

Return to:

ESSEX COUNTY GREENBELT ASSOC.
82 EASTERN AVE.
ESSEX, MA 01929

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12/26/2001 14:39:00 OTHER Pg 1/18

CONSERVATION RESTRICTION TO THE ESSEX COUNTY
GREENBELT ASSOCIATION, INC.

The undersigned TOWN OF WEST NEWBURY, a municipal corporation of Essex County, Massachusetts, acting by and through its duly elected Board of Selectmen, and as authorized by a vote of the Special Town Meeting of October 29, 2001, a copy of which vote is attached hereto as Exhibit A, for nominal consideration, hereby grants, with quitclaim covenants, to ESSEX COUNTY GREENBELT ASSOCIATION, INC., a Massachusetts not for profit corporation having its principal office at 82 Eastern Avenue, Essex, Essex County, Massachusetts, its successors and permitted assigns, in perpetuity and exclusively for conservation purposes, as defined below, a Conservation Restriction on the land located in West Newbury, Essex County, Massachusetts described in Exhibit B attached hereto and incorporated herein by reference (the "Premises"). Said Town of West Newbury and its successors in title to the Premises are hereinafter referred to as the "Grantor" and the Essex County Greenbelt Association, Inc. and its assigns are hereinafter referred to as the "Grantee."

WHEREAS, the Grantor intends, as owner of the Premises, to convey to the Grantee the right to conserve and protect the conservation values of the Premises in perpetuity; and

WHEREAS, "conservation values as used herein shall, without limiting the generality of the term, mean the condition of the Premises at the time of this grant evidenced by documentation to be prepared and approved by the Grantor and the Grantee; and

WHEREAS, the Premises possesses significant scenic, aesthetic, scientific, educational, agricultural and passive and active recreational value in its present state as a natural area and open space which has not been subjected to development incompatible with said uses; and

WHEREAS, the Grantor and Grantee recognize the uniqueness of the Premises as a Massachusetts landscape embodying the special character of the region in which the Premises is located and have the common purpose of conserving the natural values of the Premises for this generation and future generations; and

WHEREAS, the Premises contains and consists of freshwater wetlands (including the Indian River, Mill Pond and streams and associated wetlands), open fields, agricultural fields and forested upland representing a diversity of wildlife habitats; and

WHEREAS, the Premises provides opportunities for passive and active recreational activities by the general public; and

WHEREAS the Premises is part of a scenic landscape visible to the general public from Route 113, a state highway, and from the Premises itself; and

WHEREAS, protecting wildlife habitat, scenic views, surface waters and land for agricultural use and passive and active recreation are identified as community and resource protection needs in the Town of West Newbury Open Space and Recreation Plan dated August 1996 and the Town of West Newbury Comprehensive Plan dated September 1999; and

WHEREAS, conservation of the agricultural value of the Premises is in furtherance of the clearly delineated governmental policy of the Commonwealth of Massachusetts; and

WHEREAS, the Grantee is a publicly-supported, tax exempt non-profit organization whose primary purpose is to conserve open space for ecological, agricultural and scenic purpose, authorized to acquire conservation restrictions as may be necessary to maintain, improve, protect, limit the future use of and otherwise conserve and properly utilize open spaces in land and to manage and control the same; and

WHEREAS, the Grantee has received a letter from the Internal Revenue Service dated April 11, 1984, a copy of which is on file in the offices of the Grantee, to the effect that the Grantee is not a private foundation within the meaning of Section 509(a) of the Internal Revenue Code.

THEREFORE, in order to preserve the Premises in perpetuity in its present natural scenic and open condition, the Grantor conveys to the Grantee a perpetual Conservation Restriction within the meaning of Chapter 184, Section 31 et. seq. of the General Laws of Massachusetts, as amended.

