

## GRANT OF DEVELOPMENT RIGHTS AND CONSERVATION RESTRICTIONS

WHEREAS, BRUCE D. McALLISTER and JUDITH A. McALLISTER are the owners in fee of certain real property in Norwich, Vermont, which has aesthetic, recreational and natural resource value in its present state, as well as value resulting from its potential future development as residential or commercial property, which property has not yet been subject to excessive development; and

WHEREAS, this property contains 24.37 acres (more or less) of land in agricultural and forestry land use, which provides wildlife habitat as well as recreational opportunities; and

WHEREAS, the UPPER VALLEY LAND TRUST, INC. is a publicly supported non-profit corporation incorporated under the laws of the State of New Hampshire, and qualified under Section 501(c)(3) and 170(h) of the Internal Revenue Code, whose purpose is to preserve undeveloped and open space land in order to protect the aesthetic, recreational, cultural, educational, scientific and natural resources of the state through non-regulatory means, thereby reducing the burdens on state and local governments; and

WHEREAS, the economic health of Vermont is closely linked to its agricultural and forest lands, which not only produce food products, fuel, timber and other products, but also provide much of Vermont's scenic beauty, upon which the state's tourist and recreation industries depend; and

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

WHEREAS, the parties to this Grant recognize the scenic, silvicultural and natural values of the property, and share the common purpose of conserving these values by the conveyance of a conservation restriction to prevent the use or development of the property for any purpose or in any manner which would conflict with the maintenance of these values; and

WHEREAS, the conservation of this property as open space land is consistent with and in furtherance of the town plan adopted by the Town of Norwich and the regional plan adopted by the Upper Valley Lake Sunapee Regional Planning Commission, and the purposes set forth in Title 10, Vermont Statutes Annotated, Section 6301;

NOW, THEREFORE,

Vermont Property Transfer Tax  
32 V.S.A. Chap. 231

**—ACKNOWLEDGMENT—**

Return No. 80-96  
Signed Bruce J. Lynch, Clerk

**RECEIVED**

July 8 AD 1996  
AT 2 O'CLOCK 45 MIN. P.M.  
AND RECORDED IN Land Records  
BOOK 121 PAGE 59-68  
ATTEST: Bruce J. Lynch  
TOWN CLERK, NORWICH, VERMONT

KNOW ALL MEN BY THESE PRESENTS that BRUCE D. McALLISTER and JUDITH A. McALLISTER of Norwich, Vermont, on behalf of themselves and their heirs, successors and assigns (hereinafter "Grantor"), in consideration of the agreement of Grantee to accept the development rights as herein described and enforce in perpetuity the conservation restrictions contained herein, and the payment of Ten Dollars and other valuable consideration paid to their full satisfaction do freely give, grant, sell, convey and confirm unto the UPPER VALLEY LAND TRUST, INC., a non-profit corporation with its principal offices in Norwich, Vermont and its successors and assigns (hereinafter "Grantee"), the development rights and a perpetual conservation easement and restrictions (as more particularly set forth below) in a certain 24.37 acre tract of land situated in the Town of Norwich, Vermont (hereinafter "Protected Property") said Protected Property being more particularly described in Schedules A and B attached hereto and incorporated herein.

The development rights hereby conveyed to the Grantee shall include all development rights except those specifically reserved by the Grantor herein and those reasonably required to carry out the permitted use of the Protected Property as herein described. The conservation easement and restrictions hereby conveyed to the Grantee consist of covenants on the part of the Grantor to do or refrain from doing, severally and collectively the various acts set forth below. It is hereby acknowledged that these covenants shall constitute a servitude upon the land and run with the land. Grantee accepts and agrees to enforce such covenants in order to achieve the purposes set forth in Section I, below.

#### **I. Purposes of the Grant**

Grantor and Grantee acknowledge that the Purposes of this Grant are as follows (hereinafter "Purposes of the Grant")

1. To contribute to the implementation of the policies of the State of Vermont designed to foster the conservation of the state's agricultural, forestry, and other natural resources through planning, regulation, land acquisition, and tax incentive programs.
2. To conserve productive agricultural and forestry uses, wildlife habitats, non-commercial recreational opportunities and activities, and other natural and scenic values of the Protected Property for present and future generations.
3. To prevent any use of the Protected Property that will significantly impair or interfere with its unique and significant qualities of public benefit, such qualities being: undeveloped scenic land abutting the Appalachian Trail corridor.

