

**MEETING AGENDA**  
**TOWN OF PHILIPSTOWN PLANNING BOARD**  
**Butterfield Library, Cold Spring, New York 10516**  
**July 21, 2016**  
**7:30 PM**

Pledge of Allegiance

Roll Call

Approval of Minutes – June 16, 2016

**Public hearing**

-----NONE-----

**Old Business:**

**CF Diversified Corp/Olspan LLC, NYS Route 9 & Vineyard Road, Cold Spring (TM#38.-3-24.1)**

- Consideration of a negative SEQRA declaration
- Amended Site Plan approval

**Hudson Highland Reserve, Route 9 and Horton Road**

Review from Susan Jainchill for AKRF's field conditions inspection/verification

**Return of cash Bond:**

HJF Trucking 3643 Route 9

TM#17.-1-73

**\*\*\*NOTE: All items may not be called. Items may not always be called in order \*\*\***

**PHILIPSTOWN PLANNING BOARD  
MEETING MINUTES  
June 16, 2016**

The Philipstown Planning Board held its regularly monthly meeting on Thursday, June 16, 2016 at the Butterfield Library, 10 Morris Avenue, Cold Spring, New York.

Present: Kim Conner, Acting Chair  
David Hardy  
Peter Lewis  
Neal Tomann  
Stephen Gaba, Counsel  
Ron Gainer, Town Engineer

Absent: Anthony Merante (Chairman)  
Mary Ellen Finger  
Neal Zuckerman

Ms. Conner opened the meeting at 7:30 P. M. with the Pledge of Allegiance.

Roll call was taken by Ms. Valentino

**Approval of Minutes:**

The minutes of May 19, 2016 were reviewed. Mr. Lewis moved to adopt the minutes as presented and Mr. Tomann seconded the motion. The vote was as follows:

Anthony Merante	Absent
Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent

The motion carried unanimously.

**Public Hearing**

**CF Diversified Corp/Olspan LLC, NYS Route 9 & Vineyard Road, Cold Spring, (TM# 38.-3-24.1)**

Ms. Valentino read the following legal notice:

***The Philipstown Planning Board for the Town of Philipstown, New York will hold a public hearing on Thursday, June 16, 2016 starting at 7:30 p.m. at the Butterfield Library on Morris Avenue in Cold Spring, New York to consider the following application:***

***CF Diversified Corp/Olspan LLC, NYS Route 9 & Vineyard Road, Cold Spring, New York (TM# 38.-3-24.1) - The application represents a request for a lot line adjustment between 2 parcels totaling 72.909 acres along the east side of NYS Route 9, at Vineyard Road (a private road a/k/a "Roundhill Road"). The parcels are situated in a OC(Office/Commercial/Industry Mixed-Use) Zoning District. The Olspan LLC lot is***

*currently developed with a commercial use. The CF Diversified Corp. lot is currently vacant and includes the private roadway.*

*It is proposed to transfer 0.498 acres from the larger (CF Diversified) lot to the smaller (Olspan LLC) parcel, which would make lot A-1a 66.911 acres and , while lot A-2a will become 5.998 acres. Both lots meet all required bulk dimensional requirements. No new construction activities are planned.*

*At said hearing all persons will have the right to be heard. Copies of the application, plat map, and other related materials may be seen in the Office of the Planning Board at the Philipstown Town Hall.*

*Dated at Philipstown, New York, this 23 rd. day of May 2016.  
Anthony Merante, Chairman*

Present for the applicant was Mr. Glenn Watson from Badey and Watson. Mr. Gainer reviewed the proposal for this minor subdivision application and noted that the Planning Board has seen this proposal previously.

Mr. Gaba noted there is a portion of the lot, an existing wall, that is being cut off and not included in this application.

Mr. Watson reviewed the Site Plan Map and noted that the rectangular parcel, about a half acre, will now become part of the smaller parcel to the southwest.

No members of the public had any comments.

Mr. Lewis moved to close the public hearing and Mr. Tomann seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously. The public hearing closed at 7:36 P. M.

Mr. Tomann moved to direct Mr. Gainer to prepare a Negative Declaration and a Resolution for subdivision approval to be reviewed at the next meeting. The motion was seconded by Mr. Hardy. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

**Old Business:**

**Evelyn Gex, 24 Hummingbird Land, Garrison, NY TM#60.2-44 &45**

Mr. Luke Hilpert represented the applicant. Mr. Hilpert requested an extension for a previously proposed lot line adjustment and noted he has been in contact with the Putnam County Board of Health regarding the Plat approval. The Board discussed the length of time the applicant has been coming back for extensions. Mr. Gaba reviewed the lot line adjustment and noted there are two lots, the smaller lot has wetlands on it and the applicant would like to move a piece of the larger lot to the smaller lot so it can become build-able. There has been no change to the plans. Previously the Putnam County Board of Health requested to see that there was an expansion area for the septic which was requested last Fall and submitted in February 2016.

Mr. Gaba reviewed this application by noting it was originally approved in April of 2011. The final approval conditions needed to be resolved within 180 days, which never happened. The Planning Board has been granting 90 day extensions ever since.

Mr. Gainer noted he had previously contacted the Department of Health after being directed to by the Planning Board to confirm the due diligence of the applicant.

Mr. Tomann moved to grant the 90 day extension and Mr. Lewis seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

Ms. Conner introduced Michele Smith, Executive Director for Hudson Highlands Land Trust.

**ESP/Kehr, 3330 NYS Route 9, Cold Spring TM#16.20-1-18**

Mr. Gainer noted he prepared the following draft documents as previously directed by the Planning Board:

- Negative Declaration for SEQRA.
- Subdivision approval resolution.
- Amended Site Plan resolution.

Mr. Gainer noted that in his technical memorandum that the conditions on Page 2 represent statutory requirements that need to be satisfied by the Planning Board, and corrected plans must be submitted to the Planning Board before moving forward.

Mr. Tomann moved to declare a negative SEQRA declaration and Mr. Hardy seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

Mr. Gainer noted that there was a revision offered to the draft subdivision approval resolution by Mr. Gaba, so the motion to approve the subdivision resolution should state as amended. Mr. Hardy moved to adopt the subdivision approval as amended and Mr. Tomann seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

Mr. Gainer noted that there is are conditional requirements specified in the code for the Site Plan Approval that notes the applicants must provide building architectural for the proposed building, as well as for the proposed building addition to the Planning Board.

Mr. Lewis moved to approve the amended Site Plan as presented and Mr. Tomann seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

**New Business:**

**Kristin E Sorenson, 1000 Old Albany Post Road, Garrison**

**TM#16.20-1-18**

Mr. Eric Stark represented the applicant. Mr. Stark noted the applicant is seeking a subdivision between the applicant and a neighbor, Mr. Clark Thompson. Mr. Stark proposed to sell Mr. Thompson a separate lot that Mr. Stark had previously purchased. Mr. Thompson owns three 20 foot narrow lots (flags). One lot is utilized for his driveway to his residence. Mr. Thompson will give the other two lots totaling 40 feet to the applicant. The lot being sold by the applicant, in combination with the existing 20 foot flag lot would give Mr. Thompson a 40 ft. frontage (35 ft. is required) If Mr. Thompson chooses to merge the new lot with his existing lot there will be no need for ZBA approval.

Mr. Thomson noted he has not yet made a decision regarding joining the two properties because he has been considering doing a conservation easement since it is a wetland area and adjacent to Clarence Fahnestock State Park.

Mr. Gainer noted that the Planning Board cannot act on this proposal at this time. The Applicant must apply to the Zoning Board of Appeals for two variances as the project is currently configured, which would be for minimum frontage for a flag lot, and for a non-conforming lot being made more non-conforming due to the planned land transfer to Ms. Sorenson.

Ms. Sorenson expressed concern over the escrow posted. Ms. Conner reviewed the escrow process and what escrow is used for. Withdrawing the application was discussed. The Board will look into whether or not the application fee is lost if an application is withdrawn.

Mr. Hardy moved to refer the applicant to the ZBA for a nonconforming driveway (which is the 35 foot front yard setback) and the nonconforming lot area. Mr. Lewis seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

**Return of escrow:**

Mr. Hardy moved to return the escrow for Obert Wood and Mr. Tomann seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

**Return of Performance Bonds:**

Mr. Tomann moved to return the Performance Bond for Synergy Gas Site Plan (now Cornerstone Propane) and Mr. Lewis seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

Mr. Hardy moved to return the Performance Bond for Lee Kristoferson. Mr. Tomann seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

**Resolution for Delinquent Application:**

Mr. Gaba reviewed the procedure and the process for Delinquent Applications. Mr. Gaba noted the letter has been sent to Dean Anderson. The 30 day requirement to wait for a response has past without a response. Mr. Hardy moved to adopt the Resolution for a Delinquent Application for Dean Anderson. Mr. Tomann seconded the motion. The vote was as follows:

Kim Conner	Aye
Mary Ellen Finger	Absent
David Hardy	Aye
Peter Lewis	Aye
Neal Tomann	Aye
Neal Zuckerman	Absent
Anthony Merante	Absent

The motion carried unanimously.

**Board Business:**

Mr. Lewis asked if the grading being done at the Cold Spring Farm Site on Route 9 was being monitored. Ms. Conner noted that they have gotten agricultural status. Mr. Gainer noted that he will draft a letter on behalf of the Planning Board to the Wetlands inspector regarding the concern if the Planning Board directs him to do so.

Mr. Lewis moved to adjourn the meeting and Mr. Tomann seconded the motion. The meeting adjourned at 8:32 P. M.

Date approved \_\_\_\_\_

Respectfully submitted by

Linda Valentino

\* These minutes were prepared for the Philipstown Planning Board and are subject to review, comment, emendation and approval there upon.

June 2, 2016

Anthony Merante, Chairman  
Philipstown Planning Board  
Town Hall  
238 Main Street  
Cold Spring, NY 10516



RE: Hudson Highlands Reserve - Request to be Placed on Agenda

Dear Mr. Merante and Honorable Board Members:

We understand from Susan Jainchill that the AKRF's field conditions inspection/verification has been completed, that the updated report from AKRF/Ronald Gainer has been drafted, and that it will be available within the next few days.

Accordingly, we respectfully request that the matter be placed on the agenda for the discussion during the June 16, 2016.

Thank you for your consideration.

Yours truly,

**BADEY & WATSON,**  
Surveying & Engineering, P.C.

A handwritten signature in cursive script, appearing to read "Glennon J. Watson".

by  
Glennon J. Watson, L.S.  
845.265.9217 x14  
[gwatson@badey-watson.com](mailto:gwatson@badey-watson.com)

GJW/bms

cc: File U:\86-2288\WO\_21792\_Hudson Highlands Reserve\Applications\_etc\Town\AM02JN16BP\_Agenda\_Request.docx  
Ulises Liceaga, HHR  
Kirby Benjamin, HHR

**RECEIVED**  
JUN 02 2016

BY: *L*.....



**Environmental, Planning, and Engineering Consultants**

34 South Broadway  
Suite 401  
White Plains, NY 10601  
tel: 914 949-7336  
fax: 914 949-7559  
www.akrf.com

RECEIVED  
JUN 06 2016  
BY: [Signature]

## Memorandum

---

**To:** Town of Philipstown Planning Board  
**From:** Susan Jainchill AICP  
**Date:** June 4, 2016  
**Re:** Horton Road LLC, Hudson Highlands Reserve - Conservation Analysis Report  
**cc:** Applicant, Ron Gainer, Glenn Watson, Conservation Board, David Klotzle, Wetlands Inspector

---

On behalf of the Planning Board, AKRF Inc. has been reviewing the Conservation Analysis submitted by Horton Road LLC dated 2/10/2016. As the Board is aware, the submitted Conservation Analysis Report indicates that the subject property for this application is 205.6 acres, made up of five (5) separate tax parcels. The objective of the review of the submitted Conservation Analysis Report is for the Planning Boards to make a determination of which of the lands possess conservation value and should be preserved in the development of the overall parcel. The review comments below are provided to assist the Planning Board in your evaluation of which areas of the tract should be considered for preservation.

AKRF/ Gainer submitted a review memo dated 3/23/16 that addressed substantive issues regarding the Archeology and Cultural Resources Assessment included in the Conservation Analysis Report. Since that memo was issued, AKRF's natural resources specialists have visited the project site twice. On 3/25/16 AKRF accompanied the Kelley McKean of the NYSDEC to verify the wetland delineation. On 5/18/16 AKRF conducted a site inspection to verify the information included in the Conservation Analysis Report, Sections 5: Limnology, Section 6: Initial Report (wetland delineation and natural resources analysis dated 9/15/14) and Section 7: Supplemental Report (wetland delineation and natural resources analysis dated 8/12/15). Below are substantive review comments pertaining to the natural resources analysis based on requirements of the Town's Zoning Code, the guidance provided in the Town's Comprehensive Plan, and the recent site inspections.

### SUMMARY AND RECOMMENDATIONS

The studies within the Conservation Analysis Report for the Hortan Highlandsca Reserve Dated 2/10/2016 form a viable basis for assessing the conservation value of the 205.6 acre project site as required by Town Code § 175-20.

- AKRF/ Gainer is in agreement with the general findings of the analysis, namely that the higher value conservation land consists of the less-disturbed forested lands within the more steeply sloped, eastern regions of the site and the lands proximal to Clove Creek and the onsite Pond in the western and

south-central portions of the project site. Retaining the eastern forested areas undeveloped in a conservation easement will help preserve the large contiguous forested lands extending east/south offsite which are of particular ecological and conservation value to the Hudson Highlands region. Protecting the wetlands on the southern portions of the site and providing large undisturbed buffers adjacent to Clove Creek and the Ulmar Pond will benefit water quality and preserve plant/animal diversity.

- It is our opinion that the maps and findings of the Conservation Analysis can be used for the next phase of the Town's analysis of the proposed site development which will be looking more specifically at what can be built. Such issues as: preserving habitat corridors linking the lower elevation wetland and stream areas with the higher elevation upland habitats; determining the width of buffers protecting the pond/stream, and; determining the ultimate size/footprint and density of the residential development will be among the critical issues that must be explored to ensure that onsite and regional ecological values and resources are protected.
- Projects of this type located in high value habitat typically are reviewed under SEQRA via the full EIS process, if only to provide more opportunity for public review and comment. We encourage the Town to issue a Pos Dec and commence scoping of the environmental review for a full EIS. The completed Conservation Analysis studies and maps may form much of the basis for the ecological portions of an EIS.

#### ZONING ANALYSIS AND COMPREHENSIVE PLAN

Town Code § 175-20 indicates that a conservation analysis must include maps showing areas identified in the Comprehensive Plan or the Town's Natural Resource and Open Space Plan. The maps submitted with the project's Conservation Analysis provide most of the required information, most critically the high value habitats, wetlands, slopes and historic resources. We note the following additional resources/designations taken from the Town's Plans most of which are not shown in the applicant's maps, for consideration:

- The Philipstown Natural Resource and Open Space Plan (NROSP) identifies the project site, "the view east from Route 9 towards East Mountain Road South" as a Significant Viewshed to be protected. The Plan also maps part of the project site, including a portion of the proposed "potential development area" as a site that is "Visible from a Significant Viewpoint" on the map entitled "Priority Community Character Resource Areas". Once a site plan is developed a viewshed simulation analysis will be required to identify sensitive receptors as part of the environmental review process under SEQRA.
- The NROSP identifies two areas – the "East Mountain" and "Clove Creek" areas, which contain and are adjacent to the project site, as among the Town's Open Space Index areas, important for the protection of natural resources and community character, in accordance with New York State law (General Municipal Law §239-y). The proposed project "Map 9" shows the Open Space Conservation Overlay District (OSO) for East Mountain, but the key is hard to understand and doesn't list the OSO district.
- The wetlands and pond onsite form part of the headwaters of Clove Creek, which overlies one of four aquifers in the Hudson River basin designated as a "Primary Water Supply Aquifer" by the NYSDEC, and is specifically identified in the Town's Natural Resource and Open Space Plan (NROSP). The lower elevations of the project site are also mapped as the Clove Creek Aquifer (CCA) by the Town's Aquifer Overlay District.
- The NROSP rates the project site 4 out of 5 (high) for the number of natural resource functions (See map "Priority Resource Functions, Philipstown, NY).