The terms of this Conservation Restriction are as follows:

A. Prohibited Uses Except for the rights reserved in Paragraph B. below, the Grantor and its successors and assigns shall neither perform nor permit others to perform any of the following activities, acts or uses on, over or under the Premises:

1. The construction, erection or placement of any new buildings or structures, or enlargements to existing buildings, including, but not limited to, schools, churches, houses, tennis courts, swimming pools, storage sheds, landing strips, mobile homes, asphalt or concrete pavement, roads, billboards or other advertising displays, antennae (including satellite dishes and/or cell towers), utilities, conduits, poles, towers, permanent or temporary lighting for athletic field, fuel or water storage tanks, subsurface sewage disposal systems, solar panels, windmills or other temporary or permanent structures or facilities on, under or above the Premises;

2. Mining, excavation, dredging or removing soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit from the Premises except as necessary for proper drainage or soil conservation and then only in a manner which does not impair the purposes of this Conservation Restriction;

3. Placing, filling, storing or dumping of soil, refuse, trash, vehicle and boat bodies or parts, rubbish, debris, tree cuttings, junk, solid or chemical waste or other substance or material whatsoever, on the Premises;

4. Cutting (including clear cutting), removing or otherwise destroying or altering trees, shrubs, grasses or other vegetation;

5. Activities detrimental to drainage, flood control, water or soil conservation, water quality, and/or erosion control on the Premises, including chemical application not compatible with wildlife conservation values of the Premises;

6. The use of motorized vehicles or vessels of any nature or kind (including but not limited to cars, trucks, motorcycles, all terrain vehicles, motorized dirtbikes and motorized boats) outside of roadways or parking areas, except such vehicles as required by police, fire, or other governmental agents in carrying out their lawful duties and except for other vehicles used in compliance with a "Pipestave Hill/Mill Pond Area Management Plan" (the "Management Plan"), approved by the Grantor and the Grantee for purposes permitted by this Conservation Restriction;

7. Hunting, trapping or shooting of firearms;

8. Any residential or industrial use, and any institutional, municipal or commercial use inconsistent with the purposes of this Conservation Restriction;

9. Active recreation activities (defined by the need for fixed facilities), including the creation and maintenance of playgrounds, soccer fields, ballparks, football fields, or active recreation facilities of any kind;

10. Conveyance of less than the entire Premises or division or subdivision of the Premises;

11. Any other use of the premises or activity thereon that is inconsistent with the purposes of this Conservation Restriction or that would impair other significant conservation interests unless otherwise necessary for the protection of the conservation interests that are the subject of this Conservation Restriction.

B. Reserved Rights

Notwithstanding the provisions of Paragraph A., the Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only to the extent that such uses and activities are consistent with the purposes of this Conservation Restriction or other significant conservation interests, and consistent with the Management Plan:

1. Access by the general public to the Premises for purposes of passive and active recreational and educational activities and peaceful and lawful enjoyment of the natural environment consistent with the purposes of this Conservation Restriction and in compliance with the Management Plan;
2. Dam repair/replacement deemed necessary by the Grantor, in compliance with the Management Plan and with all applicable laws, rules and regulations of the United States, the Commonwealth of Massachusetts and the Town of West Newbury. Dredging of Mill Pond deemed necessary by the Grantor, in compliance with the Management Plan and with all applicable laws, rules and regulations of the United States, the Commonwealth of Massachusetts and the Town of West Newbury, with the prior approval of the Grantee as to the manner in which such dredging is to accomplished;
3. Equestrian activities and events, including the maintenance, repair and replacement of jumps and the two existing outdoor riding rings, in compliance with the Management Plan;
4. Pruning, cutting and removal of vegetation damaged by storm, fire, disease or other disaster or for other purposes in compliance with the Management Plan;
5. Agricultural, landscape maintenance and related activities carried on in compliance with the Management Plan, including but not limited to the cultivation and harvesting of crops, flowers and hay; the planting and maintaining of native flowers, native shrubs, native trees and other appropriate vegetation; the mowing of fields and other open areas and the grazing of livestock; and the construction and maintenance of sight pervious (non chain-link) fences necessary in connection therewith and not otherwise inconsistent with the purposes of this Conservation Restriction; ☐
6. Within forested areas, in compliance with the Management Plan and in accordance with generally accepted forest management practices, the planting, thinning and cutting of trees;
7. Activities designed to enhance the ecological or natural historical value of the Premises, including habitat improvement for wildlife and birds;
8. The control of invasive non-native plant species, in compliance with the Management Plan;
9. Hunting, trapping or shooting of firearms, in compliance with the Management Plan;

