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## I. EXECUTIVE SUMMARY

### A. Policy Statement by the Town Board

1. The Woodstock Town Board ("Town Board") recognizes that the Comeau Property (the "Property")<sup>1</sup> is a valuable asset for the Town of Woodstock (the "Town") and that the Property requires ongoing stewardship so that its beneficial use and preservation can be harmonized for the benefit of the people of the Town consistent with the terms of the Conservation Easement ("CE"), including the first amendment, which has been impressed on the Property.<sup>2</sup> This Stewardship Plan balances protection of the land, preservation of natural areas, and protection of natural resources with responsible use and enjoyment of the Property for the benefit of all people in the Town as authorized in the Conservation Easement.
2. To protect and maintain the Comeau Property and to promote its responsible use will require the sustained and ongoing effort of the Town Board, the Woodstock Land Conservancy ("WLC" or the "Conservancy") as grantee of the Conservation Easement, as well as the dedication and contribution of the people of Woodstock. To facilitate the ongoing stewardship of the Comeau Property, the Town Board adopts this Stewardship Plan.
3. As called for in the first amendment of the Conservation Easement (the "First Amendment"),<sup>3</sup> this Stewardship Plan sets forth the standards, specific procedures and directives and other guidance concerning the specific uses of, activities on and maintenance of the Comeau Property.
4. Nothing in the Stewardship Plan is intended to diminish or restrict the powers of the Town Board, as the elected representatives of the Town, owner of the Comeau Property and grantor of the Conservation Easement, beyond the limitations contained in the Conservation Easement and the First Amendment.
5. Overview of the Stewardship Plan. This Stewardship Plan:
  - a) gathers in one compendium the documents, studies, and other relevant materials needed for the ongoing management of the Comeau Property;

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<sup>1</sup> The Comeau Property is approximately 76 acres located in the Town of Woodstock, south of State Route 212 abutting Comeau Drive and known more specifically as Tax Parcel 27.13-1-13.100.

<sup>2</sup> The Conservation Easement, as amended, is set forth in Appendix A. The Conservation Easement was recorded on November 17, 2009, as Document Number 2009-00018565, in the Office of the Ulster County Clerk at Liber, Bk-D VI-4847, pages 315 through 338.

<sup>3</sup> The first amendment of the Conservation Easement was recorded on November 17, 2009, as Document Number 2009-00018566, in the Office of the Ulster County Clerk at Liber, Bk-D VI-4847, pages 339 through 344.

- b) summarizes the provisions of the Conservation Easement which are relevant to the ongoing stewardship and management of the Comeau Property, particularly its permitted and prohibited uses;
- c) delineates the current uses of the Comeau Property;
- d) includes the baseline documentation which in text and photographs detail the existing conditions of the Comeau Property;
- e) establishes the Comeau Stewardship Advisory Committee ("CSAC") to provide advice regarding certain aspects of the Comeau Property's stewardship, as well as to facilitate supplemental fundraising, volunteer efforts, and community participation in the Comeau Property;
- f) delineates the roles and responsibilities of the Town Board, certain boards, agencies, and committees of the Town, WLC, the CSAC, and various ad hoc task forces regarding various aspects of the stewardship of the Comeau Property;
- g) establishes additional standards, specific procedures, protocols, directives, and guidance for the stewardship of the Comeau Property, including its management, maintenance, planning, preservation and future use;
- h) establishes specific procedures and protocols to implement and supplement the review procedures set forth in the Conservation Easement;
- i) describes how the baseline documentation will be supplemented in the future; and
- j) implements the provisions of the Conservation Easement, including but not limited to the periodic updating and revision of this Stewardship Plan.

## II. HISTORY AND OVERVIEW; PERMITTED AND PROHIBITED USES

### A. History of the Comeau Property and the Conservation Easement

1. Once known as the "Eames place," what is now known as the Comeau Property was purchased in different parcels over a period of years by the Eames family. When the Eames' daughter, Marion, married Martin Comeau, the Eames place then became known as the "Comeau Property." Martin and Marion Comeau were very active in the civic life of Woodstock: As a member of the Woodstock Club, formed by Ralph Whitehead and his wife, Jane, Marion Eames Comeau worked to bring needed services such as a library and a nursing service to Woodstock. Martin Comeau served as Woodstock Town Attorney and, during World War II, oversaw Woodstock's civil defense efforts. Ironically, Martin Comeau, while serving as Town Attorney, negotiated an open-space easement with the Woodstock Country Club in an effort to insure that the town's gateway would remain in a "natural state." In the Eames' family will, the Comeau Property was left to the Christian Science Church in Boston.
2. The Christian Science Church leaders knew it had been the wish of the Eames-Comeau family for the Town of Woodstock to take ownership of the property. Accordingly, in

