

COPY

AGREEMENT

AGREEMENT made this 1rst day of October, 2007, by and among **HOWARD B. HILLMAN**, as he is Trustee under a Deed of Trust by Dora B. Hillman dated December 31, 1970 and recorded in Dukes County Registry of Deeds in Book 287, Page 347, of 158 Main Street, New Canaan, CT 06840 ("Hillman"), the **TOWN of CHILMARK**, by its Board of Selectmen, c/o Chilmark Town Hall, P.O. Box 119, Chilmark, MA 02575 (the "Town"), and the **MARTHA'S VINEYARD LAND BANK COMMISSION**, a corporate body politic with a principal place of business at 167 Upper Main Street, P.O. Box 2057, Edgartown, Massachusetts 02539 (the "Land Bank").

WHEREAS, the Town currently holds title to two certain parcels of land with the buildings thereon shown as "A1" and "A2" on a certain plan of land entitled "Plan of Land in Chilmark, Mass. Prepared for the Martha's Vineyard Land Bank Commission scale: 1"=60' March 5, 2003 Schofield, Barbini & Hoehn, Inc. State Road, Vineyard Haven, Mass." and filed in the Dukes County Registry of Deeds as Chilmark Case File No. 352 ("Lot A1" and "Lot A2") (the "Town/LB Plan");

WHEREAS, the Land Bank currently holds title to the remaining land shown on the Town/LB Plan;

WHEREAS, Hillman currently holds title to a certain parcel of land shown on Chilmark Assessors' Map 12 as Parcel 15 (the "Hillman Parcel") over which the Land Bank has a right to pass and repass as a means of accessing King's Highway;

WHEREAS, Hillman currently holds title to two (2) additional parcels of land shown on

Chilmark Assessors' Map 11 as Parcels 45 and 46 (the "Turner Lots"); and

WHEREAS, the parties have discussed a proposed swap of the various property interests above, which swap would achieve the following result:

TOWN/ LB PLAN - Lots W, X, and Y on sketch plan attached as EXHIBIT "A"

- 1) Hillman, or Hillman's nominee, at the discretion of Hillman, would acquire title to Parcel Y (+/- 4.53 acres) shown on **Exhibit "A"**, subject to
 - a) the establishment of a trail easement in favor of the Land Bank in the location set forth on Exhibit "A", the terms of which would be substantially as set forth in Exhibit "G".
 - b) a conservation restriction in favor of the Land Bank on the section designated as "Parcel Y South".
- 2) The Land Bank would retain title to Parcel X (+/- 0.15 acres), subject to the terms herein.
- 3) The Land Bank would retain title to Parcel W (+/- 0.13 acres), subject to an easement for the benefit of Lot Y.
- 4) The Town would relinquish and terminate all interest in land shown on **Exhibit "A"**.

TURNER LOTS – sketch plan attached as EXHIBIT "B"

- 1) Hillman would convey to the Land Bank that portion of the Turner Lots as is approximately shown on the sketch plan attached hereto as **Exhibit "B"**;
- 2) Hillman would convey the remainder of the Turner Lots, subdivided as approximately shown on **Exhibit "B"**, to the Town, subject to:
 - a. The prior establishment of a trail easement in favor of the Land Bank in the location set forth on **Exhibit "B"**, the terms of which would be substantially as

set forth in **Exhibit “C”**.

- b. The requirement that the land conveyed by Hillman to the Town be restricted by deed riders guaranteeing that the land will be used, in perpetuity, for affordable housing purposes.
 - c. The requirement that the Town, in leasing out the four lots to be created there, will do so only to lawful affordable housing recipients pre-qualified by the Chilmark Housing Committee, subject to the review of the Dukes County Regional Housing Authority and the approval of Hillman. Hillman’s approval prerogative shall only apply to the first award for each of the four leases and not to any subsequent awards; and shall expire, as to each leasehold, upon the construction of a dwelling. In addition, Hillman shall be obligated to render his decision within fifteen (15) days of having been supplied with a list of pre-qualified candidates. Should Hillman fail to render a decision within fifteen (15) days as aforesaid, the Chilmark Board of Selectmen shall be entitled to conduct a lottery and award the leases randomly.
- 3) The Land Bank would relocate its right of way over the Hillman Parcel, and use the relocated right of way exclusively as a trail easement as delineated on **Exhibit “E”**.

SPECIFICATIONS

WHEREAS, the parties wish to hereby memorialize their understanding and mutual good will with respect to the above-described proposal, and to elucidate the conditions precedent to proceeding to undertake such endeavor.

NOW THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereby agree as follows:

- 1) The Town will engage a professional surveyor, satisfactory to the Land Bank and Hillman, to plat and monument Parcels W, X, and Y, the costs and expenses of which surveyor shall be the responsibility of the Town. The plan will show Parcel Y as being divided into two sections, the first section comprising approximately 1.8 acres and designated on Exhibit "A" as "Parcel Y North", and the second designated "Parcel Y South", being an area dedicated to conservation, and consisting of approximately 2.7 acres. The boundary line separating Parcel Y North and Parcel Y South shall be parallel to, and six (6) feet south of, the existing stone wall.
- 2) The Land Bank and the Town shall deed Parcel Y to Hillman, which deed shall include:
 - (i) An appurtenant easement to use Parcel W for all purposes for which roads are now or hereafter used in the Town of Chilmark;
 - (ii) A reference to the "Boundary Agreement" by and between Hollis B. Engley, Douglas S. Liebhafsky and Wendy R. Gimbel, recorded in the Registry in Book 478, Page 331, and a recitation that the rights and obligations reserved by Hollis B. Engley therein shall be assumed exclusively by the Land Bank, as owner of Lot W, and that Land Bank representatives shall be permitted to drive down Lot W and park on Lot Y as reasonably necessary to administer to such obligations. Hillman shall simultaneously grant a Conservation Restriction to the Land Bank,

which will prescribe the uses which may be made of Parcel Y South. The form and content of the conservation restriction shall be substantially as set forth in **Exhibit “D”** as may be amended by the Massachusetts Division of Conservation Services, which reviews and approves all conservation restrictions in the Commonwealth. Hillman shall simultaneously grant a trail easement to the Land Bank over the Hillman Parcel, the form and content of which easement shall be substantially as set forth in **Exhibit “E”**.

- 3) The Town shall release all right, title and interest in and to Parcel X and Parcel W to the Land Bank.
- 4) The Land Bank shall release all right, title and interest it may have in and to the roads and ways located on the Hillman Parcel to Hillman.
- 5) The Town will engage a professional surveyor satisfactory to the Land Bank and the Town to plat the division of the Turner Lots in the configuration shown on **Exhibit “B”**, the costs and expenses of which surveyor shall be the equal responsibility of the Town and Land Bank. The plan will divide the Turner Lots into six (6) lots, four of which will comprise one (1) acre each. These four lots shall be deeded by Hillman to the Town [subject to restrictions requiring that they will be used, in perpetuity, for affordable housing purposes only, as described earlier in this document]; *after* a trail easement, granted by Hillman to the Land Bank in the location approximately set forth on **Exhibit “B”**, has been recorded. The remaining two (2) lots (to the north and the south of the Town lots) shall be deeded by Hillman to the Land Bank. Hillman hereby authorizes

the Town and the Land Bank, or its designee(s), to prepare and present a subdivision plan to the necessary authorities for approval.

- 6) The Land Bank shall demolish the shed located on Parcel X, unless Hillman elects to relocate it, prior to closing, to Parcel Y.
- 7) The Land Bank intends to construct a trail that will connect Parcel X to the “wood bridge” shown on **Exhibit “A”**, which is located on Assessor’s Map 7 between Parcels 24 and 25 [see Exhibit “G” for details]. The Land Bank agrees that any trail installed on Parcel X shall not be constructed of concrete, bituminous or otherwise.
- 8) All instruments and plans shall be prepared in such a manner as to guarantee to the Land Bank the legal right to install an uninterrupted trail from the Middle Road to and across the Tiasquam River and thence to the Ridge Hill Road/Road from Six Paths to Nab’s Corner (which will then connect with the South Road).
- 9) The Land Bank shall install a livestock fence, of the same style and composition used by it at its Tea Lane Farm, along the border of Parcel X to the extent that it has installed a trail there.
- 10) The Town shall supply to Hillman evidence documenting that the well and septic system meet all applicable standards, and may be used by Hillman at any time.
- 11) All parties agree to cooperate in effecting the provisions of this Agreement, and in particular agree not to contest or appeal any permits granted in connection herewith.

