

9-18-03

GRANT OF CONSERVATION RESTRICTION

This is a grant of a conservation restriction, as defined in Sections 47-42a through 47-42c of the Connecticut General Statutes, revision of 1958, as amended (C.G.S.). The purposes of the restriction, are within those described in Section 47-42a(a) C.G.S.

This restriction is granted in perpetuity exclusively for the conservation purpose of the preservation of open space (including forest, agricultural and grazing land) and pursuant to a clearly delineated governmental conservation policy that will yield a significant public benefit, as more particularly described hereinafter.

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME – GREETING:

WHEREAS, The Prudential Insurance Company of America, a New Jersey corporation having an office at Two Gateway Center, Newark, New Jersey 07102-5096 ("Prudential"), is the owner of a certain piece or parcel of land situated in the City of Norwalk, County of Fairfield, and State of Connecticut, which property is more particularly described on Schedule A attached hereto and made a part hereof (the "Property"); and

WHEREAS, the Property has been held as meadow land for many years and is now essentially open space, still with a number of trees, which open space provides natural habitat for a variety of plants and animals and provides aesthetic and scenic enjoyment to members of the general public;

WHEREAS, by virtue of the conservation restrictions imposed through this Grant, the Property also will provide enjoyment by and substantial benefit to members of the general public;

WHEREAS, the preservation of open space, forest land, and agricultural land such as the Property is consistent with the policies of the United States and the State of Connecticut. These policies include but are not limited to (i) the Connecticut Conservation and Development Policies Plan, 1992-1997 (see "Locational and Guide Map," May 1992) which identifies the property within a Conservation Area for the purpose of protecting scenic areas and (ii) Sections 7-131, 7-131(b) and Section 12-107f C.G.S., which severally declare it is in the public interest to encourage the preservation of forest land and open space, and to hold open space land in perpetuity for educational, scientific, aesthetic or other equivalent passive uses for the benefit of the public in general;

WHEREAS, the preservation of open space, forest land, and agricultural land such as the Property, is consistent with the policies of the City of Norwalk, including but not limited to the City of Norwalk Plan of Development, dated February 15, 1991, revised effective April 11, 2003;



WHEREAS, the proposed open space use of this Property is consistent with conservation and land preservation program conducted by the Nature Conservancy of Connecticut, Inc., the Connecticut Land Trust Service Bureau, and other local, state and national land-saving non-governmental charitable organizations and public agencies.

1. Purpose. The purpose of this Conservation Restriction is to assure that the Property, except for its use for permitted Forestry Activities and Maintenance Activities, shall be preserved forever in its natural, scenic, and open-space condition to prevent its use or development for any purpose or in any manner whatsoever which would conflict with the use preservation of such property for the purposes set forth in this Grant.

2. Definitions.

A. "Forestry Activities" means: planting, growing, spraying, pruning, cutting or other removal of live or dead trees all in accordance with generally accepted forestry practices. Such activities shall be selective and any activity approaching "clear-cutting" shall be prohibited. Such activities may include the use of agents designed or intended to control, eliminate or prevent hazards, disease or fire or to maintain the aesthetic and horticultural qualities of the Property. Such permitted activities may include activities necessary to preserve or enhance wildlife habitat and overall forest productivity.

B. "Maintenance Activities" means any activity, especially of an emergency nature, not clearly falling under (A) or (B) which may be undertaken to avoid, ameliorate or eliminate hazards to public safety or health, or to the natural, unspoiled state of the Property or enhance the natural habitat and/or aesthetic and scenic quality of the Property. Prudential* shall maintain and enhance the natural qualities of the Property, including maintaining and mowing the existing fields in the portion of the Property along Weed Avenue to protect bird nesting habitat. Mowing of these fields shall take place on at least an annual basis.

3. Prohibited Uses. To carry out the purposes of this Grant, Prudential agrees for itself and its successors and assigns, that any activity or use of the Property that is inconsistent with the purposes of the Grant is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited on the Property:

- A. The legal or *de facto* division, subdivision or re-subdivision of the Property for any purpose;
- B. Any commercial or industrial use of the Property;
- C. Filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, and rock;
- D. Changing the topography of the land except as may be necessary to conduct the activities described in Paragraph 4 of this Grant;

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* and its successors and assigns

E. Construction or maintenance of buildings whether permanent or temporary, camping accommodations or mobile homes, billboards, towers, satellite or other antennas or other structures, except as described in Paragraph 4 of this Grant;

F. Any use or activity which causes or may be likely to cause substantial soil degradation or erosion or substantial pollution of any surface or subsurface waters;

G. Manipulation or alteration of any natural water courses, wetlands, marshes or other water bodies, except as may be necessary to conduct the activities described in Paragraph 4 hereof;

