

**SELECTMEN'S MEETING AGENDA**

*Harwich Community Center, Room #2*

*100 Oak Street*

*Regular Session 6:00 P.M.*

*Monday, May 6, 2019*

I. **CALL TO ORDER**

II. **PRE TOWN JOINT MEETING WITH FINANCE COMMITTEE**

A. Potential Revisions to Motions for Annual Town Meeting Articles,  
Specifically New Motions and Amendments; Article #31, Article #36, Article #61–  
*discussion & possible votes*

III. **NEW BUSINESS**

A. Article 59 – Pet Burial Ground – *Selectmen's support for favorable motion*

IV. **OLD BUSINESS**

A. Cornelius Pond Update

V. **ADJOURNMENT**

Authorized Posting Officer:

\_\_\_\_\_  
Patricia Macura, Admin. Secretary

Posted by: \_\_\_\_\_  
Town Clerk

Date: \_\_\_\_\_  
May 2, 2019

## PET BURIAL GROUND

### RESCIND ARTICLE 57 OF THE MAY 2016 ANNUAL TOWN MEETING AUTHORIZING THE PET BURIAL GROUND

ARTICLE 57: To see if the Town will vote to rescind its previous action on Article 57 of the 2016 Annual Town Meeting and take the parcel of land containing 2.25 acres, more or less, located at 276 Queen Anne Road, shown on Assessors Map 69 as Parcel M1, and being a portion of the premise acquired by the Town pursuant to order of taking recorded with the Barnstable Registry of Deeds in Book 11666, Pages 103-105 from the jurisdiction of the Cemetery Commission and return such jurisdiction to the Board of Selectmen for the care, custody, management and control of said property, and to act fully thereon. By Petition.

*Explanation:* 1. The Cemetery Commissioners do not have the jurisdiction to solicit or evaluate alternative proposals for this valuable parcel of land, therefore, the best interests of the taxpayers cannot be assured under their purview. The Town Selectmen have such jurisdiction and it's within their purview to maximize and protect taxpayer interests.  
2. The proposal for using this land as a pet burial ground relies on a significant but unspecified portion of its revenue coming from residents of other towns, as well as unknown levels of "donations." Any shortfalls from these unspecified revenue sources will result in Harwich taxpayers having to foot larger shares of the burden in effect providing potentially higher and higher levels of subsidy into the future. Accordingly, this taxpayer petition requests that the jurisdiction of this land be returned to the Town Selectmen.

**THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE INDEFINITELY POSTPONED. THE CEMETERY COMMISSION HAS PUBLICLY STATED THAT THEY WILL NOT DECLARE THIS LAND AS SURPLUS WHICH THEY WOULD NEED TO DO IN ORDER TO REVERT THE CONTROL BACK TO THE BOARD OF SELECTMEN. PREVIOUS TOWN MEETING ARTICLES REQUESTING TO SELL THE LAND HAVE NOT PASSED. THE 2016 ANNUAL TOWN MEETING VOTED IN FAVOR OF THE PET BURIAL GROUND. VOTE: YES-6, NO-2**

### ESTABLISH ANNUAL REVOLVING FUND FOR THE PET BURIAL GROUND

ARTICLE 58: To see if the Town will vote to amend the Departmental Revolving Funds By-law by adding a new revolving fund to be known as the Harwich Pet Memorial Gardens & Walking Park Fund, as set forth as follows:

<u>Revolving Fund</u>	<u>Authorize to Spend Fund</u>	<u>Revenue Source</u>	<u>Use of Fund</u>
Harwich Pet Memorial Gardens & Walking Park Fund	Cemetery Administrator, Cemetery Commission	Revenue received from the sale of pet burial lots and fees	Maintenance, improvements, care and support of pet burial ground to the pet burial ground

Or to act fully thereon. By request of the Cemetery Commission.

**THE FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED TO ALLOW FOR A FUNDING SOURCE FOR THE COMPLETION, OPERATION, AND MAINTENANCE OF THE GROUNDS. TOWN MEETING VOTED A PET BURIAL GROUNDS IN MAY 2016, BUT THE INTENDED FUNDING SOURCE WAS DEEMED INAPPROPRIATE BY TOWN COUNSEL. A NEW FUNDING SOURCE THEREFORE NEEDS TO BE CREATED IN ORDER TO OPERATE THE GROUNDS WITH USER FEES INSTEAD OF ADDITIONAL TAX DOLLARS. VOTE: YES-5, NO-1**

COMPLETE THE CONSTRUCTION OF THE PET BURIAL GROUNDS

ARTICLE 59: To see if the Town will vote to raise and appropriate, transfer from available funds and/or borrow a sufficient sum of money to fund the completion of the pet burial grounds, \$60,720 and to reimburse the General Fund \$70,280 for the initial cost of preparing and improving the burial grounds. Funds contained within this appropriation are to come from the sale of pet burial lots and fees, and to act fully thereon. By request of the Cemetery Administrator and the Cemetery Commission. Estimated cost: \$131,000.

**FINANCE COMMITTEE RECOMMENDS NO RECOMMENDATION PENDING FURTHER INFORMATION (NRPFI). FINANCE COMMITTEE VOTES NRPFI WHEN, AT THE TIME THE WARRANT IS PRINTED, IT HAD INSUFFICIENT OR INCOMPLETE INFORMATION TO MAKE AN INFORMED RECOMMENDATION. IT DOES NOT IMPLY A NEGATIVE FINANCE COMMITTEE VIEW, ONLY AN INCOMPLETE UNDERSTANDING OF THE ARTICLE SO VOTED. THE FINANCE COMMITTEE WILL MAKE ITS FINAL RECOMMENDATION AT TOWN MEETING AFTER HAVING RECEIVED FURTHER INFORMATION. VOTE: YES-5, NO-1**

LAND MATTERS

APPROVE EASEMENT FOR VERIZON AND EVERSOURCE ENERGY AT 1464 ORLEANS-HARWICH ROAD (RTE. 39) AT FIRE STATION 2

ARTICLE 60: To see if the Town will vote to authorize the Board of Selectmen to grant to Verizon New England Inc. and NStar Electric Company d/b/a Eversource Energy perpetual

## Patti Macura

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**From:** Christopher Clark  
**Sent:** Tuesday, April 30, 2019 1:43 PM  
**To:** Sandy Robinson; Patti Macura  
**Subject:** FW: Harwich CR: 588 Queen Anne Rd.  
**Attachments:** state-changes-in-YELLOW-HIGHLIGHTS-Harwich-CR .pdf

S/P,

Please find materials for the BOS meeting before Town Meeting on Monday.

