

Image of Dover Stone Church cavern



Councilman Hawthorne met with William Kelly, Highway Superintendent, to talk about the accelerated cost for winter salt. Mr. Kelly has stock piled as much as possible. Mr. Kelly has asked for funds to improve the roads before they deteriorate beyond repair.

Councilman Kelly talked about the removal of the fuel tank at the Tabor Wing House with a certified company reporting no contamination around the tank. Mr. Kelly is hoping for a meeting to determine replacing the flooring in the pantry area. Supervisor Way stated that Curt Johnson would be asked for this advice. Mr. Kelly obtained prices for a Smith boiler from J.D. Johnson for \$1945.00 and N&S Supply for a Peerless boiler for \$2846.00. He recommends purchasing the boiler from J. D. Johnson. The old bathroom doors will be replaced in the Boyce Park.

**MOTION #1122004**

**PURCHASE TABOR-WING HOUSE BOILER**

Councilman Hawthorne made a motion to purchase the Smith boiler from J. D. Johnson, Poughkeepsie for the quoted price of \$1945. Councilwoman Palmer-House seconded the motion that was approved with the following vote.

Supervisor Jill Way	aye
Councilman Timothy Basting	aye
Councilman Richard Hawthorne	aye
Councilman Brian Kelly	aye
Councilwoman Kathryn Palmer-House	aye

**TOWN OF DOVER**

A regular meeting of the Town Board was convened in public session at the Town Hall, East Duncan Hill Road, Dover Plains, New York on August 25, 2004 at 6:30 o'clock PM local time. Supervisor Jill Way called the meeting to order, and, upon roll being called the following were:

Present:	Supervisor Jill Way
	Councilman Timothy Basting
	Councilman Richard Hawthorne
	Councilman Brian Kelly
	Councilwoman Kathryn Palmer-House

Absent:

The following resolution was offered by Richard Hawthorne, seconded by Kathryn Palmer-House to wit:

**RESOLUTION # 17 AUTHORIZING THE TOWN SUPERVISOR TO EXECUTE THE ANNEXED CONTRACT CONCERNING THE PURCHASE OF THE STONE CHURCH PROPERTY AND TO CUT CERTAIN CHECKS AT THE CLOSING OF SAID PROPERTY**

**WHEREAS**, the sale of the Dover Stone Church property from the Cunninghams to the Town of Dover is imminent; and

**WHEREAS**, the attorney for the sellers and the Town have agreed on a contract of sale and rider; and

**WHEREAS**, the closing is tentatively scheduled for September 2, 2004; and

**WHEREAS**, the Town will incur certain closing costs on September 2, 2004 of approximately \$259,843.71; and

**WHEREAS**, the Town Board, after due deliberation, finds it in the best interest of the Town of Dover to adopt said resolution;

**NOW, THEREFORE, BE IT RESOLVED**

That the Town Board of the Town of Dover hereby authorizes the Town Supervisor to execute the annexed contract of sale or a substantially similar version; and ( Contract of Sale, Schedule A and Conservation Easement Deed - Attachment # 1 Page 1-39)

**BE IT FURTHER RESOLVED**

That the Town Board of the Town of Dover hereby authorizes cut checks at the closing in an amount not to exceed \$259,843.71.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Supervisor Jill Way	Voting <u>Aye</u>
Councilman Timothy Basting	Voting <u>Aye</u>
Councilman Richard Hawthorne	Voting <u>Aye</u>
Councilman Brian Kelly	Voting <u>Aye</u>
Councilwoman Kathryn Palmer-House	Voting <u>Aye</u>

The Resolution was thereupon adopted.

The Dover Stone Church property is listed in the New York State Open Space Plan and the National Register of Historic Sites and Places.

When the privately-owned 58.5-acre property was offered for sale in 2002, the Town of Dover moved to purchase this historical natural area so closely entwined in the town's history and culture.

The acquisition and preservation of the Stone Church site was the result of a collaborative effort between the Town of Dover, the Dutchess Land Conservancy and the Friends of the Dover Stone Church, a local citizens group.

Grants secured from state and local sources helped restore the former maple tree-lined right-of-way, build a path from the village, and install a footbridge over the Stone Church Brook.

In 2009, neighboring property owners graciously donated a conservation easement on 50 acres adjacent to the historic right-of-way and subsequently donated 63 acres in fee along the land's southern border to the Town to expand the Stone Church Preserve and further protect the site's natural beauty and ecology.

In 2014, the Town of Dover, with grant funding from the Dutchess Land Conservancy acquired an additional 52 acres of land adjoining the southern border of the preserve. Three miles of nature trails were blazed and opened in the summer of 2015 to enjoy the unique rock outcroppings, scenic vistas and fauna of the West Mountain ridge and appreciate the Stone Church's age-old ecological history.

**Take Only Memories...  
Leave Only Footprints...**

### **A Brief History of the Dover Stone Church**

The first reference to the Dover Stone Church comes from legend dating back to the mid-1600's when Pequot sachem Sassacus who, with his warriors, hid in the cave to escape capture and death by the British Army.

The Stone Church has been visited and sketched by famous artists and authors in the 1800's and 1900's that included:

- Asher Durand, a prominent engraver and landscape artist, sketched the site in 1847 and was a central figure of the Hudson River School of Art.
- Benson Lossing, a distinguished author, illustrator and historian in the 1800's, resided in the Town of Dover and sketched and engraved the cave. He published sketches of interior and exterior views of the cave entrance in the booklet, *The Dover Stone Church*.
- In the 1835-36 edition of "Family Magazine," it mentioned the Stone Church as a "singular and interesting curiosity" that drew thousands of visitors to the site, many of whom stayed at the (former) Stone Church Hotel.
- During the Great Depression, Arthur Powell and other landscape artists painted the site as part of the New Works Progress Administration (WPA) to employ artists and skilled workers on public works projects.

### **Park Rules / Safety tips**

Site is open dawn to dusk, weather permitting.

Dogs on town property must be leashed.

Hike at your own risk. Rough terrain, water hazards, trail and rocks may be uneven and slippery. Wear sturdy footwear.

Accessible to hikers only. No motorized vehicles or bicycles allowed.

Watch for ticks and snakes.

Stay on the designated paths and marked nature trails to respect the privacy of adjacent private property owners.

No rock climbing allowed.

No swimming allowed.

Do not pick flowers, disturb plant life or wildlife.

No alcoholic beverages, firearms, camping or fires allowed in the park.

No garbage disposal available – carry out what you bring in.

Children must always be supervised.

Call 911 in case of emergency.

**Enjoy and respect our  
Incomparable park!**



### *The Dover Stone Church Visitor's Guide*



*Welcome to the Town of Dover  
and the "Dover Stone Church"*

*A remarkable geological and historical landmark,  
located on the Stone Church Brook.*

*Enjoy a glimpse back into the early history of  
Eastern Dutchess County at a site protected  
and preserved by town residents for you and  
future generations.*



**TOWN OF DOVER**  
126 East Duncan Hill Road  
Dover Plains, NY 12522  
Tel (845) 832-6111 Ext. 112  
Fax (845) 832-3188

**RYAN COURTIEN**  
Supervisor

**KATIE PALMER-HOUSE, E.A.D.**  
Town Clerk

**TOWN OF DOVER TOWN BOARD REGULAR MEETING**  
**WEDNESDAY, JUNE 25, 2014**

The Town of Dover Town Board held a special meeting at 6:30 pm on Wednesday, June 25, 2014 at the Dover Town Hall, 126 East Duncan Hill Road, Dover Plains, NY with the following members present:

Supervisor Ryan Courtien  
Deputy Supervisor Christopher Galayda  
Councilwoman Linda French  
Councilman Paul Palmer  
Councilman Richard Yeno

**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT OF SALE WITH**  
**DUTCHESS LAND CONSERVANCY**

The following Resolution was offered by Deputy Supervisor Galayda, seconded by Councilman Palmer, to wit:

*WHEREAS*, the Town of dover has been contacted by the Dutchess Land Conservancy to acquire property known as Tax Map #7063-00-377243 and 7063-00-484300, which will add to the Dover Stone Church Property; and

*WHEREAS*, a public hearing was held by the Town Board of the Town of Dover to seek public input on the acquisition of the property known as "Vincent Property"; and

*WHEREAS*, the Town of Dover will not expend any tax payer monies for the acquisition of the "Vincent Property" from the Dutchess Land Conservancy, but will rather agree to place Conservation Easement on both tax parcels which will prohibit development of the property.

*NOW THEREFORE BE IT RESOLVED*, that the Town Board of the Town of Dover hereby authorizes the Town Supervisor to execute a contract of sale with the Dutchess Land Conservancy for the "Vincent Property", as well as any associated documents including Conservation Easements, which all shall be subject to the review and approval of town counsel.

The question of the adoption of the foregoing Resolution was duly put to a vote which resulted as follows:

Supervisor Courtien	Voting <u>Aye</u>
Deputy Supervisor Galayda	Voting <u>Aye</u>
Councilwoman French	Voting <u>Aye</u>
Councilman Palmer	Voting <u>Aye</u>
Councilman Yeno	Voting <u>Aye</u>

The Resolution was thereupon adopted on June 25, 2014.

**CERTIFICATION**

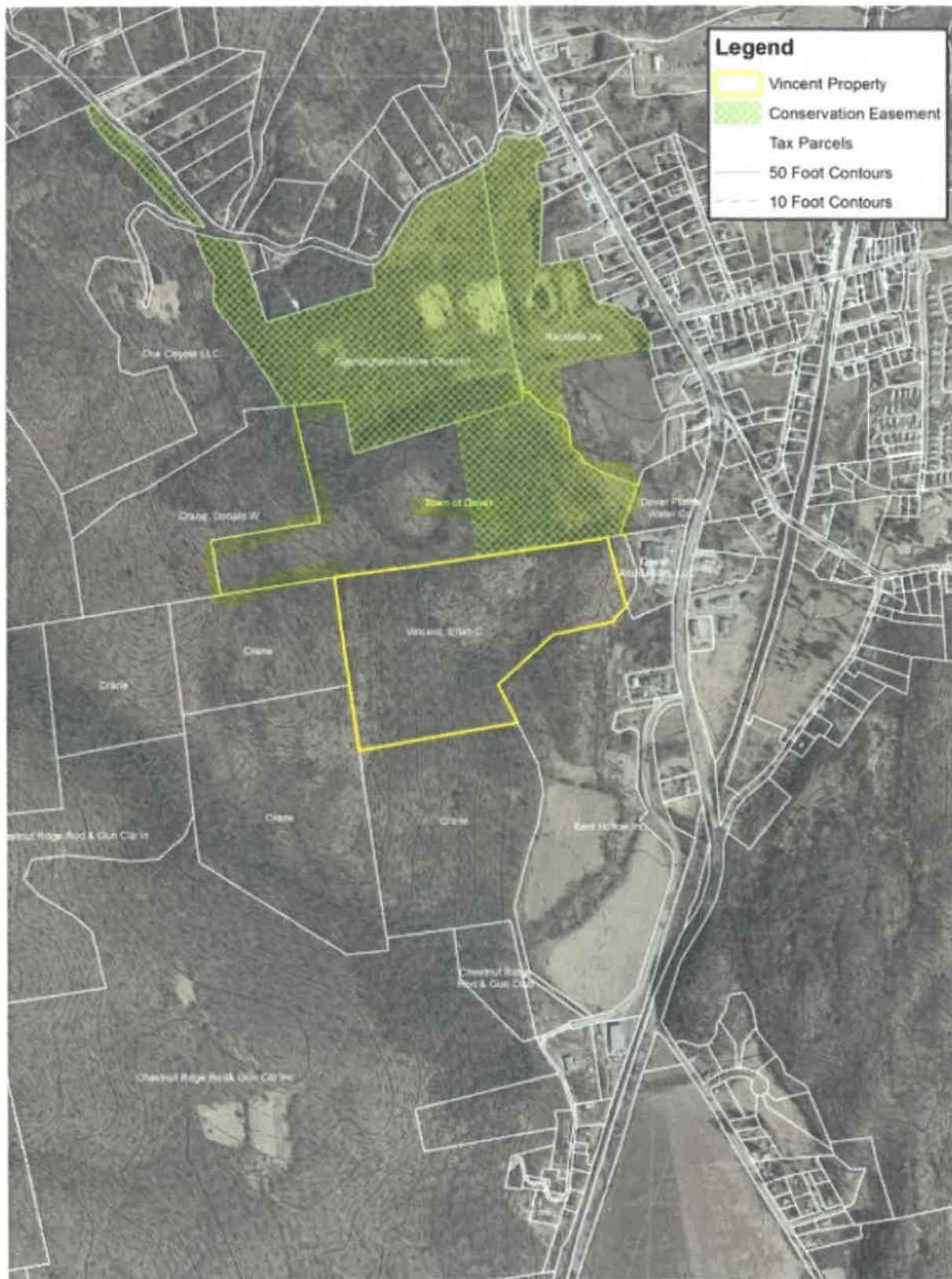
I, KATHYRN PALMER-HOUSE, hereby certify that I am the TOWN CLERK for the TOWN OF DOVER, in the said County of DUTCHESS, do hereby certify the above is a true copy of the **RESOLUTION AUTHORIZING EXECUTION OF CONTRACT OF SALE WITH DUTCHESS LAND CONSERVANCY**.

I further certify the record is located at the Dover Town Hall, in the Town Clerk's Office located at 126 East Duncan Hill Road, Dover Plains, New York. I have hereunto set my hand and affixed the seal of said Town this 10<sup>th</sup> day of July, 2013.

(Seal)

  
Kathryn Palmer-House, Town Clerk





## Vincent Property

Town of Dover  
Dutchess County NY  
November 30, 2012



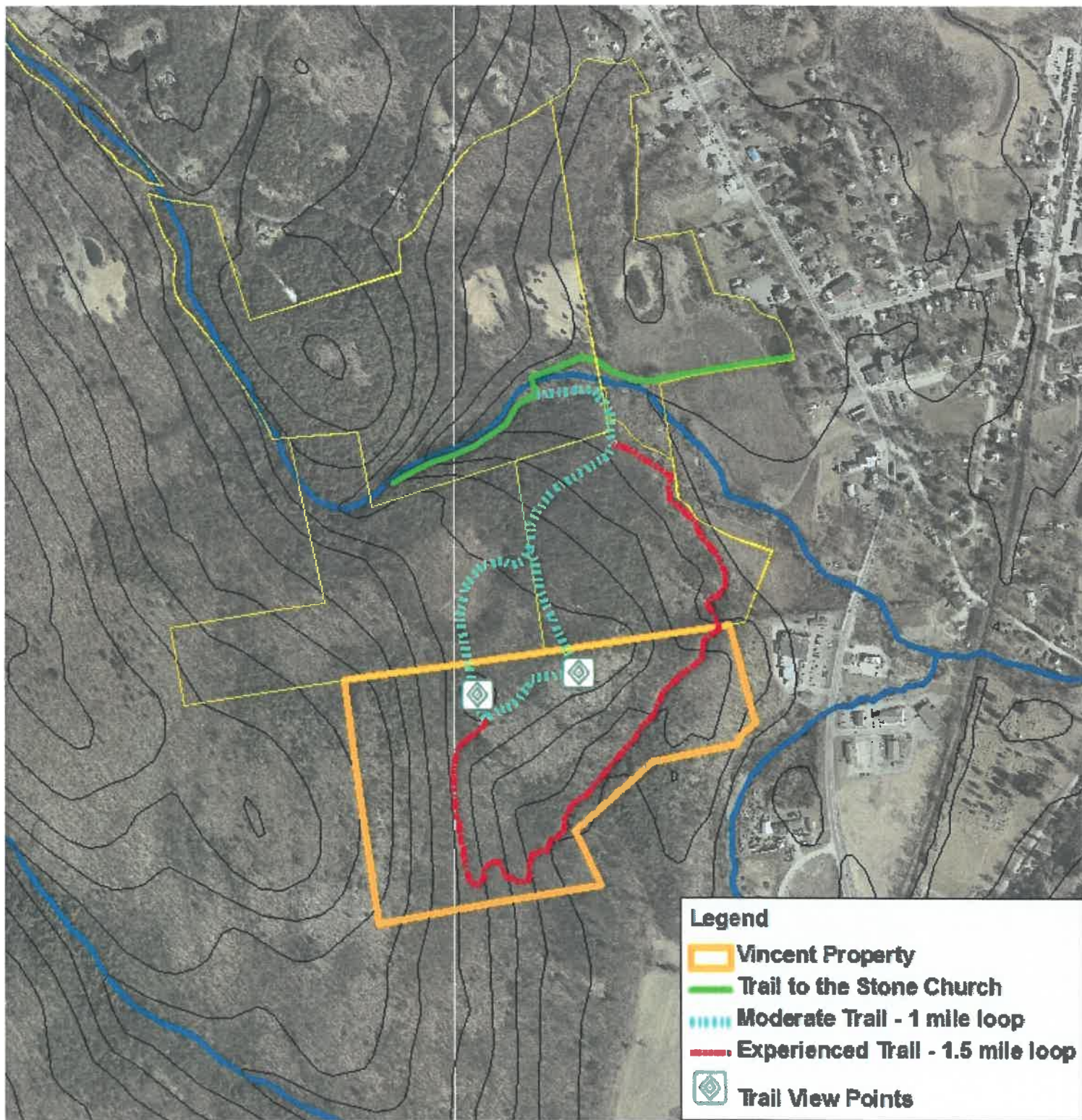
0 350 700 1,400 Feet

1 inch equals 700 feet

## Aerial Photograph

2009 Digital Ortho Imagery created by the NYS Office of Cyber Security and Critical Infrastructure Coordination. Image type is 4-band RGB & NIR. Image resolution according to date 2' at the 95% confidence level. SDOA image pixel size is 0.5 x 0.50





