

1/9/90-10

AUDUBON HILL CONDOMINIUMS  
CONSERVATION RESTRICTION

FILE COPY

R. Smith Associates, Inc., a Massachusetts Corporation, of 292 Great Road, Acton, Middlesex County, Massachusetts ("GRANTOR"), hereby grants to The Inhabitants of The Town of Acton, a municipal corporation, a Conservation Restriction in perpetuity on a parcel of land situated in Acton, Massachusetts.

The following conservation restrictions are intended to retain the aforesaid area predominantly in its natural, scenic and open condition in order to protect the natural and watershed resources of the town of Acton and to preserve the area for outdoor recreational and scenic enjoyment.

The terms of the conservation restriction are as follows: That neither GRANTOR nor its successors or assigns will perform the following acts nor permit others to perform them on any portion of the land described as "Conservation Open Space" as shown as

"The land on the easterly side of High Street, in Acton, Middlesex County, Massachusetts, being shown as Lots N and S on a plan entitled, "Plan of Development Property for Audubon Hill in Acton, Mass., prepared for: High Street PCRC Trust," 292 Great Road, Acton, Mass., Scale: 1 inch = 150 feet, July 17, 1989, Acton Survey & Engineering, Inc., 277 Central Street, Acton, Mass., to be recorded herewith in Middlesex South District Registry of Deeds, reference to which plan may be had for a more particular description of said Lots.

"Lot N containing 1,235,084+ square feet, 28.3536+ acres and Lot S containing 1,739,835+ square feet, 39.9411+ acres, and being Lots N and S, as shown on said plan, however otherwise bounded, measured or described.

"There is excluded from the foregoing description the following named areas: A) Audubon Drive, Brewster Lane, the 40 foot wide emergency access road and the 40 foot wide access easement and B) "Exclusive Residential Use" areas: Phase N-1 and N-2 containing 177,795 square feet, Phase N-3 containing 72,802 square feet, Phase S-1, S-2, S-3 and S-4 containing 341,529 square feet, Phase S-5 containing 76,162 square feet, and being Phases N-1, N-2, N-3, S-1, S-2, S-3, S-4 and S-5, however otherwise bounded, measured and described on the foregoing described plan.

RC

"For Grantors title see a deed of Roy C. Smith, Trustee, High Street PCRC Trust, dated July 24, 1989 and recorded in said Deeds, Book 19966, Page 308."

hereby granting restrictions against all persons:

1. No building, sign, fence, utilities or other permanent structure will be constructed or permitted to remain on the area, without written approval from the Conservation Commission.
2. No soil, loam, peat, gravel, sand, rock or other mineral substance, refuse, trash, vehicles or vehicles parts, rubbish, debris, junk, waste or unsightly or offensive material will be placed, stored or dumped on the area.
3. No loam, peat, gravel, sand, rock or other mineral resource or natural deposit shall be excavated or removed from said parcel in such a manner as to affect the surface of the area permanently.
4. No trees or other vegetation shall be cut or otherwise destroyed, except that the grantor, its successor or assigns, reserves for itself, its successors and assigns, the right to conduct or permit the following activities on the area;
  - a. The planting and cultivation of trees, shrubs, flowers and other vegetation.
  - b. The cutting or pruning of trees, brush, grass or other vegetation to improve the scenic view and to implement disease prevention measures, including the cultivation and harvesting of forest products in accordance with recognized forestry conservation practices.
  - c. The installation, use, maintenance, repair and replacement, of roads, paths and any underground utility lines and underground sewage disposal systems.
5. No poultry or livestock of any kind shall be raised or kept in said area.
6. This conservation restriction does not grant either the Town of Acton or the public any right to enter or use said parcel, however, (1) there is granted to the Conservation Commission a permanent easement of access to enter said parcel for the purpose of inspecting the premises and



enforcing the foregoing restrictions, and (2) the Inhabitants of the Town of Acton and general public have been granted an access easement from High Street over Audubon Drive and Brewster Lane to conservation land owned by the Town of Acton as described in an easement from the Grantor to the Inhabitants of the Town of Acton, dated October 19, 1989, recorded in said Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_.