- 1974, the Christian Science Church offered to sell the property to the Town. Town historian Alf Evers wrote, "An alliance of old and new people got behind the purchase by the town of the 76 acres of scenic fields, woodland, and Sawkill frontage on the Eames-Comeau place." Supervisor Val Cadden urged support for the purchase of Comeau and Woodstock voters approved it in a town referendum. By the early 1980's the Comeau house was being used for town offices. Soon after, Woodstock soccer groups, both young and adult, began using the newly-created athletic fields, and the Historical Society of Woodstock took up residence in the former art studio located near the entrance of the property. Woodstockers were discovering the beauty of the Comeau Property's walking trails. Summer theater on the lawns soon followed. The intention of the Eames-Comeau family became reality as the property, in the heart of the village, became a very special place for the community. The Comeau Property is very well known locally and is often referred to as Woodstock's "Central Park." The Woodstock townspeople regularly use the Comeau Property for recreation purposes. For more than two decades Town offices have been situated on the Comeau Property.
3. The Conservation Easement is firmly rooted in Town Board decisions, votes of Woodstock residents, and the hard work of dedicated volunteers. After a referendum in 2002 at which the Town's voters rejected a proposal to build a town highway garage on the Comeau Property, the Town Board created the Comeau Advisory Committee. The mission statement given to the Comeau Advisory Committee in 2002 from the Woodstock Town Board contained this comprehensive goal: "advise the town on the best future use and disposition of the Comeau property with respect to recreational, passive recreational, cultural, park and other municipal purposes the committee may deem worthy."
  4. In twenty-nine meetings between July 2002 and August 2003, the Comeau Advisory Committee heard from residents, lawyers, architects, natural resource management professionals, town employees and department heads, naturalists, the Woodstock Environmental Commission, and others. In fact, many of the Advisory Committee meetings concerning the future of the Comeau Property occurred on the Comeau Property itself. The nine member Advisory Committee opined, in January 2003, that "the desire to protect habitat, scenic view sheds, open space and forested areas, as well as to provide for continued recreational use and some municipal offices," would best be achieved by impressing a conservation easement on the Comeau Property. The Advisory committee stated that a conservation easement would be the "most effective instrument to preserve this land." The Town Board in March 2003, by unanimous resolution, authorized the Comeau Advisory Committee to prepare a draft conservation easement for the Town Board's consideration. Assisting the Comeau Advisory Committee and the principal author of the conservation

easement was a leading environmental lawyer and past Commissioner of Parks for New York City, William Ginsberg.

5. In September 2003, the Town Board considered the proposed conservation easement drafted by Mr. Ginsberg and voted unanimously to place the question of conveyance of the proposed conservation easement to the WLC on the general election ballot of November 2003.
6. In October 2003 - after the September 2003 Town Board vote and prior to election day — a lawsuit was filed challenging the constitutionality of the conservation easement and attacking the proposed conservation easement on a variety of other grounds. Soon after the filing of the litigation, an agreement was reached amongst the litigants allowing the referendum to occur in November 2003, but precluding the actual conveyance of the conservation easement (if the referendum vote approved the conservation easement's conveyance) until after the conclusion of the litigation. Ultimately, the litigation delayed the execution and recordation of the conservation easement until November 2009.
7. The litigation, captioned "La Barbera v. Town of Woodstock," asserted that the Town did not actually own the Comeau Property. This claim was rejected both because the plaintiffs did not have standing to attack the Town's title, as well as because the claim was meritless. The plaintiffs also alleged that the conservation easement was an illegal gift of public property to the WLC, improperly binds future town boards, and constituted a waste of taxpayer money. All of these claims were rejected on the merits. All of the courts opining in this case held that the grant of the conservation easement was supported by adequate consideration in the form of public benefits and services rendered. Specifically, the courts pointed to the preservation of the Comeau property as an undeveloped park and recreational facility in perpetuity. The courts also affirmed the authority of a municipality to convey a conservation easement on municipally owned property when approved pursuant to the permissive referendum process. Finally, the courts dismissed plaintiffs' defamation claims and claims for attorney's fees. See *La Barbera v. Town of Woodstock*, 29 A.D.3d 1054, 814 N.Y.S.2d 376(3dDept.2006).
8. One cause of action remained after the decision by the Appellate Division in 2006 — plaintiffs' claim that the permissive referendum was defective because the proposed Conservation Easement did not delineate the areas of the Comeau Property to be burdened by the Conservation Easement by a metes and bounds description, but rather by schematic drawing on the aerial photographs. That claim was also dismissed and the dismissal was affirmed on appeal, thus finally ending the litigation. See *La Barbera v. Town of Woodstock*, 55 A.D.3d 1093, \_\_ N.Y.S.2d \_\_ (3d Dept. 2008).
9. Following the conclusion of the litigation, the Town Board and WLC had ongoing discussions concerning the execution, recording, and implementation of the Conservation Easement. Ultimately, an amendment to the Conservation Easement was agreed upon which

required the preparation of this Stewardship Plan by the Town. The Conservation Easement and its first amendment were executed on November 16, 2009 and recorded the following day.

B. Overview of the Conservation Easement Structure

1. Like conservation easements generally, the Conservation Easement on the Comeau Property places certain limitations on the use of the Property and grants the right to WLC to enforce the provisions of the Conservation Easement. The Conservation Easement is perpetual in duration. The various permitted and prohibited uses are enumerated in detail in Paragraph II. C of the Stewardship Plan.
2. The Conservation Easement does not divest the Town of ownership of the Comeau Property. Rather, the Conservation Easement places limits on permitted uses and activities and requires approval of WLC for certain use and activities. As discussed in greater detail in Paragraph II.C. of the Stewardship Plan, all existing uses on the Comeau Property are allowed to be continued.
3. For purposes of the Conservation Easement, the Comeau Property is divided into three types of areas - Government Areas, Open Areas, and Forest Areas. Separate sets of uses and activities are authorized for each area, which are enumerated in Paragraph II.C of the Stewardship Plan.
4. The first amendment to the Conservation Easement required preparation of this Stewardship Plan and mandates its update and revision no less frequently than every 20 years.

