

Return to:
AMC Law Group
55 Main Street, Suite 230
Newmarket, NH 03857

RECEIVED
Town of Durham
OCT 28 2015
Planning, Assessing
and Zoning

DECLARATION OF USE RESTRICTION,

This Declaration of Use Restriction (this "Declaration") is made this ___ day of _____ 2015, by Grant Drive Development, LLC, a New Hampshire limited liability company, its successors and assigns (hereinafter called collectively "Declarant"), of 3 Penstock Way, Newmarket, New Hampshire 03857, being the current owner of real property that is the subject of this Declaration situated Route 4 in Durham, Strafford County, New Hampshire (the "Premises"). The Declaration does hereby adopt the following use restriction which is specifically applicable to Parcel A and Parcel B being a portion of the Premises identified on Exhibit A as attached hereto prepared by _____, dated _____ 2015, to be recorded at the Strafford County Registry of Deeds.

WHEREAS, the Declarant received approval of its proposed project from the Durham Planning Board on _____, 2015, or chose instead to transfer ownership to another entity.

NOW THEREFORE, in consideration of mutual benefits contained herein, and other good and valuable consideration, the receipt of which is hereby acknowledged, the Declarant subjects a portion of the Premises shown as Parcel A and Parcel B on Exhibit A attached hereto for the following purposes and with the following restrictions:

1. Purposes

The purpose of this Declaration is to retain open space in perpetuity; to provide opportunities for passive recreation for residents and the public; and to preserve the scenic viewshed from Route 4 and the Johnson Creek Bridge.

2. Use Restrictions

A portion of the Premises, described as Parcel A and Parcel B in Exhibit A attached hereto, shall be used and maintained as open space in perpetuity. The existing open meadows on Parcel A and Parcel B shall be maintained in perpetuity by mowing once every year after November 1 and

RECEIVED
TOWN OF DURHAM
JAN 10 2019

substantially according to best management practices for pollinators. No chemical fertilizers, pesticides, or herbicides shall be used.

3. Permitted Activities and Uses

The following activities and uses shall be permitted:

- a. Agricultural activities, including but not limited to, riding of horses, keeping of bees, growing of plants, and flowers, shall be permitted. Structures customarily associated with such use are permitted, including but limited to, small garden sheds. The placement, size and design of any structures shall be subject to the approval of the Durham Business Park Design Committee.
- b. Low impact outdoor recreational facilities designed for outdoor recreational activities, including but not limited to, bocce court, small gardens, and walking paths shall be permitted. Racetracks for motorized vehicles and firearms ranges are not permitted.
- c. Passive recreational uses, including but not limited to, wildlife observation, walking, running, cross-country skiing, snowshoeing shall be permitted.
- d. Other uses which are consistent with the above listed uses and complementary to the permitted use on the Premises.

4. Reserved Rights

The Grantor reserves for itself and its successors the right to disturb the soil surface of Parcel A and Parcel B, associated with the purpose and permitted activities and uses, provided such changes do not disturb any designated wetlands (unless a permit by NHDES has been granted) and are accomplished in compliance with local and state laws. Such rights include the installation of walking trails, benches, fencing appropriate to the permitted uses, small courts such as a bocce court, pipes, conduits, drainage systems, swales and other similar structures or infrastructure assuming required permits from State and Local entities are obtained. The Durham Business Park Design Committee may grant permission for the planting of trees positioned so as to buffer views from Route 4 and the Johnson Creek Bridge of the developed portion of the parcel.

The Town of Durham shall have the right to enforce this restriction pursuant to RSA 674:21-a. Declarant shall be given a written notice of any alleged violation and an opportunity to cure such violation, before any legal actions are commenced.

5. Affirmative Rights for the Town of Durham

The Town of Durham shall have reasonable access to the Property and all of its parts for such inspection as is necessary to determine compliance with and to enforce the terms of this

Declaration and to exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Declaration.

6. Amendment

This restriction may be amended by mutual agreement of the Declarant (or its successors in title) and the Town of Durham.

7. Notice of Declaration

This Declaration shall be recorded in the Strafford County Registry of Deeds.

8. Term

The Declaration shall run with the Premises and shall be binding upon all purchasers of the Premises and shall remain in effect in perpetuity unless otherwise released or amended by the Town of Durham and the current owner.

Executed the day and year first above-written.

Declarant:
Grant Drive Development, LLC

By: 
Eric J. Chinburg, Manager

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS

The instrument was acknowledged before me on APRIL 17, 2015, by Eric J. Chinburg, Manager of Grant Drive Development, LLC.




Notary Public
My Commission Expires:

EXHIBIT A

Legal Description of Parcel A and Parcel B

