

I. **The Purpose.** (a) This stipulation is a complete settlement of all disagreements between the Parties as raised in the application. By signing this Agreement the Neighbors recognize they are foregoing various rights and remedies available to them in the present proceeding(s). By signing this Agreement the Circus recognizes that it is agreeing to be bound by these conditions under Rule 34(E) also known as the *Stowe Club Highlands* analysis. (b) In consideration of the Neighbors' agreement not to oppose the Act 250 application, the Circus agrees to incorporate the terms and conditions of this Agreement as permit conditions in the Act 250 Permit. (c) In consideration of the Neighbors' agreement to agree to dismiss their appeal to the Environmental Division of the Town's Development Review Board's decision the Circus will incorporate the terms and conditions of this Agreement into the Court's final Order in Docket No. 107-8-13 Vtec. This Agreement shall be deemed satisfied in full upon incorporation of the terms and conditions into the Circus's Act 250 permit and the terms and conditions into the Court's final Order in Docket No. 107-8-13 Vtec.

II. Circus will ensure that the noise it generates will remain at acceptable levels.

The Circus will prevent noise generated on its property from being a problem for the Abutters by ensuring that:

- i. The Circus will maintain noise levels not to exceed 45 dBA 1 sec Leq from 8:00 p.m. to 8:00 a.m. and 55 dBA 1 sec. Leq from 8:00 a.m. to 8:00 p.m. at the Holbein/Peterson and Williams' property lines.
- ii. Use of each of the two porches on the west side of the existing house that will be used as a staff residence shall be limited to no more than five (5) persons at any one time from 9:00 a.m. to 9:00 p.m. The Circus shall prohibit access to the porches from 9:00 p.m. to 9:00 a.m. The Circus will post a sign on each porch indicating that because of the proximity of the porches to the Holbein/Peterson camp that the Circus asks anyone on a porch to respect the Neighbors' privacy and not raise voices or play music. No amplified sound shall be allowed on the porches.
- iii. A fence approximately 250 feet in length shall be constructed (and maintained) at the Circus' property line and along the farmhouse, such wall consisting of an eight foot stockade type fence with no gaps between boards or posts, except as terrain requires at the bottom, as shown on the Site Plan and Attachment D & E hereto.
- iv. The north wall without operable windows and ceiling of the dining hall shall be constructed and insulated as per the architectural details provided to the Abutters' sound consultant by Ed LeClair on 6/18/13, attached hereto as Attachment F.
- v. No mechanical equipment and/or HVAC equipment shall be installed or operated on the north and west sides of the house or barn on the Circus' property.

- vi. Amplified music and/or amplified speech and amplified musical instruments for performance, rehearsal and/or training can only occur or be used in tents and buildings.
- vii. Presently only three (3) of the four (4) tents, as shown on site plan C1.1., dated 10/15/13, as updated 1/6/14, as part of this application will be used for performance, rehearsal, and/or training. One tent located on the south side of the fire lane shall not be used for performance related or other activities, but may be used for general storage, an infirmary and other non-performance and non-training related activities. If additional tents or other structures or facilities are proposed, or if the tents, structures or facilities are moved to materially new locations, the Circus will file for an amendment to its land use permits. If a tent or other structure or facility is changed, moved, and/or added, the Circus shall first consider locations that are no closer in proximity to the Holbein/Peterson and/or the Williams' properties than what is shown on the site plan C1.1. Only if the Circus determines in its sole discretion for whatever reason that no other location is suitable may the Circus file an application for such tent, structure, or facility proposed to be located closer in proximity to the Holbein/Peterson and/or Williams' properties. Any amendment filed hereto for such tent, structure, or facility shall be subject to the *Stowe Club Highlands* analysis only for the issues and conditions set forth in Para. I – V, as further explained in Paragraph VII, hereof. The Circus agrees that it will meet and confer with the Neighbors on a proposed amendment application(s), if any, prior to filing the application with the DRB or Act 250 Commission.
- viii. Notwithstanding any other provision herein, the Circus may seek with advanced notice "permission" from the Neighbors to have an outside dance with music. Either of the Neighbors (Holbein/Peterson or Williams or their successors) in their sole discretion may decline such a request for any reason or no reason.
- ix. It is understood that campers and staff will exit the dining hall at approximately 8:00 a.m. each morning and will exercise outside for some time period for approximately one hour. It is understood that during calisthenics the campers may sing. The Circus agrees to advise the campers to be respectful of the Neighbors' during such activity. There will be no amplified music, boom boxes, or loud music playing.

III. Use of Driveway Closest to Holbein/Peterson Property.

- i. The use of the proposed driveway closest to the Holbein/Peterson property shall be restricted to limited vehicles and purposes as set forth in the Site Plans C1.1 and C1.2 dated 10/15/13, updated 1/6/14. The Circus shall post continuously a sign at least 12" x 12" with large black lettering stating "STAFF ONLY". This access shall be used by office staff only and restricted to eight vehicles. This access shall *not* be used by campers' families or friends or for commercial, industrial, trash/recycling, construction, utility, delivery vehicles or other similar vehicles.

The Circus agrees to inform anyone else that parking is restricted and that they may park either in the other parking lot or on Breezy Avenue.

- ii. The proposed accesses shown on the Site Plan C1.1 dated 10/15/13, updated 1/6/14 shall not be moved closer to the Holbein-Peterson residence.
- iii. The Circus agrees that the area along Breezy Avenue from the south side of the main access to the north property line of the Circus property and south property line of the Holbein/Peterson property extending to the existing garage/farmhouse shall remain forever open except for trees and plantings and shall not be used for future Circus activities including future parking facilities, new structures or new road accesses and that such restrictions shall be proposed by the Circus to be included as a condition within any Act 250 permit issued by the District Commission or its successor. The Parties agree that these issues were included within this Agreement and are being proposed to the District Commission to resolve an issue critical to the issuance of this permit and that the Neighbors materially relied on the representations of the Applicant in entering into this Agreement. The Parties further agree that they substantially relied on these issues being included as permit conditions in any permit issued to the Applicant.

IV. NO PLAY AREA.

- i. The Circus agrees to post the area as shown in Attachment G, immediately behind and adjacent to the Williams and Holbein Properties as a “No Play Area” with the express understanding that there will be no camp related activities, no construction, no development, and no improvements in this area (including the area immediately east of the Holbein/Peterson property containing the existing leach field for the Lonegren property being conveyed to the Circus) except for the proposed storm water improvements identified in the Applicant’s Site Plan (Attachment G) and any maintenance or repairs to the existing leach field behind the Holbein/Peterson property) on site and that such “No Play Area” restrictions shall be proposed by the Parties to be included as a condition within the Act 250 permit issued by the District Commission and the Court’s final Order in Docket No. 107-8-13 Vtec. The Circus agrees to educate its campers and staff as to the meaning and importance of this restriction.
- ii. Any trees, including the large pine tree located behind the Holbein/Peterson residence, will be periodically trimmed at the Holbein/Peterson expense to retain the view of Stannard Mountain. The Circus agrees to maintain the grass and other growth behind the Holbein/Peterson residence by mowing it at least every four weeks.
- iii. The Circus confirms that the preservation of the agricultural soils on approximately 21.25 acres as proposed by the Agency of Agriculture in its letter of October 22, 2013, and accompanying site plan will be implemented as proposed and become a

condition of the Act 250 permit as proposed by the Agency in its October 22, 2013 letter to Circus Barn, Inc.. Attachments A & B.

- iv. The Circus confirms that a conservation easement will be held by the Greensboro Land Trust on approximately 21.5 acres of the 29.5 acres held by the Circus, as set forth in the draft marked as Attachment C and will be implemented as proposed and become a condition of the Act 250 permit as proposed as of February 1, 2014.
- v. The Circus agrees to convey to the Neighbors (or either Neighbor, should one decline) the residual development rights to the portion of land immediately behind and adjacent to the Neighbors' property, (but not including the small area containing the existing leach field directly behind the Holbein/Peterson property) as shown on Attachment G.1. The conveyance of the residual rights to the Neighbors is to ensure that said portion of land will not be built upon or otherwise used by the Circus for any activity or reason other than for the stormwater needs that are being proposed in Application # 7R1343, as the stormwater pond and facility may need to be maintained and repaired by the Circus or its successors. .
- vi. The Circus agrees to give the Neighbors (or either Neighbor, should one decline) a right-of-first refusal on the parcel identified as a "No Play Area" (less the small area containing the existing leach field immediately behind the Holbein/Pederson property that the Circus wishes to retain) referenced in IV.i. above and identified in Attachment G.1., should the Circus, or its successors or assigns, propose to sell the Circus camp and related property. If the parcel (comprising the "No Play Area" minus the leach field area immediately behind the Holbein/Peterson property) is sold to the Neighbors (or either Neighbor, should one decline) it shall be for no more than the appraised value of the land according to the latest grand list of the Town of Greensboro, or for \$6,000 per acre, whichever is greater. The Circus agrees not to construct any structure or building on any part of the No Play Area. The Neighbors agree to provide reasonable access to the Circus and its employees or representatives to access the existing leach field located immediately behind the Holbein/Peterson property and the stormwater pond and related features that may be located on the "No Play Area" as shown on Attachment G to maintain and repair these features.
- vii. If the area comprising the "No Play Area" (less the small parcel containing the "leach field" located immediately behind the Holbein/Peterson property) is sold to the Neighbors (or either Neighbor, should one decline) it shall be sold as one parcel in fee simple, but to all rights and restrictions of record
- viii. Subparagraphs v. – vii. of this paragraph IV, shall be enforceable in the Civil Unit of the Vermont Superior Court for relief by specific performance, injunction or other appropriate relief. The remainder of this Agreement shall be enforced through Act 250 in accordance with Paragraph VII.¹

¹ See footnote 2, for enforcement of local site plan and zoning permit.