C. Permitted Uses, Activities, and Improvements

1. All existing uses of the Comeau Property are compatible with the purposes of the Conservation Easement.<sup>4</sup> The following are the existing uses of the Property:
  - a) Government Uses
    - (1) Various Town offices, including the Town Supervisor, Town Assessor, Planning Board, Town Clerk, Building Inspector, Zoning Board of Appeals, Environmental Commission, Commission for Civic Design; and
    - (2) Town Maintenance Department.
  - b) Open space
    - (1) open area
    - (2) forest area
  - c) Recreation
    - (1) trails
    - (2) soccer playing fields

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<sup>4</sup> CE§0.06

- (3) dog walking
  - (4) sledding
  - (5) passive recreation, scenic vistas
- d) Education
  - (1) Environmental learning
- e) Historical Society
- f) Performing Arts
  - (1) Lectures
  - (2) Concerts
  - (3) Dance
  - (4) Cinema
- 2. The Town is permitted to use the Property in any manner and for any purpose consistent with and not limited or prohibited by the Conservation Easement or applicable Federal, State or Local Law.<sup>5</sup>
- 3. The Town is permitted to conduct governmental, residential and recreational, educational, and cultural uses, provided such uses and activities are conducted in accordance with the Conservation Easement.<sup>6</sup>
- 4. The Town is permitted to construct, maintain or replace structures, as defined in the town zoning law, on the Property as may be reasonably necessary in connection with permitted uses and subject to the terms of the Conservation Easement.<sup>7</sup>
- 5. The outdoor theater and stage are permitted to be maintained or replaced in approximately the same location.<sup>8</sup>
- 6. In the event of damage resulting from casualty that renders repair of an improvement unpractical, the Town is permitted to erect a structure of comparable size, bulk, use, and general design within the same general location, subject to notice and review by the WLC.<sup>9</sup>
- 7. The Town is permitted to maintain and improve existing roads, parking areas, structures and drainage facilities on the Property in their current location.<sup>10</sup>

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<sup>5</sup> CE §4.03

<sup>6</sup> CE § 4.05

<sup>7</sup> CE § 4.05

<sup>8</sup> CE § 4.06B

<sup>9</sup> CE § 4.06D

<sup>10</sup> CE §3.01

8. The Town is permitted to construct a new road to provide access to permitted structures and activities if necessary to comply with Federal, State and County legal requirements. Such road must be located and constructed to minimize the impact on the Open and Forest Areas and, to the extent feasible, to avoid conflict with the purposes of the Conservation Easement.<sup>11</sup>
9. The Town is permitted to undertake landscaping, tree cutting and pruning, and grounds upkeep on the Property, as follows:
  - a) The Town may continue existing modes of landscaping, pruning and grounds maintenance.<sup>12</sup>
  - b) The Town is permitted to remove or restore trees, shrubs, or other vegetation when dead, diseased, dangerously decayed or damaged.<sup>13</sup>
  - c) The Town is permitted to cut trees to:
    - (1) control insects and disease;
    - (2) prevent personal injury or property damage;
    - (3) clear and restore forest cover that has been damaged or disturbed by forces of nature;
    - (4) permit the development of permitted structures, clearings and improvements; to maintain existing Open Areas; and
    - (5) permit construction and maintenance of permitted driveways, roads and trails.<sup>14</sup>
  - d) The Town is permitted to prune and selectively thin trees to create limited vistas in accordance with best forest management practices and the purposes of the Conservation Easement.<sup>15</sup>
  - e) All cutting of trees shall be conducted to minimize solid erosion and adverse impacts on the Property's streams and slopes.<sup>16</sup>
10. The Town is permitted to install signs on the Property which relate to its use and whose placement, number and design do not significantly diminish the scenic character of the Property, subject to the following standards:
  - a) signs shall meet all applicable Town regulatory requirements; and

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<sup>11</sup> CE § 3.01

<sup>12</sup> CE § 4.04

<sup>13</sup> CE §§ 3.06, 4.04

<sup>14</sup> CE § 3.06

<sup>15</sup> CE § 3.06

<sup>16</sup> CE § 3.06

- b) lighting on signs must be focused downward on the sign.<sup>17</sup>
11. The Town is permitted to install lighting on the Property which shall meet the following standards:
- a) Lighting on stages must be focused downward on the stage;
  - b) Exterior lighting to illuminate permitted roads and driveways shall be placed within 30 feet of the centerline;
  - c) Exterior lighting to illuminate structures or parking areas shall be placed to illuminate such structures or parking areas; and
  - d) Exterior lighting shall be placed and focused to minimize glare off the Property to the extent feasible.<sup>18</sup>
12. The Town is permitted to place or allow the placement of new utility transmission lines, including poles and wires, which shall meet the following standards:
- a) Such new lines are permitted to be on the route of existing transmission lines;
  - b) Such new lines are permitted to be within 30 feet of the centerline of permitted roads and driveways;
  - c) Such new lines are permitted within the Government Areas; and
  - d) Such new lines shall be buried, when feasible to do so.<sup>19</sup>
13. The Town is permitted to use the Property for a drainage basin or sump only for the purpose of controlling flooding or soil erosion on the Property and only in accordance with sound management practices.<sup>20</sup>
14. The Town is permitted to spread of de-icing materials to maintain road safety in inclement weather. De-icing materials stored on the Property shall be for use only in keeping sidewalks and walkways on the Property free of snow and ice.<sup>21</sup>
15. The Town is permitted to remove soil and alter the Property's topography for the purposes of erosion control and soil management.<sup>22</sup>
16. Limited storage of waste and garbage on the Property is permitted by the Town, subject to the following:

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<sup>17</sup> CE § 3.05

<sup>18</sup> CE § 3.05

<sup>19</sup> CE § 3.09

<sup>20</sup> CE §3.11

<sup>21</sup> CE § 3.04

<sup>22</sup> CE § 3.02

- a) Appropriate routine storage of garbage and wastes from permitted uses of the Property may be stored on the Property pending transport for proper disposal.<sup>23</sup>
  - b) Garbage and wastes generated on the Property may be stored on the Property for the purpose of directing such garbage and waste into appropriate waste disposal systems, including septic or other waste disposal systems.<sup>24</sup>
  - c) Storage and handling of biodegradable materials (including sawdust and ashes) generated, utilized or processed on the Property is allowed in order to further the permitted uses of the Property in accordance with the purposes of the Conservation Easement, including use of composting systems for biodegradable wastes produced on the Property.<sup>25</sup>
17. Storage of vehicles and equipment is permitted as necessary for the permitted uses of the Property.<sup>26</sup>
18. The following are permitted uses of Government Areas A, B, and C:
- a) Government uses including but not limited to offices, meeting spaces, and document storage of executive, legislative and judicial governmental agencies;<sup>27</sup>
  - b) residential uses;<sup>28</sup>
  - c) recreational uses;<sup>29</sup>
  - d) educational uses;<sup>30</sup>
  - e) cultural uses;<sup>31</sup>
  - f) maintenance facilities;<sup>32</sup>
  - g) storage of only those passenger cars, vans and light trucks used in connection with permitted uses;<sup>33</sup>

