



DEED OF CONSERVATION EASEMENT

THIS DECLARATION OF CONSERVATION EASEMENT ("Easement") is made this 14 day of June, 2007 by and between

OLE HANSEN & SONS, INC., having offices at 523 South Leipzig Avenue, Cologne, New Jersey 08213 (hereinafter referred to as "Grantor") and

STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION and **TOWNSHIP OF GALLOWAY**, a municipal corporation within the County of Atlantic, State of New Jersey and having an address of 300 East Jimmie Leeds Road, Galloway, New Jersey 08205 (hereinafter referred to as "Grantees").

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property (hereinafter referred to as the "Property") known and designated as Block 453, Part of Lots 2 and 11; Block 455, Part of Lots 1, 2 and 11; Block 456, Part of Lots 1, 2, 4, 5, 6, 7, 8 and 9 and Block 457, Part of Lot 3.04 on the official tax map of the Township of Galloway, County of Atlantic, State of New Jersey; and

WHEREAS, the Grantees consist respectively of a principal department in the Executive Branch of State Government charged with the responsibility to formulate comprehensive policies for the conservation of the natural resources of the State, including protection of threatened and endangered species and their associated habitat, the promotion of environmental protection and the prevention of pollution of the environment of the State (N.J.S.A. 13:1D-9) and a municipal body whose intent is to preserve and protect certain lands within the municipality that constitute critical habitat for threatened and endangered species; and

WHEREAS, Ole Hansen & Sons, Inc. submitted an application to the New Jersey Pinelands Commission (hereinafter referred to as "Pinelands Commission") for approval of a residential subdivision on the Property, said application having been assigned Pinelands Application No. 87-0690.19; and

WHEREAS, a portion of the Property has been determined by the Pinelands Commission to contain habitat critical to the survival of a local population of the Redheaded Woodpecker, a threatened species. A "Habitat Protection Area" has been established on a portion of the Property as depicted on Exhibit A attached hereto and described by metes and bounds on Exhibit B attached hereto; and

WHEREAS, pursuant to the terms of the requirements of the Comprehensive Management Plan for the Pinelands so as to protect a threatened and endangered species as more specifically discussed in that certain Certificate of Filing dated May 13, 2005 from Charles M. Horner, P.P., Director of Regulatory Programs, to Daniel J. Galletta of Grantor, the Grantor has agreed to execute this deed restriction prohibiting any development, as defined in the Pinelands Comprehensive Management Plan, from occurring in, on and/or under the Habitat Protection Area; and

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INST# 2007052544
REC FEES 300.00
RECD BY: [unclear]

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WHEREAS, the Grantees consist respectively of a principal department in the Executive Branch of State Government charged with the responsibility to formulate comprehensive policies for the conservation of the natural resources of the State, including protection of threatened and endangered species and their associated habitat, the promotion of environmental protection and the prevention of pollution of the environment of the State (N.J.S.A. 13:1D-9) and a municipal body whose intent is to preserve and protect certain lands within the municipality that constitute critical habitat for threatened and endangered species; and

WHEREAS, Ole Hansen & Sons, Inc. submitted an application to the New Jersey Pinelands Commission (hereinafter referred to as "Pinelands Commission") for approval of a residential subdivision on the Property, said application having been assigned Pinelands Application No. 87-0690.19; and

WHEREAS, a portion of the Property has been determined by the Pinelands Commission to contain habitat critical to the survival of a local population of the Redheaded Woodpecker, a threatened species. A "Habitat Protection Area" has been established on a portion of the Property as depicted on Exhibit A attached hereto and described by metes and bounds on Exhibit B attached hereto; and

WHEREAS, pursuant to the terms of the requirements of the Comprehensive Management Plan for the Pinelands so as to protect a threatened and endangered species as more specifically discussed in that certain Certificate of Filing dated May 13, 2005 from Charles M. Horner, P.P., Director of Regulatory Programs, to Daniel J. Galletta of Grantor, the Grantor has agreed to execute this deed restriction prohibiting any development, as defined in the Pinelands Comprehensive Management Plan, from occurring in, on and/or under the Habitat Protection Area; and