H. Operation of snowmobiles, dune buggies, motorcycles, all-terrain vehicles, or any other type of motorized vehicle, except as may be necessary for the maintenance and oversight activities described in Paragraph 4 hereof;

I. The riding of horses or any use of the Property involving horses;

J. Construction, improvement or upgrading of roads, trails, or footpaths except as may be necessary to conduct the activities described in Paragraph 4 hereof;

K. Granting of any right of way or right of passage, inconsistent with the conservation purposes as described within, over any portion of the Property;

L. Any use of the Property as a place of residence or any use of the Property for a residential dwelling unit or units or erection of temporary shelters, or bringing onto the Property mobile or prefabricated shelters; and,

M. Hunting, trapping or fishing, except that non-lethal capture of animals for relocation either for legitimate conservation purposes or to remove dangerous wild animals to locations more suitable to their requirements shall be permitted when carried out by the State of Connecticut conservation officers or properly-qualified wildlife conservation specialists recognized by and acceptable to the City of Norwalk.

4. Reserved Rights. Prudential reserves for itself and its successors and assigns, all rights accruing from the ownership of the Property, including the right to convey the fee simple interest in the Property, and the right to use the Property for purposes not inconsistent with this Grant. The following activities and uses may be permitted on the Property by Prudential in its sole and unlimited discretion:

A. Forestry Activities, including trails or lanes, necessary or desirable to maintain or enhance the open space character of the Property and allow it to be used for its intended purposes as set forth in this Grant.

B. Relocation, replacement or repair of any existing structures, fences, gates, roads, or trails reasonably necessary to conduct any Forestry Activities.

C. Establishing and maintaining walking and hiking trails, nature trails, personal fitness courses, including any appropriate accessory signage, access routes, and small storage structures and fixtures reasonably necessary and appropriate to conduct the primary activities.

D. Access to the Property for members of the West Norwalk Property Owner's Association and property owners eligible to belong to the West Norwalk Property Owner's Association, and their immediate families, for walking and hiking, at such times and places as Prudential may from time to time permit. Children under the age of eighteen are allowed on the Property only when accompanied by an adult.

E. Maintenance Activities necessary to assure the safety and health of the public and assure that the objectives of this Grant may be carried out. Recognizing that the future cannot be foreseen, the right is reserved to Prudential and its successors and assigns, to take such actions as may be necessary to ensure that the Property be kept suitable and preserved for its intended purposes.

F. The right to use, maintain and replace the roadways, utility poles, electrical power and telephone manholes and underground utility lines located within the Property.

G. The right to modify any provision of the Grant as may be necessary at any time in order to meet or qualify for any standard or requirement of Article 41, Conservation Developments, of the Zoning Regulations of the City of Norwalk, as the same now exists or as may be hereafter amended.

5. Inspection; Enforcement. Prudential grants to the City of Norwalk; its successors and assigns ("City"), the right to enter upon the Property at reasonable times for the purpose of inspecting the Property to determine compliance with the terms of this Grant. City shall have the right but not the obligation to enforce the Grant through appropriate legal and equitable proceedings, including, but not limited to, the right to require restoration of the Property to its condition as the time of the conveyance, as modified by any alterations or uses permitted under the Grant. Any failure to enforce shall not be deemed a waiver of this Grant. Any failure to enforce shall not be deemed a waiver of City's right to do so thereafter.

6. Eminent Domain. If the Property or any part of it shall be taken by eminent domain, this Grant shall terminate automatically as to that portion of the Property that is taken. The remaining value of the underlying fee title in that portion of the Property which shall have been taken shall remain vested in, and full compensation for such value shall be paid to Prudential and its successors and assigns.

7. Perpetual Restriction. This Grant shall run with the Property in perpetuity; and the terms of this Grant shall bind, be enforceable by and against, and inure to the benefit of, the respective successors and assigns of Prudential and City; provided, however, and upon the express understanding that, Prudential shall have no further liability or responsibility hereunder from and after the date upon which a deed conveying the Property shall have been recorded in the Norwalk Land Records.

8. Entire Agreement. This instrument sets forth the entire agreement between Prudential and City with respect to this Grant, and supersedes all prior discussions, understandings or agreements relating to this Grant, all of which are merged herein. This instrument may be amended only by written agreement of the parties hereto.

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

10. Recordation. Prudential shall record this Grant in timely fashion in the land records of the City of Norwalk, Connecticut.

11. Controlling Law. The interpretation and performance of this Grant shall be governed by the laws of the State of Connecticut.

IN WITNESS WHEREOF, Prudential has caused this instrument to be executed this 23 day of September, 2003.