Grantor and Grantee recognize these silvicultural, scenic and natural values of the Protected Property, and share the common purpose of conserving these values by conservation restriction to prevent the use or development of the property for any purpose or in any manner which would conflict with the maintenance of these values.

## **II. Restricted Uses of Protected Property**

The restrictions hereby imposed upon the Protected Property, and the acts which Grantor shall do or refrain from doing, are as follows:

1. The Protected Property shall be used for agricultural, forestry, educational, non-commercial recreation and open space purposes only. No residential, commercial, industrial or mining activities shall be permitted, and no building or structure shall be constructed, created, erected or moved onto the property, except as specifically permitted under this Grant.

2. No rights-of-way, easements of ingress or egress, driveways, roads, or utility lines shall be constructed, developed or maintained into, on, over, under, or across the Protected Property, without the prior written approval of the Grantee, except those of record and those specifically permitted under this Grant.

3. There shall be no signs, billboards, or outdoor advertising of any kind erected or displayed; provided, however, that the Grantor may erect and maintain reasonable signs indicating the name of the Protected Property, boundary markers, directional signs, signs restricting hunting or trespassing on the property, memorial plaques, temporary signs indicating that the Protected Property is for sale or lease, and signs informing the public that any agricultural or timber products are for sale or are being grown on the premises. Grantee, with the permission of Grantor, may erect and maintain signs designating the Protected Property as land under the protection of the Grantee.

4. The placement, collection or storage of trash, human waste, or any unsightly or offensive material on the Protected Property shall not be permitted except at such locations, if any, and in such a manner as shall be approved in advance in writing by Grantee. The storage and spreading of manure, lime, or other fertilizer for agricultural practices and purposes shall be permitted without such prior written approval.

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

6. The Protected Property shall not be subdivided or conveyed in separate parcels without the prior written permission of the Grantee.

7. No use shall be made of the Protected Property, and no activity thereon shall be permitted which, in the reasonable opinion of the Grantee, is or may possess the potential to become inconsistent with the Purposes of the Grant.

### III. Permitted Uses of the Protected Property

Notwithstanding the foregoing, Grantor shall have the right to make the following uses of the Protected Property:

8. The right to establish, reestablish, maintain, and use cultivated fields, orchards, and pastures in accordance with generally accepted agricultural practices and sound husbandry principles.

9. The right to conduct maple sugaring operations and to harvest timber and other wood products, together with the right to construct and maintain roads necessary for such activities, in accordance with generally accepted forestry practices and in accordance with a forest management plan for which Grantor has received the prior written approval of Grantee, except that Grantor may conduct maple sugaring operations and may harvest firewood for heating residences and structures located on the Protected Property without submission and approval of a plan. Grantee's approval of a forest management plan, which should be updated at least every ten years, shall not be unreasonably withheld or conditioned, if such plans have been approved by a professional forester and if such plans do not violate the terms of this Grant. Such a plan shall consider a range of forest values including, but not limited to, the quality and diversity of wildlife habitats and forest aesthetics. The Grantee may disapprove a plan proposing a clearcut (defined as the cutting or removal of all trees larger than 2" DBH of more than 2 contiguous acres). However, Grantee may approve such plan in its discretion if consistent with the purposes of this Grant, such as to permit the planting of different species of trees or the establishment or re-establishment of a field, pasture, or garden, or for wildlife purposes. The final stage of a shelterwood harvest, which releases an established young stand, shall not be construed as a clearcut.

10. The right to construct and maintain barns, sugar houses, or similar structures or facilities on the Protected Property, provided that they are used exclusively for agricultural or forestry purposes, and provided further that such construction has been approved in writing in advance by the Grantee, which approval shall not be unreasonably withheld or conditioned, provided the structure or facility is located in a manner which will minimize the loss of agricultural and forestry potential or the scenic beauty of the Protected Property.

11. The right to utilize, maintain, establish, construct and improve water sources, courses, and bodies within the Protected Property for uses otherwise permitted hereunder, provided that Grantor does not unnecessarily disturb the natural course of the surface water drainage and runoff flowing over the Protected Property, except where such disturbance is made in order to improve the drainage of areas used for agricultural purposes. The construction of ponds or reservoirs shall be permitted only upon the prior written approval of the Grantee, which approval shall not be unreasonably withheld or conditioned.