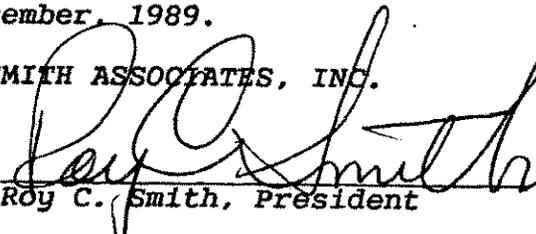
7. Nothing in the above shall prohibit or restrain reasonable recreational use of the premises by the owner(s) thereof. Examples of reasonable recreational use would be walking, hiking, bicycling, skating and related quiet sports. Motorized recreational vehicles are excluded in this area.
8. Nothing in this instrument shall be interpreted to prevent the Conservation Commission (upon the petition of the GRANTOR) from designating additional recreational areas upon which non-structural amenities such as jogging trails may be built for recreational use.
9. Nothing in this instrument shall be interpreted to prevent the GRANTOR from performing excavation and regrading activities reasonably necessary for the maintenance of existing trails, ponds, and drainage courses.
10. Notwithstanding the provisions of this Conservation Restriction, the Grantor, his successors or assigns may place a sign or signs, each of a size not to exceed three (3) feet by two (2) feet, on or about the granted premises for the purpose of indicating the ownership, and permitted or restricted use, of the premises. Such signs shall not be deemed in violation of this Conservation Restriction.
11. Notwithstanding the provisions of this Conservation Restriction, the Grantor shall not be prohibited from conducting such activities on the granted premises as are necessary or required in connection with the construction of the Residential Development under a Special Permit granted by the Town of Acton Planning Board under the PCRC By-Law, or any amendments to that By-Law, provided that such activities do not interfere with the permanent condition of the land for the purpose of this Conservation Restriction.
12. The foregoing restriction is authorized by Massachusetts G.L. c.184, Sections 31-33, and is intended to retain said parcel predominantly in its natural, scenic and open condition, in order to protect the natural and watershed resources of said Town. The restriction shall be

R&Q

administered by the Conservation Commission of said Town,  
established under G.L. c.40, Section 8C.

Signed and sealed this 19<sup>th</sup> day of December, 1989.

R. SMITH ASSOCIATES, INC.

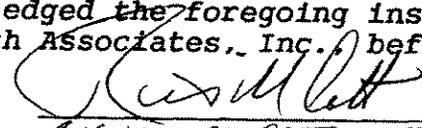
By:   
Roy C. Smith, President

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

December 19, 1989

Then personally appeared the above named Roy C. Smith,  
President aforesaid and acknowledged the foregoing instrument to be  
the free act and deed of R. Smith Associates, Inc. before me.

  
Richard M. Costa Notary Public  
Commission expires: 12-19-1995

[RE:PCRC-RES]

APPROVAL BY SELECTMEN

We, the undersigned Board of Selectmen of the Town of Acton, hereby certify that we approve the receipt of the foregoing conservation restriction pursuant to Massachusetts General Laws Chapter 40, Section 8C, as it has been and may be amended, as requested by a vote of the Conservation Commission of the Town, for the protection of the natural and watershed resources of the Town.

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Being a majority of the Board of Selectmen of the Town of Acton, Massachusetts

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

119 . 1989<sup>90</sup>

Then personally appeared before me the foregoing majority of the Board of Selectmen and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, Massachusetts,

Chris M. Jaye  
Notary Public

Commission expires: 5-13-94

two signed  
originals signed  
and given to  
Ray Smith  
on 1/10/90



*The Commonwealth of Massachusetts*

*Executive Office of Environmental Affairs*

*Division of Conservation Services*

*Leverett Saltonstall Building*

*100 Cambridge Street, Boston 02202*

February 5, 1990

Richard M. Cotter  
Wilson, Orcutt, Cotter & Greenberg, P.C.  
Counselors at Law  
201 Great Road  
Acton, MA 01720

RE: R. Smith Associates, Inc., Acton C.R. #2

Dear Mr. Cotter:

The referenced conservation restriction has been approved and signed by Secretary DeVillars. Enclosed is the original deed form for recording in the registry of deeds.

