



189 MAIN STREET
THIRD FLOOR
POST OFFICE BOX 170
MILFORD, MA 01757-0170

TEL (508) 478-2054
FAX (508) 478-7394

ALDO B. CONSIGLI, JR.— aldo@consigliandbrucato.com
CHARLES J. BRUCATO, JR.— charlie@consigliandbrucato.com
BRIAN A. CONSIGLI— brian@consigliandbrucato.com
SUZETTE A. FERREIRA— suzette@consigliandbrucato.com

February 14, 2022

Planning Board
Town of Upton
One Main Street
Upton, MA 01568

Re: **Mechanic Street and Fowler Streets, Upton, Massachusetts**
Upton Assessors Map14, Lots 48 and 55

Ladies and Gentlemen:

Please be advised that this Office represents Richard J. Henderson, Sr and Edward L. Gorman, Trustees of the Mechanic Street Realty Trust, of 20 Brooks Street, Upton, Massachusetts, record owners of the above captioned property. The Trustees have entered into a bona fide agreement to sell their property consisting of approximately 94.22 acres of land on Mechanic Street and Fowler Street, Upton, Massachusetts for the sum of \$900,000.00. I certify a true and exact copy of the Agreement is attached hereto as Exhibit "A".

Inasmuch as we have been informed that the purchaser intends to convert this property to a residential use consisting of a multi-family apartment development with a minimum of 200 Units under the provisions of M.G.L. Chapter 40B, formal notice is hereby given to you in accordance with the provisions of M.G.L. Chapter 61B Section 9 of the Trustees intent to sell the property and remove the same from the provisions of said Chapter 61B.

As noted above, the property is currently held by Richard J. Henderson, Sr and Edward L. Gorman, Trustees of the Mechanic Street Realty Trust, established under a Declaration of Trust dated April 11, 1991 and recorded in the Worcester District Registry of Deeds in Book 13344, Page 282. We have been informed that the real estate is described on Upton Assessors Map14, Lots 48 and 55. We have been further informed that Parcels 48 and 55 are subject to a Recreational Land Tax Lien recorded in said Worcester District Registry of Deeds Book 47043, Page 93, (see Exhibit "B" attached hereto).

While we realize that you have 120 days subsequent to this notification to exercise your right of first refusal to meet this offer, or determine that you are not interested in purchasing the same, it is my clients' sincerest hope that you will use every effort to handle this matter expeditiously.

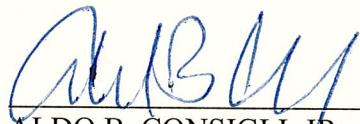
I have also attached my Affidavit as required by the statute to this Notice for your convenience.

Please refer all questions and forward all communications concerning this matter directly to Attorney Aldo B. Consigli, Jr., of the law firm of Consigli and Brucato, PC, P.O. Box 170, 189 Main Street, Third Floor, Milford, Massachusetts, Telephone (508) 478-2054, Telefax (508) 478-7394.

We would appreciate hearing from you as soon as you have had an opportunity to review the enclosed notice.

Very truly yours,

CONSIGLI AND BRUCATO, P.C.



ALDO B. CONSIGLI, JR.

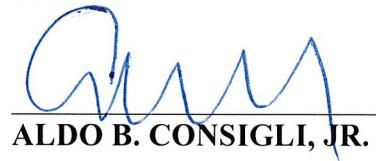
ABC/pjb
Enclosures
certified mail, return receipt requested

AFFIDAVIT

I, **ALDO B. CONSIGLI, JR.**, Attorney for the Seller, being duly sworn, on oath do hereby depose, certify and say that the attached document is a true, exact, complete, and unaltered copy of the fully executed Offer to Purchase from Saxon Partners, LLC to Edward L. Gorman, and Richard J. Henderson Jr., as Trustees of the Mechanic Street Realty Trust, dated February 10, 2022 (countersigned on February 11, 2022), pertaining to the 94.22 acres of vacant land abutting Mechanic Street and Fowler Street, Upton, Worcester County, Massachusetts, consisting of an 87.88-acre lot at 0 Mechanic Street shown on the Town of Upton Assessors Map 14 as Lot 55; and a 6.34-acre lot at 0 Fowler Street shown on Assessors Map 14 as Lot 48; 94 acre parcel of land.

