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September 15th, 2021

Neal Zuckerman, Chairman
Philipstown Planning Board
Philipstown Town Hall
238 Main Street
Cold Spring, NY 10516

RE: Hudson Highlands Reserve – Draft Final Environmental Impact Statement

Dear Chairman Zuckerman and Honorable Planning Board Members,

Please accept these comments on behalf of the Hudson Highlands Land Trust, Inc. (HHLT) regarding the draft Final Environmental Impact Statement (FEIS) for the proposed Hudson Highlands Reserve project. In general, HHLT believes the FEIS responses are not sufficient to address the concerns that HHLT raised in its comment letter to the Philipstown Planning Board dated June 18, 2019.

Additionally, while we appreciate the work the applicant has done in producing the draft FEIS, their desire to conserve land and natural resources, and their intentions in altering their plans to better protect sensitive environmental areas, we believe that the updated plans do not create a conservation subdivision. The plans still do not reflect clustered development that preserves the important environmental resources on the land. Our concerns are still centered on:

- Incomplete studies of wildlife and water sources;
- Insufficient mitigation of significant environmental impacts;
- Fragmentation of the landscape and blocking of both north-south and west-east wildlife corridors;
- Configuration of conserved open space inconsistent with zoning code; and
- Insufficient visual analysis and simulations.

Reflection on the updated draft FEIS plans:

The removal of the equestrian center and associated parking area could eliminate a significant amount of environmental disturbance, including light pollution, soil compaction, and increased nutrient loading as a result of manure. However, in the updated draft FEIS plans, the proposed center was replaced with five houses with lawns, each on a 1-acre parcel whose conglomerated footprint is larger than the proposed equestrian center and parking area would have been. Residential houses are also disruptive to noise, light, and soundscapes. Their lawn maintenance and fertilization add nutrients to the adjacent wetlands and waterbodies¹. Further, the houses continue to disrupt and to pose a threat to the east-west and north-south wildlife corridors.

¹ We recognize that, as proposed, the amount of lawn is limited to 2,000 sqft per house. However, the 2,000 sqft per house constraint is only as good as the Homeowner Association's enforcement. Further, is there a mechanism in place to prohibit the Homeowner Association from revising the lawn limit in the future?

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Reflection on HHLT's comments to the draft FEIS responses:

On June 18, 2019, HHLT submitted a letter with eight (8) recommended actions to remedy deficiencies in the studies of significant impacts, and to mitigate identified impacts. Those eight actions are listed below. Of them, only one has been addressed to HHLT's satisfaction by the draft FEIS.

HHLT's Comment (i):

Conduct a comprehensive study of vernal pools during the appropriate seasonal window (March-April) and **complete a full study of amphibians and reptiles**. Mitigate impacts on these, and all NY Species of Special Concern.

*While we did not observe a response specific to our question, responses 3B.14, 3B.36, and 3B.39 note that an additional vernal pool study was conducted, and that no vernal pools were discovered. While the additional study is of interest and appreciated, the draft FEIS still lacks a full summary of biological inventories, researcher's hours, seasonalities of studies, etc., and does not address anticipated impacts nor planned mitigation of impacts on all NY Species of Special Concern. Also, while the additional vernal pool study did not identify a vernal pool(s) on site, it does not address impacts to sensitive vernal pool-obligate species such as wood frog (*Rana sylvatica*) which was observed on site and may spend a portion of its life cycle on the property, especially between aquatic areas of interest such as the critical habitat zones that extend 750 feet from vernal pool. The latest study stated that two pools were found off-property, but the study lacks details of the pools locations or distances from the property.*

HHLT's Comment (ii):

Exclude the 11-acre equestrian facility from the conserved open space, in order to comply with 175-21 A(3)(b) of the zoning code, since the intense development of that land significantly impairs the conservation value. Also, remove the historic road from inclusion in the conserved open space to simplify conservation easement management.

Again, while we did not observe a response specific to our question, response 2.55 states that "There is no prohibition in the Code against using the entirety of the land determined to not have the most conservation value." This does not address HHLT's comment. Planning to develop almost all the "potentially developable land" is not in line with the requirement by §175-20A(4) to protect the lands with the most conservation value, as even "potentially developable land" has high conservation value and is important for wildlife as noted in the Coleman 2014 letter and as discussed by Dr. Klemens' letter regarding habitat for NYS Species of Special Concern. Additionally, while the equestrian center has been removed from plans, it has been replaced by multiple residential houses, which still have great impact to conservation values.

HHLT's Comment (iii) / Response 4.9:

Remove the five houses on the West Side of Ulmar Pond and relocate them to be clustered with others to the northwest side of the property. This will preserve the wildlife corridor between Clove Creek and Ulmar Pond, place the conservation easement on contiguous protected land, and help mitigate impacts on NY Species of Special Concern.

In Response 4.9, it is noted that two of the five houses were removed so there are now three houses proposed on the west side of Ulmar Pond. HHLT believes that the extremely narrow space to the west of the third house is not sufficient for passage of

a full suite of wildlife species from high-conservation value areas on the property (like the eastern slopes and the Pond) to other high-conservation value areas on the property (like Clove Creek). All five houses should be removed from the Ulmar Pond area, as it is one of the most sensitive natural resource areas on the property, and impacts to its surrounding lands in turn impact migration pathways throughout the property.