Chris

**From:** Mike Lach [mailto:mike@harwichconservationtrust.org]  
**Sent:** Tuesday, April 30, 2019 1:00 PM  
**To:** 'Shirin Everett' <SEverett@k-plaw.com>  
**Cc:** Christopher Clark <cclark@town.harwich.ma.us>  
**Subject:** Harwich CR: 588 Queen Anne Rd.

Hi Shirin,

I met in person with Chris today (copied) and a member of the Board of Selectmen about the Selectmen reviewing/approving the approx. 15-acre (588 Queen Anne Rd.) conservation restriction (CR) parking area envelope and the state's suggested changes, which you and I agreed were non-substantive and acceptable to both Town and HCT.

He asked for the above described info. in an email, which I provide here for your review so that the Selectmen can review at their May 6<sup>th</sup> board meeting.

The state's changes are scattered throughout the CR, so I thought it more efficient to highlight those changes in yellow, which you and the Selectmen will see in the attached CR.

On May 6<sup>th</sup>, HCT looks forward to Selectmen approval of the parking area envelope (described in paragraph B.13 and shown in exhibit D of attached) and approval of the state's changes to the CR, so that HCT can close on the CR with the Town on May 22<sup>nd</sup> or thereabouts, which will provide enough time for HCT to receive the \$85,000 state Conservation Partnership grant.

Best regards,  
Mike

*Michael Lach*  
*Executive Director*  
*Harwich Conservation Trust*

*Ph: 508-432-3997*  
*[www.harwichconservationtrust.org](http://www.harwichconservationtrust.org)*

*Mailing address: P.O. Box 101, South Harwich, MA 02661*

**Grantor:** Trustees of the Harwich Conservation Trust  
**Grantee:** Town of Harwich Conservation Commission  
**Property Address:** 588 Queen Anne Road, Harwich, MA  
**Title:** Book ~~30652~~ Page ~~193~~ in Barnstable County Registry of Deeds.  
**Plan:** Plan Book 215 Page 47 except Lot S-1-A on Plan Book 430 Page 18

**CONSERVATION RESTRICTION**

**PATTI A SMITH, THOMAS M. EVANS, COLIN A. LEONARD, BRUCE NIGHTINGALE, DONNA J. PETERSON, EDWARD RUBEL, NANCY POOR, ANDREA SILBERT, MATTHEW CUSHING, and JONATHON IDMAN** as **TRUSTEES** of the **HARWICH CONSERVATION TRUST**, established under Declaration of Trust dated September 24, 1988 and recorded in the Barnstable County Registry of Deeds in Book 6456, Page 222, with a mailing address of P.O. Box 101, South Harwich, MA 02661, its successors and assigns holding any interest in the Premises as hereinafter defined (“Grantor”), acting pursuant to Sections 31-33 of Chapter 184 of the Massachusetts General Laws, and in consideration of Two Hundred Thousand Dollars and 00/100 (\$200,000.00) paid, grants to the **TOWN OF HARWICH**, a Massachusetts municipal corporation, with an address Town Hall, 732 Main Street, Harwich, Massachusetts, 02645, and acting by and through its **Conservation Commission** by authority of Section 8C of Chapter 40 of the Massachusetts General Laws, its successors and permitted assigns (“Grantee”), with quitclaim covenants, **IN PERPETUITY** and exclusively for conservation and passive outdoor recreation purposes, in accordance with Section 8C of Chapter 40 of the Massachusetts General Laws, the following described **CONSERVATION RESTRICTION**, on the entirety of four parcels of land totaling 14.9 acres, more or less, located in the Town of Harwich, County of Barnstable, Commonwealth of Massachusetts, said parcels being described in Exhibit A and shown on Exhibit B, both of which are attached hereto, said parcels hereinafter referred to as the “Premises.”

Purposes: This Conservation Restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the Massachusetts General Laws and otherwise by law. The purpose of this Conservation Restriction is to assure that the Premises will be preserved for conservation purposes, and be maintained in perpetuity in a natural, scenic and open condition and to prevent any use of the Premises that would materially impair or interfere with the conservation values thereof. This Conservation Restriction will yield a significant public benefit because the Premises’ protection will advance the following policies and objectives:

WHEREAS, the Town of Harwich, at a duly called Annual Town Meeting held on May 7, 2018,

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CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

acting on Article 56 of the Warrant, voted to authorize the Board of Selectmen to acquire a perpetual conservation restriction (“Restriction”) on the Premises to be monitored and enforced by the Conservation Commission of the Town of Harwich for conservation and passive outdoor recreation open space and watershed protection purposes, and to appropriate funds for the purchase of said Restriction on the Premises pursuant to Chapter 149, §298 of the Acts of 2004, as amended by Chapter 352, §§129-133 of the Acts of 2004 (so-called “Barnstable County Community Preservation Act”), and to authorize the Board of Selectmen to approve a perpetual Conservation Restriction on said land as authorized by Massachusetts General Laws, Chapter 184, Sections 31-33, allowing conservation and passive recreation uses described in Massachusetts General Laws, Chapter 40, Section 8C, an attested copy of which vote is attached hereto as Exhibit C; and,

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WHEREAS, the Premises was acquired utilizing, in part, assistance from the Conservation Partnership program which requires, by Chapter 312 of the Acts of 2008, the conveyance of this Conservation Restriction; and,

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WHEREAS, the Massachusetts Endangered Species Act, M.G.L. c. 131A protects rare species and their habitats, and the Massachusetts Natural Heritage and Endangered Species Program (“MNHESP”) has designated as Priority Habitats the known geographical extent of habitat for state-listed rare plant and animal species; and,

WHEREAS, in 2003, the Massachusetts Statewide Land Conservation Plan, was drafted in 2003, which identifies the most significant available, undeveloped and unprotected open space lands needed to protect, among other things, biodiversity habitats; and the Premises is identified a such land; and,

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WHEREAS, in July 1991 the Barnstable Assembly of Delegates, pursuant to the Cape Cod Commission Act (Chapter 716 of the Acts of 1989), adopted a *Regional Policy Plan*, amended in 1996, 2002 and 2009, which provided, *inter alia* (references are to the 2009 Plan):

- Wetlands Goal to “preserve and restore the quality and quantity of inland and coastal wetlands and its buffers on Cape Cod” (WET1);
- Wildlife and Plant Habitat Goal to “prevent loss or degradation of critical wildlife and plant habitat...and to maintain existing populations and species diversity” (WPH1); stating that “renewed commitment to protect the most ecologically sensitive undeveloped lands through land acquisition and other permanent conservation measures is also warranted;”
- Open Space and Recreation Goal to “preserve and enhance the availability of open space that provides wildlife habitat...and protects the region’s natural resources and character” (OS1) with a recommended Town Action of working with “local land conservation organizations to identify, acquire by fee simple or conservation restriction, and manage open space to meet projected community needs. Priority should be given to the protection of significant natural and fragile areas as identified on the Cape Cod Significant Natural Resource Areas map;” and,