## Proposed Trails between Dover Stone Church Preserve and the Vincent Property

Town of Dover  
Dutchess County, NY  
May 14, 2012

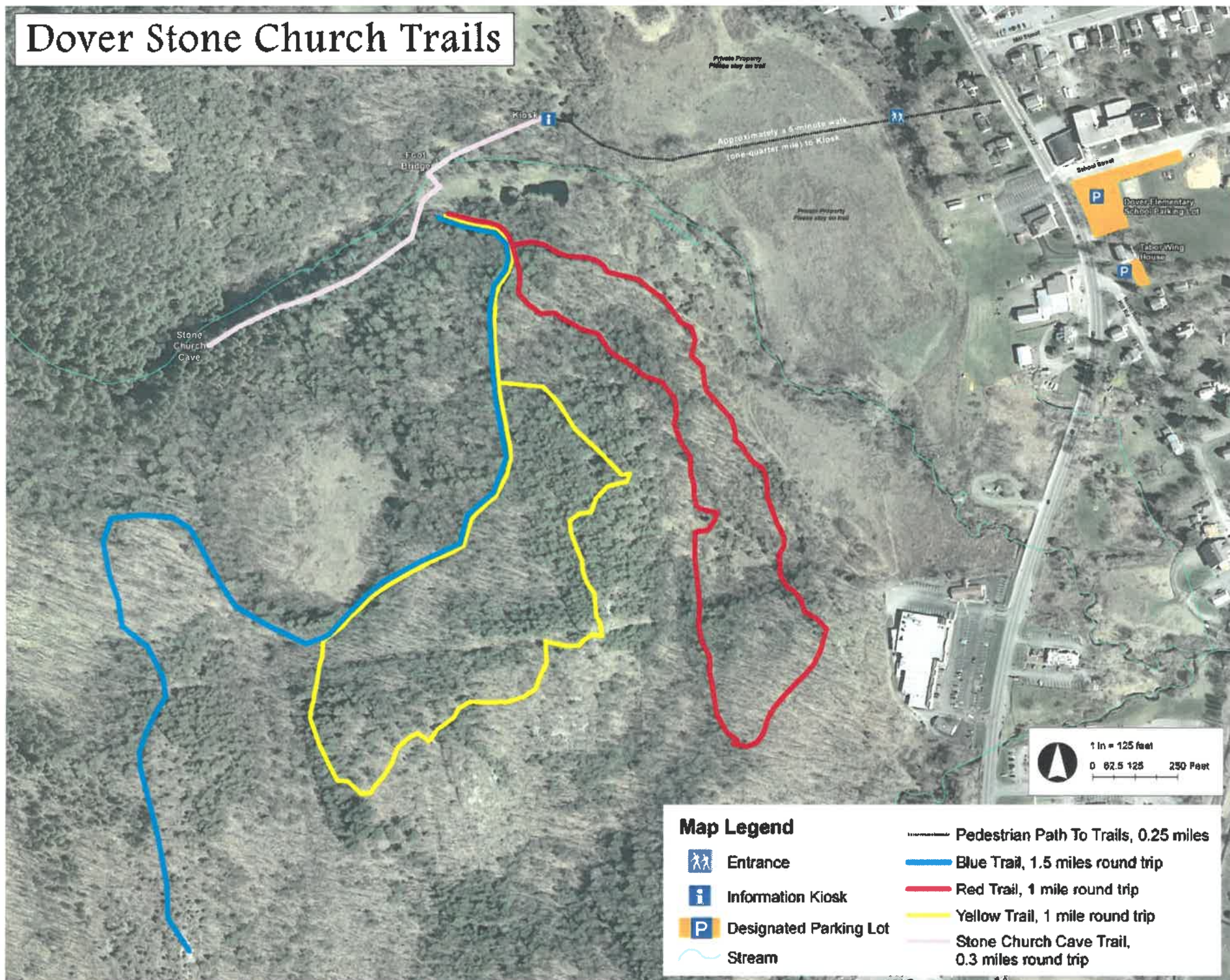


0 175 350 700 Feet  
1 inch equals 700 feet

2009 Digital Ortho Imagery, created by the NYS Office of Cyber Security and Critical Infrastructure Coordination. Image type is 4-band, RGB & NIR. Image horizontal accuracy is within 2' at the 95% confidence level (NSSDA). Image pixel size is 0.5' GSD.



# Dover Stone Church Trails



DUTCHESS COUNTY CLERK RECORDING PAGE

RECORD & RETURN TO:  
RAPPORT MEYERS WHITEBECK ET AL.  
ONE CIVIC CTR PLAZA  
STE 501  
POUGHKEEPSIE NY 12601

RECORDED: 09/02/2004

AT: 13:20:21

DOCUMENT #: 02 2004 9111

RECEIVED FROM: ~~DARMMOUNT ABSTRACT~~

GRANTOR: CUNNINGHAM KEVIN  
GRANTEE: DOVER TOWN

RECORDED IN: DEED  
INSTRUMENT TYPE:

TAX  
DISTRICT: DOVER

EXAMINED AND CHARGED AS FOLLOWS:

RECORDING CHARGE: 218.00

NUMBER OF PAGES: 7

TRANSFER TAX AMOUNT:

TRANSFER TAX NUMBER: #001127

E & A FORM: Y

TP-584: Y

\*\*\* DO NOT DETACH THIS  
\*\*\* PAGE  
\*\*\* THIS IS NOT A BILL

COUNTY CLERK BY: TMD  
RECEIPT NO: R77334  
BATCH RECORD: B00401



*Colette M. Lafurte*

COLETTE M. LAFURTE  
County Clerk





DEED

THIS INDENTURE, made the 2<sup>nd</sup> day of September, 2004, BETWEEN

KEVIN CUNNINGHAM and DEIRDRE L. CUNNINGHAM, residing at 91 Bangall-Amenia Road, Bangall, New York 12506, as party of the first part, and

TOWN OF DOVER, a municipal corporation having an address at 126 Duncan Hill Road, Dover Plains, New York 12522, as party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN DOLLARS and other good and valuable consideration paid by the party of the second part, the receipt and adequacy of which is hereby acknowledged, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece, or parcel of land situate, lying and being in the Town of Dover, County of Dutchess, and State of New York, more particularly bounded and described as is set forth on Schedule "A" annexed hereto.


TOGETHER WITH all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER WITH the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

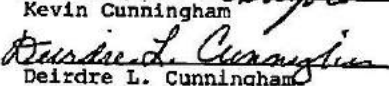
AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first, in compliance with Section 13 of Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it reads "parties" whenever the sense of the indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN THE PRESENCE OF:

  
Kevin Cunningham

  
Deirdre L. Cunningham

SCHEDULE A

BEGINNING at a point in the center of Cart Road marking the northeast corner of the herein described parcel and being located N 4 deg. 02' E 12.00 feet from the northwest corner of lands of Radallo, Inc.; thence leaving said road and in part along lands of said Radallo, Inc. S 4 deg. 02' W 822.00 feet to an iron pin at a fence corner, S 2 deg. 56' W 872.71 feet to an iron pin at a fence corner, S 84 deg. 34' 50" W 1313.63 feet to an iron pin in a rock ledge and N 1 deg. 59' E 399.42 feet to an iron rod in a stone heap as shown on a survey map entitled, "Map of Property belonging to Henry Fulla" as surveyed by D.B. Metcalf, Land Surveyor, dated July 15, 1911; thence along a line as per another survey by said Metcalf entitled, "Property of Henry Fulla showing the westerly portion of John Dutcher purchase" dated December, 1920, N 82 deg. 57' 06" W 394.80 feet; thence along lands of Crane described in Liber 1445 of Deeds at Page 864, N 84 deg. 33' 20" W 92.72 feet to the center of the Stone Church Brook; thence along the mean centerline of said brook and along lands of Litomy described in Liber 785 of Deeds at Page 439, N 9 deg. 36' W 123.22 feet, N 4 deg. 02' W 123.00 feet, N 25 deg. 29' W 272.00 feet, N 13 deg. 18' W 125.00 feet, N 12 deg. 13' W 151.00 feet, N 29 deg. 36' W 96.00 feet, N 31 deg. 44' W 75.00 feet, N 27 deg. 53' E 31.00 feet, N 54 deg. 16' E 46.00 feet, N 52 deg. 48' E 44.00 feet, N 2 deg. 48' E 68.00 feet, N 21 deg. 31' W 118.00 feet, N 8 deg. 37' E 56.00 feet, N 2 deg. 13' E 132.00 feet, N 35 deg. 07' W 65.00 feet, and N 16 deg. 47' E 43.39 feet to the southerly side of a bridge crossing under Northrop Road; thence continuing along the centerline of said brook as it passes through said bridge and crossing under said road N 30 deg. 59' 21" E 35.23 feet to the northerly side of said bridge thence continuing along the mean centerline of said brook and along lands of Mahaichik N 18 deg. 40' 13" W 56.20 feet, N 52 deg. 12' W 102.00 feet, N 41 deg. 23' W 118.00 feet, N 25 deg. 55' W 165.00 feet, N 29 deg. 17' W 93.00 feet, N 8 deg. 28' W 84.00 feet, N 34 deg. 38' W

155.00 feet, N 25 deg. 51' W 140.00 feet, N 33 deg. 54' W 118.00 feet, N 37 deg. 43' W 63.00 feet, N 9 deg. 17' W 141.00 feet, and N 9 deg. 54' W 20.07 feet; thence leaving said brook and in part along lands of said Meunier and Dowd N 83 deg. 23' 47" E 93.30 feet to the center of Cart Road; thence along the center of said road S 27 deg. 46' E 156.42 feet, S 31 deg. 53' E 104.60 feet, S 34 deg. 10' E 333.98 feet, S 36 deg. 33' E 180.99 feet, S 20 deg. 33' E 126.31 feet, S 07 deg. 46' E 67.07 feet, S 20 deg. 14' E 96.13 feet and S 30 deg. 01' E 338.04 feet to the intersection of said Cart Road with Northrop Road; thence continuing along the center of Cart Road S 61 deg. 25' 21" E 92.09 feet; thence leaving said road and in part along lands of Krusko and in part along lands of Tublewicz and passing through iron pins, S 4 deg. 55' 39" E 652.75 feet to a stone heap; thence continuing along lands of Tublewicz S 89 deg. 22' 54" E 832.73 feet to an iron pin near the westerly end of a stone wall and in part along the lands of said Tublewicz and in part along a stone wall and passing through an iron pin N 13 deg. 05' 22" E 237.02 feet to the center of said Cart Road; thence along the center of said road N 82 deg. 32' 49" E 35.60 feet, N 57 deg. 28' E 78.73 feet, N 44 deg. 34' E 88.90 feet, N 38 deg. 45' E 96.91 feet, N 44 deg. 09' E 97.94 feet, N 52 deg. 12' E 65.16 feet, N 58 deg. 38' E 50.88 feet, N 65 deg. 24' E 93.82 feet, N 71 deg. 34' E 68.06 feet, N 74 deg. 49' E 73.96 feet, N 75 deg. 58' E 98.14 feet and N 74 deg. 35' 21" E 215.07 feet to the point of place of beginning. Containing 60.14 acres of land.

TOGETHER with a right-of-way for ingress to and egress from the above described parcel over that portion of Stone Church Lane which runs through the lands of Radallo, Inc., said right-of-way is described in a deed from Pauline Palmer to Arthur A. Palmer dated January 23, 1964 and recorded in the Dutchess County Clerk's Office in Liber 1118 of Deeds at Page 17. Said Right-of-Way is described in deed as follows:

---

SUBJECT to a right-of-way in favor of Pauline Palmer (former owner of Stone Church property), her heirs and assigns for ingress to and egress from premises retained by Pauline Palmer lying west of the above described premises, (lands now owned by Radallo, Inc.), said right-of-way to be over the lane commonly known as the Stone Church Lane by foot, by horse or horse-drawn vehicle or by motor vehicle or tractor; it being understood, however, that said right-of-way is not to be used in connection with any commercial development or commercial use of the premises of the seller lying west of the above described parcel except that the seller, her heirs or assigns, may use the same for the purpose of removing fire wood or timber from premises retained by the seller lying westerly from the above described parcel.

The location of said right-of-way is shown on Filed Map No. 3949 which shows premises conveyed by Arthur G. Palmer to Lee J. Spencer and Wallace Spencer. Said parcel was conveyed from said Spencer to Radallo, Inc.

ALSO, TOGETHER with a right-of-way for ingress to and egress from the above described parcel over that portion of the Stone Church Lane which runs through the lands of George E. Whalen and Mildred R. Whalen described in Liber 1592 of Deeds at Page 248, said lane is located on the southerly side of lands of said Whalen.

Said Stone Church Lane leads from Route 22 in a westerly direction to the above described 60.14 acre parcel.

The above described 60.14 acre parcel is conveyed subject to a restricted area described as follows:

BEGINNING at an iron pin marking the southeast corner of the herein described parcel and also marking the southeast corner of the above described 60.14 acre parcel; thence along the lands of Radallo, Inc. S 84 deg. 34' 50" W 1313.63 feet to an iron pin in a rock ledge and N 1 deg. 59' E 399.42 feet to an iron rod in a stone heap; thence through the above described parcel N 88 deg. 55' 42" E 1309.52 feet to the easterly line of the above described parcel; thence along lands of said Radallo, Inc. S 2 deg. 56' W 300.00 feet to the point of place of beginning. Containing 10.47 acres of land.



The above described restricted area is to be preserved in perpetuity in its present natural and undisturbed state. No buildings shall be constructed in this area. No construction of any form is to take place in this area which would be detrimental to the scenic character and ecosystems of the property.

In no way is the Stone Church itself to be altered except by nature.

The grantors do not warrant title to that portion of the premises which runs a distance 25 feet southerly and westerly from the centerline of Cart Road, and the grantors only convey such property within the roadway to the extent it was conveyed to them by their grantor.

Being the same premises conveyed by RUTH P. MILLER and PAULINE E. DEUEL, to KEVIN CUNNINGHAM and DEIRDRE L. CUNNINGHAM, by deed dated June 19, 1987, and recorded in the office of the Dutchess County Clerk at Liber 1759 of Deeds, Page 429.

The premises are in an agricultural district and are entirely owned by the transferors.

ACKNOWLEDGMENTS

STATE OF NEW YORK     )  
                              ) ss.:  
COUNTY OF DUTCHESS    )

On the 2<sup>nd</sup> day of September, 2004, before me, the undersigned, a notary public in and for said state, personally appeared KEVIN CUNNINGHAM and DEIRDRE L. CUNNINGHAM, personally known to me or proved to me on the basis of satisfactory evidence to be the individuals whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals or the person upon behalf of which the individuals acted, executed the instrument.

