

8 Singing Hill Circle, Sudbury, MA.  
**Conservation Restriction**

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**Baseline Documentation Report**  
**CR # \_\_\_\_\_**

**Prepared by:**  
**\_\_\_\_\_DeRosa Environmental\_\_\_\_\_**



Grantor: Kenneth & Georgina Fenton  
Size: 5.83 acres  
Date of Conveyance: July 3, 2020

Baseline Report Prepared: June 26, 2020

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## CONSERVATION RESTRICTION ABSTRACT

This is an abstract only. It is intended to help the reader understand the content of the conservation restriction. For the specific information, please refer to the complete conservation restriction document at the end of this report.

Property Name: **\_8 Singing Hill Circle, Sudbury, MA.\_ Conservation Restriction, CR # \_\_\_\_\_**

### Property Information:

Street Address: 8 Singing Hill Circle, Sudbury, MA.

Restricted Acreage: 5.83 acres

Tax Parcel Reference: Map B08 Lot 0019

### Conservation Restriction:

Date CR Recorded:

Book: \_\_\_\_\_ Page: \_\_\_\_\_

Deed Recording Reference:

Book: 56799 Page: 216

Grantor Name: Kenneth & Georgina Fenton

Plan Recording Reference:

### Current Fee Owner:

Owner Name: Kenneth & Georgina Fenton

Mailing Address: 8 Singing Hill Circle

Town: Sudbury

State: MA Zip: 01776

Acquired Ownership:

Telephone: 781-953-5100

Purposes:

Reserved Rights/Permitted Acts:  
(Supersede Prohibited)

Prohibited Acts and Uses:

<input type="checkbox"/> House	<input checked="" type="checkbox"/> Building
<input type="checkbox"/> Appurtenant structures	<input checked="" type="checkbox"/> Tennis court, swimming pool, etc.
<input checked="" type="checkbox"/> Fences, stone walls – customary	<input checked="" type="checkbox"/> Temporary or permanent structures on, above, or under the premises
<input type="checkbox"/> Agriculture	<input checked="" type="checkbox"/> Placing, filling, storing, dumping, etc.
<input type="checkbox"/> Mowing of fields	<input checked="" type="checkbox"/> Mining, excavating, dredging, etc.
<input checked="" type="checkbox"/> Cutting of trees and brush for forestry, landscaping, views, disease control	<input checked="" type="checkbox"/> Removal of soil & dumping soil, trash, etc.
<input type="checkbox"/> Developing unpaved paths	<input checked="" type="checkbox"/> Non-emergency motorized vehicles
<input checked="" type="checkbox"/> Use for outdoor recreation	<input checked="" type="checkbox"/> Conveyance for division/subdivision
<input checked="" type="checkbox"/> Acts to prevent erosion (trails, access)	<input type="checkbox"/> Cutting or removing vegetation
<input type="checkbox"/> Repair, maintenance, improvement and use of drainage structures and existing utilities	<input checked="" type="checkbox"/> Pavement, fence, utility pole, antenna, etc.
<input type="checkbox"/> Archaeological investigation	<input checked="" type="checkbox"/> Billboard, satellite dish, conduits
<input type="checkbox"/> Other:	<input checked="" type="checkbox"/> Commercial outdoor recreation
<input type="checkbox"/> Other: See Below	<input checked="" type="checkbox"/> Activities detrimental for drainage, flood control, erosion control, etc.
<input type="checkbox"/> Other:	<input type="checkbox"/> Other:

**Any work within 100 feet of wetlands or a certified vernal pool, or 200 feet of a perennial stream, will require approval from the Sudbury Conservation Commission under the Wetlands Protection Act (M.G.L. Chapter 131, Section 40), must comply with the Sudbury Administrative Wetlands Bylaw (Article XXII) and must be conducted in accordance with all other applicable laws.**

Reserved Rights Requiring Notice of Approval:

Site Visit Notice Requirements: Calling the property owners and letting them know when a site visit is to be conducted.

**Key Features to Visit:** The historically dug pond and the two intermittent streams that meander through the vacant forested parcel.

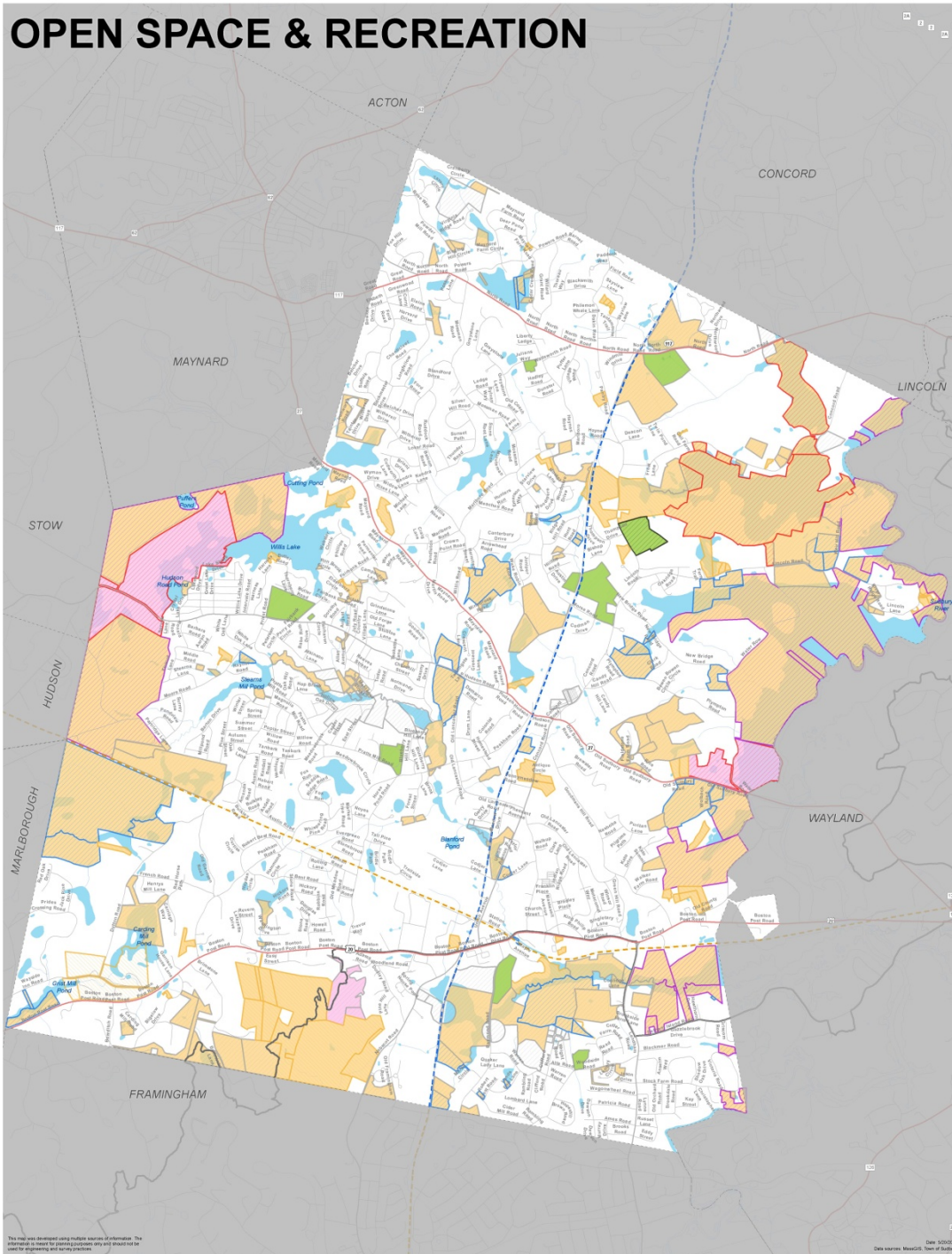
**Right to Public Access:** Access to the vacant forested land is from the end of Powers Road Extension.

**Easements:** A drainage easement does exist on the parcel of land. The drainage easement is located on the southeast side of the property and appears to drain water from the adjacent street.

**Land Use and Management Plan:** Since the property currently functions as vacant forested land, no maintenance is required to maintain the property.

**Public Benefit:** The property maintains the open space in this area that is surrounded by urban development. Maintaining the land as vacant forested land will allow the public to enjoy the open space and the benefits of passive recreation.