12. The right to clear, construct, and maintain trails for walking, horseback riding, skiing and other recreational activities within and across the Protected Property. Snowmobiling may be permitted at the discretion of the Grantor.

Where Grantor is required, as a result of this Grant, to obtain the prior written approval of Grantee before commencing an activity or act and where Grantee has designated in writing another organization or entity which shall have the authority to grant such approval, the approval of said designee shall be deemed to be the approval of the Grantee. Grantor agrees to reimburse Grantee or Grantee's designee for all extraordinary costs, including staff time, incurred in reviewing the proposed action requiring Grantee's approval, but not to include those costs which are expected and routine in scope.

IT IS HEREBY AGREED that any use of the land, otherwise permitted under this Grant, shall be in accordance with all applicable ordinances, statutes and regulations of the Town of Norwich and the State of Vermont.

#### **Enforcement of the Restrictions**

Grantee shall make reasonable efforts from time to time to assure compliance by Grantor with all of the covenants and restrictions herein. In connection with such efforts, Grantee may make periodic inspection of all or any portion of the Protected Property, and for such inspection and enforcement purposes, the Grantee shall have the right of reasonable access to the Protected Property. In the event that Grantee becomes aware of an event or circumstance of non-compliance with the terms and conditions herein set forth, Grantee shall give notice to Grantor of such event or circumstance of non-compliance via hand or certified mail, return receipt requested, and demand corrective action sufficient to abate such event or circumstance of non-compliance and restore the Protected Property to its previous condition. In the event there has been an event or circumstance of non-compliance which is corrected through negotiation and voluntary compliance, Grantor shall reimburse Grantee all reasonable costs, including staff time, incurred in investigating the non-compliance and in securing its correction.

Failure by the Grantor to cause discontinuance, abatement, or such other corrective action as may be demanded by Grantee within a reasonable time after receipt of notice and reasonable opportunity to take corrective action shall entitle Grantee to bring an action in a court of competent jurisdiction to enforce the terms of this Grant and to recover any damages arising from such non-compliance. Such damages, when recovered, may be applied by Grantee to corrective action on the Protected Property, if necessary. If such Court determines that Grantor has failed to comply with this Agreement, Grantor shall reimburse Grantee for any reasonable costs of enforcement, including Grantee's staff time, court costs and reasonable attorneys' fees, in addition to any other payments ordered by such court. In the event that Grantee initiates litigation and the court determines that the Grantor has not failed to comply with this Agreement and that Grantee has initiated litigation without reasonable cause or in bad faith, then Grantee shall reimburse Grantor for any reasonable costs of defending such action, including court costs and reasonable attorneys' fees. The parties to this Grant specifically acknowledge that events and circumstances of non-compliance constitute immediate and irreparable injury, loss and damage to the Protected Property and, accordingly entitle Grantee to such equitable relief, including but not limited to injunctive relief, as the Court deems just. The remedies described herein are in addition to, and not in limitation of, any other remedies available to Grantee at law, in equity or through administrative proceedings.

on by Grantee in the exercise of any right or remedy upon  
tor shall impair Grantee's rights or remedies or be  
ver.

### Test

Upper Valley Land Trust shall cease to exist, need to convey  
easement and restrictions, or fail to take reasonable steps  
force the rights, interest, and restrictions conveyed herein,  
interests, and restrictions shall vest with the Appalachian  
a 501(c)(3) organization with offices in Harpers Ferry, West  
ed however, if the Appalachian Trail Conference shall no  
nder Section 501(c)(3) of the Internal Revenue Code, or shall  
aid rights, interests and restrictions, then they shall vest  
qualified organization with may be consistent with the  
Section 501(c)(3).

