

CONSERVATION EASEMENT AGREEMENT
OPEN SPACE PARCEL E

The purpose of a Conservation Easement is to protect in perpetuity significant natural features and to minimize the environmental impact of activities associated with land development within the Town of Madison. It is the responsibility of the property owner to be fully aware of all of the conditions contained in the Conservation Easement Agreement as expressed below. The Town of Madison, acting through its Planning and Zoning Commission will vigorously enforce the conditions established herein.

THIS INDENTURE made this 22nd day of September, 2006, by and between **STRATHMORE FARMS DEVELOPMENT CORPORATION**, a Connecticut corporation with offices in the Town of Madison, County of New Haven and State of Connecticut (hereinafter called "**GRANTOR**"), and the **TOWN OF MADISON**, a municipal corporation having its territorial limits within the County of New Haven and State of Connecticut (hereinafter called "**GRANTEE**");

WITNESSETH:

WHEREAS, the Grantor is the owner of real property, hereinafter described, situated in the Town of Madison, County of New Haven and State of Connecticut, which Grantee, acting through its Planning and Zoning Commission, has determined would be in the public interest to retain, maintain and conserve in its natural state; and

WHEREAS, the Grantee, acting through its Planning and Zoning Commission, has determined that the maintenance and conservation of the said property of the Grantor can best be accomplished by the securing by Grantee of a Conservation Easement over, across, and upon the said property of Grantor; and

WHEREAS, the Grantor is willing, in consideration of One Dollar (\$1.00), receipt of which is hereby acknowledged, and of possible reduction by Grantee of real property taxes on said property, to grant to said Grantee the easement and covenants as hereinafter expressed concerning said property, thereby providing for its maintenance and conservation;

NOW, THEREFORE, said Grantor does hereby give, grant, bargain, sell and confirm unto said Grantee, its successors and assigns forever, the right, privilege and authority as a Conservation Easement Agreement to perpetually preserve, protect, limit, conserve and maintain the land hereinafter described in its present natural condition. All covenants contained herein are deemed to run with the land. Said Grantor further covenants and agrees to provide notice by Certified Mail to the last known address of any person or entity who hereafter shall have any possessory interest in the subject property, including but not limited to any tenant, successor, or assign, of a Certified Copy of the Conservation Easement Agreement. Failure of said Grantor to provide such notice shall not constitute any waiver of Grantee's rights herein.

Said premises subject to this Conservation Easement Agreement, herein-after called "**THE CONSERVATION EASEMENT AREA**" is described as follows:

All that certain piece or parcel of land shown as "Open Space E" on a map entitled "Data Accumulation Plan Showing Revisions to the Open Space Parcels "The Highlands", Mill Road and River Road, Madison, Conn. Scale 1" = 100' Date: December 27, 2005" prepared by Anderson Associates, 1054 Boston Post Road, Guilford, Conn. 06437 and filed (or to be filed) in the office of the Madison Town Clerk as Map No. _____.

I. PROHIBITIONS

GRANTOR FURTHER COVENANTS AND AGREES TO PROHIBIT AND REFRAIN FROM THE FOLLOWING ACTIVITIES UNDER, OVER, OR UPON THE CONSERVATION EASEMENT AREA:

1. The construction or placing of buildings, roads, signs, billboards or other advertising, or other structures on or above ground, except as approved by the Madison Planning and Zoning Commission for agricultural and/or recreational purposes.
2. The dumping or placing of soil or other substance or material as landfill, or dumping of trash, ashes, waste, rubbish, garbage, junk, or unsightly or offensive materials.
3. The excavation, dredging or removal of loam, peat, gravel, soil, rock or other substances in such a manner as to affect the surface or the quantity or quality of ground or surface waters.
4. The removal or destruction of trees, shrubs, or other vegetation, the destruction of wildlife or its habitat, the application of pesticides or herbicides, or any other activity or use which is or has the potential for being detrimental to drainage, flood control, water quality, erosion control, soil conservation, wildlife or the land and water areas in their natural condition, except as approved by the Madison Planning and Zoning Commission for agricultural and/or recreational purposes. Nothing herein shall prohibit the conduct of good management practices including the control of invasive species provided any such activity is done with the prior approval of the Madison Planning and Zoning Commission.
5. The conduct of any of the foregoing activities in such proximity to the Conservation Easement Area that their result could be detrimental to drainage, flood control, water quality, erosion control, soil conservation or wildlife in the Conservation Easement Area.