V. **Permission for Vermont Daylillies and Usage of Right-of-Way.**

- i. The Circus acknowledges that Vermont Daylillies, a/k/a Vermont Daylilly Farm, located partially on land owned by the Lakeview Inn LLC, the Williams family and Sig Lonegren (i.e., the Circus) has the Circus' permission to remain in its present location without rent or other remuneration as long as John Hunt and Katherine Unser remain as the present owners and operators of Vermont Daylillies.
- ii. The Circus agrees to create, identify, promote and employ a path to the east of the stormwater pond and then north of the Williams' property and the "no play zone" as the exclusive pedestrian access to Vermont Daylillies and the Lakeview Inn. The Circus shall be solely responsible for and use its best efforts to obtain any necessary approvals from owners of the conserved land and the Lakeview Inn for such access.
- iii. Without waiving its rights to a right-of-way it claims under the Lonegren deed that begins at Breezy Avenue in the form of the entrance to the Lakeview Inn, the Circus agrees to restrict its use of such access to the Circus land to agricultural equipment for the purpose of mowing and maintaining conserved land and maintaining and promoting agricultural use unless there are unusual, immediate or other exigent circumstances that require the use of such right-of-way to protect the Circus, its property or investment in such property and its other access(es) are not adequate for such purpose(s). The Circus further agrees not to use such right-of-way for any continuing purpose or activity but rather to notify the Neighbors and work in good faith with the Neighbors when its other access(es) are not adequate and such unusual and exigent circumstances require such use. The Circus agrees it does not foresee use of such right-of-way and that it will continue to promote and employ the path east of the stormwater pond and north of the Williams' property for all foreseeable uses or activities and rely upon its proposed accesses to the Circus property for all other purposes.

VI. **Compliance:** On or before August 1 of each year the Executive Director of the Circus or other official(s) shall meet with the Neighbors to discuss compliance issues and continued ways to ensure compliance with this Agreement. On or before November 15th of each year the Circus shall send the Neighbors a letter stating whether they have complied with this Agreement and all permit conditions or stating if there was non-compliance, the nature of the non-compliance and how the Circus will ensure compliance with this Agreement the following year. The Parties will engage in good faith ways to allow the Circus to maintain its camp and activities in ways that respect the Neighbors' peace and quiet.

VII. **Stowe Club Highlands.** Consistent with subparagraph viii of paragraph IV of this Agreement, the Parties agree to apply the *Stowe Club Highlands* analysis expressed in Rule 34(E) of the Natural Resource Board's Act 250 Rules to enforce major parts of this Agreement.² In this

² To the extent this Agreement is enforced pursuant to an alleged violation of the Applicant's site plan and zoning permit(s) of the Town of Greensboro as finalized by a final Order referenced in Paragraph I, above, the standards

respect, the Parties agree that the issues contained in this Agreement shall be jointly proposed by the Parties to be included within permit conditions in any Act 250 permit issued by the District VII Environmental Commission.³ The Parties agree that the issues and conditions in this Agreement were included to resolve issues critical to the issuance of an Act 250 permit and resolve the DRB appeal, including issues identified and set forth in Paragraphs I – V, above. The Circus agrees that the Neighbors have substantially relied upon the material representations made by the Circus contained herein and that the Neighbors have relied upon the good faith representations by the Circus’ representatives that they will abide by their representations now and in the future. The Circus agrees that it supports these provisions to be included as permit conditions subject to the Rule 34(E) analysis, also known as the *Stowe Club Highlands* analysis.⁴

VIII. Good Faith. The Parties agree to cooperate in good faith with one another and covenant and agree that they will each execute such other and further instruments and documents, and undertake such other and further actions, as are or may become reasonably necessary or convenient to effectuate and carry out the purposes of this Agreement, including any necessary regulatory applications. Notwithstanding the provisions of Paragraph IV.viii. and Paragraph VII., above, the Parties agree to initiate good faith mediation in an attempt to resolve any initial disputes or disagreements. In that regard, the Parties agree to file and support this Agreement before the District VII Environmental Commission and the Environmental Division of Superior Court with regard to the Neighbors’ appeal of the Town of Greensboro in Docket No. 107-8--13 Vtec (*In re Application of Circus Smirkus d/b/a Circus Barn, Inc., for Site Plan Review and Conditional Use Permit, Greensboro, VT*).

IX. Notification. Unless the Party can affirmatively demonstrate that written notice, demand, request or communication has been personally delivered to the other party(ies), any notice, demand, request, or other communication which any party hereto may be required, or may desire, to give hereunder shall be in writing and shall be deemed to have been properly given and received, on the third business day after the day on which it is deposited in the United States mail, postage prepaid, as set forth below.

Circus: Ed LeClair, Executive Director
Circus Barn, Inc.
1 Circus Road
Greensboro, Vermont 05841

Mark Hall, Esquire
Paul, Frank & Collins
One Church Street
Burlington, VT. 05402

under which this Agreement shall be enforced shall be those standards, principles and precedents applicable to site plan and zoning laws in the State of Vermont.

³ Consistent with Paragraph I, the Parties agree to jointly propose to incorporate the terms and conditions of this Agreement into the Court’s final Order in Docket No. 107-8-13 Vtec.

⁴ See footnotes 2 and 3, above.

Lonegren: Sigfrid R. Lonegren
421 Breezy Ave.
Greensboro, Vermont 05841

Holbein: Lynn and Bruce Holbein
227 Islington Road
Newton, MA 02466

Peterson: Connie Peterson
170 Shutesbury Road
Leverett, MA 01054

Williams: Sarah Williams
474 14th Street
Brooklyn, NY 11215

Susan Williams
189 Palisado Ave.
Windsor, CT. 06095

Rachel Williams
542 Joost Avenue
San Francisco, CA 94127

If any Party wishes to change the name and/or addresses of a person(s) who is/are to receive notice under this Agreement the Party shall provide the other Parties written notice of the change with the name(s) and/or address(es) of the person or person who is/are to receive further notice. The change shall be effective within the time frames set forth herein.

X. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties and supersedes all prior agreements, understandings, and proposals and cannot be amended, modified or supplemented except in writing, signed by all the Parties.

XI. Non-Waiver. The Parties do not waive any rights accruing under this Agreement unless and until the Party(ies) waiving such right(s) signs a document specifying the extent of the waiver.

XII. Validity. If any provision, term, and/or condition of this Agreement or the application thereof to any person or circumstance shall be held by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions, terms, and/or conditions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

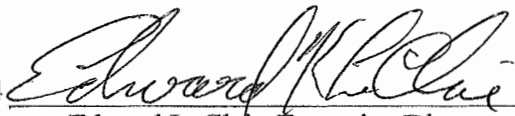
XIII. Applicable Law. This Agreement shall be interpreted, construed and governed by the laws of the State of Vermont. The Agreement shall be read together as one agreement for purposes of interpretation.

XIV. Successors and Assigns. This Agreement and all rights, liabilities and obligations hereunder, shall be conveyed to and inure to the benefit of each Party's heirs, successors and assigns.

XV. Counterparts. The Agreement may be executed in counterparts, each of which shall be deemed an original and said counterpart(s) shall constitute but one and the same original.

XIV. Filing. The Parties agree to file this Agreement with the District VII Environmental Commission.⁵

XX. Authorization. By signing this Agreement each party represents and covenants to the other that he or she had ample opportunity to read and understand this Agreement and to consult with counsel about the legal consequences of this Agreement. Each person or persons signing this Agreement represents he or she has full authority to sign on behalf of the named party.

