

**APPENDIX B**  
**WRITTEN COMMENTS - PUBLIC**  
**& INTERESTED/INVOLVED AGENCIES**

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**HUDSON HIGHLANDS RESERVE - DEIS**

**WRITTEN COMMENTS – PUBLIC & INTERESTED/INVOLVED AGENCIES**

1	NYSDOT – Mary McCullough – NYSDOT Region 8
2	Ann Hammond
3	John Benjamin
4	Madeleine McGinley
5	Nathan Lyons – President, Harold Lyons & Sons
6	Hudson Highlands Land Trust – Executive Director, Michelle Smith
7	Rob Schneiderman
8	Ellen Dinerman
9	Betsy Calhoun
10	Virginia A. Buechele
11	Tara Vamos
12	William Schuster
13	David C. Gordon
14	Nat Prentice
15	Madeleine McGinley
16	Hank Osborn – Viewshed Pics
17	Scenic Hudson, Jeffrey Anzevine, Carli Fraccarolli
18	Putnam Highlands Audubon Society – Connie Mayer-Bakall, J. Perry Pitt
19	Karen Ertl
20	Kimley-Horn, John Canning
21	Madeleine McGinley
21	Michael W. Klemens
23	Diana Hird

24	Lynn Rogoff
25	Town of Philipstown Highway Department
26	Claudio Marzollo
27	Richard T. Perricelli
28	Anthony Merante
29	Martha Ferris Kostmayer
30	Paul & Anna Kantor
31	Heidi A. Wendel & Joseph L. Hirsch
32	AKRF
33	Rudolph S. Rauch
34	Irvine D. Flinn
35	Susan Anspach
36	Ronald J. Gainer, P.E., PLLC
37	Sidney Babcock
38	Celia Imrey
39	Adam Hird
40	Mark Tabashnick
41	Glenn & Susan Lowry
42	Lynda Ann Ewen
43	Linda & Jack Weinstein
44	John Mangano
45	Ed Polhemus
46	Kim Conner
47	Town of Philipstown Conservation Board
48	Town of Philipstown Conservation Board – Supplemental Submission
49	Steven Loria
50	Melissa Ricketts

51	Ann Hammond
52	Bettina Utz
53	Bidu Tashjian
54	Bidu Tashjian
55	David J. North
56	Anita Chester
57	Julia Famularo
58	Irene O'Garden
59	Rick Wake
60	Jon Kiphart
61	Dean Lentz
62	Concerned Citizens of Philipstown
63	Damian W. McDonald
64	Diana Rosato
65	Celia Imrey
66	Richard Butensky
67	Dave Merandy
68	Lynn Rogoff
69	David Hunter
70	Putnam County Dept. of Health

Planning Board Minutes of 6/20/19 Public Hearing

Stenographer's Transcript of 6/20/19 Public Hearing

***COMMENTS RECEIVED AFTER 7/8/2019 DEADLINE***	
71	Concerned Citizens of Philipstown – Rec'd 7/11/19
72	Concerned Citizens of Philipstown – Rec'd 7/11/19

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Recipient: Anthony Merante, Tara Percaciollo

Letter: Greetings,

Ask the Phillipstown Planning Board to vote NO to the Hudson Highlands Reserve application

# Comments

Name	Location	Date	Comment
Philipstown Concerned Citizens	Cold Spring, NY	2019-07-08	"I want to protect the natural beauty of our region and help prevent over-development"
tristan culbert	Livingston, NY	2019-07-08	"Glass Berry Commons was already too much"
Bonnie Stein	NY, NY	2019-07-08	"I signing because this plan is outrageous and created completely without merit."
Susan Hyatt	Ossining, NY	2019-07-08	"There is so much wrong with this proposal that has not been addressed. It is preposterous that this could even be considered as a Conservation Development. Please do the right thing!"
Davis McCallum	Brooklyn, NY	2019-07-08	"I'm concerned about traffic traffic on EMRS, and disturbance to the wildlife near Horton Road."
Catherine Serreau Thompson	GARRISON, NY	2019-07-08	"To the Philipstown Planning Board, Madam, Sir,By signing the enclosed petition, Along with the Hudson Highland Landtrust and Putnam Highland Audubon Society, I am voicing my deep concern over the environmental impact the HHR project or any subsequent one of the sort is certain to have. Allowing this project implementation is in complete contradiction with the protection of the environment Phillipstown advocates, one of the reasons why I moved here in the first place. We do not have another chance to ascertain and affirm our resolution to keep our town and it's wild life free from the disruption such a project will inflict, and thereby discourage any other such development. I respectfully urge our Planning Board members and our Town Supervisor to reject the HHR application.Catherine Serreau ThompsonGarrison, NY"
Maureen McGrath	Cold Spring, NY	2019-07-08	"The proposed development sounds wrong on so many issues from traffic to wildlife to the number of horses but most of all it sets a horrible precedent. Please do not allow it to go through."
wickham Boyle	New York, NY	2019-07-08	"This is a terrible idea and a bad precedent to set. NO NO NO"
Malachy Cleary	Cold Spring, NY	2019-07-08	"It's hugely oversized and will negatively impact the Highlands/ Fahnestock corridor"
Lillian Rosengarten	Cold Spring, NY	2019-07-08	"This is a terrible, unthought through project. I urge you to reject it.It will destroy our area for so many reasons."
Sidney Babcock	Garrison, NY	2019-07-08	"A terrible project that is not thought out. Please reject this project. This is a crucial moment in trying to reverse climate change and we are all responsible. We must act locally and we must act now!"
Richard Butensky	NY, NY	2019-07-09	"I have many concerns about the size and scope of this project: the number of horses (and the amount of waste), the size of the stables and ring (likened to the size of a Walmart superstore!), the entrance from Route 9 (not endorsed by the DOT), the number of houses, the aquifer, the conserved land (and its continuity)."