WHEREAS, the 2009 *Regional Policy Plan* includes a Significant Natural Resources Areas Map, which shows, among other things, rare species habitat, priority natural communities, wetlands, and critical upland areas; and,

CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

WHEREAS, the Town of Harwich developed an *Open Space and Recreation Plan*, updated in 2010, which identified the town's natural resource needs and established goals, objectives and action plans, including:

- Goal II: Identify Future Open Space Purchases
  - *Objective 1*. Identify parcels for acquisition...that would contribute to the town's open space goals and objectives. Encourage acquisition of parcels that abut existing conservation and open space land. Particular emphasis should be placed on: ...Rare species habitat and other critical habitat and natural communities..., diadromous fish runs, and unfragmented forest habitat adjacent to previously protected open space.
- Goal IV: Enhance Trail Systems Within Open Space Areas
- Goal VI: Preserve and Enhance the Following Natural Resources: Groundwater
  - and Surface Water; Coastal Water and Adjacent Shoreline Areas; Inland and
  - Coastal Wetlands; and Wildlife and Plant Habitats
  - *Objective 2*. Preserve and improve the ecological integrity of marine and fresh surface waters.
  - *Objective 8*. Preserve, protect and enhance the quality and quantity of inland and coastal wetlands in Harwich
  - *Objective 9*. Continue to prevent the loss or degradation of critical wildlife and plant habitats, minimize the impact of new development on wildlife and plant habitats, and maintain existing populations and species diversity
- Goal VIII: Preserve and Enhance Unique Natural and Manmade Features and Resources
- Goal IX: Preserve and Enhance Opportunities for Passive and Active Recreation to Meet the Needs of Both Residents and Visitors; and,

WHEREAS, the Town of Harwich has adopted a *Conservation Restriction Program*, consisting of policies and guidelines approved by the Board of Selectmen, Assessors and Conservation Commission in 1991, which specified that purposes of a conservation restriction could include the following:

- to prevent disturbance of wetlands;
- to prevent the cutting of trees or forests;
- to preserve important natural habitats and rare species;
- to preserve a shoreline;
- to limit or prevent construction on land of natural resource value; and

WHEREAS, preservation of the Premises satisfies each of these enumerated objectives because:

- 1) The Premises consists of approximately 14.9 acres of wooded upland along 1,890 feet of shoreline on Cornelius Pond, a rare coastal plain pond;
- 2) The Premises' pondshore is within an *MNHESP Priority Habitat for Rare Species and BioMap2 Core Habitat*;
- 3) About 75% of the Premises is within the *Statewide Land Conservation Plan*;
- 4) The Premises will be open to the public for conservation and passive recreation purposes;
- 5) The Premises is a substantial contributing element to the overall scenic character of the area by being maintained predominantly in its natural condition; and,



*CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA*

WHEREAS, accordingly, the Premises possess significant open, natural, and scenic values (collectively, "conservation values") of great importance to Grantee and the people of Harwich and the Commonwealth of Massachusetts; and,

WHEREAS, 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 ("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; and,

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WHEREAS, the Town of Harwich have in recent years come under increasing pressure for development, and such development can destroy or otherwise severely impact the open character, natural resources, and scenic beauty of the area; and,

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

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, Grantor and Grantee voluntarily agree that the CONSERVATION RESTRICTION described herein is an appropriate means to achieve the community's open space goals and objectives and to protect and enhance natural and scenic values of Cape Cod.

The terms of this Conservation Restriction are as follows:

A. **Prohibited Acts and Uses.** Except as to reserved rights set forth in Section B below Subject to the exceptions set forth in Section II(B), the Grantor will neither perform nor permit others to perform the following acts or uses, which are prohibited on, above and below the Premises:

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- 1) Construction or placing or allowing to remain of any temporary or permanent building, structure, facility or improvement, including but not limited to any dwelling unit or habitable living space, tennis court, landing strip, mobile home, swimming pool, asphalt or concrete pavement, antenna, tower, windmill, solar array, water tower, water storage tank, well, or other structure or facility on, under or above the Premises;
- 2) Construction of any roads or driveways through or on the Premises, or the clearing of vegetation, or the addition, removal or movement of soil for such



CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

purpose;

- 3) Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit, or altering the topography thereof;
- 4) Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, brush, leaves, grass, tree cuttings, generated off-site, waste or other substance or material whatsoever or the installation of underground storage tanks;
- 5) Cutting, mowing, removing or otherwise destroying trees, grasses or other vegetation, or archaeological conservation;
- 6) Activities detrimental to drainage, flood control, water or soil conservation, archaeological conservation, wildlife habitat, erosion control or the quality of surface or ground water;
- 7) The use, parking or storage of motorcycles, motorized trail bikes, all-terrain vehicles, snowmobiles and all other motor vehicles, except motorized wheelchairs, or as motorized vehicles necessary by police, firemen or other governmental agents in carrying out their lawful duties or for purposes of upkeep, maintenance and habitat management of the Premises;
- 8) Any commercial recreation, commercial agriculture, or business or industrial use; any animal husbandry or horse paddocking or stables, paddocks, grazing areas or enclosures and the storage or dumping of manure or other animal wastes;
- 9) 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), it being the intent to keep the Premises in single ownership;
- 10) All development rights in the Premises are terminated and extinguished by this Conservation Restriction; and the Premises may not be used for the purpose of calculating the amount of Grantor's or any other land available for additional subdivision or calculating the building requirements on this or any other land owned by Grantor or any other person; and,
- 11) Any other use of the Premises which is inconsistent with the purposes of this Conservation Restriction or which would materially impair its conservation values.

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B. **Reserved Rights and Exceptions.** The Grantor reserves the right to conduct or permit the following uses and activities are permitted on the Premises, but only if such uses and activities do not materially impair the conservation values or purposes of this Conservation Restriction.

