Overview of Wellspring Land Cooperative

The Wellspring Land Cooperative (WLC) is a legal entity created in 1994 as a means of sharing the ownership and care of land, and its financial burden, in a responsible and affordable way. We do this among members or "associates" that reside on the same land. As a type of incorporation, the land cooperative provides the structure for joint ownership similar to a landowners or homeowners association, with equal ownership, rights, and responsibilities for everything related to the land. As with any association, we have legal documents, filed with the State of Vermont, and the Town of Marshfield. Note that only the land is owned by the co-op. No title to any structures is held by WLC. WLC associates own homes and outbuildings located on the WLC property, and their "improvements" (fee simple). Taxes on those structures are billed by the town to the associate who owns them. WLC is billed for the taxes on the land.

The shared land consists of 189 acres, located in Marshfield, Vermont. Of this, approximately 41 acres are open and a mix of cropland, hay, and pasture. Approximately 148 acres of forest is primarily fir and spruce. The open land sits between the base of Lord's Hill and the east bank of the Winooski River. The forested land blankets the lower western slope of Lord's hill, and is bisected by the old Wells River Railroad bed, which is now a maintained snowmobile and hiking trail. US Route 2 traces the opposite side of the river.

Structures on the property are clustered around the farmyard at the end of a dead end town road. Other than the three homes, this includes a 60x30 two-story dairy barn (dairy use, for 30 Jersey cows ended in 1989, also recently used as a sauerkraut processing facility), an attached 32x32 post and beam hay barn, a shed, a 48x12 pole shed (was used for heifers in the dairy operation) and a 14x48 hoop greenhouse. The family that purchased the property in 1989 owns all of these structures. They encourage the co-operative use of the farm buildings by those farming the land. Purchase or rental of some or all of the farm buildings by other WLC associates is a possibility.

Between 1989 and 1993 the family who purchased the property in 1989 used six acres of the open land for a vegetable operation. The remaining open land was leased to neighboring dairy/beef farmers for pasture and haying. The family that joined the land co-op (and helped create it) in 1994 did not intend to be farmers. The family that joined the co-op in 2002 has a commercial organic vegetable operation.

Development rights, right of first refusal, and conservation restrictions on the Wellspring parcel were granted to the Vermont Land Trust, the Vermont Department of Agriculture and the Vermont Housing and Conservation Board by a prior owner in 1989. A copy of the grant and its restrictions may be available upon request. A brief outline of the grant is included in this document. Perspective associates should familiarize themselves with legal real estate definitions and these documents.

Two one-acre parcels of land have been subdivided from the 189 acres (one in 1994 so the new owners of the existing second home on the property could secure a mortgage and the second in 1999 for the same reason, but for a new home on the property). One home sits on each of these parcels. WLC owns these parcels, and for all intents and purposes WLC treats the three parcels (187 acre, 1 acre and 1acre) as one property. The grant of development rights and conservation restrictions from 1989 requires that one of the homes must remain on the large parcel (an effort to help assure the land remains a farm). The grant also allows for one more home on the land. There are no plans by the current associates to exercise this possibility.

Ownership, Value, and Capital Certificates

Associates who have an interest in WLC must own a residence on the WLC parcel, and must reside here. They must also purchase an interest in the land equal to the investment of the other associates through a capital certificate. This certificate is similar to a "share", and documents the associate's equal investment.

The value of the land currently owned by WLC was appraised at $60,000 in 1989. Since then, two septic systems have been added, which serve the three homes on the property. The total cost of the two systems was $19,159. These systems are inseparable from the land and are owned and maintained by WLC. Adding the cost of the systems to the value of the land, the basis of WLC's value is now $79,159. Each of the three associate families has equal interest (through purchase of a capital certificate) in WLC. In 2002, a capital certificate in WLC cost $26,386.

Associates' capacity to incur liens on WLC property is very limited, so if associates have to borrow any or the entire capital certificate price, they will have to bear this in mind.

Each associate family has a ground lease agreement (20 year renewable and essentially perpetual) with WLC. This agreement, outlined later in this document, covers all the important aspects of the associate's relationship with WLC.

The Grant of Development Rights and Conservation Restrictions (the grant)

When the property was purchased in 1989, the price was $250,000. As part of the purchase, the buyers proposed (through the Vermont Land Trust) that the purchase price be reduced by having the sellers grant development rights to the state. The sellers agreed to this arrangement. At the closing they were paid $50,000 by the state of Vermont for the grant and $200,000 by the buyers for the property (now with perpetual development rights and conservation restrictions). Those that have control over the development rights and conservation restrictions (the grantees) are the Vermont Land Trust, the Vermont Housing and Conservation Board, and the Vermont Department of Agriculture.