I also certify and state that I have forwarded, by Certified Mail, Return Receipt Requested, true and exact copies of this Offer to Purchase to the Upton Board of Selectmen, Upton Conservation Commission, Upton Board of Assessors, Upton Planning Board and the State Forester as required by the Statute.

EXECUTED AS A SEALED INSTRUMENT UNDER THE PAINS AND PENALTIES OF PERJURY THIS 14TH DAY OF FEBRUARY, 2022.

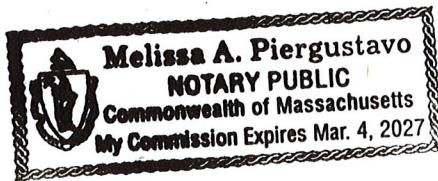


ALDO B. CONSIGLI, JR.

Commonwealth of Massachusetts

Worcester, ss

On this 14th day of February, 2022, before me, the undersigned notary public, personally appeared **ALDO B. CONSIGLI, JR.** and proved to me through satisfactory evidence of identification, which was Commonwealth of Massachusetts driver's license photo identification, to be the person whose name is signed on this document and acknowledged to me that he signed it voluntarily for its stated purpose and made oath that the statements contained herein are true and accurate to the best of his knowledge and belief.



MELISSA A. PIERGUSTAVO
Notary Public
My Commission expires: 03/04/2027

**Saxon Partners LLC
25 Recreation Park Drive, Suite 204
Hingham, MA 02043**

February 10, 2022

Via email to: rnasuti@erakey.com and sterrell@erakey.com

Ms. Robyn Nasuti, Realtor
Mr. Sean Terrell, Realtor
ERA Key Realty Services
76 Church Street
Whitinsville, MA 01588

Re: Offer to Purchase for approximately 94.22 acres of vacant land abutting Mechanic Street and Fowler Street, Upton, Worcester County, Massachusetts, consisting of an 87.88-acre lot at 0 Mechanic Street shown on the Town of Upton Assessors Map 14 as Lot 55; and a 6.34-acre lot at 0 Fowler Street shown on Assessors Map 14 as Lot 48; land subject to a recreational tax lien under M.G.L. Chapter 61B

Dear Ms. Nasuti and Mr. Terrell:

This Offer to Purchase, upon the Seller's signed acceptance, shall constitute an agreement between Saxon Partners, LLC and the Seller named below to purchase the Property (defined herein) on the terms and conditions set forth herein (hereinafter referred to as the "Agreement"). The Seller and Buyer agree that the Agreement shall constitute a purchase and sale agreement within the meaning of M.G.L. Chapter 61B, Section 9, and a certified copy of this agreement shall be appended to the Notice of Intent to Sell to be presented to the Town of Upton.

SELLER:

Edward L. Gorman and Richard J. Henderson Sr., as Trustees of the Mechanic Street Realty Trust, established under a Declaration of Trust dated April 11, 1991, and recorded with Worcester County Registry of Deeds in Book 13344, Page 282, with a mailing address at 20 Brooks Street, Upton, MA 01568

BUYER:

Saxon Partners, LLC, a Massachusetts limited liability company, and/or its assigns, of 25 Recreation Park Drive, Suite 204, Hingham, MA 02043.

PROPERTY:

94.22 acres of vacant land abutting Mechanic Street and Fowler Street, Upton, Worcester County, Massachusetts, consisting of an 87.88-acre lot at 0 Mechanic Street shown on the Town of Upton Assessors Map 14 as Lot 55; and a 6.34-acre lot at 0 Fowler Street shown on Assessors Map 14 as Lot 48 (said two lots are hereinafter collectively referred to as the "Property").