DATED: March 18, 2014, 2014 
Edward LeClair, Executive Director
Circus Barn, Inc. d/b/a Circus
Smirkus

DATED: _____, 2014

Connie Peterson

DATED: _____, 2014

Lynn Holbein

DATED: _____, 2014


Rachel Williams

DATED: _____, 2014

Susan Williams

DATED: _____, 2014

Sarah Williams

Approved as to form:
DATED: 3/27, 2014, 
Mark Hall, Esq.

⁵ The Parties shall also file this Agreement with the Environmental Division of Superior Court to resolve the appeal of the town permit referenced as Docket No. 107-8-13 Vtec.

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DATED: _____, 2014 _____
Edward LeClair, Executive Director
Circus Barn, Inc. d/b/a Circus
Smirkus

DATED: March 18, 2014 _____
Connie Peterson
Connie Peterson

DATED: _____, 2014 _____
Lynn Holbein

DATED: _____, 2014 _____
Rachel Williams

DATED: _____, 2014 _____
Susan Williams

DATED: _____, 2014 _____
Sarah Williams

Approved as to form:

DATED: _____, 2014, _____
Mark Hall, Esc.

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DATED: _____, 2014
Edward LeClair, Executive Director
Circus Barn, Inc. d/b/a Circus
Smirkus

DATED: _____, 2014
Connie Peterson

DATED: *March 18,* _____, 2014
Lynn D. Holbein
Lynn Holbein

DATED: _____, 2014
Rachel Williams

DATED: _____, 2014
Susan Williams

DATED: _____, 2014
Sarah Williams

Approved as to form:

DATED: _____, 2014,
Mark Hall, Esq.

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DATED: _____, 2014
Edward LeClair, Executive Director
Circus Barn, Inc. d/b/a Circus
Smirkus

DATED: _____, 2014

Connie Peterson

DATED: _____, 2014

Lynn Holbein

DATED: 3/19, 2014
Rachel Williams

Rachel Williams

DATED: _____, 2014

Susan Williams

DATED: _____, 2014

Sarah Williams

Approved as to form:

DATED: _____, 2014,

Mark Hall, Esq.

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DATED: _____, 2014 _____
Edward LeClair, Executive Director
Circus Barn, Inc. d/b/a Circus
Smirkus

DATED: _____, 2014 _____
Connie Peterson

DATED: _____, 2014 _____
Lynn Holbein

DATED: _____, 2014 _____
Rachel Williams

DATED: March 18, 2014 _____
Susan Williams
Susan Williams

DATED: _____, 2014 _____
Sarah Williams

Approved as to form:

DATED: _____, 2014, _____
Mark Hall, Esq.

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DATED: _____, 2014 _____
Edward LeClair, Executive Director
Circus Barn, Inc. d/b/a Circus
Smirkus

DATED: _____, 2014 _____
Connie Peterson
Connie Peterson

DATED: _____, 2014 _____
Lynn Holbein

DATED: _____, 2014 _____
Rachel Williams

DATED: _____, 2014 _____
Susan Williams

DATED: March 19, 2014 _____
Sarah Williams
Sarah Williams

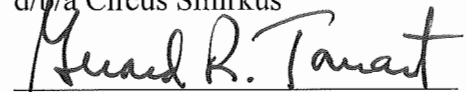
Approved as to form:

DATED: _____, 2014, _____
Mark Hall, Esq.

⁵ The Parties shall also file this Agreement with the Environmental Division of Superior Court to resolve the appeal of the town permit referenced as Docket No. 107-8-13 Vtec.

DATED: March 26, 2014

Attorney for Circus Barn, Inc.
d/b/a Circus Smirkus



Gerald R. Tarrant

Attorney for Connie Peterson, Lynn
Holbein, Rachel Williams,
Susan Williams and Sarah Williams

Agency of Agriculture, Food & Markets
116 State Street
Montpelier, VT 05620-2901
www.VermontAgriculture.com

October 22, 2013

Circus Barn, Inc.
c/o Shannon Harrington
Engineering Ventures P.C.
85 Mechanic Street, Suite B2-2
Lebanon, NH 03766

Re: Preliminary Review of Circus Smirkus Project–Greensboro, Vermont¹
Preliminary Consideration of Primary Agricultural Soils under 10 V.S.A. §§ 6093, 6086

Dear Applicant:

Thank you for the opportunity to comment on the above-referenced project.

Purpose:

This review letter will aid in the District Commission's (the "Commission") determination of whether any reduction in the agricultural potential of the primary agricultural soils will occur as a result of the construction of this project. Please note that this letter focuses solely on whether there are primary agricultural soils on the project site pursuant to 10 V.S.A. § 6001(15), whether the project reduces the potential of any primary agricultural soils, and whether any proposed mitigation is adequate under 10 V.S.A. § 6093.

Summary of Agency Review:

The Agency of Agriculture, Food & Markets (the "Agency") holds the opinion that the project site contains:

- 29.64 acres of primary agricultural soils as defined by 10 V.S.A. § 6001(15)
- 8.29 acres of primary agricultural soils that will be impacted, either directly or indirectly
- 20.46 acres of on-site mitigation is required pursuant to 10 V.S.A. § 6093

Process and Basis for Opinion:

The Agency received an information packet from Shannon Harrington, consultant for Circus Barn, Inc. and landowner Sigfrid R. Lonegren (collectively the "Applicant"), on September 24, 2013 requesting a review letter for a project generally described as the development of a portion

¹ This Review Letter is "preliminary" in nature because the Applicant has not yet filed an Act 250 Application with the District Commission. As such, the Agency reserves the right to submit additional comments and revise the conclusions in this letter if the Applicant changes the project from what was reviewed.



of a 32.72 acre parcel as part of Circus Smirkus. The request included the following materials: a site plan, soil maps, soil information, the Criterion 9(B) Section of the Schedule B, and a Cover Letter explaining the project. The Agency requested revisions to the original mapping to address previous impacts and finalize the true extent of the propose project's impacts. New maps were provided on October 1 and 17. Revised Schedule B and Cover Sheet were provided on October 21. The Agency's review of primary agricultural soils is also based on an evaluation of United States Department of Agriculture soil survey(s), satellite imagery, the supplied site development plans, supplied ground topographic survey, soil limitations, size, location, landscape patterns and other elements of the definition of primary agricultural soil as provided in 10 V.S.A. § 6001(15).

The review and evaluation indicates:

- 32.72 acres = soils with an agricultural value of 1-12 (NRCS)(total project)
- 32.61 acres = soil with an agricultural value of 1-7 (NRCS)
- 3.07 acres = soil with an agricultural value of 1-7 (NRCS) that do not meet the statutory definition of primary agricultural soils because of previous impacts.

The project site contains 29.54 acres of primary agricultural soils as defined by 10 V.S.A. § 6001(15). See Map Labeled "Overall Site Utility and Grading Plan" (Revised Oct. 14, 2013) (on file with the Commission) (hereinafter "the Map").

The project site is located in Greensboro, Vermont on a parcel that is not encumbered by an existing Act 250 permit, which eliminates an analysis of the site's Act 250 history. The tract of land at issue is 32.72 total acres located off of Breezy Avenue (the "Parcel"). The western portion of the site nearest Breezy Avenue contains a house, barn, glass studio, and associated infrastructure. According to the Applicant, the site has city water, so there is no existing impact from a well or well shield. The remaining area behind the existing development is mostly open hayfield with some wooded areas.

According to Vermont case law, soils mapped by the NRCS as being "prime" or of "statewide importance" are presumptively primary agricultural soils under 10 V.S.A. § 6001(15). *In re Brosseau/Wedgewood Act 250 PRD Application*, No. 260-11-08 Vtec, slip. op., 9 (Vt. Super. Ct. Env'tl. Div Dec. 8, 2010). The burden to rebut the presumption created by the NRCS mapping is solely on the applicant, as is the overall burden to show compliance with Criterion 9(B). 10 V.S.A. § 6088(a).

If a project site contains "primary agricultural soils" and the proposed project involves earth disturbance, compliance with Criterion 9(B)'s four sub-criteria is required. Sub-criterion (iv) mandates that "suitable mitigation" be provided for "any reduction in the agricultural potential of primary agricultural soils." 10 V.S.A. § 6086(a)(9)(B)(iv). What constitutes suitable mitigation depends on the project's location. Project parcels located outside of "designated growth centers" must provide mitigation for impacts on site. *Id.*, § 6093(a)(2).

In this case, the site contains a total of 32.61 acres of mapped primary agricultural soils. Of the eligible soils, the Agency agrees that 3.07 acres is impacted from pre-existing development,

which is designated in orange on the Map. The Parties agree that the remaining 29.54 acres are primary agricultural soil.