The foregoing is all summarized, in graphic form, on **Exhibit “F”**.

PREREQUISITES

The parties hereby acknowledge that the obligations of each of them are contingent upon a series of events occurring. Specifically, each party's obligations hereunder are expressly contingent upon the successful completion of all of the following enumerated events, in generally the following order:

- 1) The Town obtaining authority to participate in the transaction by appropriate Town Meeting vote;
- 2) The plans referenced above being prepared to the satisfaction of all parties hereto, and approved by the Chilmark Planning Board, and all applicable appeal periods having passed;
- 3) The Land Bank's obtaining permits from the Town allowing the creation of a trailhead on the Turner Lots via a new curb cut on the South Road;
- 4) The legislature conclusively authorizing the transactions and actions contemplated in this Agreement, and exempting the Land Bank and the Town from any general or special laws; and
- 5) All parties being satisfied that they are acquiring real property, at the conclusion of the transactions, with good, clear record and marketable title; and that the rights and easements to which they are entitled at the consummation of this transaction are valid and legally enforceable, in perpetuity. Access is contemplated to be via Ridge Hill Road. In the event that use of Ridge Hill Road proves infeasible, it is agreed that a new access shall be created from South Road.

GENERAL

It is understood and agreed that all contemporaneous or prior representations, statements or understandings and agreements, oral and written, between the parties are merged in this Agreement which alone, fully and completely expresses the Agreement of the parties.

This Agreement shall be a Massachusetts contract executed and governed by, in all respects, and construed in accordance with, the laws of the Commonwealth of Massachusetts; the courts of which state, either state or federal as may be appropriate, shall have jurisdiction over the parties hereto.

This Agreement and the parties' representations and warranties hereunder shall survive the execution and delivery of this Agreement and of any instruments executed and delivered pursuant to the terms hereof.

This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In proving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

All notices required or permitted to be given hereunder shall be in writing and delivered by hand or mailed postage prepaid, by registered or certified mail, or by Federal Express addressed in the case of HILLMAN to _____, in the case of the TOWN, to _____ and in the case of the LAND BANK to P.O. Box 2057, Edgartown, MA 02539, or in the case of either party to such other address as shall be designated by written notice given to the other party. Any such notices shall be deemed given when received by or tendered for delivery to the intended recipient.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

MARTHA'S VINEYARD LAND BANK
COMMISSION, by its ^{vice} Chairman,

Priscilla L. Sylvia
~~Thomas Robinson~~ Priscilla Sylvia

Howard B. Hillman
Howard B. Hillman, Trustee as aforesaid

TOWN OF CHILMARK
By its Selectmen,

Wendy D. Doherty
John M. Doherty

TABLE OF EXHIBITS

- EXHIBIT A: Sketch Plan of Parcels W, X and Y (Town/LB Plan)
- EXHIBIT B: Sketch Plan of Turner Lots, showing proposed subdivision of Lots and location of Land Bank Trail Easement
- EXHIBIT C: Draft of Land Bank Trail Easement on Turner Lots
- EXHIBIT D: Draft of Hillman Conservation Restriction
- EXHIBIT E: Draft of Hillman Trail Easement
- EXHIBIT F: Visual Summary of Proposal
- EXHIBIT G: Draft of Second Hillman Trail Easement



This survey and plan were prepared in accordance with the Procedural and Technical Standards for the Practice of Land Surveying in the Commonwealth of Massachusetts.

I certify that the preparation of this plan conforms with the rules and regulations of the Registrars of Deeds effective January 1, 1976 and as amended.

Douglas R. Hoehn, Professional Land Surveyor

Date _____

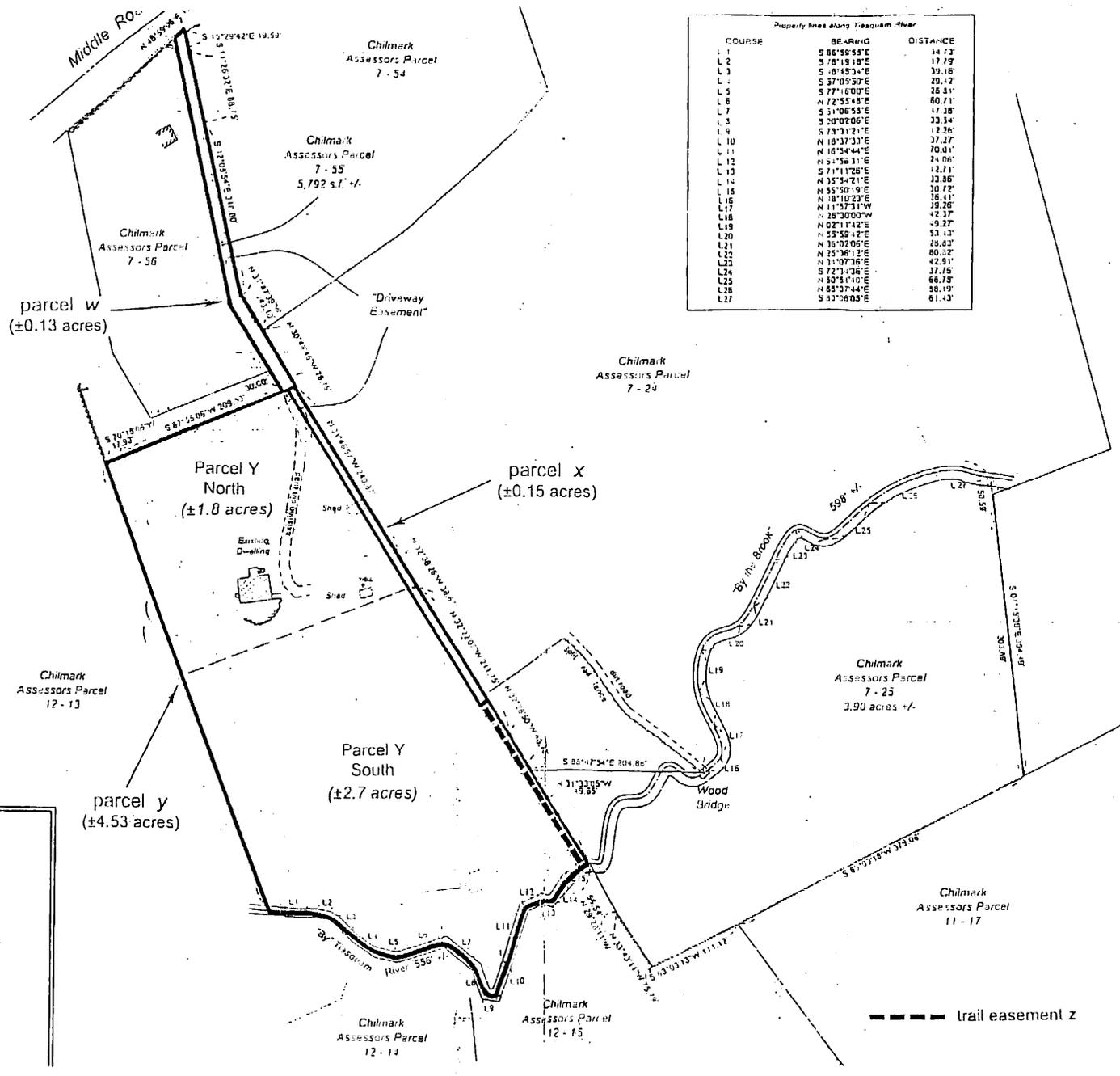
- LEGEND**
- (7-20) ... Denotes Chilmark Assessor's Parcel Number
 - CBF ... Denotes drill hole in concrete bound found
 - IPF ... Denotes iron pipe found
 - DHS ... Denotes Drill Hole in Stone Wall Set

- Notes:**
1. Lot A consists of A1 & A2. Total area of lot A = 3.01 acres.
 2. Lot B is not a buildable lot.
 3. There are no additional buildable lots created by this plan.