EXHIBIT "A"

A TRUE AND EXACT COPY 2/10/22

For the Seller's title to the Property, see the Deed from Robert D. Henderson and Cecelia E. Henderson dated April 11, 1991, and recorded with Worcester County Registry of Deeds in Book 13344, Page 291 (concerning the 6.34-acre parcel); and the Deed from Robert D. Henderson and Cecelia E. Henderson dated April 11, 1991, and recorded with Worcester County Registry of Deeds in Book 13344, Page 295 (concerning the 87.88-acre parcel). The Property is depicted on the Upton Assessors Plan (Map No. 14) attached hereto as **EXHIBIT A** (the "Assessors Plan").

PURCHASE PRICE:

The purchase price is **NINE HUNDRED THOUSAND DOLLARS (\$900,000.00)**.

DEPOSITS:

The Buyer's Deposit upon the mutual execution of this Agreement shall be **Twenty Thousand Dollars (\$20,000.00)** to be held by Commonwealth Land Title Insurance Company, National Commercial Services Department, 265 Franklin Street, 8th Floor, Boston, MA 02110 (*c/o Robert E. Sullivan, Esq. Assistant Vice-President and Commercial Counsel, phone: 617-619-4819*), as Escrow Agent, to be deposited by the Buyer within **three (3) days** of the Seller's execution of this Agreement and delivery of the same to the Buyer by e-mail (the "Effective Date"). If the Buyer does not terminate this Agreement during the Due Diligence Period (as defined below), the Buyer shall within two (2) business days thereof deposit an additional **Eighty Thousand Dollars (\$80,000.00)** that shall remain refundable to the Buyer and applicable to the Purchase Price as set forth herein. All Deposits tendered under this Agreement and the subsequently executed Purchase and Sale Agreement shall remain refundable to the Buyer and be applicable to the Purchase Price up to sixty (60) days prior to the Closing Date (the "Deposits Non-refundability Date"). The Buyer reserves the right to terminate this Agreement and the subsequently executed Purchase and Sale Agreement up through the Deposit Non-refundability Date and to recover the Deposits.

TERMS OF PAYMENT:

At closing, the Purchase Price shall be paid by the Buyer to the Escrow Agent by wire transfer, plus or minus any prorations. Funds shall be released by the Escrow Agent to the Seller only upon the recording of the Deed by the Escrow Agent's representatives.

TITLE:

Seller shall deliver the Property free and clear of all occupants, personal property, and encumbrances (except for those encumbrances that would not interfere with the Buyer's intended use of the Property as the Buyer so determines during the Due Diligence Period) and with good, clear, record, and marketable title that is acceptable to the Buyer's attorney and the Buyer's title insurance company at their absolute discretion. The Property, which does not include any structures, shall be delivered vacant and free of all debris, trash, hazardous materials, and personal

property. The Buyer's obligations to perform are contingent upon the Seller delivering good, clear, record, and marketable title to the entire Property depicted on the Assessors Plan.

TITLE INSURANCE:

The Buyer shall pay the premium for the Buyer's owner's title insurance policy.

DUE DILIGENCE PERIOD (180 days):

Buyer shall have a **one hundred eighty (180) day** due diligence period from the Effective Date of this Agreement to review all pertinent information regarding the Property, to review Due Diligence materials (defined below), and to conduct tests and inspections of the Property (the "Due Diligence Period"). During the Due Diligence Period, Seller shall make all portions of the Property available to Buyer to permit tests, studies and other inspections as Buyer deems appropriate, provided that Buyer shall notify Seller at least **one (1) business day** prior to the date on which it wishes to undertake the same. Buyer shall restore any portion of the Property affected by such tests, studies, and inspections to its original condition, at Buyer's sole expense.