The Applicant has proposed clustered development on the western end of the parcel abutting the existing development. The proposed plan leaves most of the eastern soils open and available for continued agricultural use. The proposed septic is located on the south east portion of the site. The pipe leading from the development to the septic is buried at a depth to allow continued agricultural use of the land above. In the northern middle portion of the site is a proposed stormwater pond. Though this pond does fragment the soils, it goes with the natural contours of the land. Moreover, the Applicant did subsequently decide to bury a pipe to lead from the development to the pond, which resulted in less impact to the north western portion of the site. The Agency acknowledges and appreciates the Applicant's efforts to minimize the impacts to primary agricultural soils through clustering their project and the changes they have made around the stormwater pond.

In total, the proposed development will impact 8.29 acres of primary agricultural soil, which is marked in purple on the Map. Specifically, the proposed project impacts 7.75 acres of "prime" soil that is in agricultural value group 3 and 0.54 acres of "soil of statewide importance" that is in agricultural value group 6d. Based on these impacts, Act 250 requires a total of 20.46 acres of mitigation.² Because this project is not within a designated growth center, the statutory default is on-site mitigation.

To fulfill the mitigation requirement, the Applicant is proposing to set aside the required acreage on site. In fact, the Applicant is willing to set aside a total of 21.25 acres, which is more than required by the statute. The mitigation area is designated in green on the Map. The proposed mitigation area is comprised largely of prime soil with an area of statewide importance soil in the eastern end of the site. The Agency understands that there is existing access into the hay fields that will remain after the project is completed. Based on the information provided, the proposed mitigation area satisfies the Agency's requirements for consideration. The entire 21.25 acre area is contiguous and has widths in excess of 100 feet.

The Agency appreciates the Applicant's efforts to minimize impacts to primary agricultural soils by placing the bulk of development on the western portion of the site and by burying the pipes leading to the stormwater pond and septic area at a depth that will continue to allow agricultural activities above. Additionally, the Applicant is proposing to set aside more land that is required by the statute for on-site mitigation. In sum, the Agency holds the opinion that the Applicant is in compliance with the requirements of 10 V.S.A. §§ 6086(a)(9)(B)(iv) and 6093(a)(2) for the reasons set out above.

Conclusions:

Having reviewed the Applicant's submissions, it is the Agency's assessment that this project impacts primary agricultural soils and the proposed mitigation area satisfies 10 V.S.A. § 6086(a)(9)(B)(iv).

² (7.75 acres (impact) x 2.5 (statutory multiplier for value group 3 soils)) + (0.54 acres (impact) x 2 (statutory multiplier value group 6 soils))

The Agency appreciates the Applicant's responsiveness and willingness to engage this Agency to collaboratively reach a conclusion on the Criterion 9(B) issues presented by this application.

If either the Commission or the Applicant disagrees with the conclusions in this Review Letter, the Agency request that a Hearing be noticed for this Application. The Agency requests that, at minimum, the following conditions addressing Criterion 9(B) be included if a permit is issued for this project:

1. *"The protected primary agricultural soils as depicted in Exhibit ____ (the designated mitigation area) shall be maintained in a manner to ensure that they will be available for economic or commercial agriculture in perpetuity. Only activities designated as "farming" pursuant to 10 V.S.A. § 6001(22) and brush hogging shall be permissible in the designated mitigation area. All other activities, development, construction, or improvements shall be prohibited. If, at any time, the designated mitigation area is not used for an economic or commercial agricultural purpose, the Permittee(s) shall ensure that the soils remain open and unobstructed by haying or brush hogging the area a minimum of once every two years. A Rule 34(E) analysis, otherwise known as Stowe Club Highlands Analysis, is required if any activity, other than those explicitly permitted by this Condition, is proposed in the designated mitigation area."*

2. *"The following "right to farm" covenant shall be included in any declaration of covenants for the project and in each deed conveying any portion of the project tract:
Notice is given of the existence of preserved agricultural lands located in the vicinity of the lands conveyed herein. Current or future agricultural operations on these lands may include, without limitation: plowing; planting; fertilizing; spraying; the use of agricultural chemicals, pesticides and herbicides in the course of cultivating, harvesting, storing and transporting agricultural products; and the raising, feeding and management of livestock. Consistent with this notice, the lands are conveyed subject to a perpetual easement for any noise, odors, dust, and/or byproducts and impacts that may occur in the course of conducting accepted agricultural and best-management practices on these nearby agricultural lands. Grantees, by the acceptance of this deed, waive any objection to impacts arising from accepted agricultural and best-management practices, and are further notified that existing agricultural activities which are consistent with accepted agricultural and best-management practices do not constitute a nuisance or a trespass."*

The Agency also requests that this review letter be submitted with any subsequent amendment applications.

Sincerely,



Kyle Davis
Act 250 Specialist
Vermont Agency of Agriculture, Food & Markets
116 State Street
Montpelier, VT 05620-2901
802-828-2082
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[*Note: Make sure you leave room for the town clerk to put a recording stamp either here or at the end of the document.]

CONSERVATION EASEMENT

The Circus Barn, Inc. (d/b/a Circus Smirkus), of 1 Circus Road, Greensboro, Vermont, on behalf of its heirs, successors and assigns (“Landowner”), in consideration of at least ten dollars and other valuable consideration including the mutual covenants contained herein, paid to Landowner’s full satisfaction,

does freely convey to the **Greensboro Land Trust, Inc.**, a non-profit corporation organized under the laws of the State of Vermont with its current mailing address of P.O. Box 135, Greensboro, Vermont, 05841, together with its successors and assigns (“Holder”) forever;

a perpetual conservation easement (this “Easement”), consistent with 10 V.S.A. § 821(a), as more particularly set forth herein, on lands and premises situated in the Town of Greensboro, Orleans County, Vermont (the “Premises”) which Premises are more particularly described in Schedule A and depicted on Schedule B attached hereto and incorporated herewith in its entirety. The particular land area subject to the terms of this agreement is depicted on Schedule B and shall be referred to as the “Protected Property.”

This agreement is exclusively between the Greensboro Land Trust, Inc. and The Circus Barn, Inc., and is binding upon them and their respective assigns and successors. No third party, whether private, public or governmental, shall have any standing to seek enforcement of any of its terms or conditions.

This Easement conveyed by Landowner to Holder consists of covenants on the part of Landowner to do or refrain from doing, severally and collectively, the various acts set forth below. It is hereby acknowledged that these covenants constitute a servitude on the land, and run with the land in perpetuity. Holder accepts such covenants in order to achieve the Purposes of this Easement as more particularly set forth herein.

Holder, Greensboro Land Trust, Inc. is a publicly supported non-profit corporation incorporated under the laws of the State of Vermont, and qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code. Its purpose is to preserve undeveloped and open space land in order to protect the aesthetic, recreational, cultural, educational, scientific, and natural resources of Greensboro through non-regulatory means, thereby reducing the burdens on state and local governments.

Landowner, The Circus Barn Inc. (d/b/a Circus Smirkus), is a non-profit corporation incorporated under the laws of the State of Vermont, and qualified under Section 501(c)(3) of the Internal Revenue Code. Its mission is to promote the skills, culture, and traditions of the traveling circus and to encourage youth to engage in life changing adventures in the circus arts. In order to advance the foregoing purpose, Landowner intends to

develop a camp (the "Camp") on a portion of the Premises depicted on Schedule B attached hereto (the "Camp Area").

Landowner and Holder enter this Easement exclusively for conservation purposes pursuant to Internal Revenue Code Section 170(h)(5) because the Protected Property has scenic, aesthetic and natural resource values which provide significant benefits to the public.

Landowner and Holder acknowledge the economic health of Greensboro is closely linked to its agricultural, forested, and natural lands and resources which produce food, fiber, fuel, timber, and other products, and also provide much of Greensboro's aesthetic and scenic qualities, upon which the State and its and its various industries, such as recreation and ecotourism, depend.

The State of Vermont has repeatedly sought to foster the conservation of the State's agricultural, forest, and other natural resources through planning, regulation, land acquisition, and tax incentive programs, including but not limited to: Title 10 V.S.A. Chapter 151 (Act 250); Title 24 V.S.A. Chapter 117 (Regional and Municipal Planning and Development Act); Title 10 V.S.A. Chapter 155 (Acquisition of Rights and Interests in Land by Public Agencies); Title 32 V.S.A. Chapter 124 (Current Use Taxation); Title 32 V.S.A. Chapter 231 (Property Transfer Tax); Title 32 V.S.A. Chapter 235 (Land Gains Tax); Joint Resolution #43 adopted by the Vermont House and Senate in February 1982 endorsing the voluntary transfer of interests in agricultural land through agreements between farmland landowners and private land trusts; and Title 10 V.S.A. Chapter 15 (Housing and Conservation Trust Fund); and 10 V.S.A. Chapter 34 (Conservation and Preservation Rights and Interests).

