut Hill Road are subject to the notice and approval of the Conservation Commission pursuant to Section VI. Said plantings shall not adversely impact public access and scenic views;
  - (d) The use of manure, compost, other soil supplements, fertilizers, pesticides, herbicides, and fungicides, provided, however, that such agricultural chemicals are registered under Commonwealth of Massachusetts regulations and are used in accordance and consistent with all pertinent federal, state, and municipal instructions, limitations, laws, zoning, rules, and regulations. The

use of any substance the application of which is subject to legal regulation shall be subject to the prior notice and approval of the Conservation Commission per the requirements of Section VI; provided, however, no notice and approval is required if the Grantor has filed a certificate with the Conservation Commission describing the use of such regulated substances and certifying that the application thereof will be in compliance with all applicable laws and regulations. Said notice and approval shall occur on an annual basis and such approval shall not be unreasonably withheld. Any cultivation of Genetically Modified Organisms ("GMOs") shall be in accordance with present and future state and municipal laws, if any.

- (e) Such operations and activities shall be in conformance with the current Farm Conservation Plan, prepared by the United States Department of Agriculture Natural Resources Conservation Service or successor agency, and any subsequent updates, which shall be provided to Grantee.
  - (f) Subject to prior notice and approval from the Conservation Commission as outlined in Section VI, hunting for the sole purpose of predator and pest control, as incidental to farming activities, in conformance with all applicable laws, and as outlined in the farm and management plans. Said approval shall not be unreasonably withheld. No such hunting shall be conducted without closure of the trails. All trail closings shall be posted by the landowner at all public access points immediately. As per the Management Plan, no section of trail shall be closed for longer than three days, unless the landowner and the Town agree that a longer trail closing is necessary for safety, for wildlife protection, for crop protection, or for maintenance purposes. Notwithstanding the foregoing no notice and approval for said predator and pest control is required if the delay occasioned by said process would result in damage to crops or livestock; provided, however the Grantor conducts such predator and pest control with due regard to the safety of the public and in accordance with all applicable laws and regulations and further provided that Grantor furnish subsequent written notice and details of the emergency pest and predator control to Conservation Commission within 48 hours after such action is taken.
7. Subject to notification required by law, the commercial woodland and forestry operations, including the right to commercially harvest forest products, process firewood, conduct maple-sugaring operations, and conduct related or similar forest product operations, in accordance with a forest management plan (hereinafter the "Forestry Plan"). The guidelines and plan elements for the Forestry Plan are attached hereto as Exhibit C. The Forestry Plan for the Premises shall be prepared by a professional forester licensed to practice forestry in the Commonwealth of Massachusetts or by other individual and such plan shall be subject to notice and approval by Conservation Commission pursuant to Section VI below. Said professional forester must certify, within the Forestry Plan, that the plan is consistent with the intent and purpose of this Conservation Restriction. The Forestry Plan also shall provide for management of the Premises in a manner consistent with generally accepted "Best

Management Practices,” as those practices may be identified from time to time by appropriate governmental or educational institutions, and in a manner not wasteful of soil resources or detrimental to water quality or conservation. The Forestry Plan shall be updated periodically, particularly if new information or new knowledge is obtained that promotes or enhances the conservation values and sound silvicultural management of the Premises. The Forestry Plan, and subsequent updates or amendments, shall be submitted to Grantee. A Forestry Plan for the Premises shall be completed within two (2) years from the date this Conservation Restriction is recorded at the Worcester South County Registry of Deeds, or before any harvest of forest products occurs on the Premises. All forest product-harvesting operations shall be conducted in accordance with applicable law.

8. Hiking, cross-country skiing and other non-motorized passive outdoor recreational and educational activities.
9. Use of vehicles and other motorized equipment incident to farming and forestry activities contemplated herein, including but not limited to tractors, trucks, skidders, balers, spreaders and planters.
10. The installation, construction, and placement of permanent underground and temporary above-ground pumps, conduits, hoses, and other equipment associated with agricultural irrigation.
11. Limited and selective pruning and clearing for non-commercial purposes incidental to (a) forest fire prevention or management; (b) unpaved trail establishment, marking, and maintenance; (c) control or prevention of an imminent hazard to structure or life; (d) control or prevention of a grave or formidable disease; (e) control and removal of invasive or exotic species; (f) collection of firewood exclusively for the personal use by Grantors or their successors or assigns; or (g) otherwise to preserve the present condition of the Premises. To the extent that pesticides, herbicides, and fungicides are used in conjunction with these activities, such use shall be in accordance with, and subject to, the provisions of Section 6 (d) above.
12. Erection of signs by Grantors or Grantee for the purposes of noticing allowed and prohibited uses such as, but not limited to, trespassing, hunting for pest control management, trails, and trail locations, sale of the Premises, and sale of horticultural and agricultural products, but only to the extent authorized by law.
13. Horseback riding by the Grantors and their guests, not by the general public; and subject to the prior notice and approval of the Conservation Commission, horseback riding by others; provided, however it is accessory to a related use on the Farmstead and does not adversely impact public access, public trails and use, and is not detrimental to the intent and purpose of this Conservation Restriction. Horseback riding on the public walking trails is prohibited except for trail crossings.