  
\_\_\_\_\_  
Notary Public

ALLAN B. RAPPLEYEA  
Notary Public, State of New York  
Reg. No. 6008140  
Qualified in Dutchess County 06  
Commission Expires Feb. 16, 2006

Tax Identification number: 132600-7063-00-293474-00  
Town of Dover  
County of Dutchess  
State of New York

Record and Return to: Shannon LaFrance, Esq.  
Rapport, Meyers, Whitbeck, Shaw  
& Rodenhausen, LLP  
One Civic Center Plaza, Suite 501  
Poughkeepsie, New York 12601

## CONTRACT OF SALE

CONTRACT OF SALE made as of the 17 Day of December, 2014, between

DUTCHESS LAND CONSERVANCY, INC.

Address: 4289 Route 82, Millbrook, NY 12545, hereinafter called "Seller", and

TOWN OF DOVER

Address: 126 East Duncan Hill Road, Dover Plains, NY 12522, hereinafter called "Purchaser".

### The parties hereby agree as follows:

1. **Premises.** Seller shall sell and convey and Purchaser shall purchase the property, (the "Premises"), more fully described on a separate page marked "Schedule A", annexed hereto and made a part hereof and also known as:

Street Address: County Route 22, Dover, NY

Tax Map Designation: 7063-00-377243 and 7063-00-484300

Together with Seller's ownership and rights, if any, to land lying in the bed of any street or highway, opened or proposed, adjoining the Premises to the center line thereof, including any right of Seller to any unpaid award by reason of any taking by condemnation and/or for any damage to the Premises by reason of change of grade of any street or highway. Seller shall deliver at no additional cost to Purchaser, at Closing (as hereinafter defined), or thereafter, on demand, any documents that Purchaser may reasonably require for the conveyance of such title and the assignment and collection of such award or damages. Immediately upon conveyance of the Premises, Purchaser shall execute, grant and deliver to Seller a conservation easement on the Premises and an adjacent 28.7 acres owned by the Purchaser, in the form set forth in "Schedule B", annexed hereto and made a part hereof.

2. **Purchase Price.** The purchase price is \$1.00 payable at Closing in accordance with paragraph "9".

3. **Acceptable Funds.** All money payable under this contract, unless otherwise specified, shall be paid by:

- (a) Cash, but not over \$1,000.00;
- (b) Good certified check of Purchaser drawn on or official check issued by any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, unendorsed and payable to the order of Seller, or as a Seller may otherwise direct upon not less than three (3) business days' notice (by telephone or otherwise) to Purchaser;
- (c) As to money other than the purchase price payable to Seller at Closing, uncertified check of Purchaser up to the amount of \$500.00; and
- (d) As otherwise agreed to in writing by Seller or Seller's attorney.

4. **Permitted Exceptions.** The Premises are sold and shall be conveyed subject to:
- (a) Zoning and subdivision laws and regulations, and landmark, historic or wetlands designation;
  - (b) Real estate taxes that are a lien, but are not yet due and payable; and
  - (c) The other matters, if any, including a survey exception, set forth in a Rider attached.

5. **Governmental Violations and Orders.** Seller shall comply with all notes or notices of violations of law or municipal ordinances, orders or requirements noted or issued as of the date hereof by any governmental department having authority as to lands, housing, buildings, fire, health, environmental and labor conditions affecting the Premises. The Premises shall be conveyed free of them at Closing. Seller shall furnish Purchaser with any authorizations necessary to make the searches that could disclose these matters.

6. **Seller's Representations.** (a) Seller represents and warrants to Purchaser that:
- (i) The Premises abut or have a right of access to a public road;
  - (ii) Seller is the sole owner of the Premises and has the full right, power and authority to sell, convey and transfer the same in accordance with the terms of this contract;
  - (iii) Seller is not a "foreign person", as that term is defined for purposes of the Foreign Investment in Real Property Tax Act, Internal Revenue Code ("IRC") Section 1445, as amended, and the regulations promulgated thereunder (collectively "FIRPTA");
  - (iv) The Premises are not affected by any exemptions or abatements of taxes; and
  - (v) Seller has been known by no other name for the past ten years, except DUTCHESS LAND CONSERVANCY, INC.
- (b) Seller covenants and warrants that all of the representations and warranties set forth in this contract shall be true and correct at Closing.
- (c) Except as otherwise expressly set forth in this contract, none of Seller's covenants, representations, warranties or other obligations contained in this contract shall survive Closing.

7. **Condition of Property.** Purchaser acknowledges and represents that Purchaser is fully aware of the physical condition of the Premises based on Purchaser's own inspection and investigation thereof, and that Purchaser is entering into this contract based solely upon such inspection and investigation and not upon any information, data, statements or representations, written or oral, as to the physical condition or any other matter related to the Premises given or made by Seller or its representatives, and shall accept the same "as is" in their present condition subject to reasonable natural deterioration between the date hereof and the date of Closing without any reduction in the purchase price or claim of any kind for any change in such condition by reason thereof subsequent to the date of this contract. Purchaser and its authorized representatives shall have the right, at reasonable times and upon reasonable notice (by telephone or otherwise) to Seller, to inspect the Premises before Closing.

8. **Insurable Title.** Seller shall give and Purchaser shall accept such marketable title as any title insurance company licensed to do business in New York State shall be willing to approve and insure in accordance with its standard form of title policy approved by the New York State Insurance Department, subject only to the matters provided for in this contract.



9. **Closing, Deed and Title.** (a) "Closing" means the settlement of the obligations of Seller and Purchaser to each other under this contract, including the payment of the purchase price to Seller, and the delivery to Purchaser of a Bargain and Sale with Covenant Against Grantor's Acts deed in proper statutory short form for record, duly executed and acknowledged, so as to convey to Purchaser fee simple title to the Premises, free of all encumbrances, except as otherwise herein stated. The deed shall contain a covenant by Seller as required by subd. 5 of Section 13 of the Lien Law.

(b) If Seller is a corporation, it shall deliver to Purchaser at the time of Closing (i) a resolution of its Board of Directors authorizing the sale and delivery of the deed, and (ii) a certificate by the Secretary or Assistant Secretary of the corporation certifying such resolution and setting forth facts showing that the transfer is in conformity with the requirements of Section 909 of the Business Corporation Law. The deed in such case shall contain a recital sufficient to establish compliance with that Section.

10. **Closing Date and Place.** Closing shall take place at the offices of Dutchess Land Conservancy, 4289 County Route 82, Millbrook, New York, on or about December 5, 2014, or at such other time and place as the parties shall mutually agree, to coordinate with the scheduling of the closing of the transfer of the Premises from Brian Vincent to Dutchess Land Conservancy.

11. **Conditions of Closing.** This contract and Purchaser's obligation to purchase the Premises are also subject to and conditioned upon the fulfillment of the following conditions precedent:

(a) The accuracy, as of the date of Closing, of the representations and warranties of Seller made in this contract.

(b) The delivery by Seller to Purchaser of a duly executed Combined Real Estate Transfer Tax Return.

(c) Seller hereby certifies that it is not a foreign corporation as defined by the Foreign Investment in Real Property Act of 1980 (FIRPTA).

(d) The delivery by the parties of any other affidavits required as a condition of recording the deed.

(e) The execution by Purchaser immediately upon delivery of the deed of the conservation easement marked "Schedule B", annexed hereto and made a part hereof. Following the closing the fully executed conservation easement shall be filed and recorded in the Office of the County Clerk of the County of Dutchess, State of New York, immediately after the deed hereunder has been filed and recorded so that the conservation easement has priority thereafter over any lien or other financial obligation upon the property.

12. **Deed Transfer and Recording Taxes.** At Closing, certified or official bank checks payable to the order of the appropriate State, City or County officer in the amount of any applicable transfer and/or recording tax payable by reason of the delivery or recording of the deed or mortgage, if any, shall be delivered by the party required by law or by this contract to pay such transfer and/or recording tax, together with any required tax returns duly executed and sworn to, and such party shall cause any such checks and returns to be delivered to the appropriate officer promptly after Closing. The obligation to pay any additional tax or deficiency and any interest or penalties thereon shall survive Closing.

13. **Allowance for Unpaid Taxes, etc.** Seller has the option to credit Purchaser as an adjustment to the purchase price with the amount of any unpaid taxes, assessments, water charges and sewer rents, together with any interest and penalties thereon to a date not less than five (5) business days after Closing, provided that official bills therefor computed to said date are produced at Closing.

14. **Use of Purchase Price to Remove Encumbrances.** If at Closing there are other liens or encumbrances that Seller is obligated to pay or discharge, Seller may use any portion of the cash balance of the purchase price to pay or discharge them, provided Seller shall simultaneously deliver to Purchaser at Closing instruments in recordable form and sufficient to satisfy such liens or encumbrances of record, together with the cost of recording or filing said instruments. As an alternative, Seller may deposit sufficient monies with the title insurance company employed by Purchaser acceptable to and required by it to assure their discharge, but only if the title insurance company will insure Purchaser's title clear of the matters or insure against their enforcement out of the Premises and will insure Purchaser's Institutional Lender clear of such matters. Upon notice (by telephone or otherwise), given not less than three (3) business days before Closing, Purchaser shall provide separate certified or official bank checks as requested to assist in clearing up these matters.

15. **Title Examination; Seller's Inability to Convey; Limitations of Liability.**

(a) Purchaser shall order an examination of title in respect of the Premises from a title company licensed or authorized to issue title insurance by the New York State Insurance Department or any agent for such title company promptly after the execution of this contract or, if this contract is subject to the mortgage contingency, after a mortgage commitment has been accepted by Purchaser. Purchaser shall cause a copy of the title report and of any additions thereto to be delivered to the attorney(s) for Seller promptly after receipt thereof.

(b) In cases where Seller is unable to convey,

(i) If at the date of Closing Seller is unable to cause transfer of title to Purchaser in accordance with this contract, or Purchaser has other valid grounds for refusing to close, whether by reason of liens, encumbrances or other objections to title or otherwise (herein collectively called "Defects"), other than those subject to which Purchaser is obligated to accept title hereunder or which Purchaser may have waived and other than those which Seller has herein expressly agreed to remove, remedy or discharge and if Purchaser shall be unwilling to waive the same and to close title without abatement of the purchase price, then, except as hereinafter set forth, Seller shall have the right, at Seller's sole election, either to take such action as Seller may deem advisable to remove, remedy, discharge or comply with such Defects or to cancel this contract; (ii) if Seller elects to take action to remove, remedy or comply with such Defects, Seller shall be entitled from time to time, upon Notice to Purchaser, to adjourn the date for Closing hereunder for a period or periods not exceeding sixty (60) days in the aggregate (but not extending beyond the date upon which Purchaser's mortgage commitment, if any, shall expire), and the date for Closing shall be adjourned to a date specified by Seller not beyond such period. If for any reason whatsoever, Seller shall not have succeeded in removing, remedying or complying with such Defects at the expiration of such adjournment(s), and if Purchaser shall still be unwilling to waive the same and to close title without abatement of the purchase price, then either party may cancel this contract



**TOWN OF DOVER**  
**RESOLUTION 2009 CONDITIONALLY ACCEPTING GIFT OF**  
**LOT 2, STONY BROOK ESTATES SUBDIVISION,**  
**AND**  
**AUTHORIZING SUPERVISOR TO EXECUTE AND DELIVER**  
**ALL DOCUMENTS IN CONNECTION THEREWITH**

The following Resolution was offered by Councilwoman Palmer-House, seconded by Councilman Galayda, to wit:

**WHEREAS**, by resolution (the "Resolution") dated December 4, 2007, the Planning Board of the Town of Dover granted conditional final approval of a subdivision (the "Subdivision") of lands situated west of NYS Route 22 in said Town as shown on a certain map entitled "Subdivision Plat of Stony Brook Estates prepared for Randallo Incorporated, Town of Dover, Dutchess County, New York", prepared by Bly and Houston LLP, Land Surveyors, May 2, 2001, revised to October 22, 2008, and filed in the Dutchess County Clerk's Office on December 16, 2008 as Map No. 12219 (the Filed Map"); and

**WHEREAS**, Randallo Incorporated (the "Grantor") is the owner of all lands shown on the Filed Map, which consists of two (2) Lots, namely Lot 1, which consists of 38.01± acres of vacant land, and Lot 2, which consists of 62.92± acres of vacant land, and which are shown, respectively, on the Tax Map of the County of Dutchess as Tax Grid Nos. 132600-7063-00-442492 and 132600-7063-00-390362); and

**WHEREAS**, Section 247 of the General Municipal Law of the State of New York provides that municipalities, including towns, may acquire, by gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development rights, easements, covenants or other contractual rights in and to real property as may be necessary to achieve the aforesaid purposes; and

**WHEREAS**, the Resolution included a condition that the Grantor convey to the Town, and the Grantor has agreed to convey to the Town, by gift, all of its right, title and interest in and to Lot 2 of the Subdivision; and

**WHEREAS**, the Town deems it to be a public purpose and in the public interest to acquire interests or rights in real property which has ecological, scientific, educational and aesthetic value in its present state as a natural area which had not been subject to development and for the preservation of wetlands and open space areas in the Town of Dover in order to enhance the beauty of natural conditions now existing in the Town; and

**WHEREAS**, a public hearing was held by the Town Board of the Town of Dover on June 24, 2009 after due notice thereof, with respect to the proposed gift, at which public hearing all interested parties were given an opportunity to be heard.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. That the proposed conveyance, by gift, to the Town of Dover, by Randallo Incorporated of all of its right, title and interest in and to Lot 2 of the Stony Brook Estates Subdivision is hereby approved; and *Attachment # 1 Page - 1*
2. That the Supervisor and the Town Clerk of the Town of Dover are hereby authorized and directed to execute and deliver, jointly or severally, any and all documents, including, without limitation by reason of specification, forms, affidavits, consents, certifications and reports, as may be reasonably required or necessary to accept the conveyance by gift referred to herein, subject to (i) approval as to form and content by Town Counsel; and (ii) receipt of a binding policy of title insurance insuring the Town's fee simple title to said Lot 2 in the amount of no less than \$160,000 and otherwise in form and content satisfactory in all respects to town Counsel.

The question of the adoption of the foregoing Resolution was duly put to a vote on roll call which resulted as follows:

Ryan Courtien	Voting <u>Aye</u>
Christopher Galayda	Voting <u>Aye</u>
Kathryn Palmer-House	Voting <u>Aye</u>
Catherine Frame	Voting <u>Absent</u>
Richard Hawthorne	Voting <u>Absent</u>

The Resolution was thereupon adopted on June 24, 2009.

by Notice to the other given within ten (10) days after such adjourned date; (iii) notwithstanding the foregoing, any existing mortgage and any matter created by Seller after the date hereof shall be released, discharged or otherwise cured by Seller at or prior to Closing.

(c) If this contract is cancelled pursuant to its terms, other than as a result of Purchaser's default, this contract shall terminate and come to an end, and neither party shall have any further rights, obligations or liabilities against or to the other hereunder or otherwise, except that: (i) Seller shall promptly refund or cause the Escrowee to refund the Down payment to Purchaser and, unless cancelled as a result of Purchaser's default, to reimburse Purchaser for the net cost of examination of title, including any appropriate additional charges related thereto, and the net cost, if actually paid or incurred by Purchaser, for updating the existing survey of the Premises or of a new survey.

**16. Affidavit as to Judgments, Bankruptcies, etc.** If a title examination discloses judgments, bankruptcies or other returns against persons having names the same as or similar to that of Seller, Seller shall deliver an affidavit at Closing showing that they are not against Seller.

**17. Defaults and Remedies.**

(a) If Purchaser defaults hereunder, Seller's sole remedy shall be to receive and retain the Down payment as liquidated damages, it being agreed that Seller's damages in case of Purchaser's default might be impossible to ascertain and that the Down payment constitutes a fair and reasonable amount of damages under the circumstances and is not a penalty.

(b) If Seller defaults hereunder, Purchaser shall have such remedies as Purchaser shall be entitled to at law or in equity, including, but not limited to, specific performance.

**18. Purchaser's Lien.** All money paid on account of this contract, and the reasonable expenses of examination of title to the Premises and of any survey and survey inspection charges, are hereby made liens on the Premises, but such liens shall not continue after default by Purchaser under this contract.