<b>Name</b>	<b>Location</b>	<b>Date</b>	<b>Comment</b>
Richard Butensky	NY, NY	2019-07-09	"the last statement was from Judy Cohen."
Romulo Ramos	Irvington, NY	2019-07-09	"As a frequent user of the Breakneck Ridge Trails, I am concerned for the disruption to the ecosystem and the natural cycles of the wildlife population that a development of this scale in such close proximity will cause. The inconclusive impact studies will expose the reviewing agencies to the costly lawsuits which those of us concerned with the environmental impact will make sure are filed and funded."
Christine Armstrong	Meriden, CT	2019-07-09	"Beautiful old homes in a naturally beautiful area are rare can never be replaced. Destroying the treasure you have for near-term profit is short-sighted and a mistake"
Bettina Utz	Cold Spring, NY	2019-07-09	"Please do not create precedent for other developments in the area. This project is a bad idea for so many reasons. Apart from the environmental impact, 25 homes could potentially house 50+ kids. Our school cannot handle such an increase in students. Even though they keep repeating it, the developer cannot guarantee weekend use only. Houses are being re-sold and use is changing. This is just one of many short sighted and empty promises that the developer is making about this project."
Carol Gray	Cold Spring, NY	2019-07-09	"I am concerned about the impact on our beautiful mountain."
john caughey	burwood 3125, Australia	2019-07-10	"Obvious!!"
Julia Zern	Cold Spring, NY	2019-07-10	"I'm concerned about the environmental impact and the well-being of the horses, this development is not sustainable!"
andrea latvis	cold spring, NY	2019-07-10	"The traffic implications and possible pollutants to well water for those of us down the mountain."
Suzanne Ketchum	Pleasantville, NY	2019-07-10	"I'm signing because we need more open spaces!!!"
Jane Marcy	Garrison, NY	2019-07-10	"This would be a terrible precedent for usage under the Open Space Development code - the wildlife and environmental impact will be too great to accept as outlined in the attached letter to the Planning Board. We count on you to protect our lands and resources."
Matthew Chase	Cold Spring, NY	2019-07-10	"Natural spaces are what make this town and region special."
Lara Shihab-Eldin	Wappingers Falls, NY	2019-07-10	"This project will have too many environmental costs, and will negatively impact local residents in my community."
Michael Ritell	Mahopac, US	2019-07-11	"No more new construction, this area is over crowded and we need to retain as much nature as possible."

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Recipient: Anthony Merante, Tara Percaciollo

Letter: Greetings,

Ask the Phillipstown Planning Board to vote NO to the Hudson Highlands Reserve application