#### 14. Other Acts and Uses:

All acts and uses not explicitly prohibited are permitted, provided that they do not materially impair the conservation values and/or conservation purposes of this Conservation Restriction, and further subject to notice and approval from the Conservation Commission pursuant to Section VI below if said uses are not expressly permitted.

### VI. NOTICE AND APPROVAL

#### (A) Notice of Intention to Undertake Certain Permitted Actions

Grantors agree to notify Grantee, in writing, before exercising any right described under Section IV and Section V as a permitted use that explicitly requires notice to Grantee. The purpose of requiring such notice is to afford Grantee an adequate opportunity to monitor the activities in question to ensure that they are designed and carried out in a manner that is consistent with the Purposes of this Conservation Restriction. Whenever notice is required, Grantors shall notify Grantee in writing as provided in Section XVII (H) below not less than forty-five (45) days prior to the date Grantors intend to commence the activity that is subject to the notice, provided that Grantee receive the request at least two (2) days prior to a meeting at which a quorum is present. The notice provided to Grantee shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purposes of this Conservation Restriction. Failure of the Grantor to notify Grantee as described and required constitutes a material breach of the Conservation Restriction.

#### (B) Grantee Approval

Where Grantee's approval is required, Grantee's approval shall not be unreasonably withheld. Grantee shall grant or withhold its approval in writing within forty-five (45) days of receipt of Grantor's written request therefore, provided that said forty-five (45) days is after a meeting at which a quorum is present and further provided they receive the request at least two (2) days prior to the meeting. Grantee's approval may be withheld upon a reasonable determination by Grantee that the action as proposed would be inconsistent with, or detrimental to, the Purposes of this Conservation Restriction. Failure of Grantee to respond in writing within such forty-five (45) 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 the passage of time.

## VII. LEGAL REMEDIES OF THE GRANTEE:

### (A) Notice of Violation to Grantor and Opportunity to Cure

If the Grantee finds what they believe is a violation, Grantee shall immediately notify Grantors in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantors shall either (a) immediately cease the activity constituting the violation and promptly restore the property to its condition prior to the violation to the reasonable satisfaction of Grantee or (b) immediately cease the activity and provide a written explanation to Grantee of the reason why the alleged violation should be permitted.

If the condition described in clause (b) above occurs, both parties agree to attempt to resolve any dispute in accordance with the Dispute Resolution provisions of Section VII. (B) below.

### (B) Dispute Resolution.

Either party may, at any time, call a meeting for the purpose of resolving disputes or problems arising under this Conservation Restriction. Each party shall make every reasonable effort to resolve problems or disputes to the satisfaction of both parties.

Notwithstanding the foregoing, in the event of a dispute pursuant to this Conservation Restriction, the parties agree that prior to pursuing other available remedies, but excluding the giving of notices of default by the other party, they will attempt to negotiate resolution of their dispute directly with each other. If negotiation is unsuccessful, they agree to participate in at least three hours of mediation to be facilitated by a mediator mutually acceptable to them and under the mediation procedures set by the mediator. If no such mutually acceptable mediator is agreed upon, the Massachusetts Real Estate Bar Association or another similarly qualified mediation provider shall be requested to designate such a mediator. The mediation session shall be conducted within thirty days of the date on which a mediator receives the request and agrees to mediate. The cost of such mediation shall be shared equally by the parties.

### (C) Legal and Injunctive Relief

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain monetary, injunctive, and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Premises to its condition prior to the time of the injury complained of (it being agreed that 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 Grantee.

### (D) Reimbursement of Costs of Enforcement

Grantors, and their successors and assigns, covenant and agree to reimburse Grantee for all reasonable costs and expenses (including without limitation counsel fees) incurred in

enforcing this Conservation Restriction or in taking reasonable measures to remedy or abate any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantors or is determined by a court of competent jurisdiction to have occurred.