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<sup>23</sup> CE§ 3.04

<sup>24</sup> CE § 3.04

<sup>25</sup> CE § 3.04

<sup>26</sup> CE § 3.04

<sup>27</sup> CE §§ 4.05; 4.06.A

<sup>28</sup> CE §§ 4.05; 4.06.A

<sup>29</sup> CE §§ 4.05; 4.06.A

<sup>30</sup> CE §§ 4.05; 4.06.A

<sup>31</sup> CE §§ 4.05; 4.06.A

<sup>32</sup> CE § 4.06A

<sup>33</sup> CE §§ 3.04; 4.06A

- h) storage of only those materials and supplies for use on the Property or in connection with governmental functions or other facilities located on the Property;<sup>34</sup>
  - i) removal of trees, shrubs, or other vegetation reasonably necessary to construct or replace permitted structures and improvements;<sup>35</sup>
  - j) Additional parking areas to serve Government Area A may be constructed at the existing parking area to the west of the access road north of Government Area A and may be expanded into the adjacent Open Area by not more than one acre;<sup>36</sup>
  - k) Paved or unpaved roads, driveways and parking areas necessary to service permitted structures may be constructed in the Government Areas;<sup>37</sup> and
  - l) The wood frame structure in Government Area C, presently occupied by the Historical Society of Woodstock, may be replaced or its footprint enlarged by up to 400 square feet, and an area not more than 90 feet from the foundations of the existing building may be cleared and landscaped or used for parking, as well as for recreational and cultural activities which do not require permanent structures.<sup>38</sup>
19. The following are permitted uses of the Open Areas:
- a) Non-motorized recreational activities are permitted, including but not limited to hiking, soccer, sledding, and dog walking.<sup>39</sup>
  - b) A leach field or sewage disposal field is permitted, but only as may be necessary to provide service for facilities within the Governmental Area.<sup>40</sup>
  - c) Municipal water supply wells and infrastructure for public water system may be installed.<sup>41</sup>
  - d) Access by wheelchairs, including motorized wheelchairs, is permitted.<sup>42</sup>
  - e) Maintenance and replacement of existing storage sheds and shelters is permitted.<sup>43</sup>

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<sup>34</sup> CE § 4.06A

<sup>35</sup> CE § 4.06A(iii)

<sup>36</sup> CE § 4.06A(ii)

<sup>37</sup> CE § 4.06A(iv)

<sup>38</sup> CE § 4.06A(in)

<sup>39</sup> CE §§ 0.06; 4.06B

<sup>40</sup> CE § 3.11

<sup>41</sup> CE§ 3.01; 4.06B

<sup>42</sup> CE § 4.06B

<sup>43</sup> CE § 4.06B

- f) Construction of new storage sheds or shelters is permitted, subject to meeting the following standards:
    - (1) maximum height shall be not more than 12 feet over average surrounding grade level;
    - (2) maximum footprint shall be not more than 80 square feet in floor area;
    - (3) maximum aggregate footprint of all new sheds and shelters shall not exceed a collective total of 250 square feet, excluding existing structures; and
    - (4) such sheds and shelters shall be located near the edge of Open Areas so as not to interfere with the Open Area's recreational or cultural use.<sup>44</sup>
  - g) Temporary structures are permitted, such as tents or stages for cultural events, subject to meeting the following standards:
    - (1) such structures shall not be placed on permanent foundations; and
    - (2) the temporary structure shall be removed within two weeks after the conclusion of the event, however, the Town Board may authorize an additional period for removal not to exceed four weeks.<sup>45</sup>
  - h) Open Areas may be maintained as a meadow or mowed as a lawn.<sup>46</sup>
  - i) The trees and tree stands existing in Open Area Y may remain. The Town Board in its discretion may maintain all or part of Open Area Y as meadow or may allow brush or trees to grow in all or any part of Open Area Y. Any trees or plants introduced by the Town into Open Area Y shall be native, non-invasive species.<sup>47</sup>
20. The following are permitted uses of the Open Areas:
- a) A leach field or sewage disposal field is allowed only as may be necessary to service facilities within the Governmental Area.<sup>48</sup>
  - b) Access by wheelchairs, including motorized wheelchairs, is permitted.<sup>49</sup>
  - c) Unpaved nature trails and foot paths may be created and maintained.<sup>50</sup>
  - d) Trees native to Ulster County may be planted and maintained.<sup>51</sup>

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<sup>44</sup> CE § 4.06B

<sup>45</sup> CE §4.06B

<sup>46</sup> CE § 4.06B

<sup>47</sup> CE § 4.06B

<sup>48</sup> CE § 3.11

<sup>49</sup> CE § 4.06C

<sup>50</sup> CE § 4.06C

<sup>51</sup> CE § 4.06C

e) Damage caused by fire, water or other natural causes may be restored.<sup>52</sup>