# Signatures

<b>Name</b>	<b>Location</b>	<b>Date</b>
Celia Imrey	Cold Spring, NY	2019-06-21
John Clark	Cold Spring, US	2019-07-07
Satoshi Yano	Cold Spring, NY	2019-07-08
Tristan Culbert	Cold Spring, US	2019-07-08
Karen Sachs	New York, US	2019-07-08
Tom Imrey	Van Nuys, US	2019-07-08
Adrian Ellis	Nutley, US	2019-07-08
David Hunter	Cold Spring, US	2019-07-08
Jonathan Hull	Cold Spring, US	2019-07-08
Saul Reiser	Nutley, US	2019-07-08
Nina Cucchiari	Cold Spring, US	2019-07-08
Sara Yano	Cold Spring, NY	2019-07-08
Robert Spurr	Cambridge, US	2019-07-08
Jean claude Temo	Washington, MD	2019-07-08
Jonivan Klajda	Pima, US	2019-07-08
Debra Nairn	Cold spring, US	2019-07-08
Charles McDuffee	Cold Spring, US	2019-07-08
Bonnie Stein	NY, NY	2019-07-08
Jeremy Drysdale	Cold Spring, US	2019-07-08
Paul Tschinkel	Cold Spring, US	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Blank Blank	Norcross, US	2019-07-08
Nina Jody	New York, NY	2019-07-08
Florence Clutch	New York, US	2019-07-08
Pamela Doan	Cold Spring, US	2019-07-08
Pamela Cook	Cold Spring, US	2019-07-08
Katherine Drysdale	Cold Spring, US	2019-07-08
Erik Brown	Cold Spring, US	2019-07-08
Krystal Ford	Philipstown, NY	2019-07-08
Jennie Sexton	Cold Spring, US	2019-07-08
Amy Goldberg	Cold Spring, US	2019-07-08
Trieu Dang	Houston, US	2019-07-08
Jose Rodriguez	Cold Spring, US	2019-07-08
Harley Bryant	Alachua, US	2019-07-08
Melissa Ricketts	Cold Spring, NY	2019-07-08
timothy maxwell	Cold Spring, NY	2019-07-08
Kelly House	Cold Spring, NY	2019-07-08
Melinda Moyer	Cold Spring, US	2019-07-08
Bidu Tashjian	Cold Spring, NY	2019-07-08
Susan Hyatt	Ossining, NY	2019-07-08
Bettina Utz	Cold spring, US	2019-07-08
Dean Lentz	Cold Spring, US	2019-07-08
Davis McCallum	Brooklyn, NY	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Michael Moyer	Philipstown, US	2019-07-08
Keith Sexton	Cold Spring, US	2019-07-08
David Limburg	Cold Spring, NY	2019-07-08
VIRGINIA SOLE-SMITH	Cold Spring, US	2019-07-08
Michael Perricone	Cold Spring, US	2019-07-08
Gaston Alonso	Cold Spring, US	2019-07-08
LJ Langley	Cold Spring, NY	2019-07-08
Edward Kreps	Cold spring, US	2019-07-08
Margaret Yonco-Haines	Garrison, NY	2019-07-08
ANN HAMMOND	Cold Spring, NY	2019-07-08
Jax Taylor	Cold Spring, NY	2019-07-08
James Nicholas	Cold Spring, NY	2019-07-08
Livea Byrne	Cold Spring, US	2019-07-08
Angie Gambuzza	Lindenhurst, NY	2019-07-08
Catherine Serreau Thompson	Irvington, NY	2019-07-08
MICHAEL CASALE	Cold Spring, US	2019-07-08
Nanci McDonald	Cold Spring, US	2019-07-08
Felicity Erwin	Cold Spring, US	2019-07-08
Angela Jones	New York, NY	2019-07-08
suzanne murray	philipstown, US	2019-07-08
charles duffner	Piscataway, NJ	2019-07-08
Chris Porter	Cuyahoga Falls, US	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Steven Loria	Little Falls, US	2019-07-08
Ashley Rauch	Totowa, US	2019-07-08
BARBARA COX	Nutley, US	2019-07-08
Maureen McGrath	Cold Spring, NY	2019-07-08
Claudia Dizenzo	Cold Spring, US	2019-07-08
Jane Hanley	Cold Spring, US	2019-07-08
Sarazina Stein	New York, US	2019-07-08
JAY MUELLER	New York, US	2019-07-08
Catherine Lim	Newark, US	2019-07-08
Christian Ramos	Dows, US	2019-07-08
Anthony Ventura	Petaluma, US	2019-07-08
Cameron Emerson	Mandeville, US	2019-07-08
John Giametta	Cold Spring, US	2019-07-08
Robert Deutsch	New York, US	2019-07-08
wickham Boyle	New York, NY	2019-07-08
Richard Butensky	Cold Spring, US	2019-07-08
Lisa Quartin	Cold Spring, US	2019-07-08
Adam Kozicharow	Cold Spring, US	2019-07-08
Ronan Coleman	Cold Spring, US	2019-07-08
Chris Mathers	Brooklyn, US	2019-07-08
DAWN YOUNG	Lewes, NY	2019-07-08
Diane Spurr	Cambridge, US	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Brayden Santini	Wylie, US	2019-07-08
Laura Nathanson	Cold Spring, US	2019-07-08
Ryan Murphy	Cold Spring, US	2019-07-08
Nancy Berner	Brooklyn, NY	2019-07-08
Diana Hird	Cold Spring, NY	2019-07-08
Diana Cruz-Hasler	Cold Spring, US	2019-07-08
Pamela Coumans	Cold spring, US	2019-07-08
Charles Burleigh	Garrison, US	2019-07-08
Madeline Rae	Little Falls, US	2019-07-08
Jayson Allen	Jacksonville, US	2019-07-08
Doug Starn	Putnam Valley, US	2019-07-08
Isaac Delgadillo	San Carlos, US	2019-07-08
Danny Tran	Honolulu, US	2019-07-08
Richard Wake	Cold Spring, US	2019-07-08
Malachy Cleary	Cold Spring, NY	2019-07-08
Lillian Rosengarten	Cold Spring, NY	2019-07-08
Jennifer Gilleo	Cold spring, US	2019-07-08
Todd Giudice	Cold Spring, NY	2019-07-08
Nils Walter	Garrison, US	2019-07-08
Kalista Parrish	cold spring, US	2019-07-08
sonia ryzy-ryski	cold spring, NY	2019-07-08
alexis lowry	Cold Spring, US	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Edward D Bushek	Fishkill, US	2019-07-08
Allison Sassano	Cold spring, US	2019-07-08
sidney babcock	Garrison, US	2019-07-08
Susan Lowry	Philipstown ny, US	2019-07-08
Vreni Hommes	Cold Spring, NY	2019-07-08
Arely Gutierrez	Broomfield, CO	2019-07-08
Roy Leonard	Astoria, US	2019-07-08
Nicholas Lowry	cold spring, US	2019-07-08
Joe Dizney	Cold Spring, US	2019-07-08
Lara Voloto	cold spring, US	2019-07-08
shari alexander	Cold Spring, US	2019-07-08
Dayna Resi	Willimantic, CT	2019-07-08
Lyn Horst	Cold Spring, US	2019-07-08
David Marzollo	Formia, Italy	2019-07-08
Julia Kisla	Cold Spring, NY	2019-07-08
Damian McDonald	Cold Spring, US	2019-07-08
Eduardo Suastegui	Vallejo, US	2019-07-08
Rosie Gutierrez	Brooklyn, US	2019-07-09
Emanuel Valencia	Santa María, US	2019-07-09
Suzie Gilbert	East Hampton, US	2019-07-09
Kimberly Sevilla	Brooklyn, NY	2019-07-09
Peter Weed	Garrison, US	2019-07-09



<b>Name</b>	<b>Location</b>	<b>Date</b>
Sebastian Ramos-Roux	Hastings On Hudson, US	2019-07-09
Emily Duncan	Cold Spring, NY	2019-07-09
michael strauss	Briarcliff Manor, US	2019-07-09
Wendy Chaix	Fairfield, US	2019-07-09
Joi Boyd	Richmond, US	2019-07-09
Christine Bokhour	Cold spring, US	2019-07-09
Carl Byrne	Cold Spring, US	2019-07-09
Roberto Muller	Cold Spring, US	2019-07-09
Romulo Ramos	Irvington, NY	2019-07-09
Elias Andersen	Westminster, US	2019-07-09
Ray Torres	Wendell, US	2019-07-09
Andera Root	Federal Way, US	2019-07-09
Grace Morrin	Eugene, US	2019-07-09
Barbara Post	Brooklyn, US	2019-07-09
annabelle brunet	France	2019-07-09
Brandon Juby	Cold Spring, US	2019-07-09
Shawna Chandler	Cold Spring, US	2019-07-09
Ann Borthwick	Philipstown, US	2019-07-09
Kathie Scanlon	Philipstown, US	2019-07-09
Amanda Walshjamin	Fishkill, US	2019-07-09
Tamara Hayward Benjamin	Totowa, US	2019-07-09
Katie Bissinger	Cold Spring, NY	2019-07-09