(E) Hold Harmless Clause

To the fullest extent authorized by law, Grantors, their successors and assigns, hereby release and agree to hold harmless, defend with counsel, and indemnify Grantee and its elected officials, officers, employees, agents, and contractors, and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties" and individually an "Indemnified Party") from and against any and all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, orders, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Premises, regardless of cause, unless due solely to the wanton, willful, or reckless conduct of any of the Indemnified Parties; (2) the violation or alleged violation of, or other failure to comply with, any state, federal, or local law, regulation, or requirement, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Premises; (3) the presence or release in, on, from, or about the Premises, at any time, of any substance now or hereafter defined, listed or otherwise classified pursuant to any federal, state, or local law, regulation, or requirement (including without limitation M.G.L. c.21E), as hazardous, toxic, polluting, or otherwise contaminating to the air, water, or soil, or in any way harmful or threatening to human health or the environment, except to the extent caused solely by an Indemnified Party, in which case this indemnity obligation shall not apply to the Indemnified Party (or Parties) causing such condition. By its acceptance of this Conservation Restriction, neither the Grantee nor any other Indemnified Party undertakes or assumes any liability or obligation relating to the condition of the Premises, including with respect to compliance with hazardous materials or other environmental laws and regulations.

(F) Insurance Clause

The Grantors shall keep in full force and effect and provide the Grantee with evidence that they carry general liability insurance against such risks and in such amounts readily available and reasonably acceptable to the Grantee's Insurance Advisors which will be reviewed on a yearly basis commencing on June 1, 2007. The Grantee shall be named as the primary additional insured on said policy and the certificate of insurance furnished to the Town yearly commencing on June 1, 2006.

(G) Severability Clause

If any portion of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected and the surviving provisions shall be interpreted as consistently as possible with the original intent of the parties.

## (H) Non-Waiver

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

## VIII. ACCESS:

- a) The Grantee through its duly designated elected officials, officers, employees, agents, and contractors shall have the right to enter the Premises, following reasonable notice to Grantors and at reasonable times and in a reasonable manner, for the purpose of inspecting the Premises, determining compliance with the terms of this Conservation Restriction, and preventing, abating, or remedying any violations thereof.
- b) This Conservation Restriction also grants to the Grantee the right, but not the obligation, at its sole expense, to maintain the open fields on the Premises and the open pastoral vistas along Chestnut Hill Road, provided, however, Grantors are first notified in writing at least thirty (30) days prior to the exercise of such right, with said notice being provided in writing including the scope, nature, and extent of proposed activities, and furthermore that such activities are subject to the written approval of Grantors, which approval shall not be unreasonably withheld or delayed.
- c) Affirmative Obligations of the Parties
  - 1) Grantors and subsequent landowners have the obligation, under this agreement, to adequately maintain all public trails, which includes maintenance and other obligations as are described in the Management Plan and in Exhibit D, Chestnut Hill Farm Trails Plan. Grantee shall have the right, but not the obligation, at its sole expense and with prior notification of Grantors, to maintain but not to substantially alter, except with the prior written permission of Grantors, said publicly-accessible trails on the Premises.
  - 2) Exclusively within the "Parking Area" as shown on a plan of land (entitled "Farmstead and Parking Area Plan of Land in Southborough, Mass.;" dated May, 2006) filed with the Grantee and attached hereto in reduced form as Exhibit B (hereinafter referred to as the "Parking Area"), this Conservation Restriction also grants to Grantee, in consultation with and subject to the approval of the Grantors, not to be unreasonably withheld, the right and an affirmative obligation to construct, maintain, repair, and replace one (1) unpaved parking lot suitable for no more than ten (10) vehicles explicitly to provide public access to the public trails, provided however, that Grantors are notified in writing at least thirty (30) days prior to the commencement of construction activities. Once constructed, the general public shall have the right to park in said parking lot for the explicit purpose of accessing the Premises for Passive Recreation and Educational Activities, provided, however, that

such parking is allowed only during the period between dawn and dusk except for occasional, group activities at night as organized and sponsored by Grantee, its successors, or assigns with prior written notice to the Grantors. The excavation and removal from or the import, placement, and fill to the Parking Area of soil, gravel or other mineral resource or natural deposit shall be authorized only to the limited extent as may be required to construct said Parking Area and maintain good drainage or soil conservation practices; or for other permissible uses of the Parking Area. Pruning, clearing, and planting of vegetation, including landscaping, to the limited extent as may be required to construct said Parking Area, to provide adequate screening from nearby residences, or to demarcate the boundary of said Parking Area is permitted. The installation and maintenance of fencing or stone walls explicitly for demarcating the boundary of said Parking Area is permitted. The erection of signs for any purpose related to the Parking Area or to the public access to the Premises is permitted.