PLAN OF LAND IN CHILMARK, MASS.

PREPARED FOR
the MARTHA'S VINEYARD LAND BANK COMMISSION

SCALE: 1" = 60' MARCH 3, 2003
 SCHOFIELD, BARBINI & HOEHN INC.
 STATE ROAD, VINEYARD HAVEN, MASS.
 MV 9334



Property lines along Tiquam River

COURSE	BEARING	DISTANCE
L 1	S 88°55'51"E	14.73'
L 2	S 75°18'18"E	17.79'
L 3	S 6°14'34"E	39.16'
L 4	S 37°09'30"E	29.42'
L 5	S 77°14'00"E	25.51'
L 6	N 72°54'14"E	60.71'
L 7	S 31°08'53"E	17.38'
L 8	S 20°02'08"E	23.54'
L 9	S 73°13'21"E	12.26'
L 10	N 16°37'33"E	37.27'
L 11	N 16°54'44"E	70.01'
L 12	N 5°58'31"E	24.06'
L 13	S 71°11'28"E	12.71'
L 14	N 35°54'21"E	33.88'
L 15	N 55°50'19"E	30.72'
L 16	N 48°10'23"E	36.41'
L 17	N 11°57'31"W	39.26'
L 18	N 25°30'00"W	42.37'
L 19	N 02°11'42"E	-9.27'
L 20	N 55°59'42"E	53.13'
L 21	N 70°03'06"E	25.63'
L 22	N 25°36'12"E	60.32'
L 23	N 31°07'36"E	42.91'
L 24	S 72°13'05"E	37.15'
L 25	N 50°14'10"E	66.73'
L 26	N 65°07'44"E	58.19'
L 27	S 57°08'05"E	81.43'

APPROVAL UNDER THE SUBDIVISION CONTROL LAW IS NOT REQUIRED
 CHILMARK PLANNING BOARD

DATE: _____

Exhibit "A"
 Exhibit "D-2"
 Exhibit "G-1"

Turner Lots

Chilmark, MA

September 09, 2005

Legend:

- land bank trail easement
- ==== dirt road
- ▨ land bank fee simple

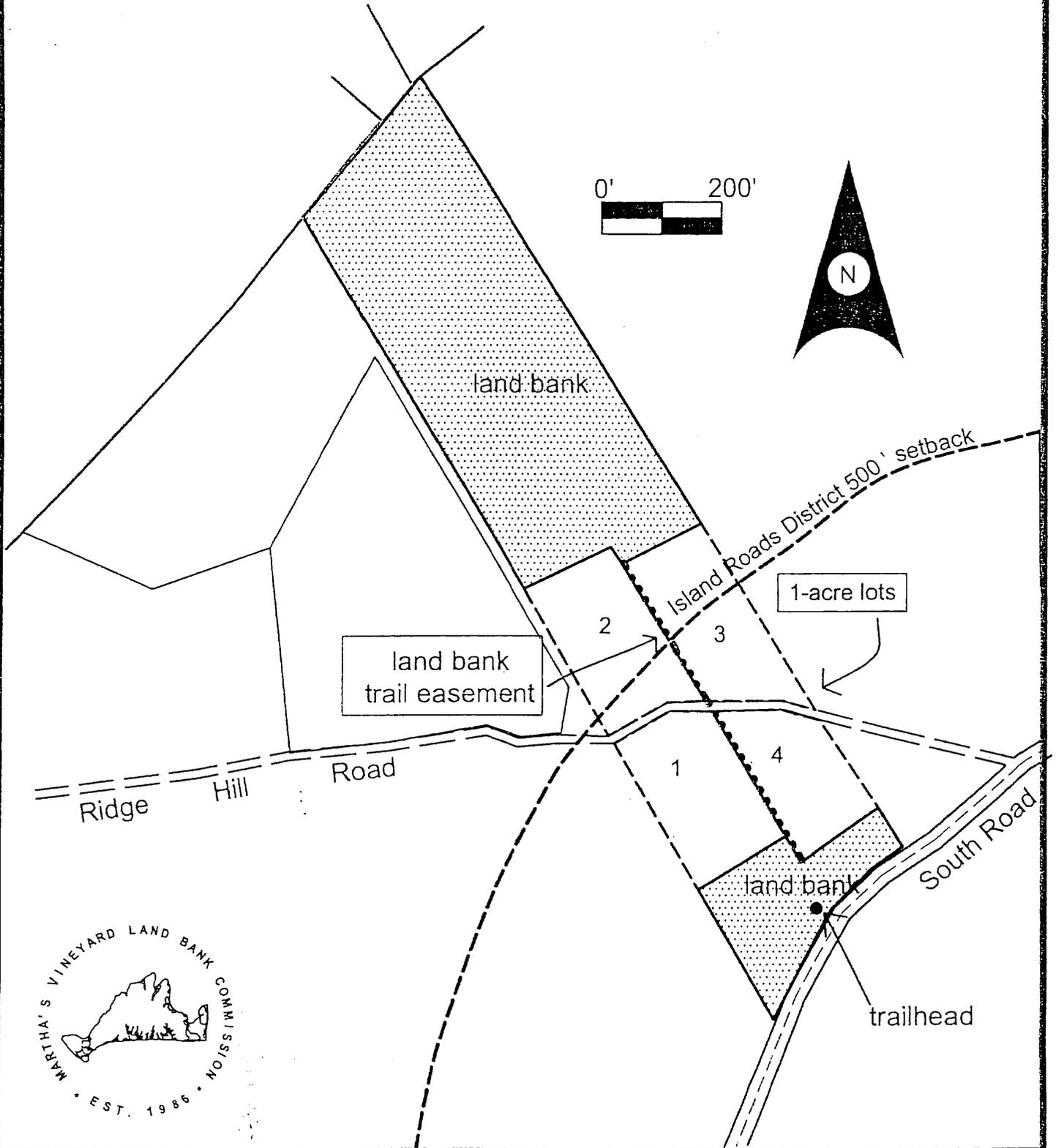
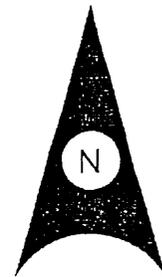
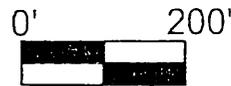


EXHIBIT "C"

TRAIL EASEMENT AGREEMENT

AGREEMENT made this _____ day of _____, 2006, by and among the **TOWN of CHILMARK**, by its Board of Selectmen (the "Town"), being the record owner of a certain parcel of land situated in Chilmark, Massachusetts, more particularly described in deed recorded in the Dukes County Registry of Deeds immediately prior hereto (the "Grantor's Property"), its successors and assigns (the "Grantor") and the **MARTHA'S VINEYARD LAND BANK COMMISSION**, a public body corporate having a principal place of business at 167 Main Street, Post Office Box 2057, Edgartown, Massachusetts 02539 (the "Grantee").

WHEREAS, the parties have agreed to the benefit of creating a trail, on its approximate location, and on the manner in which the trail shall be administered;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Grantor hereby grants to the Grantee, with quitclaim covenants, a perpetual right and easement over, under and across a ten (10) foot wide strip of land across Grantor's property, to be located in the approximate area denoted on **Exhibit "C-1"** by dotted lines and identified as "Trail Easement" (the "Easement Area"), for the benefit of the Grantee.

