

Parcel 170 = 53.26  
160 = 50.16

10/2/23

Prepared by: Mark W. Botkin, Esq. (VSB #35780)  
BotkinRose PLC  
3190 Peoples Drive  
Harrisonburg, Virginia 22801

Orange County Tax Map Nos.: 054000400000080, 054000400000090, 05400040000100,  
05400040000110, 05400040000120, 05400040000130, 05400040000140, 05400040000150,  
05400040000160, 05400040000170, 05400040000180

DECLARATION OF RESTRICTIONS

PROPERTY OF  
Perdue Barboursville, LLC  
(Owner)  
Orange County, VA

THIS DECLARATION OF RESTRICTIVE COVENANTS (“Declaration”) is made this 1<sup>st</sup> day of June, 2023, by PERDUE BARBOURSVILLE, LLC (sometimes written PERDUE-BARBOURSVILLE, LLC), a Virginia limited liability company (the “Owner”), to be indexed as Grantor and Grantee.

WHEREAS, Perdue Barboursville, LLC is the owner of those eleven (11) parcels of land containing in the aggregate approximately 128.156 acres which were acquired by the Owner by that deed of record in the Clerk’s Office of Orange County, Virginia as Instrument Number 080004580, and which eleven (11) parcels of land are designated by Orange County as tax map parcels 054000400000080, 054000400000090, 05400040000100, 05400040000110, 05400040000120, 05400040000130, 05400040000140, 05400040000150, 05400040000160, 05400040000170, 05400040000180 (the “Property”).

WHEREAS, the Owner entered into the Rappahannock Environmental Bank Nutrient Reduction Implementation Plan (the “Plan”), dated April 18, 2012 by and among the Owner, the Virginia Department of Environmental Quality (“DEQ”) and the Virginia Department of Conservation and Recreation (“DCR”).

WHEREAS, pursuant to the Plan, the Owner executed a Declaration of Restrictions dated August 31, 2012 (the “Original Declaration”) imposing certain restrictions upon specific portions of the Property described as the “Land Conservation Areas”. The Original Declaration is of record in the Clerk’s Office of the Circuit Court of Orange County, Virginia as Instrument Number 120006741.

WHEREAS, the Original Declaration and the restrictions contained therein were terminated and extinguished by that Termination and Extinguishment of Declaration of Restrictions dated December 9, 2021, entered into by and among the Owner, DEQ, and DCR, which is of record in the aforesaid Clerk’s Office as Instrument Number 220006707.

WHEREAS, pursuant to the Plan, the Owner desires to impose certain restrictions upon specific portions of the Property described as the "Land Conversion Areas", consisting of 68.17 acres, and as shown on Exhibit-A, which is attached hereto, for such period of time as to match the duration of nutrient offset generation and transfer by the Owner. The Owner desires to comply with the respective conditions and terms of the Plan by imposing this Declaration on the Land Conversion Areas to preserve the Land Conversion Areas in perpetuity. These Restrictions are imposed by the Owner freely and voluntarily.

NOW THEREFORE the Owner does hereby declare, covenant and agree, for itself and its successors and assigns, that said Land Conversion Areas as shown on Exhibit-A and in any future amendments to the Plan shall be hereafter held, leased, transferred, and sold subject to the following conditions and restrictions which shall run with the land and be binding on all parties and persons claiming under them for any and all years nutrient offsets are generated and transferred by the Owner.

**Covenants and Restrictions:**

This Declaration replaces and supersedes the Original Declaration in its entirety. The Land Conversion Areas as shown and described on Exhibit-A shall be preserved for a length of time to match the duration of nutrient offset generation and transfer according to the terms of the Plan by prohibiting the following activities:

1. Destruction or alteration of the land area shown on Exhibit-A as Land Conversion Areas except:
  - (a) Alteration necessary to construct the land conversion areas and associated improvements proposed to be built by the Owner, or its successors, and/or assigns;
  - (b) Alteration necessary to implement the terms of the Plan and ensure the success of the planned nutrient reductions and associated nutrient offsets and in conjunction with the construction, reconstruction, enhancement, or maintenance of the Land Conversion Areas;
  - (c) Alteration to construct structures such as walkways, boardwalks, foot trails, wildlife observation or management structures, benches, observation decks, picnic tables, fence posts, and ecological, biological, hydrological or chemical monitoring, observation or management equipment including, without limitation, monitoring wells, water control weirs or interpretive stations, or other structures provided that such facilities are constructed and maintained in accordance with all applicable federal and state laws;
  - (d) Addition of signs constructed in public right of ways by or on behalf of the Virginia Department of Transportation or other governmental agencies;
  - (e) Removal of vegetation (where not precluded by federal or state law) when conducted for:

- (1) Removal of noxious or invasive plants or
    - (2) Limited aesthetic modifications not involving clearing or removal of trees or limbs greater than three (3) inches in caliper unless dead, dying or diseased, or lying within the Viewshed area;
  - (f) Planting of native species of plants by hand for aesthetic landscaping or screening purposes;
  - (g) Alteration authorized by the Plan and other activities pursuant to all applicable legislation, regulations and guidance governing the generation and trading of nutrient offsets within the Commonwealth of Virginia and/or;
  - (h) Alteration as reasonably necessary to comply with state or federal law or appropriate court order;
  - (i) Maintenance and use of existing trails and access roads crossing the Land Conversion Areas as long as activities do not negatively affect the associated nutrient reductions;
  - (j) Subsistence livestock for personal use will be limited to domestically raised animals on privately held portions of the Property outside the Land Conversion Areas. Any domestic livestock will be fenced from the Land Conversion Areas and access to stream watering locations or paddock crossing will be restricted to limited access points.
2. Construction, maintenance or placement of any structures or fills including but not limited to buildings and mobile homes, other than those, which currently exist;
  3. Ditching, draining, diking, damming, filling, excavating, grading, plowing, flooding/ponding, mining, drilling, placing of trash and yard debris or removing/adding topsoil, sand, or other materials (except as may be necessary on a case by case basis) other than any authorized under the Plan;
  4. Permitting livestock to graze, inhabit or otherwise enter the Land Conversion Areas placed into this Declaration;
  5. Harvesting, cutting, logging, and pruning of trees and plants, or using fertilizers and spraying with biocides other than what is authorized by the Plan or as part of an approved Forest Stewardship Plan approved by the Virginia Department of Forestry or its successor (except as necessary on a case-by-case basis).

**Amendment:**

The covenants contained herein shall not hereafter be altered in any respect without the express written approval and consent of the Owner, or its successor in interest, Perdue Barboursville, LLC ("PB, LLC"), a Virginia limited liability company, as the Bank

Sponsor, and the Virginia Department of Environmental Quality (DEQ). After recording, the Owner, or its successor, may vacate or modify this Declaration by providing a document signed by the Owner, or its successor in interest, PB, LLC as the Bank Sponsor, and DEQ. For portions of the Land Conversion Areas for which nutrient offsets are not currently being generated and transferred, the Owner or its successor in interest may amend or vacate this Declaration by providing a document signed by the Owner or its successor and PB, LLC provided the amendment or vacation of this Declaration does not negatively affect the areas within the Land Conversion Areas that continue to generate and transfer nutrient offsets.

**Compliance Inspections and Enforcement:**

DEQ and its authorized agents shall have the right to enter and go on the Land Conversion Areas to inspect and take actions necessary to verify compliance with this Amended Declaration. For safety reasons, DEQ shall notify the Owner in advance of on-site inspections. Each request for access by non-DEQ private parties will be evaluated on a case by case basis by the Owner. The restrictive covenants herein shall be enforceable by any proceeding at law or in equity or administrative proceedings by the DEQ. Failure by the DEQ (or Owner) to enforce any covenant or restriction contained herein shall in no event be deemed a waiver of the right to do so thereafter.

**Separability Provision:**

The provisions hereof shall be deemed individual and severable and the invalidity or partial invalidity or unenforceability of any one provision or any portion thereof shall not affect the validity or enforceability of any other provision thereof.

**Consent of Lender and Trustee:**

The Property is not encumbered by any mortgages or deeds of trust. Therefore, no trustee or lender consent is required to duly authorize (i) the restrictions imposed by this Declaration, or (ii) the sale of the Owner's nutrient credits.

**Referenced Document:**

Terms and Conditions of the Rappahannock Environmental Bank Nutrient Reduction Implementation Plan dated April 18, 2012 between: Perdue Barboursville, LLC, the Virginia Department of Environmental Quality and the Virginia Department of Conservation and Recreation are available upon written request.

Document copies may be obtained with Owner permission from:

Owner:  
Perdue Barboursville, LLC  
9161 Liberty Mills Road  
Somerset, VA 22927

IN WITNESS WHEREOF, Perdue Barboursville, LLC, a Virginia limited liability company, has caused this instrument to be executed in its name and on its behalf by its duly authorized agent.

PERDUE BARBOURSVILLE, LLC,  
a Virginia limited liability company



By: B. Chandler Van Vorhis (SEAL)  
B. Chandler Van Vorhis (Printed Name)  
Its: Manager (Title)

Commonwealth of Virginia, at large,

City/County of FAUQUIER, to wit:

The foregoing Declaration was acknowledged before me this 1<sup>ST</sup> day of JUNE, 2023, by CHANDLER VAN VORHIS of Perdue Barboursville, LLC, a Virginia limited liability company, on behalf of said company, pursuant to due company authority.

Given under my hand and notarial seal this 1<sup>ST</sup> day of JUNE, 2023.