# OPEN SPACE MAP



**LEGEND**

<ul style="list-style-type: none"> <li>— Numbered Highway</li> <li>— Major Road, Collector</li> <li>— Local Roads</li> <li>— Surface Water</li> <li>— Streams</li> <li>— Proposed Bruce Freeman Rail Trail</li> <li>— Proposed Mass Central Rail Trail</li> <li>— Bay Circuit Trail</li> </ul>	<p><b>Type of Use</b></p> <ul style="list-style-type: none"> <li>Recreation</li> <li>Conservation</li> <li>Recreation/Conservation</li> </ul>	<p><b>Ownership</b></p> <ul style="list-style-type: none"> <li>Federal</li> <li>State</li> <li>Municipal</li> <li>Land Trust</li> <li>Private for Profit</li> <li>Other</li> </ul>
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0 0.5 1 2 Miles

This map was developed using multiple sources of information. The information is used for general purposes only and should not be used for engineering and surveying purposes.

Date: 5/20/19  
Data sources: MassGIS, Town of Sudbury

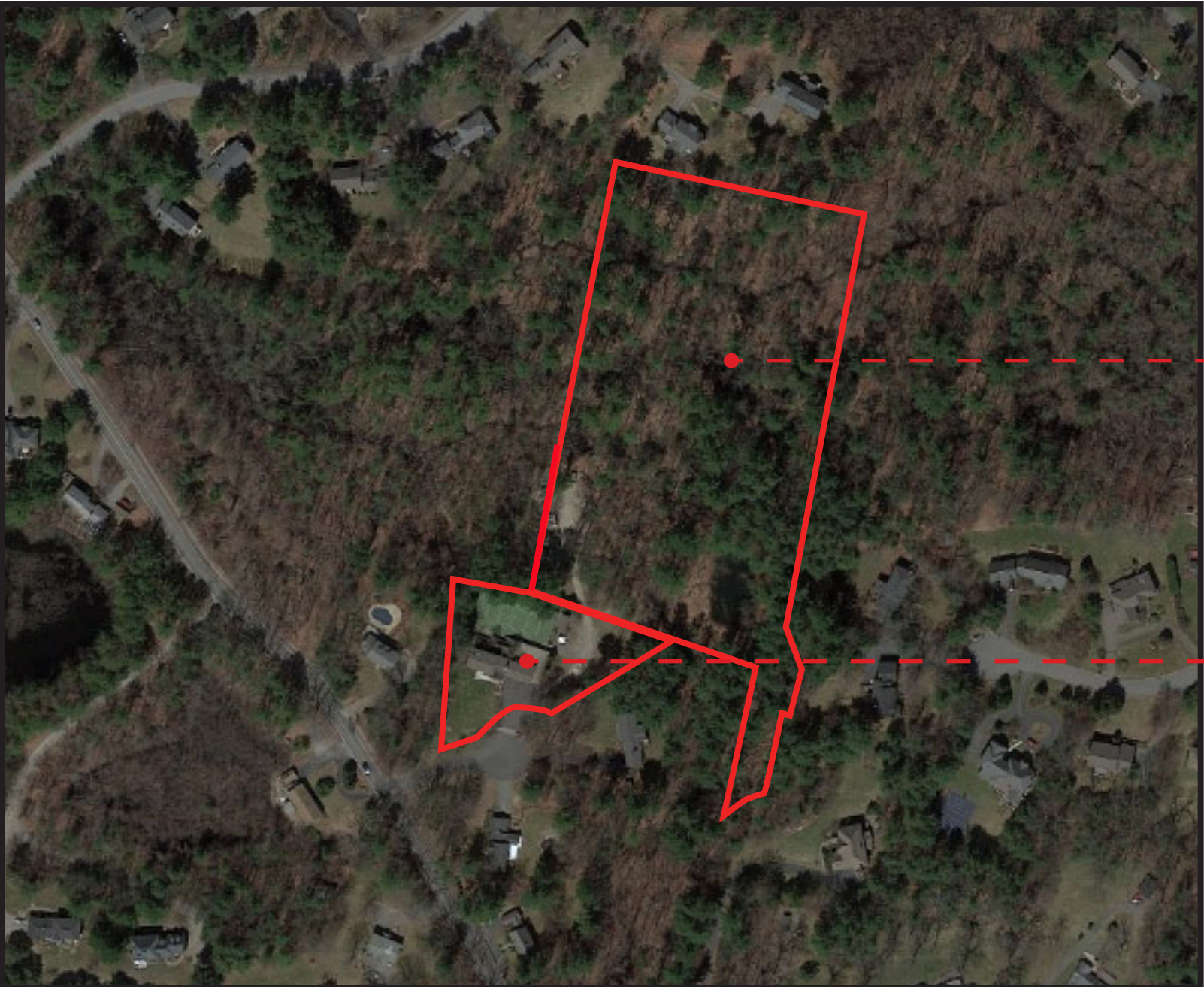



## **ORTHO-AERIAL PHOTOGRAPH**

# Conservation Restriction

## Aerial Photograph

USGS Color Orthos 2013-2014



Parcel 2:  
Map B08, Lot 0019  
- Conservation  
Restriction Parcel

- Parcel 1:  
Map B08, Lot 0102  
8 Singing Hill  
Homestead Parcel



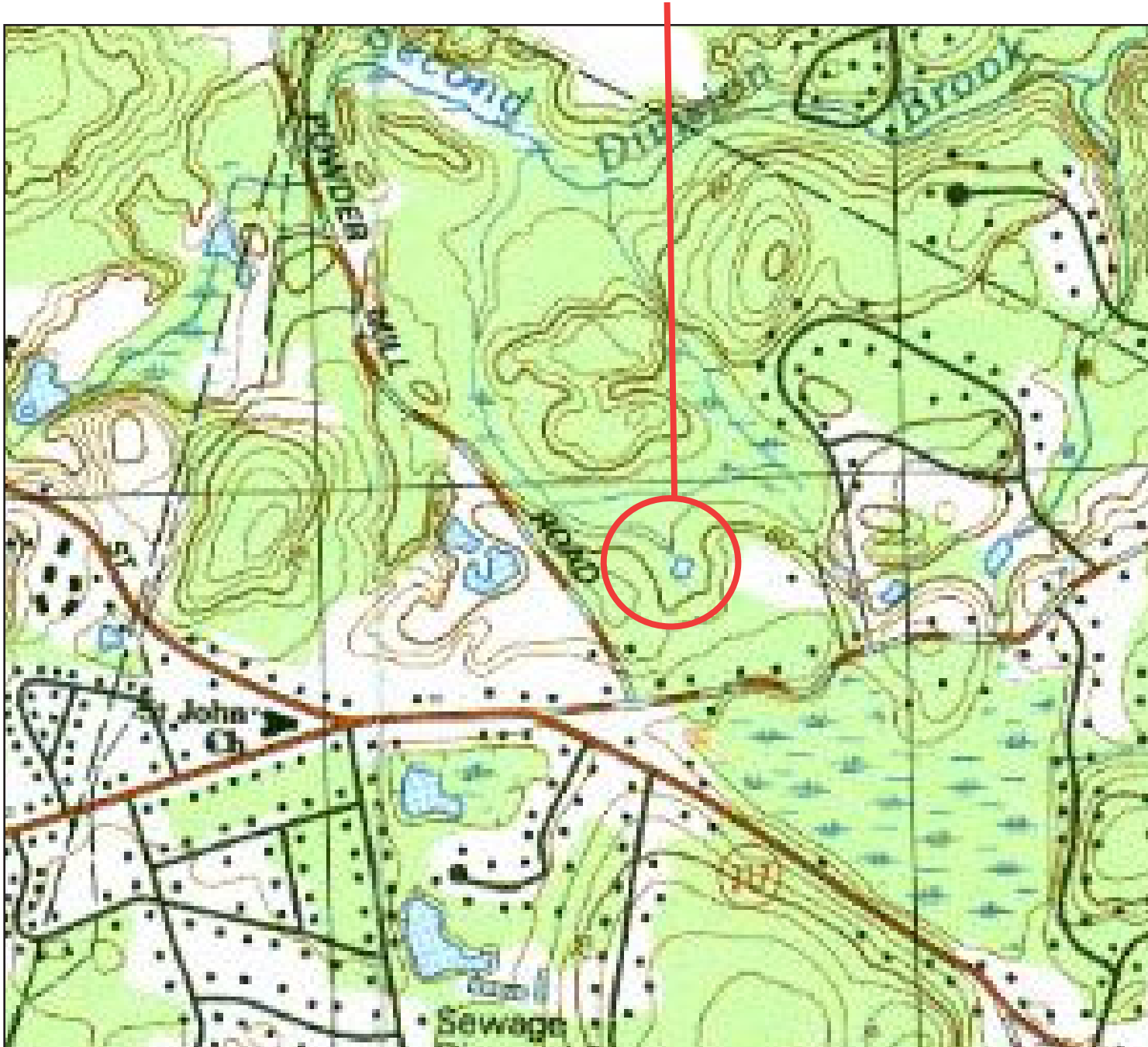
167 Main Street, PO Box 716, Rowley Massachusetts 01969 USA  
978 948-7717 Office - 978 948-7718 Fax