D. Prohibited Uses

1. No fence shall be erected within sight of Route 212.<sup>53</sup>
  2. No excavation, filling or topographic alternation of the Property shall be permitted except as necessary to construct and maintain permitted structures and improvements or for erosion control and soil management.<sup>54</sup>
  3. No mineral exploitation shall be permitted.
  4. No dumping, burying, storage or accumulation of waste, sewage, vehicles, or appliances or unsightly or offensive materials shall be permitted, including but not limited to trash, garbage, sawdust, ashes, or chemical waste, except as allowed per Paragraphs B.C. 16 and II.C.19.C, above.<sup>55</sup>
  5. No use or activity is permitted that causes or is likely to cause soil degradation or erosion or pollution of any surface or subsurface waters.<sup>56</sup>
  6. The draining, filling, dredging, or diking of wetland areas including any enlargements thereof is prohibited except to maintain or enhance vegetation, prevent flooding or to clear debris and maintain the flow of streams.<sup>57</sup>
  7. Use of the Property for any commercial or industrial purpose is prohibited except as specifically authorized in the Conservation Easement.<sup>58</sup>
  8. Government Areas A, B, and C: Storage of heavy motor vehicles is prohibited, including but not limited to bulldozers, backhoes, trucks and fire engines, except when being used for authorized projects.<sup>59</sup>
  9. Open Area: Open Areas shall not have paved areas for recreational or cultural use.<sup>60</sup>
- a) Government Uses

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<sup>52</sup> CE § 4.06C

<sup>53</sup> CE § 3.01

<sup>54</sup> CE § 3.02

<sup>55</sup> CE § 3.04

<sup>56</sup> CE § 3.07

<sup>57</sup> CE § 3.08

<sup>58</sup> CE § 3.10

<sup>59</sup> CE § 4.06A

<sup>60</sup> CE § 4.06B

10. Forest Area: No structures are permitted in the Forest Area.<sup>61</sup>
11. Except as provided in Section 4.06 of the Conservation Easement, the construction or placement of residential, commercial, industrial or other buildings, structures or improvements of any kind or nature (including but not limited to mobile homes, roads and parking areas) permanent or temporary, on, over, or under the property, shall be prohibited.<sup>62</sup>
12. Structures and improvements, including but not limited to, buildings, driveways, roads and parking as permitted in the Easement, may not be made or erected on, over, or under the Property without prior notice of the Grantee.<sup>63</sup>
13. The Property may not be subdivided into separate parcels.<sup>64</sup>
14. The display of signs, billboards, or advertisements shall be prohibited except signs whose placement, number and design do not significantly diminish the scenic character of the Property and are related to the use of the property.<sup>65</sup>

### III. HISTORY AND OVERVIEW; PERMITTED AND PROHIBITED USES

#### A. Summary of Draft Baseline Documentation Report

1. In February, 2011, WLC presented to the Town Board a draft of the Baseline Documentation Report for the Comeau Property. The Baseline Documentation Report is an “inventory of the Property’s relevant features and conditions.”<sup>66</sup> Its purpose is to present a fair and accurate representation of the conditions of the easement property at or near to the time of easement signing for use as a basis for documenting future changes in the condition or use of the property. The draft consists of various maps, information about the soils on the Property, an aerial photograph of the Property, photographs of the Property, certain survey maps, and certain proposed appendices.
2. A cover letter from the WLC dated February 9, 2011 delineates certain additional items which the Conservancy has highlighted for additional work, including certain survey work to confirm the precise location of certain boundaries.
3. The Town Board and WLC will work cooperatively and with due diligence to assure that the Baseline Documentation is completed as soon as reasonably practicable and to assure that the

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<sup>61</sup> CE § 4.06C

<sup>62</sup> CE § 3.01

<sup>63</sup> CE § 3.01

<sup>64</sup> CE § 3.03

<sup>65</sup> CE § 3.05

<sup>66</sup> CE § 0.06

draft Baseline Documentation Report is revised to comply with the following policies regarding Baseline Documentation.

B. Policies Regarding the Baseline Documentation

1. The Baseline Documentation shall contain maps, photographs, descriptive text, and other materials that accurately represent the condition of the property at the time of the Conservation Easement, as agreed to by the Town Board and WLC<sup>67</sup>The Baseline Documentation shall not contain documents recommending future action (such as the Comeau Trails Task Force reports). As may be approved by the Town Board, such study documents should be included in or appended to the Stewardship Plan.
2. Whenever Baseline documentation supplements are in addition to an existing Baseline Documentation and do not replace the original. The original Baseline Documentation shall not be revised or updated unless an error in fact is discovered in the document. Correction of that error is certified by countersignature in the margin by both parties.
3. Baseline documentation supplements are in addition to an existing Baseline Documentation and do not replace the original. The original Baseline Documentation shall not be revised or updated unless an error in fact is discovered in the document. Correction of that error is certified by countersignature in the margin by both parties.
4. In the event that the Conservation Easement is amended and requires supplemental baseline documentation materials to address the changes in the easement terms, WLC shall prepare, with the Town's cooperation, those supplemental baseline materials, which will be certified by countersignature by both parties at the time of the amendment and appended to the baseline documentation report.
5. If at any time the then-existing Baseline Documentation is not sufficiently complete or accurate to enable WLC to review a proposed use, structure, or activity which requires WLC's approval under the terms of the Conservation Easement, then WLC may request the Town to direct the applicant to prepare and provide a discrete supplement to the Baseline Documentation which shall be limited in scope so as not to be unduly burdensome and to provide only those materials as are reasonably necessary to enable WLC to complete its review. Such materials shall be included in a supplement to the Baseline Documentation upon determination by WLC that the supplemental materials accurately represent conditions on the Comeau Property. The costs associated with obtaining such information will be the responsibility of the applicant or the Town, but not the responsibility of WLC. For example, it is understood that as of the submission of the initial Baseline Documentation, wetlands on the Comeau Property have been partially delineated. Additional wetland delineation shall occur

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<sup>67</sup> CE § 0.06

on an as-needed basis to the extent required in order to enable review of a particular use, structure or activity by WLC.

6. The Baseline Documentation Report and any supplements shall be maintained as an appendix to the Stewardship Plan and a copy of the Baseline Documentation Report shall be preserved by the Town Historian.