**19. Notices.** Any notice or other communication ("Notice") shall be in writing and either (a) sent by either of the parties hereto or by their respective attorneys who are hereby authorized to do so on their behalf or by the Escrowee, by registered or certified mail, postage prepaid, (b) by facsimile or email transmission followed by regular first class mail or (c) delivered in person or by overnight courier, with receipt acknowledged, to the respective addresses given in this contract for the party and the Escrowee, to whom the Notice is to be given, or to such other address as such party or Escrowee shall hereafter designate by Notice given to the other party or parties and the Escrowee pursuant to this paragraph. Each Notice mailed shall be deemed given on the third business day following the date of mailing the same, except that any notice to Escrowee shall be deemed given only upon receipt by Escrowee and each Notice delivered in person or by overnight courier shall be deemed given when delivered.

**20. No Assignment.** This contract may not be assigned by Purchaser without the prior written consent of Seller in each instance and any purported assignment(s) made without such consent shall be void.



21. **Broker.** Seller and Purchaser each represents and warrants to the other that it has not dealt with any broker in connection with this sale.

22. **Release.** Notwithstanding anything contained herein to the contrary, it is specifically understood and agreed that this Contract is a single indivisible Contract and that delivery and acceptance of the Deed by Purchaser shall be deemed full compliance by the Seller of all the terms of this Contract, and as a release by the Purchaser of any and all terms of this Contract, and as a release by the Purchaser of any and all rights, obligations, claims, or causes of action against the Seller. The Purchaser understands that none of the provisions of this Contract, except those which expressly state otherwise shall survive such delivery. No other promise, representation, agreement or obligation on the part of the Seller, its agents, employees or representatives, shall be binding or survive the delivery and acceptance of the Deed, unless such promise, representation, agreement or obligation is in writing and signed by the Seller and unless such writing expressly states that the same shall survive the delivery and acceptance of the Deed.

23. **Miscellaneous.**

(a) All prior understandings, agreements, representations and warranties, oral or written, between Seller and Purchaser are merged in this contract; it completely expresses their full agreement and has been entered into after full investigation, neither party relying upon any statement made by anyone else that is not set forth in this contract.

(b) Neither this contract nor any provision thereof may be waived, changed or cancelled except in writing. This contract shall also apply to and bind the heirs, distributees, legal representatives, successors and permitted assigns of the respective parties. The parties hereby authorize their respective attorneys to agree in writing to any changes in dates and time periods provided for in this contract.

(c) Any singular word or term herein shall also be read as in the plural and the neuter shall include the masculine and feminine gender, whenever the sense of this contract may require it.

(d) The captions in this contract are for convenience of reference only and in no way define, limit or describe the scope of this contract and shall not be considered in the interpretation of this contract or any provision hereof.

(e) This contract shall not be binding or effective until duly executed and delivered by Seller and Purchaser.

(f) Seller and Purchaser shall comply with IRC reporting requirements, if applicable. This subparagraph shall survive Closing.

(g) Each party shall, at any time and from time to time, execute, acknowledge where appropriate and deliver such further instruments and documents and take such other action as may be reasonably requested by the other in order to carry out the intent and purpose of this contract. This subparagraph shall survive Closing.

(h) This contract is intended for the exclusive benefit of the parties hereto and, except as otherwise expressly provided herein, shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other person or entity.

24. **Utility Service.** The parties agree that the premises is being conveyed without any representation as to utility service to said premises.

25. **Recording Charges.** Seller shall be responsible for any and all recording charges in connection with this transaction.

26. **Title Search.** Seller will furnish Purchaser with a copy of the title insurance abstract Seller has obtained in connection with the Vincent to Dutchess Land Conservancy transaction.

IN WITNESS WHEREOF, this contract has been duly executed by the parties hereto.

**SELLER**

By   
REBECCA E.C. THORNTON, President  
Dutchess Land Conservancy, Inc.

14-1667526  
Employer Identification No.

**PURCHASER**

By   
RYAN COURTIEN, Supervisor  
Town of Dover

14-6002160  
Employer Identification No.

Attorney for Seller:  
George A. Rodenhausen, Esq.  
Rapport Meyers LLP  
20 Spring Brook Park  
Rhinebeck, NY 12572  
Phone: 845-473-7766  
Email: grodenhausen@rapportmeyers.com

Attorney for Purchaser:  
Thomas J. Jacobellis  
Hogan and Rossi  
Three Starr Ridge Road  
Suite 200  
Brewster, NY 10509  
Phone: 845-225-2121 Email: tomjaco@comcast.net

**Schedule A**  
**Property Description**

**PARCEL A**

BEGINNING at a point at the southerly boundary line of lands of the Town of Dover described in Document 02-2010-620, said point being the northeasterly corner of the herein described parcel and being the northwesterly corner of lands of Brian C. Vincent described in Document 02-2013-4973, said point being located N 89 deg 55' 30" W 65.91 feet from a steel pin found marking the southwesterly corner of Dover Plains Water Co. described in Liber 956 of Deeds at page 181; thence along lands of Brian C. Vincent, S 01 deg 35' 37" W 458.29 feet to a point; thence along lands of Dover Acquisition LLC described in Document 02-2004-2846 and along lands of Kent Hollow Inc. described in Liber 1378 of Deeds at page 664, S 50 deg W 251.46 feet, S 89 deg 30' W 184.80 feet, S 87 deg 45' W 158.40 feet, S 63 deg 45' W 594.00 feet, S 06 deg 45' E 231.00 feet and S 14 deg 45' E 66.00 feet to a point; thence along lands of Donald W. Crane and Philippe Crane Jr. described in Liber 1445 of Deeds at page 864, S 88 deg 45' W 1320.00 feet to the southwesterly corner of the herein described parcel; thence along other lands of Donald W. Crane and Philippe Crane Jr. described in Liber 1445 of Deeds at page 864, N 00 deg 42' 41" E 1255.25 feet to a point; thence along the southerly line of the Town of Dover described in Document 02-2010-620, S 89 deg 59' 45" E 230.72 feet to a stone heap found, S 87 deg 52' 00" E 499.64 feet to a stone heap found, S 89 deg 16' 40" E 1314.80 feet, following stone wall, S 86 deg 38' 50" E 126.95 feet, following the remains of stone wall and no physical bounds, S 89 deg 55' 30" E 169.89 feet to the point of place of beginning.

CONTAINING 52.75 Acres of land.

SUBJECT to Covenants, Easements, Restrictions, Conditions and Agreements of record.

SUBJECT to a Fifty foot wide Permanent Right of Way for ingress and egress in favor of Walter B. Crane, his heirs and assigns described in Liber 1074 of Deeds at page 862.

TOGETHER WITH a Fifty foot wide Non Exclusive Permanent Right of Way for ingress and egress over lands of Dover Plains Water Co. described in Liber 1083 of Deeds at page 823.

BEING and intended to be a portion of the first parcel of land as shown in a conveyance from Walter A. Vincent to Brian C. Vincent by Deed dated January 17, 1989 recorded at the Dutchess County Clerk's Office in Liber 1827 of Deeds at page 184.

**PARCEL B**

BEGINNING at a point marked by a steel pin found, said point being the southwesterly corner of lands of Dover Plains Water Co. described in Liber 956 of Deeds at page 181 and being the southeasterly corner of lands of the Town of Dover described in Document 02-2010-620 and being a point on the northerly boundary of the herein described parcel; thence along lands of Dover Plains Water Co., N 89 deg 39' 03" E 34.09 feet to the

northeasterly corner of the herein described parcel; thence along lands of Dover Acquisition LLC described in Document 02-2004-2846, S 04 deg 45' W 415.80 feet and S 60 deg 45' W 89.76 feet to a point marking the southwesterly corner of the herein described parcel; thence along lands of Brian C. Vincent described in Liber 1827 of Deeds at page 184, N 01 deg 35' 37" E 458.29 feet to a point at the southerly boundary of the Town of Dover; thence along the same, S 89 deg 55' 30" E 65.91 feet to the point or place of beginning.

CONTAINING 0.88 Acre of land.

SUBJECT to Covenants, Easements, Restriction, Conditions and Agreements of record.

SUBJECT to a Fifty Foot Wide Permanent Right of Way for ingress and egress in favor of Walter B. Crane, his heirs and assigns described in Liber 1074 of Deeds at page 862.

TOGETHER WITH a Fifty foot wide Non Exclusive Permanent Right of Way for ingress and egress over lands of Dover Plains Water Co. described in Liber 1083 of Deeds at page 823.

BEING and intended to be all that certain tract or parcel of land as shown in a conveyance from Jennifer C. Keller and Virginia Heaton Keller to Brian C. Vincent by Deed dated May 13, 2013 recorded at the Dutchess County Clerk's Office in Document 02-2013-4973.

**Schedule B**  
**Conservation Easement**



**CONSERVATION EASEMENT**

Between

**TOWN OF DOVER**

as Grantor

and

**DUTCHESS LAND CONSERVANCY, INC.,**

as Grantee

Record and Return to:  
Dutchess Land Conservancy, Inc.  
P.O. Box 138  
Millbrook, NY 12545

## CONSERVATION EASEMENT

This **CONSERVATION EASEMENT** is entered into this 17<sup>th</sup> day of December, 2014, between the **TOWN OF DOVER**, a municipal corporation with an address of 126 East Duncan Hill Road, Dover Plains, New York, 12522, as Grantor (the "Landowner"), and **DUTCHESS LAND CONSERVANCY, INC.**, a New York not-for-profit corporation with an office at 4289 Route 82, Millbrook, New York 12545, as Grantee (the "Conservancy").

### Recitals

**WHEREAS**, the Landowner is the sole owner in fee of real property (the "Property") described in Exhibit A attached hereto and incorporated by reference:

**WHEREAS**, the Property consists of approximately 79.09 acres, of unimproved land located on New York State Route 22, Rear, in the Town of Dover, Dutchess County, New York.

**WHEREAS**, the Property is shown on the Conservation Easement Map attached hereto as Exhibit B and incorporated by reference. A 28.70 acre portion of the Property is also shown as a part of a 36.70 acre part of "Lot 2" on a survey map titled "Subdivision Plat of Stony Brook Estates prepared for Randallo Incorporated", prepared by Brian M. Houston, Licensed Land Surveyor, dated May 2, 2001 and last revised on October 22, 2008, and filed in the Dutchess County Clerk's Office on December 16, 2008 as Filed Map No. 12219. The same 28.70 acre portion of the Property is shown as "Land to be Placed Under Dutchess Land Conservancy Easement", on a survey map titled "Survey Map Prepared for Dutchess Land Conservancy, Inc." prepared by Brian M. Houston, Licensed Land Surveyor, dated December 3, 2014. The remaining 50.39 acre portion of the Property is shown on a survey map titled "Survey Map Prepared for Dutchess Land Conservancy, Inc.", prepared by Brian Houston, Licensed Land Surveyor, dated August 18, 2014 and revised on December 1, 2014.

**WHEREAS**, this Conservation Easement is established in perpetuity exclusively for conservation purposes consistent with the provisions of Article 49, Title 3, of the Environmental Conservation Law of the State of New York (the "Conservation Law"); and with Title 26, Sections 170(h)(1)-(6), 2031(c), 2055, and 2522, of the United States Internal Revenue Code of 1986, as amended (the "Internal Revenue Code"); and under Treasury Regulations at Title 26, Section 1.170A-14 et seq., of the Code of Federal Regulations, as amended.

**WHEREAS**, the Conservancy is a not-for-profit conservation organization within the meaning of Article 49, Title 3, of the Conservation Law and is qualified to be the grantee of tax-deductible conservation easements pursuant to Section 170(h) of the Internal Revenue Code, to wit, a publicly funded, nonprofit 501(c)(3) organization with the authority to accept lands, easements and buildings for the purpose of preserving and protecting natural, scenic, agricultural, forested and open-space values of real property, and with the commitment to preserve the conservation purposes of this Conservation Easement.

**WHEREAS**, the parties recognize the following:

1. The Property is characterized by scenic views, forest lands, streams, steep slopes and ridgelines and natural beauty, and is highly visible from New York State Route 22, Seven Wells Brook Road, and School Street, all public highways.
2. It is important to the conservation of the open, scenic and natural character and beauty of the area to maintain the Property's open fields and meadows, forest lands, streams, steep slopes and ridgelines, while restricting development so that it is compatible with the natural surroundings.
3. The Property meets the Criteria for Acceptance of Conservation Easements of the Conservancy and is in close proximity to, and shares a common boundary with, public land which is already permanently protected by the Conservancy.
4. The Property is part of the Stone Church Preserve and located adjacent to the Dover Stone Church property, also owned by the Town of Dover and protected by a conservation easement held by the Conservancy. The Dover Stone Church is a geological formation of metamorphic rock located on the Stone Church Brook, which has formed a natural cavern with an interior waterfall. The "church" itself is formed by a fissure in rock through which the Stone Church Brook flows, forming a number of ledges and waterfalls descending into a pool below. The outlet of the stream is through a stately arch, which forms the cathedral-like entrance to the cave and is also the basis for the name, Stone Church. According to legend dating back to the 1600's, Pequot Indian Chief Sassacus and his warriors sought refuge in the Stone Church to escape capture by the English Army. The Property contains a portion of the Stone Church Brook upstream of the Dover Stone Church and provides an important buffer to the ecologically important lands surrounding the Dover Stone Church.
5. *The Town of Dover Master Plan* (the "Master Plan"), adopted by the Town of Dover Planning Board September 21, 1993 and amended April 28, 1999, includes in its goals and objectives the preservation of the Town's scenic resources, open space, important wildlife habitats, natural resources, and the enhancement of the overall rural character. Policy 3.1 states that the Town should discourage the development and encourage permanent protection of slopes of 25 percent and over, as well as publicly visible ridgelines to ensure minimal disruption of their environmental functions and scenic qualities. Policy 3.4 states that the Town should promote a land use pattern that protects surface and groundwater resources. Policy 3.6 states that important wildlife habitats, rare or endangered plant communities, and other significant environmental areas should be identified and protected. Policy 3.10 states that the town should identify and protect its scenic resources, including open space views and vistas. Policy 3.11 states that conservation easements and similar approaches should be encouraged to help implement desired natural resource, open space, and prime agricultural soils protection. The Master Plan also includes a community survey assessing values and issues important to residents. The majority of respondents identified Dover's environmental features and protection of streams and wildlife areas as important issues.

6. *The Town of Dover Open Space Plan* (the “Open Space Plan”) and *Open Space Plan Map*, produced in conjunction with the previously described Town of Dover Master Plan, and adopted by the Town of Dover Planning Board September 21, 1993, identify eight different open space resources, including “Conservation Areas”. The Conservation Areas include East and West Mountains, described in the Open Space Plan as important for the following reasons: “they contain rare and important species, are natural scenic areas, are home to wildlife communities and provide rare wilderness areas.” The Property is located within the West Mountain Conservation Area designated on the Open Space Plan Map. The Dover Open Space Plan encourages the use of easements as a means of “preserving important open space while accommodating future growth”.
7. The Dutchess County Legislature, in the County Master Plan, *Directions*, adopted by the Dutchess County Legislature in 1988, has identified the area in which the Property is located as an area in which open space and steep slopes should be preserved. *Directions* emphasizes the preservation of steep slopes and encourages open space land uses and the protection of scenic resources. Policy 5.16 supports measures to preserve the county’s prime and important agricultural soils. Policy 5.19 advocates the preservation of steep slopes and ridgelines. Policy 5.20 advocates the preservation of the county’s scenic resources and significant natural areas. Policy 5.22 encourages the use of forest management practices that are compatible with forest conservation and enhancement. Policy 5.23 encourages the protection and recognition of uncommon or especially-sensitive forest resources, such as hemlock groves, forests with particularly large trees, beech woods, and the woodland buffers around water bodies, wetlands and roadways. Policy 5.24 encourages the preservation of woodland “greenbelt” corridors through communities, especially along streams, floodplains, wetlands, and other sensitive areas, to provide recreational space, wildlife habitat, natural buffers and aquifer protection. Policy 7.11 encourages the provision of open space areas and greenbelt corridors as a fundamental land use that is carefully planned as part of the land use pattern. Policy 7.13 discourages the subdivision of prime and important agricultural soils and large forested tracts into lots which preclude the future use for agriculture and forestry. Policy 11.3 encourages the use of innovative development techniques, such as planned unit development, conservation easement and cluster subdivision, to provide recreational areas and facilities at minimal public cost. Policy 11.18 encourages the maintenance of open space as a technique for preserving unique ecological features, such as floodplains, wetlands, steep slopes and major aquifers. Policy 11.21 supports the use of conservation easements to preserve open space in rural areas.
8. The Property is located within the Hudson Highlands EcoRegion which extends from the southwest corner of Dutchess County through the southern portions of Fishkill, East Fishkill, and extending north along the boundaries of Beekman and Pawling, Union Vale and Dover. As described in *Chapter 6, Biological Resources and Biodiversity of Dutchess County*, written in October 2010 by Mary Ann Cunningham, Neil Curri, and Robert Wills for the *Natural Resource Inventory of Dutchess County* (the “Dutchess NRI”), a 2010 collaborative project of Cornell Cooperative Extension Dutchess County (CCEDC) Environment and Energy Program, Cary Institute of Ecosystem Studies, Dutchess County Department of Planning and Development, Dutchess County Environmental Management



Council (EMC) and Vassar College Environmental Research Institute, the Hudson Highlands EcoRegion is comprised of "hills and low mountains, with steep narrow valleys...". The area commonly contains trout streams, or streams cool enough to support trout populations and is dominated by "...transition hardwood forests of sugar maple, American beech, black birch, tulip tree, oaks (red, white and chestnut oak) and hickories (shagbark and pignut hickory)..."