The conservation of the Protected Property as undeveloped open space land is consistent with -- and in furtherance of -- the Town Plan adopted by the Town of Greensboro, and the purposes set forth in Title 10, Vermont Statutes Annotated, Section 6301. This Conservation Easement is further in accord with the approval of the Circus Smirkus camp granted by the Development Review Board of the Town of Greensboro on July 17, 2013, in response to Permit Application No. 2013-022, whereby the Development Review Board stipulated as follows: "The proposal incorporates a conservation easement through the Greensboro Land Trust," as a Condition of Approval of said application.

I. Purposes of this Easement

Landowner and Holder acknowledge that the Purposes of this Easement are as follows ("Purposes"):

1. The principal objective of this Easement is to conserve the natural resources of the Protected Property to the greatest extent possible without conflicting with the reasonable operation of the Camp. These natural resources include its soils and water quality that, in turn, support biodiverse ecosystems and wildlife habitats unique to this region, as well as productive farm and forest lands;
2. To ensure that any activities on the land will utilize good quality management practices to prevent soil erosion and to protect water quality;
3. In the event there is silvicultural activity such as timber harvesting or maple sugaring, to ensure the forest resources of the Protected Property are managed in such a manner that they are capable of producing a long-term continuous flow of products, rather than being liquidated in a short period of time relative to the forest's ability to regenerate those products;
4. To assure the Protected Property will be retained forever in its unspoiled condition, so it always remains available and viable for either scenic appreciation, low-impact recreation, wildlife habitat, agriculture, or

forestry, or any combination thereof, including any scientific research or education directly related to, and not detrimental to, those uses;

5. To advance these objectives by conserving the Protected Property because it possesses the following attributes:

- a) 21.5± acres of open meadows and pasture lands;
- b) scenic vistas of Stannard Mountain;

6. To contribute to the implementation of the policies of the State of Vermont, as well as the Town of Greensboro, designed to foster the conservation of the State's agricultural, forest, and other natural resources.

7. Landowner and Holder recognize these conservation values of the Protected Property, and share the common purpose of conserving these values through the provisions of this Easement, to prevent the use or development of the Protected Property in any manner which would conflict with the furtherance of these Purposes. Holder accepts this Easement to conserve these values for present and future generations. Landowner and Holder acknowledge that conditions which sustain the conservation values may change over time, and that the change or disappearance of some conservation values do not invalidate the others.

8. These conservation values, together with maps and other data describing the Protected Property, are established in a separate report ("Baseline Documentation") prepared by and agreed to by the original parties to this Easement. The Baseline Documentation shall be kept on file by the Holder. Landowner and Holder certify the Baseline Documentation is an accurate representation of the condition of the Protected Property as of the date of this Easement as required under Treasury Regulations Section 1.170A-14 (as this regulation exists at the time of this writing), and the Baseline Documentation may be considered incorporated herewith by reference.

II. Conservation Conditions and Restrictions

Except for the rights reserved to Landowner herein, the restrictions hereby imposed upon the Protected Property, and the acts which Landowner shall do or refrain from doing, are as follows:

1. Undeveloped Open Space.

The Protected Property shall be used for agricultural, forestry, low-impact educational, low-impact recreation, and low-impact open space purposes only. No residential, commercial, industrial, or mining activities shall be permitted, and no building, structure, facility, or improvement shall be installed onto the Protected Property, except as specifically outlined within this Easement.

2. Limits on Separation of Property Rights

Except as otherwise permitted herein, no rights-of-way, easements of ingress or egress, driveways, roads, utility lines, or access easements (collectively, "Property Rights") shall be contracted or installed on the Protected Property in any manner, without the prior written permission of Holder. Holder shall grant such permission if, in its sole discretion, it determines that any such Property Right or improvement would not adversely affect the conservation values of the Protected Property described in the Purposes herein.

Landowner retains the right to maintain existing driveways, roads, and rights-of-way previously of record or depicted in the Baseline Documentation, if any.

3. Roads and Trails

With prior notice to Holder, Landowner retains the right to construct and maintain roads or trails so long as they are and remain (a) unpaved, (b) exclusively for agriculture, forestry, low impact recreational purposes, or similar Protected Property management purposes consistent with the Purposes of this Easement, and (c) provided they are located, maintained and used in the manner described herein.

Roads or trails used for recreational purposes shall be (a) located and maintained in a manner that prevents or minimizes any adverse impacts to the conservation values of the Protected Property as described in the Purposes of this Easement, especially in a manner that adequately protects soil stability and water quality; (b) used primarily for transitory purposes, namely low-impact movement through the Protected Property, and not for non-transitory purposes or for highly-concentrated area or high-impact use such as vehicle obstacle courses or dirt-track raceways; and (c) limited to suitable seasonal ground conditions that avoid mud and erosion.

4. Signage

There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed on the Protected Property; provided, however, that Landowner may erect and maintain signs so long as they are reasonable in size, location, and number, indicating the name of the Protected Property, boundary markers, directional signs, signs regarding safety, hunting, or trespassing on the Protected Property, memorial plaques, signs informing the public that any agricultural or timber products are for sale or are being grown on the Premises, and signs informing the public of any Holder-approved rural enterprise (as further described herein), temporary for sale or lease or event signs or political or religious signs. Holder, with the permission of Landowner, may erect and maintain signs designating the Protected Property as land under the protection of Holder.

5. Rubbish

There shall be no placement, dumping, burial, burning, or storage of trash, human waste, materials known to be environmentally hazardous, or any other unsightly or offensive material (including construction debris, vehicle bodies or parts) on the Protected Property. Provided, however, the storage and spreading of compost, manure, or other fertilizer under sound agricultural practices, the storage of feed, the temporary storage of trash in sound receptacles for frequent off-site disposal, the burning of untreated wood or leaves, or leaving of slash after harvesting timber, is permitted subject to all applicable laws and regulations, provided it does not impact other conservation resources such as any trails or recreational open space on the Protected Property.

6. Topography

There shall be no disturbance of the surface, including but not limited to filling, excavation, quarrying, removing of topsoil, sand, gravel, rocks or minerals, or change of the topography of the land in any manner, except as may be reasonably necessary to carry out the uses permitted on the Protected Property under the terms of this Easement. In no case shall surface mining of subsurface oil, gas, or other minerals be permitted.

7. Agriculture

Landowner retains the right to establish, maintain, and use cultivated fields, orchards, and pastures for personal and commercial agricultural purposes, provided such uses (a) are in accordance with generally accepted, sound practices and principles of agriculture and animal husbandry; (b) do not cause significant pollution or degradation of soil, surface or subsurface waters, soil loss or erosion, or significant adverse effects to the conservation values outlined in the Purposes of this Easement.

In the event an agricultural activity or proposed agricultural activity appears to be of such size and scope it could pose a question as to the conditions above, Landowner shall, upon Holder's request, submit an agricultural plan for Holder's approval, setting forth the proposed activities, methods Landowner will utilize to protect soils (especially "highly erodible soils" as defined by the U.S. Department of Agriculture's Natural Resource Conservation Service or similar successor organization), or methods Landowner will utilize to

protect other conservation values at risk. Holder shall not unreasonably withhold its approval of such plan provided the plan reasonably ensures no conservation value set forth in the Purposes of this Easement will be significantly compromised. In the event such a plan is agreed to by Landowner and Holder, Landowner shall ensure agricultural activities are performed in accordance with that plan.

8. Forestry

At the time of the conveyance of this easement, only small areas of forest resources (approximately ___ acres) are present on the Protected Property (generally along field edges, near property boundaries and the *** portion of the premises). Cutting of these resources shall be limited so as to protect wildlife habitat and water quality and to encourage their capacity to perform soil retention services, and any such cutting or forest management activities shall be conducted in a manner as more particularly described in this Section.

Where forest resources currently exist, or may exist in the future within the Protected Property, Landowner may conduct sustainable forestry activities which may include small-scale commercial harvesting, provided, however; (a) Landowner has provided timely written notice to Holder prior to any forestry activities; (b) all such activities are consistent with the Purposes and terms of this Easement, including wildlife habitat and soil and water resource protection; (c) best management practices for forestry operations are utilized or exceeded; and (d) activities are in accordance with all applicable laws and regulations. Further, Landowner may tap sugar maple trees, should they exist, and, with prior notice to Holder, may remove a negligible number of trees on the Protected Property for non-commercial purposes such as for fencing or wood crafts.