- 3) This Conservation Restriction also grants to the general public the right to enter upon and to re-enter the Premises excepting the Farmstead for the purpose of Passive Recreation and Educational Activities. Public access shall be limited to the marked trails as shown on the sketch plan entitled "Chestnut Hill Farm Trails" attached hereto as Exhibit D, except for the period between November 15 through March 1 of each year, when public access for Passive Recreation and Educational Activities shall be allowed anywhere on the Premises, provided there is sufficient snow cover to prevent damage by erosion. Said trails may be added to, relocated, or discontinued only by the mutual agreement of Grantors and Grantee. The terms and conditions of public access shall be determined by mutual agreement of Grantors and Grantee, in accordance with a recreation management plan (hereinafter the "Management Plan").
- 4) The Management Plan shall be prepared by the Grantors in consultation with Grantee, and shall be reviewed every five years and upon change of property ownership and updated or revised as necessary (as described in said Management Plan). The Management Plan, and subsequent updates or amendments, shall be submitted to Grantee. Said Management Plan shall be reviewed and updated (if necessary), within 90 days, upon each change of landownership, with direct consultation and input of both landowner and Grantee. Grantors reserve the right to close the trails from time to time for the purposes of maintaining public safety or to protect agricultural crops or wildlife, in consultation with Grantee. None of Grantors' activities permitted pursuant to this section shall impair or frustrate permitted access by the public, except for temporary periods necessary to ensure public safety or to protect agricultural crops or wildlife.

## **IX. EXTINGUISHMENT:**

### **(A) Grantee's Receipt of Property and Development Rights**

Grantors and Grantee agree that this Conservation Restriction gives rise for purposes of this paragraph to a real property right, immediately vested in Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined

at the time of the transfer, bears to the value of the unrestricted Premises at that time, and represents all development rights, excluding those allowed within the Farmstead, associated with the Premises.

(B) Value of Grantee's Property Right

Such proportionate value of Grantee's property right shall remain constant.

(C) Right of Grantee to Recover Proportional Value at Disposition

If any occurrence ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds equal to such proportionate value, subject, however, to any applicable law which expressly provides for a different disposition of proceeds.

(D) 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 other than the Town, then Grantors and Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action.

(E) Allocation of Expenses upon Disposition

All related expenses incurred by Grantors and Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between Grantors and Grantee in shares equal to such proportionate value.

(F) Continuing Trust of Grantee's Share of Proceeds of Conservation Restriction Disposition

Grantee shall use its shares of the proceeds in a manner consistent with the conservation purposes of this grant.

**X. ASSIGNABILITY:**

(A) Running of the Burden

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

**(B) Execution of Instruments**

Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; Grantors, on behalf of themselves and their successors and assigns, appoint Grantee their attorney-in-fact to execute, acknowledge and deliver any such instruments on their behalf for such specific purposes. Without limiting the foregoing, Grantors and their successors and assigns agree themselves to execute any such instruments upon reasonable request.

**(C) Running of the Benefit**

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

1. Where as a condition of any assignment, Grantee requires that the Purposes of this Conservation Restriction continue to be carried out; and
2. The assignee, at the time of 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; and
3. Grantee complies with the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

**XI. SUBSEQUENT TRANSFERS:**

Grantors agree 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 Premises, including, without limitation, a leasehold interest. Grantors further agree to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. Failure of Grantors to provide such notice shall not impair the validity of this Conservation Restriction or limit its enforceability in any way. Nothing in this section shall be interpreted as constituting a right by the current or subsequent grantors to subdivide the premises in violation of Section IV, A (6) above, and any prohibited division or subdivision is agreed to be a material breach of intent and purposes of this Conservation Restriction.

**XII. AVOIDANCE OF MERGER:**

No assignment of Grantors' or Grantee's interest in the Premises or acquisition of any additional interest in the Premises by Grantors or by Grantee shall cause this Conservation Restriction to merge with the fee or have the effect of causing any of the terms or provisions hereof to be rendered unenforceable by reason of so-called doctrine of "merger."

**XIII. ESTOPPEL CERTIFICATES:**

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

**XIV. EFFECTIVE DATE:**

This Conservation Restriction shall be effective when Grantors and 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 duly recorded.

**XV. RECORDATION:**

Grantors shall record this instrument in timely fashion in the Worcester South Registry of Deeds, and shall provide Grantee with notice of the recording information for the instrument.

**XVI. TERMINATION OF RIGHTS AND OBLIGATIONS:**

Notwithstanding anything to the contrary contained herein, the rights and obligations under this Conservation Restriction of any party holding any interest in the Premises terminate upon and to the extent of such party's transfer of its interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself if the transfer is in violation of this Conservation Restriction, shall survive the transfer.

**XVII. MISCELLANEOUS:**

(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 Purposes of this Conservation Restriction and the policy and purpose of Mass. Gen. Laws Chapter 184, Sections 31-33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

(C) Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

(D) Joint Obligation

The obligations imposed by this Conservation Restriction upon the parties that together comprise "Grantors" shall be joint and several.

(E) Captions

The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

(F) Pre-existing Rights of the Public

Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of 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.

(G) Compliance with Applicable Law

The exercise of any right reserved under this Conservation Restriction by the Grantors or their successors and assigns shall be in compliance with the then-current Zoning By-Law of the Town of Southborough, the state Wetlands Protection Act (Massachusetts General Laws Chapter 131, Section 40, as amended) and all other applicable federal, state, and local laws.