C. Natural Resources Inventory

1. A Natural Resources Inventory (NRI), is an essential element of the stewardship plan and serves as a tool for planning and implementation of proposed uses, a guide for changes (such as new trails), a method of identifying sensitive areas, and a means of providing information important for establishing maintenance protocols.
2. Review and evaluation – In coordination with the monitoring activities of the Conservancy, the CSAC will update the NRI through observation, and collection and collation of available reports.

All funding for the NRI should be approved by the Town Board.

IV. EASEMENT MONITORING BY WLC

- A. WLC shall have the right to enter the property during daylight hours, upon prior notice to the Town, and in a manner that will not interfere with the Town's use and enjoyment of the property for the purpose of inspection to determine whether the easement and its purposes and provisions are being complied with by the Town.<sup>68</sup> WLC's inspection, known as "monitoring," is legally required in order to ensure that the activities, policies, management efforts, and maintenance for which the Town is responsible are consistent with the purpose of the conservation easement and the conservation values set forth herein. Monitoring also brings activities or situations not in compliance with the easement to the attention of the Town. Documentation created through monitoring is critical should a violation of a conservation easement occur that may require WLC enforcing compliance with the easement.
- B. Persons Responsible for Conducting Monitoring: Monitoring will be performed by WLC staff, WLC Board Members, or by WLC volunteers. WLC will coordinate the visits of its monitors to the property. Timing will depend on property conditions, weather, the issues involved, and the availability of monitors.
- C. Frequency and Scheduling: WLC shall conduct its required easement monitoring at least twice each year. Monitoring will likely take place during the following times of the year depending on the above-noted factors: a) one time during the early spring or late fall (without leaves on the trees and plants) so that changes to the property are easily discernible; b) one time during the

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<sup>68</sup> CE §6.01

summer (with leaves on the trees and plants); c) at other times if deemed necessary by WLC to determine Town compliance with the easement.

- D. Notice: WLC shall provide the Town notice prior to the desired monitoring visit date. Prior to the desired monitoring visit date, an inclement weather date(s) will be identified as well.
- E. Process: Prior to monitoring, WLC shall review previous documentation, the baseline documentation report, and any related property documentation including the deed of conservation easement. While walking the property, monitors will assess general property conditions and look for any deviations from the conditions noted in the baseline documentation report that appear to be inconsistent with or out of compliance with the uses permitted by the easement within the specific use areas. Monitors may take photographs of areas that appear to have changed as compared with the baseline documentation report and/or previous monitoring visits.
- F. Reporting: Following the monitoring visit, WLC will provide a letter to the Town and a copy to the CSAC, using the procedure under the easement, notifying the Town that the monitoring is completed.<sup>69</sup> Any issues or concerns will be listed in the letter. If the WLC believes there is a possible easement violation, WLC will take immediate and appropriate action based on its policies and procedures.

## V. PROCEDURES AND PROTOCOLS

### A. Town Board and WLC Representatives.

- 1. The Town Board shall designate a Town Board member to act as liaison to the WLC regarding matters pertaining to the Conservation Easement.
- 2. The WLC shall designate a WLC representative to act as liaison to the Town Board regarding matters pertaining to the Conservation Easement.
- 3. Routine written communications concerning the Conservation Easement between the WLC and the Town Board shall be through the respective liaisons.

### B. When Review by WLC is Required

- 1. The Town shall notify WLC in writing, with a copy to the CSAC before taking any action or before exercising any reserved right with respect to the Property which could adversely affect the environmental, scenic, open space and natural values which are the subject of the Conservation Easement.<sup>70</sup>
- 2. The Town shall notify WLC in writing before constructing any permanent structures and improvements.<sup>71</sup>

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<sup>69</sup> 69 CE § 7.04

<sup>70</sup> CE §4.07

<sup>71</sup> CE §4.07

3. The exact location and specifications of the road referenced in Paragraph II.C.8, above requires prior written approval of WLC, which approval shall not be unreasonably withheld or delayed.<sup>72</sup>
4. Replacement of improvements damaged by casualty — In the event of damage resulting from casualty which renders repair of an improvement impractical, the Town is permitted the erection of a structure of comparable size, bulk, use, and general design within the same general location, subject to notice and review by WLC.<sup>73</sup>

C. Standard Application and Review Process

1. All applications or proposals for new improvements or uses or alterations to existing improvements or uses shall be made to the Town Board with a copy to the CSAC . All communications from WLC regarding an application which it is reviewing shall be made to the Town liaison, with a copy to the applicant and to the CSAC.
2. The Town Board shall determine the sequence of review for any application or proposal. The Town Board has the option to consult with the CSAC at any point in this process. If approval by other governmental agencies is required and approval by WLC is required, the Town Board shall determine whether review by the WLC shall precede or follow review by governmental agencies, it being understood that if WLC review is sought before review by other governmental agencies, then material changes will have to be reviewed by the WLC again. No new use or improvement to the Comeau Property shall be allowed without approval of the Town Board.
3. Concept or Sketch Plan Review by WLC
  - a) All new uses and improvements shall require concept or sketch plan review. The Town Board in its discretion may authorize concept or sketch review for other applications.
  - b) The Town Board in its discretion may conduct a concept or sketch plan review, at which the WLC liaison, a representative of the CSAC, the applicant, and any other persons that the Town Board deems advisable shall be present. If the Town Board does not elect to conduct the concept or sketch plan review, then the concept or sketch plan review shall be undertaken at a joint meeting between the Town liaison, the WLC liaison, a representative of the CSAC, the applicant, and any other persons WLC or the Town liaisons deem advisable. The chair or designee of the CSAC shall attend any concept or sketch plan review for a new use or new improvements and may attend other concept or sketch plan review.