Below is an outline of the development rights and conservation restrictions.

Rights of Way

- Rights of way exist for public recreational trails along the railroad bed (bisects the forestland, east/west) and in a one rod strip along the easterly side of the Winooski River.

Restricted uses of the property

- Agricultural, forestry, educational, non-commercial recreation and open space purposes only. No residential, commercial, industrial, or mining activities except as permitted in the grant.

- No new rights of way, easements, driveways, roads or utility lines except as associated with permitted activities

- No signs, billboards or outdoor advertising except for agricultural or timber products grown on property

- No collection or storage of trash or unsightly material

- No excavating except as may be reasonably necessary for permitted uses. No mining allowed

- No subdividing without prior written approval of the grantees

- No uses that go against the intent of the grant

Permitted uses of the property

- Establish, maintain and use cultivated land in accordance with generally accepted agricultural practices. If fallow for two successive years owners shall work with grantees to insure land is kept open and used for agricultural purposes

- Use forested land in accordance with generally accepted forestry practices and a forest management plan.

- Construction of agricultural buildings after written approval from grantees

- Processing and packaging of agricultural products produced primarily on the property

- Operation of a farm stand for the sale of products produced primarily on the property

- Operation of a bed and breakfast

- Utilize and improve water sources, courses and bodies on property in connection with permitted uses

- Create and maintain trails for non-motorized recreational activities. Snowmobiling at the discretion of the owner, except along railroad bed (at discretion of the grantee)

- Repair, maintain, renovate, relocate or rebuild three existing dwellings (and related driveways, utilities and side structures), or construction of an additional single-family dwelling. Written approval of grantees required

- Subdivide property up to two acres each for each existing dwelling or for each new dwelling with written approval from grantees

- Owner agrees to reimburse grantees for all reasonable costs incurred in reviewing proposed activity requiring grantees' approval

- Owner agrees any construction on property or use of property shall be in accordance with all applicable town and state regulations

Enforcement of restrictions

Periodic property inspection is conducted by grantees. If non-compliance is found, the owner will be given opportunity to correct the problem. Owner shall reimburse grantee any reasonable costs of investigating non-compliance and securing correction. If continued failure to correct non-compliance, grantee entitled to bring action in court.

Right of first refusal

Owner gives grantees right of first refusal to purchase property in the event the owner receives a written offer to purchase all or any part of the property. Grantee has 90 days to elect to purchase the property at the offered price.

Miscellaneous provisions

Grantee may transfer conservation easement and restrictions only to a State agency, municipality or qualified organization. In the event the rights and restrictions are extinguished by eminent domain, grantees are entitled to any proceeds pertaining to extinguished rights and interests. Any deed conveying an interest in all or part of the property shall reference the conservation easement and restrictions.

Ground Lease Agreement

WLC incurs bills and other debts related to the land in the form of insurance, taxes, legal fees, bookkeeping and accounting services, and maintenance. As an equitable distribution of these costs, a lease is charged for any use of the WLC land. For example, each WLC associate household leases a homesite from WLC. The homesite is loosely defined as the yard and garden space around the home. The ground lease agreement is the document governing the relationship between the associate household and WLC. Below is an outline of the agreement.

Transfer, Term and Reservations

Agreement is subject to the terms of the grant of development rights and conservation restrictions (see previous section). Includes easement for use of common lands (farm acreage not part of homesites) related to possession, occupancy and use of homesite. It includes a 20-year renewable lease. WLC reserves rights, with leasee's permission, to natural resources on/in homesite.

Carrying Charges

Monthly lease fee for homesite (currently $125) represents the portion of the costs and expenses and other expenditures of WLC that can be reasonably allocated to the homesite as outlined above.

Use of Homesite

Only for the purposes of residence and other activities incidental to residency. Business activities may be conducted on the homesite only with the express consent of WLC, but WLC agrees to permit such use unless they pose a threat to the peace and harmony of neighbors. Reasonable and ecological use of natural resources on homesite.

Agree to share costs of improvements to common lands by payment of assessments (decisions governing common land made by consensus—details in WLC bylaws). Assessments are in addition to carrying charges.

Agree to develop and periodically review and update a land management plan for WLC land.

WLC has right to inspect homesite for a legitimate purpose related to the terms and conditions of lease agreement.

Taxes and Assessments

Associates agree to be responsible for any taxes due on improvements (things the associates own directly [home, sheds, etc]) on the homesite. WLC agrees to be responsible for any taxes due on the homesite.