(H) Amendments

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, the parties 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 the Grantee under any applicable laws, including Section 170 (h) of the Internal Revenue Code of 1986, as amended, Article 97 of the Massachusetts Constitution or Sections 31-33 of Chapter 184 of the General Laws of Massachusetts. Any such amendment shall be consistent with the Purposes of this Conservation Restriction, shall not affect its perpetual duration, shall not permit additional development or improvements to be constructed on the restricted Premises other than development or improvements permitted by this Conservation Restriction on its effective date, and shall not permit any impairment of the significant conservation values of the restricted Premises. Any such amendment shall be recorded in the Worcester County Registry of Deeds and must be approved by the Grantor, Grantees, municipal officials and the Massachusetts Secretary of Environmental Affairs.

(I) 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 prepaid, addressed as follows or to any other entity or individual designated by Grantor or Grantee, or their successors, by written notice given in accordance with this section:

To Grantors:           The Philip C. Beals Trust  
2 Chestnut Hill Road  
Southborough, MA 01772

With a copy to:       Thomas R. Mountain, Esq.  
Mountain, Dearborn & Whiting, LLP  
370 Main Street  
Worcester, MA 01608

To Grantee:

Town of Southborough  
Conservation Commission  
17 Common Street  
Southborough, MA 01772

With a copy to:

Town Counsel  
Town of Southborough  
17 Common Street  
Southborough, MA 01772

Executed under seal this 19<sup>th</sup> day of May, 2006.

Philip C. Beals  
Philip C. Beals, *Trustee*  
Hereunto Duly Authorized

Thomas R. Mountain  
Thomas R. Mountain, *Trustee*  
Hereunto Duly Authorized

Commonwealth of Massachusetts

Worcester, ss.

On this 19<sup>th</sup> day of May, 2006, before me, the undersigned Notary Public, personally appeared the above-named Philip C. Beals and Thomas R. Mountain, Trustees of the Philip C. Beals Trust, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatories, or  my own personal knowledge of the identity of the signatories, to be the people whose names are signed above, and acknowledged the foregoing to be signed by them voluntarily for its stated purpose.

Henry W. Beth  
Notary Public Henry W. Beth

My Commission Expires: 12/20/07

Henry W. Beth  
Notary Public Henry W. Beth

My Commission Expires: 12/20/07

Approval By Board of Selectmen:

We, the undersigned, being a majority of the Board of Selectmen of the Town of Southborough, Massachusetts, hereby certify that at a meeting duly held on May 18, 2006 the Selectmen voted to approve and accept the foregoing Conservation Restriction to the TOWN OF SOUTHBOROUGH pursuant to Massachusetts General Laws Chapter 184, Sections 31-33.

Roger W Challen <sup>SELECTMAN</sup>  
Roger W. Challen, its Chairman

Bonnie J Phaneuf <sup>Selectman</sup>  
Bonnie J. Phaneuf

WJ Boland <sup>Selectman</sup>  
William J. Boland

Commonwealth of Massachusetts

WORCESTER, ss.

On this 18<sup>th</sup> day of MAY, 2006, before me, the undersigned Notary Public, personally appeared the above-named Bonnie J. Phaneuf, William J. Boland, and Roger W. Challen, Selectmen of the Town of Southborough, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the people whose names are signed above, and acknowledged the foregoing to be signed by them voluntarily for its stated purpose.

Aldo A. Cifriano  
Notary Public Aldo A. Cifriano  
My Commission Expires: 9/6/07

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 SOUTHBOROUGH has been approved in the public interest pursuant to M.G.L. Ch. 184, 31-33.

*Stephen R. Pritchard*

Stephen R. Pritchard  
Secretary of Environmental Affairs  
Executive Office of Environmental Affairs

*5/23/06*

Date

Commonwealth of Massachusetts

SUFFOLK, ss.

On this 23<sup>rd</sup> day of May, 2006, before me, the undersigned Notary Public, personally appeared the above-named Stephen R. Pritchard, Secretary of the Massachusetts Executive Office of Environmental Affairs, proved to me by satisfactory evidence of identification, being (check whichever applies):  driver's license or other state or federal governmental document bearing a photographic image,  oath or affirmation of a credible witness known to me who knows the above signatory, or  my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by her voluntarily for its stated purpose.