Robert  
Notary Public

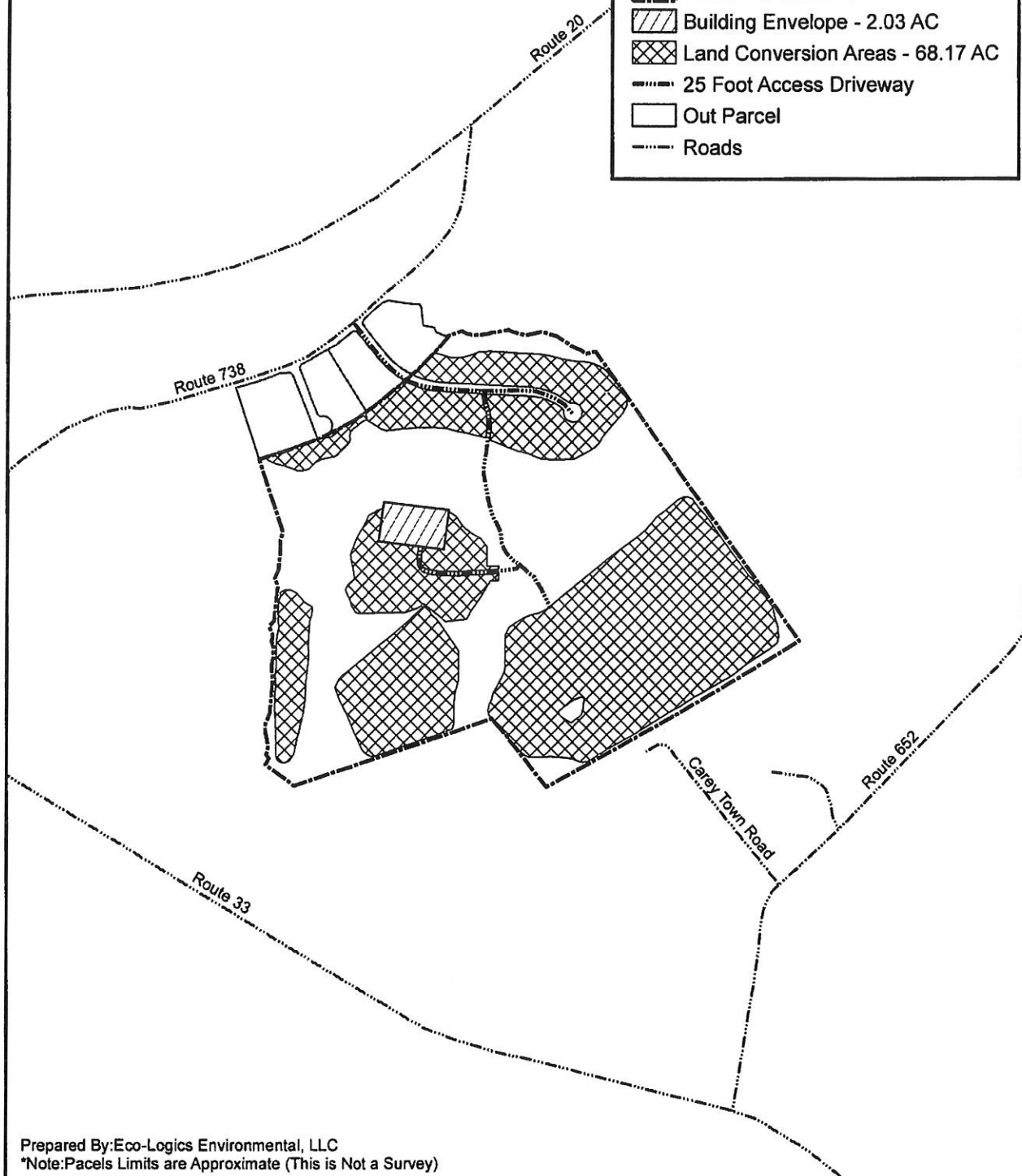
ROBERT BANNER

My commission expires NOV 30, 2025.

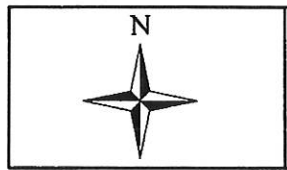
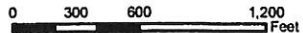
Notary Registration Number 7928119.

**Legend**

-  Gross Parcel Limits
-  Building Envelope - 2.03 AC
-  Land Conversion Areas - 68.17 AC
-  25 Foot Access Driveway
-  Out Parcel
-  Roads



Prepared By: Eco-Logics Environmental, LLC  
 \*Note: Parcels Limits are Approximate (This is Not a Survey)



**Rappahannock  
 Environmental Bank  
 (Exhibit - A)  
 This is Not a Survey**

Eco-Logics Environmental, LLC  
 5584 Westtower Drive  
 Richmond VA 23225  
 804-836-6636