During the Due Diligence Period, Buyer will provide the Seller with a more detailed Purchase and Sale Agreement that will include such additional terms as are customary for commercial real estate transactions in Massachusetts. At any time during the Due Diligence Period, Buyer may, in its sole discretion, elect to terminate this Agreement and the Purchase and Sale Agreement for any reason, in which event all Deposits shall be returned to Buyer and the said agreements shall terminate.

Among the items to be reviewed prior to the expiration of the Due Diligence Period are the following:

1. Title reports, title insurance commitments, plans, , engineering, and environmental inspection reports currently in the possession of the Seller. Seller agrees to provide (if any) all existing environmental reports and surveys pertaining to this Property in Seller's possession.
2. Any agreement or contract relating to or affecting the Property.
3. Determination that any improvements on the Property are in compliance with all applicable zoning and other laws pertinent to the Property.
4. Determination that there are not any recorded encumbrances that may impair the buildability and marketability of the Property or would preclude the Buyer from securing satisfactory title insurance coverage and endorsements.
5. The environmental and geotechnical condition of the Property.

6. Confirmation of any other information or any other matters which the Buyer in its sole discretion deems pertinent to the Property or this transaction.

**WAIVER OF THE TOWN OF UPTON'S RIGHT OF FIRST REFUSAL
UNDER M.G.L. CHAPTER 61B**

The parties acknowledge that the Property is subject to a lien under Massachusetts General Laws Chapter 61B and that the Town of Upton has a right of first refusal concerning the sale of the Property to a buyer that will not retain the Chapter 61B classification for the Property. As a condition of the sale of the Property to the Buyer, the Seller shall be obligated to: (1) secure from the Town a notice of non-exercise (a "Waiver of Right of First Refusal") and record the same at the Registry of Deeds; (2) pay all roll-back real estate taxes and fees that may be due to the Town pursuant to Chapter 61B; and (3) secure from the Town of Upton a Release of Recreational Land Tax Lien and record the same at the Registry of Deeds.

CLOSING:

The Closing shall take place at the Worcester County Registry of Deeds at 11 AM on Friday, August 12, 2023, or at Buyer's discretion, upon **thirty (30) days** written notice from the Buyer to Seller of an earlier Closing Date. Notwithstanding the foregoing, the Buyer shall reserve the right to provide **seven (7) days** advance notice from the Buyer to Seller to relocate the Closing to the office of the Escrow Agent (Commonwealth Land Title Insurance Company, National Commercial Services Department, 265 Franklin Street, 8th Floor, Boston, MA 02110); and to conduct a remote closing with the signed documents to be delivered by overnight delivery and the funds to be transmitted by wire transfer through the said Escrow Agent.

The Buyer may extend the Closing Date for up to **three (3)** periods of **thirty (30)** days upon paying the Seller an extension payment of Ten Thousand Dollars (\$10,000) for each extension period, which payments shall be non-refundable and non-applicable to the purchase price. The Buyer shall be required to give written notice to the Seller and make the above payment directly to the Seller at least **fourteen (14) days** prior to the original Closing Date and each successive extended Closing Date.

CLOSING COSTS:

The Seller will pay for all Seller transfer taxes and recording fees attributable to the Seller in accordance with the requirements of the Commonwealth of Massachusetts. The Buyer will pay for all recording fees attributable to the Buyer. The Buyer and Seller will divide on an equal basis all customary closing costs (including the Escrow Agent fees for the settlement and closing services) except those that have otherwise been described herein. Buyer and Seller will prorate all real estate taxes as of the date of closing. Buyer and Seller will each pay their own legal fees. Seller's one-half share of the Escrow Agent fees for settlement and closing services will be limited to a maximum payment of Seven Hundred Fifty (\$750.00) Dollars. The Buyer will pay any remaining amount due for the Escrow Agent fee.

BROKER REPRESENTATION:

Ms. Robyn Nasuti and Mr. Sean Terrell, Realtor of ERA Key Realty Services, 76 Church Street, Whitinsville, MA 01588, represent the Seller in this transaction and are to be paid under a separate agreement with the Seller. The Seller shall be responsible for payment of its real estate broker fees.