WHEREAS, the Grantor desires and intends to prohibit development activities in and/or under the Habitat Protection Area in perpetuity pursuant to the terms, covenants, condition and restrictions set forth herein; and

WHEREAS, Grantor desires and intends that once this Habitat Protection Area has been created through this Easement, this area shall be maintained in perpetuity and the property shall be used, occupied and conveyed subject to and benefited by the Habitat Protection Area and the terms covenants, conditions and restrictions hereinafter set forth; and

WHEREAS, the purposes of this Easement include, but are not limited as follows:

- (a) That the lands subject to this Easement be protected in their natural, scenic, open and existing state in perpetuity, subject only to the specific rights reserved to the Grantor herein;
- (b) that the natural features of the Habitat Protection Area shall be respected and preserved to the maximum extent practicable consistent with Grantor's exercise of the rights expressly reserved to Grantor by the terms of this Easement;
- (c) that the Habitat Protection Area be forever protected and preserved in its natural, scenic and existing state free from all activities that might damage, compromise or interfere with its ecological diversity, natural beauty or resource quality, with the natural processes occurring therein; and
- (d) that the future uses of the Habitat Protection Area be confined to such activities as are not inconsistent with the said purposes or with the terms, conditions and restrictions of this Easement.

NOW THEREFORE, in consideration of the foregoing and the agreements, terms, covenants, conditions and restrictions contained herein, the Grantor, for itself, its successors and assigns, hereby voluntarily grants, bargains, conveys, transfers and assigns to Grantees, their successors and assigns, in perpetuity, the conservation easements and restrictions described herein and agrees that the Habitat Protection Area is hereby made and declared to be subject to the terms, covenants, conditions, and restrictions contained herein;

1. The following activities shall not be conducted, performed or take place in, on and/or under the Habitat Protection Area:

- (a) Structure. The construction, building installation, placement, erection, assembly, manufacture, fabrication, alteration, enlargement, renovation or replacement of any structure or structures in, on, or above or beneath the surface of the Property;
- (b) Surface Alteration or Other Land Disturbance. Any disturbance or alternation of the surface topography and natural features of the Habitat Protection Area;

- (c) Clearing, Cutting or Destruction of Vegetation. Clearing, cutting, destruction or removal of any tree cover, tree limbs, trees, shrubs, plants, vegetation or other plant material; except that (a) dead, fallen, diseased or infected tree limbs or other vegetation that pose a health or safety hazard may be trimmed or removed, and (b) non-native vegetation may be controlled;
 - (d) Invasive Plant Species. The planting of any invasive or non-native plant species;
 - (e) Refuse and Offensive Materials. Processing, storage, disposal, spreading, placing or dumping of refuse, rubbish, debris, dredge spoils, chemicals, hazardous materials, animal waste, fertilizers, herbicides, pesticides, fungicides, abandoned vehicles or other refuse or offense materials;
 - (f) Placement of Soils or Fill Materials. Placement, installation, dumping, side casting of any soils or other substances or materials as fill or the stockpiling of soils or other substances or materials on the Habitat Protection Area;
 - (g) Motorized Vehicles. Use of the Habitat Protection Area by automobiles, trucks, all-terrain vehicles, trail bikes, motorcycles, snowmobiles or other motorized vehicles;
 - (h) Commercial or Industrial Uses. Use of the Habitat Protection Area for commercial or industrial uses;
 - (i) Mining and Resource Extraction. Mining, quarrying, drilling extraction, excavation, dredging, extraction or otherwise removing loam, peat, turf, soil, gravel, sand, coal, rock, mineral, petroleum, natural gas or other natural resources from the Habitat Protection Area; and
 - (j) Other Activities. Other activities, uses, disturbances or development that could be detrimental to continuation of the Habitat Protection Area in its natural state.
2. Grantor agrees to leave the Habitat Protection Area unmolested and in its natural state. A Habitat Protection Area has been established on this portion of the Property as depicted on Exhibit A attached hereto and described by metes and bounds on Exhibit B. In addition, the Habitat Protection Area shall include the area shown on Exhibit A as the perimeter buffers referred to as buffers "A" through "H" described by metes and bounds on Exhibit C attached hereto (19 pages) and shown on Exhibit A as the perimeter areas "A" through "H".
3. Notwithstanding any provision of this Easement to the contrary, the Grantor may engage in such soil and water conservation practices or habitat restoration projects with the Habitat Protection Area as may be necessary or appropriate, provided that such activities further the goals intended to be achieved by this Easement and protect the Habitat Protection Area. The Grantor may also use and allow the Habitat Protection Area to be used for passive recreational activities (as defined herein), such as nature study and observation, and hiking. Recreational activities other than passive recreational activities shall not be permitted. The scope and frequency of, number of participants in, and the manner of carrying out such passive

recreational activities shall be limited as necessary to ensure that they do not result in damage to, or degradation of, the Habitat Protection Area. In addition, Grantees acknowledge and confirm that the portion of the Habitat Protection Area described on Exhibit C and shown on Exhibit A as the perimeter buffer has been previously disturbed, and Grantor shall be permitted to install and maintain paths as shown on the approved site and subdivision plans.

4. Notwithstanding any provision of this Easement to the contrary, the Habitat Protection Area is permitted to be used in accordance with the requirements of N.J.A.C. 7:50-6.124 as a fire hazard fuel break.
5. Notwithstanding any provision of this Easement to the contrary, in the event that it is not feasible to locate sanitary sewer and/or potable water service to the Property outside of the Habitat Protection Area, Grantor may construct one sanitary sewer main and/or one potable water main within the Habitat Protection Area provided that Grantor can demonstrate, to the satisfaction of the New Jersey Pinelands Commission, that installation of one sanitary sewer main and/or one potable water main will not have an irreversible adverse impact on habitat critical to the survival of the local population of Redheaded Woodpeckers and provided that such sanitary sewer main and/or potable water main are:
 - (a) Sites in such manner as to result in the minimum possible intrusion into and disturbance to the Habitat Protection Area;
 - (b) constructed in a manner that will result in the minimum possible area of disturbance within the Habitat Protection Area; and
 - (c) constructed so that both mains will be placed within the same area of disturbance and with the minimum separation permitted by the New Jersey Department of Environmental Protection.
6. To accomplish the purposes of this Easement, the Grantor grants the following rights to the Grantees, their employees, agents, representatives, successors and assigns and to the New Jersey Pinelands Commission, which is a special beneficiary of the Easement, its employees, agents, representatives, successors and assigns:
 - (a) To have access and enter upon the Habitat Protection Area at all reasonable times to inspect the Habitat Protection Area and enforce the terms of this Easement; provided, however, that except in cases in which immediate entry is required to prevent, terminate or mitigate any violation of this Easement, such entry shall be made upon prior notice to the Grantor.
 - (b) In addition to the exercise of any statutory or common law right, to enforce this Easement by means of any remedy provided for herein or available at law or equity, including but not limited to, enjoining any activity on, or use of, the Habitat Protection Area that is inconsistent with the purpose of this Easement.

- (c) To require Grantor or third persons to restore the Habitat Preservation Area, or any portion thereof, as may be damaged by an inconsistent use or activity.
 - (d) To protect and preserve the Conservation Area, and in connection therewith, to determine the consistency of any activity or use of which no express provision is made herein with the purposes of this Easement.
7. Grantor intends that enforcement of the terms, covenants, conditions, and restrictions of this Easement shall be to the discretion of the Grantees and the New Jersey Pinelands Commission, which is a special beneficiary of the Easement, their successors or assigns, and that any forbearance on behalf of the Grantees or the New Jersey Pinelands commission, their successors or assigns, to exercise their rights hereunder in the event of any breach by the Grantor or third person shall not be deemed or construed to be a waiver of the Grantee' or the New Jersey Pinelands Commission's rights granted hereunder in the event of any subsequent breach, regardless of the number of breaches or the length or time this Easement remains unenforced.
 8. Grantor reserves to itself, its successors or assigns, all rights associated with ownership of the Property, including the right to engage in all uses of the Property not inconsistent with the terms, covenants, conditions, and restrictions of this Easement. In addition, any use of the Property or the Habitat Protection Area shall adhere to the requirements of the certified municipal land use ordinances and the Pinelands CMP.
 9. No rights of access by the general public to any portion of the Property is conveyed by this instrument.
 10. The terms, covenants, conditions and restrictions of this Easement shall run with the land and shall be binding, in perpetuity, upon the Grantor, its successors or assigns, and all entities having or acquiring any right, title or interest in the Habitat Protection Area, or any portion thereof.
 11. This instrument shall be recorded in the office of the Clerk of Atlantic County and a reference to this instrument shall be contained in a separate paragraph of any future deed, lease, sublease, document of the transfer or conveyance or any other legal instrument that include or affect the Habitat Protection Area, or any portion thereof. Grantor shall give written notice to the Grantees and the New Jersey Pinelands Commission of any transfer or conveyance of interest in the Property prior to or within ten (10) days following such transfer or conveyance. Such notice shall include the name and address of the Grantee of such interest. Grantor shall provide a copy of this instrument to all subsequent grantees of a fee simple interest in any part or all of the Property. The failure of the Grantor to perform any act required by this paragraph shall not impair the validity of this instrument or limit its enforceability in any way.
 12. The Easement created herein is subject to the provisions of the New Jersey Conservation Restriction and Historic Preservation Restriction Act, N.J.S.A. 13:8B-1, et seq.

13. If any provision of this Easement is held invalid as a result of its conflict with any federal, state, or local law, regulation, or the requirements, statutory or administrative, the remainder of this Easement shall not be affected thereby.
14. The following exhibits are annexed hereto and shall form a part of this Easement:

- Exhibit A: Plot Plan of Environmental Easements
 Exhibit B: Metes and Bounds Description as to Habitat Protection Area
 Exhibit C: Metes and Bounds Description as to 100' Perimeter Buffer Area

IN WITNESS WHEREOF, the Grantor, intending to be legally bound, has executed this Easement on the day and year first above written, and directs that this Easement be recorded in the office of the Atlantic County Clerk.

OLE HANSEN & SONS, INC.

By: David M. Goddard
 David M. Goddard, President & CEO

STATE OF NEW JERSEY)
) SS.
 COUNTY OF ATLANTIC)

BE IT REMEMBERED that on this 14 day of June, 2007, before me the subscriber, a Notary Public, personally appeared David M. Goddard who, I am satisfied, is the person who signed the within instrument as President and Chief Executive Officer of Ole Hansen & Sons, Inc., the corporation named therein and he/she thereupon acknowledged that the said instrument made by the corporation and sealed with its corporate seal, was signed, sealed with the corporate seal and delivered by him/her as such officer and is the voluntary act and deed of the corporation, made by virtue of authority from its Board of Directors.

Susan M. Ficken
 Notary Public

SUSAN M. FICKEN
 NOTARY PUBLIC OF NEW JERSEY
 My Commission Expires Oct. 3, 2009

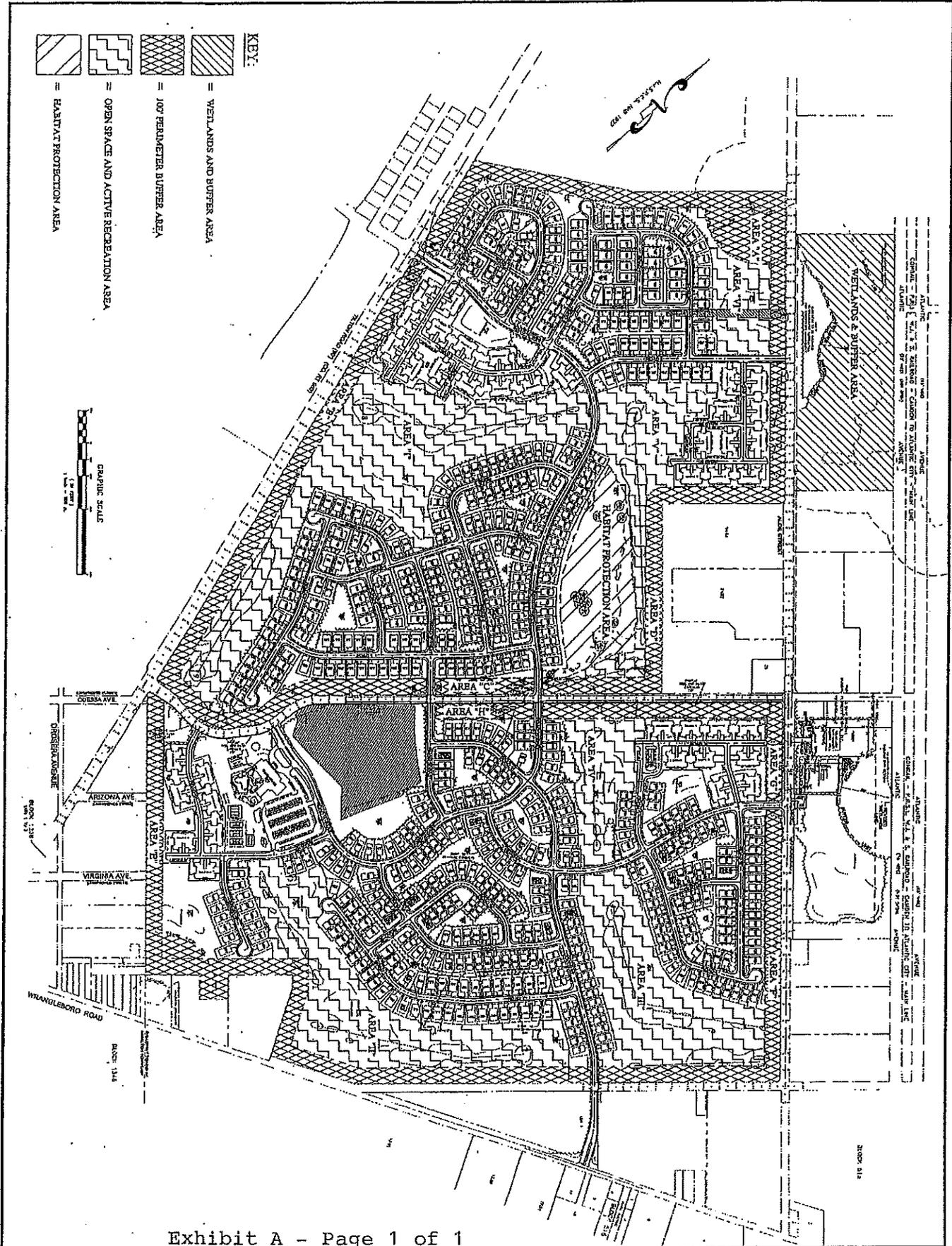


Exhibit A - Page 1 of 1



adams, rehmman & heggan
associates, inc.
reply to hammonton

**HABITAT PRESERVATION AREA (WOODPECKER)
BLOCK 455 PART OF LOT 1
TOWNSHIP OF GALLOWAY, COUNTY OF ATLANTIC
STATE OF NEW JERSEY**

ALL THOSE CERTAIN RIGHTS, restrictions, or conditions for a conservation / restriction easement of a Habitat Preservation Area across a strip of land situate in the Township of Galloway, County of Atlantic, and State of New Jersey as shown on a plan entitled "Major Subdivision Plan of Blue Heron Pines East; Block 455 Lots 1, 2, & 3; Block 456 Lots 2, 3.01, 4, & 5", prepared by Adams, Rehmann, & Heggan Associates, Inc.; dated 24th May 2005, revised to September 13, 2006, filed or about to be filed at the Atlantic County Clerk's Office; and being more particularly described as follows:

BEGINNING at a point in the northeasterly division line between Lot 1 and Lot 2 in Block 455 where the most southeasterly line of this Habitat Preservation Area easement line intersects the same, said point being the following courses from where said division line of Lot 1 and Lot 2 intersects the northwesterly line of Odessa Avenue (50 foot wide public right of way), along the curved division line of lots, curving to the right with a radius of 25.00 feet, subtending an arc of 90 degrees 00 minutes 00 seconds, an arc distance of 39.27 feet; thence, North 48 degrees 05 minutes 34 seconds West, along said division line of lots, a distance of 56.61 feet to most southeasterly line of this Habitat Preservation Area easement line, and runs along said Habitat Preservation Area easement line; thence;

1. Along said Habitat Preservation Area easement line, North 41 degrees 30 minutes 59 seconds East, a distance of 29.92 feet; thence
2. Along same, North 30 degrees 06 minutes 55 seconds East, a distance of 135.81 feet; thence
3. Along same, North 18 degrees 01 minutes 48 seconds East, a distance of 220.16 feet; thence
4. Along same, North 13 degrees 13 minutes 54 seconds East, a distance of 83.13 feet; thence
5. Along same, North 35 degrees 01 minutes 16 seconds East, a distance of 137.20 feet; thence
6. Along same, North 42 degrees 19 minutes 05 seconds West, a distance of 206.20 feet; thence
7. Along same, North 53 degrees 03 minutes 26 seconds West, a distance of 145.91 feet; thence

8. Along same, North 57 degrees 42 minutes 42 seconds West, a distance of 110.90 feet; thence
9. Along same, North 47 degrees 43 minutes 59 seconds West, a distance of 116.65 feet; thence
10. Along same, North 53 degrees 32 minutes 28 seconds West, a distance of 168.37 feet; thence
11. Along same, North 56 degrees 55 minutes 38 seconds West, a distance of 224.66 feet; thence
12. Along same, North 79 degrees 33 minutes 47 seconds West, a distance of 198.50 feet; thence
13. Along same, South 19 degrees 45 minutes 57 seconds East, a distance of 374.46 feet; thence
14. Along same, South 27 degrees 37 minutes 46 seconds East, a distance of 223.31 feet; thence
15. Along same, South 34 degrees 08 minutes 13 seconds East, a distance of 177.69 feet; thence
16. Along same, South 46 degrees 28 minutes 41 seconds East, a distance of 199.26 feet; thence
17. Along same, South 56 degrees 13 minutes 55 seconds East, a distance of 326.01 feet; thence
18. Along same, South 36 degrees 50 minutes 23 seconds West, a distance of 152.06 feet to a point in the division line between Lot 1 and Lot 2; thence
19. Along the same and along the division line between Lot 1 and Lot 2, South 48 degrees 05 minutes 34 seconds East, a distance of 62.19 feet to the most southeasterly line of this Habitat Preservation Area easement line and point and place of **BEGINNING**.

Containing 440,031 square feet or 10.10 acres more or less.

Date: December 12, 2006



Ed Clay, P.L.S.
N.J. License # 34842



adams, rehmann & heggan
associates, inc.
reply to hammonton

**CONSERVATION / RESTRICTION EASEMENT
PERIMETER BUFFER AREA and WETLANDS BUFFER "A"
BLOCK 453 PART OF LOT 2 & BLOCK 455 PART OF LOT 11
TOWNSHIP OF GALLOWAY, COUNTY OF ATLANTIC
STATE OF NEW JERSEY**

ALL THOSE CERTAIN RIGHTS, restrictions, or conditions for a conservation / restriction easement of a Perimeter Buffer Area and Wetlands Buffer "A", across a strip of land situate in the Township of Galloway, County of Atlantic, and State of New Jersey, said lots as shown on a plan entitled "Major Subdivision Plan for Blue Heron Pines East", prepared by Adams, Rehmann, & Heggan Associates, Inc.; dated 10th January 1997, filed April 20, 1999 as Map # 3192 in the Atlantic County Clerk's Office; and being more particularly described as follows:

BEGINNING at a point in the existing northeasterly line of Tilton Road, also known as Atlantic County Route # 563 (45.00 feet from centerline), where the division line between Lot 1 and Lot 2 in Block 453 intersects the same, and runs along said line of Tilton Road; thence;

1. Along said line of Tilton Road, South 16 degrees 25 minutes 21 seconds East, a distance of 604.52 feet to a point of curvature; thence
2. Passing into Lot 2 and along said Perimeter Buffer easement line, curving to the left with a radius of 25.00 feet, subtending an arc of 90 degrees 00 minutes 00 seconds, an arc distance of 39.27 feet to a point of tangency; thence
3. Along same, North 73 degrees 34 minutes 39 seconds East, a distance of 75.00 feet; thence
4. Along same, North 16 degrees 25 minutes 21 seconds West, a distance of 560.13 feet; thence
5. Along same, North 53 degrees 01 minutes 06 seconds East, a distance of 962.58 feet; thence
6. Along same, North 41 degrees 54 minutes 26 seconds East, a distance of 420.83 feet to a wetlands buffer line; thence

7. Along said Perimeter Buffer Area and Wetlands Buffer line, South 68 degrees 10 minutes 11 seconds East, a distance of 148.75 feet to a point of cusp; thence
8. Along same, curving to the left with a radius of 300.00 feet, subtending an arc of 53 degrees 47 minutes 50 seconds, an arc distance of 281.67 feet to a point of cusp; thence
9. Along same, North 58 degrees 02 minutes 06 seconds East, a distance of 34.15 feet to a point of cusp; thence
10. Along same, curving to the left with a radius of 300.00 feet, subtending an arc of 26 degrees 21 minutes 16 seconds, an arc distance of 137.99 feet to a point of cusp; thence
11. Leaving said wetlands buffer line and along said perimeter buffer line, South 48 degrees 05 minutes 34 seconds East, crossing Mannheim Avenue (50 feet wide – to be vacated) and passing into Lot 11 in Block 455, a distance of 551.95; thence
12. Along said perimeter buffer line, North 41 degrees 54 minutes 26 seconds East, a distance of 75.00 feet to a point of curvature; thence
13. Along said perimeter buffer line, curving to the left with a radius of 25.00 feet, subtending an arc of 90 degrees 00 minutes 00 seconds, an arc distance of 39.27 feet to the southwesterly line of Aloe Street, also known as Atlantic County Route # 686, (25.00 feet from centerline); thence
14. Along said line of Aloe Street, North 48 degrees 05 minutes 34 seconds West, a distance of 276.50 feet; thence
15. South 41 degrees 54 minutes 26 seconds West, a distance of 10.00 feet to the southwesterly line of Aloe Street as widened 35.00 feet from centerline thereof; thence
16. Along said line of Aloe Street, North 48 degrees 05 minutes 34 seconds West, a distance of 691.90 feet to where the division line between Lot 1 and Lot 2 in Block 453 intersects the same; thence
17. Along said division line of lots, South 41 degrees 54 minutes 26 seconds West, a distance of 920.00 feet to an angle in said line; thence
18. Still along said division line of lots, South 53 degrees 01 minutes 06 seconds West, a distance of 1022.15 feet to the northeasterly line of Tilton Road, and point and place of **BEGINNING**.

Exhibit C - Page 2 of 19
Containing 447,656 square feet or 10.28 acres more or less.

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Subject to existing sight triangle easements at the intersection of Mannheim Avenue and Aloe Street to Atlantic County.

Subject to an existing 30 foot wide utility easement to Galloway Township as recorded in Deed Book 6011 page 293.

Subject to Mannheim Avenue being vacated.

Date: December 12, 2006



Ed Clay, P.L.S.
N.J. License # 34842

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