**USGS TOPOGRAPHICAL MAP**

# Conservation Restriction

## Topographic Map



USGS Topographic Maps



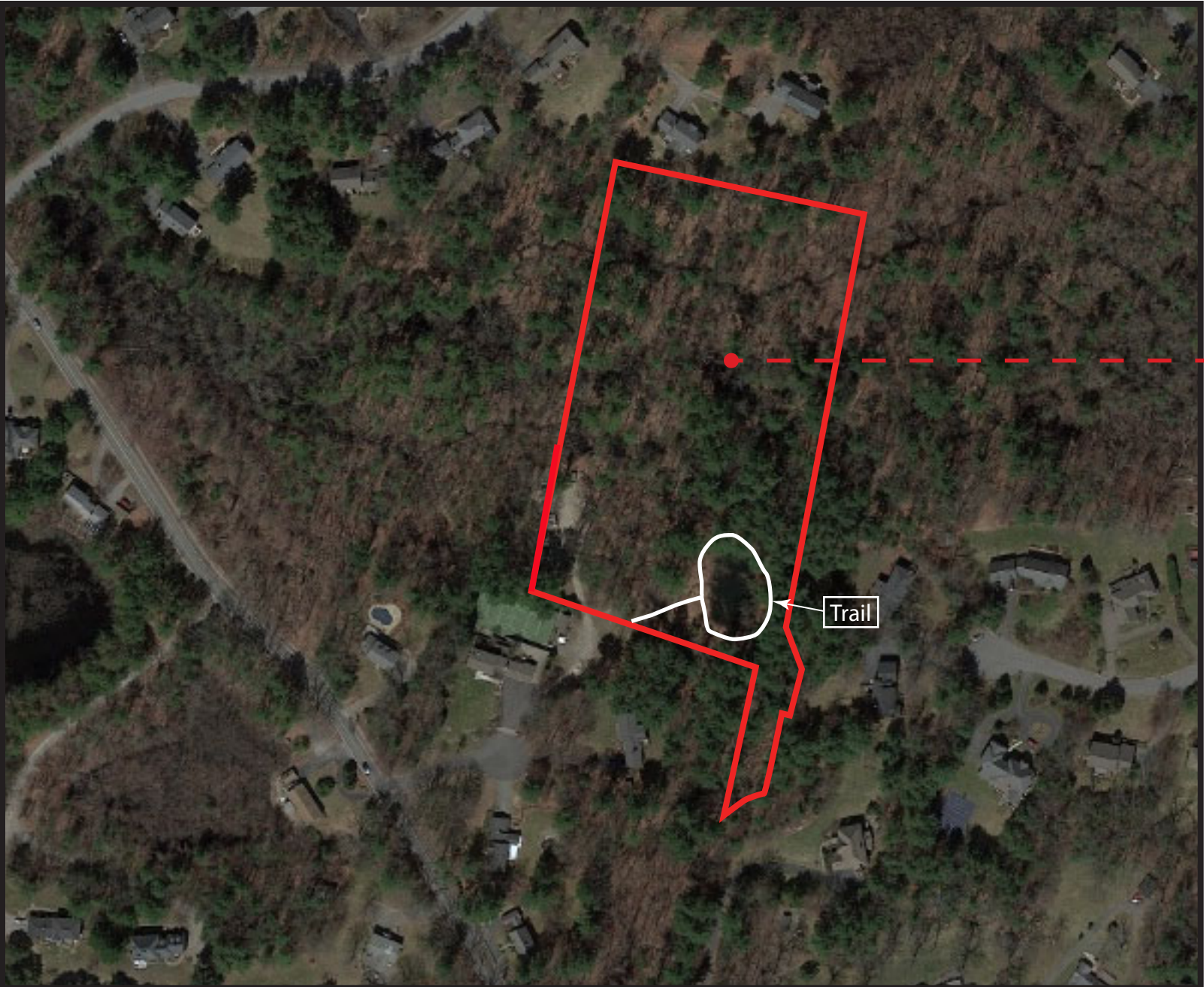
**DEROSA**  
Environmental  
CONSULTING, INC. 

167 Main Street, PO Box 716, Rowley Massachusetts 01969 USA  
978 948-7717 Office - 978 948-7718 Fax

## **TRAIL MAP**

# Conservation Restriction

# Trail Map



Parcel 2:  
Map B08, Lot 0019  
- Conservation  
Restriction Parcel

## **CONSERVATION RESTRICTION HISTORY AND CHRONOLOGY**

Historically, this property functioned as vacant forested land for the current owners of the property, Kenneth and Georgina Fenton. A man-made pond exists on the property. The majority of the property has always remained as vacant forested land since the Fentons purchased the property in 1999. To date, the property has always been used lightly for passive recreation by the homeowners. For a period of time, the southwest corner of the property was used to store hardscape materials and trailers. Currently all materials have been removed from that portion of the property and it is not used for storage purposes anymore. The storage area is part of a wetland restoration project that has been completed as a result of the unpermitted storage of materials. Part of the restoration is to put this back parcel that the Fenton's own into a conservation restriction. The Fenton's received a permit from the Sudbury Conservation Commission for this work and the commission is in agreement.

## **PROPERTY CONDITIONS AND SITE INSPECTION REPORT**

Introduction: The property is located off of Powers Road Extension. The property continues behind the residence located at 8 Singing Hill Circle and continues to the back of the residence located at 37 Virginia Ridge Road. The property is currently vacant forested land that contains upland and wetland type habitats.

Regional and Local Setting: The parcel of land is located in an urban setting in Sudbury, Massachusetts. Sudbury is located in northeastern Massachusetts which is northwest of Boston, Massachusetts.

Water Resources: Located on the property is a small man-made pond in the southeastern corner of the property. Fish species were observed in this body of water. There is an outlet to the small pond which when the water level is high enough in the pond, flows into an intermittent stream which then connects to other intermittent streams on the property. There are a total of two main intermittent streams that flow through the property.

Manmade Features: One small manmade ponds exists on the property. It is unknown when this pond was historically dug but it predates the ownership of the current owners.

Important Wildlife Habitat: The property being vacant forested land functions well as wildlife habitat. Many wildlife species and evidence of wildlife can be seen as you traverse through the property. The property is comprised of upland forested land, streams and vegetated wetlands which provide food, shelter, water and habitat for a variety of wildlife species. Since much of the surrounding land functions as residential properties with limited woodlands, this parcel is important for refuge by the local wildlife.

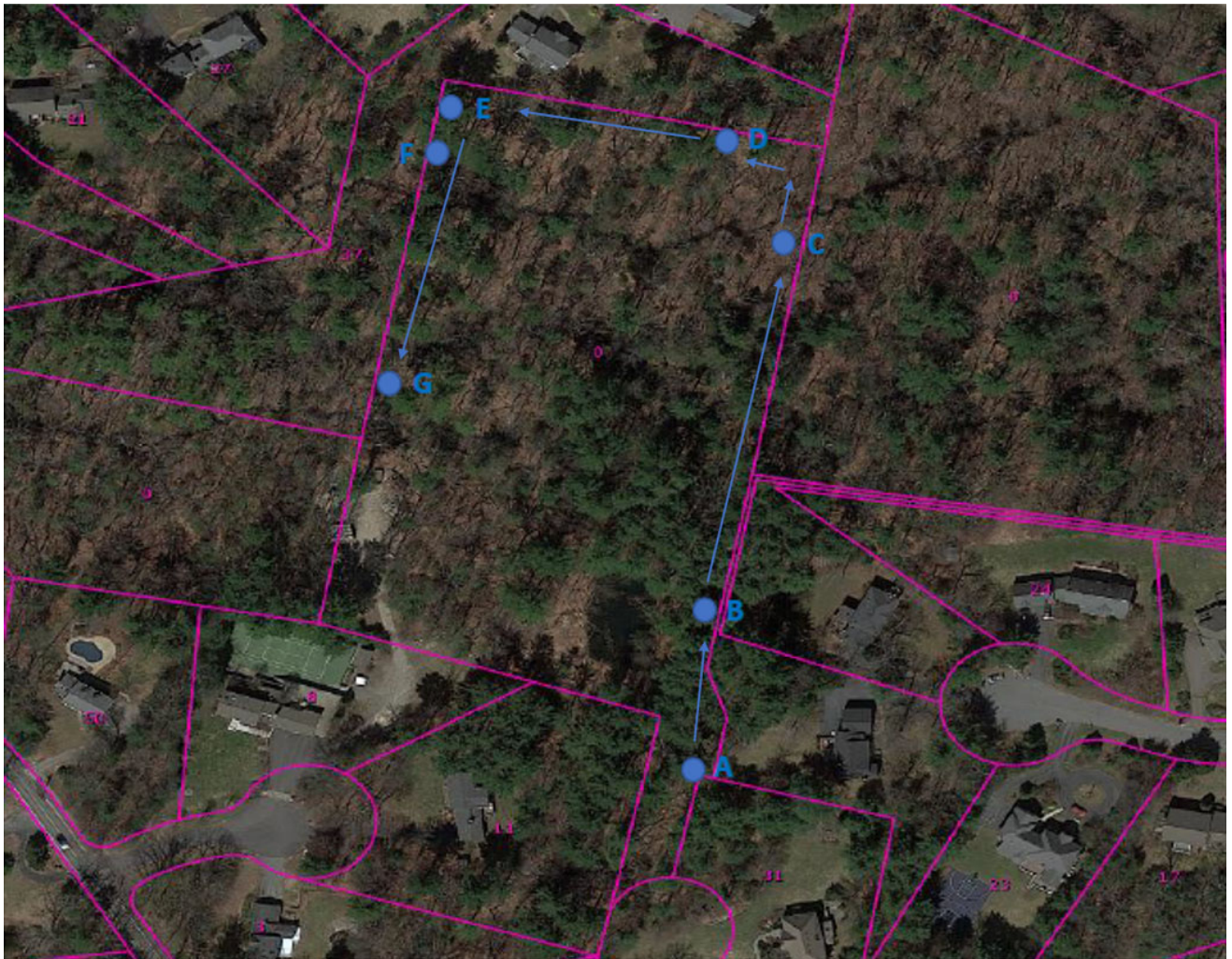
Other Notable Features:

Boundaries: Portions of the property lines are marked with either drill holes and/or iron rods. However, there are many areas that are not marked in the field.

Condition at the time of the Site Inspection: The last inspection was completed after the restoration work was completed in the historic storage area on June 3, 2020. As such, the entire parcel functioned as vacant forested land at this time. With it being the start of summer, vegetation was lush and green throughout the parcel.

Recommendations: None.

### PHOTO-POINT LOCATIONS AND ROUTE OF TRAVEL MAP



**LOG OF DOCUMENTARY GROUND PHOTOS**  
**Photographs taken 10/22/2019**

<b>Photopoint</b>	<b>Latitude</b>	<b>Longitude</b>	<b>JPEG</b>	<b>Azimuth</b>	<b>Direction to CR</b>	<b>Description</b>
A	42.426	-71.422	4102	S	NW	Property line
B	42.427	-71.422	4103	N	W	Property line
C	42.428	-71.422	4104	NW	SW	Property line
D	42.428	-71.422	4105	NW	S	Property line
E	42.429	-71.423	4106	N	SE	Property line
F	42.428	-71.423	4107	S	SE	Property line
G	42.428	-71.423	4108	S	E	Property line

All photographs taken by Patrick Moran

Camera: iPhone. Azimuth is magnetic (without declination).

INSERT DATE and TIME, 60 degrees, [weather conditions].

10/22/2019

12:30 PM



## DOCUMENTARY GROUND PHOTOGRAPHS

Photopoint # A; JPEG 4102; Azimuth S. Description:



Photopoint A displays the southeast boundary of the property. The photo was taken parallel to the property line facing south towards Powers Road. This is a somewhat open wooded area.

Photopoint # B; JPEG 4103; Azimuth N. Description:



Photopoint B was taken on the eastern boundary of the property facing north, parallel to the property line. A pile of old cut logs is in place within the conservation restriction here.

## DOCUMENTARY GROUND PHOTOGRAPHS

Photopoint # C; JPEG 4104; Azimuth NW. Description:



Photopoint C was taken in the northeast corner of the property facing northwest. The photo shows the densely wooded area along the stream that runs through the property. The photo was taking facing across the stream.

Photopoint # D; JPEG 4105; Azimuth NW. Description:



Photopoint D was taken in the northeast corner of the property. The house and backyard of the abutting property can be seen.

## DOCUMENTARY GROUND PHOTOGRAPHS

Photopoint # E; JPEG 4106; Azimuth N. Description:



Photopoint E was taken in the northwest corner of the property facing north. The utility trailer seen in the photo is located on the abutting property.

Photopoint # F; JPEG 4107; Azimuth S. Description:



Photopoint F was taken on the west edge of the property line facing south parallel to the boundary. A wooden crossing over the stream is located within the conservation restriction.

## DOCUMENTARY GROUND PHOTOGRAPHS

Photopoint # G ; JPEG 4108 ; Azimuth S . Description:



Photopoint G was taken on the western property boundary facing south parallel to the property line. The stream running through the property is shown in the photo.

**PREPARER'S AFFIDAVIT**

The undersigned hereby certifies 1) that he/she prepared the accompanying Baseline Documentation Report pertaining to the \_\_\_\_\_ CR located at \_8 Singing Hill Circle\_ in Sudbury, Massachusetts, 2) that said Report describes and documents the natural and other resources of said Property protected under the Conservation Restriction recorded \_\_\_\_\_ in the Middlesex South Registry of Deeds in Book \_\_\_\_\_ at Page \_\_\_\_\_, and that based on all the information cited in said Report and to the best of his/her knowledge and belief, said Report is an accurate representation of the Property and its condition as of the date of said Report.

Notwithstanding the above, the undersigned agrees that the conditions documented in said Report do not necessarily represent the entirety of conditions of the Property allowed or required by the Conservation Restriction, and that the Town of Sudbury, Massachusetts in no way waives any rights, either at law or in equity, to enforce any provisions of the Conservation Restriction, whether or not directly addressed in this Report.

Signed and sealed under the pains and penalties of perjury this \_\_\_\_\_ day of \_\_\_\_\_.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through the satisfactory evidence of identification, which was MA Driver's License # \_\_\_\_\_, to be the person whose name is signed on the foregoing instrument, and acknowledged to me that she/he signed it voluntarily for its stated purpose.

SEAL

\_\_\_\_\_  
Notary

My Commission Expires: \_\_\_\_\_

**PHOTOGRAPHER'S AFFIDAVIT**

I, Patrick Moran, hereby certify that:

On 10/22/2020, I visited the Fenton CR property located at 8 Singing Hill Circle,  
Sudbury, Massachusetts and took documentary ground photographs ("the Photographs"),  
numbered JPEG A through JPEG G attached hereto which together with accompanying  
descriptions and location map, fairly and accurately depict the property as it appeared on the date  
the photographs were taken.

Signature \_\_\_\_\_

Date: \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, before me, the undersigned notary public,  
personally appeared \_\_\_\_\_, proved to me through the satisfactory evidence of identification,  
which was MA Driver's License # \_\_\_\_\_, to be the person whose name is signed on  
the foregoing instrument, and acknowledged to me that she/he signed it voluntarily for its stated  
purpose.

SEAL

\_\_\_\_\_  
Notary

My Commission Expires: \_\_\_\_\_

### ACKNOWLEDGEMENT OF BASELINE CONDITIONS AFFIDAVIT

The undersigned, being the successor to the Grantor under a Conservation Restriction granted to the Town of Sudbury, Massachusetts and recorded \_\_\_\_\_ at the Middlesex South Registry of Deeds in Book \_\_\_\_\_ at Page \_\_\_\_\_, with respect to land located at \_\_\_\_\_ (“the Property”), hereby certifies to the Town of Sudbury, Massachusetts that the accompanying Baseline Documentation Report is to the best of his/her knowledge and belief an accurate representation of the Property and its condition on the date hereof. Notwithstanding the above, the undersigned agrees that the conditions documented in said Report do not necessarily represent the entirety of conditions of the Property allowed or required by the Conservation Restriction, and that the Town of Sudbury, Massachusetts in no way waives any rights, either at or in equity, to enforce any provisions of the Conservation Restriction, whether or not directly addressed in this Report.