Such right and easement shall be utilized for the sole and exclusive purpose of providing pedestrian, equestrian and non-motorized bicycle access to the Grantee, its guests and invitees, over, under and across a trail to be established in the Easement Area (the "Trail") to be used solely for the purpose of passive recreation, nature study and scenic enjoyment. The Trail shall be created, maintained and controlled by or on behalf of the Grantee in accordance with the provisions set forth herein.

2. The Trail as constructed shall be no greater than four (4) feet in width (unless otherwise authorized by the Grantor).
3. The Grantee shall have the right to remove such trees, brush and obstructions from the Easement Area as may be reasonably required for the construction of the Trail and the right to mark the Trail with markers in order to guide users along its course.

The Grantee shall also have the right to seek such permits, in the name of Grantor, as may be required for the construction and maintenance of the Trail.

4. Once the Trail is created, the Grantee shall have the right, within the Easement Area, to cut, trim, clear and remove outgrowths of brush, other vegetation and any other obstructions, to the extent reasonably necessary to facilitate the uses intended hereby.

Notwithstanding the above, the Grantee, its agents, employees or representatives, may use such power equipment and/or motorized vehicles as may be necessary for the construction and maintenance of the Trail.

5. The precise location of the Easement Area shall be established by the cutting of the Trail and shall consist of the Trail and two strips, both three (3) feet in width on either side of the Trail, such that the total width of the Easement Area is ten (10) feet.

The Grantee shall have the right at any time and from time to time, with the prior consent of the then owners of the Grantor's property, to relocate the Trail within the Easement Area.

6. The parties agree that no improvements other than the Trail shall be made in the Easement Area, and that no concrete, bituminous or otherwise, shall be used in its installation.
7. All expenses associated with or arising out of the construction of the Trail, or its maintenance or improvement, shall be borne solely by or on behalf of the Grantee. The Grantor shall have no responsibility or obligation to maintain or repair the Trail or liability relating thereto.
8. The easement hereby conveyed does not grant to the Grantee or to the public or to any private person any rights in, under or across any portion of the Grantor's property other than the Easement Area. The Grantee agrees to erect fences, plant vegetation or take whatever measures it deems reasonably necessary or appropriate to protect the Grantor's privacy, subject to the prior written consent of the Grantor.
9. The foregoing constitutes the complete agreement and understanding between the parties hereto with respect to the Trail.

EXECUTED as a sealed instrument on the day and date first above written.

GRANTOR:

GRANTEE:

Town of Chilmark

Martha's Vineyard Land Bank Commission

By: _____

By: _____

Thomas Robinson, its Chairman

By: _____

By: _____

Its Selectmen

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss. _____, 2006

On this ____ day of _____, 2006, before me, the undersigned notary public, personally appeared _____, Selectman as aforesaid, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that s/he signed it voluntarily for its stated purpose, on behalf of the Town of Chilmark.

My commission expires:

Notary Public

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss. _____, 2006

On this ____ day of _____, 2006, before me, the undersigned notary public, personally appeared Thomas Robinson, Chairman of the Martha's Vineyard Land Bank Commission as aforesaid, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

My commission expires:

Notary Public

Turner Lots

Chilmark, MA

September 09, 2005

Legend:

- land bank trail easement
- ==== dirt road
- ▨ land bank fee simple

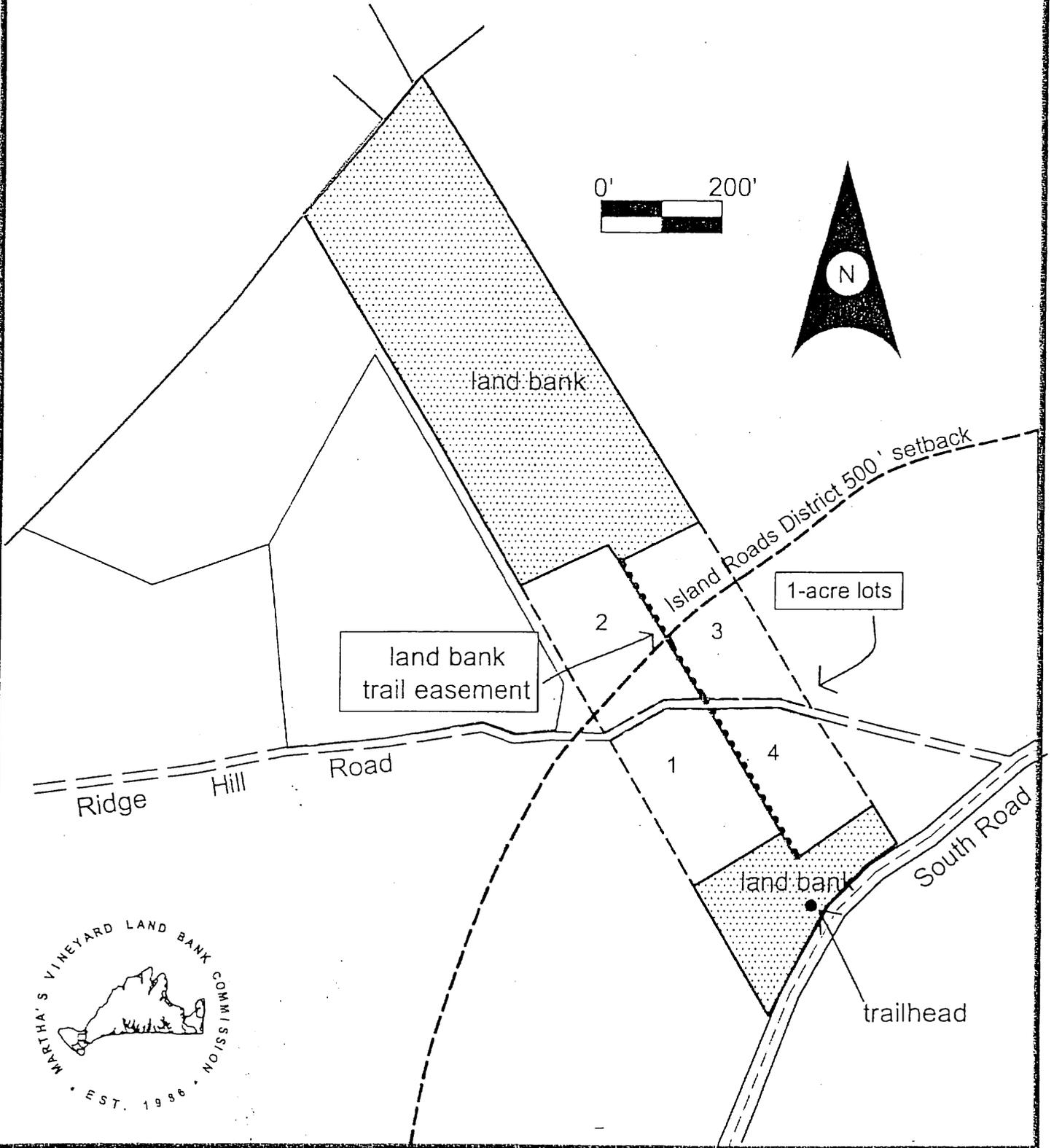


EXHIBIT "D"

CONSERVATION RESTRICTION

I. GRANTOR CLAUSE

HOWARD B. HILLMAN, Trustee under Agreement of Trust by Dora B. Hillman dated December 31, 1970 and recorded in Dukes County Registry of Deeds in Book 287, Page 347, his successors and assigns (hereinafter called the AGrantor@), for valuable consideration, but no monetary consideration, hereby grants, with quitclaim covenants, to the **MARTHA'S VINEYARD LAND BANK COMMISSION**, a public body corporate having a principal place of business at 167 Main Street, Post Office Box 2057, Edgartown, Massachusetts 02539, and its successors and permitted assigns (hereinafter called the AGrantee@), pursuant to MGL Chapter 184, Sections 31-33, in perpetuity, and for conservation purposes, the following described Conservation Restriction (the "Restriction") on a portion of a parcel of land located off Middle Road, in the Town of Chilmark, Dukes County, Massachusetts, such portion being more particularly described on Exhibit "D-1" [legal description to be prepared after surveyor has redrafted plan] and approximately shown on Exhibit "D-2" [as "Parcel Y South"] (the "Premises"), each of which Exhibits is attached hereto and incorporated herein by reference. The Premises are part of a parcel of land described in a deed dated _____ and recorded in Dukes County Registry of Deeds in Book _____, Page _____ (the "Grantor's Property").

