

Use the following form when the forest conservation easements are not located in the town.

FOREST CONSERVATION DEED OF EASEMENT

“ _____ ”

Public Works Agreement No. _____

Category: Rural Area
_____ **acres of land, more or less**

THIS DEED OF EASEMENT, made this _____ day of _____, 20__, by and between _____, including successors and assigns (“Grantor”) (in the event this document involves two or more grantors then Grantor shall include and mean the plural hereafter); and _____ and _____ (“Trustees”); and _____ (“Beneficiary”); and _____ (“Mortgagee”); and **THE COUNTY COMMISSIONERS OF CARROLL COUNTY, MARYLAND**, a body corporate and politic of the State of Maryland (“Grantee”).

DEFINITIONS

Plan: Sediment Control permit; preliminary or final subdivision plan approved by the Carroll County Planning and Zoning Commission; site plan, development plan, planned unit development approved by the Planning and Zoning Commission; or special exception application approved by the Board of Zoning Appeals.

Forest Conservation Plan: Forest Conservation Plan (“FCP”) approved by the Carroll County Bureau of Resource Management pursuant to the Code of Public Local Laws and Ordinances of Carroll County, Chapter 115, Forest Conservation (“Forest Conservation Ordinance”).

Department: Carroll County Department of Planning, or its successor agency.

Exhibit A: Metes and bounds description of the property that is the subject of the easement herein created and granted.

WITNESSETH

WHEREAS, Grantor has obtained Plan approval from the Department; and

WHEREAS, the Commission or other approving authority approved Grantor's plan

conditioned upon a requirement that development occur in strict accordance with a FCP approved by the Department after full review of the FCP pursuant to the provisions of the Code of Public Local Laws and Ordinances of Carroll County, Chapter 115, Forest Conservation (“Forest Conservation Ordinance”); and

WHEREAS, one condition of Plan approval requires Grantor to subject property or a portion of property to a Conservation Easement running in favor of Grantee for the purposes set forth below; and

WHEREAS, the location of this easement (“Easement”) is shown on Exhibit A; and

WHEREAS, the purpose of this Easement is to protect existing and future forest cover; individual trees; streams and adjacent buffer areas; wetlands and other sensitive natural features; and to maintain existing natural conditions to protect plant habitats, water quality and wildlife; and

WHEREAS, the purpose includes preservation of the natural beauty of the property subject to the Easement and prevention of any alteration or destruction that will tend to mar or detract from such natural beauty; and

WHEREAS, the purpose also includes the protection and preservation of natural features within the area of the Easement, which efforts are consistent with the terms and conditions of the approved plan and applicable law; and

WHEREAS, the parties intend for the conditions and covenants contained in this Easement to run with the land in perpetuity and to be binding on all subsequent owners and occupants of the property; and

WHEREAS, the parties intend that a servitude be placed upon the property to create a conservation benefit in favor of the Grantee; and

WHEREAS, Trustees and Beneficiary are the holders of a Deed of Trust from Grantor constituting liens against certain lands and tenements of which the interest in land herein conveyed is a part, and which Deed of Trust is dated _____, and recorded among the Land Records of Carroll County in Book No. _____, Page ____ &c.; and

WHEREAS, Mortgagee is the holder of a Mortgage from Grantor constituting liens against certain lands and tenements of which the interest in land herein conveyed is a part, and which Mortgage is dated _____, and recorded among the Land Records of Carroll County in Book No. _____, Page ____ &c.; and

WHEREAS, Trustees, Beneficiary and Mortgagee have agreed to unite in these presents for the purpose of subordinating its right and title in and to the property to the Easement herein granted, and none other, and for no other purpose, and to hold and retain the mortgaged lands as security for the money remaining unpaid under said lien.

NOW, THEREFORE, the Grantor has executed this Easement for no monetary consideration but for the purpose of ensuring compliance with development standards imposed in accordance with Carroll County law as a condition of development approval. The Grantor, Trustees, Beneficiary and Mortgagee, do\does hereby grant, convey, release and confirm, unto the County Commissioners of Carroll County, in perpetuity, an Easement on the property of the nature and character described on a plat entitled “ _____ ” and labeled “**Forest Conservation Easement**” thereon, in Exhibit A, which is attached hereto and incorporated herein, and described on the applicable record plat(s), which plat is intended to be recorded among the Land Records of Carroll County at plat book _____, Page _____.

BEING an easement over a portion of the land conveyed unto _____ by Deed dated _____, from _____ and recorded among the Land Records of Carroll County in Book No. _____, Page _____ &c.

This Easement constitutes a covenant real running with the title of the land, and is granted to preserve, protect and maintain the general topography and natural character of the land. Grantor, its heirs, successors and assigns covenant to abide by the following restrictions within the Easement:

1. The foregoing recitals are agreed to and incorporated herein and shall be binding upon the parties.

2. No living trees or shrubs (of any size or type) shall be cut down, removed or destroyed without prior written consent from the County. Diseased or hazardous trees or limbs may be removed to prevent personal injury or property damage after reasonable notice to the County, unless such notice is not practical in an emergency situation or is undertaken pursuant to a Forest Management Plan approved in writing by the Maryland Department of Natural Resources (“DNR”).

