

10/16/92

#3

DEED OF CONSERVATION EASEMENT

THIS GRANT DEED OF CONSERVATION EASEMENT is made this 22nd day of NOVEMBER, 1992, by Mark and Kristin Sweeney, of the Town of Brunswick, Cumberland County, Maine, (hereinafter referred to as the "Grantor"), in favor of the Town of Brunswick, Maine, (hereinafter referred to as the "Holder") and The State Of Maine by and through its Department of Environmental Protection, (hereinafter referred to as the "Third Party").

WITNESSETH

WHEREAS this Indenture is created pursuant to Title 33, Maine Revised Statutes, Sections 476 through 479-B, inclusive, as amended; and

WHEREAS the Grantor holds title to certain real property situated in Brunswick, Maine (hereinafter referred to as the "Property") being a portion of the parcel described in a deed to Mark J. Sweeney and Kristin A. Beggs recorded in the Cumberland County Registry of Deeds, at Book 6938, Page 107, and further described in exhibit A attached hereto; and

WHEREAS, the Property remains in a substantially undisturbed natural state and has significant aesthetic and ecological value; and

WHEREAS, the Grantor and the Holder, recognizing the value of the Property as described above, have the common purpose of conserving the natural values of the Property by the conveyance of a Conservation Easement over the Property, which easement shall benefit, protect and conserve the natural values of the Property, conserve and protect the indigenous animal and plant populations, and prevent the use or development of the Property for any purpose or in any manner that would conflict with its natural, scenic condition; and

WHEREAS the Third Party will receive Third Party Rights of Enforcement under this Deed;

NOW, THEREFORE, in consideration of the foregoing and the covenants, terms, conditions, and restrictions herein contained, the Grantor hereby GRANTS to the Holder, its successors and assigns, as an absolute and unconditional gift, forever and in perpetuity, with Warranty Covenants, a Conservation Easement in gross over the Property as set forth herein (the "Conservation Easement"); and to the Third Party, its successors and assigns, as an absolute and unconditional gift, forever and in perpetuity, rights of enforcement hereunder.

1. PURPOSE: It is the purpose of this Easement to assure that the Property will be retained forever in its natural undeveloped condition and to prevent any use of the Property that will

significantly impair or interfere with the conservation values of the Property. Grantors intend that this Easement will confine the use of the Property to such activities as are consistent with the purpose of this Easement.

2. RIGHTS OF HOLDER: To accomplish the purpose of this Easement the following rights are conveyed to Holder by this easement:

- a. the right to preserve and protect the conservation values of the Property;
- b. the right to enter and inspect the Property over other lands of the Grantor at any reasonable time and in any reasonable manner provided that the time and manner of such entry does not unreasonably interfere with the uses of the Property permitted hereunder or the quiet enjoyment of other lands of Grantor, and to enforce by proceedings at law or in equity the covenants hereinafter set forth, including the right to require restoration of the Property to its condition prior to any breach hereof; and
- c. the right to prevent any activity on or use of the Property that is inconsistent with the purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

3. USE OF THE PROPERTY: The Property shall be used for limited recreational and conservation purposes only. No commercial, industrial, quarrying or mining activities shall be permitted on the Property, with the exception of limited forestry management rights reserved by the Grantor. No structures or facilities of any kind whatsoever shall be constructed on the Property, except walking paths designed in keeping with the natural scenic quality of the Property. No motor vehicles of any kind, including recreational vehicles, all-terrain vehicles, motorcycles, dirt bikes and snowmobiles shall be permitted on the Property, except in emergency and when necessary to accomplish the rights reserved by Grantor and Holder, their successors and assigns. No filling, paving, dumping, excavation or other alteration shall be made to the surface of the Property other than that caused by the forces of nature. Any activity on or use of the Property inconsistent with the purposes of this Easement is prohibited.

4. RESERVED RIGHTS: Grantors reserve to themselves, and to their personal representatives, heirs, successors, and assigns, all rights accruing from their ownership of the Property, including the right to engage in, or permit or invite others to engage in, all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following rights are expressly reserved:

- a. The right of the Grantors, their guests, employees and invitees, to use the Property for recreational purposes which may include hiking, picnicking, bird watching, camping, tenting and

any other use that is not expressly prohibited above or destructive to the natural values to be conserved herein.

b. The right to advertise the Property for sale or rent and to convey the Property, always subject to the terms of this Conservation Easement.

c. The existing rights in the Right-of-Way to land of Fraser.