10. The maintenance of existing trails and, the construction of new trails, including the placement of soil or other materials associated with said trail construction and maintenance activities, all in compliance with the Management Plan;

11. Within the area identified as Side Field on Exhibit C, the development of athletic fields, including the installation of a well, irrigation system, associated water storage tanks, associated underground utilities, associated unpaved roadways and parking area, a wood guardrail at the top of the slope on the westerly side of the existing soccer/baseball field with a gate across the existing unpaved perimeter roadway, and the placement of any required temporary portable nets, goals, toilets and their necessary supporting structures, all in compliance with the Management Plan.

12. Erecting and maintaining minimal signage including, without limitation, parking signs, signs prohibiting such activities as plant collecting, hunting, littering, or signs identifying trails or identifying the Premises as conservation land, all in compliance with the Management Plan;

13. Conducting educational and interpretive programs on the environmental and historical aspects of the Premises and/or such other public social gatherings and events at the Premises in compliance with the Management Plan;

14. The use, maintenance, repair, replacement and reconstruction of the buildings and structures existing at the time of the grant of this Conservation Restriction, provided that said buildings and structures may not be enlarged, and provided that all such use and activity shall be in compliance with the Management Plan;

15. The use, maintenance and repair of the subsurface disposal systems existing at the time of the grant of this Conservation Restriction, and, with the prior approval of the Grantee, the replacement of such systems, provided that all such use and activity shall be in compliance with the Management Plan;

16. With prior notice to the Grantee, the installation and maintenance of any underground piping necessary for the Town of West Newbury water supply and distribution system;

17. The use, maintenance and repair of existing roads and unpaved parking areas, and, with the prior approval of the Grantee and in compliance with the Management Plan, the construction of new roads and unpaved parking areas necessary for public safety or other purposes permitted by this Conservation Restriction;

18. The use, maintenance and repair of existing above and underground utilities and, with the prior approval of the Grantee and in compliance with the Management Plan, replacement and installation of above and underground utilities for the transmission of water, sewage, gas,

telephone, electricity or other such utilities to serve facilities and activities on the Premises, provided that in the case of underground utilities the surface of the Premises shall so far as practicable be restored to the same condition that it was prior to the disturbance thereof.

19. The installation by the Grantor of any structure required by state or federal law for public health, welfare or safety in connection with uses permitted herein.

20. The use, repair, maintenance and replacement of the existing dock on Mill Pond, in compliance with the Management Plan;

21. Overnight camping by organizational groups pursuant to written authorization from the Grantor, which requires the submission of a waste management plan by the organization and its approval by the Grantor;

22. The cleaning and maintenance of the sediment forebays constructed on the tributaries entering Mill Pond, in compliance with the Management Plan.

The exercise of any right reserved by the Grantor in this Conservation Restriction shall be in compliance with the then current Zoning By-Law of the Town of West Newbury, the Wetlands Protection Act (Massachusetts General Laws, Chapter 131, Section 40) and its regulations and all other applicable provisions of federal, state and/or local law. The inclusion of any reserved right in this Paragraph B. requiring approval from a public agency does not imply that the Grantee takes any position on whether such approval should be issued.

C. Notice and Approval

Whenever notice to or approval or consent of the Grantee is required pursuant to Paragraph B, the Grantor shall notify the Grantee in writing not less than thirty (30) days prior to the date the Grantor intends to exercise such reserved right. Such notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed exercise in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. The Grantee's approval or consent shall not be unreasonably withheld so long as the proposed action is consistent with the terms and conditions of the Conservation Restriction. The Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantors written request therefor. The Grantee's failure to grant or withhold its approval in writing within the aforesaid thirty (30) day period shall be deemed to constitute its approval of the exercise of such reserved right.

D. Access by the Grantee

The Grantee and its representatives shall have the right to enter the Premises upon reasonable notice and at reasonable times and in a reasonable manner for the purpose of inspecting the Premises to determine compliance with the provisions of this Conservation Restriction and for preventing, abating or remedying any violations thereof. The Grantee is also granted the right, but not the obligation, to mow or otherwise maintain the open characteristics of existing conditions in the event that the Grantor fails to do so.