Priority habitats identified in the Hudson Highlands EcoRegion include contiguous forests, streams and intermittent streams, all of which are present on the Property. The Dutchess NRI recommends the use of conservation easements as a component of a habitat conservation strategy.

9. The Property contains approximately seven (7) acres of farmland soils of statewide importance, which are important for the production of food, feed, forage and fiber crops, as defined by the United States Department of Agriculture Natural Resources Conservation Service.
10. The Property is in the watershed of the Stone Church Brook, a tributary of the Ten Mile River which drains into the Housatonic River. The portion of the Housatonic River Watershed in Dutchess County, drains the Taconic and Berkshire Mountains before joining the Housatonic River and eventually emptying into Long Island Sound.
11. The policy of New York State, as set forth in Title 5, Article 15 of the Conservation Law, is to preserve and protect the state's lakes, rivers, streams and ponds. The Property contains a portion of Stone Church Brook, a Class C(T) stream (Conn 15-6), which has been classified by the New York State Department of Environmental Conservation according to its best use for fishing and fish propagation, and is also classified as trout-spawning waters. This classification helps to meet the goals of the Federal Clean Water Act and encourages continuous protection to keep the stream clean for the future. The Property also contains an unmapped, unclassified intermittent stream which serves as a tributary to the Wells Stream, a Class A stream (Conn 15-6-1) which contributes to the water supply for Dover Plains before it drains to the Stone Church Brook, and has been classified by the New York State Department of Environmental Conservation according to its best use for drinking water.
12. A portion of the Property, approximately 45 acres, is part of a "Zone II" Aquifer, an area of less permeable deposits located upgradient from an aquifer, which contributes to recharge of the aquifer through both overland runoff and groundwater flow. This aquifer recharge zone is defined by the *Dutchess County Water Supply Protection Program Report* prepared by Horsley, Witten, Inc., in 1993 for the Dutchess County Water and Wastewater Authority.
13. The Property contains approximately 74 acres of woodlands that are part of a relatively unbroken tract of forest lands that extend for hundreds of acres and represents valuable habitat as a contiguous forest.

14. The Property is located within the Harlem Valley Calcareous Wetlands Complex, an area comprised of the valleys and adjacent ridges in the Taconic Highlands of easternmost Putnam, Dutchess, and Columbia Counties in New York State, as described in *Significant Habitats and Habitat Complexes of the New York Bight Watershed* (hereafter, "Bight Watershed Report"), a report compiled by the U.S. Fish and Wildlife Service, Southern New England – New York Bight Coastal Ecosystems Program, published in 1997. "The mosaic of calcareous wetlands and adjacent uplands in the Harlem Valley supports regionally significant rare reptile populations and rare calcareous communities and plants species..." The Harlem Valley Calcareous Wetlands Complex includes the Great Swamp, a habitat area which includes wetlands of the Harlem Valley and the mountainous slopes on its east and west sides, including West Mountain. The Property is located on West Mountain, and is shown on the Harlem Valley Calcareous Wetlands Complex Map 2 of 4, in the Bight Watershed Report.

The Bight Watershed Report recommends the use of conservation easements as a strategy for protecting these valuable wildlife habitats.

15. The 2009 New York State Open Space Conservation Plan prepared by the Department of Environmental Conservation, the Office of Parks, Recreation and Historic Preservation, and the Department of State (the "NYS Plan") lists the Taconic Ridge/Harlem Valley as a high priority due to the region's high biodiversity, scenic views, substantial recreational value, thousands of acres of intact/unfragmented forest land, steeply sloping hillsides, unique geologic segments, and multiple connection opportunities to land currently protected by State, Federal Government, Counties, Towns and private land conservation organizations. Specific target areas include Route 22 corridor viewshed protection; unique geologic segments of the Taconic Ridge such as West Mountain and Seven Wells and Stone Church buffers; and exceptional plant and wildlife habitat areas ranked on the State Natural Heritage Inventory such as rattlesnake habitat.
16. Subdivision and development pressure threaten the continued rural, scenic, ecological, forested, and open space character of the Property and the scenic view along New York State Route 22.

**WHEREAS**, the Conservancy has determined that acquisition of a conservation easement on the Property will further its charitable purposes of protecting areas of rural, scenic and relatively natural character in Dutchess County.

**WHEREAS**, the Landowner shares the land conservation goals of the Conservancy and desires to ensure that the rural, scenic enjoyment and ecological characteristics of the Property will be preserved for the benefit of future generations.

**WHEREAS**, the parties desire to preserve the character of the Property in perpetuity by entering into this Conservation Easement pursuant to the provisions of Article 49, Title 3, of the Conservation Law.



**NOW, THEREFORE,** in consideration of the foregoing recitals, incorporated herein by reference, and for the benefit of the general public, the Landowner and Conservancy have established this Conservation Easement on, over and across the Property consisting of the foregoing recitals and the following purposes, terms, mutual covenants, restrictions and affirmative rights granted to the Conservancy, which shall run with and bind the Property in perpetuity, and the parties agree as follows:

**1. Grant of Conservation Easement.** The Landowner grants to the Conservancy a perpetual conservation easement on, over and across the Property on the terms contained in this Conservation Easement. The Conservation Easement shall encumber the Property.

**2. Purpose.** The conservation purposes of the Conservation Easement granted hereby are to conserve the scenic, open, forested, and natural character of the Property and to protect the quality of its steep slopes, ridgelines, forest lands, important farmland soils, streams, habitat, and scenic quality by restricting development and use of the Property, while allowing Passive Public Recreational use, as defined herein. The Landowner and the Conservancy intend that this Conservation Easement will confine the use of the Property to activities that are consistent with the purposes of this Conservation Easement and will prohibit and prevent any use of the Property that will materially impair or interfere with the conservation purposes of this Conservation Easement.

**3. Implementation.** This Conservation Easement shall be implemented by limiting and restricting the development and use of the Property in accordance with its provisions. The Property remains subject to all applicable federal, state and local laws and regulations. However, if the Conservation Easement is more restrictive than federal, state and local laws and regulations, the Conservation Easement restrictions shall govern with respect to the development and use of the Property.

**4. Reserved Rights.** The Landowner reserves for itself and its successors in interest all rights with respect to the Property or any part thereof, including, without limitation, the right of exclusive possession and enjoyment of the Property or any part thereof and the right to sell, transfer, lease, mortgage or otherwise encumber the Property or any part thereof, as owner, subject to the restrictions and covenants set forth in this Conservation Easement.

**5. Definitions.** When used in this Conservation Easement, the following terms shall be defined as set forth below. Defined terms used in this Conservation Easement are generally capitalized as a convenience to the reader. All other terms not herein defined shall be interpreted according to their customary meaning.

**Commercial Uses** - Commercial Uses shall include, and are limited to Forestry Uses permitted herein.

**Footprint Area** - The Footprint Area of a Structure or Improvement shall be defined as the area of the Structure at the horizontal ground plane measured along the exterior walls of a Structure. In the case of a Structure or Improvement that is not enclosed by walls, the Footprint Area shall be the total area covered by impervious surfaces.

**Forestry Uses** - Forestry Uses shall include, but are not limited to, gathering, cultivating, maintaining, harvesting or managing forests, woodlands, or tree plantations for timber, firewood or other useful products or for water quality, wildlife habitat and other conservation purposes. *See Section 6.15.*

**Height** - The Height of a Structure or Improvement shall be defined as the measurement from the natural mean grade (prior to construction or grade alteration) to the top of the Structure or Improvement. Natural mean grade shall be calculated by averaging the natural grade at the highest and lowest points of the building's proposed footprint. In the case of a Structure or Improvement with a roof, the top of the Structure or Improvement, including any decorative Improvement but exclusive of chimneys, shall be considered the top of the roof line and measured accordingly.

**Improvement** - Improvement shall be defined as anything, temporary or permanent, that is constructed, installed or placed on, over, under or across the Property (including a Structure as defined herein), and shall include, but is not limited to woods roads, trails, bridges, parking areas, ponds, drainage ways, and utility lines.

**Industrial Uses** - Industrial Uses are Commercial Uses that involve the manufacture, assembly, treatment, processing, or packaging of products. Industrial Uses shall not include Forestry Uses as permitted by this Conservation Easement.

**Passive Public Recreational Uses** - Passive Public Recreational Use shall be defined as non-commercial outdoor activities compatible with preserving natural resource functions, including but not limited to the use of land for walking, hiking, picnicking, snowshoeing, cross country skiing, sunbathing, fishing, bird watching, and conducting seasonal tours and educational programs that do not require any indoor facilities. Passive Public Recreational Uses shall not include indoor activities, golf courses, hunting or any obtrusive outdoor activities that may have noise or other adverse impacts on natural or open space values, including organized sports (e.g. baseball, football, soccer, tennis, golf) or the operation of motorized vehicles for non-emergency or non-maintenance purposes.

**Renewable Energy Facilities** - Renewable Energy Facilities shall be defined as Structures or Improvements for the generation of energy from renewable resources, including, but not limited to, wind, solar, hydroelectric, methane, wood, biomass and alcohol. *See Section 6.5.*

**Structure** - Structure shall be defined as any building or object, temporary or permanent, with or without anchors or foundations, constructed, installed or placed on, over, under or across the Property and shall include but is not limited to benches, composting restroom facilities, storage facilities, boardwalks, gazebos, viewing platforms, observation blinds, kiosks, camping lean-tos, and bridges.

**6. Restrictions Applicable to the Property.** By this Conservation Easement, the Landowner agrees to restrictions that apply to the entire Property as set forth in this Section 6. The Landowner may take certain actions relating to the Property only after giving the

Conservancy prior notice and/or obtaining the Conservancy's prior consent, as set forth in Section 7. The procedure for giving such notice and seeking such consent, and the standards governing the Conservancy's decision whether to grant or withhold such consent, are set forth in Section 7. No Structures or Improvements shall be built, expanded or replaced anywhere on the Property except in compliance with this Section 6. All new Structures and Improvements allowed by this Conservation Easement may be expanded or replaced consistent with the restrictions set forth in this Conservation Easement and may be reconstructed if damaged, razed or destroyed. If the Landowner removes or razes any Structure or Improvement, and does not build a new Structure or Improvement in the same location, the Landowner shall restore the site to a relatively natural condition with suitable landscaping and re-vegetation and grading that matches the natural contours of the land, unless the Conservancy otherwise consents pursuant to Sections 7.2 and 7.3.

**6.1 Public Access.** There shall be public access to the Property, except that access to those areas customarily used for maintenance, safety and public health purposes, or which are ecologically sensitive, may be restricted. The Landowner may promulgate rules and regulations regarding hours of use for the public.

**6.2 Use of Property.** The Property shall be used solely for Passive Public Recreational Use, education, protection of wildlife habitat and water quality, and the conservation and preservation of ecological and historic resources. No non-forestry Commercial Uses of the Property shall be permitted and no Industrial, residential, or institutional use of the Property is permitted, except with the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3. Limited agricultural use may be permitted with prior consent of the Conservancy pursuant to Section 7.2 and 7.3, provided agricultural activity has minimal impact on wildlife habitat, water quality and ecological and historic resources.

**6.3 Structures and Improvements Permitted on the Property.** All Structures and Improvements to be located on the Property shall require prior consent from the Conservancy pursuant to Sections 7.2 and 7.3. The construction, repair and maintenance of any permitted Structure or Improvement shall be undertaken in a way, which mitigates, to the greatest extent practicable, any effects to the ecological and natural condition of the Property. All Structures and Improvements located on the Property shall be sited at least 100 feet from any watercourse, pond or wetland located on the Property, unless the Conservancy otherwise consents pursuant to Sections 7.2 and 7.3. The following improvements may be constructed, installed and maintained on the Property:

**6.3(a) Footprint Area Coverage Limitations.** All roofed Structures on the Property shall not exceed an aggregate Footprint Area of 10,000 square feet. Individual roofed Structures shall be 1,000 square feet or less in Footprint Area per Structure and their Height shall not exceed 25 feet, unless the Conservancy otherwise consents.

**6.3(b) Structures and Improvements.** Subject to prior consent from the Conservancy, those Structures and Improvements which are reasonably necessary to the use and enjoyment of the Property as a public park/preserve, including but not limited to benches, composting restroom facilities, storage facilities, railings, gates, drainage ways,



boardwalks, gazebos, camping lean-tos, viewing platforms, observation blinds, bridges, nesting boxes, kiosks, and informational and directional signs.

**6.3(c) Parking Area.** Subject to prior consent from the Conservancy, one (1) gravel parking area may be permitted on the Property provided that the Conservancy determines: (1) that the Landowner has made best efforts to locate a visitor parking area off-site and has been unable to do so, and (2) that the parking area is the minimum size necessary to accommodate visitors. The parties hereby agree that while the Property has right-of-way access to New York State Route 22, recorded with the Office of the Dutchess County Clerk in 1962 at Liber 1071 and Page 859, the preferred mode of providing visitor access is to establish a parking area and associated visitor facilities in a location that has direct vehicular access to New York State Route 22, with visitor access to the Property available only as a pedestrian path leading from this parking area.

**6.3(d) Other Facilities, Improvements, and Structures.** Subject to prior consent by the Conservancy, additional recreational, cultural and support facilities consistent with the use and enjoyment of the Property as a public preserve, for Passive Public Recreational Use, as long as such support facilities do not impair the conservation purposes of this Conservation Easement. No permanent enclosed structures shall exceed a Footprint Area of 400 square feet.

**6.4 Active Recreational Facilities.** Active recreational facilities, including but not limited to baseball diamonds, golf courses, driving ranges, football fields, soccer fields, tennis courts, or swimming pools shall be prohibited.

**6.5 Renewable Energy Facilities.** With the prior consent of the Conservancy, facilities for the generation of energy from renewable resources for non-Commercial Use on the Property may be built. The design, location, size, Height and output of any such facilities shall also require the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3, and further provided that such Structures conform with federal, state and local laws.

**6.6 Signs.** No signs shall be permitted except to state the name and/or address of the Property, advertise an on-site activity permitted by this Conservation Easement Deed, to mark trails, walkways, and driveways, to warn of potential dangers or hazards, to announce that the Property is subject to a conservation easement and/or identify the holder of the conservation easement, to acknowledge contributors to the Property's acquisition, to post the Property to control unauthorized entry or use. Such signs shall be of professional quality and their size, placement, number and design shall not significantly diminish the scenic, ecological, and rural character of the Property.

**6.7 Fences and Roadside Structures.** Fences of a style normal and customary in the immediate vicinity such as wire, three/four board or post and rail, and other fencing that does not impair the views of the Property, may be erected, repaired or replaced. One roadside box used to distribute information about the Property, of a style similar to customary mailboxes or trailside information boxes found in rural Dutchess County, may be erected, repaired and replaced on the

Property. Additional types of fencing or roadside Structures shall require the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3.

**6.8 Woods Roads, Trails, and Parking Areas.** The Landowner may construct, manage, use and maintain trails on the Property to support an onsite or regional trail system, for purposes of walking, hiking, cross-country skiing, or other non-motorized recreational use. Trails and woods roads may be located anywhere on the Property provided that trails follow woods roads where possible and that trails and woods roads are constructed and located in a manner which is compatible with the Forested Use of the Property and which minimizes erosion and adverse effect on scenic landscape quality. No driveways or roads, except for woods roads, shall be constructed that traverse the Property to gain access to neighboring lands not protected by this Conservation Easement. Parking Areas may be permitted with prior consent from the Conservancy and pursuant to Section 6.3(c) herein. Paving of woods roads, trails or parking areas is prohibited.