The Baseline Documentation Report includes the following information:

	Page Number
Conservation Restriction Abstract	
Open Space Map	
Ortho-Aerial Photograph	
USGS Topographical Map	
Trail Map	
Conservation Restriction History & Chronology	
Property Conditions & Site Inspection Report	
Photopoint Locations & Route of Travel	
Log Of Documentary Ground Photographs	
Documentary Ground Photographs	
Preparer’s Affidavit	
Photographer’s Affidavit	
Acknowledgement of Baseline Conditions Affidavit	
Directions To Site	
Tax Maps	
Survey & Site Plans	
Recorded Conservation Restriction	

\_\_\_\_\_  
By:

\_\_\_\_\_  
Date:

Acknowledged by the Town of Sudbury

\_\_\_\_\_  
By:

\_\_\_\_\_  
Date:


## **DIRECTIONS**







I-95, Waltham, MA to 85-27 Powers Rd, Sudbury, MA 01776 Drive 10.3 miles, 17 min


### I-95

-  1. Head south on I-95 S  



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 0.3 mi
-  2. Take exit 29B to merge onto MA-2 W/Cambridge Turnpike toward Acton/Fitchburg  
 Continue to follow MA-2 W  



---

 6.5 mi
-  3. Turn left onto Old Rd to 9 Acre Corner  



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 148 ft
-  4. Turn right onto Old Marlboro Rd  


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 2.1 mi
-  5. Turn right to stay on Old Marlboro Rd  


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 0.8 mi
-  6. Continue onto Powers Rd  


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 0.7 mi

### 85-27 Powers Rd

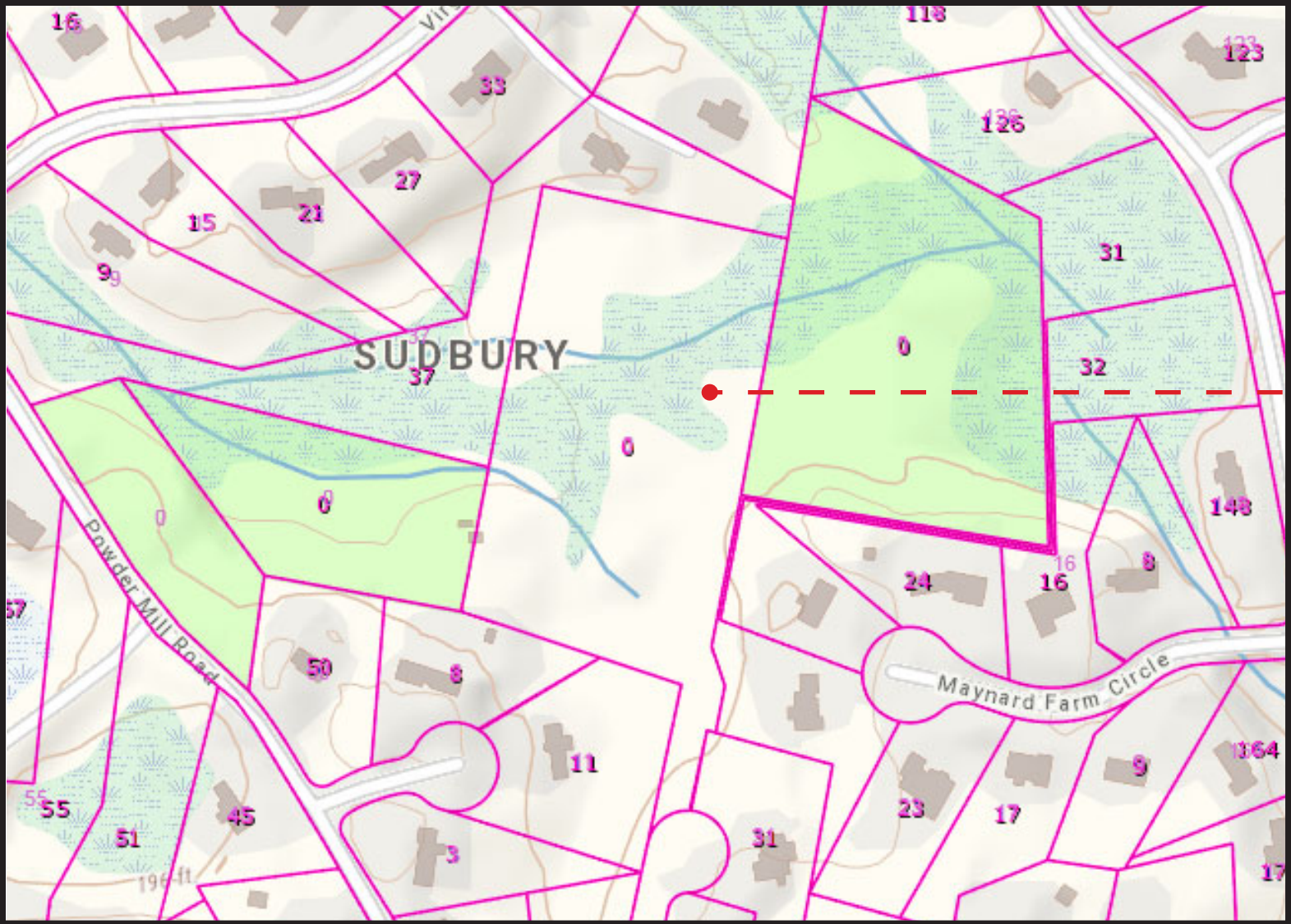
Sudbury, MA 01776

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

**TAX MAP**

# Conservation Restriction

# Tax Map



Parcel 2:  
Map B08, Lot 0019

**SURVEY AND/OR SITE PLAN**

**RECORDED CONSERVATION RESTRICTION**

**GRANTOR:** Kenneth T. Fenton, Jr., Georgina M. Fenton  
**GRANTEE:** Sudbury Conservation Commission  
**ADDRESS OF PREMISES:** Powers Road Extension, Sudbury, MA  
**FOR GRANTOR’S TITLE SEE:** Middlesex South County Registry of Deeds at Book 34744, page 565

### **CONSERVATION RESTRICTION**

**Kenneth T. Fenton, Jr., and Georgina M. Fenton**, married to each other and as joint tenants, of 8 Singing Hill Circle, Sudbury, Massachusetts, constituting all of the owners of the Premises as defined herein, for our successors and assigns (“Grantor”), acting pursuant to Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws, grant with QUITCLAIM COVENANTS to Town of Sudbury, of 275 Old Lancaster Road, Sudbury, Massachusetts, acting by and through its **Conservation Commission**, by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, their permitted successors and assigns (“Grantee”), for \$1.00 nominal consideration paid, IN PERPETUITY AND EXCLUSIVELY FOR CONSERVATION PURPOSES, the following Conservation Restriction on land located in Sudbury containing a 5.83 acre +/- parcel of land (“Premises”), which Premises is more particularly described in Exhibit A and shown in the reduced copy of a recorded plan of land (Middlesex Registry of Deeds Plan Book 01997 Page 1295) in Exhibit B, both of which are incorporated herein and attached hereto.

#### **I. PURPOSES:**

This Conservation Restriction is defined in and authorized by Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purpose of this Conservation Restriction is to ensure that the Premises will be maintained in perpetuity for conservation

purposes, in a natural, scenic and undeveloped condition, and to prevent any use or change that would impair or interfere with its conservation and preservation values (“Conservation Values”).

This Conservation Restriction is required by an Order of Conditions (DEP File #301-1265) issued by the Sudbury Conservation Commission on August 13, 2019 and recorded at the Southern Middlesex Registry of Deeds at Book 73288 Page 273 (“Order”). This Conservation Restriction is required according to the Order, under General Project Conditions Part II e, which states: "Following restoration work, but prior to obtaining a Certificate of Compliance, the applicant shall place a Conservation Restriction pursuant to Sections 31,32 and 33 of Chapter 184 of the Massachusetts General Laws on the 5.83-acre lot known as Map B08 Parcel 019. To be considered complete, the CR must be signed by the Sudbury Conservation Commission, Board of Selectmen, and Secretary of the Executive Office of Energy and Environmental Affairs, and recorded at the Registry of Deeds. The Conservation Restriction shall be deeded to the Town of Sudbury acting by and through its Conservation Commission in perpetuity and exclusively for conservation purposes."

**The conservation values include the following:**

- Open Space Protection. The Premises contributes to the protection of the scenic and natural character of Sudbury and the protection of the Premises will enhance the open-space value of these and nearby lands. The Premises abuts land already conserved, including two (2) vacant forested Town owned parcels to the east (held by the Town for drainage purposes) and west (under the care and custody of the Conservation Commission). The Premises will connect the two (2) Town owned parcels as one larger contiguous network of permanently conserved open space.
- Flood Plain Protection. Approximately 3.2 +/- acres of the Premises lie within the 500-year floodplain of Second Division Brook. Portions of the property are within the zone x which is the 0.2 percent annual chance flood hazard but it is not regulated. The protection of this floodplain will ensure the continued availability of this flood storage during major storm events.
- Soils and Soil Health. The Premises is designated as Prime Forest Land, of both local and statewide importance. The majority of the Premises is also designated as Farmland of Unique Importance as identified by the USDA Natural Resources Conservation Service. The protection of the Premises will promote healthy soils and healthy soils practices as such terms are defined in Chapter 358 of the Acts of 2020, which added definitions of these terms to Section 7A of Chapter 128 of the Massachusetts General Laws.
- Consistency with Clearly Delineated Federal, State, or Local Governmental Conservation Policy.