*Kevin S. [Signature]*

Notary Public

My Commission Expires:



Exhibit List

- Exhibit A      Legal Description
- Exhibit B      Farmstead and Parking Area Plan of Land in Southborough, Mass.
- Exhibit C      Guidelines and Plan Elements for Forestry Plan
- Exhibit D      Chestnut Hill Farm Trails Plan

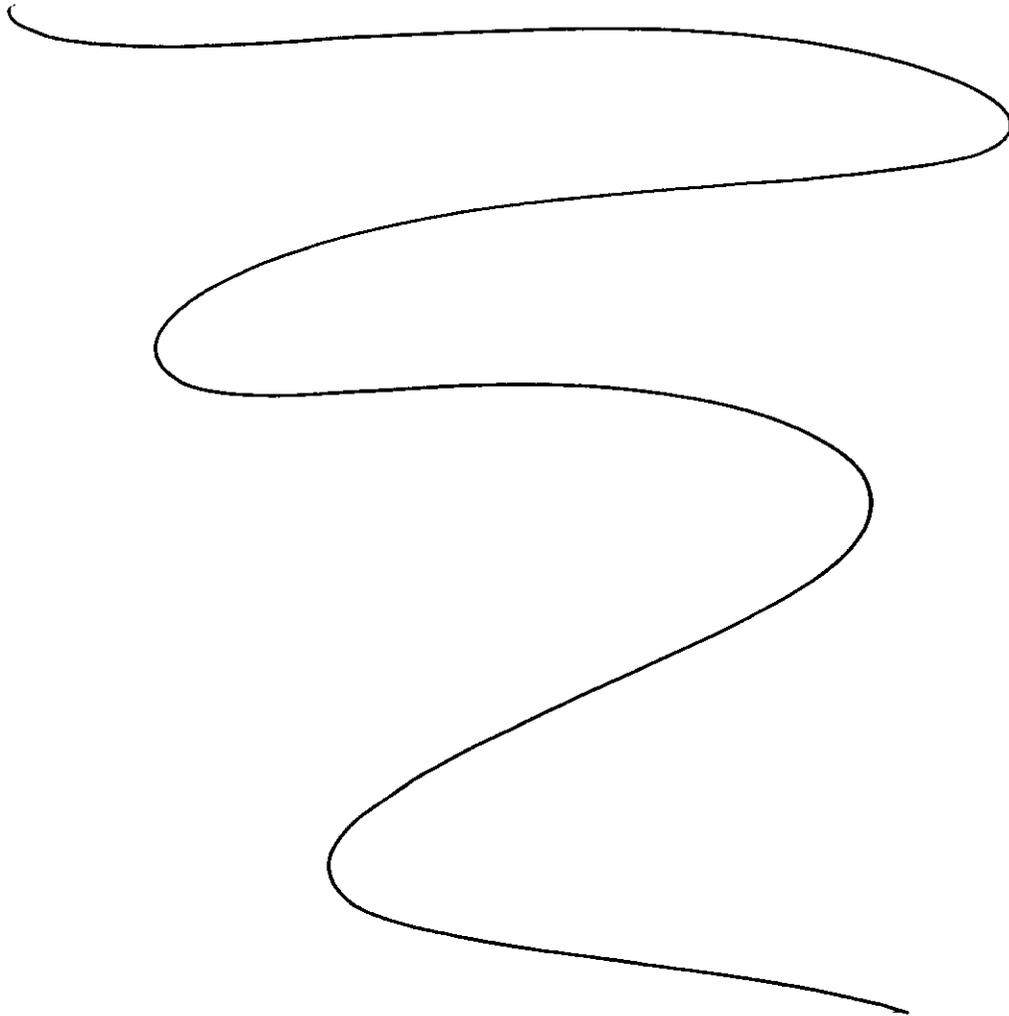


Exhibit A

Tract I

The land in Southborough, Massachusetts on the easterly side of Chestnut Hill Road shown as Parcel A on a plan entitled "Plan of Land in Southborough, Mass. Property of Charles R. Donaldson" dated Aug. 29, 1960, surveyed by W.F. Drake C.E. recorded in Plan Book 250 Plan 38. Containing 108.30 acres.