Kindly notify this office of the date of recording and the book and page number in which the instrument was recorded. Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joel A. Lerner".

Joel A. Lerner  
Director

JAL/sd

Enclosure

cc: Acton Conservation Commission  
Acton Planning Board

RECEIVED

FEB 5 1990

ACTON BUILDING INSPECTOR

AUDUBON HILL CONDOMINIUMS  
CONSERVATION RESTRICTION

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enforcing the foregoing  
Inhabitants of the Town  
been granted an access  
Audubon Drive and Brewster  
by the Town of Acton as  
Grantor to the Inhabitants  
October 19, 1989, recorded in said  
Page \_\_\_\_\_.

*Don't forget  
to add #*

and (2) the  
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sement from the  
of Acton, dated

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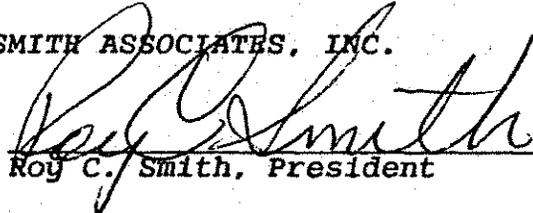
*RCC*

administered by the Conservation Commission of said Town,  
established under G.L. c.40, Section 8C.

Signed and sealed this 19<sup>th</sup> day of December, 1989.

R. SMITH ASSOCIATES, INC.

By:

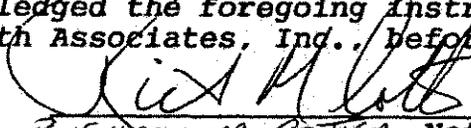
  
Roy C. Smith, President

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

DECEMBER 19, 1989

Then personally appeared the above named Roy C. Smith,  
President aforesaid and acknowledged the foregoing instrument to be  
the free act and deed of R. Smith Associates, Inc., before me.

  
RICHARD M. COTTER Notary Public  
Commission expires: 12-19-1995

[RE:PCRC-RES]

APPROVAL BY SELECTMEN

We, the undersigned Board of Selectmen of the Town of Acton, hereby certify that we approve the receipt of the foregoing conservation restriction pursuant to Massachusetts General Laws Chapter 40, Section 8C, as it has been and may be amended, as requested by a vote of the Conservation Commission of the Town, for the protection of the natural and watershed resources of the Town.

*[Handwritten signatures]*  
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\_\_\_\_\_  
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Being a majority of the Board of Selectmen of the Town of Acton, Massachusetts

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

1/9, 1989<sup>90</sup>

Then personally appeared before me the foregoing majority of the Board of Selectmen and acknowledged the foregoing instrument to be the free act and deed of the Town of Acton, Massachusetts.

*[Handwritten signature]*  
\_\_\_\_\_  
Notary Public  
Commission expires: 5-13-94

APPROVAL BY SECRETARY

The undersigned Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts hereby certifies that the foregoing Conservation Restriction has been approved as being in the public interest pursuant to Massachusetts General Laws Chapter 184, Section 32.

Date:

2/2/90



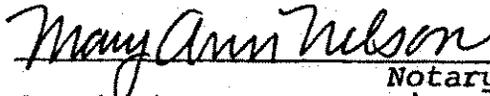
Secretary, Executive Office of Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

Feb. 2, 1990  
1989

Then personally appeared before me the above named John DeVillars, Secretary, Executive Office of Environmental Affairs and acknowledged the foregoing instrument to be its free act and deed.



Notary Public

Commission expires: April 24, 1996