<b>Name</b>	<b>Location</b>	<b>Date</b>
Erin Detrick	Cold Spring, US	2019-07-09
Brenda Tomenga	Houston, US	2019-07-09
David Boyd	Cold Spring, US	2019-07-09
Quinn Chandler	Cold Spring, US	2019-07-09
Eliza Matthews	Cold spring, US	2019-07-09
Michael Glover	Cold Spring, US	2019-07-09
Obert Wood	Garrison, US	2019-07-09
Karen WHITE	Union City, US	2019-07-09
Holly Mackin	Cold Spring, NY	2019-07-09
Jonathan Bennett	Cold Spring, US	2019-07-09
Yamilet Salazar	Jackson, US	2019-07-09
Jacob Haelen	Garrison, US	2019-07-09
John Quigley	Brooklyn, US	2019-07-09
Christine Armstrong	Meriden, CT	2019-07-09
Anthony Phillips	Park Ridge, US	2019-07-09
Nancy Lara	Tampa, US	2019-07-09
Number One	Marengo, US	2019-07-09
Myesha Gunn	Montgomery, US	2019-07-09
Pamela Wake	New York, US	2019-07-09
Ana Silverlinck	New York, US	2019-07-09
James Sizemore	Ixelles, Belgium	2019-07-09
Mauro Huaman	Miami, US	2019-07-09

<b>Name</b>	<b>Location</b>	<b>Date</b>
Camille Hanson	Minneapolis, MN	2019-07-09
Liz Mariah	Scranton, US	2019-07-09
Miles Cady	North Bend, US	2019-07-09
Alex P	Gaithersburg, US	2019-07-09
Ryan Bobb-Green	Miami Gardens, US	2019-07-09
Tyrone Napier	US	2019-07-09
Caitlin Chadwick	Cold Spring, US	2019-07-09
brian carman	Plymouth, US	2019-07-09
Ibzan Alvarado	South Elgin, US	2019-07-09
Matthew Ball	Pensacola, US	2019-07-09
Nancy Apollonio	Cold Spring, US	2019-07-09
Nate Berner	Philipstown, US	2019-07-09
George Lansbury	Garrison, US	2019-07-09
Maya Dollarhide	Cold Spring, US	2019-07-09
Emmanuel Boursin	Cold Spring, US	2019-07-09
Carolyn Llewellyn	Cold Spring, NY	2019-07-09
Ruben Sanchez	Vancouver, US	2019-07-09
Steve Reid	Philadelphia, US	2019-07-09
mayra ortiz	Lockhart, US	2019-07-09
Kris Thompson	Cold Spring, US	2019-07-09
Clayton Wilson	Huntersville, US	2019-07-09
Sebastien Berner	Cold Spring, US	2019-07-09

<b>Name</b>	<b>Location</b>	<b>Date</b>
Joelle Van Sickle	Cold Spring, US	2019-07-09
Andrea Connor Hudson	cold spring, NY	2019-07-09
Emilie Berner	Secaucus, US	2019-07-09
Karen Kapoor	Cold spring, US	2019-07-09
Virginia Buechele	Fishkill, US	2019-07-09
Carol Gray	Cold Spring, NY	2019-07-09
Greg Pehrson	Cold Spring, US	2019-07-09
Thomas Berner	Brooklyn, US	2019-07-09
Carlos McCain	Selma, US	2019-07-09
Charitie Kastner	Raleigh, US	2019-07-09
Maria Borroto	Miami, US	2019-07-09
Pedro Reyes	Walnut, US	2019-07-09
Sarah Gurland	Cold Spring, NY	2019-07-09
leonora burton	Brooklyn, US	2019-07-09
Rachel Emig	COLD SPRING, US	2019-07-09
Kathleen McLane	Nutley, US	2019-07-09
Makiko Parsons	Cold Spring, NY	2019-07-09
Kathleen MacIntyre	Cold Spring, NY	2019-07-09
Alex Dubroff	East Aurora, US	2019-07-09
Briana Carrillo	Chula Vista, US	2019-07-10
Jimena Sosa	Yonkers, US	2019-07-10
Sarah Hedeem	Rosemount, US	2019-07-10

<b>Name</b>	<b>Location</b>	<b>Date</b>
Cody Swanger	Raleigh, US	2019-07-10
Daniel Paladines	League City, US	2019-07-10
Shinique Alexander	Brooklyn, US	2019-07-10
Nick Aiello	Waunakee, US	2019-07-10
Jaelynnn Crawford	Chicago, US	2019-07-10
sammy smith	Cold spring, NY	2019-07-10
Walter Chadwick	Bronx, NY	2019-07-10
Shannon Herman	Stormville, NY	2019-07-10
Heidi Bender	Secaucus, NY	2019-07-10
Lisa Sabin	Cold Spring, NY	2019-07-10
Samantha Fuster	Scarsdale, US	2019-07-10
john caughey	burwood 3125, Australia	2019-07-10
Debora Ruiz	Bronx, US	2019-07-10
Benjamin Beaven	Champaign, US	2019-07-10
Jessica Burnett	inman, US	2019-07-10
Dakota Quagon	Milwaukee, US	2019-07-10
Matt Umland	Spokane, US	2019-07-10
Pomaika'i Nakamoto	Makawao, US	2019-07-10
Julia Zern	Cold Spring, NY	2019-07-10
Esmeralda Sanchez	Saugus, US	2019-07-10
Herve Bertrand	Fremont, US	2019-07-10
Melissa L Ptacek	Cold Spring, NY	2019-07-10