### Provisions

nsfer the conservation easement and restrictions conveyed by  
but only to a qualified conservation organization that agrees  
conservation purposes of this Grant in accordance with the  
ablished by the Internal Revenue Service governing such

he development rights or conservation easement and restrictions  
e Grantee herein may be extinguished by eminent domain or other  
ngs, Grantee shall be entitled to any proceeds which pertain to  
ment of Grantee's rights and interests. Any proceeds from  
shall be allocated between Grantor and Grantee using a ratio  
relative value of the development rights and conservation  
and the value of the fee interest in the Protected Property  
this Grant, as determined by any qualified appraisal performed  
ion of the Grantor in the year of this conveyance. Grantee shall

h all the privileges and appurtenances thereof, to the said LLEY LAND TRUST, INC., its successors and assigns, to their of forever; and the said Grantor Bruce D. McAllister and ster, for themselves and their heirs and assigns, do covenant untee, its successors and assigns, that until the ensealing of hey are the sole owners of the property and premises, and and title to convey the same in the manner aforesaid, that om every encumbrance, except those of record, and they hereby t and defend the same against all lawful claims whatever.

OF, we set our hands and seals this 7<sup>th</sup> day of June.

and delivered in the presence of:

[Signature]  
Grantor, BRUCE D. McALLISTER

[Signature]  
Grantor, JUDITH A. McALLISTER

NT

cy ss.

A this 7<sup>th</sup> day of June, 1996, BRUCE D. McALLISTER eared and he acknowledged this instrument, by him sealed and be his free act and deed.

Before me, [Signature]  
Notary Public

My commission expires: 2-10-99

**Schedule A**  
**Protected Property**

Being a 24.37 acre portion of the same lands and premises conveyed to Grantor by Warranty Deed of Sherrill Nott and Judith Nott, dated April 2, 1981 and recorded in Book 65, Pages 455-457 of the Norwich Town Land Records.

Reference may be made to the above described deed and record and to the deeds and records referred to therein for a more complete and particular description of the McAllister property as a whole.

For a description of the 24.37 acres conserved by this document, reference is made to the attached conservation map, and a survey entitled "SURVEY PLAN SECTION OF LAND BRUCE D. McALLISTER JUDITH A. McALLISTER Vol. 65 Page 455 NORWICH VERMONT DECEMBER 1995" prepared by Harry J. Burgess of, Bath, New Hampshire, filed in the office of the Norwich Town Clerk.

The 24.37 acre protected portion is more particularly described as follows:

Beginning at a 5/8" rebar rod with cap located at a northeast corner of the McAllister property where it abuts the property currently owned by Wiggins;

Thence crossing a brook and running North 54° 05' 11" East a distance of 589.07 feet along a fence line to a 3/4" iron pipe;

Thence running North 40° 07' 05" East a distance of 199.26 feet along a fence line to a 2 inch iron pipe;

Thence running North 40° 07' 05" East a distance of 49.40 feet to a point where the McAllister, Wiggins, and U.S.A. Tract 202.08 properties meet;

Thence turning and running South 51° 21' 11" East a distance of 220.21 feet to Disc #15B;

Thence running South 51° 23' 38" East a distance of 462.78 feet to a 3/4" iron pipe in a stone wall;

Thence running South 51° 08' 40" East a distance of 91.02 feet to a Disc #16;

Thence turning and running South 52° 01' 54" West a distance of 681.44 feet to a 3/4 inch pipe (Cor. #17);

Thence turning and running South 51° 28' 55" East a distance of 474.78 feet to Disc #17A;

Thence running South 51° 28' 55" East a distance of 628.03 feet (partially along stone wall) to a point of Cor. #18;

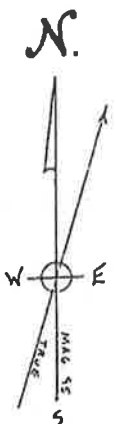
Thence turning and running South 57° 29' 38" West a distance of 555.35 feet along a fence line turning to a stone wall to a 3/4 inch iron pipe (Cor. #19);



57° 29' 38" West a distance of 15.25 feet to the point of  
brook at the corner of the McAllister land and U.S.A.

ollowing the center of the brook a distance of 1,528.23  
7° 48' 02" West (a straight line distance of 1,281.77  
of a wooden box culvert;

h 40° 51' 34" West a distance of 459.55 feet back to the



W1661N5  
101 100 Page 19

McALLISTER

24.37 Ac.

TO BE PLACED IN  
CONSERVATION EASEMENT

U.S. DEPT. of the INTERIOR  
NATIONAL PARK SERVICE  
TRACT 202-08  
Vol 71 Page 34