HHLT's Comment (iv) / Response 3B.27:

Reconfigure the equestrian facility to move the horse trailer parking area, in order to widen the wildlife corridor from the eastern slopes of the property to the pond.

Response 3B.27 notes that the equestrian facility has been removed, and that homes are now proposed in this area, which it says have been placed "to allow for a sufficiently wide wildlife corridor adjacent to the stream and wetland system on the eastern slopes of the property." HHLT disagrees with this assertion. Given the 1-acre house lots and associated structure footprints, the wildlife corridor actually appears to be narrower than previous site plan iterations.

HHLT's Comment (v) / Response 3D.8:

Complete visual simulations of the development from viewpoints in **Hudson Highlands** and **Fahnestock State Parks**. Take appropriate mitigation steps once visual impacts are known.

In Response 3D.8, the applicant states that the Scoping Document is "silent on the form in which the visual impact assessment was to be presented," and that a "sight-line cross-section provided is a long accepted method of presenting this type of analysis." For a project of this scale, a professional viewshed analysis conducted using a Geographic Information System (GIS) analysis coupled with renderings illustrating the visual impact on the subdivision from several scenic viewpoints during multiple seasons would be more appropriate than a Google Earth simulation. HHLT recommends that a viewshed analysis be conducted using ArcGIS or a similar tool and presented in a manner that gives the reader a full perspective on the project's prospective visual impact.

HHLT's Comment (vi) / Response 3A.16:

Require ongoing testing in Ulmar Pond and Clove Creek before, during and after construction, and on an ongoing basis, as a condition of site plan approval. **Require that the Town oversee the testing, paid for by the applicant or the Homeowners Association (HOA), and that construction and/or use of the equestrian facility be halted pending remediation, should water quality deteriorate.** Require monthly testing of the pond and creek during construction. Mandate quarterly testing after construction. Require a performance bond or letter of credit for water testing costs be posted by the applicant, to be drawn upon in case of default by the HOA. Require similar testing and mitigation steps for the Clove Creek Aquifer, and especially monitoring of the common sewerage treatment system under the horse turnout paddock and the impact it has on the aquifer.

In Response 3A.16, the applicant states that testing of the Pond and Creek are not warranted beyond construction phase since the equestrian facility was eliminated. HHLT disagrees. Our concern was not limited to the potential impacts of the equestrian center, but rather the potential addition of 25+ residential dwellings, associated lawns, roads, and septic coupled with vegetation removal, on sensitive water resources, including the Clove Creek Aquifer. Monthly testing during the

construction process and quarterly testing thereafter would proactively protect these natural resources, which should be especially of interest for a Conservation Subdivision project.

HHLT's Comment (vii) / Response 2.49:

Require that the conservation easement holder be nationally accredited by the Land Trust Accreditation Commission. www.landtrustaccreditation.org. Given this is the first Conservation Subdivision in Philipstown, specialized expertise will be needed to monitor and enforce such a complex easement involving possible encroachments by 25 homeowners and users of a large commercial equestrian facility.

Response 2.49 notes that the Town Code does not require that a future holder of the conservation subdivision Conservation Easement be an accredited land trust. However, the Philipstown Planning Board may choose to use this well-known certification screening as a tool to better ensure protection of the site's natural resources. The prevalence of land trusts that have achieved this standard and been granted the title of "accredited land trust" by the national Land Trust Alliance Accreditation Commission means that, if an accredited land trust that is willing to hold the Conservation Easement cannot be found, that should be a red flag for the Town of Philipstown. (There are more than 40 accredited land trusts working in NYS, and at least five work in Philipstown.)

HHLT's Comment (viii) / Response 2.68:

Require that the equestrian facility be closed by the town if horses are being used on the property outside of the equestrian facility in violation of the proposed conservation easement; as a requirement of site plan approval.

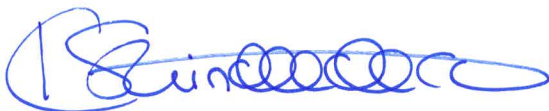
As noted in Response 2.68: The equestrian facility has been removed from the proposed site plan. This sufficiently addresses our concerns.

Lastly, but perhaps more significant, is the fact that the revised site plans bring forward new environmental concerns. The applicant's responses reflect upon the impacts to the property/environment/town based on the previous site plan, but does not fully explore the potential ramifications of the revised site plan or fully explore the requisite mitigations.

Quoting from Exhibit B to the full report included with HHLT's June 18, 2019 letter, we appreciate "the incredible challenges local decision-makers face when confronted with divergent expert testimony, and also recognize that local-decision-makers hold the future of the region's biodiversity in their hands by the manner and thoroughness in addressing these issues."

Thank you for reviewing these concerns.

Sincerely,



Katrina Shindledecker
Executive Director, HHLT



Nicole Wooten
Director of Natural Resources, HHLT