**6.9 Vehicular Use.** Except as may be required for emergency purposes, for necessary management or monitoring activities of the Conservancy or the Landowner, or for the construction and maintenance of permitted Improvements, the use of motorized vehicles, including, without limitation, automobiles, all-terrain vehicles, snowmobiles, and motorcycles as well as non-motorized bicycles is prohibited. If the Conservancy grants permission to install a parking area under the provisions of Section 6.3(c) herein, visitor motor vehicles shall be permitted on the access driveway and in the parking area only.

**6.10 Drainage Ways.** Drainage ways may be located on the Property provided that they are constructed and located in a manner which is compatible with public access and Forested Use of the Property, and which minimizes erosion and adverse effects on scenic landscape quality.

**6.11 Lighting.** Outdoor lighting shall not be allowed on the Property without prior consent from the Conservancy, pursuant to Sections 7.2 and 7.3.

**6.12 Landscape and Screening.** Changes to the landscape and existing site features shall minimize disturbance of mature trees, rock outcroppings, watercourses, and other significant natural features. The Landowner shall site Structures and Improvements off steep slopes or ridgelines and shall preserve and maintain sufficient topography, vegetation and terrain to screen the Structures and Improvements from public vantage points. The Landowners shall not plant or manage trees, shrubs and other vegetation along or at the public road frontage in such an arrangement that would impair the scenic views of the Property from the public road. Any substantial alteration to the topography or landscape features of the Property shall require the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3.

**6.13 Chemicals.** No pesticide, herbicide or other chemical treatment for land, vegetation or animals shall be used on the Property unless its use is legal and in accordance with all applicable laws and regulations and the manufacturer's directions. To ensure protection of the Conservation Easement's conservation purposes the use of pesticides, herbicides or other chemicals shall be limited to prevent any demonstrable adverse impact on wildlife, waters and other important conservation resources.

**6.14 Dumping of Waste.** No dumping, disposal, storage or release of non-composted organic waste, sewage, garbage, scrap materials, sediment discharge, oil and its by-products, leached compounds, toxic fumes or other unsightly or offensive materials shall be allowed on the Property, except that which is generated by activities permitted by this Conservation Easement and then only in accordance with applicable law and in a manner that is consistent with the conservation purposes of this Conservation Easement.

**6.15 Clearing of Trees and Vegetation.** there shall be no removal, destruction or cutting of mature live trees on the Property with a trunk diameter at breast height of eight inches or more, except as follows:

**6.15(a)** Trees may be removed which endanger public safety, are diseased, damaged or fallen, need to be cleared to ensure the health of other trees, or in connection with the construction of woods roads, trails, or permitted Structures and Improvements subject to the restrictions set forth in this Section 6.

**6.15(b)** With the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3, trees may be removed to (1) construct and/or maintain hiking trails; (2) Provide for the construction of a parking area and Structures permitted under this Conservation Easement; (3) Maintain and manage habitat areas; (4) Enhance the overall diversity of native plant species; (5) Provide control of exotic or new plant species; (6) Support the ecological health and biodiversity of the Property; (7) Maintain the scenic and natural character of the Property; and (8) and as otherwise permitted in writing by the Conservancy in its sole discretion to further and maintain the purposes of this Conservation Easement.

**6.15(c)** All clearing of trees and vegetation shall be conducted in conformity with sound land and forest management practices to minimize erosion and adverse impacts on natural resources.

**6.15(d)** Commercial Forestry Uses may be conducted if in conformity with accepted silvicultural practices and sound land and forest management practices to minimize erosion and adverse effects on natural resources with the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3. All commercial forestry shall be conducted in accordance with a forestry management plan approved by the Conservancy. Such management plan shall conform to: (1) accepted New York State Department of Environmental Conservation sustainable forestry guidelines; (2) any applicable guidelines of the Natural Resource Conservation Service of the United States Department of Agriculture (or successor governmental departments or agencies), and (if applicable); (3) logging guidelines set forth in Section 480-a of the New York State Real Property Tax Law (or other applicable state forestry tax programs).

**6.16 Mining, Transmission Lines, Pipelines and Landfills.** There shall be no surface or subsurface mining or quarrying on the Property. In compliance with Section 170(h)(5) of the Internal Revenue Code and Section 1.170A(g)(4) of the Treasury Regulations, as amended, the



Landowner may utilize sand and gravel on the Property solely for use on the Property providing the use has limited, localized impact on the Property and provided the use is not irretrievably destructive of significant conservation interests. No wireless telecommunications towers or associated antennas may be placed on the Property except with the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3. There shall be no placement of high-voltage transmission lines, pipelines, landfills or other land uses detrimental to the scenic character or ecosystems of the Property.

**6.17 Waterways.** No waterways on the Property shall be polluted by sedimentation, siltation, run-off or otherwise by action of the Landowner. No change to any existing ponds, streams or wetlands, and no construction or alteration of any Structure or Improvement within 100 feet of any existing pond, stream, or wetland, shall be permitted, except with the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3. Construction of ponds shall require the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3.

**6.18 Subdivision.** There shall be no subdivision of the Property into parcels or lots for the purpose of conveyance into separate ownership except with the prior consent of the Conservancy pursuant to Section 7.2 and 7.3. Lot line adjustments which do not create building lots may be permitted with the prior consent of the Conservancy pursuant to Sections 7.2 and 7.3. No such subdivision or lot line adjustment shall affect the use of the Property permitted by this Conservation Easement or the calculation of the number, square footage or character of Structures permitted by this Conservation Easement. Land that has been restricted by this Conservation Easement shall not be included in the calculation of the lot size or density of any other parcel if such calculation would increase the permissible lot yield or density of such parcel. Property dividing lines shall be located to avoid fragmentation of intact forest lands, unless the Conservancy otherwise consents pursuant to Sections 7.2 and 7.3.

## **7. Notice to Conservancy and Required Prior Consent.**

**7.1 Notice.** In order to facilitate the monitoring of this Conservation Easement, the Landowner shall give the Conservancy at least 35 days' prior written notice before commencement of site preparation, construction, expansion, excavation, replacement, relocation or removal of any Structure, Improvement or any significant landscape alteration. Prior to any activity described herein, the Landowner shall submit sufficient information to enable the Conservancy to make an informed determination as to whether such Structures or Improvements are permitted by and consistent with the purposes and restrictions of this Conservation Easement. Such information may include, but is not limited to, survey information, site plans, and/or physically marking the boundaries of the proposed Structure or Improvement.

**7.2 Required Prior Consent and Procedure for Requesting Consent.** In addition to the notice requirements of Section 7.1, the prior written consent of the Conservancy is required for actions as specifically set forth in this Conservation Easement. To request the written consent of the Conservancy, the Landowner shall submit plans and/or a description of its proposal. Such submission shall contain sufficient information to enable the Conservancy to make an informed determination as to whether the proposal is permitted by and consistent with the purposes and restrictions of this Conservation Easement. The Landowner shall reimburse the Conservancy for reasonable costs incurred in connection with review of any proposals. The

Conservancy may waive review of and consent to any Structure, Improvement or alteration, which it deems to be insubstantial.

**7.3 Standards and Timetable for the Conservancy's Decision.** Where the Conservancy's written consent is required, the Conservancy shall grant or withhold its consent in writing within 35 days of receipt of the Landowner's request for consent accompanied by plans and other materials the Conservancy deems sufficient for its review. The Conservancy may withhold consent only upon a reasonable determination by the Conservancy that the Landowner's proposal would be inconsistent with the purposes or specific provisions of this Conservation Easement. The Conservancy may grant its consent subject to reasonable conditions which must be satisfied. If the Conservancy fails to act within 35 days of receipt of plans and materials it deems sufficient for its review, consent shall be deemed granted unless the Landowner consents to a longer period of time for review and discussion with the Conservancy. The actual clearing of land and the completed Structure, Improvement or alteration shall conform in all material respects to the proposal that receives the consent of the Conservancy.

## **8. Conservancy's Remedies for Violation of Conservation Easement.**

**8.1 Notice of Violation; Corrective Action.** If the Conservancy determines that a violation of the terms of this Conservation Easement has occurred or is threatened, the Conservancy shall give written notice to the Landowner of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Property resulting from any use or activity inconsistent with the purposes of this Conservation Easement, to restore the portion of the Property so injured to its prior condition in accordance with a plan approved by the Conservancy.

**8.2 Injunctive Relief.** If the Landowner fails to cure the violation within 30 days after receipt of notice thereof from the Conservancy, or under circumstances where the violation cannot reasonably be cured within the 30 day period, fails to begin curing such violation within the 30 day period, or fails to continue diligently to cure such violation until finally cured, the Conservancy may bring an action at law or suit in equity in a court of competent jurisdiction to enforce the terms of this Conservation Easement, to enjoin the violation, ex parte as necessary, by temporary or permanent injunction, and to require the restoration of the Property to the condition that existed prior to such an injury.

**8.3 Damages.** The Conservancy shall be entitled to recover damages for violation of the terms of this Conservation Easement or injury to any conservation purposes protected by this Conservation Easement, including, without limitation, damages for the loss of scenic, aesthetic, or environmental values. Without limiting the Landowner's liability therefor, the Conservancy, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Property.

**8.4 Emergency Enforcement.** If the Conservancy, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the conservation purposes of the Property, the Conservancy may pursue its remedies under this

Section 8 without prior notice to the Landowner or without waiting for the period provided for cure to expire.

**8.5 Scope of Relief.** The Conservancy's rights under this Section 8 apply equally in the event of either actual or threatened violations of the terms of this Conservation Easement. The Landowner agrees that the Conservancy's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that the Conservancy shall be entitled to the injunctive relief described in Section 8.2, both prohibitive and mandatory, in addition to such other relief to which the Conservancy shall be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies. The Conservancy's remedies described in this Section 8 shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity or pursuant to the provisions of Article 49, Title 3 of the Conservation Law.

**8.6 Costs of Enforcement.** All reasonable costs incurred by the Conservancy in enforcing the terms of this Conservation Easement against the Landowner, including, without limitation, costs and expenses of suit and reasonable attorneys' fees, and any costs of restoration necessitated by the Landowner's violation of the terms of this Conservation Easement, shall be borne by the Landowner; provided, however, that if the Landowner ultimately prevails in a judicial enforcement action, each party shall bear its own costs.

**8.7 Forbearance.** Forbearance by the Conservancy to exercise its rights under this Conservation Easement in the event of any breach of any term by the Landowner shall not be deemed or construed to be a waiver by the Conservancy of such term or of any of the Conservancy's rights under this Conservation Easement or at law or in equity. No delay or omission by the Conservancy in the exercise of any right or remedy upon a breach by the Landowner shall impair such right or remedy or be construed as a waiver.

**8.8 Waiver of Certain Defenses.** The Landowner hereby waives any defense of laches, estoppel or prescription.

**8.9 Effect of Lot Line Adjustment or Subdivision.** After any lot line adjustment or subdivision of the Property permitted by Section 6.18 into parcels having differing ownership, references in this Section 8 to the Landowner shall mean any or all of the owners of the parcel that is the subject of the violation, but the Conservancy shall use reasonable efforts to give notice of the violation to the owners of all of the parcels comprising the Property.

## **9. Amendment and Waiver.**

**9.1 Amendment.** This Conservation Easement may be amended by a recorded instrument signed by the then owner of the Property (or of the parcel of the Property affected by such amendment) and by the Conservancy. Any such amendment shall be consistent with the purposes of this Conservation Easement and shall comply with Article 49, Title 3 of the Conservation Law, Section 170(h) of the Internal Revenue Code, as amended, and any regulations promulgated pursuant thereto. The Conservancy shall have no right or power to



agree to any amendment that would result in this Conservation Easement failing to qualify as a valid conservation easement under Article 49, Title 3 of the Conservation Law. The Landowner shall reimburse the Conservancy for reasonable costs incurred with respect to Landowner requests to amend this Conservation Easement. Such reasonable costs shall be set from time to time by the Conservancy's Board of Directors in accordance with the Conservancy's Conservation Easement Amendment Policy.

**9.2 Waiver.** The Conservancy may on a case-by-case basis waive any provision of this Conservation Easement that it deems not to be essential in fulfilling this Conservation Easement's conservation purposes. Such waivers may not be granted with respect to the number of Residential Structures that may be built. Any such waiver must be supported by a written finding in the minutes of the meeting of the Conservancy at which it was approved. Such finding shall state the rationale for allowing the waiver and shall indicate: why such a waiver will not compromise the conservation purposes of this Conservation Easement and any impacts to landscape features or scenic panoramas as seen from public vantage points (if a waiver to size or location restrictions). Such individual waivers will not affect the future applicability of any waived provision as applied to other situations, and the provision waived in an individual case shall continue in full force and effect for other cases. Any such waiver shall comply with Article 49, Title 3 of the Conservation Law and Section 170(h) of the Internal Revenue Code (or any successor provisions of applicable law), and any regulations promulgated pursuant thereto. Copies of resolutions of the Conservancy's Board of Directors approving such waivers shall be kept in the Conservancy's permanent file with this Conservation Easement. The Conservancy shall, if requested by an owner of the Property, issue a certificate of compliance indicating that an alteration of the Property or other action undertaken pursuant to this Section was undertaken pursuant to an approved waiver of this Conservation Easement.

## **10. Costs, Liabilities, Taxes and Environmental Compliance.**

**10.1 Owner to Pay Taxes and Assessments.** Each owner of the Property or any part thereof shall pay all taxes and assessments lawfully assessed against the Property or part thereof owned by such owner, who shall provide receipted tax bills or other evidence of payment to the Conservancy upon request, and each owner shall avoid the imposition of any liens that may affect the Conservancy's rights hereunder. The Conservancy may, at its discretion, pay any outstanding taxes or assessments against the Property and shall then be entitled to reimbursement by the Landowner.

**10.2 Representations and Warranties.** The Landowner represents and warrants that:

**10.2(a) Legal and Financial Advice.** The Landowner has received independent legal and financial advice regarding this Conservation Easement to the extent that the Landowner has deemed necessary. The Landowner freely signs this Conservation Easement in order to accomplish its conservation purposes.

**10.2(b) Title.** The Landowner is the sole owner and is seized of the Property in fee simple and has good right to grant and convey this Conservation Easement; that the Property is free and clear of any and all mortgages not subordinated to this Conservation



Easement, and that the Conservancy shall have the use of and enjoyment of the benefits derived from and existing out of the aforesaid Conservation Easement.

**10.2(c) Hazardous, etc., Materials.** Any handling, transportation, storage, treatment or use of any substance defined, listed or otherwise classified pursuant to any federal, state or local law, regulation or requirement as hazardous, toxic, polluting or otherwise contaminating to the air, water or soil, or in any way harmful or threatening to human health or the environment, that has occurred on the Property prior to the date of this Conservation Easement has been in compliance with all applicable federal, state and local laws. No deposit, disposal, or other release of any hazardous substance or toxic waste has occurred on or from the Property, which is free of all such contamination.

**10.2(d) Compliance.** The Landowner and the Property are in compliance with all federal, state and local laws, regulations and requirements applicable to the Property and its use.

**10.2(e) Litigation.** There is no pending or threatened litigation in any way affecting, involving or relating to the Property.

**10.2(f) Proceedings or Investigations.** No civil or criminal proceedings or investigations have been initiated at any time or are now pending, and no notices, demands, claims or orders have been received, arising out of any violation or alleged violation of any federal, state or local law, regulation or requirement applicable to the Property or its use, nor do there exist any facts or circumstances that the Landowner might reasonably expect to form the basis for any such proceedings, investigations, notices, claims, demands, or orders.