II. PURPOSE OF CONSERVATION RESTRICTION

The purpose of this Conservation Restriction is to preserve the Premises in its natural state.

III. PROHIBITED ACTS AND USES AND EXCEPTIONS THERETO

A. Prohibited Acts and Uses within the Premises. Subject to the exceptions set forth in Paragraph III-B below, the following acts and uses are prohibited within the boundaries of the Premises:

1. Construction or placing of any building, structure, tennis court, landing strip, mobile home, swimming pool, fences, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, utility pole, tower, conduit, line or other temporary or permanent structure or facility on, below or above the Premises;
2. Mining, excavating, dredging or removing from the Premises of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit.

3. Placing, filling, storing or dumping on the Premises of soil, refuse, trash, vehicle bodies or parts, rubbish, débris, junk, waste or any other substance or material whatsoever or the installation of underground storage tanks;
4. Activities detrimental to drainage, flood control, water conservation, water quality erosion control or soil conservation;
5. Cutting or removal of any trees or vegetation, except to the extent necessary to exercise the Grantor's rights enumerated in Paragraph III-B;
6. Any commercial recreational use of the Premises;
7. Any other use of the Premises or activity which would materially impair significant conservation interests; unless for the protection of the conservation interests that are the subject of this instrument.

B. Exceptions to Otherwise Prohibited Acts and Uses within the Premises.

1. Creation of hiking trails for foot and hoof;
2. Installation of boardwalks and bridges, as needed;
3. Any agricultural or silvacultural use, including fencing for such purposes;
4. Removal of noxious plants; selective removal of trees for reasons of age, disease or fire hazard mitigation.

IV. LEGAL REMEDIES OF THE GRANTEE

A. Legal and Injunctive Relief. 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 prior to the time of the injury complained of (its being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not in limitation of, any other rights and remedies available to the Grantee.

B. Reimbursement of the Costs of Enforcement. The Grantor, and thereafter the successors and assigns of the Grantor, covenant and agree to reimburse the Grantee for all reasonable costs and expenses (including, without limitation, counsel fees) incurred in enforcing this Conservation Restriction, after having been found in violation by completed due process, or in remedying or abating any violation thereof.

C. Grantee Disclaimer of Liability. By its acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the

condition of the Premises.

D. Severability Clause. If any provision of this Conservation Restriction shall to any extent be held invalid, the remainder shall not be affected.

E. Non-Waiver. Any election by the Grantee as to the manner and timing of its right to enforce this Conservation Restriction or otherwise exercise its rights hereunder shall not be deemed or construed to be a waiver of such rights.

V. EXTINGUISHMENT

A. Grantee's Receipt of Property Right. The Grantor and Grantee agree that the grant of this Conservation Restriction gives rise for the purposes of this paragraph to a property right, immediately vested in Grantee, with a fair market value that is at least equal to the proportionate value that this Conservation Restriction, determined at the time of the grant, bears to the value of the Grantor's Property at that time.

B. Value of Grantee's Property Right. Such proportionate value of the Grantee's property right shall remain constant.

C. Right of Grantee's to Recover Proportional Value at Disposition. If any occurrence ever gives rise to extinguishment or other release of the Conservation Restriction under applicable law, then the Grantee, on a subsequent sale, exchange or involuntary conversion of the Premises, shall be entitled to a portion of the proceeds equal to such proportionate value, subject, however, to any applicable law which expressly provides for a different disposition of proceeds.

D. Grantor/Grantee Cooperation Regarding Public Action. Whenever any or all 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 Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action.

E. Allocation of Expenses upon Disposition. All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and the Grantee in shares equal to such proportionate value.

F. Continuing Trust of Grantee's Share of Proceeds of Conservation Restriction Disposition. The Grantor shall use its share of the proceeds in a manner consistent with the conservation purposes of this grant.

VI. ASSIGNABILITY

A. Running of the Burden. The burdens of this Conservation Restriction shall run

with the Premises in perpetuity and shall be enforceable against Grantor and the successors and assigns of the Grantor holding any interest in the Premises.

B. Execution of Instruments. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. The Grantor, on behalf of itself and its successors and assigns, appoints the Grantee its attorney-in-fact to execute, acknowledge and deliver any such instruments on its behalf. Without limiting the foregoing, the Grantor and its successors and assigns agree themselves to execute any such instruments upon request.

C. Running of the Benefit. The benefits of this Conservation Restriction shall be in gross and shall not be assignable by Grantee, except in the following instances and from time to time:

- (i) as a condition of any assignment, the Grantee requires that the purpose of this Conservation Restriction continue to be carried out; and
- (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 General Laws as an eligible donee to receive this Conservation Restriction directly.
- (iii) the grantee complies with the provisions required by Article 97 of the Amendments to the Commonwealth Constitution.

VII. ACCESS

The Conservation Restriction hereby conveyed does not grant to the Grantee, to the general public, or to any other person the right to enter upon the Grantor's Property, except that there is granted to the Grantee and its representatives the right to enter the Grantor's Property for the purpose of inspecting the same to determine compliance herewith. Such inspections shall be conducted only during the winter season, and only following thirty (30) days written notice to Grantor.

VIII. SUBSEQUENT TRANSFERS

The Grantor agrees to incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Grantor's Property.

IX. ESTOPPEL CERTIFICATES

Upon request by the Grantor, the Grantee shall within twenty (20) days execute and deliver to the Grantor any document, including an estoppel certificate, which certifies the

Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

X. 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 or, if registered land, it has been registered.

XI. RECORDATION

The Grantor shall record this instrument in timely fashion with the Dukes County Registry of Deeds.

EXECUTED under seal this ____ day of _____, 2007.

GRANTOR:

By: Howard B. Hillman
Howard B. Hillman, Trustee as aforesaid

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss.

On this ____ day of _____, 2007, before me, the undersigned notary public, personally appeared Howard B. Hillman, Trustee as aforesaid, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, on behalf of said Trust.

My commission expires:

Notary Public

ACCEPTANCE OF GRANT

The above conservation restriction is accepted this ____ day of _____, 2007.

MARTHA'S VINEYARD LAND BANK COMMISSION

By: _____
Thomas Robinson, its Chairman

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss.

On this ____ day of _____, 2007, before me, the undersigned notary public, personally appeared Thomas Robinson, Chairman as aforesaid, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose, on behalf of the Martha's Vineyard Land Bank Commission.

My commission expires:

Notary Public

APPROVAL OF THE TOWN OF CHILMARK

We, the undersigned, being a majority of the Selectmen of the Town of Chilmark, Massachusetts, hereby certify that at a meeting duly held on _____, 2007, the Selectmen voted to approve the foregoing Restriction to the MARTHA'S VINEYARD LAND BANK COMMISSION pursuant to Massachusetts General Laws, Chapter 184, Section 32.

By its Board of Selectmen,

COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

On this ____ day of _____, 2007, before me, the undersigned notary public, personally appeared _____, Selectman for the Town of Chilmark, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that s/he signed it voluntarily for its stated purpose, on behalf of said Town of Chilmark.

My commission expires:

Notary Public

APPROVAL OF THE SECRETARY OF THE EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS OF THE COMMONWEALTH OF MASSACHUSETTS

The undersigned, SECRETARY OF THE EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS OF THE COMMONWEALTH OF MASSACHUSETTS, hereby certifies that the foregoing Restriction to the MARTHA'S VINEYARD LAND BANK COMMISSION has been approved in the public interest pursuant to Massachusetts General Laws Chapter 184 Section 32.

Dated: _____, 2007

Secretary of Energy and
Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

Suffolk County, ss.