The premises will be conserved for ‘conservation purposes’ as a “Qualified Real Property Interest” within the meaning of the Internal Revenue Code and the Regulations promulgated thereunder.

"(ii) The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, within the meaning of paragraph (d)(3) of this section,

(iii) The preservation of certain open space (including farmland and forest land) within the meaning of paragraph (d)(5) of this section."

- Water Supply and Quality Protection. The Premises is located within a Zone II Wellhead Protection Area as mapped by the Massachusetts Department of Environmental Protection. Two (2) intermittent streams flow through the Premises. Along these streams are bordering vegetated wetlands. These intermittent streams continue to flow into Sudbury Water District land which borders the Second Division Brook. The Second Division Brook is a perennial stream and is in the water district for Sudbury. As such the Premises is within the watershed to the Second Division Brook. Permanent protection of the Premises will help maintain and improve the water quality in these wetland resource areas and help maintain water quality for public drinking water.
- Wildlife Habitat. Due to the limited amount of vacant forested land in the area, the Premises plays a vital role in providing wildlife habitat. The Premises provide water, food, and shelter for the surrounding wildlife. The Premises connects other surrounding vacant forested parcels, which help maintain a wildlife corridor.

These and other conservation values of the Premises, as well as its current uses and state of improvement, are described in a Baseline Documentation Report dated June 26, 2020 ("Baseline Report") prepared by Grantee with the cooperation of the Grantor, consisting of maps, photographs, and other documents and on file with the Grantee and referenced herein. The Baseline Report (i) is acknowledged by Grantor and Grantee to be a complete and accurate representation of the condition and values of the Premises as of the date of this Conservation Restriction, (ii) is intended to fully comply with applicable Treasury Regulations, and (iii) is intended to serve as an objective information baseline for subsequent monitoring of compliance with the terms of this Conservation Restriction as described herein. Notwithstanding the foregoing, the parties may utilize any evidence of the condition of the Premises at the time of this grant other than the Baseline Report, should the Baseline Report be unavailable or if it does not adequately address the issues presented.

## **II. PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES**

### **A. Prohibited Acts and Uses**

Subject to the exceptions set forth herein, the Grantor will not perform or allow others to perform the following acts and uses which are prohibited on, above, and below the Premises:

- (1) Constructing, placing or allowing to remain any temporary or permanent building, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, sign, fence, billboard or other advertising display, antenna, utility pole, tower, solar panel, solar array, conduit, line or other temporary or permanent structure or facility on, above or under the Premises;



- (2) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit or otherwise making topographical changes to the area;
- (3) Placing, filling, storing or dumping of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, tree and other vegetation cuttings generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
- (4) Cutting, removing or otherwise destroying trees, grasses or other vegetation;
- (5) Activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, wildlife habitat, or archaeological conservation;
- (6) Use, parking or storage of vehicles including motorcycles, mopeds, all-terrain vehicles, trail bikes, or any other motorized vehicles on the Premises except for vehicles necessary for public safety (i.e., fire, police, ambulance, other government officials) in carrying out their official duties or as necessary for the mobility impaired;
- (7) Subdivision or conveyance of a part or portion of the Premises alone, or division or subdivision of the Premises (as compared to conveyance of the Premises in its entirety which shall be permitted), and no portion of the Premises may be used towards building or development requirements on this or any other parcel;
- (8) The use of the Premises for business, residential or industrial use, or for more than *de minimis* commercial recreation;
- (9) The disruption, removal, or destruction of the stone walls or granite fence posts on the Premises;
- (10) Any other use of the Premises or activity which is inconsistent with the purpose of this Conservation Restriction or which would impair its conservation values.

**B. Reserved Rights and Exceptions**

The Grantor reserves the right to conduct or permit the following activities and uses on the Premises, but only if such uses and activities do not impair the conservation values or purposes of this Conservation Restriction.

- (1) Vegetation Management. The selective minimal removing of brush, pruning and cutting to prevent, control or remove hazards, disease, insect or fire damage, or to preserve the present condition of the Premises, including vistas as documented in the Baseline Report, woods roads, fence lines and trails and meadows;
- (2) Non-native or nuisance species. The removal of non-native or invasive species, the interplanting of native species, and the control of species in a manner that minimizes damage to surrounding, non-target species and preserves water quality;

- (3) Composting. The stockpiling and composting of stumps, trees, brush, limbs, and similar biodegradable materials originating on the Premises, provided that such stockpiling and composting is in locations where the presence of such activities will not impair the Conservation Values or scenic values of this Conservation Restriction. No such activities will take place closer than one hundred (100) feet from any wetland, or two hundred (200) feet from any a stream or other waterbody. All exercise of this reserved right shall take into account sensitive areas and avoid harm to nesting species during nesting season;
- (4) Wildlife Habitat Improvement. With the prior written approval of the Grantee, measures designed to restore native biotic communities, or to maintain, enhance or restore wildlife, wildlife habitat, or rare or endangered species including selective planting of native trees, shrubs and plant species;
- (5) Archaeological Investigations. The conduct of archaeological activities, including without limitation survey, excavation and artifact retrieval, following submission of an archaeological field investigation plan and its approval in writing by Grantee and the State Archaeologist of the Massachusetts Historical Commission (or appropriate successor official).
- (6) Trails. The marking, clearing and maintenance of existing trails and wooden walkways, all as shown in the Baseline Report. With prior written approval of the Grantee, the construction of new trails or the relocation or alteration of existing trails, provided that any construction, relocation, or alteration results in trails that are no wider than six (6) feet;
- (7) Signs. The erection, maintenance and replacement of signs with respect to trespass, trail access, identity and address of the occupants, sale of the Premises, the Grantee's interest in the Premises, any gift, grant, or other applicable source of support for the conservation of the Premises, the Reserved Rights, and the protected conservation values;
- (8) Outdoor Passive Recreational Activities. The right to hike, fish and engage in other non-motorized outdoor recreational activities that do not materially alter the landscape, and do not degrade environmental quality;
- (9) Maintenance of Existing Improvements. The Grantor reserves the right to maintain a small portion of lawn that exists on the Premises and abuts unrestricted land of the Grantor, all as further shown and described in the Baseline Report.
- (10) Site Restoration. Any work undertaken in conjunction with the Reserved Rights described in Paragraph II.B. shall seek to minimize disturbance to the Conservation Values and other natural features within the Premises that may be impacted as a result of exercising of any of the Reserved Rights described herein. Upon completion of any site work performed in conjunction with the Reserved Rights described in Paragraph II.B., any disturbed areas shall be restored substantially to the conditions with respect to soil material, grade, and vegetated ground cover as documented in the Baseline Report, as applicable, or in conformance with the conditions with respect to soil material, grade, and

vegetated ground cover that existed prior to said work, if said work is done in any area not documented in the Baseline Report.

- (11) Permits, Regulations, Laws. The exercise of any right reserved by Grantor under Paragraph II.B. shall be in compliance with The Town of Sudbury's Zoning By-Law, the Wetlands Protection Act, the Sudbury Wetlands Administration Bylaw, and all other applicable Federal, State and Local laws, rules, regulations, and permits. The inclusion of any reserved right requiring a permit from a public agency does not imply that the Grantee or the Commonwealth takes any position whether such permit should be issued.
- (12) Best Management Practices. The exercise of any right reserved by Grantor under this Paragraph II.B. shall follow, when available and if applicable, established, up to date, and regionally-applicable Best Management Practices or similar standards developed by a governmental agency or other entity with known expertise in the area of practice and designed to protect the natural features potentially affected by the action(s).

### **C. Notice and Approval.**

Whenever notice to or approval by Grantee is required, Grantor shall notify Grantee, by a method requiring proof of receipt, in writing not less than 60 days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the purposes of this Conservation Restriction. Where Grantee's approval is required, Grantee shall grant or withhold approval in writing within 60 days of receipt of Grantor's request. Grantee's approval shall not be unreasonably withheld, but shall only be granted upon a showing that the proposed activity shall not impair the purposes of this Conservation Restriction.

Subject to any applicable law or regulation, failure of Grantee to respond in writing within 60 days shall be deemed to constitute approval by Grantee of the request as submitted, so long as the request sets forth the provisions of this section relating to deemed approval after 60 days in the notice, the requested activity is not prohibited herein, and the activity will not impair the conservation values or purposes of this Conservation Restriction.

## **III. LEGAL REMEDIES OF THE GRANTEE**

### **A. Legal and Injunctive Relief.**

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 their condition prior to the time of the injury complained of (it being agreed that the Grantee will have no adequate remedy at law). The rights hereby granted shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction. Grantee agrees to cooperate for a reasonable period of time prior to resorting to legal means in resolving issues concerning violations provided Grantor ceases objectionable actions and

Grantee determines there is no ongoing diminution of the conservation values of the Conservation Restriction.