### DENSITY AND CONSERVATION EASEMENT CALCULATION

- The applicant's Zoning Analysis (Section 1.03) indicates that the required open space set-aside is 147.4 acres. This is based on Minimum Protection Percentage applying only to the RR Zone (not the M Zone) portion of the property, and calculated in accordance with §175-20.H at 80% for land within the OSO overlay district and 60% for land outside OSO. Conservation subdivisions are allowed in the RC, RR, IC, and SR Districts only. For this project, M Zone land is also included. This M Zone land onsite is adjacent to Clove Creek and designated as high/medium conservation value. Since the applicant proposes to include the 11.1 acres of M Zone lands in the conservation subdivision, and because the Town Code indicates that "conservation subdivisions shall preserve at least 60% of the land as open space", these preservation set-aside provisions must apply to the entire site, including the M zoned land. Including the M Zone land at 60% set-aside yields a total required site conservation acreage of 154.1 acres. The total amount of applicant-designated high/medium conservation value land (i.e. non-developable) is a close match at 153.7 acres. Therefore there is no significant penalty in including the M Zone land in the calculation.
- Density calculations used to determine allowable residential unit number and impervious cover may need to be revisited in the next phase of project review, in accordance with Code sections §175-19/21, §175-74 and §175-1113. It is expected that a reasonable development of the land designated "potential developable area" by the applicant's conservation analysis will produce a smaller number of units than calculated by the zoning density formulas in order to protect the onsite pond and Clove Creek.
- Town Code §175-20.I, requires that "any conservation subdivision containing 10 or more dwelling units which is not served by a common or municipal sewage disposal facility...shall provide an analysis of the impact of nitrate loading on groundwater and surface water and shall take all necessary measures to prevent any adverse impacts on water resources." Considering the phytoplankton bloom identified within the onsite pond, water quality analysis of the contributing flows to the pond for nitrogen, phosphorus, and BOD is recommended to identify potential sources of contamination/nutrient inputs. Developing the site raises the potential for increased nutrient pollution to enter the pond so, as discussed below, this is one of the issues requiring further investigation.

### GENERAL NATURAL RESOURCE ANALYSIS COMMENTS

- Use of the site by Indiana bat (*Myotis sodalists*) and northern long-eared bat (*Myotis septentrionalis*) is assumed based on existing habitat and the NYNHP response. Timber rattlesnake (*Crotalus horridus*) is also listed by the NHP for the site and has been the subject of several studies conducted by the applicant's consultants which indicate that the site is sub-optimal for denning/basking habitat but may offer seasonal foraging habitat for rattlesnakes from other documented denning sites in the region. Site inspection shows rocky terrain onsite in both "developable" and "conservations" areas (Map 2) that contains both patches of open, sun-lit forest as well as denser cover and shade. Though no timber rattlesnakes have been found on site, this terrain appears ideally suited for foraging (if not denning) by timber rattlesnake. The conclusions of the latest bat and rattlesnake studies and their assessment of potential impacts to these Federally-listed and State-listed species must be reviewed by the NYSDEC and USFWS. The Town will rely on input from NYSDEC and USFWS in gauging potential impacts to these listed species.
- The Conservation Analysis should include the applicant's NYNHP request letter and the map submitted to NYNHP showing the project boundaries (which changed recently). NYNHP uses variable search radii extending from the outermost project boundary depending on species. If the NYNHP request letter did not show the current project boundary, a new one should be sent.
- All federally-listed species listed by USFWS's IPaC system should be discussed. The project site receives a positive response for bog turtle (*Glyptemys muhlenbergii*) from the IPaC site. While this species is unlikely to occur, an assessment/discussion of bog turtle and potential habitat onsite should

be included based the applicant's consultants current understanding of onsite habitat (no additional field work is necessary).

- During the site plan development stage, consideration should be given to maintaining and improving the existing southerly access off Mill Road/Horton Road rather than an entrance off East Mountain Road North, in order to avoid steep slope impacts and to more effectively preserve the contiguous Oak/Hickory forest and to avoid the talus/scree areas identified in the 2010/2011 timber rattle studies. A new, northern entrance drive may result in greater ecological impacts than a single driveway via Mill/Horton Roads.
- During the site plan development stage, consideration should be given to providing vegetated buffers wider than 100 feet to preserve the water quality of Clove Creek and the onsite pond. As discussed in the *Biodiversity Assessment of the North Highlands, Philipstown*, "The standard thinking is that it is sufficient to protect Clove Creek's water quality by maintaining the 100-foot buffer as called for in Philipstown's wetlands ordinance. The importance of a more sizable buffer to preserve the associated habitat and floodplain needs to be communicated to local planning authorities and the public at large."
- As cited in the conservation analysis reports (Coleman, 2014), during the site plan development stage, consideration should be given to maintaining habitat corridors between the pond and uplands and between the pond and Clove Creek to preserve movement of wildlife between these interconnected habitats within the property.
- The Executive Summary (Section 1.0) or Environmental Assessment (Section 7.0) should have some additional information about the past land-use history of the property and areas of past mining. Maps should show locations of past lands use/disturbance including mining.
- Although Map 1 (Executive Summary Maps) provides a good illustration of the surrounding contiguous forest, the conservation analysis needs a description of context, including identification/description of adjacent properties and whether there are opportunities to connect to adjacent preserved lands.
- Site inspection indicates that the on-site seeps that have been identified appear to be larger than indicated on the map and are connected to the wetland/stream complex contributing to wetland hydrology. Several seeps and streams higher up in elevation appear and disappear through rocky outcrops. The location of the seeps is adjacent to the "potential development area" on Map 2. Moving the "potential development area" further from the seeps is advised.
- The 3/25/16 site visit by NYSDEC did not inspect onsite wetlands east/south of Horton Road. However, these wetlands are contiguous with NYSDEC Wetland WP-19 so presumably would be NYSDEC-regulated. This issue must be resolved with communication/documentation with NYSDEC. (These wetlands will likely be preserved in the conservation area and the Town already regulates a 100-foot buffer. Nevertheless, NYSDEC jurisdiction over all onsite wetlands must be clarified.)

#### COMMENTS ON SECTION 5: LIMNOLOGY

The Limnology section provides a great deal of information that will be helpful for planning development of the project site. The study indicates that a phytoplankton bloom of Ulmar Pond occurred at the time of sampling affecting parameters such as Chlorophyll a, pH, and clarity. Despite this, fish sampling showed fish condition/health and species assemblage was high value for angling and aquatic plant sampling showed good condition, with only trace density of filamentous algae and invasive curly-leaf pond weed. Clove Creek macroinvertebrate sampling showed an even mix of species indicative of a generally healthy system. These results speak to the need to protect these aquatic resources when developing the site plan with such measures as wide buffers, limits on clearing/lawn areas, proper stormwater treatment measures, and a clustered lot configuration that provides relief from zoning and bulk regulations to achieve a limited footprint. The phytoplankton bloom observed on June 29, 2015 is an unexpected event considering the surrounding forested conditions. Additional water quality sampling and investigation for possible causes,

such as a faulty septic or other source within the pond's watershed, should be conducted. A more long term pond/stream study could determine what conditions are "normal", identify seasonal fluctuations and tell us the impact that the algal bloom had on the data that was collected.

- Section 5.13: The conservation analysis report recommends several pond improvement measures including - providing additional vegetation within the pond buffer; installing native shoreline plants (avoiding the importation of invasive aquatic plants), and; the installation of a pond aeration system. These are potentially beneficial and should be explored.
- Section 5.14: The report's enclosed letter from Allied Biological says, "It's likely that if the land around the pond is developed, the impairment could intensify, which could lead to the collapse of one or more of the biological communities." We agree. Additional users, boats, and development around the pond present the high possibility that the pond will be degraded, unless clear restrictions are placed on pond use, on the density of development, and on the mitigation measures (new vegetated buffers, etc.) proposed to protect it.

#### COMMENTS ON SECTION 7: SUPPLEMENTAL REPORT

- Section 7.02: The Wetland Delineation Supplementary Report identified a flagged area (drainageway) that doesn't meet Corps criteria. However, Town Chapter 93: Freshwater Wetlands and Watercourses, has a broad definition of "watercourses" which suggests this area flagged be retained, subject to review by the Town's Wetlands Inspector.
- Section 7.03: This section cites a Table 1, a comprehensive list of plants identified onsite - this table is not in the report, please submit. In order to ensure the site is fully inventoried for the presence of NYS/Federally-listed plant species, three-season vegetation surveys may be warranted within the footprint of disturbance for the Site Plan ultimately defined.
- Section 7.06: Dwarf spirea was found, a species not extant in NYS. As recommended, the plants should be preserved in a conservation area or relocated in coordination with S. Young of NYNHP.
- Section 7.06: Indiana and northern long-eared bats are assumed to be present based on habitat. The tree clearing windows listed in the document (mid-May to mid-August) do not match published resources and must be verified by NYSDEC/USFWS. For Indiana bat, the allowable tree clearing period is October 1 through March 31 depending on the distance from hibernaculum, and for northern long-eared bat the allowable tree clearing period is June 1 through July 31 as published in the latest 4(d) rule. Review and approval of tree clearing windows from NYSDEC/USFWS will be necessary. (Please note, the NLEB is identified in the document as "endangered", however it is federal/state "threatened".)
- Section 7.07: Eastern box turtle (*Terrapene carolina carolina*), a NYS special concern species, was found in the eastern acreage of site. Prior to construction, a reptile/amphibian exclusion and relocation effort should be considered.
- Section 7.07: The timber rattlesnake assessment refers to the known presence of timber rattlesnake den sites in the Breakneck-Fishkill Ridge region, west of Route 9 in the Town of Philipstown. Unlike the barrier presented by Route 9, the Project Site is largely contiguous with the lands to the east/southeast including Fahnestock State Park and. Some analysis/disclosure of the presence of known timber rattlesnake den sites in Fahnestock State Park and the movement of snakes to the project site for foraging from the south/east should be provided.
- Section 7.08: The conservation analysis indicates that hognose and eastern worm are expected to occur onsite, both "special concern" species in New York State. The analysis advises, "retaining this habitat in the 40+ acre conservation area would help mitigate the environmental impacts from the proposed subdivision." During the site plan development stage, further discussion of the protection of these species in the areas to be preserved should be examined.

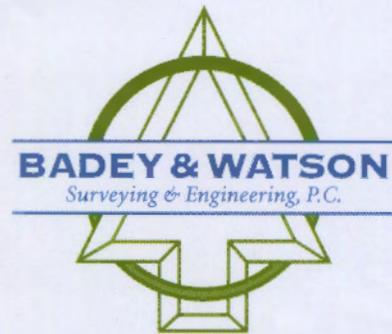
- Section 7.08: Says “To protect water quality and the water dependent species in the pond and its adjacent plant communities, maintaining at least a 100-foot buffer is suggested. Construction in close proximity to the groundwater seeps should likewise be avoided, with a similar buffer zone considered.” Agreed, during the site plan development stage this should be a central element of defining the limits of the development area.
- Section 7.09: This section indicates that a wetland report with federal wetland data sheets is not required. The onsite wetlands are regulated by the Army Corps of Engineers, the Town of Philipstown, and portions also regulated by NYSDEC. Accurate delineation of wetlands boundaries requires documentation in accordance with federal/state methodology.<sup>1</sup> Without the necessary documentation, principally the completion of federally-approved wetland data sheets, there is insufficient back-up to support the wetland boundary flagging – including documentation of soil profiles, vegetation dominance by species, and hydrology indicators at data points taken throughout the investigation area. Consultants and town wetland inspectors act as surrogates for the Army Corps of Engineers when determining wetland boundaries and must abide by the federal methodology.
- Section 7.11: This section states that Clove Creek would not be affected by activity on the northeastern slope of the project site. Please explain, it appears the entire site is tributary to Clove Creek.

---

<sup>1</sup> Environmental Laboratory. 1987. “Corps of Engineers Wetlands Delineation Manual,” Technical Report Y-87-1, US Army Engineer Waterways Experiment Station, Vicksburg, Miss; U.S. Army Corps of Engineers. 2012. Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region (version 2.0), ed. J.S. Wakeley, R.W. Lichvar, C.V. Noble, and J.F. Berkowitz. ERDC/EL TR-12-1. Vicksburg, MS: U.S. Army Engineer Research and Development Center.

July 7, 2016

Anthony Merante, Chairman  
Philipstown Planning Board  
Town Hall, 238 Main Street  
Cold Spring, NY 10516



RE: Hudson Highlands Reserve - Submission of Revised Materials

Dear Mr. Merante and Honorable Board Members:

Submitted herewith are copies of revised portions of the Conservation Analysis for the Hudson Highlands Reserve Conservation Subdivision. Specifically, you will find

- **Section 1, Executive Summary** which includes text revised in response to AKRF's June 4, 2016 memo and the Conservation Board's memo dated June 24, 2016. These reports and AKRF's November 11, 2015 memo are included at the end of this section. We are submitting 13 copies of the full text of this section. Please replace the entire Section 1 in your binder.
- **Section 3, Cultural Resources Assessment** – A larger and more readable copy of the map showing the buildings discussed in the report is provided. We are submitting 13 copies. Please add it to the end of the section.
- **Section 7, Wetlands Delineation and Environmental Assessment – Supplemental Report** – Stephen M. Gross of Hudson Highlands Environmental Consulting has prepared a second supplementary letter. This letter responds to comments in AKRF's June 4, 2016 memo. We are submitting 13 copies of Mr. Gross's July 6, 2016, letter and its attachments. It should be inserted at the end of the Section 7.
- **Section 9, Overlays** – As suggested in the Conservation Board's June 24, 2016, memo, clear acetate copies of six of the maps in the Conservation Analysis and a paper base map have been prepared. Used in various combinations, one will be able to see how each of the constraints, etc. shown on the various maps relate to the others. We are submitting 8 copies of the overlay set in a sheet protector, which should be inserted at the end of Section 9. An additional 5 sets will be submitted as soon as possible.

As you review the modifications, we are confident that you will find that the changes are responsive to the comments received from AKRF and the Conservation Board.

We have reviewed minutes of Planning Board meetings at which the Hudson Highlands Reserve was reviewed and we have inspected the Planning Board's file for the project. While it is clear that the Planning Board intends to act as Lead Agency for purpose of the State Environmental Quality Review Act (SEQRA), circulated notices to that effect to other Involved Agencies, we were unable to find a resolution actually declaring itself Lead Agency. So that the record is clear, we respectfully request that the Planning Board adopt a resolution confirming its status as Lead Agency.

We call your attention to Mr. Gross's July 6, 2016 letter regarding the AKRF memo of June 4, 2014. In his letter, Mr. Gross clearly explains the SEQRA process and his conclusion that the "Pos Dec" suggested by AKRF is premature. We agree with him. We also believe it entirely conceivable that the level of detailed environmental investigation in the Conservation Analysis coupled with a plan respectful of its conclusions, when incorporated into an expanded Full Environmental Assessment Form could result in a "Neg Dec".