## SCHEDULE B

Conservation Map of the  
Protected Property

Bruce D. McAllister and  
Judith A. McAllister  
to the  
Upper Valley Land Trust, Inc.  
per Grant of Development Rights  
and Conservation Restrictions

U.S.A.  
TRACT 202-06



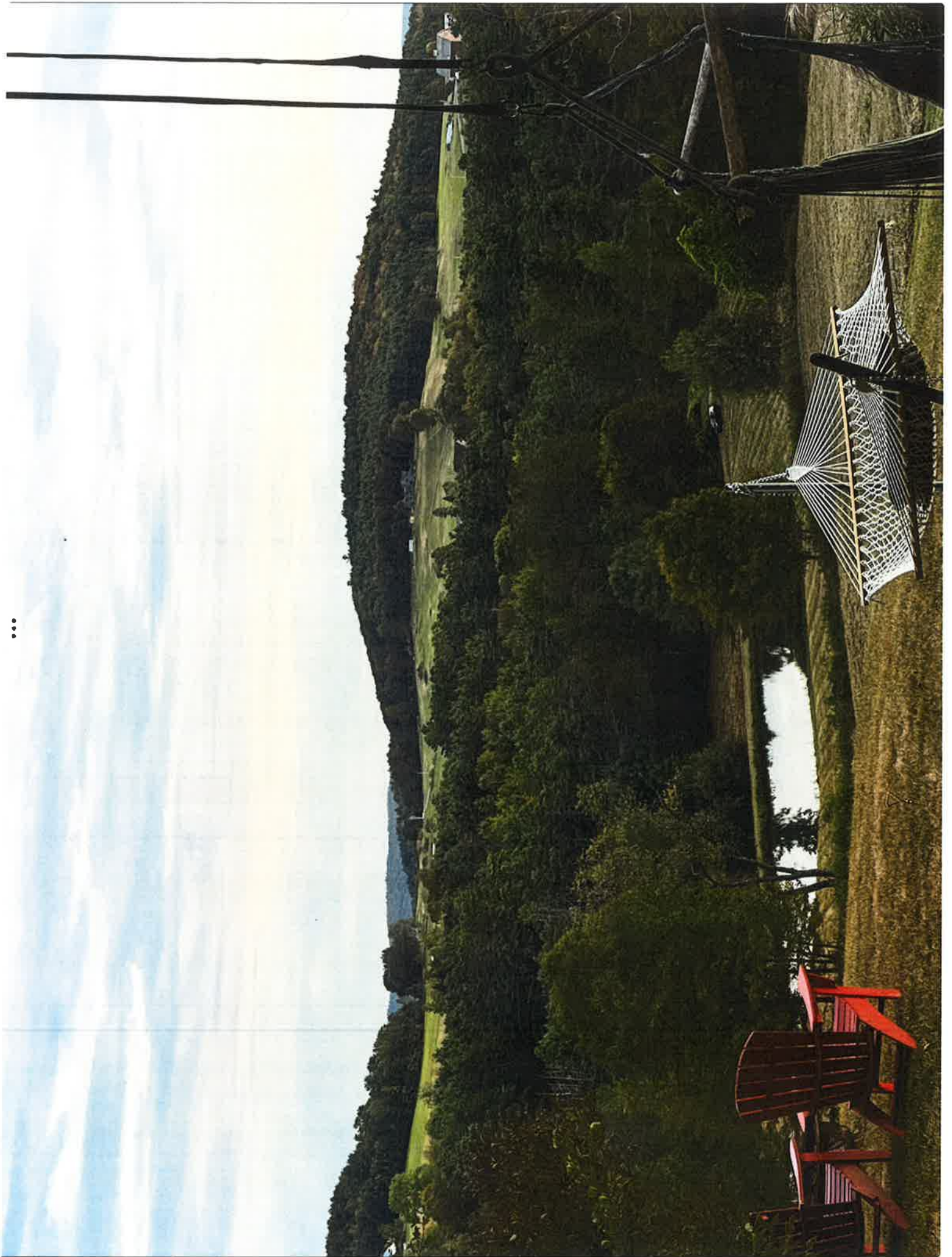
Bacchino

546

VW2 - 4012

1.96





487  
croce

no view

1.40





562 w. 55th

W. 1

abstr. 2

1.68





597

VW2 - 2004.8

1.96