6. The removal or disturbance of the Conservation Easement Area temporary stakes prior to permanent marking, permanent iron pins or boundary markers, or any other field identifications of the Conservation Easement Area boundaries.

II. EXCEPTIONS

NOTWITHSTANDING ANY OF THE FOREGOING PROVISIONS:

1. The Grantee, acting through its Planning and Zoning Commission, or its successor, may upon written application of the Grantor, permit the construction, reconstruction, maintenance and repair within said premises of above-ground and below-ground public or private utilities, including sanitary sewer and/or water lines, subject to (a) demonstration of the need for the proposed activity within said premises and (b) environmental review of the siting and proposed methods of installation and maintenance of such utilities.
2. The Grantee, acting through its Planning and Zoning Commission, or its successor, shall upon written application of the Grantor, permit the removal of dead trees and dead brush from said premises in a manner acceptable to the Planning and Zoning Commission.
3. The Grantee, acting through its Planning and Zoning Commission, or its successor, may upon written application of the Grantor, permit the pruning and thinning of live trees and brush on said premises.
4. The Grantee, acting through its Planning and Zoning Commission, or its successor, may upon written application of the Grantor, permit the construction of a "gazebo"-type structure on said premises provided such structure shall have a footprint not exceeding 400 square feet and provided further that the height of such structure shall not exceed 18 feet as measured from the mean ground level 5 feet from the base of such structure.
5. The Grantee shall have the right to grow nursery stock, fruits and vegetables and to keep and maintain not more than 6 horses and not more than six (6) horses, sheep, goats or similar farm animals within the said premises. For purposes of this paragraph, the phrase "keep and maintain" shall include, without limitation, the right for such animals to roam and graze within any portion or all of the said premises provided that the Grantee shall, at its sole cost and expense, erect a fence surrounding any portion or all of the said premises to be used for such purposes adequate to ensure that such animals shall not stray therefrom.
6. Nothing herein shall prohibit the Grantor from continuing and maintaining and repairing all drainage structures presently located within the conservation area.

7. The restrictions set forth herein are expressly made subject to certain drainage and pedestrian easement rights as set forth in Schedule A attached hereto.

Application by the Grantor for any approval provided for hereunder shall be made to the Planning and Zoning Commission, or its successor, and shall be in accord with the procedures established by the Planning and Zoning Commission, or its successor, in effect at that time.

The Grantee agrees, by acceptance hereof, to release automatically such Conservation Easement Agreement as though this instrument had never been executed by Grantor, should, at any time, said premises be condemned by some dominant government authority.

The Grantor herein reserves to Grantor the right to make use of the above-described premises for any and all purposes which are in keeping with the stated intent of this Conservation Easement Agreement and which shall in no way endanger the maintenance and conservation of the above- described premises in their natural state.

III. IDENTIFICATION AND INSPECTION OF CONSERVATION EASEMENTS

GRANTOR FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. Before commencement of site work on any property of the Grantor which contains or is adjacent to a Conservation Easement Area, Conservation Easement boundaries are to be marked with oak stakes labeled "Conservation Easement" with waterproof ink and tied with red flags. These stakes are to be located at each change of boundary direction and at every 100 foot interval on straightaways. Stakes are to remain in place until the Grantor installs easement boundary markers. In addition to the foregoing, Grantor shall affix permanent signs to trees growing on or near the boundary of the easement area warning that the area is subject to conservation restrictions. Such signs shall be set at approximate 25 foot intervals. All Conservation Easement corners shall be permanently marked with iron pins which protrude from ground surface not more than one inch and such pins shall not contain sharp edges.
2. The Grantor hereby grants the Grantee the right to access the property for the purpose of installing and maintaining markers identifying the boundaries of the Conservation Easement Area.
3. The Grantor hereby grants the Grantee the right to have a qualified representative of the Town inspect the Conservation Easement Area following reasonable notice to current Grantor or occupant.