Grantor covenants and agrees to reimburse to Grantee all reasonable costs and expenses (including reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy, abate or correct any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred. In the event of a dispute over the boundaries of the Conservation Restriction, Grantor shall pay for a survey and to have the boundaries permanently marked.

**B. Non-Waiver.**

Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

**C. Disclaimer of Liability**

By acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises pertaining to compliance with and including, but not limited to, hazardous materials, zoning, environmental laws and regulations, or acts not caused by the Grantee or its agents.

**D. Acts Beyond the Grantor's Control**

Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any actions against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including but not limited to fire, flood, storm and earth movement, 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. In the event of any such occurrence, the Grantor and Grantee will cooperate in the restoration of the Premises, if desirable and feasible.

**IV. ACCESS**

The Grantor hereby grants to the Grantee, or its duly authorized agents or representatives, the right to enter the Premises upon reasonable notice and at reasonable times, for the purpose of inspecting the Premises to determine compliance with or to enforce this Conservation Restriction. The Grantor also grants to the Grantee, after notice of a violation and failure of the Grantor to cure said violation, the right to enter the Premises for the purpose of taking any and all actions with respect to the Premises as may be necessary or appropriate to remedy or abate any violation hereof, including but not limited to the right to perform a survey of boundary lines.

This Conservation Restriction does not grant any right of access to the general public and the Grantor retains its rights to prohibit access to the Premises by the general public.

## V. EXTINGUISHMENT

A. If circumstances arise in the future such as render the purpose of this Conservation Restriction impossible to accomplish, this Conservation Restriction can only be terminated or extinguished, whether in whole or in part, by a court of competent jurisdiction under applicable law after review and approval by the Massachusetts Secretary of Energy and Environmental Affairs. If any change in conditions ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then Grantee, on a subsequent sale, exchange, or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Paragraph V.B., subject, however, to any applicable law which expressly provides for a different disposition of the proceeds and after complying with the terms of any gift, grant, or funding requirements. Grantee shall use its share of the proceeds in a manner consistent with the conservation purpose set forth herein.

B. Proceeds. Grantor and Grantee agree that the conveyance of this Conservation Restriction gives rise to a real property right, immediately vested in the Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction bears to the value of the unrestricted Premises, determined at the time of conveyance. Such proportionate value of the Grantee's property right shall remain constant. Any proceeds will be distributed only after complying with the terms of any gift, grant, or other funding requirements.

C. Grantor/Grantee Cooperation Regarding Public Action. Whenever all or any part of the Premises or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in accordance with Paragraph V.B., after complying with the terms of any law, gift, grant, or funding requirements. If a less than fee interest is taken, the proceeds shall be equitably allocated according to the nature of the interest taken. The Grantee shall use its share of the proceeds like a continuing trust in a manner consistent with the conservation purposes of this grant.

## VI. DURATION & ASSIGNABILITY

A. Running of the Burden. The burdens of this Conservation Restriction shall run with the Premises in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor, on behalf of itself and its successors and assigns, appoints the Grantee their attorney-

in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit. The benefits of this Conservation Restriction shall run to the Grantee, shall be in gross and shall not be assignable by the Grantee, except in the following instances:

As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continues to be carried out; that the assignee is not an owner of the fee in the Property, and the assignee, at the time of the assignment, qualifies 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 under Section 32 of Chapter 184 of the Massachusetts General Laws. Any assignment will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

## **VII. SUBSEQUENT TRANSFERS**

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument which grants any interest in all or a portion of the Premises, including a leasehold interest and to notify the Grantee not less than twenty (20) days prior to the execution of such transfer. Failure to do any of the above shall not impair the validity or enforceability of this Conservation Restriction. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

The Grantor shall not be liable for violations occurring after their ownership. Liability for any acts or omissions occurring prior to any transfer and liability for any transfer if in violation of this Conservation Restriction shall survive the transfer. Any new owner shall cooperate in the restoration of the Premises or removal of violations caused by prior owner(s) and may be held responsible for any continuing violations.

## **VIII. ESTOPPEL CERTIFICATES**

Upon request by the Grantor, the Grantee shall, within sixty (60) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the Grantor's compliance or non-compliance with any obligation of the Grantor contained in this Conservation Restriction.

## **IX. NON MERGER**

The parties intend that any future acquisition of the Premises shall not result in a merger of the Conservation Restriction into the fee. The Grantor agrees that it will not grant, and the Grantee agrees that it will not take title, to any part of the Premises without having first assigned this Conservation Restriction to a non-fee owner that is qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the Massachusetts

General Laws in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.

## **X. AMENDMENT**

If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may jointly amend this Conservation Restriction; provided that no amendment shall be allowed that will affect the qualification of this Conservation Restriction or the status of Grantee under any applicable laws, including Section 170(h) of the Internal Revenue Code of 1986, as amended, or Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. Any amendments to this conservation restriction shall occur only in exceptional circumstances. The Grantee will consider amendments only to correct an error or oversight, to clarify an ambiguity, or where there is a net gain in conservation value. All expenses of all parties in considering and/or implementing an amendment shall be borne by the persons or entity seeking the amendment. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not affect its perpetual duration, shall be approved by the Secretary of Energy and Environmental Affairs and if applicable, shall comply with the provisions of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, and any gifts, grants or funding requirements. Any amendment shall be recorded in the Middlesex South County Registry of Deeds.

## **XI. EFFECTIVE DATE**

This Conservation Restriction shall be effective when the Grantor and the Grantee have executed it, the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained, and it has been recorded in a timely manner in the Middlesex South County Registry of Deeds.

## **XII. NOTICES**

Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage pre-paid, addressed as follows:

To Grantor: Kenneth T. Fenton, Jr., & Georgina M. Fenton  
8 Singing Hill Circle  
Sudbury, Massachusetts, 01776

To Grantee: Sudbury Conservation Commission  
275 Old Lancaster Road  
Sudbury, MA 01776

or to such other address as any of the above parties shall designate from time to time by written notice to the other or, if notice is returned to sender, to an address that is reasonably ascertainable by the parties.

### **XIII. GENERAL PROVISIONS**

A. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

B. 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 purpose of this Conservation Restriction and the policy and purposes of Sections 31, 32, and 33 of Chapter 184 of the Massachusetts General Laws. If any provision in this instrument is found to be ambiguous, any interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

C. Severability. If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provision of this Conservation Restriction shall not be affected thereby.

D. 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 the Conservation Restriction, all of which are merged herein.

### **XIV. MISCELLANEOUS**

A. Pre-existing Public Rights. Approval of this Conservation Restriction pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws by any municipal officials and by the Secretary of Energy and 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.

B. Homestead.

The Grantor hereby releases, agrees to waive, subordinate, and release any and all Massachusetts General Law Chapter 188 Homestead rights it may have in favor of this Conservation Restriction with respect to any portion of the Premises affected by this Conservation Restriction, and hereby agrees to execute, deliver and/or record any and all instruments necessary to effectuate such waiver, subordination and release. In all other respects, the Grantor reserves and retains any and all Homestead rights, subject to this Conservation Restriction, pursuant to Section 10(e) of Chapter 188 of the Massachusetts General Laws.

C. Subordination. The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to subordinate any mortgage, promissory note, loan, lien, equity credit line, refinance assignment of mortgage, lease,



financing statement or any other agreement which gives rise to a surety interest affecting the Premises.

D. Included herein are the following:

Signature pages:

Grantor

Grantee Acceptance

Approval by Select Board of the Town of Sudbury

Approval of the Secretary of Energy and Environmental Affairs.

E. Attached hereto and incorporated herein by reference are the following:

Exhibits:

Exhibit A: Legal Description of Premises

Exhibit B: Reduced Copy of Recorded Plan of Premises

WITNESS my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2023,

\_\_\_\_\_  
Kenneth T. Fenton, Jr.

\_\_\_\_\_  
Georgina M. Fenton

COMMONWEALTH OF MASSACHUSETTS

*Middlesex*, ss:

On this \_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared \_\_\_\_\_, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**ACCEPTANCE OF GRANT BY THE SUDBURY CONSERVATION COMMISSION**

We, the undersigned, being a majority of the Conservation Commission of the Town of Sudbury, Massachusetts, hereby certify that at a public meeting duly held on \_\_\_\_\_, 2023, the Conservation Commission voted to approve and accept the foregoing Conservation Restriction from Kenneth T. Fenton, Jr., and Georgina M. Fenton pursuant to Section 32 of Chapter 184 and Section 8C of Chapter 40 of the Massachusetts General Laws and do hereby accept the foregoing Conservation Restriction.