THE PRUDENTIAL INSURANCE
COMPANY OF AMERICA

Michael G. Hughes
MICHAEL G. HUGHES

Daniel W. Kelly
DANIEL W. KELLY

By: Cher Zucker-Maltese (L.S.)
Cher Zucker-Maltese,
Vice-President, Corporate Real Estate

SCHEDULE A

All that certain piece or parcel of land situated in the City of Norwalk, County of Fairfield and State of Connecticut, shown and designated as "Conservation Easement Area, Area - 14.47 Acres", made by Redniss & Mead, Stamford, Connecticut, entitled "Easement Map Depicting Conservation Easement Area, #32 Weed Avenue, Norwalk, CT Prepared For The Prudential Insurance Company of America", dated April 21, 2003 and June 11, 2003, and to be filed in the office of the Norwalk Town Clerk, being more particularly bounded and described as follows:

BEGINNING at a point being the intersection of the easterly side of Weed Avenue with the southerly boundary of land now or formerly of Arnold Sprecher & Roslyn Sprecher, said point being at the corner intersection of two stone walls and lying 149.68 feet southerly of an iron pipe, as depicted on a map titled "Easement Map depicting Conservation Easement Area, #32 Weed Avenue, Norwalk, CT prepared for The Prudential Insurance Company of America" dated April 21, 2003 as prepared by Redniss & Mead; thence, running generally easterly along a stone wall and said land of Sprecher and lands now or formerly of Grace Kurcho, each in part, the following courses and distances; N 77°13'40" E a distance of 181.09 feet, N 81°31'30" E a distance of 57.75 feet, N 80°40'10" E a distance of 39.11 feet, N 79°19'00" E a distance of 61.32 feet, N 46°44'20" E a distance of 6.14 feet and N 71°55'30" E a distance of 260.67 feet to a point; thence, southerly through lands of the grantor the following courses and distances: S 17°07'00" E a distance of 189.81 feet, S 31°21'00" W a distance of 51.40 feet and S 11°08'00" E a distance of 1272.24 feet to the approximate westerly edge of an asphalt driveway; thence, along said westerly side of asphalt driveway the following courses and distances: on a non-tangent clockwise curve the radius of which is 250.00 feet having a central angle of 37°18'48" for an arc length of 162.81 feet and chord bearing of S 26°50'36" W a distance of 159.95 feet, S 45°30'00" W a distance of 63.71 feet, on a tangent counter-clockwise curve the radius of which is 215.00 feet having a central angle of 45°12'00" for an arc length of 169.61 feet, S 00°18'00" W a distance of 72.92 feet, on a tangent clockwise curve the radius of which is 78.00 feet having a central angle of 90°02'28" for an arc length of 122.58 feet, N 89°39'32" W a distance of 17.23 feet and along a tangent clockwise curve the radius of which is 18.00 feet having a central angle of 57°11'19" for an arc length of 17.97 feet and a chord bearing of N 61°03'53" W a distance of 17.23 feet to a point of non-tangency and the said easterly side of Weed Avenue; thence, generally northerly along said Weed Avenue the following courses and distances: N 01°23'50" E a distance of 27.47 feet, N 02°55'52" E a distance of 116.12 feet; thence, along a tangent clockwise curve the radius of which is 3,982.00 feet having a central angle of 00°48'03" for an arc length of 55.69 feet to a point of non-tangency; thence, N 06°18'00" E a distance of 277.52 feet; thence, along a tangent anti-clockwise curve the radius of which is 385.00 feet having a central angle of 15°40'31" for an arc length of 105.33 feet to a point of non-tangency with a counter-clockwise curve the radius of which is 358.00 feet having a central angle of 15°07'30" for an arc length of 94.51 feet, N 22°37'00" W a distance of 13.87 feet, N 19°42'10" W a distance of 33.73 feet, N 21°05'56" W a distance of 80.00 feet, N 23°30'25" W a distance of 118.04 feet, N 22°37'00" W a distance of 335.85 feet; along a tangent counter-clockwise curve the radius of which is 346.00 feet having a central angle of 19°12'06" for an arc length of 115.96 feet, N

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41°49'06" W a distance of 288.64 feet; along a tangent clockwise curve the radius of which is 295.00 feet having a central angle of 02°56'14" for an arc length of 15.12 feet to a point of non-tangency with a clockwise curve the radius of which is 582.00 feet having a central angle of 12°35'48" for an arc length of 127.95 feet to a point of non-tangency with a clockwise curve the radius of which is 295.00 feet and having a central angle of 00°31'47" for an arc length of 2.73 feet and N 13°21'06" W a distance of 158.58 feet to the Point of Beginning.

NORWALK, CT LAND RECORDS
REC'D FOR RECORD FILING

SEP 24, 2003 AT 10:13 AM

Andrew S. Garfunkel
ANDREW S. GARFUNKEL, TOWN CLERK