E. Access by the General Public

The Grantor hereby reserves the right to grant to the public generally the right to enter upon the Premises, and does hereby grant said rights of public access to the general public for passive recreation purposes, such as walking, running, horseback riding, cross-country skiing, snowshoeing, non-motorized bicycling, skating, fishing, non-motorized boating on Mill Pond, birding, hiking, picnicking, wildlife observation and other similar activities consistent with the purposes of this Conservation Restriction and in compliance with said Management Plan. Visitors may be ejected at any time by the Grantor for unseemly or loud activities or failure to abide by the rules and regulations of said Management Plan. To the extent permitted by law, the Grantor and the Grantee hereby expressly disclaim any duty to maintain the Premises or warn persons who may enter upon the same. Pursuant to M.G.L. c.21, s.17c, the Grantor is not liable to any member of the public who uses the Premises for injuries to person or property sustained by such person while on the Premises in the absence of willful, wanton, or reckless conduct by the Grantor.

F. Legal Remedies of the Grantee

The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the Premises to its condition at the time of this grant (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee. Prior to instituting litigation to enforce any violations of the Conservation Restriction, however, the Grantee shall first notify the Grantor and request the Grantor to remedy the violation; if the violation is not remedied within sixty (60) days, then the parties shall make a good faith effort to mediate the dispute before litigation is commenced. The Grantor and the successors and assigns of the Grantor covenant and agree to reimburse the Grantee for all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy or abate any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by the Grantor or determined by a court of competent jurisdiction to have occurred.

G. Grantee's Disclaimer of Liability

By its acceptance, the Grantee does not undertake any liability or obligation relating to the condition of the Premises. Enforcement of the terms of this Conservation Restriction shall be at the discretion of the Grantee, and any forbearance by the Grantee to exercise its rights under this

Conservation Restriction shall not be deemed or construed to be a waiver. If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

H. Acts Beyond Grantor's Control

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Premises or any violations of this Conservation Restriction resulting from causes beyond the Grantor's control, including, but not limited to, fire, road drainage, flood, storm, natural erosion, public recreation use not authorized by this Conservation Restriction or by said Plan, and acts caused by trespass on the Premises not contributed to by acts or omissions of the Grantor, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Premises resulting from such causes.

I. Duration and Assignability

The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable in perpetuity against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises, by the Grantee, its successors and assigns as holders of this Conservation Restriction. This Conservation Restriction shall be in addition to and not in lieu of any other restrictions or easements of record affecting the Premises. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instrument upon request.

The benefits of this Conservation Restriction shall be in gross and shall not be assignable by the Grantee, except in the following instances from time to time:

- i. as a condition of any assignment, the Grantee requires that the purposes of this Conservation Restriction continue to be carried out, and
- ii. the assignee, at the time of the assignment, is a qualified organization" under section 170(h) of the Internal Revenue Code of 1986 as amended, and applicable regulations thereunder, and is a donee eligible to receive this Conservation Restriction directly under M.G.L. c.184, s 32 and,
- iii. the Grantee complies with the provisions required by Article 97 of the amendments to the Massachusetts Constitution.

It is intended that, in the event of the dissolution of the Grantee, or its inability to carry out the provisions of this Conservation Restriction, then the grantee shall assign the benefits of the Conservation Restriction, including such endowment fund as may have been provided at the time of the grant of the Conservation Restriction, to The Trustee of Reservations, so long as said organization meets the requirements set forth in this section. In the event that said Trustees of Reservations declines to accept this Conservation Restriction, then the dissolution clause of the Essex County Greenbelt Association, Inc. will direct this property interest to a similar organization

meeting the requirements of this section, subject to the Grantor's acceptance of such assignee, provided that such acceptance shall not be unreasonably withheld, and that the Grantor shall ensure the perpetual viability of this Conservation Restriction.

J. Subsequent Transfers

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. The Grantor further agrees to give written notice to the Grantee of a proposed transfer of any interest in the Premises at least twenty (20) days prior to the date of such transfer. Failure of the Grantor to do so shall not impair the validity of this Conservation Restriction or limit its enforceability in any way.