_____, 2007

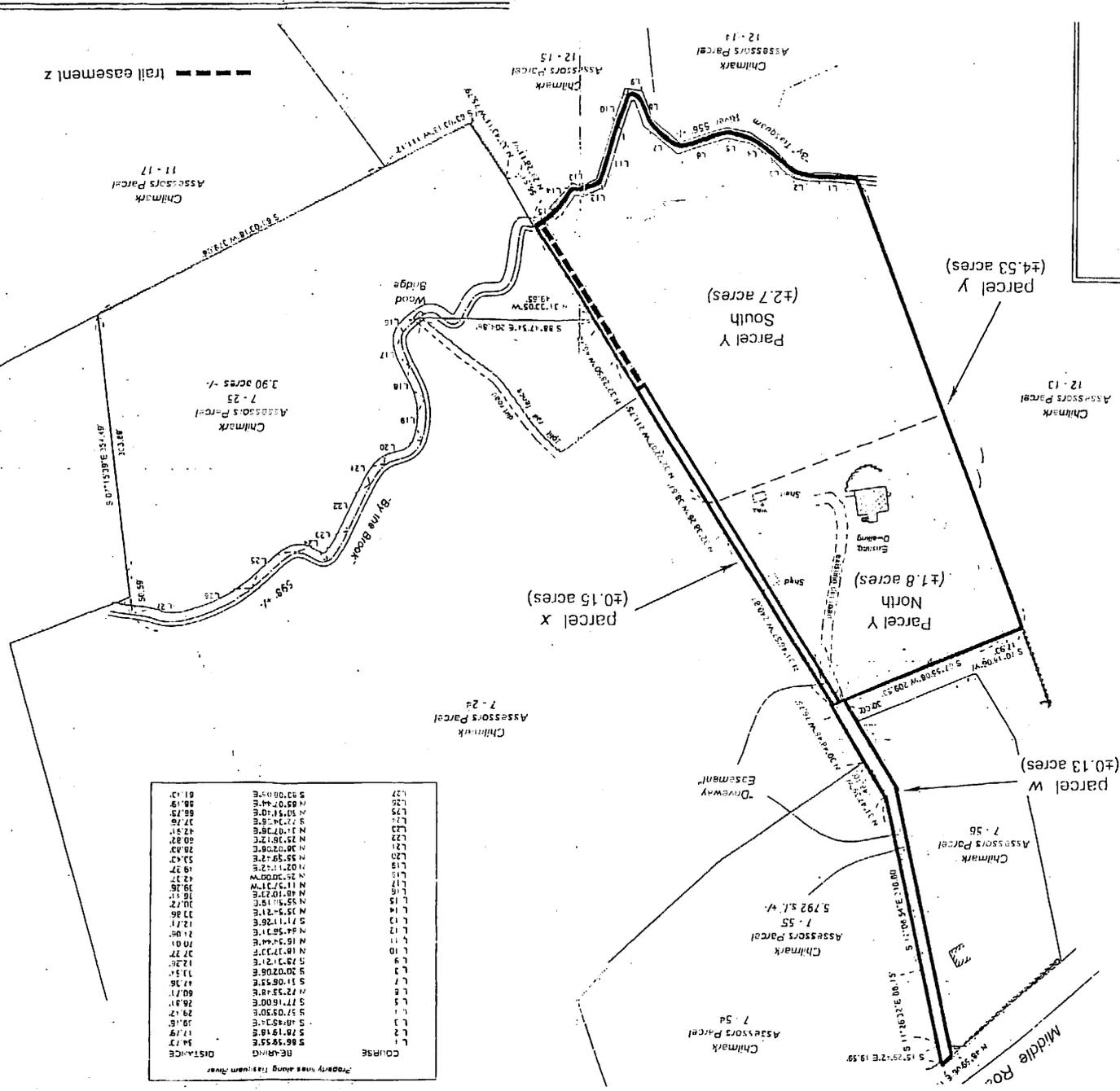
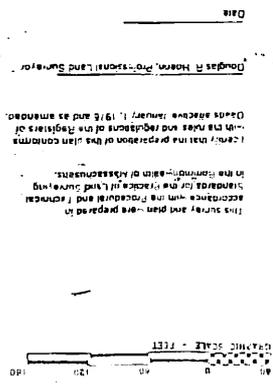
On this ____ day of _____, 2007, before me, the undersigned notary public, personally appeared _____, Secretary of Energy and Environmental Affairs as aforesaid, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that s/he signed it voluntarily for its stated purpose.

My commission expires:

Notary Public

PLAN OF LAND IN
CHILMARK, MASS.
PREPARED FOR
The MARTHA'S VINEYARD
LAND BANK COMMISSION
SCALES: 1" = 60' ALIARCH 1, 2001
SCHOFIELD, BARANI & HOEHN INC.
STATE ROAD, VINEYARD HAVEN, MASS.
MV 9334

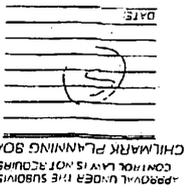
LEGEND
 1 - 391 ... Denotes Chilmark Assessor's Parcel Number
 0 - 327 ... Denotes other parcel number in compass bound found
 0 - 100 ... Denotes that flow found
 0 - 100 ... Denotes that flow in 2000 was set
 0 - 100 ... Denotes that flow in 2000 was set
 1 ... There are no additional burdens not created by this plan
 2 ... Lot 3 is not a taxable lot
 3 ... Total area of lot is 3.01 acres



Property lines along easement lines

COURSE	BEARING	DISTANCE
L1	S 86°58'52"E	54.77
L2	S 72°19'18"E	11.97
L3	S 46°43'1"E	10.16
L4	S 57°03'50"E	29.47
L5	S 77°16'00"E	26.81
L6	N 72°33'4"E	41.36
L7	S 10°02'0"E	11.54
L8	S 73°1'21"E	12.26
L9	N 10°37'37"E	27.77
L10	N 15°58'31"E	21.06
L11	S 71°1'26"E	12.17
L12	N 35°5'21"E	37.86
L13	N 40°10'27"E	38.17
L14	N 11°57'31"W	39.26
L15	N 2°50'00"W	42.37
L16	N 53°59'47"E	53.47
L17	N 40°20'0"E	20.83
L18	N 31°47'36"E	42.91
L19	S 72°24'8"E	27.76
L20	N 50°1'44"E	60.19
L21	N 63°07'44"E	80.18
L22	S 53°08'0"E	61.47

APPROVED UNDER THE SUBDIVISION
CONTROL LAWS AND RETURNED
TO CHILMARK PLANNING BOARD



DATE: _____

Exhibit "A"
 Exhibit "D-2"
 Exhibit "G-1"

Trail easement z

EXHIBIT "E"

TRAIL EASEMENT AGREEMENT

AGREEMENT made this ____ day of _____, 2006, by and among **HOWARD B. HILLMAN**, Trustee under Agreement of Trust by Dora B. Hillman dated December 31, 1970 and recorded in Dukes County Registry of Deeds in Book 287, Page 347, being the record owner of a certain parcel of land situated in Chilmark, Massachusetts, more particularly described in deed recorded in the Dukes County Registry of Deeds immediately prior hereto (the "Grantor's Property"), its successors and assigns (the "Grantor") and the **MARTHA'S VINEYARD LAND BANK COMMISSION**, a public body corporate having a principal place of business at 167 Main Street, Post Office Box 2057, Edgartown, Massachusetts 02539 (the "Grantee").

WHEREAS, the parties have agreed to the benefit of creating a trail, on its approximate location (see Exhibit "E-1", attached hereto), and on the manner in which the trail shall be administered;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein. and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Grantor hereby grants to the Grantee, with quitclaim covenants, a perpetual right and easement over, under and across a ten (10) foot wide strip of land across Grantor's property, to be located in the approximate area denoted on Exhibit "A" by dotted lines and identified as "Trail Easement" (the "Easement Area"), for the benefit of the Grantee.