RECEIVED  
JUL 07 2016

BY: .....*HW*.....

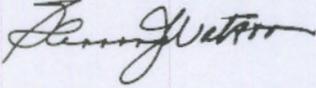
On behalf of our client, we respectfully request, that the Hudson Highlands Reserve project be placed on the Planning Board agenda for July 21, 2016, at which time we are hopeful that the Board will find that the Conservation Analysis is sufficient and that it weighs in favor of a finding that the property meets the standard for a Conservation Subdivision.

As always, thank you for your attention and continued concern for this and the other projects before you.

Yours truly,

**BADEY & WATSON,**

*Surveying & Engineering, P.C.*



by

Glennon J. Watson, L.S.

845.265.9217 x14

[gwatson@badey-watson.com](mailto:gwatson@badey-watson.com)

GJW/bms

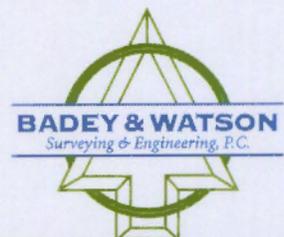
cc: File U:\86-228B\WO\_21792\_Hudson Highlands Reserve\Applications\_etc\Town\AM07\LI6BP\_SubmitsRevisionsToCA.docx  
Ulises Liceaga, Horton Road, LLC  
Richard L. O'Rourke, Esq., Keane & Beane  
Stephen M. Gross, Hudson Highland Environmental Consulting

**DATE**

Anthony Merante

Page 2 of 3

I:\chaos32\GJW\Letter 2016.docx



MODIFICATIONS  
to  
SECTION I

PLEASE  
REMOVE THE EXISTING NARRATIVE FROM  
SECTION I  
**DO NOT REMOVE THE MAPS FROM SECTION I**

Then  
REMOVE THIS COVER SHEET  
and  
USE THE REMAINING SHEETS AS A REPLACEMENT  
FOR THE SHEETS YOU REMOVED FROM SECTION I

RECEIVED  
JUL 07 2016

BY:  .....

## The Property and Project

The Hudson Highlands Reserve is the first conservation subdivision presented to the Philipstown Planning Board for its review and approval since the Town's current zoning law was adopted in 2011. Because the concept is new to both the Town and the sponsors of the project, the review has been careful and deliberate in an effort to "get it right the first time."

When discussion with the Planning Board began, the sponsor planned to develop its conservation subdivision on 155.6 acres. As the conservation subdivision process progressed the sponsor acquired an additional 50 acres, bringing the total area that will become Hudson Highlands Reserve to 205.6 acres.

The property is located on the east side of Route 9 between the northerly end of Horton Road and the southerly line of East Mountain Road North. With the additional 50 acres, which extended the tract to the southeast, the project reaches and has frontage on East Mountain Road South. The following Tax Parcels have been assembled to form The Hudson Highlands Reserve tract: 17.-1-39; 17.-1-76.111; 17.-1-76.112; 17.-1-76.21; and 17.-1-77.2. Of the 205.6 acres, 194.5 acres are located in the RURAL RESIDENTIAL (RR) zoning district in which conservation subdivisions may be approved. Of the 194.5 acres in the RURAL RESIDENTIAL (RR) zone, 153.5 acres are also in the Open Space Overlay (OSO) district. The land that provides frontage along Route 9 lies in the Industrial/Manufacturing (M) zone. (Map 9)

Most of the property is included in the Town of Philipstown's Open Space Index dated January 8, 2009. The entire tract is part of the Matrix Forest identified on the map entitled "Priority Biodiversity Resource Areas, Philipstown, NY" that forms part of Philipstown's Natural Resource and Open Space plan.

## Open Space Development

Section 175-19 of the Philipstown Code provides open space development options for the purpose of preserving "large tracts of open space land in order to maintain the rural appearance and environmental resources of the Town of Philipstown." The options are intended to offer development alternatives to landowners that avoid the uniform pattern of conventional subdivision "...". In this section the Town states that it "wishes to discourage conventional subdivisions where they would detract from the Town's rural landscape and natural resources."

Among the options that the Town offers is one that allows the development of a conservation subdivision. "The Town encourages conservation subdivisions as an alternative to conventional subdivisions. In conservation subdivisions, units are clustered or sited on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. Conservation subdivisions must satisfy the standards in § 175-20" of the Town Code.

## Conservation Value

The first step toward approval of a conservation easement is to determine whether a particular parcel has sufficient "conservation value".

Section 175-21A (1) of the Philipstown Code provides "Examples of lands with conservation value (are lands that) include view corridors along scenic roads, agricultural land, ridgelines, steep slopes, designated critical environmental areas, large areas of contiguous mature forest, wetlands, watercourses, and stream corridors. Prime and statewide important agricultural land, even if suitable for development, shall be considered land of conservation value."

As demonstrated in this document, the Hudson Highlands Reserve track of 205.6 acres contains: ridgelines; steep slopes; large areas of contiguous mature forest; wetlands; and water courses and stream corridors. Moreover, the land contains historic structures; scenic views; higher value natural plant communities and land that can be developed while protecting and/or without damaging the conservation value of the property.

## Assumptions

The Hudson Highlands Reserve is located in an area of the State and County known to be rich in both cultural resources and environmentally sensitive lands that provides habitat for a variety of flora and fauna. Among the Towns in Putnam County, Philipstown may have the most environmentally sensitive land, both in proportion to its size and absolute area. Philipstown is rich in cultural resources. In that regard, what elsewhere might be assumptions has, in Philipstown, matured into common knowledge.

Development of a parcel for residential purposes in such an area requires that the sponsor approach the project carefully to protect both the resources and sensitive land. The applicant assumed that cultural resources would exist on its property and knew that sensitive lands existed on the land in the form of wetlands, water courses, and steep slopes. It also knew that there was concern that any development of the property, if not done with great care, could result in lost habitat. The applicant assumed that the sensitive lands would present both challenges and opportunities. It has come to learn that the cultural resources also present them.

It is well established that steep slopes, wetlands, and water courses are particularly sensitive to the impacts of development. Accordingly, the applicant had the property mapped so that the location of the water courses and steep slopes could be identified and, in the case of the slopes, evaluated. Knowing that wetlands existed on the site, the applicant also had the wetlands evaluated, flagged, surveyed and mapped.

It is also well established that there is a lot to be learned about our history from cultural resources, whether they are shards of broken pottery, 19th century tools or other lost or abandoned material buried in the soil or still existing structures. Although not as apparent as the wetlands, water courses and steep slopes, after consultation with the Planning Board and its consultants, other agencies, and its own consultants, it became clear that the property had what might be significant historic buildings and the potential to contain artifacts worth preserving.

The applicant observed that the Hudson Highlands Reserve tract contained both "developable" land and land that should be protected. It made the initial purchase with the idea of building a conservation subdivision.

## Conservation Analysis

For the Planning Board to decide whether a parcel has sufficient "conservation value" it requires that an applicant provide it with the tool necessary for it to make an informed decision. This tool is called a Conservation Analysis. This document is the first step of the process toward approval of a conservation subdivision. It is a conservation analysis, a multi-faceted review of the property that provides the information necessary for the Planning Board to determine whether the proposed subdivision meets the standard for approval of a conservation subdivision. The purpose of a conservation subdivision is to "result in the preservation of contiguous open space and important environmental resources, while allowing compact development, more walkable neighborhoods and more flexibility than conventional subdivisions."<sup>ii</sup>

## Approach

The first directive regarding the preparation of the conservation analysis is that it shall "follow applicable criteria and recommendations in the Philipstown Natural Resources and Open Space Plan (PNROSP)."<sup>iii</sup>

The PNROSP identifies several areas where efforts can and should be made to protect open space and natural resources. It cites the Town's Comprehensive Plan goals of: (1) preserving the rural and historic character of the community; (4) expanding recreational opportunities; and (7) protecting Philipstown's natural resources.

Section 175-20A (1) of the Philipstown Code recommends that the applicant consult with the Philipstown Conservation Board, the Putnam County Soil and Water Conservation District and the Hudson Highlands Land Trust (HHLT). The applicant and its consultants met with each of these groups at the onset of this process.

The recommendation of the Conservation Board resulted in the addition of several consultants with specific expertise to help in the preparation of this document. The comments of the HHLT led the applicant to purchase additional land that could become permanently protected with a conservation easement and thus minimize any fragmentation that the project might have on the matrix forest that occupies the land.

Needless to say, the applicant also met with the Planning Board and its consultants on several occasions to review the initial work and consider the additional work that has made its way into this analysis.

The analysis is perhaps viewed and most easily understood as a layering process. The first layer is an accurate map of the property. Thereafter, as each potential constraint is identified, it is added to the map. When all of the layers are added, those areas most heavily layered are likely to be those most in need of protection (Map 2). This is not a perfect analogy because there could be a single condition that is so important that it alone deserves protection.

The July 2016 revision to this Conservation Analysis adds a set of acetate copies of the various maps that will allow users to overlay them and view different combinations of information at the same time.

**First Layer** – The first layer is the mapping that provides the medium on which all of the constraints are located. It shows the boundaries, topography and major physical features within or near the tract. Physical features include, water courses, buildings, and stone walls. There may be more than one base map. As a planning tool, the base map does not evaluate. It merely reports. (Map 33).

**Second Layer** – The order of the layers may vary, but in this analysis, the second layer is the slope analysis. The slope analysis identifies those areas where steep slopes exist. Construction on Steep Slopes cannot always be avoided, but in most development projects it should be avoided to the greatest practical extent. The slope analysis reveals that 52.9 percent of the upland on the site, or over 105 acres, has grades steeper than 20 percent. (Map 3).

**Third Layer** – The third layer to be added is the wetlands and water course layer. Before the addition of the 50 acres that extends the property to the southeast to East Mountain Road South, the wetlands on the site had been flagged and evaluated by Stephen W. Coleman of Steven W. Coleman, Environmental Consulting, Inc. (See Section 6) Subsequent to the addition of the 50 acres, the additional wetlands were flagged by Stephen M. Gross, of Hudson Highlands Environmental Consulting (See Section 7). The wetlands were surveyed and mapped and the regulatory buffer (100 foot) line was constructed (Maps 5 & 33). Areas where the wetlands and wetlands buffer exist add another area where development should be avoided to the greatest practical extent. Areas where the wetlands, wetlands buffer and steep slopes co-exist are now covered by two layers, making protection of these areas even more important.

**Fourth Layer** – Undisturbed land or land that has been undisturbed for a long time provides better habitat for flora and fauna than land that has been subjected to development by humans. Flora and fauna were both studied.

A portion of the property was studied in 2011 by Stephen W. Coleman (Section 8). In 2014 Mr. Coleman extended his study to include the original Reserve Parcel (Section 6). Of particular note is that, as part of his work, Mr. Coleman and his associate conducted investigations for rattlesnake habitat on a portion of the property in 2010 and 2011. They repeated the investigation and extended it further into the property in 2014. Mr. Gross and his associates conducted a similar investigation of the entire site in 2015. While neither of the studies discovered the presence of endangered or threatened species, both provided specific recommendations. Mr. Gross's study, in particular, noted that native plant species were doing better on the upper and steeper areas of the site, adding to the number of layers in that area (Map 7).

**Fifth Layer** – There is an important stream, Clove Creek, which runs along a portion of the northwest boundary of the property. There is also a pond on the property that has come to be called "Ulmar Pond" after Dr. David Ulmar, a longtime owner of the property and the person who had the pond constructed. The importance of Clove Creek as a resource to the community and to the neighboring Town and Village of Fishkill is common knowledge. Nevertheless, it and Ulmar pond were studied by Allied Biological, specialists in the region on inland water bodies (Section 5).

Allied Biological performed biological monitoring of the on-site pond which includes water quality monitoring, a baseline phytoplankton and zooplankton survey, a fish population survey, and a Geo-referenced aquatic plant survey. Biological monitoring was also performed in Clove Creek. The report provides recommendations to maintain healthy water bodies and mitigate any development-related affect. Christopher Doyle, the specialist and author of the limnology report, states that "from an angling standpoint, the Ulmar Pond fishery is ideal, with many suitable largemouth bass for experienced anglers and large bluegill sunfish for younger inexperienced anglers".<sup>iii</sup>

This layer does not increase the area that should be protected. It provides specific reasons why these areas should be protected and it provides sound reasoning why the pond provides an excellent place for "expanding recreational opportunities, while "protecting Philipstown's natural resources" as called for in the PNROSP.

**Sixth Layer** – This last and final layer to be discussed is comprised of two sections. They are reports designed to determine whether the development has the potential to destroy cultural resources.

The first section is the archaeological surveys conducted by Tracker Archaeology (Section 4). Alfred G. Cammisa, M.A., conducted the survey and prepared the reports. The purpose of the survey was to develop an opinion regarding the presence of any archaeologically significant resources, and if so, recommend what further measures might be taken to protect them. Mr. Cammisa had surveyed a portion of the property in 2011 (Lyons Mine) and expanded the area of the survey in 2015 to include those areas of the site considered to be more developable. There were three reasons why he did not cover the entire site. First, he limited himself to the area that is traditionally considered more developable, those areas being the flatter areas of the Reserve. Second, some of the area that he studied contained surface evidence of human activity such as farm walls, buildings, etc. that increase the likelihood that artifacts will be unearthed. Third, experience has shown that the steeper and other less developable areas of the site are unlikely to yield any resources because our predecessors tended to leave such land undisturbed.

After 800 shovel tests were conducted, logged and mapped, Mr. Cammisa concluded that no further archaeological work was required. He did this despite his having found a "cistern", which he finds archaeologically insignificant. He recommends that the study should be submitted to the NYS Office of Parks, Recreation and Historic Preservation.

The second section is the cultural resource survey conducted by Carla Cielo, M.S. (Section 3). The historic architecture report by Ms. Cielo, assesses the existing structures of at least 50 years of age within and adjacent to the property. As noted in the survey, the subject property contains historic structures that were found to be worth preserving. The report identifies the "1920's" frame house and the 1810-1825 timber frame barn as significant structures worthy of being preserved.<sup>iv</sup> Photographic documentation and a map of the sites are also included in the report. Ms. Cielo found some of the structures on the property to be significant and provided recommendations regarding how some of the structures might be protected and adaptively re-used. She also provided guidance regarding how the information that can be gleaned from the building might be preserved if actual reuse and preservation is not possible.

Ms. Cielo noted that the farm road that traverses the property is significant. She also noted that it is "potentially eligible for listing on the National Register of historic places".<sup>v</sup>

These reports were produced to provide support to the more obvious measures that should be employed in the creation of a conservation subdivision such as: avoidance of steep slopes and damage to Clove Creek; clearing certain areas thought to be developable from inflicting unintended damage (wetlands, architectural and archaeological surveys); and providing guidance regarding the protection of the existing resources (wetlands, habitat assessment, limnology, cultural resources). The base mapping and the reports were also intended to assist the Planning Board in deciding whether the land known as Hudson Highlands Reserve, qualifies for development as a conservation subdivision.

## Consultant's and Conservation Board Comments

During June 2016, the Conservation Board and AKRF, Consultant to the Planning Board prepared reviews of the February 2016 edition of this analysis. They are attached at the end of this section.