9. Rural Enterprises

With Holder's prior written approval, Landowner may conduct rural enterprises, commercial or otherwise, which make use of the Protected Property in a way that remains consistent with the Purposes of this Easement. Rural enterprises may be appurtenant to agricultural or forestry activities, or may include low-impact educational or open space uses, provided the conservation values outlined in the Purposes of this Easement are not compromised.

The Protected Property shall not be used for more than *de minimis* commercial recreation activities pursuant to Internal Revenue Code Section 2031(c)(8)(B) or any successor statute or regulation.

Holder may not unreasonably withhold its consent for a rural enterprise provided that upon Holder's request, Landowner provides to Holder: (a) receipt of copies of any applicable governmental permits or licenses that Landowner might need to obtain for such use, if applicable; and (b) reliable assurances concerning the protection of the conservation values of the Protected Property, including its character and aesthetics (including noise levels or evening light pollution), as well as effects on surrounding properties and the rural nature of the community.

10. Structures

(a) With the prior written approval of Holder, Landowner may construct and maintain barns, sugar houses, or similar structures or facilities supportive of agricultural or forestry use of the Protected Property, together with necessary access drives and utilities on the Protected Property, provided such structures are non-residential and remain used exclusively for agricultural or forestry purposes. Holder's approval may condition the construction upon the designation and inclusion of the structure within a "complex" area (which may be determined by a later supplement to the Baseline Documentation) with an aim to consolidate structures into a single area, if feasible, to prevent fragmentation of the natural resources and scenic qualities of the Protected Property. Holder's approval of agricultural or forestry structures shall not otherwise be unreasonably withheld or conditioned, provided that the structure or facility is located and utilized in a manner consistent with the terms and Purposes of this Easement.

(b) With prior written approval of Holder, which approval may not be unreasonably withheld or conditioned, Landowner may construct and maintain small structures, facilities, or other improvements for

“rural enterprises” as outlined in this Easement, provided (i) such improvements remain used exclusively for the approved rural enterprise, and (ii) Landowner and Holder have a written agreement outlining the understood uses and any conditions pertaining to the approval of such structures or improvements. Holder's approval may condition the construction upon the designation and inclusion of the structure within a “complex” as described herein. Any such rural enterprise structure or improvement shall be non-residential and remain consistent with any conditions imposed by Holder.

(c) With the prior written approval of Holder, Landowner may construct, repair, maintain, and use small structures or facilities related to non-commercial renewable energy generation (such as a solar array or windmill) on the Protected Property, provided the structure is (i) consistent with all then-current federal, state and local laws and regulations and permitting requirements, (ii) consistent with the open space uses and the Purposes of this Easement, (iii) sized appropriately for power generation for the *primary* benefit of structures on the Premises (so-called “net metering” is permissible; however, the sale of more than 25% of the total energy generated annually by such facilities would not be consistent with the terms of this section), and (iv) all reasonable attempts to contain such renewable energy structures and facilities within the “complex” area, as described herein, have been exhausted.

(d) Landowner retains the right to construct and maintain small-scale structures related to low-impact recreational or open space uses that complement the qualities of the Protected Property (such as a bridge, culvert, hunting blind, tent platform, or interpretive signs or kiosk) provided that such structure (i) is located, sized, accessed, constructed and used in a manner consistent with the Purposes and terms of this Easement; and (ii) except for short-term overnight primitive camping, no such structure or facility shall provide any form of residential use.

The cumulative impact (measured in number, nature, size and intensity of use) of any structures, facilities, or human-made improvements, agricultural or otherwise, within the Protected Property not existing prior to this Easement shall remain consistent with the Purposes of this Easement.

11. Subdivision

The Protected Property shall not be subdivided or conveyed in any form in separate parcels without the prior written approval of Holder. Such approval may be granted only in exceptional circumstances at Holder's sole discretion provided (a) severe hardship would otherwise occur; (b) it does not significantly compromise the Purposes of this Easement; and (c) Landowner provides full compensation for any anticipated increase in Holder's perpetual stewardship responsibilities. Landowner covenants and agrees that from hereon all of the Protected Property shall be held as if it were single undivided tract and convey it as such. Landowner shall not directly or indirectly cause the separation of any parts of it through the allocation of property rights among other owners, partners, shareholders, or members of any successor entity, the creation of a horizontal property regime, long-term leasing, or any other means without Holder's prior written approval described herein.

12. Water Systems

There shall be no manipulation of natural watercourses, wetlands or other water bodies, nor shall there be activities conducted on the Protected Property which would be detrimental to water quality or the ecosystems supported thereby, or which could alter natural water level or flow, except as reasonably necessary to carry out the permitted uses of this Easement, such as for agricultural purposes, within the bounds applicable laws and regulations.

New ponds, including associated dam construction, must be designed and constructed under the supervision of a licensed engineer experienced in such construction, and in conformance with all applicable permits. Human-

made ponds existing at the time of the signing of this Easement, if any, which are referred to in the Baseline Documentation, may continue to be maintained.

The drilling of wells or pumping of surface or subsurface water, including the installation of underground pipe, shall require the prior written approval of Holder which shall not be unreasonably withheld provided it is reasonably necessary to carry out the uses allowed under this Easement or for the reasonable operation of the Camp, such as for agricultural purposes. In other circumstances, Holder shall protect the Purposes of this Easement, but may also choose to consider public policy, community needs, and larger aquifer and environmental resource protection concerns if an appropriate balance may be achieved.

13. Potential Uses

No use shall be made of the Protected Property, and no activity thereon shall be permitted which is or is likely to become inconsistent with the Purposes of this Easement. Landowner and Holder acknowledge that, in view of the perpetual nature of this Easement, they are unable to foresee all potential future land uses, future technology, and future evolution of the land and other natural resources, and other future occurrences affecting the Purposes of this Easement. Holder therefore, in its sole discretion, may determine whether (a) proposed uses or proposed improvements not contemplated by or addressed in this Easement or (b) alterations in existing uses or structures, are consistent with the Purposes of this Easement.

14. Open Land.

In the event the open land on the Protected Property (depicted in the Baseline Documentation) lies fallow for more than two years, Landowner shall cooperate with Holder to ensure that the area remains in an open condition (free from trees and brush) by, for example, permitting access to the Protected Property by Holder or Holder's agents to crop, mow, or brush-hog in the event Landowner is unable to maintain the Protected Property in an open condition; however, no obligation shall be imposed upon Landowner or Holder to maintain the land in an open condition.

III. Reserved Rights

Notwithstanding the foregoing, Landowner retains the following specific rights as far as the Protected Property:

1. Septic System and Utilities

Landowner shall have the right to construct and maintain a septic system within the Protected Property. The Landowner's rights hereunder shall include, without limitation, the right to maintain and do all necessary repairs on the existing leach field depicted on Schedule B, and to construct and maintain, and conduct all necessary repairs on, a new leach field in the area depicted on Schedule B (collectively, the "Leach Fields"). To the extent necessary for the operation of a camp, or such other uses as the Premises may be employed for by the Landowner, Landowner shall have the right to expand or relocate the Leach Fields, and any pipes necessary for the operation of the Leach Fields, after notice in writing to holder.

Without the consent of Holder, Landowner shall have the right to construct, maintain, repair, replace or relocate utility lines (e.g. water and electricity) within the Protected Property that are necessary for the operation of the Camp, or such other uses as the Premises may be employed for by the Landowner (collectively, the "Utilities"). Without limitation, the "Utilities" shall include any storm-water management area and any pipes, drains or outflow areas connected thereto.

In connection with construction, maintenance, repair, or relocation of any septic system, the Leach Fields, or the Utilities, Landowner, or Landowner's agents, shall have the right bring such equipment onto the Protected Property or take such actions as may reasonably be required to carry out such activity.

2. Fencing and Landscaping

Landowner retains the right to construct, maintain and repair fencing and landscaping within the Protected Property as depicted on Schedule B attached hereto. With Holder's consent, which consent may not be unreasonably withheld or conditioned, Landowner may construct additional fencing and landscaping to the extent necessary for the operation of the Camp and to prevent the violation of this Easement by third parties.

3. Day Lilly Area

Holder acknowledges that as of the date of the Easement, a Day Lilly farm occupies that portion of the Premises depicted on Schedule B attached hereto (the "Day Lilly Area"). For so long as the Day Lilly Area is used for its current purpose, the conditions and restrictions imposed by this Easement shall not apply to the Day Lilly Area. At such time as the Day Lilly Area ceases to be used for its current purpose, as may be reasonably determined by Landowner in its sole discretion, The Day Lilly Area shall become subject to the conditions and restrictions contained in this Easement.