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<sup>72</sup> CE §3.01

<sup>73</sup> CE § 4.06D

- c) Within 20 days, WLC will provide a written response regarding the matters included in the concept or sketch plan, including additional information WLC will require for complete review, potential conflicts with the Conservation Easement, and such additional information as WLC deems advisable to communicate in order to facilitate review. The concept or sketch plan review shall not bind WLC to any final decision and shall not limit its review discretion. The purpose of the concept or sketch plan review is to identify serious problems in respect of the Conservation Easement at an early stage, as well as to facilitate expeditious and efficient processing of applications requiring the WLC's review.
- 4. The following shall be included in all applications to the Town Board for new uses and/or improvements or the expansion, diminishment, or relocation of existing uses or improvements, which require approval by the WLC:
  - a) a detailed description of the use and/or improvement;
  - b) any photographs and other materials which show the conditions in the area(s) of the Property that would potentially be altered or affected;
  - c) the reasons why the proposed use and/or improvement would be allowed by the Conservation Easement and the Stewardship Plan;
  - d) a site plan showing:
    - (1) location(s) of the proposed new use or improvement with sufficient detail to enable staking on the ground;
    - (2) the proposed area of disturbance;
    - (3) existing conditions and improvements in the vicinity of the proposed new use or improvement;
    - (4) any intrusion into delineated wetlands or wetland buffer areas;
  - e) an erosion and sediment control plan, if the proposed new use or activity would have the potential to cause erosion or generate sediment;
  - f) a drainage plan, if the proposed new use or activity would have the potential to alter or impact drainage;
  - g) landscaping plan, if relevant, which would
    - (1) identify any trees to be cut; and
    - (2) specify plantings, if any;
  - h) for structures, schematic drawings showing:
    - (1) elevations and heights;
    - (2) architectural style; and
    - (3) grading;
  - i) a signage plan, if relevant, showing materials, appearance and location of all signs both during construction and permanent; and

- j) a lighting plan, if relevant, sufficient to show compliance with off-site glare limitation requirements.
  - k) a CSAC advisory opinion, should they elect to provide one.
5. Review by WLC
- a) Within 20 days of submission of the materials provided in Paragraph IV.C.4, the WLC will determine if the submission is complete for purposes of its review. If the application is not complete, then the WLC will so inform the Town Board in writing (and the applicant, if any) and delineate with specificity the additional materials that must be provided.
  - b) Once WLC informs the Town Board that the application is complete, WLC shall have 45 days to complete its review. The complete application shall be forwarded to the CSAC in connection with applications for new uses or improvements or in connection with any other application as to which either WLC or the Town Board requests an advisory opinion by the CSAC.
- D. Expedited Review Process
- 1. There shall be an expedited review process by WLC with respect to those matters which the Town and WLC agree do not have the potential to generate any significant adverse impact on the conservation values being protected by the Conservation Easement.
  - 2. The expedited review process will begin with a concept plan meeting between the Town and WLC liaisons, a representative of the CSAC and the original applicant, and anyone else the Town and WLC liaisons deem appropriate. At such meeting, the applicant shall present a concept plan. If the Town and WLC liaisons agree that the application does not have the potential to generate any significant adverse impact on the conservation values being protected by the Conservation Easement, then the Town liaison and WLC liaison will delineate what additional information, if any, is required from those items enumerated in Paragraph IV.C.4.
  - 3. Following receipt of a complete application, WLC shall make every effort to render its decision in 20 days, but if necessary reserves the full 45 day period as specified in section 4.07 of the Deed of Conservation Easement.
- E. Resubmission to WLC
- 1. If any governmental agency reviews an application after the WLC and such governmental agency requires material changes to be made, then the application shall be resubmitted to the WLC for review of the changes.
  - 2. The WLC shall complete its review in 30 days.
- F. Emergency Action to Protect Life or Property

1. Whenever the Town Supervisor determines in his or her good faith reasonable judgment that emergency action is needed to remedy an imminently dangerous condition to life or property, the Town Supervisor may take appropriate action to cut or trim vegetation or trees, or take such other action, as is reasonably necessary to address the emergency and protect life and property. The Town shall give notice to the WLC as soon as possible of whatever emergency actions were taken.

G. Standards for Construction, Replacement or Enlargement of Improvements

1. Construction of any improvement shall minimize disturbances to the environment, including but not limited to the following:<sup>74</sup>
  - a) Erosion and sediment control measures shall be required to insure that storm water runoff will not carry eroded and other deleterious materials into any stream or wetland area; and
  - b) There shall be minimal removal of vegetation, minimal movement of earth and minimal clearance of access routes for construction vehicles.
2. Government Areas A, B, and C
  - a) The maximum height of any new structure shall be 35 feet (except for chimneys and antennae) above average grade surrounding the structure prior to construction.<sup>75</sup>
3. Design Standards. After receiving recommendations from the CSAC and in consultation with WLC, the Town Board shall adopt design standards to be appended to the Stewardship Plan which shall address the following:
  - a) Drainage: See Appendix C.
  - b) Erosion and sediment control: See Appendix D.
  - c) Signage: See Appendix E.
  - d) Lighting: See Appendix F.
  - e) Landscaping: See Appendix G.
  - f) Trail structures: See Appendix H.
  - g) Architectural styles: See Appendix I.