**Matrix Forest** - The Conservation Board was critical of the lack of discussion regarding the potential impact on the matrix forest of which the property is a part. The analysis did not ignore the issue. In approaching the project and during the early stages of developing the plan, the question of forest fragmentation was raised. The applicant responded by purchasing additional land that expanded its holdings by approximately a third. This land lies to the southeast of the original property and connects two undeveloped parcels, one to its north and one to its south. All of the additional land has been identified as having high conservation value and was purchased for the express purpose of minimizing fragmentation. Map 1 and Map 5 show this area.

**Benefit of Permanent Protection** - The maps and reports that make up this document, as well as some of the comments in the latest AKRF report offer an attractive opportunity to protect a substantial portion of the property. The maps clearly identify those areas where a conservation subdivision will not be developed. The 147 acres contain wetlands, Clove Creek, a pond that contains a healthy aquatic population, and steep slopes that support a significant stand of native plant species. Documents referred to in this analysis, including at least one prepared by the former Conservation Advisory Board have identified this parcel as one worth protecting. Whether it is important to protect wetlands, while questionable 50 years ago, is no longer a subject for debate. As stated in Chapter 93 of the Philipstown Code: "The wetlands and watercourses in Philipstown are valuable natural resources which function and benefit the entire Town and the surrounding region in one or more of the following ways:

1. Protecting subsurface water resources, watersheds and groundwater recharge systems.
2. Treating pollution through chemical and biological degradation and adsorption processes.
3. Providing drainage and flood control through ground absorption, natural storage and flood conveyance.
4. Controlling erosion and water turbidity by serving as sedimentation areas and filter basins, absorbing silt and organic matter.
5. Providing sources of nutrients in freshwater food cycles.
6. Serving as nursery grounds and sanctuaries for freshwater fish.
7. Providing a suitable living, breeding, nesting and feeding environment for many forms of wildlife, including wild fowl, shorebirds and rare species.
8. Providing suitable habitat for endangered flora.
9. Preserving open space and aesthetic values by providing open space in areas threatened with crowding from commercial and residential development.
10. Furthering education and scientific research by providing readily accessible outdoor biophysical laboratories, living classrooms and vast training and education resources.

The Conservation Board took exception to a comment made by Mr. Gross that steep slopes are a constraint. His comment was misunderstood. There was never any intention to downgrade the importance of protecting steep slopes. Their protection is, of course, important, not only to prevent erosion and sedimentation, but as Conservation Board reported, the can be areas where important habitat exists on and is supported by steep slopes. Mr. Gross's letter of July 6, 2016, at the end of Section 7 explains the point in more detail. Please refer to it.

In a related comment AKRF offered that "Retaining the eastern forested areas undeveloped in a conservation easement will help preserve the large contiguous forested lands extending east/south offsite which are of particular ecological and conservation value to the Hudson Highlands region. Protecting the wetlands on the southern portions of the site and providing large undisturbed buffers adjacent to Clove Creek and the Ulmar Pond will benefit water quality and preserve plant/animal diversity."

Zoning Laws and attitudes of subsequent owners can and do change. Permanent protection by the granting of a Conservation Easement as required by the Philipstown Code is the highest level of protection that can reasonably be achieved.

**Past Uses, Plans and Reports** – The Lyon's mine, often referred to in this document and for which all of the earlier reports were prepared, never materialized. There were earlier subdivisions, and improved parcels do exist that were once part of the property. The most recent activity on the property, other than the existing residential uses, occurred when David Ulmar owned the property and operated a farm.

**Adequacy of Testing** – The Conservation Board expressed concern regarding the adequacy of the testing. All testing was conducted by qualified personnel and at appropriate times of the year. In fact, the completion of this conservation analysis was delayed because both the tests and the inspections had to be scheduled to be conducted during specific times of the year. For instance, the investigations for rattlesnake habitats were conducted over a four-year period and during spring and early summer seasons and were subsequently built upon, checked, amplified and extended earlier tests. Wetlands certification by the NYSDEC was appropriately delayed until the spring of 2016 after vegetation had emerged sufficiently to allow proper identification of the wetlands.

## Summary

The existing conditions map shows that more than 10 acres of wetlands, watercourses and water surfaces and over 58 acres of land with slopes in excess of 20% exist within the portion of the project area that lies within the RURAL RESIDENTIAL (RR) zone. The PRNOSP cites the problems of steep slopes and wetlands among several threats to Philipstown's natural resources. Environmental Consultant Stephen Gross, notes that the "upper elevations and steep slopes are more dominated by native species, and represent higher value natural plant communities." The reports contain several recommendations.

1. Ms. Cielo makes several recommendations regarding the abandoned portion of Horton Road and the buildings on the property. They range from preservation and adaptive reuse to photo documentation during demolition and salvage.
2. Mr. Cammisa advises that there are no significant cultural resources in the developable area, and advises that his report should be submitted to the State.vi
3. Mr. Doyle states that the pond could be developed into a resource for fishing and other water related recreational uses. In addition, he recommends several actions that should be taken to protect and maintain the quality of the pond.
4. Mr. Coleman recommends that corridors be maintained between the pond and upland to facilitate movement of wildlife through the property. He also recommends that corridors be left open to allow migration between the pond and Clove Creek.vii
5. Mr. Gross recommends that disturbance on the upper elevations and steep slopes be avoided to protect the native species that are more abundant in those locations.viii He recommends that activities in and adjacent to wetlands be avoided and that development be undertaken in the lower more level areas of the site where the invasive and exotic species are predominant.ix His report contains a recommendation that tree removal be limited to the greatest extent practicable and any such removal be seasonally limited to allow for possible summer roosting of long-eared and Indiana bats.x Mr. Gross also recommends that particular attention be paid to storm water handling to avoid erosion and sedimentation problems.xi

At the suggestion of Town Engineer Ronald Gainer, Mr. Gross revisited the question of the adequacy of the 100-foot regulatory buffer surrounding the wetlands and watercourses that affect the property and the need to provide wildlife corridors across the site. His opinion is expressed in his second supplemental letter which appears at the end of Section 7. It concludes that the existing regulatory buffer is adequate.

Among the Historic Reports is a visual analysis that was undertaken for the Lyons Soil Mine, an abandoned project that had been proposed by the previous owner. This report demonstrated that the visual impacts were minimized for passers-by and provided only a small impact on distant views from the view points on Scofield Ridge, which is on the west side of Route 9. Because acceptable plans have not been developed for the project, preparation of a view analysis is premature. However, it is reasonable to conclude that the development will be further from Route 9 and thus have even less of an impact to passers-by. Views from Scofield Ridge may be somewhat wider, but the preservation of trees, as suggested by Mr. Gross will mitigate any additional impact when compared with the clear cutting envisioned by the Lyons plan.

The following table shows the results of the calculation of the minimum area that the Zoning Law requires be permanently protected when the conservation subdivision is approved.

Area of Tract	205.6 acres	Within Open Space Overlay	Without Open Space Overlay
Area Zoned M	11.1 acres		
Area Zoned RR	194.5 acres	153.5 acres	41.0 acres
Minimum Protection Percent		80%	60%
Minimum Protection		122.8 acres	24.6 acres
Minimum Protection Total			147.4 acres
Minimum Protection Percent of RR Zone			75.8%
Minimum Protection percent of Tract			71.7%

The Conservation Value Map and the Tax Map (Maps 2 & 9, respectively) attached to this report categorize the conservation value of the land within the Hudson Highlands Reserve as follows.

Conservation Value		High		Medium		Developable		Totals	
		Acres	Percent	Acres	Percent	Acres	Percent	Acres	Percent
Zoning									
M		2.0	18.0%	9.1	82.0%	0	0.0%	11.1	100%
RR	Within OSO	91.5	59.6%	17.0	11.1%	45.0	29.3%	153.5	100%
	Without OSO	28.4	69.3%	5.7	13.9%	6.9	16.8%	41.0	100%
Total		121.9	59.3%	31.8	15.5%	51.9	25.2%	205.6	100%

As can be determined by adding the shaded acreage in the previous table, there are 142.6 acres of land located in both the RR zone and is classified as having either high or medium conservation value. When compared with the 147.4 acres that must be preserved, it is clear that there is a 4.8 acre or 3.3% shortfall. This, of course **does not include** the 11.1 acres in the M Zone. The report contains information that will induce the applicant to modify its plan. Because the shortfall is only 4.8 acres, it appears that the minimum mandatory area of permanent protection by conservation easement is achievable within the general parameters shown on the early sketches of the proposed conservation subdivision.

As depicted on the Conservation Value Map (Map 2), the areas of the tract that have been categorized as having a high or medium conservation value contain most of the steep slopes and significant water ecology as well as all of; the Wetlands and Wetlands Buffer area; the Pond; Clove Creek; the Historic Structures and significant Forest Habitat. Mr. Gross has noted that the lower flatter areas of the tract, which is comprised of most of the uncategorized land, are "the areas of greatest disturbance and alteration" and contain "an abundance of exotic, invasive species". Accordingly, these areas have been identified as the most developable.

## Conclusion

The establishment of a conservation subdivision is predicated on the property having adequate cultural and environmental value and that the proposed development is sensitive to them. This conservation analysis provides ample data demonstrating significant cultural and environmental value for conservation, and provides recommendations and guidelines to help the sponsor and the Planning Board to be sensitive to these values.

Valuable habitat is concentrated on areas with higher elevation, steep slopes, and near surface water, wetlands or seeps. The easternmost portion of the site is of higher elevation and predominated by steep slopes and therefore identified as the primary area for conservation. The property is suitable habitat for endangered bat species and it has been determined that several species of NYS Special Concern may utilize this area. The primary area also contains valuable wetlands, seeps and surface water.

The northwest corner of the site is designated as land with high and medium conservation values. The portion of Clove Creek on the site, all of which is designated C(TS), comprises nearly all of the high value areas while the medium value area has a well preserved canopy with minimal invasive species. The entire region is protected by a forested ridgeline that can serve as a barrier from potential development.

Much of the flatter land experienced some form of development in the past. These areas contain exotic and/or invasive species. Development should be concentrated in this area. The Conservation Assessment Map outlines the potential developable areas.

The material contained in this conservation analysis demonstrates that there is sufficient reason to permanently protect significant portions of the property and sufficient appropriate area on which to develop a conservation subdivision.

Nevertheless, it is important to understand that it is rarely, if ever possible to completely avoid impacts on the constrained lands or resources that may exist within a parcel of land and still allow some level of development. The Hudson Highlands Reserve is no exception. The more developable portion of the Hudson Highlands Reserve are separated from the existing road network by the steep slopes between it and Route 9 to the northwest, East Mountain Road North to the northeast, and East Mountain Road South to the southeast. Furthermore, it is separated from Horton Road to the south by the wetlands that Mr. Gross has identified as a viable corridor for wildlife migration between the upland to the northeast and Clove Creek to the south. Because of this condition, it must be expected that there will be some activity within the constrained land. While most of the steep slopes surround the developable portion of the property, some are located within its limits. For this reason, it should be understood that some of the steep slopes within the developable portions of the property will be disturbed during the construction of the conservation subdivision. Similarly, some of the cultural resources identified in the reports that comprise this conservation analysis may be impacted. Should this be the case, every effort should be made to properly protect them.

Where steep slopes and other physical constraints exist, there should be a concerted effort to avoid them during the design process. Where they cannot be avoided, care should be taken by the designers to employ design criteria and specify construction methods that minimize potential impacts. Similarly, where cultural resources are threatened, measures should be taken to avoid them to the greatest practical extent. Where they cannot be avoided, measures, such as photo-documentation or incorporation into the design, as suggested by Ms. Cielo, should be employed to preserve the knowledge they contain.

Based on all of the foregoing and the reports contained in this conservation analysis, it is reasonable for the Planning Board to conclude:

1. The Hudson Highlands Reserve Property contains 205.6 acres;
2. Of the 205.6 acres, 129.8 acres is of medium to high conservation value.
3. The Planning Board is desirous of protecting steep slopes (>20%), and significant portions of the property contain such steep slopes;
4. The Planning Board is desirous of protecting wetlands, water bodies and water courses. Significant portions of the property contain wetlands, water bodies and water courses;
5. The Planning Board is desirous of enhancing recreational opportunities in Philipstown. The Hudson Highlands Reserve Property contains a lake that provides a significant opportunity for water related recreation, and the sponsors of the Hudson Highlands Reserve project have indicated a willingness to provide public access to its anticipated trail system;
6. The Planning Board is desirous of protecting Open Space. Approval of a conservation subdivision will require the applicant to permanently protect at least 147 acres of its property;
7. The Planning Board is committed to the protection of flora and fauna. The sponsors have included an additional 50 acres along East Mountain Road South to protect a critical portion of the Matrix Forest that runs through the property;
8. The Planning Board is committed to protecting the historic nature of the Town. The sponsor has committed to make every effort to the adaptive reuse of those historic structures identified as significant and the Planning Board has been assured that the more developable areas of the site do not contain significant numbers of cultural resources.

Respectfully submitted

Horton Road, LLC

Owner and Applicant

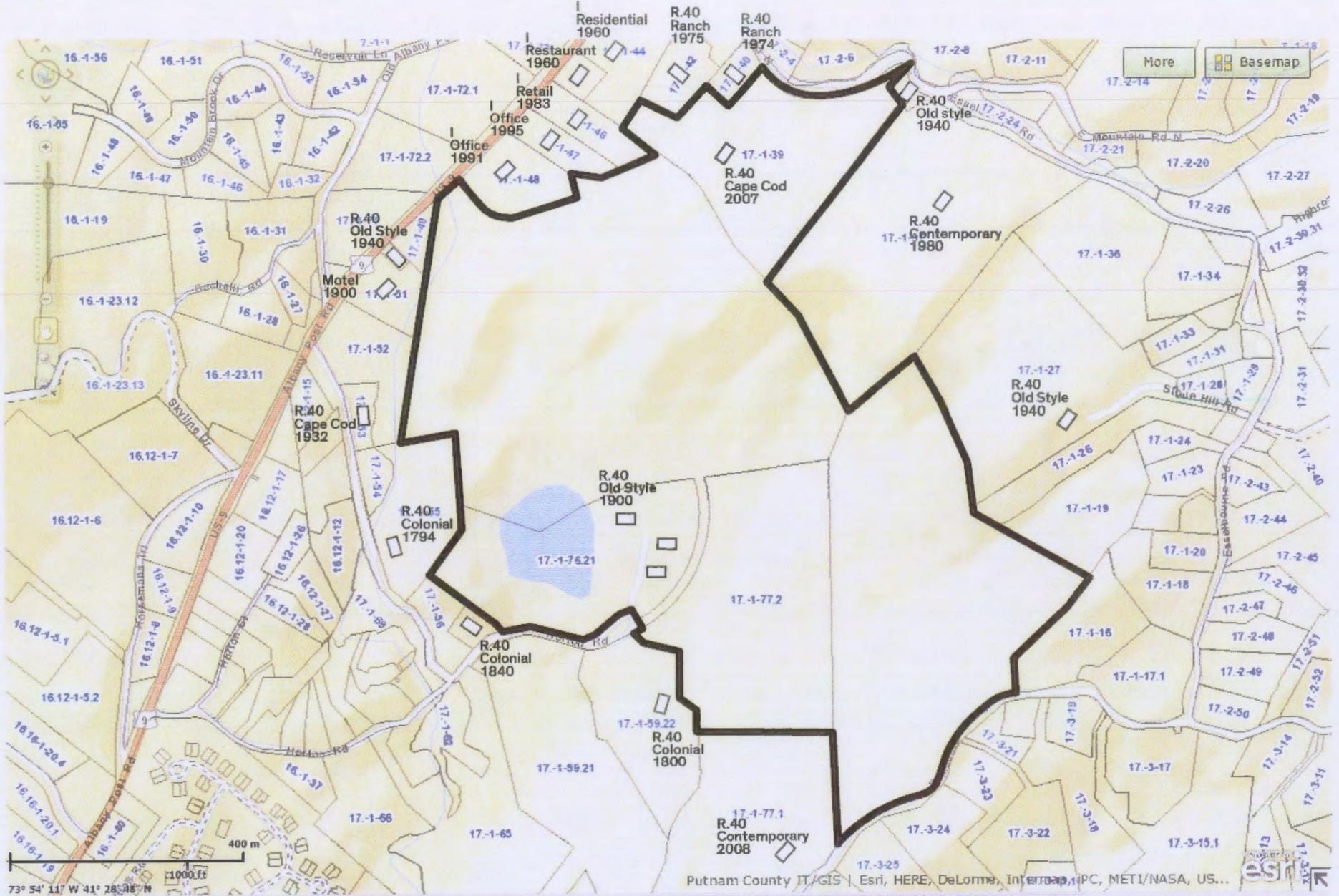
- 
- i Philipstown Code, Section 175-10
  - ii Ibid., Section 175-20A(1)
  - iii Allied Biological, *Biological Monitoring Report 2015 Summary Report- Ulmar Pond*, p.32, this document Section 5, p. 135
  - iv Cielo, Carla, *Untitled Report to NYS Office of Parks, Recreation and Historic Places* dated June 24, 2015, Sites 1 and 3, this document Section 3, pp 29 & 30
  - v Cielo, Carla, *Untitled Report to NYS Office of Parks, Recreation and Historic Places* dated June 24, 2015, Site 4, this document Section 3, p. 32.
  - vi Tracker Archaeology, Phase I, *Archaeological Investigation ... Hudson Highlands Reserve*, September 2012, p. 6, this document Section 4 p. 47
  - vii Coleman, Stephen W., *Wetlands Delineation & Environmental Assessment*, September 16, 2014, p. 13., this document Section 6, p. 203
  - viii Gross, Stephen M *Natural Resource Investigation*, dated August 12, 2015, p. 13, this document Section 7, p.222
  - ix Gross, Stephen M *Natural Resource Investigation*, dated August 12, 2015, p. 13, this document Section 7, p.222
  - x Gross, Stephen M *Natural Resource Investigation*, dated August 12, 2015, p. 14, this document Section 7, p.223
  - xi Gross, Stephen M *Natural Resource Investigation*, dated August 12, 2015, p. 13, this document Section 7, p.222