5. CUTTING OF TIMBER AND VEGETATION: The destruction or removal of standing timber, plants, shrubs or other vegetation shall not be permitted, except however, there are retained in the Grantor the following rights:

a. The right to clear and restore forest cover and other vegetation that is damaged or destroyed by the forces of nature, such as fire or disease and with the prior written approval of the Holder and the Third Party, when necessary to prevent the spread of disease.

b. The right to clear and restore forest cover and other vegetation, in the event of an emergency, when necessary to prevent the spread of fire.

c. The right to gather, use or remove dead wood and the right to harvest timber by uneven-aged selection methods designed to retain the natural character and bio-diversity of the area.

6. RIGHTS OF THE THIRD PARTY: The Grantors hereby grant to the Third Party the same inspection and enforcement rights as are granted to the Holder under this easement. However the Parties hereto intend that the Holder shall be primarily responsible for the enforcement of this Easement, and that the Third Party will assume such responsibility only if the Holder shall fail to enforce it. If the Third Party shall determine that the Holder is failing in such enforcement, the Third Party may give notice of such failure to the Holder and the Grantors, and if such failure is not corrected within a reasonable time thereafter, the Third Party may exercise, in its own name and for its own account, all the rights of enforcement granted the Holder under this Easement.

The Third Party shall also have reasonable access to any and all records of the Holder relevant to the Property.

7. CONSTRUCTION: If uncertainty should arise in the interpretation of these restrictions, judgment should be made in favor of conserving the Property in its natural, open, and scenic condition.

8. COSTS AND INDEMNIFICATION: The Grantor agrees to bear all costs and responsibility of ownership, control, operation, upkeep, and maintenance of the Property, and to pay any and all

real property taxes and assessments levied by competent authority on the Property, and does hereby agree to defend, indemnify and hold harmless Holder therefrom, and from any claim or costs for personal or bodily injury, property damage or environmental damage incurred on the Property, unless proximately caused by Holder, its officers, directors, agents, or employees in the course of or arising out of Holder's discharge of its obligations hereunder.

9. BASELINE DATA: The Grantor has provided the Holder with sufficient information to determine the condition of the Property as of the effective date hereof and has certified that such information is an accurate representation of the same.

10. SUCCESSORS: The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

11. TERMINATION OF RIGHTS AND OBLIGATIONS: A party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

TO HAVE AND TO HOLD the said Conservation Easement unto the said Holder and its successors and assigns forever and the said Third Party Rights unto the said Third Party and its successors and assigns forever.

GRANTOR'S SIGNATURE

IN WITNESS WHEREOF, the said grantors, Mark and Kristin Sweeney have hereunto set their hand and seal this 22nd day of NOVEMBER, 1992.

Mark Sweeney
Mark Sweeney

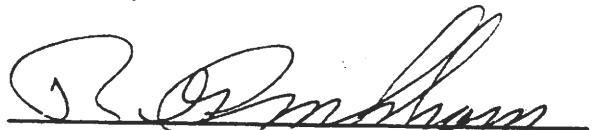
Kristin Sweeney
Kristin Sweeney

NOTARIZATION OF GRANTOR'S SIGNATURE

Jacqueline S. Treadie
NOTARY PUBLIC
My Commission Expires
11/04/94

HOLDER'S ACCEPTANCE

The above and foregoing Conservation Easement was authorized to be accepted by the Town of Brunswick, Holder as aforesaid, and the said Holder does hereby accept the foregoing Conservation Easement, by and through Reginald Pinkham, its Council Chairman, hereunto duly authorized, this 21ST day of September, 1992.


R. Pinkham

THIRD PARTY ENFORCER ACCEPTANCE

The third party rights of enforcement granted under the above and foregoing Conservation Easement, pursuant to Title 33 M.R.S.A. Section 476 et seq., were authorized to be accepted by the State of Maine Department of Environmental Protection by Dean C. Marriott, its Commissioner, hereunto duly authorized and the said Dean C. Marriott does hereby accept the foregoing Conservation Easement this 19th day of November, 1992.

STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: Martha Kirkpatrick
I^ss: Martha Kirkpatrick for Dean C. Marriott

EXHIBIT A

A certain easement on land located off the Southwesterly side of the Durham Road in the Town of Brunswick, County of Cumberland and State of Maine being more particularly described as follows:

Beginning at an iron pin found set in the ground on the Northeasterly side line of land now or formerly of Fraser and at the Westerly corner of land now or formerly of Stockford. Said iron pin being located S 53°01'55" W a distance of 2310.04 feet from a 3/4" iron pin found set in the ground on the assumed Southwesterly side line of the said Durham Road and at the Easterly corner of land now or formerly of Richardson (3772/232);

Thence N 53°01'55" E along land of the said Stockford 1033.98 feet to a 5/8" capped rebar to be set in the ground;

Thence N 36°58'05" W across land of the grantor 618.77 feet to a 5/8" capped rebar set in the ground on the Southeasterly side line of land of the said Fraser;

Thence S 49°33'35" W along land of the said Fraser 1011.29 feet to an iron pin found set in the ground;

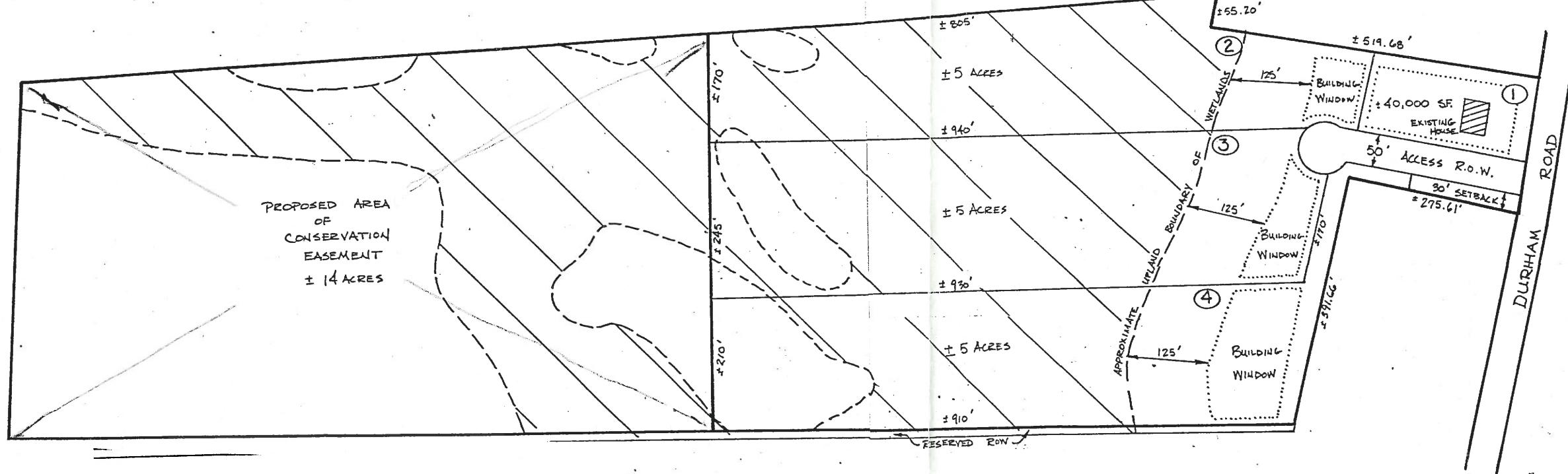
Thence S 34°26'45" E along land of the said Fraser 557.99 feet to the point of beginning. Containing 13.75 acres.

This easement is conveyed together with and subject to a 1 rod right of way as described in a deed recorded in the Cumberland County Registry of Deeds in book 956 page 473.

This conveyance is made together with a 30 foot Common Area Access Easement over lot 4 as shown on a "Final Plan, Monarch Court located at 497 Durham Road, Brunswick, Maine for Mark J. Sweeny" dated March 1992 by Wayne T. Wood & Co. to be recorded in the said Registry.

Meaning and intending to convey the "Common Area" as shown on the above referenced plan, being a portion of the premises conveyed to this grantor by deed recorded in the said Registry of Deeds in book 6938 page 107.

BCC



LEGEND

- Outside Boundary
- Proposed Lot Lines
- Wetland Boundary
- Wetland Interior
- Setback Limits

1 INCH = 200 FEET

0 100 200 300

SUBDIVISION SKETCH PLAN

DURHAM ROAD PARCEL
BRUNSWICK, MAINE

FOR
MARK SWEENEY

RFD #1 BOX 1523A
BRUNSWICK, MAINE 04011

DATE: FEBRUARY 4, 1992

PAUL W. LAWRENCE

P.O. BOX 369

WINDHAM, ME 04062

(207) 892-2175

SCALE: 1" = 100'

DRAWN BY: PWL