

DECLARATION OF CONSERVATION RESTRICTION

Pursuant to Conn. Gen. Stat. §47-42a the undersigned Grantor hereby subjects to a conservation restriction, in perpetuity, on the terms and conditions set forth herein, property it owns in Westport, Connecticut described as follows:

All that certain piece or parcel of land located adjacent to the northwest side of Partrick Road in the Town of Westport, County of Fairfield and the State of Connecticut consisting of 22.143 acres more or less, shown on a certain map entitled "Map of Open Space, Partrick Road, Westport, Connecticut" dated August 2006, Scale 1" = 60' prepared by DiCara Land Surveying Services which map is to be recorded on the land records of the Town of Westport.

The property is subject to:

1. Temporary Construction and Permanent Utility Easement in favor of A.R.S. Partners-Poplar Plains LLC to be recorded on the Westport Land Records and as shown on the above-referenced map.

RESTRICTION:

By these presents, Grantor hereby restricts the property in perpetuity as Protected Open Space Lane which shall be subject to the criteria and conditions set forth in Connecticut General Statutes §7-131 d (c)(1). The Grantor therefore declares that the Protected Open Space Land described herein is and shall be held, transferred, sold, conveyed or occupied subject to a use restriction and covenant to run with and bind the land in perpetuity as follows: no activity shall be performed or permitted on the Protected Open Space Lane which activity would make the land ineligible for a grant pursuant to Connecticut General Statutes §7-131 d(c)(1). In the event of amendment or repeal of the statute or the discontinuation of the grant program, the criteria extant in the statute on the date hereof shall continue to bind and restrict the use of the Protected Open Space Land.

It is the purpose of this conveyance to assure that the Protected Open Space Lane will be retained forever predominately in its natural, scenic, forested, and/or open space condition, and to provide opportunities for passive public recreation on the Protected Open Space Land, while preventing any use of the Protected Open Space Land that will significantly impair or interfere with the conservation values or interests of the Protected Open Space Land. It is the intent of this restrictive covenant that any management activities or alterations of the natural landscape or provision for access or recreation shall be consistent with the conservation purposes outlined above and the use restrictions in the referenced statute.

The Open Space Parcel shall be maintained in perpetuity for passive recreation and shall remain undeveloped and open to the public from dawn to dusk.

SPECIFIC PROHIBITIONS:

1. No commercial, industrial, quarrying, or mining activities are permitted on the Protected Open Space Land;
2. The use of chemical herbicides, pesticides, fungicides, fertilizers and other agents must be limited and are prohibited unless it is demonstrated there will be no adverse effect on wildlife, water, and the other important conservation interests to be protected by this conveyance;
3. It is forbidden to dispose of or to store rubbish, garbage, debris, abandoned equipment, parts thereof, or other unsightly, offensive, toxic or hazardous waste material on the Protected Open Space Lane except that vegetative waste generated on the property may be composted, and other waste generated by permitted uses on the Protected Open Space Land may be stored temporarily in appropriate containment for removal at reasonable intervals, subject to all applicable local, state, and federal laws and regulations;
4. Any and all plants, trees, shrubs, flowers or crops planted in the Open Space Parcel shall be confined to native plants characteristic of the region;
5. The topography of the landscape shall be maintained at its present condition, and no topographic changes shall be made. Topographic changes include, without limitation, filling, excavating, removal of topsoil, sand gravel rocks, or minerals, building roads, or altering natural or existing watercourses or drainage;
6. No trees or other vegetation shall be cut, removed or destroyed on or within the Open Space Parcel, and use of pesticides or other poisons, killing wildlife, grazing of animals, draining of wetlands and burning marshlands shall not be permitted within the Open Space Parcel;
7. No burning shall be allowed in the Open Space Parcel, and no ashes, trash, sawdust, or any unsightly or offensive material shall be placed upon the Open Space Parcel;
8. No refuse receptacles shall be placed within the Open Space Parcel;

9. No structures other than a pump station, limited capacity force-main sanitary sewer line, and related structures, as set forth below, shall be permitted.

LIMITED EXCEPTIONS:

Notwithstanding the foregoing:

1. It is acknowledged that as of the date hereof, the Town of Westport has granted a permit or permits to allow, pursuant to the conditions of said permit or permits, the installation of a pump station, limited capacity force-main sanitary sewer line, and related structures within the Open Space Parcel, provided that any accessways and roadways to the pump station through the Open Space Parcel and the pump station itself shall be constructed in as unobtrusive a manner as possible consistent with the natural setting. Therefore, the owner(s) of the temporary construction and permanent utility easements referenced hereinabove, their successors and assigns or their agents may take whatever steps are reasonably necessary to install, maintain, repair and replace as necessary, but not to expand, the said pump station, limited capacity force-main sanitary sewer line, and related structures, on the further condition that the staff of the Planning and Zoning Commission of the Town of Westport shall review and approve such construction materials and location for the pump station;

2. Upon subsequent application to the Planning and Zoning Commission and the Conservation Commission, the owner of the Open Space Parcel may apply for a single unpaved parking area for no more than five (5) cars; and

3. Trails may be constructed provided the prior approval of the Conservation Commission of the Town of Westport is obtained.

ENFORCEMENT:

Each of the following persons or entities separately or some or all of them acting together shall have all of the rights of enforcement available to Grantees; without limiting the foregoing, in addition, the following persons and entities shall have all enforcement rights pursuant to Conn. Gen. Stat. §§47-42b and 47-42c:

The Commissioner of the Department of Environmental Protection of the State of Connecticut, her successors and her and their agents servants and designees;

The Inland Wetlands agency of the Town of Westport; and

Partrick Wetlands Preservation Fund, Inc.

Power to enforce this Conservation Restriction shall not include power to rescind, diminish, materially alter or suspend the terms of the Conservation Restriction, which is intended by the Grantor to run with the land in perpetuity.

PARTRICK WETLANDS
PRESERVATION FUND, INC.

Witness

By _____
Matthew Mandell Sean Timmins
President Secretary

Witness

State of Connecticut

: ss _____

County of Fairfield

On this _____ day of January 2006, before me, personally appeared, Matthew Mandell who acknowledged himself to be the President of Partrick Wetlands Preservation Fund, Inc., a corporation, and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as President.

In witness whereof I have hereto set my hand and seal this _____ day of January, 2006.

Michael T. Bologna

Commissioner of the Superior Court