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- 1) 

~~In order to protect the conservation values of the~~Passive outdoor recreational activities, Premises, Grantor, Grantee, and the general public may use the property only for purposes consistent with conservation and passive outdoor recreation which for the purposes of this Paragraph shall mean any activity ~~of including~~ quiet, non-motorized activities enjoyment that can be casually performed outdoors with minimum disturbance ~~of an area to the Premises~~ natural condition, and in accordance with Section E, such as walking, jogging, cross-country skiing, bird watching, hiking, wildlife observation, nature study, photography, sketching and painting and such other consistent activities;

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- 2) Active measures, such as the placement of gates or boulders, taken in order to prevent unauthorized vehicle entry and dumping;
- 3) a) The creation, modification, use and abandonment of foot trails, ~~said provided that said foot~~ trails shall not exceed five (5) feet in width and shall not be paved, ~~unless a wider foot trail or paved~~hardened, but pervious surfaces are required for compliance with the Americans with Disabilities Act (ADA), and further provided that any new trails receive prior approval from the Grantee; and the placement of simple sitting benches along the trails to encourage passive recreational use; b) ~~The creation of pervious or impervious surfaced paths meeting Americans with Disability Act guidelines;~~

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- 4) The erection and maintenance of wooden split-rail or comparable open-faced (i.e., sight-pervious) fencing no more than six (6) feet in height, and designed to allow for the passage of small wildlife, in connection with the creation and maintenance of foot trails, for public access, and private property demarcation;
- 5) The right, but not the obligation, to remove the existing driveway, and, ~~subsequently, in order to restore the area and match the natural conditions of the surrounding area,~~ the establishment of a naturalized landscape in the disturbed area(s) at Grantor's sole expense;

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- 6) The right to control and remove invasive plant species in a manner designed to affect the targeted species and minimize damage to the non-target species and preserve water quality;
- 7) ~~In conformance with accepted forestry management practices, The-the~~ pruning or cutting down of ~~live~~ trees and other vegetation only as necessary to control or prevent an identified disease, infestation or other hazard to the health of the trees, ~~in conformance with accepted forestry management practices,~~ for storm clean-up, for safety reasons to prevent injury to persons or damage to property, ~~and or~~ to create and maintain trails;

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- 8) 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 ~~have a deleterious impact on~~ ~~impair the purposes (including scenic values) of this Conservation Restriction~~ ~~conservation values~~. No such activities will take place closer than one hundred (100) feet from any wetland, waterbody or stream. All exercise of this Reserved Right shall take into account sensitive area and avoid harm to nesting species during nesting season;
- 9) The erection and maintenance of signs and educational kiosks identifying Grantor and Grantee, the Premises' boundaries and its status as conservation land, the restrictions on the use of the Premises, the identity or location of trails, areas of interest, natural features or other characteristics, including the historical significance, of the Premises, or for providing other like information. Signage will be subject to any applicable regional or local approvals;
- 10) ~~Measures~~ ~~With the 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;
- 11) Subject to wetlands permitting regulations, the right to install a boardwalk and ~~one (1)~~ viewing platform over the wetland and pond resource areas to provide a view of Cornelius Pond;
- 12) The right to conduct archaeological activities, including without limitation archaeological research, surveys, excavation and artifact retrieval, but only (a) after written notification to and approval by Grantee, and (b) in accordance with an archaeological field investigation plan prepared by or on behalf of the Grantor and approved in advance of such activity, in writing, by the Massachusetts Historic Commission ("MHC") State Archaeologist as required by Massachusetts General Laws. A copy of the results of any scientific investigation on the Premises is to be provided to the Grantee. Plans for restoration of the site of any archaeological activity shall be submitted to the Grantee in advance of restoration, and such restoration shall be conducted only in accordance with a plan approved by the Grantee; ~~and~~

~~Activities detrimental to archeological and historic resources, including but not limited to earth moving and the alteration of historic stone walls/cellar holes/features, shall not be deemed to be detrimental to archeological and historic resources if a description of the proposed activity and its location is submitted in writing (e.g., on a Project Notification Form) with a plan of land (or assessors map) and a USGS map with the Premises outlined thereon, to MHC and MHC issues a letter stating that the proposed activity is not within a resource area or is determined to not have an adverse effect on said resources. Grantor and Grantee shall make every reasonable effort to prohibit any person from conducting archaeological field investigation on the Premises, including metal detecting, digging, or artifact collecting, without approval of the MHC State Archaeologist (or appropriate successor official), and shall promptly report any such prohibited activity to the MHC State Archaeologist (or appropriate successor official). Grantor and Grantee shall include the prohibition against digging, artifact~~

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collecting, or metal detecting in any list of rules for visitors to the Premises;

- 13) Construction, repair, maintenance, and use of ~~an unpaved or surfaced with pervious materials a parking area, which shall be unpaved or surfaced with pervious materials only, to provide access to the Premises for the passive outdoor recreational activities described in Section II.B.1, for passive recreational and conservation related purposes~~ and the right to clear vegetation and regrade soil ~~for the purposes of constructing such parking area, provided all such activities are confined to the area shown on Exhibit D within the area of the Premises shown in exhibit D for said purposes;~~
- 14) Any work undertaken in conjunction with the reserved rights mentioned above in this Section B shall seek to minimize disturbance within the Premises. Upon completion of any site work performed in conjunction with this Section B, any disturbed areas shall be restored substantially to match the conditions with respect to soil material, grade, and vegetated ground cover that existed prior to said work.

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Permits. The exercise of any right or obligation reserved by Grantor under this Section B shall be in compliance with all permitting requirements, the then-current Zoning By-Laws of the Town of Harwich, the Wetlands Protection Act (Massachusetts General Laws Chapter 131, Section 40), and all other applicable federal, state and local laws, rules, regulations and permits. The inclusion of any reserved right in this Section B requiring a permit from a public agency does not imply that Grantee or the Commonwealth takes any position on whether such permit should be issued.

C. Notice and Approval. Whenever notice to or approval by the Grantee is required under the provisions herein, the Grantor shall notify the Grantee in writing not less than sixty (60) days prior to the date the 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 ~~and performance standards~~ of this Conservation Restriction. Where the Grantee's approval is required, the Grantee shall grant or withhold its approval in writing within sixty days (60) days of receipt of the Grantor's written request therefore. Failure by the Grantee to deliver a written response in accordance with the prescribed timeframe shall be deemed to constitute written approval of any request submitted for approval that is not contrary to the express restrictions hereof, provided that any such request sets forth in substance the provisions of this section relating to deemed approval after the passage of time, ~~and the requested activity will not materially impair the purposes or conservation values of the Premises.~~

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D. Extinguishment.

1) Procedure for Extinguishment. If circumstances arise in the future such as to 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 judicial proceedings in a court of competent jurisdiction, ~~under applicable law,~~ with Grantee's permission, and after review and approval through any process established under Article 97 of the Constitution of the Commonwealth, ~~if applicable,~~ and after review 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,

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exchange or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds in accordance with Section D.1. below. Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes set forth herein.

