

## WHAT IS THE MORAINE FARM CONSERVATION RESTRICTION?

### **What is a Conservation Restriction?**

A conservation restriction is a legal document by which a landowner (or “grantor” in legal terms) conveys a partial interest in land to a qualified conservation organization or public agency (known as a “grantee” or “holder” of the conservation restriction). By granting a conservation restriction, a landowner agrees to forgo or limit future development and use of the property in order to preserve identified conservation values—the particular features or qualities of the property that are to be protected. These might include wildlife habitat, scenic views, agricultural land, watershed protection lands or other important resources.

A conservation restriction is recorded in the chain of title of a property at the appropriate Registry of Deeds so all present and future owners have notice that the property is subject to the conservation restriction and that they are required to comply with its terms. The landowner continues to own the property and has the ability to sell or convey the property to anyone at any time, subject to the terms and conditions of the conservation restriction. The organization or agency, as “holder” of the restriction, assumes the responsibility of periodically monitoring the property to safeguard the conservation values and enforce compliance with the terms of the conservation restriction.

### **What is the Purpose of the Moraine Farm Conservation Restriction?**

Moraine Farm has been subject to a comprehensive conservation restriction since the early 1990s. The Conservation Restriction that burdens the property currently was amended and restated in 1999 to permit the kinds of non-profit educational uses that comprise the predominate uses on the property today. The purpose of the Moraine Farm Conservation Restriction, as stated in the document itself, is *to assure that the Property will be retained forever predominantly in its natural, scenic, historic, and agricultural condition for conservation, preservation, non-profit educational ... agricultural, and limited recreational purposes and to prevent any use of the Property that will significantly impair or interfere with the conservation, historic, agricultural, and scenic values (collectively, the "conservation values") of the Property.*

The conservation values of the property are described elsewhere in the document by reference to facts such as the following:

Moraine Farm, a property eligible for inclusion in the National Register of Historic Places, was designed in 1880-82 by landscape architect Frederick Law Olmsted collaborating with the architectural firm of Peabody & Stearns and is an intact example of the collaboration of a prominent architectural firm working in concert with America’s foremost landscape architect of the 19th century to design a gentleman’s country estate;

Moraine Farm provides to the public significant views of pastures, fields, woodlands, lakeshore and wetlands, and historic farm buildings as viewed from Cabot Street, Conant Street, and Route 1A and from adjacent public parkland;

Moraine Farm represents an historic example of agricultural and forest management practices;

Moraine Farm contains significant geological features, including eskers, drumlins, wetlands, and a scoured lake basin, and significant ground water protection for the Wenham Lake aquifer, which is part of the public water supply system for the Cities of Beverly and Salem;

Moraine Farm constitutes a natural continuation of the wildlife habitats and shoreline afforded by the adjacent publicly-owned J.C. Phillips Nature Preserve, an 83-acre parcel of land purchased for conservation and watershed protection by the City of Beverly and the Commonwealth of Massachusetts; and

A point from the Middle Archaic period (6000 b.p.) has been found on the Property, and there is a high likelihood of finding additional Native American artifacts on the Property.

### **How Does the Moraine Farm Conservation Affect CAWS?**

The Moraine Farm Conservation Restriction limits the kinds of new development that can occur on the CAWS site in the future. The nature of these restrictions must be understood by reference to the document itself, as well as the years of correspondence with the grantees (The Trustees of Reservations and Essex County Greenbelt Association).

In brief summary, the restrictions applicable to CAWS provide as follows:

- All “structures and facilities” must be located within the two designated “building envelopes.”
- All new buildings and structures are subject to design review to ensure that their location and design do not detract from the “historic, scenic, and conservation values” of the Property.
- There is a limit on the size of the buildings that can be built:
  - Lot 8: no more than 12,000 square feet of “useable floor area.”
  - Lot 2A: 4,000 square feet of “floor area”—but a larger building may be allowed if it has no greater impact on historic, scenic, and conservation values.

- Grading and pavement generally are not allowed outside of building envelopes, except as necessary for access to the building envelopes. Driveways and pathways can be located outside the building envelopes.
- Parking areas must be located within building envelopes. (The current overflow parking area is a temporary exception; that parking area is expected to be relocated to the Lot 2A building envelope when Lot 2A is developed).
- Within building envelopes, there are no restrictions on landscape alterations. Outside the building envelopes, vegetation management (tree pruning, removal of invasive plants etc.) is generally allowed, and other landscape alterations may be permitted. In some locations, landscape alterations may be required to be consistent with the Landscape Management Plan.
- The CR and the Landscape Management Plan are intended to protect scenic views. School buildings should be screened from the Main Carriage Drive to the extent practicable and feasible. Any building on Lot 2A must be “substantially invisible” from the adjacent Olmsted Field.

### **Can I Read the Conservation Restriction?**

The Conservation Restriction is a public document recorded at the registry of deeds. A copy of it is available [here](#). Please keep in mind that the Conservation Restriction is a complex document and it should be consulted directly, preferably with the aid of legal counsel, whenever new improvements are proposed. It should also be remembered that prior approvals, estoppels and similar documents from the Grantees affect how it is interpreted and administered.