K. Representations of the Grantee

The Grantee represents that it is a not for profit corporation, that it has a perpetual existence, that it is organized and operated for the purpose of preserving and conserving natural resources, natural habitats, environmentally sensitive areas and for other charitable, scientific and educational purposes, that it has both the necessary funds and commitment to hold this Conservation Restriction exclusively for conservation purposes in perpetuity and to enforce its terms, and that it is a "Qualified Organization" as that term is defined in section 170 (h)(3) of the Internal Revenue Code of 1986, as amended, and that it is an entity that qualifies as a charitable corporation or trust whose purposes include conservation of land or water areas, or a particular such area as provided for in Chapter 184, Section 32 of the Massachusetts General Laws.

L. Effective Date

The restrictions arising hereunder shall take effect on the day and year this Conservation Restriction deed is registered with the Registry of Deeds, Essex South, after all signatures required by M.G.L. c.184, s. 32 have been affixed hereto.

M. Controlling Law

The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts. The doctrine of merger shall not apply to this Conservation Restriction.

N. Liberal Construction

Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purposes of this Conservation Restriction. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

O. Estoppel Certificate

Upon request by the Grantor, the Grantee shall, within twenty (20) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance with any obligation of the Grantor contained in the Conservation Restriction, and which otherwise evidences the status of this Conservation Restriction as may be requested by the Grantor.

P. Amendment

The Grantor and the Grantee may by mutual consent amend any term or provision thereof provided that any amendment complies with the then applicable requirements of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, M.G.L. c.184, sections 31-33, Internal Revenue Code of 1986 section 170(h), all as from time to time amended, and provided that any such amendment, together with any necessary approvals to its effectiveness shall be recorded at the Registry of Deeds, Essex South. No amendment shall be allowed that will affect the qualification or value of this Conservation Restriction or the status of the Grantee under any applicable laws, nor shall any amendment be inconsistent with the purpose of this Conservation Restriction nor shall any amendment affect its perpetual duration.

Q. Severability of Provisions

The invalidity or unenforceability of any term or provision hereof shall in no way affect the validity or enforceability of any other provision or any part hereof.

R. Entire Agreement

This instrument sets forth the entire agreement of the parties with respect to this Conservation Restriction and supersedes all prior discussions, negotiations, understandings or agreements relating to this Conservation Restriction, all of which are merged herein.

S. Miscellaneous

Approval of this Conservation Restriction pursuant to M.G.L. Chapter 184, Section 32 by any municipal officials and by the Secretary of Environmental Affairs is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Premises, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

IN WITNESS WHEREOF, the Selectmen of the Town of West Newbury, have hereunto set their hands and seals this 21st day of November, 2001.

Adm Chmura
Richard Cushing

Essex County Greenbelt Association, Inc. hereby accepts this Conservation Restriction and agrees to be bound by its terms.

Essex County Greenbelt Association, Inc.

By:

Its:

Arthur C. Hodge
Treasurer
hereunto duly authorized

COMMONWEALTH OF MASSACHUSETTS

Essex, ss

Then personally appeared before me the above-named Arthur C. Hodge and acknowledged the foregoing instrument to his free act and deed.

David. Sen

Notary Public

My Commission Expires: Feb 7, 2008

APPROVAL BY SELECTMEN

We, the undersigned Board of Selectmen of the Town of West Newbury, Massachusetts, hereby certify that at a meeting duly held on November 26, 2001 the Selectmen voted to approve the foregoing Conservation Restriction to the Essex County Greenbelt Association, Inc. for the preservation of the natural resources of said Town pursuant to Massachusetts General Laws Chapter 184, Section 32.