Associates agree to maintain homesite and improvements. WLC agrees to maintain pre-existing water and septic systems. Associates have right to sever and remove improvements upon termination of lease agreement.

Liens

No liens for services, labor or materials resulting from associate's construction of improvements shall attach to WLC's title to the homesite. No liens for services, labor or materials resulting from WLC's construction of improvements on common land shall attach to the associate's title to homesite improvements, interest in the homesite or other property owned by the associates.

Liabilities

Associates agree that they shall assume sole responsibility and liability to any persons and authorities, related to the possession, occupancy and use of the homesite. WLC agrees that it shall assume sole responsibility and liability to any persons and authorities, related to the possession, occupancy and use of the common lands.

Transfers by Associates

Except as otherwise specifically provided in the lease agreement, associates shall not sell, convey, assign, sublease, or otherwise transfer or dispose of their interest in the homesite or homesite improvements, or any portion thereof, other than to qualified transferees and for a consideration that does not exceed the transfer price. Qualified transferee shall mean people with a household income less than or equal to the county's median income.

Temporary subleases that do not exceed 6 months allowed with consent of WLC. Associates may mortgage their interests in the homesite and improvements as security for a loan.

Associates must give WLC at least 60 day notice of intent to transfer ownership of improvements. WLC then has 45 days to notify associates of intention to exercise its option to purchase. WLC has 90 days from receipt of notice to exercise its option to purchase

Associates acknowledge that the lease agreement imposes substantial restrictions on their ability to freely transfer, or to realize full value of, their interests in the homesite and improvements.

Termination

Agreement terminates upon notice by associate or upon associate's attempt to transfer interest in homesite or improvements in a manner that violates the agreement. WLC may terminate agreement if associate intentionally violates agreement in way that seriously compromises the purposes of WLC or if associate has failed to observe or perform terms and conditions of agreement. 30 days to correct violation of terms and conditions. Upon termination, associate agrees to sever or transfer improvements. Agreement provides terms and conditions for severing or transferring of improvements.

Right of First Refusal

WLC has 45 days to elect to purchase property on same terms and conditions as the offer. Purchase must occur with 90 days of electing to purchase. Offering party has one year to purchase on same terms and conditions if WLC does not elect to purchase.

Mediation and Arbitration

WLC and associates agree that, should any grievance or dispute arise concerning their respective rights and duties under the terms of the agreement that cannot be resolved through normal interaction, then they agree to use mediation under the terms provided. If mediation fails, they agree to use arbitration under the terms provided. Associates acknowledge that the arbitration procedures impose substantial restrictions upon their abilities to bring a lawsuit concerning grievance or dispute that may arise in connection with the agreement

Agricultural Leases

In addition to the ground lease, any agricultural use of the Wellspring parcel requires a nominal lease fee be paid to WLC, based on the type of land (pasture, crop, hay) and the acreage used.

Essentially, those associates who make use of WLC land beyond the homesite pay a higher portion of the annual operating expenses of WLC. At first it may seem unusual to pay a lease on land already purchased through a capital certificate. Note that agricultural leases are used both to effectively secure use of specified portions of the WLC land for individual associates, thereby avoiding conflicts, and as a mechanism to equalize liability for property taxes and farm insurance, which need to be paid by the property owners; WLC associates. To oversimplify this, as the largest portion of WLC's bills are land taxes, all lease fees can be looked upon as your additional share of the land taxes, in monthly payments. In 2002, land leases were based on a rate schedule as outlined below:

Cropland	\$50/acre/year (\$4.17/month if spread through the fiscal year)
Hayland	\$25/acre/year
Pasture	\$15/acre/year

Farmers who do not have a capital certificate in WLC may lease land not in the agricultural plan of WLC associates at the same rate. Associates' needs for agricultural land have priority over outside leases. Historically, sufficient notice has been requested for changes to outside leases to allow non-associates to make other arrangements.

Dividends and shortfalls

In the case that money remains in the WLC account at the close of the fiscal year (Dec 31), it can be returned to the associates in the form of a dividend. A portion of this can also be carried forward in the WLC account for capital improvements (in which case you will be issued another capital certificate), or for operating expenses for the next fiscal year. For example, in years that forestry and logging income has been deposited into WLC's account, checks have been written at the end of the year to associates. Returned monies are divided equally, but based on the portion of the year associates have resided at WLC.

In the case that lease fees have not sufficiently covered the operating expenses of WLC, associates may be called upon to pay for the shortfall. If this does occur, lease fees should be adjusted to cover operating expenses the following year. An example of this would be if there were unforeseen expenses, like a broken septic pump, or unusual legal expenses.