<b>Name</b>	<b>Location</b>	<b>Date</b>
Melissa Carroll	Cold Spring, US	2019-07-10
Russell Ritell	Cold spring, US	2019-07-10
andrea latvis	cold spring, NY	2019-07-10
Meghan Spiro	Clifton, US	2019-07-10
Suzanne Ketchum	Pleasantville, NY	2019-07-10
Stephen VanderMerwe	Nelsonville, US	2019-07-10
Serge Young	Beacon, US	2019-07-10
Susan Gin	Carmel, NY	2019-07-10
William McKenna	Oliveira, Brazil	2019-07-10
Janelle Weaver	New York, US	2019-07-10
Emaleigh Ickler	Camp Hill, US	2019-07-10
Michael Scicluna	Cold Spring, US	2019-07-10
Qw Qw	Newark, US	2019-07-10
Johe#Loyola1985 Guerrero	Abingdon, US	2019-07-10
Essence Lawrence	Detroit, US	2019-07-10
Richie Casey	Venice, US	2019-07-10
Larry Guzman	Wappingers Falls, NY	2019-07-10
Ray Roy	cortlandt manor, NY	2019-07-10
Bethany Granoff	Beacon, US	2019-07-10
Tim O'CONNELL	Yorktown Heights, US	2019-07-10
William Johnston	Boston, US	2019-07-10
Bryce Brown	Lincoln, US	2019-07-10

<b>Name</b>	<b>Location</b>	<b>Date</b>
Benjamin Barton	Mancheser, US	2019-07-10
Sophia Lee	Overland Park, US	2019-07-10
Conner Robertson	Redmonf, US	2019-07-10
Jonathan Hiles	New York, US	2019-07-10
Maria Oliva	Smithville, US	2019-07-10
Sarah Baune	Minneapolis, MN	2019-07-10
Nikolas Garcia	Las Cruces, US	2019-07-10
Lane Gregory	Butler, US	2019-07-10
Kerri Iuele RN	Stormville, NY	2019-07-10
Alexandra Winsby	Wappingers Falls, NY	2019-07-10
Charles Rohlfs	Potsdam, US	2019-07-10
Brian Maurice	South Salem, US	2019-07-10
Dominic Ferraro	Erie, US	2019-07-10
Jayquan West	New york, US	2019-07-10
Aaron Kwong	Stoneham, US	2019-07-10
Richard Seeley	St.petersburg, US	2019-07-10
Addison Lindsey	Troy, US	2019-07-10
Mykelle Walton	Savannah, US	2019-07-10
Robenson Louisius	North Miami, US	2019-07-10
Jill Ferrer	Valhalla, US	2019-07-10
Kaleimomi Cazimero	Waipahu, HI	2019-07-10
Meredith Byrd	Myrtle Beach, US	2019-07-10

<b>Name</b>	<b>Location</b>	<b>Date</b>
Shelle Kirk	Magnolia, US	2019-07-10
Natalya Aikens	Pleasantville, US	2019-07-10
Stephen D'Angelo	Poughkeepsie, US	2019-07-10
Lisa Mocerino	Mahopac, US	2019-07-10
Jane Marcy	Garrison, NY	2019-07-10
Daniel Visco	Miami, US	2019-07-10
Sasha Prendes	Brooklyn, US	2019-07-10
Shumei Zhang	Union City, US	2019-07-10
Brianna Barbera	Aurora, CO	2019-07-10
ryan landis	Canoga Park, US	2019-07-10
Matthew Chase	Cold Spring, NY	2019-07-10
Daniel Gonzalez	Mission, US	2019-07-10
Joshua Heldwein	Parrish, US	2019-07-10
Richard Clark	Cold Spring, US	2019-07-10
Toby Dunne	Beacon, US	2019-07-10
Eileen Denehy	Brooklyn, US	2019-07-10
Matt Homberg	Philipstown, US	2019-07-10
Juliet Conlon	Putnam valley, US	2019-07-10
Amber Marino	Cold Spring, US	2019-07-10
Richard Grimaldi	Croton-on-Hudson, NY	2019-07-10
Abigail Taylor	Brooklyn, NY	2019-07-10
Carolyn Schulhoff	Ancramdale, NY	2019-07-10



<b>Name</b>	<b>Location</b>	<b>Date</b>
Danielle D'Angelo	Carmel, US	2019-07-10
Gina Miceli	Carmel, NY	2019-07-10
ChangeO FPower	FreemansNames, US	2019-07-10
Jayke Youell	New Albany, US	2019-07-10
Aileen Lopez	Pasadena, US	2019-07-10
Whitney Kuhn	New York, US	2019-07-10
Jeff Glondano	Bronx, US	2019-07-10
Destiny Torres	Albrightsville, US	2019-07-10
Tom Griffin	Andrews, SC	2019-07-10
Gail Purcell	Morrison, US	2019-07-10
Tom Jagemann	Yorktown Heights, US	2019-07-10
jackie wlodarczak	Cold Spring, NY	2019-07-10
Lara Shihab-Eldin	Wappingers Falls, NY	2019-07-10
Mel Laytner	Nelsonville, US	2019-07-10
Doris Nieves	Garrison, US	2019-07-10
Michael Frimmer	Stockholm, Sweden	2019-07-10
Karen O'Reilly	Spring, TX	2019-07-10
Bo Bell	Cold Spring, NY	2019-07-10
Cassie Schaaf	Poughkeepsie, NY	2019-07-10
Diana Bank	Forest Hills, US	2019-07-10
Denny Curtis	Newburgh, US	2019-07-10
Rodney W Dow	Garrison, NY	2019-07-10