IV. FINDING OF VIOLATION

1. If it is determined by the Planning and Zoning Commission or its successor, that a violation of a Conservation Easement Agreement exists, the Grantor shall be ordered to cease and desist from and prevent any activity which, in the opinion of the Planning and Zoning Commission, or its successor, is in violation of this Conservation Easement Agreement.
2. Within 60 days of such order and after appropriate notice, the Planning and Zoning Commission shall hold a hearing for the purpose of determining if the cease and desist order shall continue.
3. If the Grantor is found to have violated the terms of this Conservation Easement Agreement, the Grantor agrees, among other things, to restore the Conservation Easement Area(s) as closely as possible to its (their) natural state. Such restoration shall include but need not be limited to:
 - (a) replanting with trees, shrubs or other appropriate vegetation acceptable to the Planning and Zoning Commission;
 - (b) removal of any debris, trash, garbage, ashes, waste, rubbish, silt, unsightly or offensive material;
 - (c) removal of any unauthorized buildings, signs, billboards or other advertising, or other structures on or above-ground;
 - (d) emplacement and maintenance of erosion controls;
 - (e) replacement by a land surveyor of any Conservation Easement Area markers which have been removed or disturbed.

Restoration shall be at the expense of Grantor and in accordance with plans developed by a qualified professional such as a landscape architect, land surveyor, or a professional engineer, and approved by the Planning and Zoning Commission, or its successor.

4. If either the Grantor or any other person on the Grantor's property is found to have violated a Conservation Easement Agreement, the Planning and Zoning Commission, or its successor, can exercise its discretion, in accordance with applicable Town of Madison Ordinances, and following notification to the Grantor and the Grantor's opportunity to be heard concerning a Finding of Violation, and to levy a daily fine until full restoration has been achieved and certified by the Planning and Zoning Commission or a duly appointed Agency.

The foregoing Conservation Easement Agreement shall be permanent and binding upon the Grantor and his heirs, successors and assigns, except as hereinbefore set forth, and inure to the benefit of Grantee, its successors and assigns.

TO HAVE AND TO HOLD the above granted rights, privilege or authority unto said Grantee, its successors and assigns forever, to its and their own proper use and behoof.

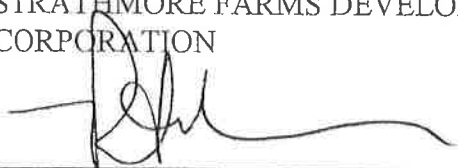
IN WITNESS WHEREOF, the Grantor has hereunto set or caused to be set his hand and seal the day and year first aforementioned.

Signed, Sealed and Delivered
In the Presence Of:





STRATHMORE FARMS DEVELOPMENT
CORPORATION


_____ L.S.
By:

THE TOWN OF MADISON

_____ L.S.

FIRST SELECTMAN

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STATE OF CONNECTICUT

:


: ss. Madison

September 22, 2006

COUNTY OF NEW HAVEN

:

Personally appeared Robert E. Dowler, President of Strathmore Farms Development Corp., signer and sealer of the foregoing Instrument and acknowledged the same to be his free act and deed, and that of the corporation, before me.



Thomas E. Cronan

Commissioner of the Superior Court

STATE OF CONNECTICUT

:

: ss. Madison

September ____, 2006

COUNTY OF NEW HAVEN

:

Personally appeared Thomas A. Scarpati, First Selectman of the Town of Madison, signer and sealer of the foregoing Instrument and acknowledged the same to be his free act and deed as such First Selectman, before me.

Commissioner of the Superior Court

Notary Public

My Commision Expires: _____

SCHEDULE A

The subject parcel is subject to the following encumbrances:

1. A certain drainage easement in favor of the Town of Madison as set forth in a deed from Strathmore Farms Development Corporation dated September 29, 2005 and recorded in Volume 1403 at Page 18 of the Madison Land Records.
2. Two certain drainage easements in favor of the Town of Madison as set forth in a deed from Strathmore Farms Development Corporation dated September 2, 1997 and recorded in Volume 764 at Page 110 of the Madison Land Records.
3. A certain pedestrian easement to "Open Space" as set forth in a deed from Strathmore Farms Development Corporation to Andrew San Marco and Andrea L. San Marco dated November 7, 1995 and recorded in Volume 680 at Page 198 of the Madison Land Records.