Such right and easement shall be utilized for the sole and exclusive purpose of providing pedestrian, equestrian and non-motorized bicycle access to the Grantee, its guests and invitees, over, under and across a trail to be established in the Easement Area (the "Trail") to be used solely for the purpose of passive recreation, nature study and scenic enjoyment. The Trail shall be created, maintained and controlled by or on behalf of the Grantee in accordance with the provisions set forth herein.

2. The Trail as constructed shall be no greater than four (4) feet in width (unless otherwise authorized by the Grantor).
3. The Grantee shall have the right to remove such trees, brush and obstructions from the Easement Area as may be reasonably required for the construction of the Trail and the right to mark the Trail with markers in order to guide users along its course.

The Grantee shall also have the right to seek such permits, in the name of Grantor, as may be required for the construction and maintenance of the Trail.

4. Once the Trail is created, the Grantee shall have the right, within the Easement Area, to cut, trim, clear and remove outgrowths of brush, other vegetation and any other obstructions, to the extent reasonably necessary to facilitate the uses intended hereby.

Notwithstanding the above, the Grantee, its agents, employees or representatives, may use such power equipment and/or motorized vehicles as may be necessary for the construction and maintenance of the Trail.

5. The precise location of the Easement Area shall be established by the cutting of the Trail and shall consist of the Trail and two strips, both three (3) feet in width on either side of the Trail, such that the total width of the Easement Area is ten (10) feet. The intention is to site the Trail along the property boundary, taking into account, however, any natural features and obstacles.

The Grantee shall have the right at any time and from time to time, with the prior consent of the then owners of the Grantor's property, to relocate the Trail within the Easement Area.

6. The parties agree that no improvements other than the Trail shall be made in the Easement Area, and that no concrete, bituminous or otherwise, shall be used in its installation.
7. All expenses associated with or arising out of the construction of the Trail, or its maintenance or improvement, shall be borne solely by or on behalf of the Grantee. The Grantor shall have no responsibility or obligation to maintain or repair the Trail or liability relating thereto.
8. The easement hereby conveyed does not grant to the Grantee or to the public or to any private person any rights in, under or across any portion of the Grantor's property other than the Easement Area. The Grantee agrees to erect fences, plant vegetation or take whatever measures it deems reasonably necessary or appropriate to protect the Grantor's privacy, subject to the prior written consent of the Grantor.
9. The foregoing constitutes the complete agreement and understanding between the parties hereto with respect to the Trail.

EXECUTED as a sealed instrument on the day and date first above written.

GRANTOR:

GRANTEE:

Martha's Vineyard Land Bank Commission

Howard B. Hillman

Howard B. Hillman, Trustee as aforesaid

Thomas Robinson, its Chairman

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss. _____, 2006

On this _____ day of _____, 2006, before me, the undersigned notary public, personally appeared Howard B. Hillman, Trustee as aforesaid, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

My commission expires:

Notary Public

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss. _____, 2006

On this _____ day of _____, 2006, before me, the undersigned notary public, personally appeared Thomas Robinson, Chairman of the Martha's Vineyard Land Bank Commission as aforesaid _____, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that she signed it voluntarily for its stated purpose.

My commission expires:

Notary Public

Exhibit E-1

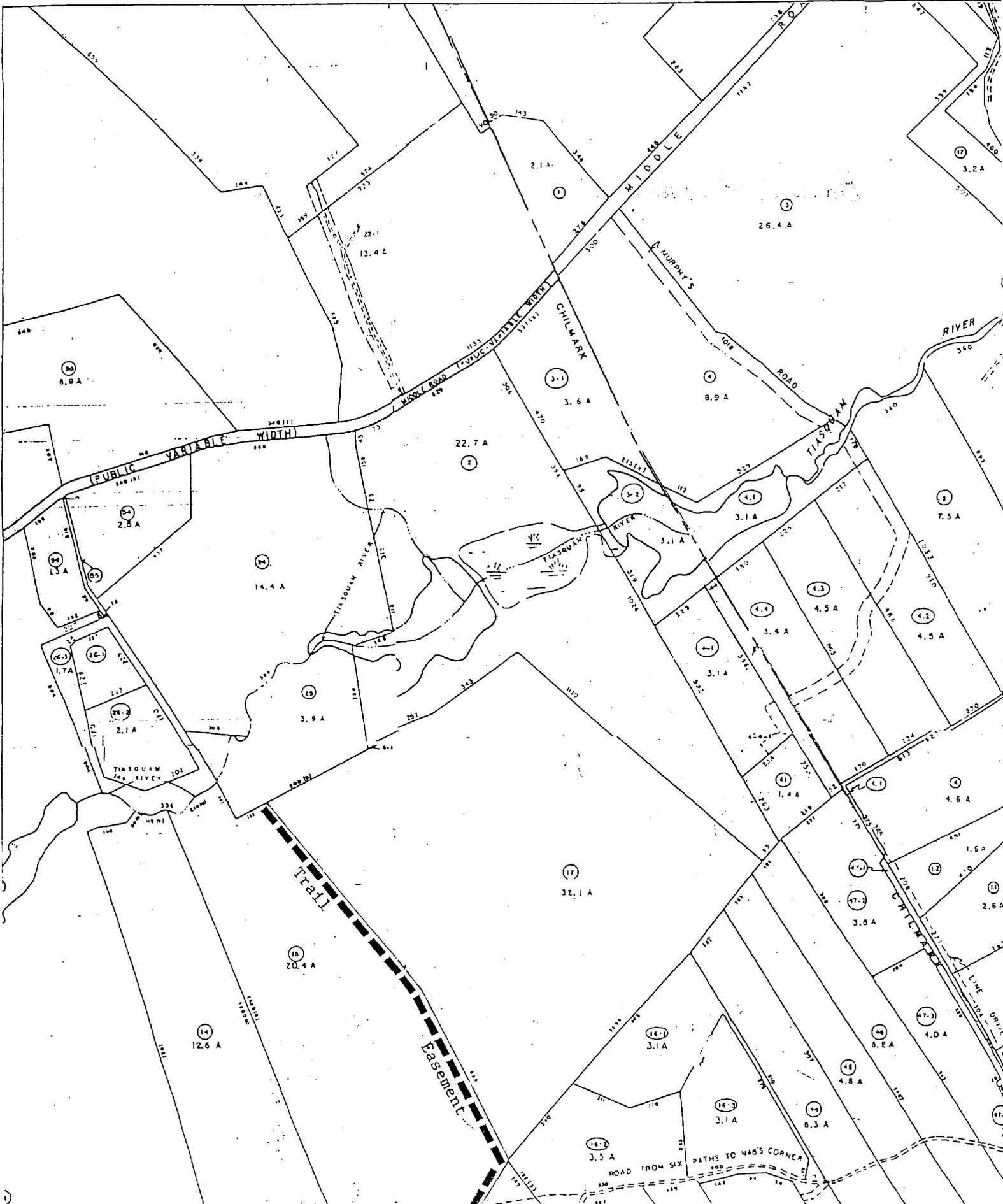
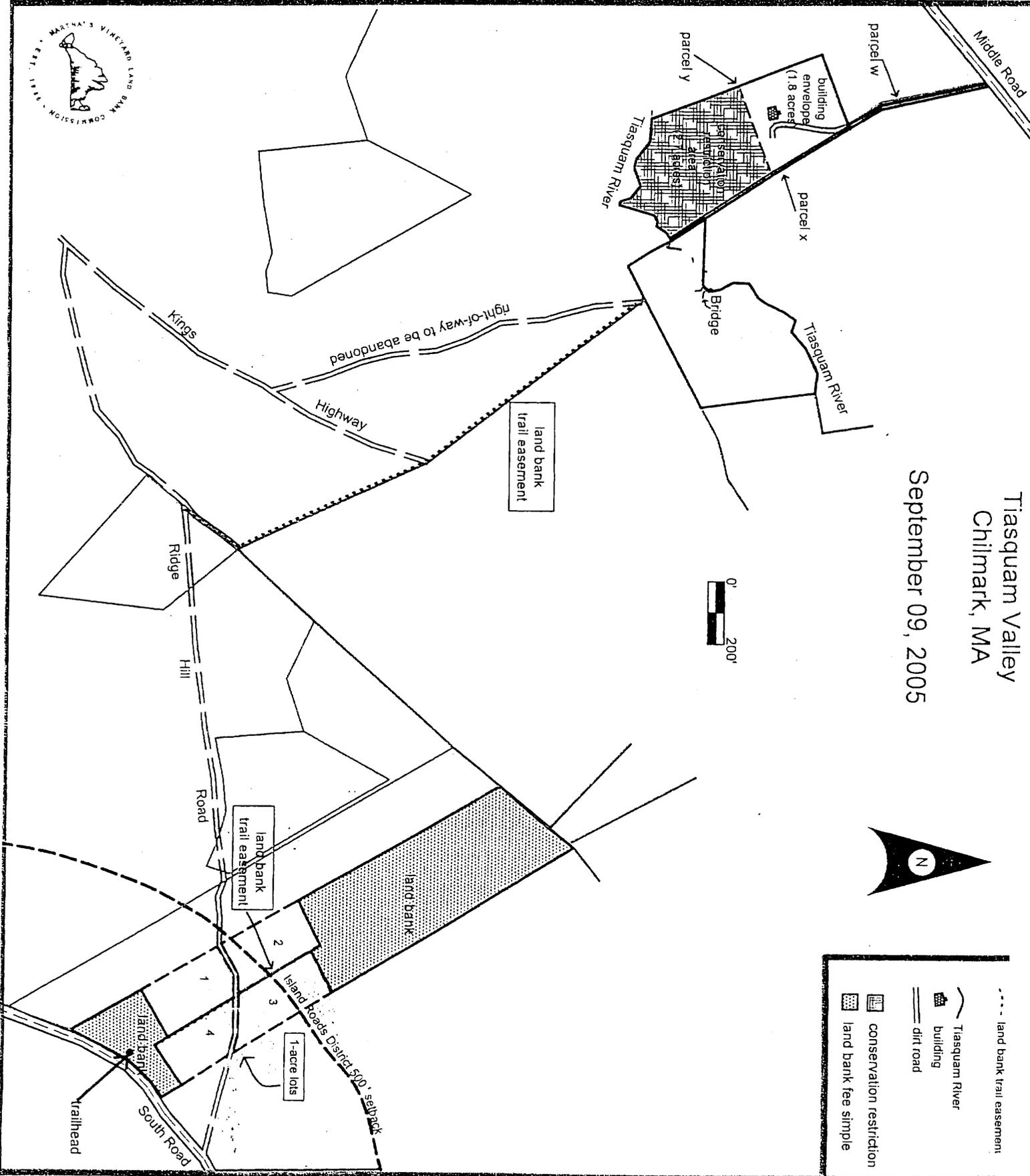