4. Williams Property Easement

The Easement granted hereby shall in no way alter or affect the existing right of way described in Book S Page 389, as extended and clarified by Book U Page 27, as further clarified by Book U Page 486.

IV. Enforcement

1. Good Faith Effort to Resolve Issues

Landowner conveys and Holder accepts this Easement with the understanding that they and their successors have an obligation in perpetuity to work together to uphold the objectives of this Easement. To this end, Landowner and Holder shall confer with each other and attempt to resolve any issue by mutual agreement in a timely manner.

2. Access to Protected Property, Notice

Holder shall make reasonable efforts from time to time to assure compliance by Landowner with all of the covenants and restrictions herein. In connection with such efforts, Holder may make periodic inspection of all or any portion of the Protected Property, and for such inspection and enforcement purposes, Holder shall have the right of reasonable access to the Protected Property. In the event that Holder becomes aware of non-compliance with the terms and conditions herein, whether existing or imminent, Holder shall give written notice to Landowner of such non-compliance and request corrective action sufficient to abate such non-compliance and restore the Protected Property to its previous condition. In the event that Landowner, after receiving such written notice, requests that Holder take such corrective action, Holder shall enter the Protected Property and shall take such corrective action.

3. Remedies

Failure by Landowner to take corrective action as requested by Holder within a reasonable time after such notice and reasonable opportunity to take corrective action, and provided that Landowner has not requested Holder to take such corrective action, shall entitle Holder to pursue other remedies available to Holder at law or

in equity, including but not limited to mediation, enlisting regulatory agency support, or administrative proceedings if applicable, or to bring an action in a court of competent jurisdiction to enforce the terms of this Easement, compel specific performance, and to recover any damages, special or general as provided by law.

4. Costs of Enforcement

In the event Landowner is responsible for the non-compliance which is corrected through negotiation and voluntary compliance, Landowner shall reimburse Holder all reasonable costs, including staff and volunteer time, incurred in investigating the non-compliance and in securing its correction, unless such costs are waived by Holder. Notwithstanding the foregoing, Landowner shall not be liable for any of Holder's day-to-day operational costs as they relate to Holder's normal oversight of the Protected Property. Likewise, if a court determines that Landowner failed to comply with this Easement, Landowner shall reimburse Holder for any reasonable costs of enforcement, including Holder's staff time, costs, and reasonable attorney and legal fees, in addition to any other relief ordered by such court. Damages, when recovered, may be applied by Holder to corrective action on the Protected Property if the court and Holder so choose. In the event that Holder initiates litigation and the court determines that Landowner has not failed to comply with this Easement and that Holder initiated litigation without reasonable cause or in bad faith, then Holder shall reimburse Landowner for any reasonable costs of defending such action, including court costs and reasonable attorney and legal fees.

5. Third-Party Causes of Non-Compliance

Each current Landowner has an obligation to remain informed about the condition of the Protected Property and to protect it. Landowner's responsibility for actions inconsistent with the terms of this Easement extends to Landowner's contractual invitees including agents, tenants and contractors. Notwithstanding the foregoing, Holder acknowledges that Landowner intends to operate the Camp on the Premises. Landowner shall take reasonable steps to ensure compliance with this Easement by Camp participants, but any violation of the terms of this Easement by such participants shall not be deemed to cause non-compliance with this Easement unless such violations are excessive or unduly threaten the Purposes of this Easement. In instances when Landowner has reason to believe the activities of non-contractual guests or neighbors are likely to adversely impact the conservation values, Landowner shall take reasonable steps to inform them of the terms this Easement and solicit adherence.

Holder shall not bring any action against Landowner for any injury or change in the Protected Property resulting from causes or obligations beyond Landowner's knowledge or control, such as hostile or furtive actions taken by unknown third parties or third parties clearly out of Landowner's influence, the exercise of third-party or public property rights unforeseen at the time of the execution of this Easement (such as the revival of an ancient legal public road), or fire, flood, storms, earth movement, or prudent emergency actions taken by Landowner to prevent or mitigate damage from such outside causes.

Holder has the right, but not the obligation, either separately or collectively with Landowner, to pursue all legal or equitable remedies against any third party responsible for any actions inconsistent with the provisions of this Easement. Nothing in this provision shall be construed as imposing liability upon a prior Landowner of the Protected Property when the non-compliance occurred following the termination of that prior Landowner's ownership or control of the Protected Property.

6. Waiver of Timing Objections

Holder prefers to resolve non-compliance issues without litigation when feasible. No delay or omission by Holder in the discovery of any non-compliance or exercise of any right or remedy upon any breach by Landowner or third party shall impair Landowner's rights or remedies or be construed as a waiver of enforcement rights.

V. Miscellaneous

1. Approvals

Where Landowner is required, as a result of this Easement, to obtain the prior written approval of Holder, Holder shall review the request and respond in a timely manner. Landowner shall likewise provide information in a timely manner that Holder requests as part of its review. In the event Holder has designated in writing to Landowner another organization which shall have the authority to grant such approval, the approval of that designee shall be deemed to be the approval of Holder. When Holder has authorized a proposed action requiring approval under the terms of this Easement, Holder shall provide Landowner with a written letter or recordable notice memorializing the approval.

2. Other Laws

The construction of any buildings, structures, or improvements, or any use of the land otherwise permitted under this Easement shall be in accordance with all applicable laws, ordinances, statutes and regulations.

3. Assignment of Easement

Holder may transfer this Easement, but only to a qualified conservation organization that agrees to enforce the terms and Purposes of this Easement in accordance with the regulations established by the Internal Revenue Service governing such transfers. If at any time it becomes impossible for the Holder to ensure compliance with the restrictions and covenants contained herein, or Holder ceases to exist, then Holder's rights and duties herein shall vest in full and fall upon another entity having similar purposes to which such rights and duties may be awarded by a court of competent jurisdiction under the doctrine of *cy pres* which provides for substitutions that respect the intentions of the original parties.

4. Condemnation

In the event all or any portion of the Easement interests conveyed to Holder herein are extinguished by eminent domain or other legal proceedings, Holder shall be entitled to any proceeds which pertain to the extinguishment of Holder's rights and interests, as if all restrictions described by those interests were fully restored. Any proceeds from extinguishment shall be allocated between Landowner and Holder using a ratio based upon the relative value of the development rights and conservation restrictions, and the value of the fee interest in the Protected Property encumbered by this Easement, as determined by a qualified appraisal. Reference is made to Treasury Regulations Section 1.170-A-14(g)(6)(ii) as it exists at the time of this writing, or to applicable successor regulations, for more detail. Holder shall use any such proceeds to conserve undeveloped and open space land pursuant to its mission. The respective rights of Landowner and Holder herein shall be in addition to, and not in limitation of, any rights they may have at common law with respect to a modification or termination of this Easement by reason of the exercise of powers of eminent domain.

5. Changed Conditions and Amendments

Landowner acknowledges that uses prohibited by this Easement may, in the future, become more economically valuable than permitted uses; Landowner likewise has considered that neighboring properties may be put entirely to such prohibited uses. Landowner and Holder expressly intend that any such changes in the economy or to nearby lands shall not be deemed "changed conditions" that might otherwise be used as an argument to alter or terminate this Easement. Likewise, Landowner understands and acknowledges that Holder's interest in this Easement is governed by federal and state law, as well as organizational standards and practices that make future alterations or amendments to this Easement unfeasible or highly unlikely, unless to clarify the terms consistent with the Purposes or make them more restrictive.

6. Liabilities

Holder shall be under no obligation to maintain the Protected Property or to pay any taxes, liens, judgments or assessments thereon. Holder shall not be considered an "owner" or "operator" under any solid waste disposal or hazardous waste cleanup laws. Landowner shall indemnify and defend Holder from and against any liabilities

including attorney's fees and costs, derived from any hazardous waste law enforcement action or from Landowner's ownership or operation of the Protected Property, unless Holder's action or misconduct contributed to the liability.

7. Transfer of Protected Property

In any deed conveying an interest in all or part of the Protected Property, the transferring Landowner shall make reference to this Easement and shall indicate that this Easement is binding in perpetuity upon all successors in interest in the Protected Property. A Landowner transferring the Protected Property shall notify Holder of the upcoming transfer at least five (5) business days in advance of the transfer, and no later than thirty (30) days after the transfer, any new successor Landowner shall copy Holder with the newly recorded deed, as well as the new Landowner's name and contact information.

8. Record Marketable Title Act

Holder shall be entitled to re-record this Easement, or to record a notice making reference to the existence of this Easement, in the appropriate Land Records as may be necessary to satisfy the requirements of the Record Marketable Title Act, 27 V.S.A., Chapter 5, Subchapter 7, including 27 V.S.A. §§603 and 605.