42) Proceeds. The Grantor and the Grantee agree that the ~~donation-conveyance of this Conservation Restriction~~ gives rise to a legal interest in the Grantee ~~immediately vested in the Grantee, with a fair market value that is equal to 25% of the Grantor's purchase price<sup>1</sup>, and so is entitled to that same percentage of proceeds resulting from any extinguishment, in whole or in part, subject to the procedures outlined herein. Such proportionate value of the Grantee's property right shall remain constant, for purposes of enforcing the terms of this Conservation Restriction.~~ If any occurrence gives rise to extinguishment or other release of the Conservation Restriction under applicable law, the Grantor and Grantee shall be reimbursed from the proceeds, once recovered, for their respective share of reasonable legal or other expenses, if any, associated with the recovery of said proceeds. The remaining balance of said proceeds shall be distributed to the Grantor ~~and Grantee in shares equal to the proportions established above.~~ If the conservation interests protected hereby are unaffected by the taking, the only interest taken by the public authority is the Grantor's interest, and recovered proceeds are awarded on the basis of the value of the Premises as restricted by the Conservation Restriction, then the proceeds from such taking shall be payable in their entirety to the Grantor.

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~~For the purposes of this Conservation Restriction, the Grantor and Grantee acknowledge that the Grantee contributed 25 percent of the funds towards the Grantor's purchase price<sup>2</sup>, and so is entitled to that same percentage of proceeds resulting from any extinguishment, in whole or in part, subject to the procedures outlined hereinabove.~~

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23) Grantor/Grantee Cooperation Regarding Public Action. Whenever all or 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 under this paragraph shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed to the Grantor and Grantee ~~as noted below in shares equal to the proportions established in Section D.2.~~

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3) Grantee's Use of Proceeds. Any remaining balance of said proceeds accruing to the Grantor shall be deposited into the ~~Grantee's Town of Harwich's~~ open space account of the Community Preservation Fund (CPF) for conservation purposes in accordance with the Barnstable County Community Preservation Act. Should the ~~Town of Harwich's Grantee's~~ CPF no longer exist for any reason, the funds shall be used for ~~open space and watershed protection conservation or passive recreation~~ purposes to the extent permissible under General Laws, Chapter 44, Section 63.

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E. Access. Grantor hereby grants the following rights of access to the Premises:

<sup>1</sup> (Purchase price paid by the Grantor for the property was \$800,000; Grantee is paying \$200,000 or 25% of the overall purchase price for this Conservation Restriction.)

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<sup>2</sup> (Purchase price paid by the Grantor for the property was \$800,000; Grantee is paying \$200,000 or 25% of the overall purchase price for this Conservation Restriction.)



- 1) **To the Public:** to the public generally for non-motorized, passive outdoor recreation purposes such as walking, jogging, cross-country skiing, bird watching, hiking, wildlife observation, nature study, photography, sketching and painting, and other similar activities by the general public, subject to Grantor's reasonable rules and regulations. Bicycling, horseback riding and other non-pedestrian access are not permitted due to the sensitive habitat.

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The terms and conditions of public access shall be determined by Grantor and shall be subject to the rules and regulations of Grantor and approved by Grantee in writing prior to their taking effect. Visitors may be ejected at any time by Grantor for loud activities, or failure to abide by the rules and regulations of Grantor.

- 2) **To Grantee:** The Grantee and its representatives are granted the right to enter the Premises (a) at reasonable times and in a reasonable manner for the purpose of inspecting the same to determine compliance with the provisions of this Conservation Restriction; (b) after thirty (30) days prior written notice of a violation and failure of Grantor to cure said violation, to take any and all actions with respect to the Premises as may be necessary or appropriate, with or without order of court, to remedy, abate or enforce any violation hereof unless Grantor has prior to the expiration of said thirty (30) days given written notice to Grantee reasonably addressing all alleged violations and setting forth a reasonable plan to remedy any such alleged violation.

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Notwithstanding the rights granted to the public to enter and use the Premises as permitted herein, neither the Grantor nor the Grantee assumes any obligation to maintain the Premises for public passive recreational use. Grantor and Grantee claim all the rights and immunities against liability for injury to the public to the fullest extent of the law.

F. **Legal Remedies of Grantee.** The rights hereby granted shall include the right to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the Premises to its condition at the time of this grant (it being agreed that Grantee shall have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. 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. The Town of Harwich Conservation Commission shall have the final decision on matters of monitoring and enforcement of the Conservation Restriction on the entire Premises.

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Grantor agrees that Grantor will not voluntarily acquiesce in any violation of this Conservation Restriction by trespassers or other third persons; and Grantor further agrees that Grantor will not voluntarily acquiesce in any violation of this Conservation Restriction by trespassers or such other third persons; and Grantor further agrees that at the request of Grantee, Grantor will make reasonable efforts to deter such activities and to remedy the violation and will cooperate with Grantee to enforce this Conservation Restriction against trespassers and such other third persons.

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CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

Grantor and the successors and assigns of Grantor covenant and agree to reimburse Grantee for all reasonable costs and expenses (including, without limitation, reasonable counsel fees) incurred in enforcing this Conservation Restriction or in taking reasonable measures to remedy or abate any violation thereof, provided that a violation of this Conservation Restriction is acknowledged by Grantor or determined by a court of competent jurisdiction to have occurred.

By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Premises including, without limitation, compliance with hazardous materials, zoning, or other environmental laws and regulations, or acts not caused by the Grantee or its agents, except to the extent caused directly by the negligent act or omission of the Grantee. Enforcement of the terms of this Conservation Restriction shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Restriction shall not be deemed or construed to be a waiver of such rights.

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G. Acts Beyond Grantor's Control. Nothing contained in this Conservation Restriction shall be construed to entitle Grantee to bring any action against Grantor, for any injury to or change in the Premises resulting from causes beyond Grantor's control, including, but not limited to, fire, flood, storm, natural erosion, or from any prudent action taken by Grantor, under emergency conditions to prevent, abate, or mitigate significant injury to the Premises resulting from such causes. Notwithstanding the foregoing, nothing herein shall preclude Grantor's and Grantee's rights to pursue any third party for damages to the Premises from vandalism, trespass, or any other violation of the terms of this Conservation Restriction. The parties to this Conservation Restriction agree that in the event of damage to the Premises from acts beyond the Grantor's control, that if it is desirable that the Premises be restored, the parties will cooperate in attempting to restore the Premises if feasible.

H. Duration and Assignability. The burdens of this Conservation Restriction shall run with the Premises in PERPETUITY and shall be enforceable against Grantor, its successors and assigns holding any interest in the Premises. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; and Grantor on behalf of its successors and assigns, appoints Grantee as its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, Grantor and its successors and assigns agree themselves to execute any such instrument upon request.