ADDITION  
to  
SECTION 3

PLEASE  
REMOVE THIS COVER SHEET  
and  
ADD THE MAP BEHIND IT  
TO THE END OF SECTION 3

RECEIVED  
JUL 07 2016

BY: ..... *lv* .....



More Basemap

73° 54' 11" W 41° 28' 48" N

Putnam County, GA | GIS | Esri, HERE, DeLorme, Intermap, iPC, METI/NASA, US...



**ADDITIONS  
to  
SECTION 7**

**PLEASE  
REMOVE THIS COVER SHEET  
and  
ADD THE REMAINING SHEETS TO THE END OF  
SECTION 7**

**RECEIVED**  
JUL 07 2016

BY: *hw* .....



*Hudson Highlands  
Environmental  
Consulting*

71 Colonial Avenue  
Warwick, N.Y. 10990  
www.HudsonHighlandsEnviro.com

(845) 986-5350  
FAX (845) 986-9492  
E-mail highlands144@gmail.com

July 6, 2016

Glenn Watson  
Badey & Watson  
Surveying & Engineering P.C.  
3063 Route 9  
Cold Spring, NY 10516

Re: Response to 6/4/16 AKRF letter, 6/24/16 Conservation Board memo

Dear Glenn:

This letter is written in response to the referenced comments received from Town representatives.

**SEQRA Determination**

The letter recommends: *"We encourage the Town to issue a Pos Dec and commence scoping of the environmental review for a full EIS."* This would be premature at this point. The State Environmental Quality Review Act (SEQRA) assesses the potential impact from a proposed action. As no plan has yet been developed, no action has yet been proposed that can be studied under SEQRA. Once a plan is developed, SEQRA requires that the potential impact from the action be first evaluated via an environmental assessment form (EAF). I understand that an EAF was developed and submitted for an earlier submission for this project, but that predated the decision by the Planning Board to develop a conservation analysis as part of a conservation subdivision process. As a result of that analysis and the conservation subdivision process, a new subdivision plan will now be developed that will specifically endeavor to preserve the identified natural and cultural resources on the project site, and minimize impacts. A new EAF should then be prepared based on the new plan, and evaluated by the Planning Board as lead agency. That new expanded EAF will incorporate the voluminous material contained in the conservation analysis, as well as the measures taken to preserve the identified resources and minimize impacts.

Based on that evaluation, the Planning Board must make a determination as to whether the proposed action is likely to (a positive declaration, or "Pos Dec") or is not likely to (a negative declaration, or "Neg Dec") result in significant impacts. If, and only if, the lead agency issues a Pos Dec will an environmental impact statement (EIS) be required to be prepared, and scoping be commenced. Given the extraordinary level of study and analysis that has already occurred, and the joint intention of the applicant and the Planning Board to develop a subdivision layout that expressly minimizes disturbance of identified natural and cultural resources, it is entirely reasonable to expect that the EAF may instead result in the issuance of a Neg Dec. Under these circumstances, an EIS would not be required at all.

### **Natural Resource and Open Space Plan**

The Natural Resource and Open Space Plan (NROSP) does indicate that a portion of the project site is within a viewshed, but this area appears to be completely within the area we have already designated as having high conservation value. However, it does make sense to add this as a criterion to the map in the Conservation analysis. It only serves to further support the designation of this area as having high conservation value.

Likewise, the "Primary Water Supply Aquifer" information can also be added to the map. In this case, this criterion covers the western side of the property, including all of the developable area. By definition, the aquifer is beneath the surface and therefore can not be directly disturbed. We are already proposing to protect the portions of the overlying surface that are the most critical to protecting the aquifer and the function of aquifer recharge, namely the wetlands, pond, and watercourses, as well as a protective buffer surrounding these features. The development of portions of the remaining area will have minimal impact.

As noted in the AKRF letter, the Town's Open Space Index lists parcels designated as "Clove Creek" as the 13<sup>th</sup> highest priority for conservation and/or purchase, and other parcels designated as "East Mountain" as the 16<sup>th</sup> highest priority for acquisition and/or preservation. The Clove Creek parcels are located approximately 0.4 mile south of the project site. The East Mountain parcels, however, include the project site. In describing the East Mountain parcels, particular mention is made that the "ridge is visible from Route 9 and from trails in Clarence Fahnestock State Park." While the Open Space Index specifically mentions acquisition, it is silent on other methods to achieve the stated goal of "preservation". One such method is through the conservation subdivision process. In the case of the contemplated action, that portion of the project site that comprises "the ridge" is included within the area designated for high conservation value for a variety of additional reasons, including containing unfragmented forest, unspoiled native vegetation, and valuable wildlife habitat, and would be permanently preserved under an approved conservation subdivision. As such, approval of a conservation subdivision on the subject property will accomplish the stated goals of the Open Space Index in preserving the majority of the designated East Mountain open space indexed parcels.

### **General Natural Resource Analysis Comments**

- Timber rattlesnakes are unlike other wildlife species. Their denning sites have been established for hundreds, even thousands of years. They do not establish new dens. Likewise, their travel for foraging, basking, and gestating usually follows patterns with little variation. Some den sites have been eliminated by development and quarries, and migration patterns have been affected by manmade barriers. Such barriers include well-traveled roadways like Route 9, although there have been occasional occurrences of crossings. While the AKRF letter may cite that conditions onsite could support different habitat aspects for timber rattlesnakes, decades of studies in the vicinity have firmly established that both rattlesnake dens and their associated populations occupy areas west of Route 9, but are absent from the eastern side, which includes the project site. As noted

in the conservation analysis, it is theoretically possible that rattlesnakes may find their way across Route 9 for foraging, but it is not likely, and the property would not be utilized for denning, basking, or gestating habitat. AKRF correctly notes that input will be sought from at least the NYSDEC, which is fully expected to confirm this assessment.

- The request letter and the map showing the project boundaries that were submitted to NYNHP are attached.
- Randy Stechert assessed the property for all species of reptiles and amphibians of concern, including bog turtles. No mention was made of bog turtle habitat because there was none. Should we decide to revise the conservation analysis itself, we could add in a simple statement like "USFWS's IPaC system indicates the potential presence of bog turtle (*Glyptemys mühlenbergii*) in the vicinity of the project site, but a site inspection by a qualified herpetologist determined that no bog turtle habitat is present."
- As the property is already accessed from Horton Road, using it as a formal access rather than just as an emergency access could potentially significantly reduce impacts associated with developing a new access. My understanding, however, is that possibility is off the table due to concerns regarding the impact on existing Horton Road residents.
- Any development scheme that has been considered would provide a buffer to Clove Creek far in excess of 100 feet, with the exception of the development of a potential access from Route 9. In that area, a ridge would fall between the access point and Clove Creek, preventing any direct drainage to the creek.
- The proposed development area is below the seeps, and will not interfere in any way with the hydrology that supports the seeps nor any potential connection (if any exists) to onsite wetlands. I do not see any value in providing any formal buffer on the downslope side of the seeps.
- I was present when the NYSDEC inspected the wetlands immediately below the dam, determined them to be under their jurisdiction, and further determined that there was no jurisdictional connection to any wetlands above the dam, so this issue is already settled.

#### **Comments on Section 7: Supplemental Report**

- Section. 7.02: As is noted in the last sentence on page 7.02, the drainageway already has been flagged, surveyed, and noted on the project plans as an intermittent drainageway.
- Section. 7.03: The vegetation list and the wildlife list are attached.
- Section. 7.06: The AKRF letter misstates what the Conservation analysis represented for a tree-clearing window. We listed Mid May through Mid-August as an **exclusion** period for tree clearing, not a tree clearing window. Nevertheless, we mistakenly used the Indiana bat survey dates. AKRF is correct that tree clearing for Indiana bat should be limited to October 1 through March 31. Similarly, the AKRF letter misstates the tree-clearing window for

northern long-eared bat. The June 1 – July 31 dates are an exclusion period for tree clearing, not a tree clearing window. These dates would be moot, however, if we are already adhering to the more stringent restrictions for Indiana bat. AKRF is also correct that while the New York State and federal status of the Indiana bat is endangered, the New York State and federal status of the northern long-eared bat should have been listed as threatened.

- Section 7.07: Eastern box turtles themselves were not found on the project site; rather, an empty turtle shell was. There is therefore no known population to relocate. Moreover, the shell was found well within the area proposed for conservation, so any population in that vicinity would not need to be relocated.
- Section 7.07: ALL timber rattlesnake den sites are located on the west side of Route 9. No dens exist on the east side, including within Fahnestock State Park. No further analysis is therefore necessary.
- Section 7.08: The Conservation analysis notes that 40+ acres of habitat for hognose and eastern worm snakes will be preserved. I don't see any other possible mitigation that can be offered.
- Section 7.09: The NYSDEC does not require wetland data sheets, and the Town wetland inspector, Dave Klotzle, has confirmed he has no need for them either. There is therefore no purpose to develop data sheets, which would require a significant amount of additional field work to do data collection at specific sampling points.
- Section 7.11: The area of discussion does not drain directly to Clove Creek due to the presence of an interfering ridgeline, as was discussed. Rather, this area drains to a portion of Clove Creek that lays not only more than 100 feet distant, but also on the opposite side of Route 9.

### Conservation Board Letter

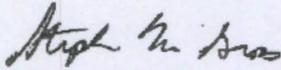
The Conservation Board memo misquotes me when it states, *"the CB is concerned by comments made by the applicant's environmental consultant that 'steep slopes are not necessarily environmentally sensitive areas'"*. What I said was that there needs to be a distinction between what is considered a "resource" and a "constraint", and that steep slopes, in and of themselves, are a constraint, but not necessarily a resource. This statement is not in disagreement at all with what Hudsonia says. Hudsonia cites certain specific instances where steep slopes may contain certain characteristics that can be considered a resource, but it is not simply the steepness of the slope by itself. Whether as a "resource" or as a "constraint", however, steep slopes are to be considered "environmentally sensitive," but the distinction does dictate different treatment. A resource should be avoided to keep it preserved for its own inherent value. A constraint should be avoided where possible, but if not, development in that area will necessarily require additional care and engineering to both enable that development and to avoid potential impacts elsewhere.

Mr. Glenn Watson  
July 6, 2016

As reported by Randy Stechert, there is a steep west-facing rocky slope and talus that rises 800' on the east edge of the property that historically may have been used as denning habitat by timber rattlesnakes, but is not today. This talus slope still does provide habitat for other species, such as unprotected copperheads, and is a resource. Other steep slopes on the property, however, are largely a constraint to development rather than a resource to be protected. It is true that most of these slopes are occupied by undisturbed native vegetation, but it is that undisturbed vegetation, not the slopes themselves, that are the resource. Where there are slopes closer to the area of historic development, in fact, some amount of non-native and/or invasive species are present. There are no carbonate crest or ledge conditions within the property.

Please feel free to contact me if you have any questions regarding any of these points.