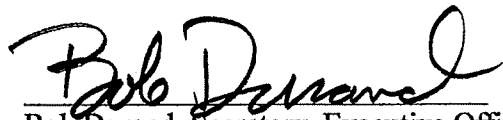
Aug O'Sullivan

Richard Cushing

APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS

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

Date: 12/19/01



Bob Durand, Secretary, Executive Office of
Environmental Affairs



TOWN OF WEST NEWBURY

TOWN OFFICE BUILDING

381 Main Street, West Newbury, Mass. 01985

2001122600439 Bk:18101 Pg:242
12/26/2001 14:39:00 OTHER Pg 15/18

TOWN CLERK

Phone: 978-363-1100, Ext. 15

FAX: 978-363-1117

November 6, 2001

To Whom It May Concern:

This is to certify that the following action was taken under Article 6 of the Special Town Meeting held on October 29, 2001:

Voted with 140 in favor and 37 opposed to transfer from Free Cash the sum of \$15,000.00 for purposes of endowing a Conservation Restriction to preserve and protect the conservation values, in perpetuity, on a portion of the Mill Pond/Pipestave Hill area on the south side of Route 113, and grant said Conservation Restriction to Essex County Greenbelt Association, Inc., in order to preserve, for this and future generations, the freshwater wetlands, fields and forested uplands which possess significant scenic, aesthetic, scientific, educational, agricultural, wildlife habitat and active and passive recreational values. The purposes for the Conservation Restriction, the proposed area to be covered by the Conservation Restriction and the proposed terms of the Conservation Restriction have been filed with the Town Clerk and are set forth in the Finance Committee Handbook.

Attest:

Marjorie A. Peterson
Town Clerk

EXHIBIT A

EXHIBIT B

The following parcels are subject to this Conservation Restriction ("the Premises"):

PARCEL ONE

The land south of Rte 113 in West Newbury described as the "Second Parcel" in a deed from Cardinal Cushing Academy, Inc. to the Inhabitants of the Town of West Newbury recorded on June 8, 1972 at the Essex South Registry of Deeds, at BK 5874 PG 216, and shown on a sketch plan attached hereto and incorporated herein as Exhibit C, but excluding therefrom an area shown as the Municipal Use Area on Exhibit D, bounded on the north by Rte 113, bounded on the east by property now or formerly of Dunn, bounded on the west by a line running through a stone marker on the northerly side of the property (located at 42° 48' 25" N, 70° 57' 44" W as established by use of GPS technology) running southerly for approximately 200' along an existing treeline to a large oak (located at 42° 48' 24" N, 70° 57' 44" W as established by use of GPS technology), and bounded on the south by a line running easterly from the aforesaid oak tree approximately parallel to the northerly line of the property to the west side of the current gravel entry road, then running approximately 243 feet in a southerly direction along the west side of the current gravel entry roadway and running in an easterly direction across the current gravel entry roadway to the east property line. The southerly line is marked by points located at:

42° 48' 24" N, 70° 57' 44" W (oak tree);

42° 48' 24" N, 70° 57' 43" W;

the telephone pole located approximately 60 feet west of 42° 48' 24" N, 70° 57' 39" W;

42° 48' 24" N, 70° 57' 38" W;

42° 48' 24" N, 70° 57' 37" W;

42° 48' 23" N, 70° 57' 37" W;

42° 48' 22" N, 70° 57' 36" W;

42° 48' 22" N, 70° 57' 34" W;

42° 48' 22" N, 70° 57' 32" W,

all as established by use of GPS technology.

PARCEL TWO

The land contiguous to the forested area lying southerly of the westerly portion of Mill Pond, known as the Town Forest and shown on Exhibit C and described as a retained tract or parcel in a Warranty Deed from the Inhabitants of the Town of West Newbury to Elmer K. Thompson, Jr. recorded on February 14, 1947 at the Essex South Registry of Deeds at BK 3507, PG 482.