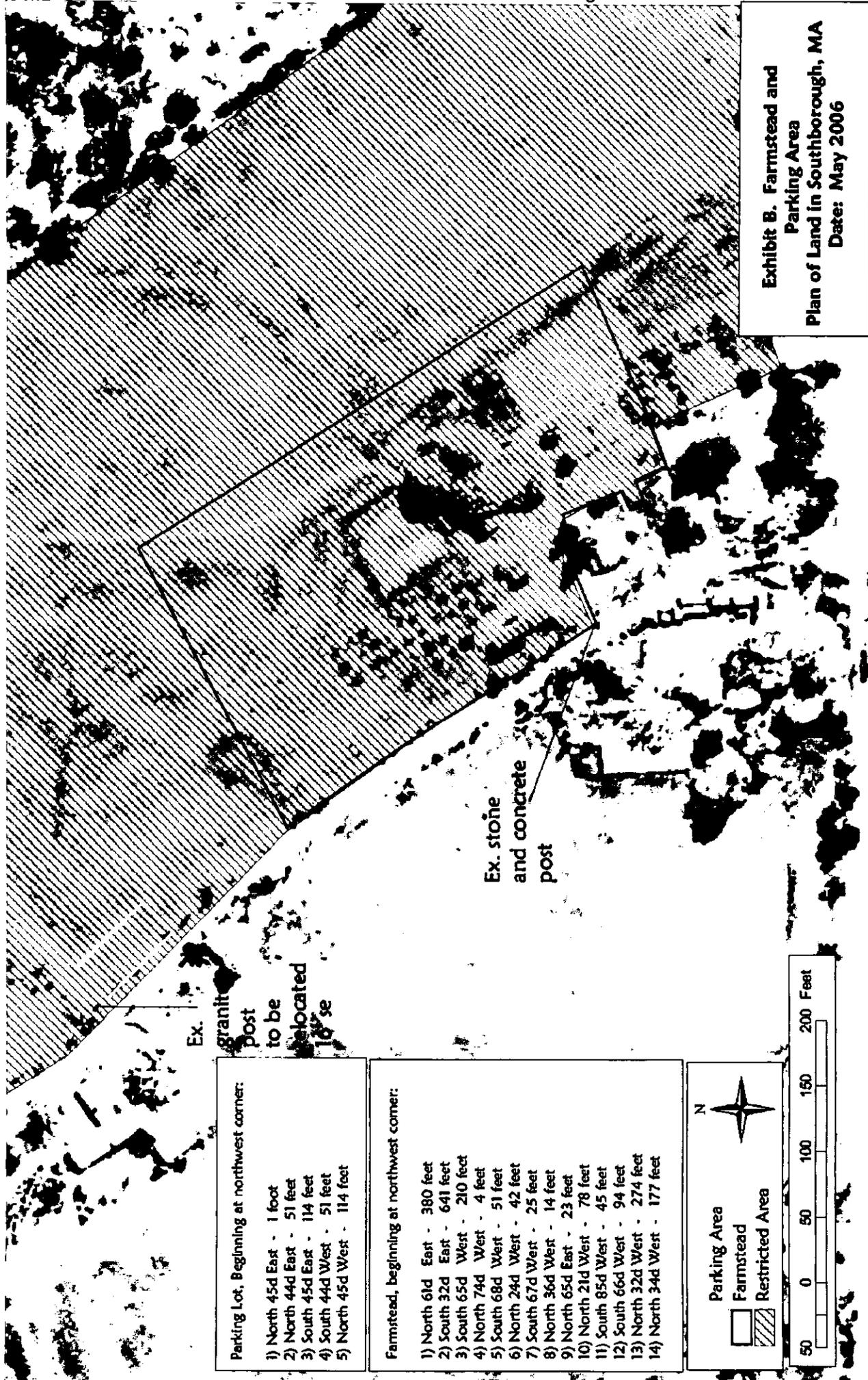
Excepting therefrom the parcel described in a deed to David C. Ekberg and Sandra N. Ekberg dated October 18, 1974 recorded in Book 5605 Page 219, which parcel contains 16,487 sq. ft. and is shown on a plan recorded in Plan Book 404 Plan 35.

Tract II

The land in Southborough, Massachusetts on the northerly side of Main Street shown as Parcel #B-2 on a plan entitled "Plan of Land in Southborough, Mass. Owned by Philip C. & Elaine W. Beals" dated August 6, 1965 surveyed by Nashoba Survey Co. Inc. recorded in Plan Book 292 Plan 78. Containing 42,462 s.f.

For title see deeds recorded in Book 4725 Page 594 and Book 4593 Page 444.

Exhibit B. Farmstead and  
Parking Area  
Plan of Land in Southborough, MA  
Date: May 2006

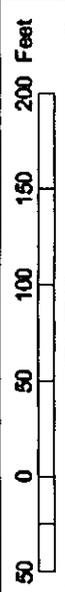
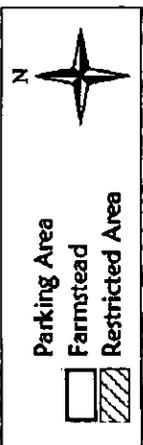


Parking Lot, Beginning at northwest corner:

- 1) North 45d East - 1 foot
- 2) North 44d East - 51 feet
- 3) South 45d East - 114 feet
- 4) South 44d West - 51 feet
- 5) North 45d West - 114 feet

Farmstead, beginning at northwest corner:

- 1) North 61d East - 380 feet
- 2) South 32d East - 641 feet
- 3) South 65d West - 210 feet
- 4) North 74d West - 4 feet
- 5) South 68d West - 51 feet
- 6) North 24d West - 42 feet
- 7) South 67d West - 25 feet
- 8) North 36d West - 14 feet
- 9) North 65d East - 23 feet
- 10) North 21d West - 78 feet
- 11) South 85d West - 45 feet
- 12) South 66d West - 94 feet
- 13) North 32d West - 274 feet
- 14) North 34d West - 177 feet



## EXHIBIT C

### **Forestry Plan Guidelines and Required Plan Elements**

#### **I. Guidelines**

The goal is to practice sustainable forest management on the Premises, which recognizes the importance of all ecological components and values and incorporates them into management policies, plans, and decisions. The following subsections are components to be considered when practicing sustainable forest management.