Respectfully submitted,



Stephen M. Gross  
Principal

TABLE 1  
VEGETATION INVENTORY – HUDSON HIGHLANDS RESERVE

SCIENTIFIC NAME	COMMON NAME	HABIT	HABITAT TYPE
Trees			
<i>Acer pennsylvanicum</i>	Striped Maple	T	F
<i>Acer saccharum</i>	Sugar Maple	T	F
<i>Acer rubrum</i>	Red Maple	T	F
<i>Betula lenta</i>	Black Birch	T	F
<i>Betula populifolia</i>	Gray Birch	T	F
<i>Carpinus caroliniana</i>	American Hornbeam	T	F
<i>Carya ovata</i>	Shagbark Hickory	T	F
<i>Castanea mollissima</i>	Chinese Chestnut	T	F
<i>Elaeagnus angustifolia</i>	Russian Olive (Invasive species)	T	F
<i>Fagus grandifolia</i>	American Beech	T	F
<i>Fraxinus americana</i>	White Ash	T	F
<i>Juniperus virginiana</i>	Red Cedar	T	F
<i>Liriodendron tulipifera</i>	Tulip Tree	T	F
<i>Pinus strobus</i>	White Pine	T	F
<i>Populus alba</i>	White Poplar	T	F
<i>Prunus serotina</i>	Black Cherry	T	F
<i>Quercus alba</i>	White Oak	T	F
<i>Quercus rubra</i>	Red Oak	T	F
<i>Quercus palustris</i>	Pin Oak	T	FW
<i>Quercus prinus</i>	Chestnut Oak	T	F
<i>Robinia pseudoacacia</i>	Black Locust (Invasive species)	T	F
<i>Sassafras albidum</i>	Sassafras	T	F
<i>Tsuga canadensis</i>	Eastern Hemlock	T	F
<i>Ulmus americana</i>	American Elm	T	FW

**Habit:** Tree (T) Shrub (SH) Woody Vine (WV) Herbaceous (H) Grass (G) Sedge (S) Rush (R)

**Habitat Type:**

Upland Forest (F) Forest Shrub Layer (FS) Forest Herbaceous Layer (FH) Forest-Wet Soils (FW)  
Roadside/Disturbed Edge Herbaceous (RH)

SCIENTIFIC NAME	COMMON NAME	HABIT	HABITAT TYPE
Shrubs & Woody Vines			
<i>Berberis thunbergii</i>	Japanese barberry (Invasive species)	S	FS
<i>Celastrus orbiculatus</i>	Asiatic Bittersweet (Invasive species)	WV	FS
<i>Cornus amomum</i>	Silky Dogwood	S	FW
<i>Hamamelis virginiana</i>	Witch Hazel	S	FS
<i>Ilex verticillata</i>	Winterberry	S	FW
<i>Lindera benzoin</i>	Spicebush	S	FW
<i>Parthenocissus quinquefolia</i>	Virginia Creeper	WV	FS
<i>Rosa multiflora</i>	Multiflora Rose (Invasive species)	S	FS
<i>Rubus allegheniensis</i>	Blackberry	S	FS
<i>Rubus hispidus</i>	Dewberry	S	FS
<i>Rubus occidentalis</i>	Black Raspberry	S	FS
<i>Rubus phoenicolasius</i>	Wineberry (Invasive species)	S	FS
<i>Spiraea corymbosa</i>	Dwarf Spiraea	S	RH
<i>Spiraea tomentosa</i>	Steeplebush	S	RH
<i>Toxicodendron radicans</i>	Poison Ivy	WV	FS
<i>Vaccinium angustifolium</i>	Low-bush Blueberry	S	FS
<i>Viburnum acerifolium</i>	Maple-leaved Viburnum	S	FS
<i>Vitis aestivalis</i>	Summer Grape	WV	FS
<i>Vitis labrusca</i>	Fox Grape	WV	FS
Herbaceous Plants			
<i>Actaea pachypoda</i>	White Baneberry	H	FH
<i>Actaea racemosa</i>	Black Cohosh/Bugbane	H	FH
<i>Alliaria petiolata</i>	Garlic Mustard (Invasive species)	H	RH, FH
<i>Allium cernuum</i>	Wild Onion	H	FH
<i>Allium tricoccum</i>	Wild Leek/Ramps	H	FH
<i>Allium canadense</i>	Field Garlic	H	FH
<i>Ambrosia vulgaris</i>	Mugwort	H	RH
<i>Apocynum cannabinum</i>	Indian Hemp	H	RH

**Habit:** Tree (T) Shrub (SH) Woody Vine (WV) Herbaceous (H) Grass (G) Sedge (S) Rush (R)

**Habitat Type:**

Upland Forest (F) Forest Shrub Layer (FS) Forest Herbaceous Layer (FH) Forest-Wet Soils (FW)

Roadside/Disturbed Edge Herbaceous (RH)

<b>SCIENTIFIC NAME</b>	<b>COMMON NAME</b>	<b>HABIT</b>	<b>HABITAT TYPE</b>
<i>Arctium minus</i>	Burdock	H	RH
<i>Arisaema triphyllum</i>	Jack-in the-Pulpit	H	FH
<i>Aster sp.</i>	Aster	H	RH
<i>Cardamine parviflora</i>	Small-flowered Bittercress	H	RH
<i>Caulophyllum thalictroides</i>	Blue Cohosh	H	FH
<i>Chimaphila umbellata</i>	Striped Wintergreen	H	FH
<i>Cirsium arvense</i>	Canada Thistle (Invasive species)	H	RH
<i>Commelina communis</i>	Asiatic Dayflower	H	RH
<i>Convolvulus pandurata</i>	Wild Potato Vine	H Vine	RH
<i>Cynanchum louiseae</i>	Black Swallowwort (Invasive species)	H Vine	RH
<i>Desmodium canadense</i>	Tick trefoil	H	RH
<i>Equisetum arvense</i>	Field Horsetail	H	FH
<i>Erigeron annuus</i>	Daisy Fleabane	H	RH
<i>Erythronium americanum</i>	Trout Lily	H	FH
<i>Eupatorium rugosum</i>	White Snakeroot	H	FH
<i>Euthamia graminifolia</i>	Slender-leaved Goldenrod	H	RH
<i>Galium triflorum</i>	Bedstraw	H	FH
<i>Geranium maculatum</i>	Wild Geranium	H	FH
<i>Geum arvense</i>	Water Avens	H	RH
<i>Glechoma hederacea</i>	Ground Ivy	H	RH
<i>Hesperis matronalis</i>	Dame's Rocket (Invasive species)	H	RH
<i>Impatiens capensis</i>	Jewelweed	H	FH
<i>Lactuca canadensis</i>	Wild Lettuce	H	FH
<i>Lamium galeobdolon</i>	Yellow lamium	H	
<i>Lamium purpureum</i>	Purple Dead Nettle	H	RH
<i>Linaria vulgaris</i>	Butter & Eggs	H	RH
<i>Maianthemum canadense</i>	Canada Mayflower	H	FH
<i>Monotropa uniflora</i>	Indian Pipe	H	FH
<i>Myriophyllum spicatum</i>	Eurasian Milfoil (Invasive species)	H	Pond
<i>Oxalis europaea</i>	Yellow Wood Sorrel	H	FH, RH
<i>Plantago lanceolata</i>	English Plantain	H	RH
<i>Potentilla recta</i>	Rough-fruited Cinquefoil	H	RH
<i>Rubia perigrina</i>	wild madder	H	RH
<i>Rumex acetosella</i>	Field Sorrel	H	RH

**Habit:** Tree (T) Shrub (SH) Woody Vine (WV) Herbaceous (H) Grass (G) Sedge (S) Rush (R)

**Habitat Type:**

Upland Forest (F) Forest Shrub Layer (FS) Forest Herbaceous Layer (FH) Forest-Wet Soils (FW)  
Roadside/Disturbed Edge Herbaceous (RH)

SCIENTIFIC NAME	COMMON NAME	HABIT	HABITAT TYPE
<i>Solidago canadensis</i>	Canada Goldenrod	H	FH, RH
<i>Solanum dulcamara</i>	Bittersweet Nightshade	H	RH
<i>Symplocarpus foetidus</i>	Skunk Cabbage	H	FH Wet Soils
<i>Tovara virginiana</i>	Virginia knotweed	H	FH, RH
<i>Trifolium aureum</i>	Hop Clover	H	RH
<i>Trifolium pratense</i>	Red Clover	H	RH
<i>Trifolium repens</i>	White Clover	RH	RH
<i>Tussilago farfara</i>	Colt's Foot	H	RH
<i>Uvularia sessilifolia</i>	Sessile-leaved Bellwort	H	RH
<i>Verbascum thapsus</i>	Common Mullein	H	RH
<i>Verbena urticifolia</i>	White Vervain	H	RH
<i>Viola labradorica</i>	American Dog Violet	H	FH Wet soils
<i>Viola spp.</i>	Violet spp.	H	FH
Ferns & Mosses			
<i>Dennstaedtia punctilobula</i>	Hayscented Fern	H	FH
<i>Dryopteris spinulosa</i>	Spinulose Shield Fern	H	FH
<i>Onoclea sensibilis</i>	Sensitive Fern	H	FH
<i>Osmunda cinnamomea</i>	Cinnamon Fern	H	
<i>Polystichum acrostichoides</i>	Christmas Fern	H	FH
<i>Sphagnum sp</i>	Sphagnum Moss	Moss	FH Wet soils
<i>Thelypteris noveboracensis</i>	New York Fern	H	FH
Grasses, Sedges, and Rushes			
<i>Carex crinita</i>	Sedge	S	RH Wet soils
<i>Carex lurida</i>	Sedge	S	RH Wet soils
<i>Carex intumescens</i>	Sedge	S	RH
<i>Carex scoparia</i>	Sedge	S	RH Wet soils
<i>Carex spicata</i>	Sedge	S	RH Wet soils
<i>Carex vulpinoidea</i>	Sedge	S	RH Wet soils
<i>Festuca rubra</i>	Red Fescue	G	RH
<i>Hordeum pussillum</i>	Little Barley Grass	G	RH
<i>Juncus effusus</i>	Soft Rush	R	RH Wet soils
<i>Microstigium vimineum</i>	Japanese Stiltgrass (Invasive species)	G	RH, FH
<i>Panicum clandestinum</i>	Deer-tongue Grass	G	RH
<i>Phalaris arundenacea</i>	Reed Canary Grass (Invasive species)	G	RH

**Habit:** Tree (T) Shrub (SH) Woody Vine (WV) Herbaceous (H) Grass (G) Sedge (S) Rush (R)

**Habitat Type:**

Upland Forest (F) Forest Shrub Layer (FS) Forest Herbaceous Layer (FH) Forest-Wet Soils (FW)  
Roadside/Disturbed Edge Herbaceous (RH)

TABLE 2  
WILDLIFE INVENTORY – HUDSON HIGHLANDS RESERVE

Observation Dates: May 6, 22, 26, 31; July 9; August 1, 2015    Location: Hudson Highlands Reserve		
SCIENTIFIC NAME	COMMON NAME	DATES OBSERVED
<b>MAMMALS</b>		
<i>Odocoileus virginianus</i>	Whitetail Deer	Each site visit
<i>Ondatra zibethica</i>	Muskrat	5/6
<i>Sylvilagus floridanus</i>	Cottontail Rabbit	5/31
<i>Tamias striatus</i>	Chipmunk	5/26, 8/1
<b>AMPHIBIANS</b>		
<i>Bufo americanus</i>	American Toad	5/22
<i>Rana catesbeiana</i>	Bull Frog	5/6, 7/9, 8/1
<i>Rana clamitans</i>	Green Frog	5/22
<i>Rana palustris</i>	Pickerel Frog	5/26, 7/9
<i>Rana sylvatica</i>	Wood Frog	5/22
<b>REPTILES</b>		
<i>Chrysemys picta</i>	Eastern Painted Turtle	5/6
<i>Diadophis punctatus</i>	Ring-necked Snake	5/22
<i>Terrapene carolina</i>	Eastern Box Turtle	
<i>Thamnophis sirtalis</i>	Eastern Garter Snake	5/22
<b>BIRDS</b>		
<b>WATERFOWL SPECIES</b>		
<i>Branta canadensis</i>	Canada Goose	5/6
<b>RAPTORS</b>		
<i>Buteo jamaicensis</i>	Red-tailed Hawk	5/6, 7/9
<i>Buteo lineatus</i>	Red-shouldered Hawk	5/26, 7/9, 8/1
<b>WADING BIRDS</b>		
<i>Ardea herodias</i>	Great Blue Heron	8/1

SCIENTIFIC NAME	COMMON NAME	DATES OBSERVED
<b>PASSERINE SPECIES</b>		
<i>Cardinalis cardinalis</i>	Northern Cardinal	5/31, 5/26
<i>Catharus fuscescens</i>	Veery	7/9
<i>Catharus guttatus</i>	Hermit Thrush	5/6
<i>Colaptes auratus</i>	Northern Flicker	5/6, 5/26, 7/9
<i>Contopus virens</i>	Eastern Wood-PeWee	8/1
<i>Corvus brachyrhynchos</i>	American Crow	5/6
<i>Cyanocitta cristata</i>	Blue Jay	5/6
<i>Dryocopus pileatus</i>	Pileated Woodpecker	5/6
<i>Dumetella carolinensis</i>	Gray Catbird	5/26, 5/31
<i>Hylocichla mustelina</i>	Wood Thrush	5/26
<i>Icterus galbula</i>	Northern Oriole	5/26
<i>Megaceryle alcyon</i>	Belted Kingfisher	8/1
<i>Meleagris gallopavo</i>	Wild Turkey	5/6, 5/26
<i>Melanerpes carolinus</i>	Red-bellied Woodpecker	5/6, 5/26
<i>Molothrus ater</i>	Brown-headed Cowbird	5/6
<i>Parus atricapillus</i>	Black-capped Chickadee	5/6
<i>Parus bicolor</i>	Tufted Titmouse	5/26, 7/9
<i>Picoides pubescens</i>	Downy Woodpecker	5/6, 5/26, 7/9
<i>Pipilo erythrophthalmus</i>	Northern Towhee	5/6
<i>Turdus migratorius</i>	American Robin	7/9
<i>Troglodytes aedon</i>	House Wren	5/26
<i>Vireo olivaceus</i>	Red-eyed Vireo	5/26
<i>Zenaida macroura</i>	Mourning Dove	5/6



*Hudson Highlands  
Environmental  
Consulting*

71 Colonial Avenue  
Warwick, N.Y. 10990  
HudsonHighlandsEnviro.com

(845) 986-5350  
FAX (845) 986-9492  
E-mail highlands144@gmail.com

January 8, 2016

Nicholas Conrad  
Information Resources Coordinator  
New York Natural Heritage Program  
625 Broadway  
Albany, NY 12233-4757

RE: Endangered Species  
Hudson Highlands Reserve  
Town of Philipstown

Dear Mr. Conrad:

Hudson Highlands Environmental Consulting (HHEC) is preparing environmental documentation for a "conservation subdivision" on a parcel in the Town of Philipstown. The property is located at the end of Horton Road on the east side of US Route 9. The boundaries of the subject property are indicated on the attached map.

We would like to know if your records show the presence of any protected animal or plant species or significant wildlife habitat on or in the vicinity of the proposed project site. It would be greatly appreciated if you can provide this office with a written determination of the presence of any protected species as currently reflected in your records. We understand that this is not a definitive conclusion of presence or absence. This request is meant to supplement our own onsite investigation.

Thank you for your attention to this request. If you have any questions, I can be reached at 845-986-5350.