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

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- (i) as a condition of any assignment, Grantee requires that the purpose of this Conservation Restriction continue to be carried out,
- (ii) that the assignee is not an owner of the fee in the Premises,
- (ii) the assignee, at the time of assignment, qualifies under Section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the Massachusetts General Laws as a donee eligible to receive this Conservation Restriction directly; and,
- (iii) Grantee complies with the provisions required by Article 97 of the Amendments

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to the Constitution of the Commonwealth of Massachusetts, if applicable.

I. Subsequent Transfers. Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other recordable legal instrument by which Grantor conveys any interest in all or a portion of the Premises, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least twenty (20) days prior to the date of such transfer. Any transfers shall receive prior approval by Grantee to assure that the Premises is transferred to a qualified conservation organization. Failure of Grantor to do either shall not impair the validity of this Conservation Restriction or limit its enforceability in any way. Any transfer will comply with Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, if applicable.

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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.

J. Termination of Rights and Obligations. Notwithstanding anything to the contrary contained herein, the rights and obligations under this Conservation Restriction of any party holding an interest in the Premises terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to the transfer, and liability for the transfer itself if the transfer is a violation of this Conservation Restriction, shall survive the transfer.

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

L. Amendment. If circumstances arise under which an amendment to or modification of this Conservation Restriction would be appropriate, Grantor and Grantee may by mutual consent amend in writing the applicable term or provision hereof provided that the amendment complies with the then-applicable requirements of Article 97 of the Amendments to the Constitution of the Commonwealth of Massachusetts, Massachusetts General Laws, Chapter 184, Sections 31-33, or any successors thereto, and the Conservation Restriction Program of the Town of Harwich, or any successors thereto, and provided that any such amendment, together with any approvals necessary to its effectiveness, including that of the Massachusetts Secretary of Energy and Environmental Affairs, shall be recorded with the Barnstable County Registry of Deeds. 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. Any amendment shall be consistent with the purposes of this Conservation Restriction, shall not diminish the conservation values of the Premises, shall not affect its perpetual duration, and shall comply with any gifts, grants or funding requirements.

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M. Miscellaneous Provisions.



*CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA*

- 1) Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.
- 2) Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of its purposes and the purposes of Massachusetts General Laws Chapter 184, Sections 31 through 33. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.
- 3) Severability. If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.
- 4) Entire Agreement. This obligation sets forth the entire agreement of the parties with respect to the Conservation Restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.
- 5) Joint Obligation. The obligations imposed by this Conservation Restriction upon any parties that from time to time together comprise "Grantor" shall be joint and several.
- 6) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
- 7) 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 first having 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 hereunder and is eligible to receive this Conservation Restriction under Section 32 of Chapter 184 of the General Laws of the Commonwealth of Massachusetts in order to ensure that merger does not occur and that this Conservation Restriction continues to be enforceable by a non-fee owner.
- 8) Excise. No Massachusetts deed excise tax stamps are required by Chapter 64D, Section 1, as a municipality is a party to this instrument.
- 9) Pre-existing rights: Approval of this Conservation Restriction pursuant to Massachusetts General Laws Chapter 184, Section 32 by any municipal officials, the Secretary of the Executive Office 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.
- 10) Subordination. The Grantor shall record at the appropriate Registry of Deeds simultaneously with this Conservation Restriction all documents necessary to

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CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

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. The Grantor agrees to subordinate all liens, mortgages, construction loans and home equity lines of credit to this Conservation Restriction.

N. 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: Trustees of Harwich Conservation Trust  
P.O. Box 101  
South Harwich MA 02661

To Grantee: Town of Harwich Conservation Commission  
Town Hall, Main Street  
Harwich MA 02645

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

O. 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 General Laws have been obtained, and it has been recorded in a timely manner in the Barnstable Registry of Deeds. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Conservation Restriction is recorded in the official records of the Barnstable County Registry of Deeds, after all signatures required by Section 32, Chapter 184 of the Massachusetts General Laws have been affixed hereto. This document shall be recorded in a timely manner upon execution by all parties.

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

Signature pages:

Grantor: Trustees of Harwich Conservation Trust  
Grantee Acceptance: Town of Harwich Conservation Commission  
Approval: Town of Harwich Selectmen  
Approval: Secretary of Energy and Environmental Affairs

Exhibits:

Exhibit A: Legal description of Premises  
Exhibit B: Sketch plan of Conservation Restriction  
Exhibit C: Town Meeting Vote  
Exhibit D: Sketch showing location of parking area

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*CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA*

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CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

In Witness Whereof, on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, The Trustees of  
the Harwich Conservation Trust hereby grants the foregoing Conservation Restriction to the  
Town of Harwich acting by and through its Conservation Commission.

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**Grantor:**  
**Harwich Conservation Trust**  
**By its Trustees,**

\_\_\_\_\_  
Thomas M. Evans, President/ Trustee

\_\_\_\_\_  
Colin A. Leonard

\_\_\_\_\_  
Donna J. Peterson

\_\_\_\_\_  
Edward Rubel

\_\_\_\_\_  
Patti A. Smith

\_\_\_\_\_  
Andrea Silbert

\_\_\_\_\_  
Matthew Cushing

\_\_\_\_\_  
Bruce Nightingale

\_\_\_\_\_  
Nancy Poor

\_\_\_\_\_  
Jonathon Idman

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. \_\_\_\_\_, 2019

Then personally appeared the above-named Thomas M. Evans, President and Trustee of the Harwich Conservation Trust, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document, and acknowledged he is duly authorized to act on behalf of said Trust, and further acknowledged the foregoing instrument to be his free act and deed on behalf of said Trust, before me.

\_\_\_\_\_  
Notary Public  
My commission expires:



CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

ACCEPTANCE

The Town of Harwich, acting by and through its Conservation Commission pursuant to the provisions of G.L. c. 40, §8C, and c. 184, §§31-33, hereby accepts the foregoing Conservation Restriction from the Trustees of the Harwich Conservation Trust on this \_\_\_ day of \_\_\_\_\_, 2019.

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TOWN OF HARWICH  
CONSERVATION COMMISSION

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned Notary Public, personally appeared the above-named \_\_\_\_\_, Chairman of the Conservation Commission, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that he/she signed it voluntarily for its stated purpose on behalf of the Town of Harwich.

\_\_\_\_\_  
Notary Public  
My commission expires:

APPROVAL OF GRANT BY SELECTMEN

At a public meeting duly held on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, the Board of Selectmen of the Town of Harwich, Massachusetts votes and hereby approves, in the public interest, pursuant to Chapter 293 of the Acts of 1998, as amended, and Article 56 of the Annual Town Meeting held on May 7, 2018, and also pursuant to Massachusetts General Laws Chapter 184, Section 32, the grant of the foregoing Conservation Restriction from the Trustees of the Harwich Conservation Trust.