<b>Name</b>	<b>Location</b>	<b>Date</b>
Vicky Lowry	Carmel, US	2019-07-10
Patricia Tetlow	Croton on Hudson, US	2019-07-11
Vivian Nikolatos	Pawling, US	2019-07-11
Duane Fibel jr	Myrtle Beach, US	2019-07-11
Betty Hammond	Bronx, US	2019-07-11
erika kopp	Oak Creek, US	2019-07-11
Chris Bands	Okc, US	2019-07-11
Samantha Rundle	Poughkeepsie, US	2019-07-11
David Herman	Cold Spring, US	2019-07-11
Liz Wassaffs	Brooklyn, US	2019-07-11
Tabitha Mass	Holbrook, US	2019-07-11
Michelle Buccione	Fishkill, US	2019-07-11
Barton Chew	Cold Spring, NY	2019-07-11
Michael Ritell	Mahopac, US	2019-07-11
Massimo Cangialosi	White Plains, US	2019-07-11
Joel Lizardo	Queens village, US	2019-07-11
Virginia Kinzey	New york, US	2019-07-11
michael vigilio	New York, US	2019-07-11
Karen OBrien	Enfield, US	2019-07-11
John Apicelli	Peekskill, US	2019-07-11
Lesley McKenzie	San Diego, US	2019-07-11
Azyria Johnson	Florence, US	2019-07-11

<b>Name</b>	<b>Location</b>	<b>Date</b>
Victor Muniz	Conway, US	2019-07-11
Maya Atassi	Oak Brook, US	2019-07-11
Darryl Walker	North Las Vegas, US	2019-07-11
Heather Ryan	Hitchcock, US	2019-07-11
Audreyanna DurbinMendoza	Tucson, US	2019-07-11
lucy campbell	blythewood, US	2019-07-11
Karyn Berger	Katonah, US	2019-07-11
Dina McGowan	Hopewell, US	2019-07-11
David Dickinson	Cold Spring, US	2019-07-11
Rebekah Azzarelli	Beacon, US	2019-07-11
Shari Berkowitz	Peekskill, US	2019-07-11
Lee Ann Pomplas	Mountain View, US	2019-07-11
Cesar Aguilar	Las Cruces, US	2019-07-11
Denyse Countryman	Englewood, US	2019-07-11
Sara Helmick	Oak Hill, US	2019-07-11
Jeremy Hall	Chaumont, US	2019-07-11
Brendan Coyle	Ketchum, US	2019-07-11
Vaunna Gower	Lithonia, US	2019-07-11
Pamila Stacy	Pikeville, US	2019-07-11
Katherine MacInnes	Garrison, US	2019-07-11





**PUTNAM COUNTY DEPARTMENT OF HEALTH**

1 Geneva Road, Brewster, NY 10509 ☐ 845-808-1390

[www.putnamcountyny.gov/health](http://www.putnamcountyny.gov/health)

A PHAB-ACCREDITED HEALTH DEPARTMENT

**MaryEllen Odell**  
COUNTY EXECUTIVE

**Michael J. Nesheiwat, MD**  
INTERIM COMMISSIONER OF HEALTH

June 17, 2019

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

Re: Hudson Highlands DEIS

Dear Mr. Merante:

This Department has received and reviewed the submitted draft environmental impact statement (DEIS) for the above referenced project and the following comments are offered.

1. The maximum allowable slope in a proposed subsurface sewage treatment system (SSTS) area is twenty (20) percent. Portions of the proposed reserve common SSTS area exceed 20 percent which is not permissible.
2. In accordance with PCDPH Bulletin RS-21, the proposed 25 lot realty subdivision will require the drilling of a minimum of three (3) test wells to ascertain groundwater availability for potable use. All test wells are to be tested for water quantity and quality.

Should you have any questions concerning the above, please contact this office.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael J. Buzinski".

Michael J. Buzinski, P.E.  
Director of Engineering

**Response 3A.19**

MJB: cml

July 6, 2019

Town of Philipstown Planning Board  
238 Main Street  
P.O. Box 155  
Cold Spring, NY 10516

Re: Hudson Highlands Reserve

Dear Chairman Merante and Members of the Philipstown Planning Board,

I am writing again to underscore my concerns regarding the conservation subdivision development proposal known as the Hudson Highlands Reserve.

I have been following progress of this proposal from the very beginning and have previously detailed my concerns to the board in writing (in a letter dated November 17<sup>th</sup>, 2014) and in person (last at the January 18<sup>th</sup>, 2018 public hearing) regarding vehicular access points to the subdivision, waste management from the proposed equestrian center, and whether this proposal meets the requirements laid out in the Philipstown Comprehensive Plan and zoning laws to be granted conservation subdivision status.

I was unfortunately unable to attend the most recent public hearing held on June 20<sup>th</sup>, but having watched the video recording of the hearing I was alarmed by much of the public commentary on the proposal and urge the board not to give this proposal in its current form a green light to proceed. There are too many significant concerns still unaddressed by the applicant in what will be a precedent setting development for our community.

I have signed on to a community petition that has been circulated by concerned neighbors and succinctly outlines concerns my family shares about the proposed development as follows:

Response  
3B.34,  
3B.54,  
3B.70

*-The findings of the EIS make it clear the current proposal will disrupt wildlife to such an extent the aims of the conservation easement cannot be met, especially with respect to the proposed fragmentation of the conserved areas.*

Response  
2.51,  
3B.42

*-The measure of current wildlife populations have not yet been sufficiently established to create a baseline.*

Response  
3A.4

*-The measure of the negative effects of the horse population and its maintenance with respect to wildlife, waterways, traffic, noise have not been sufficiently established.*

Response  
3D.11  
3D.5

*-The protection of views of nature from Breakneck Ridge, New York State's most popular hiking trail have not been established.*

Response 2.85

*-Alternate access into the development if the DOT does not approve Route 9 access has not been established.*

**Response 2.93** -Rules and accountability for the HHR management such as pollutants on site, governance, etc,.. have not been sufficiently established.

**Response 2.51** -Accountability, measuring standards, monitoring terms and frequency have not been sufficiently established for the conservation easement, the equestrian facility, or the housing development.

-Professional references and credentials for the developer and the architect for a project of this size and complexity have not been established.