ACCEPTANCE:

This Offer to Purchase shall remain open for acceptance until **five (5) days** from the delivery via e-mail. If Seller has not delivered to Buyer an executed and accepted copy of this Offer to Purchase to Buyer by e-mail by this time, then this Offer to Purchase shall be null and void and of no further force and effect.

MARKETING OF PROPERTY:

The Seller agrees to not market or present the Property for sale or enter into any discussions or negotiations with any prospective purchasers during the term of this Agreement or the Purchase and Sale Agreement. This Agreement shall constitute a binding agreement between Seller and Buyer for the Property on the terms and conditions set forth herein, even though Seller and Buyer may replace this Agreement with a more detailed Purchase and Sale Agreement that will include such additional terms as are customary for commercial real estate transactions in Massachusetts. Each party shall be responsible for its own legal, advisory, and miscellaneous expenses associated with the completion of this transaction.

Sincerely,



Donald S. Smith, as
Manager of Saxon Partners LLC

Cc: Mr. David Calhoun, Saxon Partners

Agreed to and Accepted by Seller:



dotloop verified
02/12/22 12:14 PM EST
SOAM-EQLG-NAGN-50TG

date: 02/11/2022

Edward L. Gorman, as Trustee of
the Mechanic Street Realty Trust



dotloop verified
02/11/22 12:21 PM EST
SP9N-6WKP-U8XX-U6Q6

date: 02/11/2022

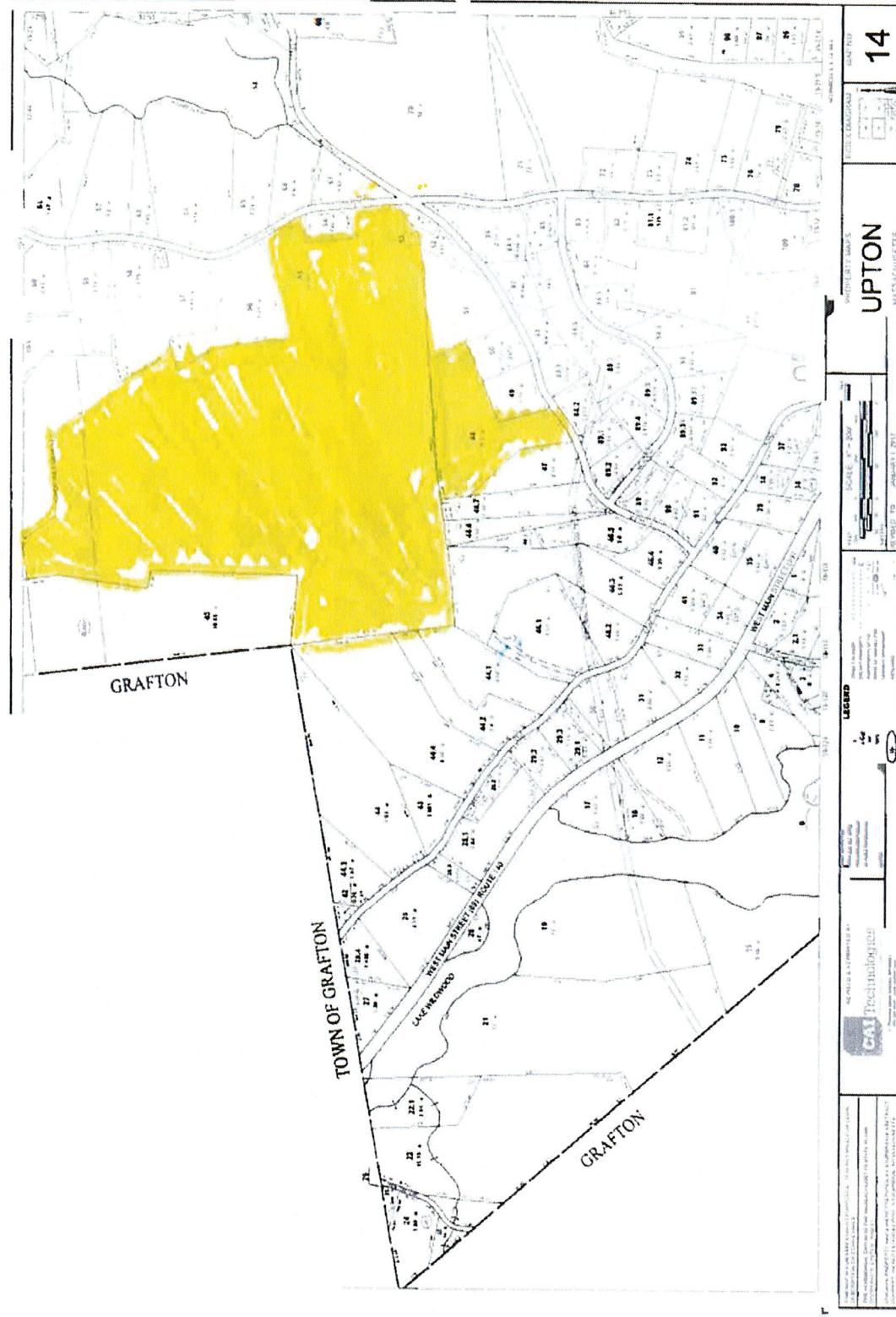
Richard J. Henderson, Sr. as Trustee
of the Mechanic Street Realty Trust

