

FOREST CONSERVATION DEED OF EASEMENT

“ _____ ”

Public Works Agreement No. _____

Category: Urban On-Site/Off-Site 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

FYI - Town Projects:

If the project has a “T” # it was not approved by the County Planning and Zoning Commission. It is approved by that particular Town’s Planning and Zoning Commission. The County makes recommendations but the Town decides what they will base their final approval of the project on.

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”).

Grantor: Fee simple owner of real property subject to a:

Plan approval conditioned on compliance with a FCP; or

Plan approval conditioned on compliance with a conservation agreement (issued pursuant to the Code of Public Local Laws and Ordinances of Carroll County, Chapter 115, Forest Conservation (“Forest Conservation Ordinance”)); or

Forest Bank, as authorized in Section 115-19 of the Code of Public Local Laws and Ordinances of Carroll County.

Grantee: County Commissioners of Carroll County (“County”)

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

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

WITNESSETH

This Easement constitutes a grant of easement to the Grantee.

WHEREAS, Grantor (or Grantor's agent) has obtained Plan approval from the Department; and

WHEREAS, the Commission or other approving authority approved Grantee'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 the property or a portion of the 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 (incorporated by reference into the terms of this Easement); 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(s).

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 No. _____, 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.

FYI – if one of the parties are deceased add: The said _____ having since departed this life and land having vested in severalty in _____, his/her wife/husband.

Use only if property was taken as tenants by the entireties.

If it was taken otherwise, consult attorney for proper wording.

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. Understory plant materials, including but not limited to brush, shrubs, saplings, seedlings, undergrowth and vines, may be cut down, removed or destroyed without prior written consent of the County Commissioners, provided their removal does not damage, injure or kill trees or create erosion or slope stability problems.

3. Fences are permitted within the Easement provided their construction and maintenance can be executed in compliance with the restrictions of this Easement.

4. Mowing may occur, provided this activity does not damage, injure or kill trees. Grantor may supplement existing or replace dead trees or undergrowth with new plantings provided that new plantings are characteristic of trees or undergrowth native to Maryland.

5. The following activities may not occur without prior written consent from the County:

a. Construction, excavation, grading, or retaining walls except as may be used to preserve existing trees.

b. Construction of any roadway or private drive.

c. Activities which in any way could alter or interfere with the soil or slope stability or drainage, on or off-site. The County may approve these activities upon a finding that the proposed activity will not interfere with the purposes stated above, and in particular with tree preservation; screening existing and proposed development from adjacent and abutting landowners; and preservation of open space. This approval exception shall be narrowly interpreted, and the County is under no obligation to authorize any of these activities when approval is requested.

6. Timber cutting or any other industrial or commercial activities shall not occur.

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. The Easement shall not be used as a site for any major public utility installations such as, but not limited to, electric generating plants, electric transmission lines, gas generating plants, gas storage tanks, radio or microwave relay stations, and telephone exchanges except upon prior written approval by the County. Nothing in this paragraph prevents the construction or maintenance of (on, over or under the property) facilities normally needed to serve a residential neighborhood and which have been approved by the appropriate reviewing agencies. These facilities should be located to prevent or minimize any loss of trees.

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. County representatives may enter at reasonable hours upon the Property and within the Easement for the purpose of making periodic inspections to ascertain whether the Grantor, its heirs, successors or assigns have complied with the restrictions, conditions, and easements established. This Easement does not convey to the general public the right to enter the Property or Easement for any purpose. The 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.

11. 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.

12. 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.

13. 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.

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

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: J. MICHAEL EVANS, DIRECTOR
DEPARTMENT OF PUBLIC WORKS

Approved for legal sufficiency:

TERRI A. JONES
DEPUTY COUNTY ATTORNEY

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.

TERRI A. JONES
DEPUTY COUNTY ATTORNEY

TAJ_____
PWA No. _____
Tax Account No.
date:

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