Sincerely yours,

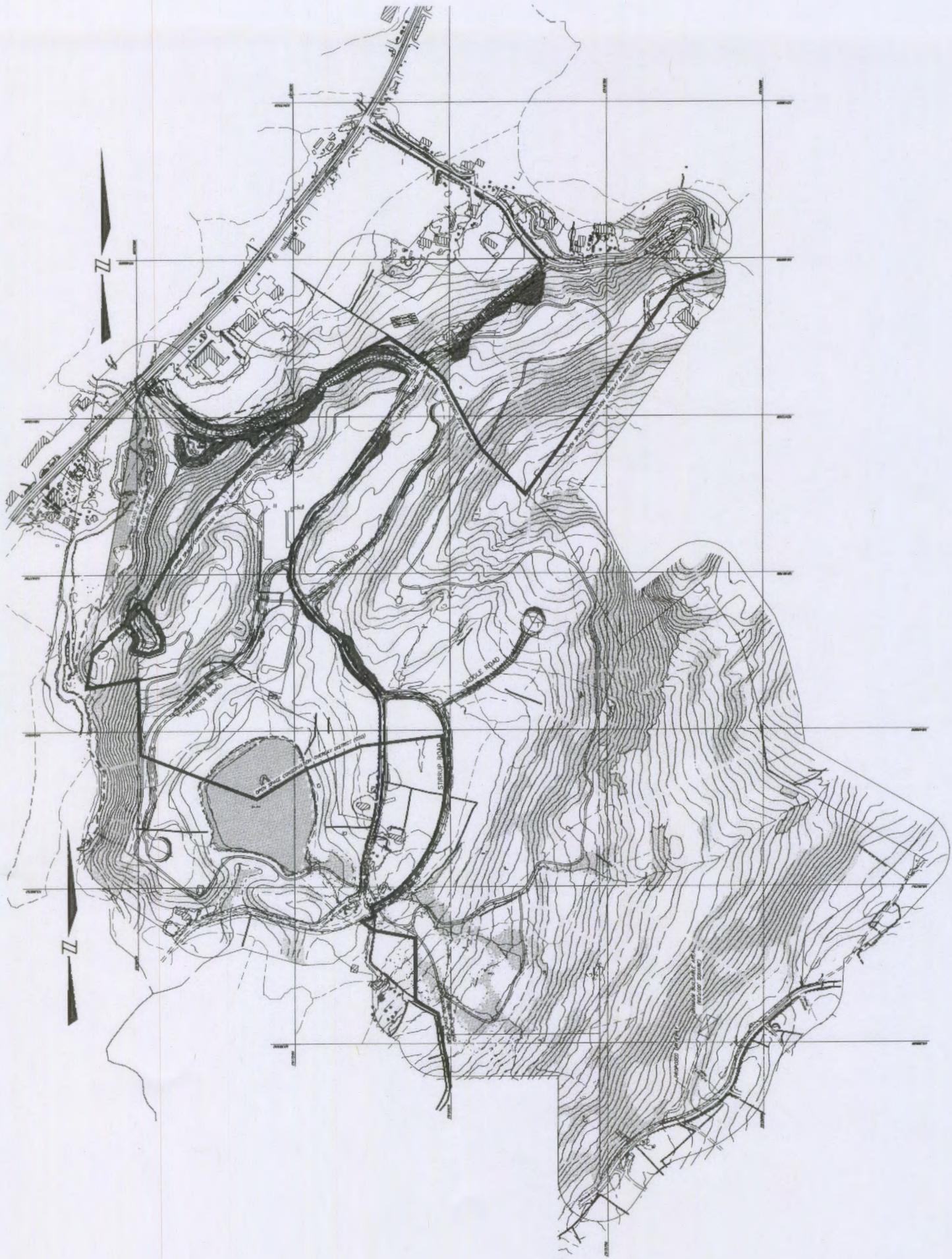
Stephen M. Gross  
Principal  
HUDSON HIGHLANDS ENVIRONMENTAL CONSULTING

**RECEIVED**  
JUL 07 2016

BY: *W*

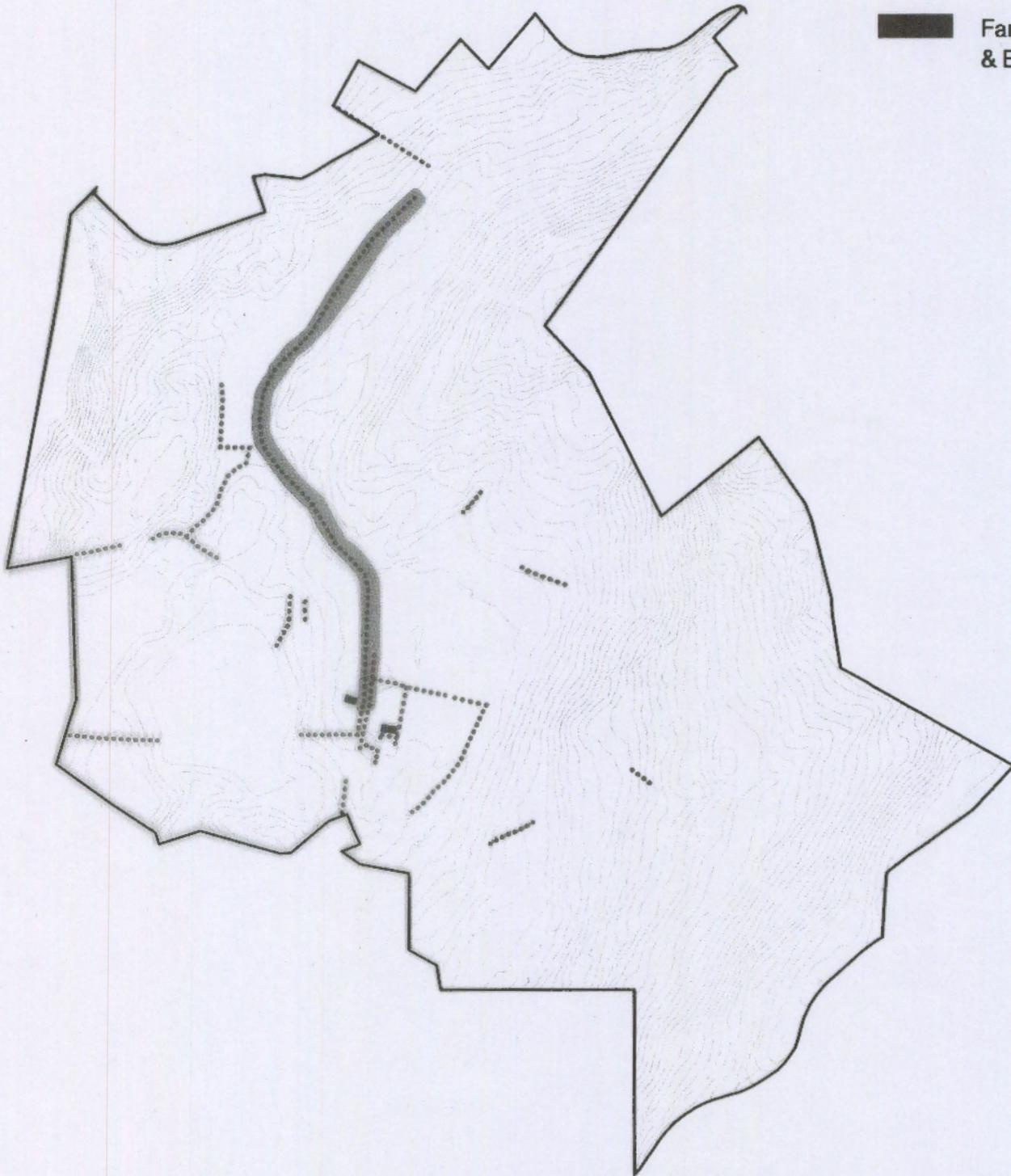
**ADDITIONS  
to  
SECTION 9**

**PLEASE  
REMOVE THIS COVER SHEET  
and  
ADD THIS SHEET PROTECTOR  
AND  
ITS REMAINING CONTENTS TO THE END OF  
SECTION 9**

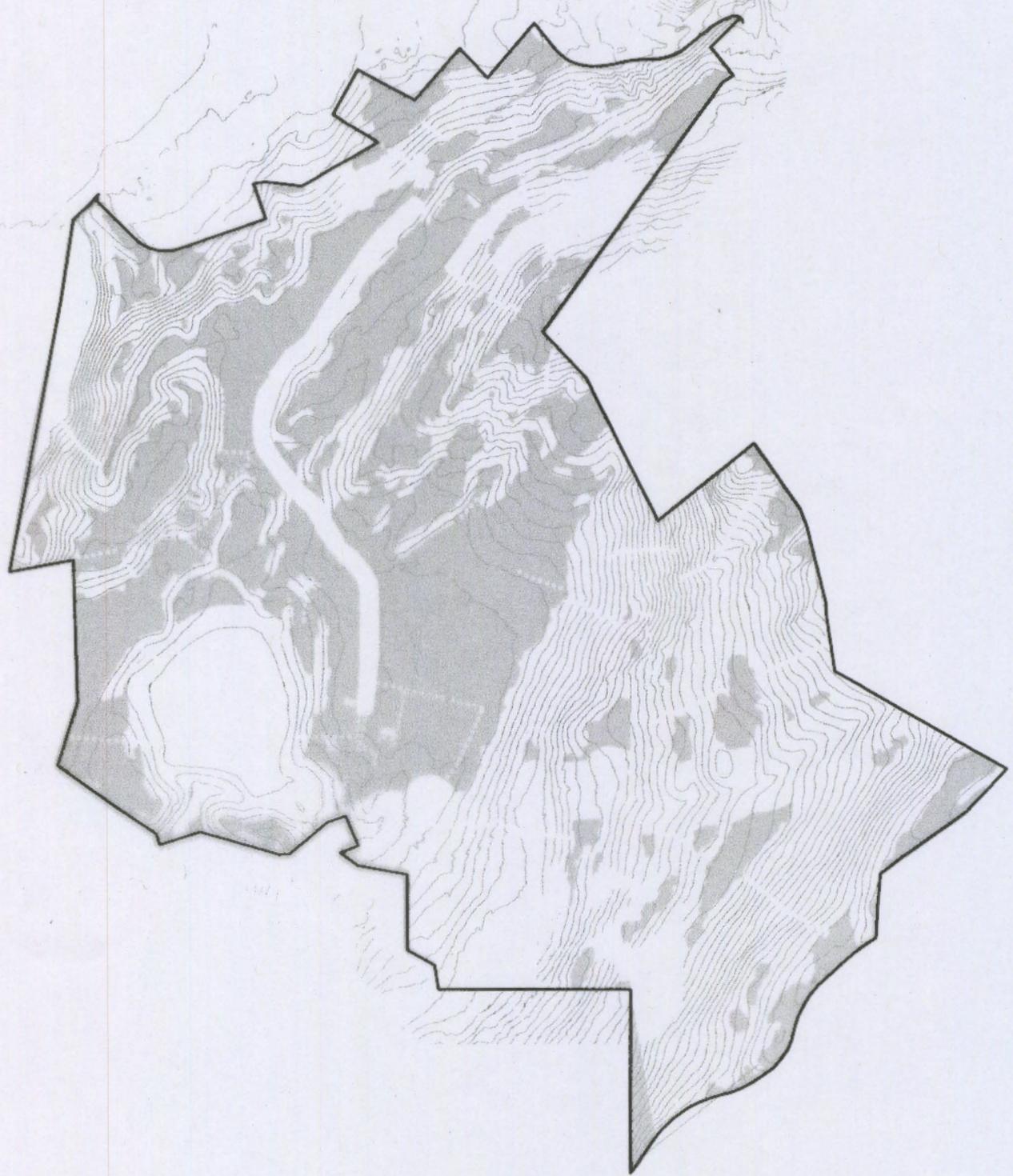


BASE MAP

-  Abandoned Section of Horton Road
-  Stone Wall
-  Farm House & Barn



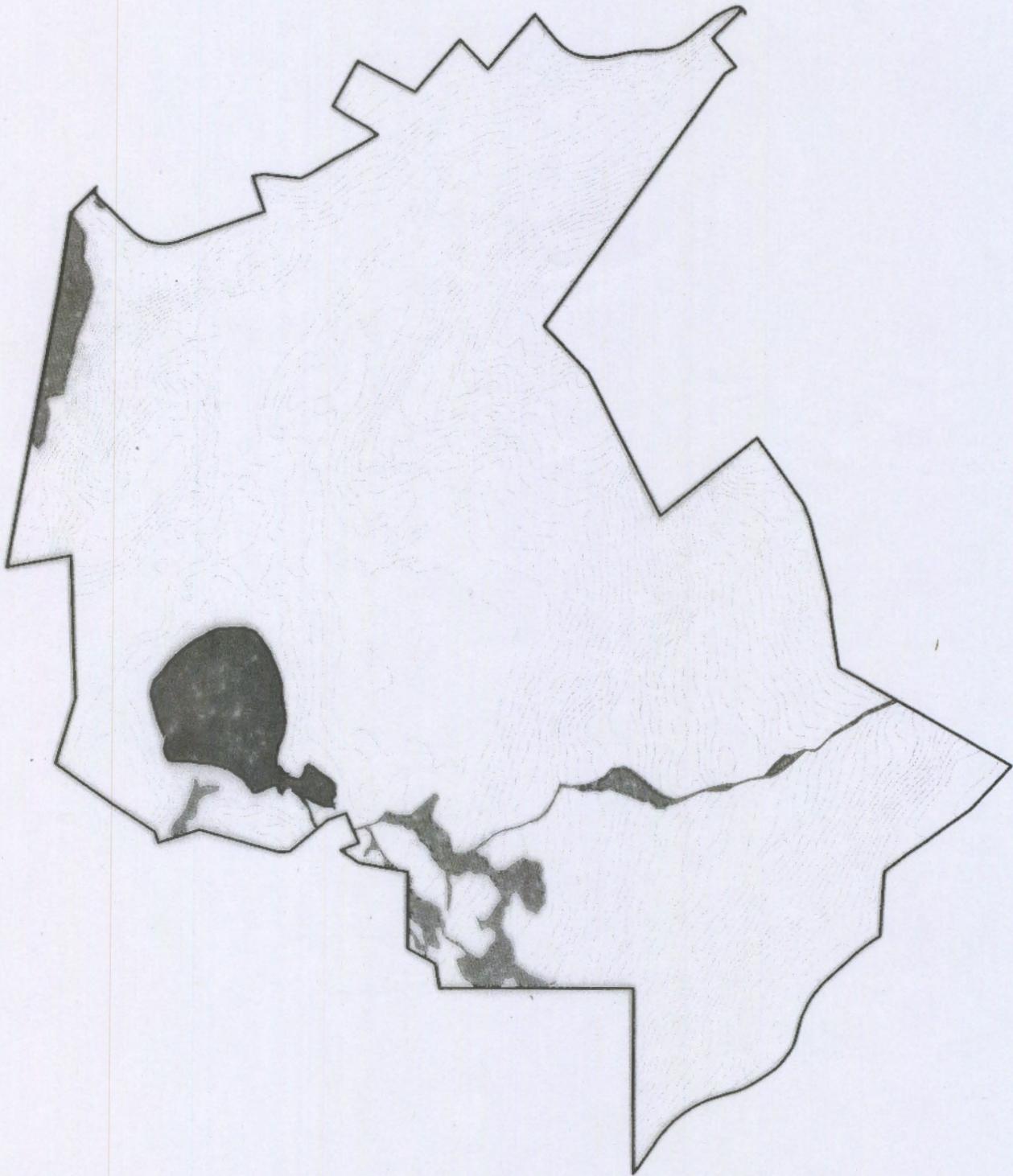
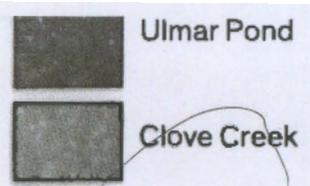
DEVELOPABLE  
AREA