9. Easement Interpretation

Invalidation or waiver of any of the provisions herein shall not affect any other provision of this Easement. Titles and subtitles are for the convenience of the reader and have no contractual significance. The terms "Landowner" and "Holder" include their respective successors and assigns who have any legal ownership or fiduciary interest in the Conservation Area, which may include heirs, trustees, executors, and administrators. The same terms apply whether any Landowner or Holder is a person or entity, male or female, singular or plural.

TO HAVE AND TO HOLD all interests described in this Easement, with all the privileges and appurtenances thereof, to Holder, **Greensboro Land Trust, Inc.**, its successors and assigns, to its own use and benefit forever, and Landowner, **The Circus Barn, Inc.** for itself and its heirs, successors and assigns, does covenant with the Holder, its successors and assigns, that until the ensembling of these presents, it is the sole owner of the Premises and has good right and title to convey the same in the manner aforesaid, that the Premises are free from every encumbrance, except those previously of record, and Landowner hereby engages to warrant and defend the same against all lawful claims whatever.

IN WITNESS WHEREOF, we set our hands this __ day of _____, 2014.

LANDOWNER:

The Circus Barn, Inc.

By: _____
Its:

STATE OF VERMONT
COUNTY OF _____ ss.

At _____ this _____ day of _____, 2014, _____, the
_____ of The Circus Barn, Inc. personally appeared and he/she/they acknowledged this instrument,
by him/her/them sealed and subscribed, to be his/her/their free act and deed, before me.

Print Name:
Notary Public
My commission expires:

Accepted by HOLDER: Greensboro Land Trust, Inc.

By _____
Clive S. Gray, Chair, duly authorized

STATE OF VERMONT
COUNTY OF _____ ss.

At _____ this _____ day of _____, 2014, Clive S. Gray, the Chair and duly
authorized agent of the Greensboro Land Trust personally appeared and he acknowledged this instrument for the
purposes therein, by him sealed and subscribed, to be his free act and deed and the free act and deed of the
Greensboro Land Trust, Inc., before me.

Print Name:
Notary Public
My commission expires: 2/10/

SCHEDULE A

The Landowner's overall "Premises" is referenced as follows:

A lot of land, consisting of 29.50 acres, more or less, with all buildings thereon, having frontage on the southeasterly side of the main road from Hardwick to Greensboro Village also known as State Aid Highway No.2.

Commencing at a point marked by an iron rod, located on the southeasterly side of State Aid Highway No.2, which point marks the southwesterly corner of the land now or formerly owned by C.W. and E.W. Alfriend IV, and proceeding in a southeasterly direction a distance of 135.17 feet, more or less, to a point marked by an iron pin and stones; thence turning in a north easterly direction and proceeding a distance of 150.00 feet, more or less, to a point marked by a concrete monument; thence turning and proceeding in a southeasterly direction a distance of 242.37 feet, more or less, to a concrete monument; thence turning and proceeding in a northeasterly direction a distance of 200.00 feet, more or less, to two existing monuments; thence proceeding in a southeasterly direction a distance of 1,382.35 feet, more or less, to a concrete monument and stones; thence proceeding in a southwesterly direction a distance of 784.58 feet, more or less, to a concrete monument with stones; thence proceeding in a northwesterly direction along the northern boundary of Jean Reeder Smith to the State Aid Highway No.2; thence proceeding in a northeasterly direction along State Aid Highway No.2 to the point of beginning.

Being a portion of the land and premises conveyed to Frederick R. Pleasants by Warranty Deed of Luther P. Eisenhart and Katherine S. Eisenhart, dated August 18, 1965, and recorded Volume Y, Page 356 of the Land Records of the Town of Greensboro, which premises are more particularly described as being all and the same land and premises conveyed to Frederick R. Pleasants by Luther P. Eisenhart and Katherine S. Eisenhart as aforesaid, that are situated on the Southeast side of State Aid Highway No.2, Excepting and Reserving, however, a small parcel of land conveyed by the said Frederick R. Pleasants to Jean R. Smith by Warranty Deed dated August 1, 1972, and recorded in Book 2B, Page 102 of the Land Records of the Town of Greensboro.

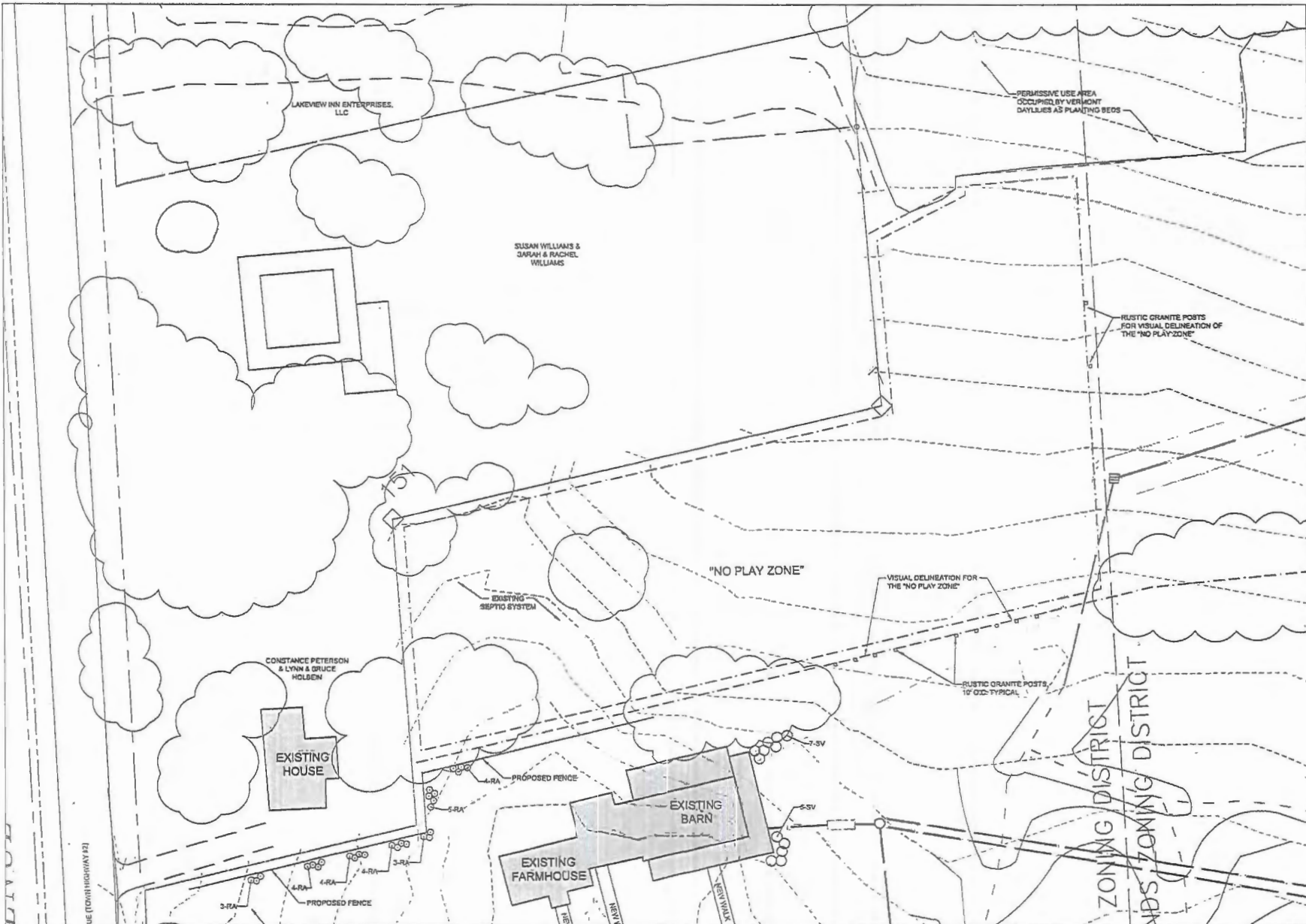
SCHEDULE B

(see attached)

Attachment D



WOOD PRIVACY FENCE - 6' OR 8' HIGH (TBD BY OWNER)



CIRCUS SMIRKUS
Greensboro, Vermont

111 CHURCH STREET
BURLINGTON, VT 05401
TEL: 802.242.0108
WWW.CIRCUSMIRKUS.COM

0 10' 20' 40'
GRAPHIC SCALE: 1"=20'

North

Scale: 1"=20'
Date: 10.31.13
Drawn By: HJK
Checked By: JMW

Revisions:

NO.	DESCRIPTION	DATE

Title: **PLANTING PLAN**
Sheet Number: **LA-101**
Project Number: 13022
File:

