

**Minutes of the Conservation Restriction Advisory Committee
December 16, 2008**

Present: Members – John Keating (Chair), Wayne Davis, Ken Harte, Jenifer Bush. Conservation Administrator Sylvia Willard. Marc Lamere (Planning Board & Trails Committee). Rob Tuchmann, Esq. (representing John & Betty Valentine).

John Keating called the meeting to order at 7:38 p.m.

John introduced Marc Lamere. Marc has been designated by the Planning Board as its representative to the Committee, though the appointment has not yet been approved by the Board of Selectmen.

The minutes of the November 13, 2008 meeting were approved, as amended.

CR 10 (Bartlett Farm). Wayne Davis stated that he had had some further thoughts following the discussion at the November 13 meeting regarding the Bartlett Farm CR. This was the first time that a prospective buyer of a property covered by a CR had requested to speak with the Committee regarding the restriction and possible amendments to it. Wayne stated that although he had originally concurred that it was a good idea for the prospective buyer to come before the Committee, he thought in hindsight that the discussion could have been handled differently. Specifically, he likened it to the situations in which a new purchaser has already acquired the property and the Committee wishes to meet the landowner to discuss the CR, or where the Committee has initial discussions with a potential donor of a CR. In both cases, the Committee's practice has been to have one or two members (*i.e.*, less than a quorum) meet informally with the landowner. Wayne suggested that this is a better approach for sharing of information and identification of issues and options. If a particular issue or question requires formal input or decision from the Committee, then it can be brought to a regular meeting.

Valentine CR. Mr. Tuchmann, representing Jack and Betty Valentine, explained that in reviewing the proposed CR, Irene DelBono of EOEEA had objected to the reserved right to place underground utilities (septic and wells) in 5 designated areas (total area of approximately 1.8 acreage) within the designated CR area. Ms. DelBono believes that any construction that takes place within a CR should do so within the designated building envelope. She therefore suggested that the building envelopes be expanded to include the areas reserved for the CR.

Mr. Tuchmann explained that neither the Valentines nor the CR grantee, the Carlisle Conservation Foundation, Inc. (CCF) agreed with Ms. DelBono's view, but had concluded that it should be accommodated in the interest of completing the CR filing this year. However, they believed that a better solution than expanding the building envelopes would be to place a conservation easement (*i.e.*, a restriction not approved by the state) on the septic-reserved area. However, they did not wish to have the easement go to CCF, since it would have only a 30-year life and not have the protection of recoverable attorneys' fees in the case of a successful enforcement action. Therefore, the Valentines and CCF propose that the easement be granted to the Town of Carlisle, by and through the Conservation Commission, so that it would be permanent and secure the right to recover attorneys' fees. The Conservation Commission would delegate its monitoring and enforcement responsibilities to CCF, so that CCF could do the monitoring together with its monitoring of the rest of the CR. ConsComm could revoke the delegation at any time, however.

Jenifer Bush asked if the change would have any tax consequences to the Valentines. Mr. Tuchmann responded that he did not think so.

Mr. Tuchmann explained that other changes requested by Ms. DelBono included a slight rewording to the Purposes section and a clarification of the allowed activities under “vista pruning” (under Section III. B.2).

Following discussion of the Committee, John moved and Jenifer seconded the following Motion: Moved that CRAC inform the Conservation Commission and the Board of Selectmen that the Committee has reviewed the proposed changes to the Conservation Restriction as of December 16, 2008, and the proposed grant of a Conservation Easement from Jack and Betty Valentine to the Town of Carlisle, by and through its Conservation Commission; that the Committee finds the changes to be consistent with the intent of the CR as previously proposed and are still in the public interest; that the Committee therefore recommends that the Conservation Commission and the Board of Selectmen reconfirm their prior approval of the CR and that the Conservation Commission and Board of Selectmen accept the proposed Conservation Easement. Motion passed 3-0, with Wayne Davis abstaining.

CR#33 (Tall Pines State-Approved) Inspection. (Book 807850, page 0013 and **CR #33A (Tall Pines Town-Approved Restriction** (Book 807870, p. 162). John reviewed the results of the inspections. The inspections were held on November 22, 2008, attended by John Keating, Sylvia Willard, Jenifer Bush, and Ken Harte.

The inspection of CR#33A was prompted by notice of a potential violation at 219 Hutchins, specifically removal of trees in the restricted area. The inspectors did find tree cutting and piled brush in the restricted area. John will prepare a letter and circulate to the Committee for comment.

In addition, the committee members noticed stockpiles of firewood behind 247 Hutchins. The homeowner spoke with the Committee members and stated that he believed that the stockpiles were not in the restricted zone. The Committee determined to review the location relative to plot plans at a future meeting.

On CR#33, informal structures (plywood and 2x4's) that appear to be forts for paintball were found in the area between 30 Kimball and 92 Kimball. In addition, it appears that the understory had been cleared. There also appears to be piling of yard waste at the end of a pathway leading from 30 Kimball. Ken questioned whether the piling of the yard waste was clearly a violation under the CR. John will draft a letter to the homeowners and circulate.

Sylvia reported that Mr. Kufinec (74 Wilkins), who had met the Committee members during the inspection, had subsequently initiated an inquiry about removal of a tree. It is unclear whether the tree is in the CR, Area B. Sylvia requested guidance about how to respond. The committee reviewed the CR, whose purpose is to keep the area “predominantly in its natural or open condition.” The Committee advised that Sylvia should use her judgment: the removal of one tree for some reasonable cause that did not disturb the predominant natural state should not be problematic.

Annual Report. The Annual Report will be due soon next year.

Next meeting: Tuesday, January 15, 2009 at 7:30 pm.

The meeting was adjourned at 9:27 pm.

Respectfully submitted,

Wayne Davis, Secretary