DEVELOPABLE AREA



Scale 1:750



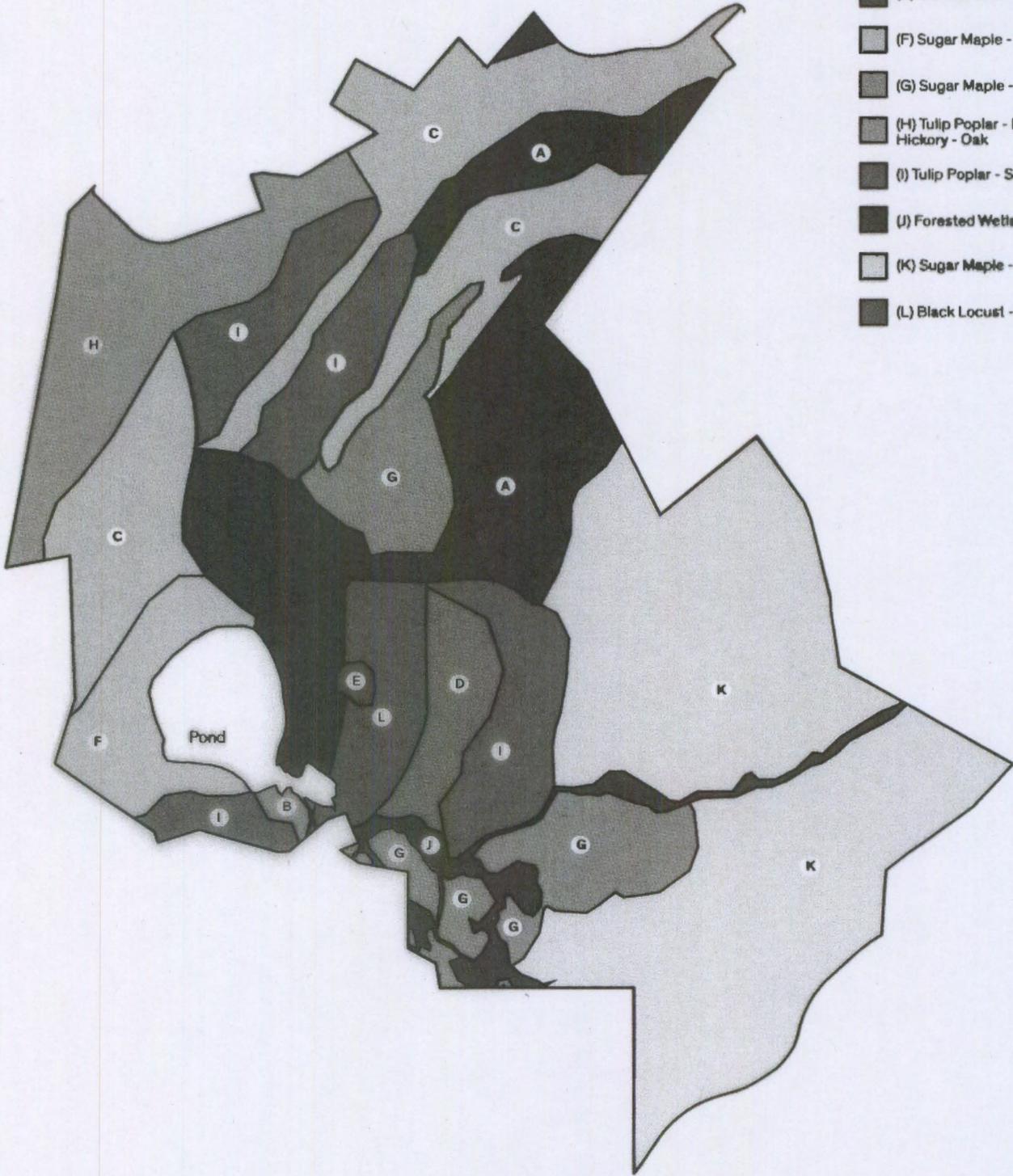
CLOVE CREEK AND ULMAR POND



Scale 1:750

FOURTH LAYER  
(MAP 7)

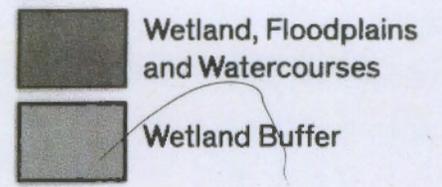
-  (A) Sugar Maple - Black Birch - Tulip Poplar - Hickory - Oak
-  (B) Black Walnut - Maple
-  (C) Oak
-  (D) Early Successional Field Logged Area
-  (E) Chinese Chestnut
-  (F) Sugar Maple - Red Maple
-  (G) Sugar Maple - White Ash - Oak
-  (H) Tulip Poplar - Hemlock - Hickory - Oak
-  (I) Tulip Poplar - Sugar Maple - Oak
-  (J) Forested Wetland
-  (K) Sugar Maple - Hickory - Ash
-  (L) Black Locust - Sugar Maple



VEGETATION DISTRIBUTION MAP

  
Scale 1:750

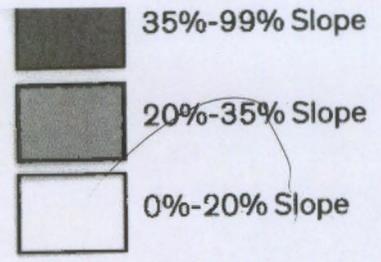
THIRD LAYER  
(MAP 5)



WETLANDS, FLOODPLAINS, AND WATERCOURSES



Scale 1:750



SITE GRADIENT MAP



# TOWN OF PHILIPSTOWN

238 Main St. P.O. Box 155 Cold Spring, NY 10516

RICHARD SHEA, SUPERVISOR

(845) 265-3329

TINA M. MERANDO  
TOWN CLERK AND TAX COLLECTOR

NANCY MONTGOMERY, COUNCILWOMAN  
JOHN VAN TASSEL, COUNCILMAN  
MICHAEL LEONARD, COUNCILMAN  
ROBERT FLAHERTY, COUNCILMAN

## MEMORANDUM

TO: Linda Valentino

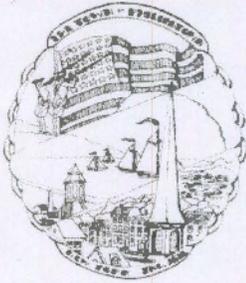
FROM: Dottie Turner

RE: Return cash bond HJF Trucking (\$15,890.41) includes Interest

DATE: June 28, 2016

Please see the attached memo from former Code Enforcement Officer Kevin Donohue. Based on the memo from Kevin, please place on the July 2016 Planning Board agenda asking the Planning Board to approve the release of the bond to the Applicant

RECEIVED  
JUN 28 2016  
BY: .....



## Town of Philipstown

Code Enforcement Office  
238 Main Street, PO Box 155  
Cold Spring, NY 10516

Office (845) 265- 5202 Fax (845) 265-2687

# Memo

To: Susan Kenny, Comptroller  
From: Kevin Donohue, Code Enforcement Officer  
Date: 3/8/2016  
Re: HJF Trucking & Excavation Co., 3643 Route 9, TM# 17.-1-73

---

I received your request as to the status of the HJF Trucking & Excavation Co., Site Plan Approval and the \$15,000 Bond posted with the Town of Philipstown.

Please be advised that a review of the records in the Code Enforcement Office for 3643 Route 9, TM# 17.-1-73, reveals that the Planning Board adopted a resolution on January 16, 2003 granting conditional site plan approval and there is no record that the conditions of final site plan have been met and there is no record of the Planning Board Chairman signed site plan approval, and no permits nor Certificates of Occupancy has been applied for or issued.

In keeping with the terms of Conditional Final Approval Site Plan approval expired twelve months after said approval where no Certificates of Occupancy has been filed with the Building Department.

Since the conditions of final site plan approval have not been met and that Site Plan approval has expired and that there is no longer an active application before the Planning Board, the Bond on file may be returned.

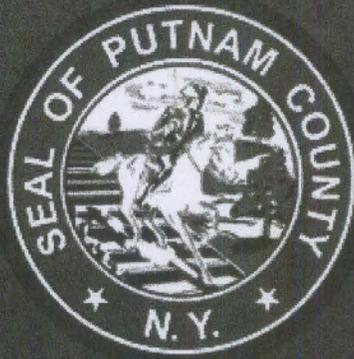


Image Mate Online

Navigation | GIS Map | Tax Maps | DTF Links | Assessment Info | Help | Log In

- Residential
- Property Info
- Owner/Sales
- Inventory
- Improvements
- Tax Info
- Report
- Comparables

<b>Municipality of Philipstown, Town of</b>				
SWIS:	372689	Tax ID:	17.-1-73	
<b>Ownership Information</b>				
Name		Address		
FJC Realty LLC		233 Croton Ave Mt Kisco NY 10549		
<b>Sale Information</b>				
Sale Date	Price	Property Class	Sale Type	Prior Owner
7/9/2003	\$190,000	330 - Vacant comm	Land Only	Percacciolo, Mary
	Value Usable	Arms Length	Deed Book	Deed Page
	Yes	Yes	1636	112
Additional Parcels Involved in Sale		17.-1-75 in Philipstown, Town of		
Sale Date	Price	Property Class	Sale Type	Prior Owner
2/12/2002	\$1	330 - Vacant comm	Land Only	Percacciolo, Joseph
	Value Usable	Arms Length	Deed Book	Deed Page

Photographs

No Photo Available

- Maps
- View Tax Map
- Pin Property on GIS Map
- View in Google Maps
- View in Bing Maps
- Map Disclaimer

# NYS Department of State

## Division of Corporations

### Entity Information

The information contained in this database is current through March 7, 2016.

---

Selected Entity Name: FJC REALTY, LLC

Selected Entity Status Information

**Current Entity Name:** FJC REALTY, LLC

**DOS ID #:** 2923616

**Initial DOS Filing Date:** JUNE 25, 2003

**County:** PUTNAM

**Jurisdiction:** NEW YORK

**Entity Type:** DOMESTIC LIMITED LIABILITY COMPANY

**Current Entity Status:** ACTIVE

Selected Entity Address Information

**DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)**

C/O JOSEPH FISHER

82 OLD ALBANY POST RD.

COLD SPRING, NEW YORK, 10516

**Registered Agent**

NONE

This office does not require or maintain information regarding the names and addresses of members or managers of nonprofessional limited liability companies. Professional limited liability companies must include the name(s) and address(es) of the original members,

**PHILIPSTOWN PLANNING BOARD  
TOWN OF PHILIPSTOWN, NEW YORK**

RESOLUTION P.B. # 01 -03 ( HJF Trucking, Site Plan Approval, Tax Map #17.-1-73, 75, U.S. Route 9, Philipstown, New York)

**WHEREAS**, the Town of Philipstown Planning Board received a site plan application dated October 4, 2001, from HJF Trucking & Excavating Co., Inc. to purchase the subject property to store vehicles, small pieces of equipment, and gravel, drainage pipes, concrete products, and other materials associated with the business. No structures, water supply well or septic system were proposed in connection with this application; and,

**WHEREAS**, The subject lot comprises 3.986 acres of land along the west side of US Route 9 just south of its intersection with Moshier Road. The property and areas along both sides of Route 9 in its vicinity are zoned I industrial; and,

**WHEREAS**, the applicant submitted a site plan application, application checklist, Statement of Use, and EAF dated October 4, 2001, along with a Site Plan prepared by Badey & Watson Surveying & Engineering, P.C., dated October 3, 2001 and a Second Site Plan dated February 13, 2002, (last revised November 21, 2002); and,

**WHEREAS**, the applicant submitted to the Planning Board a Wetland Permit Application October 9, 2002, with a Short Form EAF, Wetlands Report by Soil Science and Environmental Services, Inc., dated May 2, 2002, a list of adjoining property owners, description of proposed activities, and revised Site Plan dated October 9, 2002. Such application was referred to the Wetland Advisory Committee for review; and,

**WHEREAS**, the applicant met with the Wetland Advisory Committee in October, 2002, had a site visit with representative of the committee, and was informed the committee was satisfied with the plan as presented;

**WHEREAS**, the applicant originally proposed to add a site access drive to Moshier Road with a gate controlling access to the yard and a 5' 11" stockade fence enclosing the facility, two parking spaces within the proposed yard, and a turnaround area along the proposed 140-foot long drive from Moshier Road. Original drainage improvements proposed included an 18-inch corrugated metal pipe with velocity dissipator beneath the proposed drive, a culvert beneath the drive along Moshier Road, and an infiltration trench along the northern perimeter of the yard; and

**WHEREAS**, Tim Miller Associates, Inc., Town Planner, has reviewed the proposed site plan and Statement of Use and has reported to the Planning Board by memoranda dated October 18, 2001, January 14, 2002, October 17, 2002, and November 21, 2002; and,

**WHEREAS**, the applicant has revised the Site Plan to relocate the proposed contractor's yard to the north end of the property, to modify access to the site from U.S. Route 9 rather than Moshier Rd., to construct infiltration trenches along the southern and western sides of the facility, and to add a small storage shed (8' x 12') for containment of smaller storage materials; and,

**WHEREAS**, the applicant has agreed to provide landscape screening along the eastern, western and northern sides of the property as presented in the Site Plan; and,

**WHEREAS**, the applicant would be responsible for maintenance of all landscaping on the site in a vigorous growing condition; and,

**WHEREAS**, a public hearing was held on this application on January 17, 2002 and was continued on February 14, 2002. A continuation of the public hearing was scheduled for March 20, 2002 and was postponed to April, then June 2002. The public hearing was closed on November 21, 2002; and

**State Environmental Quality Review Act**

**WHEREAS**, it was determined that this action is subject to SEQR review according to ECL Part 617 and, based on a Short Form EAF dated October 4, 2001 submitted by the applicant, this project was determined to be an unlisted action. As requested by the Planning Board, applicant submitted a Full Long Form EAF dated November 21, 2002; and,

**WHEREAS**, a coordinated SEQR review was conducted and the Planning Board acted as lead agency;

**WHEREAS**, on November 21, 2002, the Planning Board reviewed Part 2 of the Long Form EAF and based on said review, potentially large impact relating to construction on land where depth to water table is less than 3 feet, and small to moderate impacts related to surface and groundwater quality, aesthetic resources, transportation and growth and character of the community were revealed;

**WHEREAS**, prior to the November 21, 2002 Planning Board meeting, the Applicant responded to the issues identified above, through several revisions to the Site Plan dated September 21, 2002, October 1, 2002, October 9, 2002, November 5, 2002, provided response to comments raised during the public hearing, and provided a Part 3 EAF response addressing the potentially large impact identified above, and based on the Planning Board's review the plans, responses, and Part 3 EAF, Applicant has demonstrated that no adverse impacts will result from the project.

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

- 1) that the Planning Board adopts a Negative Declaration (dated January 16, 2003) consistent with Article 8 of Environmental Conservation Law (See Attachment 1).
- 2) that the Planning Board grants applicant a wetland permit for regulated activities associated with the proposed project, as applied for in Wetland Permit Application submitted to the Board October 9, 2002, and referred to the Wetland Advisory Committee for review;
- 3) the Planning Board hereby conditionally grants final site plan approval. Said approval expires within 12 months unless an application for a certificate of occupancy is filed with the Town Building Department.
- 4) No certificate of occupancy may be applied for until the site plan is signed by the Planning Board Chairman and this resolution is signed by the applicant and the Town Building Inspector. The Planning Board authorizes the Planning Board Chairman to sign the final version of the site plan drawing upon receipt or proof of compliance with the following items:

a) Addition of a note to the site plan that states: "The use of this property in accordance with these plans and the submitted Statement of Use shall not occur until such time as all site improvements, including landscaping, fencing, berming and monuments, are in place in accordance with approved plans. No permanent certificate of occupancy shall be granted until a report prepared under the seal of a professional engineer indicating all improvements are complete is provided to the Building Inspector. No temporary certificate of occupancy shall be granted for a period of greater than six (6) months without approval of the Planning Board; and

b) Posting of a \$15,000 cash bond with the Town in connection with landscaping. Said bond to be returned upon receipt of a report from the Planning Board indicating that said landscaping has been installed in accordance with the approved site plan; and

c) Provision of a note on the site plan indicating that "[All] landscaping will be maintained by the applicant and/or its successors in a vigorous growing condition"; and

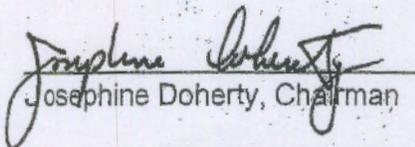
d) Provision of a note on the site plan indicating that "[All] parking and outside storage activities will occur only in designated areas and in accordance with these plans.", and

e) Evidence of receipt of a permit for the proposed access onto NYS Route 9 from the New York State Department of Transportation; and

f) Provide a note on the site plan to specify the hours of operation as Monday through Friday, 7:00 AM - 5:00 PM, Saturday, 7:00 AM - 12:00 noon, and closed Sunday, as indicated in the revised Statement of Use dated January 16, 2003; and

Adopted at a meeting of the Philipstown Planning Board on January 16, 2003.

**PHILIPSTOWN PLANNING BOARD**

  
Josephine Doherty, Chairman

I have read, acknowledge, and understand the terms and conditions of this resolution.

\_\_\_\_\_  
Applicant

\_\_\_\_\_  
Town Code Enforcement Official