3. No plant materials (including, but not limited to brush, saplings, undergrowth, weeds and vines) shall be mowed or cut down, dug up, removed or destroyed unless removed pursuant to the terms and conditions of a Forest Management Plan approved in writing by DNR. Noxious weeds (limited to those weeds defined as "noxious" under Maryland State or Carroll County laws or regulations) may be removed as required by law. Vegetation removal shall be limited to noxious weeds only, and protective measures must be taken to protect nearby trees and shrubs.

4. No mowing, agricultural activities, or cultivation shall occur. Grantor may replace dead trees or undergrowth provided that new plantings are characteristic of trees or undergrowth native to Maryland.

5. Nothing in this Easement precludes activities necessary to implement an afforestation or reforestation effort pursuant to an approved Forest Conservation Plan or Maintenance Agreement implemented under the Code of Public Local Laws and Ordinances of Carroll County, Chapter 115, Forest Conservation (“Forest Conservation Ordinance”).

6. The following activities may not occur at any time:

- a. Construction, excavation or grading.
- b. Erection of any building or structural improvements on or above ground, including (but not limited to) sheds, dog pens, play equipment and retaining walls.
- c. Construction of any roadway or private drive.
- d. Activities which in any way could alter or interfere with the natural ground cover or drainage.
- e. Industrial or commercial activities.
- f. Timber cutting, unless conducted pursuant to an approved forest management plan by DNR.
- g. Location of any component of a septic system.
- h. Excavation, dredging, or removal of loam, gravel, soil, rock, sand and other materials.
- i. Diking, dredging, filling or removal of wetlands.
- j. Pasturing of livestock and storage of manure or any other similar activity.

7. No dumping of unsightly or offensive man-made materials, including trash, construction materials and debris; and no dumping of ashes, sawdust or grass clippings shall occur except in a properly located, designed, managed and maintained compost pile. Upon prior written approval of the County, suitable heavy fill and other stabilization measures may be placed to control and prevent erosion, provided that the fill is covered by arable soil or humus and properly stabilized.

8. Fences consistent with the purposes of the Easement may be erected only after written approval from County.

9. All rights reserved by or not prohibited to Grantor shall be exercised so as to prevent or minimize damage to the forest and trees, streams and water quality, plant and wildlife habitats, and the natural topographic character of the Easement.

10. Grantor further agrees to make specific reference to this Easement in a separate paragraph of any subsequent deed, sales contract, mortgage or other legal instrument by which any interest in the Property is conveyed (including a lease agreement). However, failure to do so shall not affect the continued existence of this easement.

11. No failure on the part of the County to enforce any covenant or provision herein shall waive the County's right to enforce any covenant or provision within this Easement.

12. Upon finding a violation of any of the restrictions, conditions and covenants established by this Easement, the County shall have the right to enforce such provisions in accordance with any

statutory authority (including, if applicable, the imposition of civil monetary fines or penalties in amounts and by such means as may be promulgated from time to time) or by injunction or other appropriate relief in any court of competent jurisdiction, including the right to recover damages in an amount sufficient to restore the property to its original natural state and court costs and reasonable attorney fees.

13. All written notices required by this Easement shall be sent to the Department of the County Attorney, located at 225 North Center Street, Westminster, Maryland, 21157.

14. This Easement is not intended to create reciprocal rights among and/or between property owners. This Easement is intended to create a right in Grantee but not an obligation.

15. The Grantee shall have the authority to modify the restrictions contained in this Easement provided that the modifications are less restrictive than those in this Easement and provided further that the modifications do not conflict with the then current Carroll County Forest Conservation Ordinance or other governmental regulations.

TOGETHER with the express right-of-way for ingress and egress over Grantor's remaining lands for County representatives to enter at reasonable hours upon the Easement for the purpose of completing an FCP or making periodic inspections to ascertain whether the Grantor, its heirs, successors or assigns have complied with the restrictions, conditions, and easement established herein. This Easement does not convey to the general public the right to enter the Easement for any purpose. This Easement does not restrict or enlarge access to the public in common open space held under community or homeowner association control beyond the access rights created by those association covenants and bylaws.

TO HAVE AND TO HOLD unto the County Commissioners of Carroll County, its successors and assigns forever, this Grant shall be binding upon the heirs, successors and assigns of the Grantor in perpetuity and shall constitute a covenant real running with the title of the Property.

IN WITNESS WHEREOF, the parties set their hands and seals.

_____(SEAL)
BY:
TITLE:
Grantor

_____(SEAL)
BY:
Trustee

_____(SEAL)
BY:
TITLE:
Beneficiary

_____(SEAL)
BY:
TITLE:
Mortgagee

NEED NOTARY FOR EACH SIGNATURE EXCEPT COUNTY SIGNATURES

ACCEPTED BY:
THE COUNTY COMMISSIONERS
OF CARROLL COUNTY, MARYLAND
a body corporate and politic of the State of Maryland

Date:

BY: CLAYTON R. BLACK, CHIEF
BUREAU OF DEVELOPMENT REVIEW

Approved for legal sufficiency:

THIS IS TO CERTIFY that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney, or by a party to this instrument.

PWA No. _____
Tax Account No.
date:

RETURN TO: Department of the County Attorney, 225 N. Center Street, Westminster, MD 21157