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TOWN OF HARWICH  
By its Board of Selectmen

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned Notary Public, personally appeared the above-named \_\_\_\_\_, member of the Harwich Board of Selectmen, and proved to me through satisfactory evidence of identification, which was personal knowledge of identity, to be the person whose name is signed on the document and acknowledged to me that he/she/they signed it voluntarily for its stated purpose on behalf of the Town of Harwich.

\_\_\_\_\_  
Notary Public  
My commission expires:

CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

APPROVAL OF SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS

The undersigned, Secretary of Executive Office of Energy and Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction from the Harwich Conservation Trust to the Town of Harwich acting by and through its Conservation Commission has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32.

Dated: \_\_\_\_\_, 2019

\_\_\_\_\_  
MATTHEW A. BEATON  
Secretary of Energy and Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me, the undersigned notary public, personally appeared MATTHEW A. BEATON, 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:

CONSERVATION RESTRICTION  
on land owned by  
The Trustees of the Harwich Conservation Trust  
in Harwich, Massachusetts

**EXHIBIT A**

Description of the Premises

The Premises land subject to this Conservation Restriction, referred to herein as the Premises, is comprised of the entirety of four parcels of land located in the Town of Harwich, Barnstable County, Commonwealth Massachusetts, containing approximately 14.9 acres, more or less, as described in a deed recorded at Book 30652 Page 193 in Barnstable County Registry of Deeds, and which Premises is shown as Lot S-1 on the compiled plan of land attached hereto in Exhibit B, according to survey, and

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*CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA*

the dwelling house, barn and all other buildings thereon, being the homestead of the late Heman Bassett, bound as follows:

Beginning at the Southeast corner of the premises at a ditch at the County Road, known as "Queen Ann Road";  
Thence Northerly by said ditch to Briar's Pond;  
Thence Northerly and Westerly by said pond to range now or formerly of the heirs of Cornelius Eldridge;  
Thence Westerly in said heir's range to a road and in same course across said road in range of land now or formerly of Vincent Bassett to a stake and stones;  
Thence Southerly in said Bassett's range to a stake and stones standing by the road first mentioned;  
Thence Easterly by said road to the first mentioned bound;

Containing about eight acres, more or less, subject nevertheless to a right in Heman E. Bassett, his heirs and assigns to take water from said pond and to maintain an engine house and flowing plant on said premises and at the point where same is now located and to maintain a ditch and flow water from said plant through said premises, all for the purpose of flowing and flooding the cranberry bog south of said county road.

AND

The land in Harwich, in said County of Barnstable, described as follows:  
A lot of cleared land, being formerly the homestead lot of Cornelius Eldridge, bounded and described as follows:

On the south by land now or formerly of Heman Bassett's heirs;  
On the west by land now or formerly of said Heman Bassett's heirs and land of Levi Rogers;  
On the north by land now or formerly of Levi Rogers, heirs of Mulford Young and others; and  
On the east by cranberry bog now or formerly of Frederick A. and Herbert F. Eldridge and Briar's Pond, so-called, together with the dwelling house and all other buildings standing thereon, containing about seven acres, more or less.

Also a certain piece of rough swamp on the North side of the pond near the dwelling house of Cornelius Eldridge bounded as follows:

On the Northeast by cranberry bog formerly of John H. Drum;  
On the Southeast by the pond aforesaid;  
On the Southwest by cranberry bog now or formerly of Herbert F. and Frederick A. Eldridge; and  
On the Northwest by upland now or formerly of John T. Gonsalves, together with a strip of upland 30 feet wide, containing one acre, more or less.

Also a certain piece of bog bounded as follows:  
On the East by the pond;  
On the Southwest and North by land formerly of Cornelius Eldridge;  
Containing eighty rods, more or less, see deed of Cornelius Eldridge to Frederick A. Eldridge, dated December 18, 1905, Book 286, Page 281, with the said right mentioned in said deed.

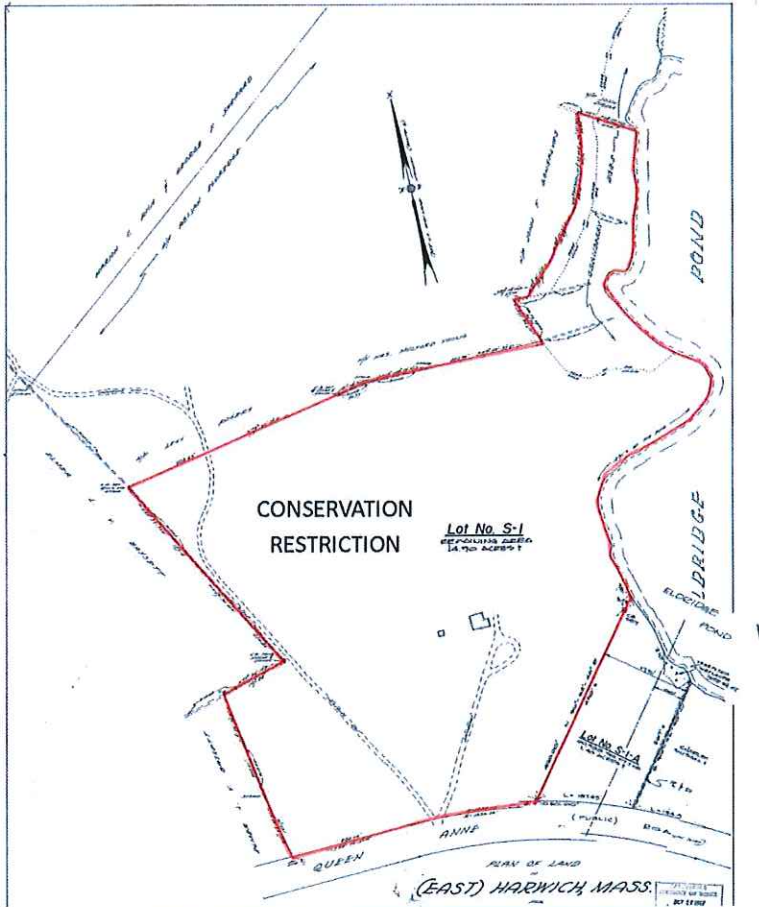
Said premises are conveyed together with the benefit of and subject to all rights, easements, privileges, restrictions and reservations of record, insofar as the same may now be in force and applicable.

All as shown on that plan recorded in Plan Book 215, Page 47 of said Barnstable Registry with the exception of Lot # S-1-A on Plan Book 430, Page 18 which was previously conveyed by deed dated December 30, 1986 and recorded in Book 5589, Page 99.