Grantors and Grantee recognize that their understanding of forest ecosystems and how they function is incomplete. It is important to periodically incorporate relevant advances in scientific knowledge into the sustainable forest management program.

#### **Sustainable Timber Production**

Grantors will use silvicultural systems, which enhance or maintain the value of the timber asset and provide for a sustained yield of forest products while recognizing that ecological, aesthetic, wildlife, and other non-timber values are important components of the forest. Silvicultural prescriptions should be based on sound scientific knowledge and tailored to individual stand conditions. They will strive to maintain stands in a well-stocked, productive condition and promote the diversity of natural forests in both species and structure. The full range of silvicultural prescriptions are available for use on the Premises where appropriate, and include even-aged and uneven-aged systems such as seed tree, shelterwood, clearcut, individual selection and group selection harvest systems. Management of the timber resource shall not eliminate key ecosystem elements.

#### **Forest Diversity**

Grantors' goal is to generate sustained yields of forest products from the forest in an economical manner over time while maintaining forest diversity. Sustainable forestry requires that structural and compositional components be maintained in a vigorous and productive condition. The Forestry Plan will identify areas of unique importance and employ means for assuring their retention.

#### **Riparian Habitats**

The Grantors' goal is to maintain functional watercourses, wetlands and wildlife habitat with the retention of riparian ecosystems. Best management practices shall be employed to minimize impacts to these areas.

#### **Wildlife Management**

The Grantors' goal is to generate sustainable yields of forest products in an economical manner while maintaining healthy wildlife habitat. Wildlife management practices are routinely incorporated into timber management activities to retain or create desirable features including riparian habitat, wildlife cavity trees, mast availability, logs and brush for shelter, promoting

vertical and horizontal diversity, vernal pools, coarse woody debris and featured species management. Wildlife management considers all species of wildlife, beyond game and socially important species.

#### Unique or Fragile Natural Areas

The Grantors' goal is to maintain functional ecosystems that include unique or fragile natural areas. Certain conservation agencies that monitor rare, threatened, endangered, or special concern species are valuable partners in this effort and may help identify these locations and provide technical advice about management practices.

#### Pesticide and Herbicide Use

The Grantors' goal is to implement management practices designed to minimize or eliminate use of pesticides. In all cases the use of pesticides or herbicides will be conducted in compliance with all local, state and federal laws and regulations, and subject to any applicable notice and approval provisions of the Conservation Restriction.

#### Invasive species

The Grantors' goal is to reduce or eliminate these species from the Premises where appropriate and possible. Mechanical and chemical means of control are viable tools to reduce the threat of invasive species. The introduction and spread of non-native plants with invasive tendencies is a current and growing concern.

#### Aesthetic Resources

The Grantors' goal is to maintain aesthetic quality in order to maintain or enhance the value of the Premises. Aesthetic quality is important to maintaining the value of the forest asset.

## **II. Required Plan Elements**

The Forestry Plan shall include, at a minimum, the following elements:

- (a) The Premises' current owner(s), including their then current mailing address and telephone number(s),
- (b) The property tax assessor's map number and lot/parcel number, the Premises' total acreage, and acreage subject to this, or any other restriction or easement;
- (c) The deed book and page from the land records, and reference to any approved or pending M.G.L. 81P ("approval not required") survey plan, subdivision plan, or any other division of the Premises' ownership interests;
- (d) A history of the Premises and its management, including forestry or agricultural activities engaged in during the previous ten years;
- (e) An inventory of forest resources, including: species, quality, age class distributions, growth rates, potential harvest volumes and values;
- (f) A forest type map, an appropriately scaled and accurate map, which shall delineate: the Premises' boundaries, forest types, estimated locations of any threatened or endangered animal and plant species, unique (geological, hydrological, historical, and cultural) features, existing roads and other access to the Premises, soil types, topography, and aspect;

- (g) A description of the Premises' abutters and any other protected land(s), including areas protected for natural, scenic, forested, agricultural, historical, open space, conservation, or wildlife purposes within a reasonable distance of the Premises;
- (h) A description of the Grantors' management objectives and practices for the following ten (10) year period, which shall provide for the maintenance and improvement of the overall quality of the timber resource, the maintenance or improvement of soil productivity and the conservation of water quality;
- (i) The Forestry Plan shall be reviewed and updated every ten years after consultation with a licensed professional forester or by another individual with written approval by Grantee.
- (j) Said Forestry Plan shall expressly state that it is consistent with the Purposes of this Conservation Restriction.