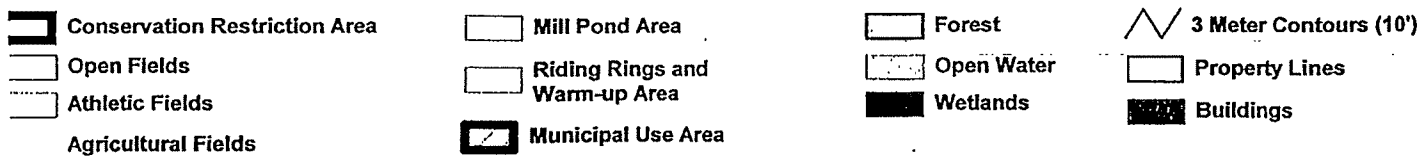
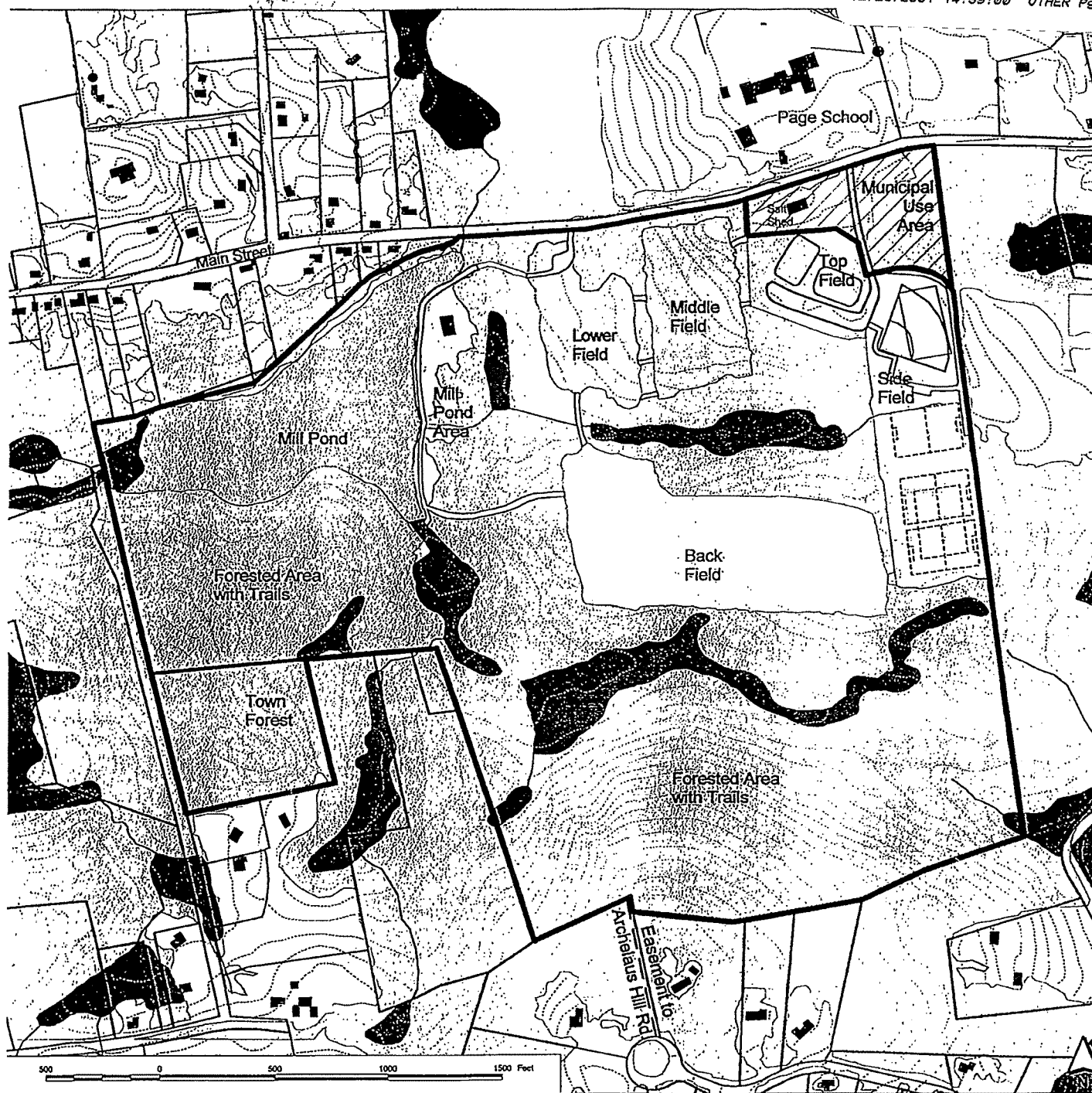
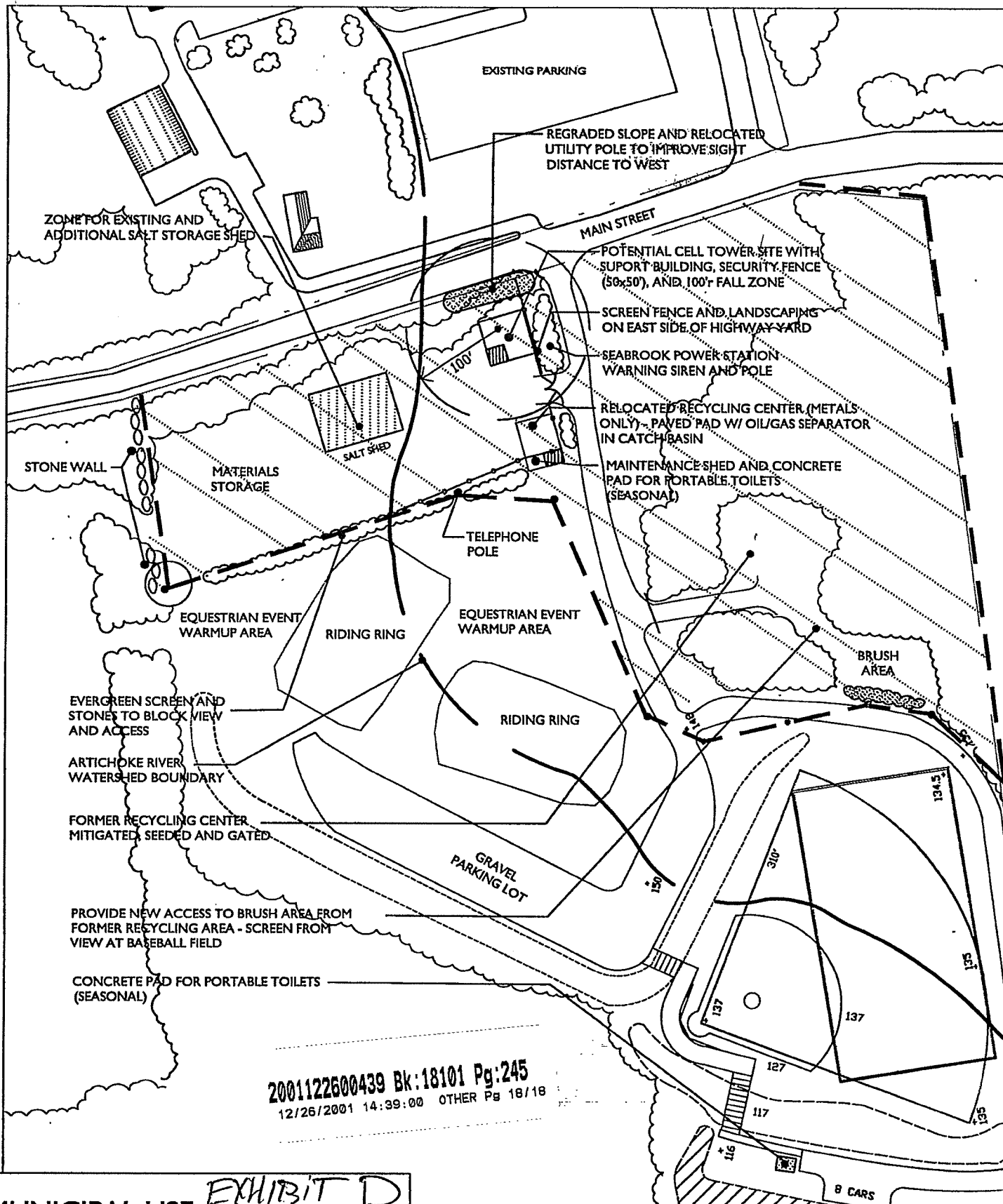


EXHIBIT C—SKETCH PLAN, RESTRICTED AREA



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12/26/2001 14:39:00 OTHER Pg 18/18

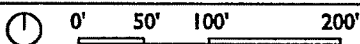
MUNICIPAL USE AREA ENVELOPE (excluded from Conservation Restriction)

Pipestave Hill/Mill Pond Area
Conservation Restriction

EXHIBIT D

— — = CONSERVATION RESTRICTION BOUNDARY

MUNICIPAL USE AREA ENLARGEMENT



SPRING 2001