Offer to Purchase

February 10, 2022

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EXHIBIT A- OFFER TO PURCHASE; 87.88-acre lot at 0 Mechanic Street shown on Assessors Map 14 as Lot 55; and a 6.34-acre lot at 0 Fowler Street shown on Assessors Map 14 as Lot 48



The Commonwealth of Massachusetts
UPTON

Name of City or Town

Office of the Board of Assessors



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Page: 1 of 1 02/01/2011 02:31 PM WD

Classified Forest-Agricultural or Horticultural-Recreational Land Tax Lien

The Board of Assessors in the city/town of UPTON hereby states it has accepted and approved the application of RICHARD HENDERSON & EWARD GORMAN

owner(s) of the real property described below, for the valuation, assessment and taxation of that property as classified forest agricultural or horticultural recreational land under the provisions of General Laws Chapter 61 61A 61B . This classification is effective as of January 1, 2011, for the fiscal year beginning July 1, 2010.

DESCRIPTION OF PROPERTY

(The description must be sufficiently accurate to identify the property. In the case of registered land, the Certificate of Title Number and the Registry Volume and Page must be given.)

TWO PARCELS OF LAND LOCATED IN THE TOWN OF UPTON KNOWN ON THE ASSESSORS TAX MAPS AS

MAP 014 LOT 048 CONTAINING 6.34+- ACRES REG OF DEED REF 13344-295 AND MAP 014 LOT 055

CONTAINING 87.88+- ACRES REG OF DEED REF 14402-124. A TOTAL OF 94.22+- ACRES TO BE PUT INTO

CHAPTER LAND 61B

This statement made on the 7th day of October, 2010 constitutes a lien upon the property as provided in General Laws Chapter 61, § 2 61A, § 9 61B, § 6 .

Charles T. M. and
Teresa Tomlinson
Glenn Fowler

Board of Assessors

The Commonwealth of Massachusetts

ss.

On this 7 day of October, 2010, before me, the undersigned notary public, personally appeared Glenn Fowler, as Board of Assessors for the city/town of Upton, proved to me through satisfactory evidence of identification, which were personal knowledge, to be the persons whose names are signed on the preceding document in my presence, and acknowledged to me that they signed it voluntarily for its stated purpose.

M. Denise Smith

Notary Public

My commission expires 1-21-2016

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

EXHIBIT "B"

ATTEST: WORC. Anthony J. Vigliotti, Register