SUDBURY CONSERVATION COMMISSION:

\_\_\_\_\_  
Jeremy Cook

\_\_\_\_\_  
David Henkels, Chair

\_\_\_\_\_  
Kenneth Holtz

\_\_\_\_\_  
Luke Faust

\_\_\_\_\_  
Bruce Porter

\_\_\_\_\_  
Kathleen Rogers

\_\_\_\_\_  
Mark Sevier

COMMONWEALTH OF MASSACHUSETTS

*Middlesex*, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared \_\_\_\_\_, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**APPROVAL OF SELECT BOARD OF TOWN OF SUDBURY**

We, the undersigned, being a majority of the Select Board of the Town of Sudbury, hereby certify that at a public meeting duly held on \_\_\_\_\_, 2023, the Select Board voted to approve the foregoing Conservation Restriction from Kenneth T. Fenton, Jr., and Georgina M. Fenton to the Town of Sudbury, acting by and through its Conservation Commission, in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

SELECT BOARD:

\_\_\_\_\_  
Janie W. Dretler

\_\_\_\_\_  
Daniel E. Carty

\_\_\_\_\_  
Jennifer Roberts, Chair

\_\_\_\_\_  
Charles Russo

\_\_\_\_\_  
Lisa Kouchadjian

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared \_\_\_\_\_, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

**APPROVAL BY SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from Kenneth T. Fenton, Jr., and Georgina M. Fenton, to the Town of Sudbury, acting by and through its Conservation Commission, has been approved in the public interest pursuant to Section 32 of Chapter 184 of the Massachusetts General Laws.

Dated: \_\_\_\_\_, 2023

\_\_\_\_\_  
Rebecca L. Tepper  
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, the undersigned notary public, personally appeared Rebecca L. Tepper, and proved to me through satisfactory evidence of identification which was \_\_\_\_\_ to be the person whose name is signed on the proceeding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public  
My Commission Expires:

## **EXHIBIT A**

### Legal Description of Premises

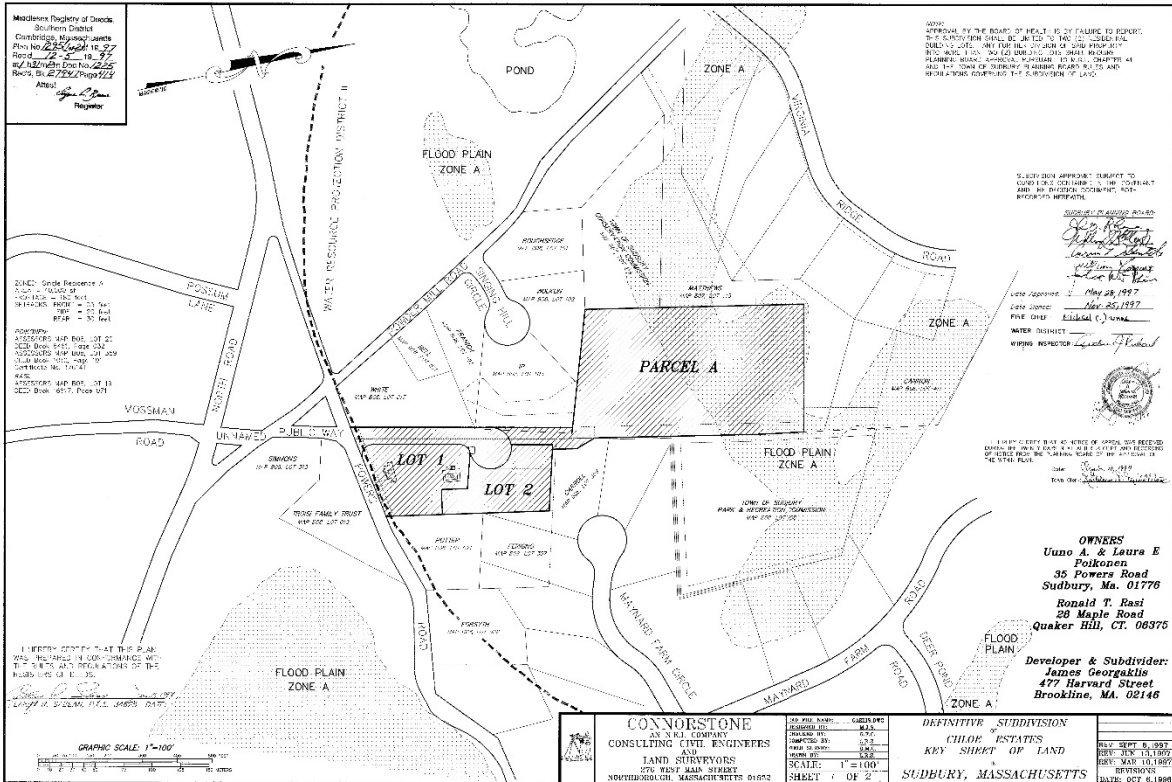
The land subject to the foregoing Conservation Restriction consists of 5.83 ± acres in Sudbury, Massachusetts shown as “Parcel A” on a recorded plan of land entitled “Definitive Subdivision of Chloe Estates, Plan of Land in Sudbury, Massachusetts”, revised Sep. 8, 1997, by Connorstone Consulting Civil Engineers and Land Surveyors, which plan is recorded at the Middlesex South District Registry of Deeds as Plan Number 1295 of 1997 (sheet 2 of 2), which land is bounded and described as follows:

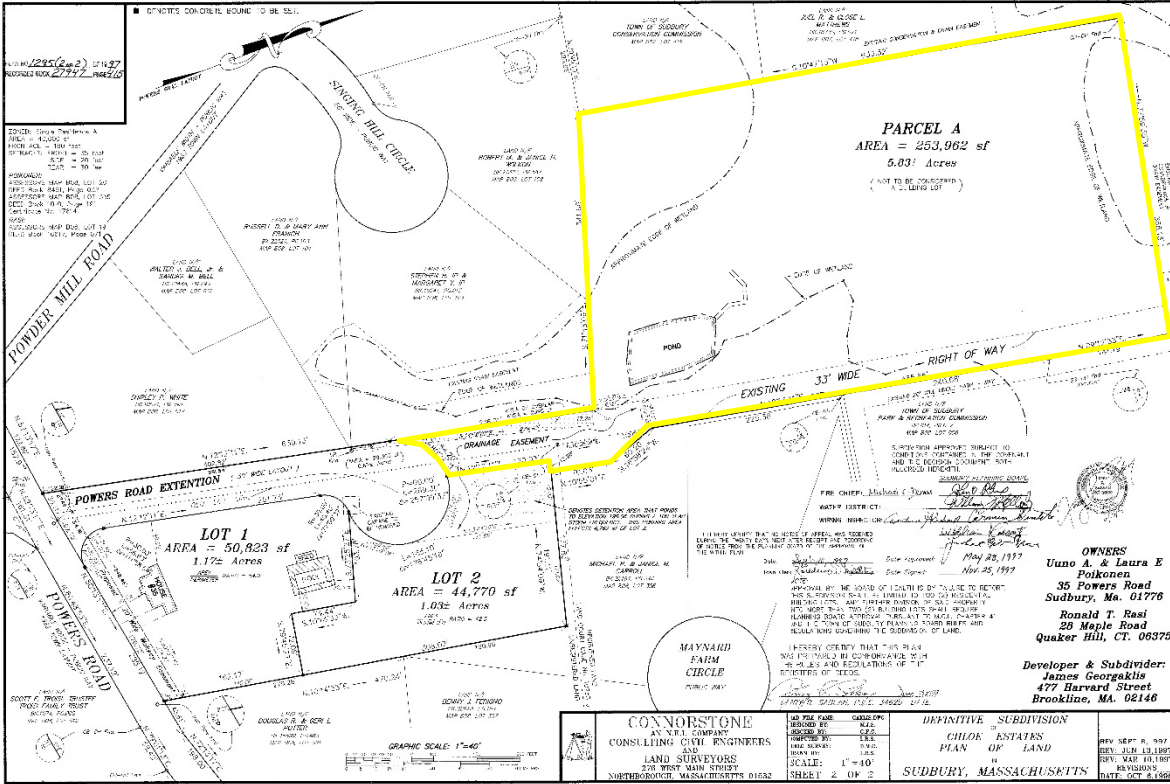
For title reference see Deed dated January 25, 2002 and recorded Middlesex South District Registry of Deeds Book 34744 Page 565.

# EXHIBIT B

## Reduced Copy of Recorded Plan of Premises

For official full size plan see Middlesex Registry of Deeds Plan Book 01997 Page 1295





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