VI. USE AND MAINTENANCE

- A. Rules for Use: After receiving recommendations from the CSAC and in consultation with WLC, the Town Board shall adopt rules and regulations for the use of the Comeau Property which shall be included in Appendix J, and which shall address:
  1. General rules;
  2. Dog walking;
  3. Hiking

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<sup>74</sup> CE § 4.06E

<sup>75</sup> CE § 4.06A(i)

4. Sledding
  5. Use of the playing fields;
  6. Stage productions; and
  7. Concerts and ad hoc productions
- B. Ongoing Maintenance : After receiving recommendations from the CSAC and WLC, the Town Board shall adopt standards for upkeep and maintenance of the Comeau Property, including:
1. Government Areas
    - a) Garbage and litter control
    - b) Snow removal
    - c) Landscaping and regular maintenance of the municipal areas
  2. Open spaces and forest areas
    - a) Best Forest Management practices ( See Appendix K)
    - b) Best Landscaping and Open Space Management practices ( see Appendix L)
    - c) Control of Invasives
    - d) Habitat maintenance
    - e) Best Trail Maintenance practices ( see Appendix M)
    - f) Playing fields maintenance
    - g) The requirement that existing fields and meadows of Open Area X must be mowed at least every 3 years to prevent their reversion to brush or forest.<sup>76</sup>
- C. Trail Improvements
1. To facilitate necessary ongoing maintenance of the trails on the Comeau Property, the Town Board established the Comeau Trails Task Force ("CTTF"). The CTTF documented conditions on the various trails and proposed a series of maintenance and improvement initiatives which have been implemented in part and which will require additional implementation in the future.
  2. The reports and recommendations of the CTTF are appended hereto as Appendix N.
- D. Future Natural Resource Protection Planning
1. To facilitate the protection of key natural resources on the property, including, but not limited to, the Sawkill corridor, any wetlands determined to exist on the property, and any surface water bodies and watercourses, the Town Board may seek expertise, funding, and other resources to assist with management decisions, planning, budgeting, and other needs regarding the protection of these key natural resources. The Town Board may seek the assistance of WLC and the CSAC in obtaining or reviewing information to be used in its planning for these projects.

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<sup>76</sup> CE § 4.06B

#### E. Planning for the Future

1. To facilitate the future comprehensive stewardship of the Comeau property, especially regarding comprehensive land-use planning with natural resource protection, the Town Board may seek expertise, funding, and other resources to assist with research, project planning, budgeting, funding and other needs. The Town Board may seek the assistance of the CSAC and WLC in identifying resources and obtaining, developing or reviewing information to be utilized in such planning and projects.
  - a) In order to protect and enhance the future integrity of the Comeau Property, the Town Board and CSAC may consider developing a plan to facilitate possible property acquisitions and/or conservation opportunities with interested and willing adjacent property owners to Comeau, should these present themselves. The Town, at its discretion, may request WLC's assistance in any such efforts.

#### VII. ADVISORY COMMITTEE; PLANNING; VOLUNTEERS

- A. Comeau Stewardship Advisory Committee ("CSAC"): There shall be a Comeau Stewardship Advisory Committee to provide advice to the Town Board and WLC regarding the Comeau Property and its stewardship pursuant to the Conservation Easement.
  1. The CSAC shall:
    - a) provide advice to the Town Board and WLC regarding current uses, and all proposed new uses of and improvements on the Comeau Property;
    - b) provide advice to the Town Board and WLC regarding proposed amendments and revisions to the Stewardship Plan;
    - c) with the approval of the Town Board, undertake fundraising activities for the benefit of the Comeau Property and for the purpose of funding maintenance, improvement, environmental protection, education, and preservation of the Comeau Property;
    - d) assist in mobilizing volunteers to assist in the maintenance, improvement, environmental protection, education, or preservation of the Comeau Property, and
    - e) shall generate recommended design standards, best management practices, and rules for the Comeau Property, for consideration by WLC and the Town Board, as provided in Paragraphs IV.G.3, V.A. and V.B.
  2. No power granted to the WLC or retained by the Town Board as set forth in the Conservation Easement is granted to the CSAC. The CSAC's role is purely advisory.
  3. The CSAC shall consist of seven volunteer members appointed by resolution of the Town Board. It should incorporate as broad a cross-section of community members as possible. Members should be willing and able to assist with the monitoring, management, and development of the standards, best practices, and other guidance in this stewardship plan. Only residents of the Town shall be eligible for appointment as members of the CSAC.

4. The appointment of members to the CSAC shall be for terms so fixed as to expire at the end of a calendar year. At the time of the establishment of the CSAC, the terms of appointment shall be as follows: four members shall be appointed to hold office for a term of two years; three members shall be appointed to hold office for a term of one year. All subsequent appointments, other than appointments to fill vacancies occurring other than by the expiration of a term of office, shall be made for a term of two years. A vacancy, occurring other than by the expiration of a term of office, shall be filled only for the remainder of the unexpired term. The CSAC is encouraged to explore the issue of term limits for its members.
  5. The CSAC will select its own chairperson with the approval of the Town Board. The CSAC will prepare its vision, mission and goals statement; it shall decide on its own procedural rules, and conduct business in accordance with all applicable laws and regulations; it shall provide a preliminary agenda and recorded minutes of its meetings; it shall meet no less than once in every two calendar months. All meetings of the C.S.A.C. shall be conducted in accordance with the NYS Open Meetings Law.
  6. The members of the CSAC shall receive no compensation for their services as members thereof.
  7. The members of the CSAC, upon written authorization by the Chairperson, may submit a written request to the Town Board for reasonable and necessary expenses actually incurred in the performance of their duties according to the standard town practices.. The Town Board may provide for payment of such other expenses as the Town Board shall, by resolution, approve as necessary and proper.
- B. Planning
1. The Stewardship Plan shall be updated no less often than every 20 years. The CSAC shall propose to the Town Board recommended revisions and updates to the Stewardship Plan.
  2. Any proposed Stewardship Plan amendment shall be provided to the CSAC. The CSAC shall have 30 days within which to provide written comments and an advisory recommendation to the Town Board.
- C. Educational Opportunities. The CSAC shall encourage use of the Comeau Property for educational purposes.
- D. Natural Resources Inventory (NRI). The CSAC will coordinate the implementation of the NRI through:
1. Compiling studies pertaining to the Comeau.
  2. Coordinating volunteer activities that provide information for the NRI.

3. Coordinating activities to identify and obtain funding for conducting an NRI.