*In addition, we especially support the detailed concerns of the easement itself, listed in the June 18, 2019 letter from the HHLT to the Philipstown Planning Board. See [https://www.hhlt.org/in-content/uploads/2019/06/HHLT\\_-\\_Comments\\_to\\_Philipstown\\_Plan\\_Board.pdf](https://www.hhlt.org/in-content/uploads/2019/06/HHLT_-_Comments_to_Philipstown_Plan_Board.pdf)*

*We recommend the Planning Board consider requiring the applicant to obtain preliminary approval from the NYDOT for the new road access onto Route 9, and requiring the applicant to obtain confirmed participation of an independent agency to monitor the proposed easement prior to further consideration of this application.*

**Response 2.90**

I was especially surprised by the apparent inaction of the developer relative to communications from the NYDOT. Having assured residents of existing roads adjacent to the proposed development site that their roads and homes would not be subjected to additional traffic from the development, this seems like a rather large oversight. At the January 18, 2018 meeting when I raised concerns about access from Route 9, Mr. Glenn Watson specifically referenced the traffic studies in the Environmental Assessment Form and stated the it "...looks like it doesn't warrant anything further than a standard intersection." I still question this assumption, especially when considering additional commercial traffic created by management of the proposed equestrian facility, and strongly feel that new access from Route 9 is absolutely necessary and should be addressed with NYDOT immediately.

Thank you for hearing my concerns.

Sincerely,  
David Hunter  
47 Horton Road  
Cold Spring, NY 10516

Philipstown Planning Board, Philipstown, NY 10516

**Chairman**

Anthony Merante

**Board Members**

Peter Lewis

Kim Conner

Neal Zuckerman

Dennis Gagnon

Dave Hardy

Neal Tomann

**Board Secretary**

Linda Valentino

Wednesday, February 14, 2018

Dear Planning Board,

Good evening esteemed planning board members and concerned citizens of Cold Spring.

I was invited to attend the planning board for I am the owner of 7 acres that border the Hudson Highland Reserve (HHR) proposal. I plan to speak at the February 15<sup>th</sup> Planning Board Public Meeting. I am sending this email letter to be added into the record. I was unable to attend until tonight, but we did attend the Hudson Highland Land Trust (HHLT) education Forum on the Open Space Index and Conservation Subdivisions. Ms. Smith, speaking for the HHLT, brought to light the regulations for the livestock and the recreation proposal for this subdivision are not promulgated in the code.

My family has owned this land and home since 1981 – 37 years. When we first bought this land it was zoned one acre zoning. With the Philipstown comprehensive plan of 2007- 2009, the zoning for the area went from one to three acre zoning and then to 5 acre draconian zoning. Thus subdividing, at all, is not possible any longer for our family.

In general, my neighbors and I have lived contiguously to each on the open space side of the proposed parcel without fences or walls dividing our property for these four decades.

The countless species of animals live in what is now deemed the open space conservation area of this HHR parcel. They often walk across my and my neighbors' property to the eastern neighbor's pond to drink water and back to their habitat where they live and nest. This includes foxes, coyotes, deer, rabbits, turkeys and amphibians of all variety.

They are free to walk across the open space and our property without impediment.

My concern this evening is to discover the details of the HHR intentions for the livestock and recreations uses of the Open space are and the uses of East Mountain Road South ( EMTS) and East Mountain Road North(EMRN). I studied the online portfolio presentation by the architect for the HHR, for the 40 horse equestrian center. There, I found renderings and language describing the horses and their riders will be freely using forested paths for their recreational pleasure. Thus, I would like to see attention paid to the following livestock and recreations uses:



1. Regarding EMRS-The prior owner, the Lyons family, attempted to create an approved parcel on EMRS. Mr. Lyons informed us that they could not find adequate septic fields after building a road and clearing the land. This parcel with its road to EMRS is now part of the HH Reserve parcel. EMRS is a school bus route.

Response  
3B.50

2. Regarding the Open Space Area- I have noted that on the map, the key code in blue lines indicates there are planned stone walls on the open space conservation area.

Response  
2.89

3. Regarding EMRN-I have also seen the new but steep egress from HHR onto EMRN built over the last year. This road goes through the entire HHR parcel from N to S. EMRN is a steep, windy, dark, thin road where there are often near accidents caused by the narrowness and steepness of the road. Everyone assumes no one else is on the road.

Thus, I appreciate the effort that has gone into this proposal but I am concerned that 40 plus horses will be using EMRN and EMRS for egress from the property. As we know, Route 9 is not appropriate for horses and their riders.

Response  
3D.1

As well, I am apprehensive that we may find ourselves visited by horses and riders up the slopes. Or are the stone walls being erected to keep the horses and rider out of our property? But these stone walls will also keep all the animals that use the open space as their habitat from getting to their source of waters. I have watched the December and January meeting of the planning board online where many neighbors from Horton road addressed their reservations and had their uncertainties addressed.

I pray and trust that the planning board will address our concerns on the open space portion of this HHR property and on EMRS and EMRN.

Thank You,

Lynn Rogoff  
464 East Mountain Road South  
Cold Spring, NY 10516

July 8, 2019

Dave Merandy  
15 Academy Street  
Cold Spring, NY 10516

Philipstown Planning Board  
238 Main St.  
Cold Spring, NY 10516

Re: Hudson Highland Reserve (HHR)

Dear Planning Board Members:

I have attended a few of your meetings when the HHR has been on the agenda, including your last SRO meeting at the Old VFW. I spoke at one of your earlier meetings but feel I was not as straightforward as I should have been. At the time I was hoping the applicant would hear the very real concerns local residents had and make necessary changes or perhaps even withdraw the application. As more eloquent residents have pointed out, he has done neither, but rather it seems he has dug in and doubled down. I'm writing to be absolutely clear, as an adjacent property owner, one who may very well be adversely affected if this project moves forward, that I am adamantly opposed to the HHR as proposed.