**10.3 Control.** Nothing in this Conservation Easement shall be construed as giving rise, in the absence of a judicial decree, to any right or ability in the Conservancy to exercise physical or managerial control over the day-to-day operations of the Property, or any of the Landowner's activities on the Property, within the meaning of Title 42, Section 9601, et seq., of the United States Code (the Comprehensive Environmental Response, Compensation and Liability Act of 1980) as amended or other applicable law. The Landowner is solely responsible, and the Conservancy has no responsibility whatsoever, for the operation of the Property or the monitoring of hazardous and other conditions thereon. Notwithstanding any other provision of this Conservation Easement to the contrary, the parties do not intend, and this Conservation Easement shall not be construed, such that: (1) it creates in the Conservancy the obligations or liabilities of an "owner" or "operator" as those words are defined and used in the environmental laws, including, without limitation, the Comprehensive Environmental Response Compensation and Liability Act or any successor or related law or (2) it creates in the Conservancy obligations or liabilities of a person described in Title 42, Section 9607(a)(3) of the United States Code, or any successor or related law.

**10.4 Hold Harmless.** The Landowner shall hold harmless, indemnify and defend the Conservancy and its directors, officers, employees, agents and contractors and the heirs, personal representatives, successors and assigns of each of them (collectively, "Indemnified Parties") from

and against all liabilities, penalties, fines, charges, costs, losses, damages, expenses, causes of action, claims, demands, judgments, or administrative actions, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition or other matter related to or occurring on or about the Property, regardless of cause, except to the extent caused by the negligence of any of the Indemnified Parties, (b) the violation or alleged violation of, or other failure to comply with, any federal, state, or local law, regulation, or requirement, including, without limitation, environmental laws, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property; (c) claims arising out of or in any way related to the existence or administration, performed in good faith, of this Conservation Easement, and (d) the presence or release in, on, from, or about the Property, at any time, of any substance now or hereafter defined, listed, or otherwise classified pursuant to any federal, state or local law, regulation or requirement as hazardous, toxic, polluting or otherwise contaminating the air, water or soil, or in any way harmful or threatening to human health or the environment, unless caused solely by any of the Indemnified Parties. In the event any claim is asserted which may give rise to liability under the foregoing indemnity, (a) the Conservancy shall give the Landowner prompt notice thereof, (b) the Landowner may defend the same with counsel selected by the Landowner, subject to the Conservancy's reasonable approval, (c) the Conservancy shall cooperate with the Landowner in the defense thereof, and (d) the Conservancy shall not settle any such claim without having received the Landowner's prior written consent therefor. The term "environmental laws" includes, without limitation, any federal, state, local, or administrative agency statute, regulation, rule, ordinance, order, or requirement relating to environmental conditions or hazardous substances.

## **11. Sale, Transfer and Subdivision of the Property.**

**11.1 Required Language in Future Deeds, Mortgages and Leases.** Any subsequent conveyance of any interest in the Property, including, without limitation, any transfer, lease or mortgage of the Property or any parcel thereof, shall be subject to this Conservation Easement, and any deed or other instrument evidencing or effecting such conveyance shall contain language substantially as follows: "This [conveyance, lease, mortgage, easement, etc.] is subject to a Conservation Easement which runs with the land and which was granted to Dutchess Land Conservancy, Inc. by Conservation Easement dated 20\_\_ and recorded in the Dutchess County Clerk's Office on \_\_\_\_, 20\_\_ at Document # \_\_\_\_." The failure to include such language shall not affect the validity or applicability of this Conservation Easement. Any such conveyance of any portion in the Property shall, if applicable, also include a provision allocating permitted structures and footprint area in the deed of conveyance. Such provision shall be approved by the Conservancy pursuant to Section 11.6.

**11.2 Transfer Fee.** At such time as all or any portion of the title to the Property is conveyed and before title is passed, the buyer shall be required to pay a transfer fee to the Conservancy in an amount as shall be determined from time to time by the Conservancy's Board of Directors but which shall not exceed an amount equal to one hundred dollars (\$100.00) increased (to allow for inflation) at a compound rate of 3% per annum for the years elapsed since the date of this Conservation Easement. This fee is in recognition of the Conservancy's continuing obligation to monitor and enforce this Conservation Easement, to perform its

responsibilities under the Conservation Easement and to otherwise further the Conservancy's mission, all of which are believed to benefit the Property and its owners. The Landowner agrees to incorporate this requirement in the terms of any agreement of sale for all or any portion of the Property and to familiarize the buyer with such terms prior to the sale.

**11.3 Conservation Easement Binding on Future Owners and Others.** The provisions of this Conservation Easement shall run with the land and shall be binding on each owner and any party entitled to possession or use of the Property while such party is entitled to possession or use thereof. As used in this Section, the term "owner" shall include the owner of any beneficial equity interest in the Property, but this sentence shall not impose personal liability on any such beneficial owner except to the extent such beneficial owner has personal liability with respect to the Property under the instrument creating such equity interest and under applicable law.

**11.4 Discharge of Owner Upon Transfer.** In the event any owner transfers fee ownership of all or any portion of the Property, such owner shall be discharged from all obligations and liabilities under this Conservation Easement with respect to such portion transferred, except for acts or omissions which occurred during such owner's period of ownership.

**11.5 Notice and Effect of Lot Line Adjustment or Subdivision.** Prior to any lot line adjustment or subdivision of the Property (permitted by the terms of this Conservation Easement) into two or more parcels of land having differing ownership, the conveying owner or owners shall give notice of such conveyance to the Conservancy. After any such subdivision or lot line adjustment, this Conservation Easement shall be deemed to create separate conservation easements on each such parcel, references in this Conservation Easement to the Property shall be deemed to refer to each such parcel, references to the owner or owners of the Property shall, as to each such parcel, be deemed to refer to the owner or owners of such parcel, and no owner of any parcel shall have any responsibility or liability to the Conservancy for any violation of this Conservation Easement which may occur on any other parcel of the Property.

**11.6 Allocation of Permitted Structures.** In any deed of conveyance of a portion of the Property, the Landowner thereof shall, if appropriate, allocate to the portion being conveyed the right to build a specified number or square footage of Structures or Improvements whose total number or square footage is limited by this Conservation Easement. If such deed fails to so allocate, then no right to build shall be allocated to the portion conveyed. In no event shall there be allocated to the portion being conveyed a greater number or square footage of Structures or Improvements than that allowed on the portion of the Property owned by such Landowners immediately prior to such conveyance.

## **12. Miscellaneous Provisions.**

**12.1 Assignment by Conservancy to Another Organization.** This Conservation Easement may be assigned by the Conservancy by a written instrument duly executed by the Conservancy and recorded in the Dutchess County Clerk's Office, provided, however, that an assignment may be made only after at least 20 days' prior written notice to the owner or owners



of the Property and only to a not-for-profit conservation organization (or, with the consent of the Landowner, a public body) within the meaning of Article 49, Title 3 of the Conservation Law that is qualified to be the grantee of tax-deductible conservation easements pursuant to Section 170(h) of the Internal Revenue Code, and as a condition of transfer, agrees to uphold the conservation purposes of this Conservation Easement.

**12.2 Acts Beyond the Landowner's Control.** The Landowner and the Conservancy shall not be under any duty to prevent, and shall not be liable for, any violations of this Conservation Easement caused by natural processes, by disasters, by force majeure, including, without limitation, fire, flood, storm and earth movement, or by any prudent action taken by the Landowner under emergency conditions to prevent, abate or mitigate significant injury to the Property resulting from such causes, or by third parties whose presence on the Property has not been authorized by the Landowner or the Conservancy. The Conservancy may enter the Property to remedy any third-party violation that has not been remedied by the Landowner and may pursue all available legal and equitable remedies against such third-party violator, with reasonable prior notice to the Landowner and at the Conservancy's sole cost and expense.

**12.3 Extinguishment of Development Rights.** The parties agree that all development rights that are prohibited by or inconsistent with this Conservation Easement are extinguished and cannot be used to transfer development rights to other land, to permit increased development density or increased natural resource use or extraction on other land, to achieve other regulatory mitigation credits for fiber, discharge of pollutants or other similar accommodation on land not subject to this Conservation Easement, or to calculate permissible density or lot yield for any other land not subject to this Conservation Easement. *See Section 6.18*

**12.4 Estoppel Certificates.** Within 30 days after any request by the Landowner, the Conservancy shall execute and deliver to the Landowner any document, including an estoppel certificate, that may be requested by the Landowner which certifies, to the best of the Conservancy's knowledge, as to Landowner's compliance with any obligation of the Landowner contained in this Conservation Easement or otherwise evidence the status of this Conservation Easement. The Conservancy shall conduct a site inspection within 20 days of receipt of the Landowner's request for an estoppel certificate and the Landowner shall reimburse the Conservancy for reasonable costs incurred in connection with the execution and delivery of an estoppel certificate or similar certification.

**12.5 Communications.** Any communication, notice, demand, request, consent, or approval that either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, private courier (or by such other means as the parties may agree), addressed as set forth in the first paragraph of this Conservation Easement, or to such other address as either party may from time to time designate by written notice to the other. Notice shall be deemed given upon proof of receipt in the case of personal delivery and upon delivery in the case of first class mail, private courier or other means as agreed upon by the parties.

**12.6 Liberal Construction.** Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to



effectuate the purposes of this Conservation Easement and the policy and purpose of Article 49, Title 3 of the Conservation Law. If any provision of this Conservation Easement is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Easement shall be favored over any interpretation that would render it invalid.

**12.7 Severability.** Invalidation of any provision of this Conservation Easement, by court judgment or order, statute or otherwise, shall not affect the validity of any other provisions, which shall be and remain in full force and effect.

**12.8 Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings or agreements relating to the Conservation Easement, all of which are merged herein. Nothing contained herein will result in a forfeiture of this Conservation Easement or reversion to the Landowner of any rights conveyed hereby.

**12.9 Joint Obligations.** The obligations imposed by this Conservation Easement upon multiple Landowners of the Property shall be joint and several.

**12.10 Successors.** The covenants, terms, conditions and restrictions of this instrument shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs and assigns. All references to the Landowner shall include the above-named Landowner and its personal representatives, heirs, successors and assigns. All references to the Conservancy include the above-named Conservancy and its successors and assigns.

**12.11 Captions.** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

**12.12 Counterparts.** The parties may execute this instrument in two or more counterparts, which shall, in the aggregate, be signed by both parties; each counterpart shall be deemed an original instrument as against any party who has signed it. In the event of any disparity between the counterparts produced, the recorded counterpart shall be controlling.

### **13. Qualified Conservation Contribution Covenants.**

**13.1 Continuity.** The Conservancy agrees that it will assign this Conservation Easement only to an assignee which agrees to continue to carry out the conservation purposes of this Conservation Easement. This Conservation Easement may only be assigned to an assignee which is a qualified organization as defined in Section 170(h) of the Internal Revenue Code, or any successor provisions then in effect, and the regulations thereunder. Any assignee other than a governmental unit must be an entity authorized to acquire and hold conservation easements under New York law, able to enforce this Conservation Easement, having purposes similar to those of the Conservancy which encompass those of this Conservation Easement.

**13.2 Notice of Exercise of Certain Rights.** The Landowner agrees to give the Conservancy written notice before exercising any right reserved hereby, the exercise of which may have an adverse impact on the conservation interests of this Conservation Easement.

**13.3 Inspection.** The Conservancy, by its duly authorized representatives, shall have the right to enter the Property at reasonable times, in a reasonable manner, when practicable, after giving notice, to inspect for compliance with the terms of this Conservation Easement.

**13.4 Economic Hardship.** In making this grant, the Landowner has considered the possibility that uses prohibited by the terms of this Conservation Easement may become more economically valuable than permitted uses, and that neighboring properties may in the future be put entirely to such prohibited uses. It is the intent of both the Landowner and the Conservancy that any such changes shall not be deemed to be circumstances justifying the termination or extinguishment of this Conservation Easement pursuant to Section 13.5. In addition, the inability of the Landowner, or its heirs, successors, or assigns, to conduct or implement any or all of the uses permitted under the terms of this Conservation Easement, or the unprofitability of doing so, shall not impair the validity of this Conservation Easement or be considered grounds for its termination or extinguishment.

### **13.5 Extinguishment.**

**13.5(a) Donation and Valuation of Vested Interest.** The Landowner and the Conservancy acknowledge that the granting of this Conservation Easement constitutes the donation to the Conservancy of a fully vested interest in the Property. The Landowner and the Conservancy agree that the value of the Conservancy's vested interest on the date of delivery of this Conservation Easement equals the amount by which the fair market value of the Property immediately prior to the delivery of this Conservation Easement is reduced by the restrictions imposed by this Conservation Easement. To establish this value, Landowner shall, if claiming a tax deduction under Section 170(h) of the Internal Revenue Code, provide to the Conservancy, with the Baseline Documentation, a copy of the qualified appraisal used by the Landowner to substantiate the value of the interest donated, as required under Section 170(h) of the Internal Revenue Code, and the parties shall amend that value, if necessary, to reflect any final determination thereof by the Internal Revenue Service or a court of competent jurisdiction. For purposes of this Section the ratio of value of the restrictions to the value of the Property unencumbered by the restrictions shall remain constant, and the percentage interest of the Conservancy in the fair market value of the Property determined thereby shall remain constant.

**13.5(b) Involuntary Extinguishment.** If and when the restrictions contained in this Conservation Easement are involuntarily extinguished by eminent domain taking or otherwise, the Landowner and the Conservancy agree to divide the proceeds, if any, in proportion to the fair market values of their interests in the Property as of the date of delivery of this Conservation Easement as provided in Section 13.5(a) above, unless the laws of New York provide that a greater amount shall be paid to the Conservancy. The division of proceeds shall be adjusted as appropriate by the value of Structures and

Improvements made by the Landowner after the effective date of this Conservation Easement and the costs associated with the sale, exchange, or involuntary conversion. The Conservancy agrees to devote the proceeds it receives in a manner consistent with the conservation purposes inherent in this Conservation Easement.

**13.5(c) Judicial Extinguishment Initiated by Landowner.** If this Conservation Easement is extinguished pursuant to a judicial proceeding initiated by the Landowner or its successors, the Landowner shall pay to the Conservancy the greater of the amount specified in Section 13.5(b) and the fair market value of the Conservation Easement on the date of judicial extinguishment, as determined by independent appraisal. The cost of such appraisal shall be divided equally between the Landowner and the Conservancy. The Conservancy may, in its sole discretion, waive the provisions of this Section 13.5(c) and value its proportionate share under Section 13.5(b).

**13.5(d) Recovery of Compensation for Vested Interest.** If the Conservancy does not receive the entirety of its percentage interest from the proceeds of a post-extinguishment sale, exchange, or involuntary conversion pursuant to Sections 13.5(b) or 13.5(c) above, the Conservancy shall be entitled to recover such deficiency from the owner of the Property in whom title is held at the time of such post-extinguishment sale, exchange, or involuntary conversion, including from a mortgagee who has foreclosed and taken title.

**13.5(e) Post-Extinguishment Effect of this Section.** In the event that this Conservation Easement is extinguished as provided in this Section 13.5, the provisions of this Section shall survive such extinguishment.

**13.6 Merger.** The Landowner and the Conservancy agree that the terms of this Conservation Easement shall survive any merger of the fee and easement interest in the Property.

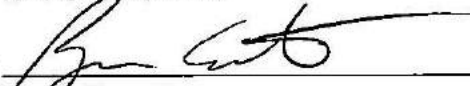
**13.7 Availability of Amount of Tax Benefits.** The Conservancy makes no warranty, representation or other assurance regarding the availability, amount or effect of any deduction, credit or other benefit to the Landowner or any other person or entity under United States or any state, local or other tax law to be derived from the donation of this Conservation Easement or other transaction associated with the donation of this Conservation Easement. This donation is not conditioned upon the availability or amount of any such deduction, credit or other benefit. The Conservancy makes no warranty, representation or other assurance regarding the value of this Conservation Easement. As to all of the foregoing, the Landowner is relying upon the Landowner's own legal counsel, accountant, financial advisor, appraiser or other consultant and not upon the Conservancy or any legal counsel, accountant, financial advisor, appraiser or other consultant of the Conservancy. In the event of any audit or other inquiry of a governmental authority into the effect of this donation upon the taxation or financial affairs involving the Landowner or the Landowner's heirs, successors, or assigns or other similar matter, then the Conservancy shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever incurred by the Conservancy in responding or replying thereto.