Street Address: 588 Queen Anne Road, Harwich, MA

For Grantor's title, see Deed recorded in the Barnstable County Registry of Deeds in  
Book \_\_\_\_\_ Page \_\_\_\_\_.

**EXHIBIT B**  
**Sketch Plan of Premises**



COMPILATION PLAN of Plan Book 215-47 and 430-18, showing Lot S-1, 14.90 acres as conveyed in Deeds Book 30652 Page 193

EXHIBIT C

Attested Copy of Town Meeting Vote  
Article 56 of the Annual Town Meeting held on May 7, 2018

**Town of**  
Anita N. Doucette, MMC/CMMC  
Town Clerk



**Harwich**  
732 Main Street  
Harwich, Massachusetts 02645  
Tel. 508-430-7516

**TOWN OF HARWICH  
ANNUAL TOWN MEETING  
MAY 7, 2018**

**PURCHASE OF CONSERVATION RESTRICTION FOR 15 ACRES  
AT CORNELIUS POND (AKA ELDRIDGE POND)**

**ARTICLE 56:** To see if the Town will vote to authorize the Board of Selectmen to acquire, by purchase, gift, and/or eminent domain, a perpetual conservation restriction pursuant to the provisions of G.L. c.184, §§31-33, for open space and watershed protection purposes under the provisions of G.L. c. 40, §8C, on certain parcels of land situated on Cornelius Pond off of 588 Queen Anne Road in Harwich, containing 15 acres, more or less, in the aggregate, which parcels are shown as the land in Plan Book 215, Page 47, except Lot S-1 on Plan Book 430, Page 18, and further described in a deed recorded with said Deeds in Book 30652, Page 193, with the care, custody, control and management of such conservation restriction to be vested with the Conservation Commission; and/or estimated annual revenues under G.L. c.44B, the so-called Community Preservation Act, the sum of \$200,000 for the foregoing acquisition and costs incidental or related thereto, including, without limitation, costs of appraisals and closing costs; to authorize the Board of Selectmen and the Conservation Commission to apply for, accept, and expend any grants and/or reimbursement of funds which may be provided by the Commonwealth of Massachusetts to defray all or a portion of the foregoing costs, including, but not limited to, funding under the Self-Help Act (G.L. c.132A, §11), the Federal Land & Water Conservation Fund (P.L. 88-568, 78 Stat 897), and/or other federal and state programs in any way related to the scope of this article, and, further, to authorize the Board of Selectmen and/or Conservation Commission to enter into all agreements and execute any and all instruments as may be necessary or convenient to effectuate the foregoing purposes; provided that any funds left unspent from this Article are to be returned to the Community Preservation Act Funds -Open Space, and to act fully thereon. By request of the Community Preservation Committee, Harwich Conservation Trust and the Real Estate and Open Space Committee. Estimated cost: \$200,000.

OS-11 CORNELIUS POND WOODLANDS PROJECT. PASSED 7 TO 0.

FINANCE COMMITTEE RECOMMENDS THIS ARTICLE BE ACCEPTED AND ADOPTED AND THAT \$200,000 BE TRANSFERRED FROM COMMUNITY PRESERVATION ACT FUNDS FOR THIS PURPOSE BY REQUEST OF THE CPC.  
VOTE: YES-5, NO-0.

A TRUE COPY ATTEST:  
*Anita N. Doucette*

TOWN CLERK OF  
HARWICH, MASS.

JAN 29 2019

CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA


**Article 56:**

Refer to Community Preservation Report under Article 48

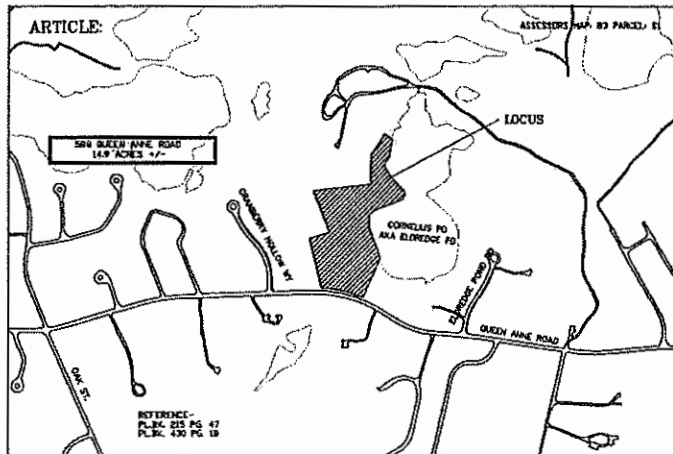
**MOTION:** (Jack Brown, Chairman, Finance Committee) I move that this article be accepted and adopted as printed in the warrant and that \$200,000 be transferred from community preservation act funds – Open Space reserve of \$90,005 and \$109,995 from FY 19 Estimated Annual Revenue for this purpose. Duly seconded

**ACTION:** This motion required a 2/3 majority vote to pass, it was a unanimous vote, so declared.

A true copy:

Attest:   
Anita N. Doucette, MMC/CMMC  
Town Clerk

JAN 29 2019

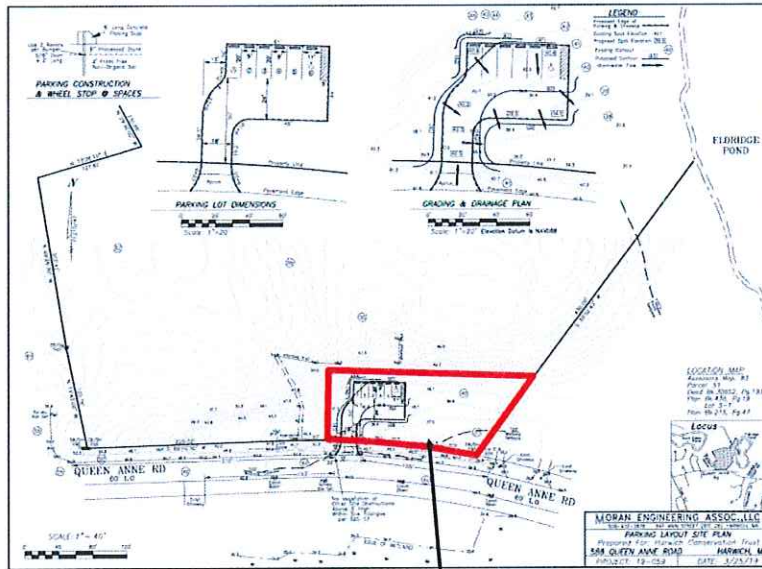


Article 56



CORNELIUS POND WOODLANDS CONSERVATION RESTRICTION  
Harwich MA

EXHIBIT D



Area described in paragraph B.13