Exhibit "F"

Tasquam Valley
Chilmark, MA

September 09, 2005



	land bank trail easement
	Tasquam River
	building
	dirt road
	conservation restriction
	land bank fee simple

EXHIBIT "G"

TRAIL EASEMENT AGREEMENT

AGREEMENT made this ____ day of _____, 2007, by and among **HOWARD B. HILLMAN**, Trustee under Agreement of Trust by Dora B. Hillman dated December 31, 1970 and recorded in Dukes County Registry of Deeds in Book 287, Page 347, being the record owner of a certain parcel of land situated in Chilmark, Massachusetts, more particularly described in deed recorded in the Dukes County Registry of Deeds immediately prior hereto (the "Grantor's Property"), its successors and assigns (the "Grantor") and the **MARTHA'S VINEYARD LAND BANK COMMISSION**, a public body corporate having a principal place of business at 167 Main Street, Post Office Box 2057, Edgartown, Massachusetts 02539 (the "Grantee").

WHEREAS, the parties have agreed to the benefit of creating a trail, on its approximate location (see **Exhibit "G-1"**, attached hereto), and on the manner in which the trail shall be administered;

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Grantor hereby grants to the Grantee, with quitclaim covenants, a perpetual right and easement over, under and across a ten (10) foot wide strip of land across Grantor's property, to be located in the approximate area denoted on Exhibit "G-1" by dashed lines and identified as "Trail Easement Z" (the "Easement Area"), for the benefit of the Grantee.

Such right and easement shall be utilized for the sole and exclusive purpose of providing pedestrian, equestrian and non-motorized bicycle access to the Grantee, its guests and invitees, over, under and across a trail to be established in the Easement Area (the "Trail") to be used solely for the purpose of passive recreation, nature study and scenic enjoyment. The Trail shall be created, maintained and controlled by or on behalf of the Grantee in accordance with the provisions set forth herein.

2. The Trail as constructed shall be no greater than four (4) feet in width (unless otherwise authorized by the Grantor).
3. The Grantee shall have the right to remove such trees, brush and obstructions from the Easement Area as may be reasonably required for the construction of the Trail and the right to mark the Trail with markers in order to guide users along its course.

The Grantee shall also have the right to seek such permits, in the name of Grantor, as may be required for the construction and maintenance of the Trail. The Grantee shall also have the right to install foot bridges and boardwalks as necessary.

4. Once the Trail is created, the Grantee shall have the right, within the Easement Area, to cut, trim, clear and remove outgrowths of brush, other vegetation and any other obstructions, to the extent reasonably necessary to facilitate the uses intended hereby.

Notwithstanding the above, the Grantee, its agents, employees or representatives, may use such power equipment and/or motorized vehicles as may be necessary for the construction and maintenance of the Trail.

5. The precise location of the Easement Area shall be established by the cutting of the Trail and shall consist of the Trail and two strips, both three (3) feet in width on either side of the Trail, such that the total width of the Easement Area is ten (10) feet.

The Grantee shall have the right at any time and from time to time, with the prior consent of the then owners of the Grantor's property, to relocate the Trail within the Easement Area.

6. The parties agree that no improvements other than the Trail shall be made in the Easement Area, and that no concrete, bituminous or otherwise, shall be used in its installation.
7. All expenses associated with or arising out of the construction of the Trail, or its maintenance or improvement, shall be borne solely by or on behalf of the Grantee. The Grantor shall have no responsibility or obligation to maintain or repair the Trail or liability relating thereto.
8. The easement hereby conveyed does not grant to the Grantee or to the public or to any private person any rights in, under or across any portion of the Grantor's property other than the Easement Area. The Grantee agrees to erect fences, plant vegetation or take whatever measures it deems reasonably necessary or appropriate to protect the Grantor's privacy, subject to the prior written consent of the Grantor.
9. Notwithstanding any of the foregoing, including the recitation in Paragraph 1 above that this right and easement shall be perpetual, it is understood and agreed by the Grantee that all rights and easement granted herein shall lapse and terminate if, as and when Grantee obtains and records a perpetual, appurtenant easement, satisfactory in form and content to the Grantee, in the Grantee's sole discretion, from the then current owners of Chilmark Assessors' Parcel 24 on Map

7, providing access to, from, and over the wood bridge located on Parcel 25.

10. The foregoing constitutes the complete agreement and understanding between the parties hereto with respect to the Trail.

EXECUTED as a sealed instrument on the day and date first above written.

GRANTOR:

GRANTEE:

Martha's Vineyard Land Bank Commission

Howard B. Hillman
Howard B. Hillman, Trustee as aforesaid

Thomas Robinson, its Chairman

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss. _____, 2007

On this _____ day of _____, 2007, before me, the undersigned notary public, personally appeared Howard B. Hillman, Trustee as aforesaid, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

My commission expires: _____
Notary Public

COMMONWEALTH OF MASSACHUSETTS

Dukes, ss. _____, 2007

On this _____ day of _____, 2007, before me, the undersigned notary public, personally appeared Thomas Robinson, Chairman of the Martha's Vineyard Land Bank Commission as aforesaid: _____, proved to me through satisfactory evidence of identification, which was a _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

My commission expires: _____
Notary Public