**13.8 Existing Conditions.** This Conservation Easement is granted subject to any existing conditions shown on the Conservation Easement Map or on photographs or other materials agreed upon in writing. In order to establish the present condition of the Property and its conservation purposes protected by this Conservation Easement so as to be able to monitor future uses of the Property and assure compliance with the terms hereof, the Conservancy has prepared, and Landowner has subscribed to, an inventory of the Property's relevant features and conditions (the "Baseline Documentation"). The Landowner and the Conservancy have certified the same as an accurate representation of the condition of the Property as of the date of this Conservation Easement, as required under Treasury Regulations at Title 26, Section 1.170A-14 of the Code of Federal Regulations. The Baseline Documentation may be used by the Conservancy to establish that a change in the use or character of the Property has occurred, but its existence shall not preclude the use by the Conservancy of other evidence to establish the condition of the Property as of the date of this Conservation Easement. The Baseline Documentation is incorporated herein by reference.



IN WITNESS WHEREOF, the parties have executed this instrument as of the day and year first above written.

**TOWN OF DOVER**

By   
Ryan Courtien  
Supervisor

**DUTCHESS LAND CONSERVANCY, INC.**

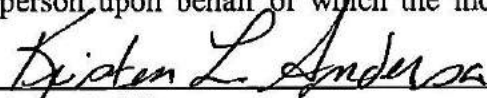
By   
Rebecca E. C. Thornton  
President

**STATE OF NEW YORK )**

**SS.:**

**DUTCHESS COUNTY )**

On the 17<sup>th</sup> day of December, in the year 2014 before me, the undersigned, personally appeared **Ryan Courtien**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

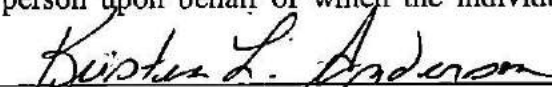
KRISTEN L. ANDERSON  
Notary Public, State of New York  
No. 01AN6051016  
Qualified in Dutchess County  
Commission Expires 11/13/18

**STATE OF NEW YORK )**

**SS.:**

**DUTCHESS COUNTY )**

On the 17<sup>th</sup> day of December, in the year 2014 before me, the undersigned, personally appeared **Rebecca E. C. Thornton**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual or person upon behalf of which the individual acted, executed the instrument.

  
Notary Public

KRISTEN L. ANDERSON  
Notary Public, State of New York  
No. 01AN6051016  
Qualified in Dutchess County  
Commission Expires 11/13/18

**EXHIBIT A**  
**Description of the Property**

All that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situated, lying and being in the Town of Dover, Dutchess County, New York, more particularly described as follows:

**Parcel A:**

BEGINNING at a point at the southerly boundary line of lands of the Town of Dover described in Document 02-2010-620, said point being the northeasterly corner of the herein described parcel and being the northwesterly corner of lands of Brian C. Vincent described in Document 02-2013-4973, said point being located N 89 deg 55' 30" W 65.91 feet from a steel pin found marking the southwesterly corner of Dover Plains Water Co. described in Liber 956 of Deeds at page 181; thence along lands of Brian C. Vincent, S 01 deg 35' 37" W 458.29 feet to a point; thence along lands of Dover Acquisition LLC described in Document 02-2004-2846, S 50 deg W 239.72 feet to a point; thence along lands of Kent Hollow Inc. described in Liber 1378 of Deeds at page 664, following partly along the approximate line of a deed overlap, S 87 deg 02' W 173.47 feet, S 89 deg 30' W 20.55 feet, S 87 deg 45' W 158.40 feet, S 63 deg 45' W 7.65 feet, S 87 deg 02' W 1.53 feet, S 59 deg 02' W 7.36 feet, S 63 deg 45' W 578.01 feet, S 06 deg 45' E 231.00 feet and S 14 deg 45' E 66.00 feet to a point; thence along lands of Donald W. Crane and Philippe Crane Jr. described in Liber 1445 of Deeds at page 864, S 88 deg 45' W 1187.29 feet to the southwesterly corner of the herein described parcel; thence along the approximate line of deed overlap with other lands of Donald W. Crane and Philippe Crane Jr. described in Liber 1445 of Deeds at page 864, N 01 deg 23' 44" W 446.62 feet and N 00 deg 53' 44" W 805.86 feet to a point; thence along the southerly line of the Town of Dover described in Document 02-2010-620, S 89 deg 59' 45" E 137.11 feet to a stone heap found, S 87 deg 52' 00" E 499.64 feet to a stone heap found, S 89 deg 16' 40" E 1314.80 feet, following stone wall, S 86 deg 38' 50" E 126.95 feet, following the remains of stone wall and no physical bounds, S 89 deg 55' 30" E 169.89 feet to the point of place of beginning. CONTAINING 49.51 Acres of land.

SUBJECT to Covenants, Easements, Restrictions, Conditions and Agreements of record.

SUBJECT to a Fifty foot wide Permanent Right of Way for ingress and egress in favor of Walter B. Crane, his heirs and assigns described in Liber 1074 of Deeds at page 862.

TOGETHER WITH a Fifty foot wide Non Exclusive Permanent Right of Way for ingress and egress over lands of Dover Plains Water Co. described in Liber 1083 of Deeds at page 823.

BEING and intended to be a portion of the first parcel of land as shown in a conveyance from Walter A. Vincent to Brian C. Vincent by Deed dated January 17, 1989 recorded at the Dutchess County Clerk's Office in Liber 1827 of Deeds at page 184.

**Parcel B:**

BEGINNING at a point marked by a steel pin found, said point being the southwesterly corner of lands of Dover Plains Water Co. described in Liber 956 of Deeds at page 181 and being the southeasterly corner of lands of the Town of Dover described in Document 02-2010-620 and

being a point on the northerly boundary of the herein described parcel; thence along lands of Dover Plains Water Co., N 89 deg 39' 03" E 34.09 feet to the northeasterly corner of the herein described parcel; thence along lands of Dover Acquisition LLC described in Document 02-2004-2846, S 04 deg 45' W 415.80 feet and S 60 deg 45' W 89.76 feet to a point marking the southwesterly corner of the herein described parcel; thence along lands of Brian C. Vincent described in Liber 1827 of Deeds at page 184, N 01deg35' 37" E 458.29 feet to a point at the southerly boundary of the Town of Dover; thence along the same, S 89 deg 55' 30" E 65.91 feet to the point or place of beginning. CONTAINING 0.88 Acre of land.

SUBJECT to Covenants, Easements, Restriction, Conditions and Agreements of record.

SUBJECT to a Fifty Foot Wide Permanent Right of Way for ingress and egress in favor of Walter B. Crane, his heirs and assigns described in Liber 1074 of Deeds at page 862.

TOGETHER WITH a Fifty foot wide Non Exclusive Permanent Right of Way for ingress and egress over lands of Dover Plains Water Co. described in Liber 1083 of Deeds at page 823.

BEING and intended to be all that certain tract or parcel of land as shown in a conveyance from Jennifer C. Keller and Virginia Heaton Keller to Brian C. Vincent by Deed dated May 13, 2013 recorded at the Dutchess County Clerk's Office in Document 02-2013-4973.

Parcel C:

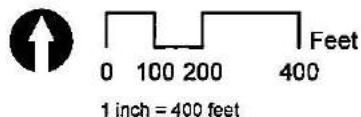
BEGINNING at a point on the southerly boundary line of Lot No. 2 as shown on a map entitled "Subdivision Plat of Stony Brook Estates Prepared for Randallo Incorporated" Filed map No. 12219, recorded at the Dutchess County Clerks Office on December 16, 2008, said point being the southeasterly corner of the herein described parcel and being the southwesterly corner of a Conservation Easement granted to Dutchess Land Conservancy, Inc., described in Document 02-2009-314; thence along lands of Brian C. Vincent described in Liber 1827 of Deeds at page 184, to be conveyed to the Town of Dover, N 87 deg 55' 40" W 619.14 feet to a stone heap found and N 86 deg 31' 00" W 499.64 feet to a stone heap found marking the southwesterly corner of the herein described parcel; thence through Lot No. 2, Filed Map No. 12219, N 00 deg 45' 40" E 422.40 feet to a stone heap found; thence along lands of Donald W. Crane and Philippe Crane Jr. described in Liber 1445 of Deeds at page 864, N 01 deg 42' 10" W 884.92 feet to a point marking the northwesterly corner of the herein described parcel; thence along lands of the Town of Dover described in Document 02-2004-9111, S 86 deg 59' 06" E 394.80 feet to an iron rod in stone heap found, S 02 deg 03' 00" E 399.42 feet to a steel pin found and N 80 deg 32' 50" E 778.63 feet to a point marking the northeasterly corner of the herein described parcel; thence through Lot No. 2, Filed Map No. 12219, and along a Conservation Easement granted to Dutchess Land Conservancy, Inc, S 02 deg 03' 45" W 1068.27 feet to the point or place of beginning. CONTAINING: 28.70 Acres of land.

SUBJECT to Covenants, Easements, Restrictions, Conditions and Agreements of record.

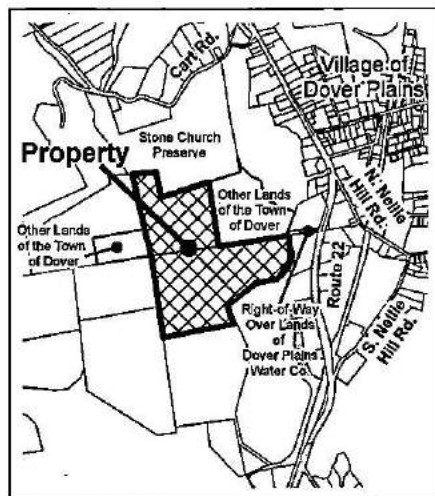
BEING and intended to be a portion of all that certain tract or parcel of land as shown on a map entitled "Subdivision Plat of Stony Brook Estates Prepared for Randallo Incorporated" Filed map No. 12219, recorded at the Dutchess County Clerks Office on December 16, 2008.

New York State Route 22, Rear  
Town of Dover, Dutchess County NY  
79.09 Acres +/- (Per Survey)  
December 16, 2014

New York State Route 22, Rear  
Town of Dover, Dutchess County NY  
79.09 Acres +/- (Per Survey)  
December 16, 2014



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**Location Map**  
(Scale 1" = 3000 Feet)

Stone Church Preserve  
Other Lands of the Town of Dover  
(Subject to Conservation Easement  
Filed at Document No. 02 2004 9110)

**Other Lands of the Town of Dover  
(Subject to Conservation Easement  
Filed at Document No. 02 2009 314)**

**Right-of-Way  
Over Lands  
N/F of Dover  
Plains Water Co.**

**Parcel B**  
**0.88 Acres**

**Parcel C**  
**28.70 Acres**

**Parcel A**  
**49.51 Acres**

### Legend

Property Boundary  
10 Foot Contour  
50 Foot Contour  
Road  
Treeline  
Stream  
Right-of-Way

*Note: "Parcel A", "Parcel B", "Parcel C" reference areas in the legal description, Exhibit A of the Conservation Easement.*





TOWN OF DOVER  
126 East Duncan Hill Road  
Dover Plains, NY 12522  
Tel (845) 832-6111  
Fax (845) 832-3188

RYAN COURTIEN  
Supervisor

KATIE PALMER-HOUSE  
Town Clerk

**TOWN OF DOVER TOWN BOARD REGULAR MEETING  
DECEMBER 10, 2014**

The Town of Dover Town Board held public hearings and a regular meeting at 6:30 pm on Wednesday, December 10, 2014 at the Dover Town Hall, 126 East Duncan Hill Road, Dover Plains, NY with the following members present:

Supervisor Ryan Courtien  
Councilman Christopher Galayda  
Councilwoman Linda French  
Councilman Paul Palmer

Absent: Councilman Richard Yeno

**RESOLUTION AUTHORIZING CONSERVATION EASEMENT ON THE RANDALLO  
AND VINCENT PROPERTY**

The following Resolution was offered by Deputy Supervisor Galayda, seconded by Councilwoman French, to wit:

**WHEREAS**, the Town of Dover has previously acquired property adjacent to the Stone Church property, known as the "Randallo Property;" and

**WHEREAS**, the Town of Dover is about to acquire title to additional property adjacent to the Stone Church property known as the "Vincent Properties" from the Dutchess Land Conservancy; and

**WHEREAS**, as a condition of the acquisition of the property, a conservation easement will be placed on both properties which will restrict further development and filed in the Dutchess County Clerk's Office.

**NOW THEREFORE BE IT RESOLVED**, that the Town Board of the Town of Dover hereby authorizes the Dutchess Land Conservancy to record a conservation easement on both the "Randallo Property" and the "Vincent Properties."

The question of the adoption of the foregoing Resolution was duly put to a vote which resulted as follows:

Supervisor Courtien	Voting <u>Aye</u>
Councilman Galayda	Voting <u>Aye</u>
Councilwoman French	Voting <u>Aye</u>
Councilman Palmer	Voting <u>Aye</u>
Councilman Yeno	Voting <u>Absent</u>

The Resolution was thereupon adopted on December 10, 2014.

**CERTIFICATION**

I, KATHYRN PALMER-HOUSE, hereby certify that I am the TOWN CLERK for the TOWN OF DOVER, in said County of DUTCHESS, do hereby certify the above is a true copy of the **RESOLUTION AUTHORIZING CONSERVATION EASEMENT ON THE RANDALLO AND VINCENT PROPERTY.**

I further certify the record is located at the Dover Town Hall, in the Town Clerk's Office located at 126 East Duncan Hill Road, Dover Plains, New York. I have hereunto set my hand and affixed the seal of said Town this 11th day of December, 2014.

(Seal)

  
Kathryn Palmer-House, Town Clerk



**TOWN OF DOVER**  
126 East Duncan Hill Road  
Dover Plains, NY 12522  
Tel (845) 832-6111 Ext. 112  
Fax (845) 832-3188

**RYAN COURTIER**  
Supervisor

**KATIE PALMER-HOUSE, Esq.**  
Town Clerk

**TOWN OF DOVER TOWN BOARD REGULAR MEETING  
WEDNESDAY, JUNE 25, 2014**

The Town of Dover Town Board held a special meeting at 6:30 pm on Wednesday, June 25, 2014 at the Dover Town Hall, 126 East Duncan Hill Road, Dover Plains, NY with the following members present:

Supervisor Ryan Courtien  
Deputy Supervisor Christopher Galayda  
Councilwoman Linda French  
Councilman Paul Palmer  
Councilman Richard Yeno

**RESOLUTION AUTHORIZING EXECUTION OF CONTRACT OF SALE WITH  
DUTCHESS LAND CONSERVANCY**

The following Resolution was offered by Deputy Supervisor Galayda, seconded by Councilman Palmer, to wit:

**WHEREAS**, the Town of dover has been contacted by the Dutchess Land Conservancy to acquire property known as Tax Map #7063-00-377243 and 7063-00-484300, which will add to the Dover Stone Church Property; and

**WHEREAS**, a public hearing was held by the Town Board of the Town of Dover to seek public input on the acquisition of the property known as "Vincent Property"; and

**WHEREAS**, the Town of Dover will not expend any tax payer monies for the acquisition of the "Vincent Property" from the Dutchess Land Conservancy, but will rather agree to place Conservation Easement on both tax parcels which will prohibit development of the property.

**NOW THEREFORE BE IT RESOLVED**, that the Town Board of the Town of Dover hereby authorizes the Town Supervisor to execute a contract of sale with the Dutchess Land Conservancy for the "Vincent Property", as well as any associated documents including Conservation Easements, which all shall be subject to the review and approval of town counsel.

The question of the adoption of the foregoing Resolution was duly put to a vote which resulted as follows:

Supervisor Courtien	Voting <u>Aye</u>
Deputy Supervisor Galayda	Voting <u>Aye</u>
Councilwoman French	Voting <u>Aye</u>
Councilman Palmer	Voting <u>Aye</u>
Councilman Yeno	Voting <u>Aye</u>

The Resolution was thereupon adopted on June 25, 2014.

**CERTIFICATION**

I, KATHYRN PALMER-HOUSE, hereby certify that I am the TOWN CLERK for the TOWN OF DOVER, in the said County of DUTCHESS, do hereby certify the above is a true copy of the **RESOLUTION AUTHORIZING EXECUTION OF CONTRACT OF SALE WITH DUTCHESS LAND CONSERVANCY**.

I further certify the record is located at the Dover Town Hall, in the Town Clerk's Office located at 126 East Duncan Hill Road, Dover Plains, New York. I have hereunto set my hand and affixed the seal of said Town this 10<sup>th</sup> day of July, 2013.

(Seal)

  
Kathryn Palmer-House, Town Clerk