Response  
2.18

The intent of the Conservation Subdivision was to preserve open space that "could" otherwise be developed. The intent was not to create a Loop-Hole for a slick developer to cram as many houses as possible on the only developable portion of a property. It wasn't to allow a property owner with a smaller tract of land, where only a few lots could be developed, to purchase adjacent "undevelopable" land, combine it with the original piece and then, using the same original property, cram 10 times as many houses as would have been allowed and call it a Conservation Subdivision. Open space is saved but it was never in danger of being developed in the first place.

You have all spent countless hours working on this application and everything I've stated has been stated before in much more succinct, professional and expert fashion. However, this is a very important decision you will be making. It will definitely set a terrible precedent if approved and I would like to add my name to the growing number of concerned residents and ask you to please deny this application as presently proposed.

Sincerely,

Dave Merandy  
Owner of adjacent property at 39 E. Mtn. Rd. North

**Subject:** Hudson Highlands Reserve DEIS Public Comment

**From:** butelinc <butelinc@gmail.com>

**Date:** 7/8/2019, 11:30 PM

**To:** amerante@philipstown.com, Tara  
<tpercacciolo@philipstown.com>

Dear Charman Merante and Honorable Board Members,

Given that this is a "fragmented" Conservation Subdivision with a 40 horse facility the size of a Walmart Superstore, located on prime conserved land, and given that the fine print still shows an "old road" through the conserved land that horses still have the right to traverse, and given that almost all of the conserved land was already protected by law or economic inaccessibility, there is no way that any reasonable person can conclude that this Conservation Subdivision is conservationally or ecologically preferable to a Standard Subdivision.

Sincerely,

Richard Butensky

407 E Mountain Rd S, Cold Spring, NY 10516

Response  
4.3

**Subject:** Fwd: HHR letter  
**From:** Celia Imrey <celia.imrey@gmail.com>  
**Date:** 7/8/2019, 11:27 PM  
**To:** tpercacciolo@philipstown.com

Dear Tara Percacciolo,  
I emailed this to Anthony Merante earlier today.  
I hope you can include it in the public records.  
Kind regards,  
Celia Imrey

----- Forwarded message -----  
**From:** Celia Imrey <celia.imrey@gmail.com>  
**Date:** Mon, Jul 8, 2019 at 10:31 AM  
**Subject:** HHR letter  
**To:** <amerante@philipstown.com>

Dear Anthony Merante,  
My family dropped off a new letter concerning the HHR to the town hall over the weekend. If it's possible to add the following note, we appreciate it. Please see attached.  
thank you.  
Celia imrey  
62 Horton Road

----- Attachments: -----

190708\_HHR Letter.pdf

88.6 KB

Dear Philipstown Planning Board,

The APPENDIX R Town of Philipstown, Town Code, Chapter 175, Zoning, Article V. Open Space Development that was adopted by the Town Board on May 5, 2011 is an important planning document for the future of our region. The first applicant under this particular code is an application to develop a parcel in Cold Spring to support 25 new homes and 40 horses, the Hudson Highlands Reserve.

Multiple concerns of this application have been made public. We especially support the concerns of the easement itself, listed in the June 18, 2019 letter from the HHLT to the Philipstown Planning Board, attached here.

<https://www.hhlt.org/wp-content/uploads/2019/06/HHLT-Comments-on-HHR-DEIS.pdf>

We urge the Planning Board to reject the HHR application as it stands now for the following reasons:

Response

3B.34, -The findings of the EIS make it clear the current proposal will disrupt wildlife to such an  
3B.54 extent the aims of the conservation easement cannot be met, especially with respect to  
3B.70 the proposed fragmentation of the conserved areas.

Response

2.51, -The measure of current wildlife populations have not yet been sufficiently established  
3B.42 to create a baseline.

Response

3A.4, -The measure of the negative effects of the horse population and its maintenance with  
respect to wildlife, waterways, traffic, noise have not been sufficiently established.

Response

3D.11, -The protection of views of nature from Breakneck Ridge, New York State's most  
3D.5 popular hiking trail have not been established.

Response -Alternate access into the development (if the DOT does not approve Route 9 access)  
2.85 has not been established.

Response

2.93 -Rules and accountability for the HHR management (AIRBNB, pollutants on site, pets,  
governance, etc..) have not been sufficiently established.

Response

2.51 -Accountability, measuring standards, monitoring terms and frequency have not been  
sufficiently established for the easement, the equestrian facility or the housing  
development.

-Professional references and credentials for the developer and the architect for a project  
of this size and complexity have not been established.

Response

2.90 In addition, we recommend the Planning Board consider requiring the applicant to  
obtain preliminary approval from the NYDOT for the new road access onto Route 9, and

requiring the applicant to obtain confirmed participation of an independent agency to monitor the proposed easement prior to further consideration of this application.

We have a few SPECIFIC objections to the application as well:

- 1- CLOVE CREEK MAY ALREADY BE ENDANGERED. Our property is directly downstream along Clove Creek from Glassbury Court, which has a conservation easement. The development was supposed to protect the aquifer and the wildlife. The houses were built successively over several years. Our property directly overlooks Clove Creek. Since construction began at Glassbury Court we have observed a significant drop in the local wildlife. So much so that I contacted the NYS Environmental Protection Agency to inquire if they kept records of fish and other animal populations. The turtles, frogs, spiders, bats, possums, large trout, crayfish, muskrat, and kingfishers seem to have disappeared from what was an abundant wetlands environment. The woods are not filled with the cacophony of songbirds as before. I am not an expert, but specifically the fish population is so dramatically decimated to the naked eye, that I obtained a permit from the Department of Fish to stock Clove Creek with Brown Trout.

Response  
3B.48

What is the standard of care for the Glassbury Court easement? What kinds of measurements were done prior to construction to ascertain the natural environment not just at the site but also downstream (our property)? What are the consequences if it can be proven that wildlife has suffered as a result of this development? Does the HHR have any standards of measurement established that are acceptable to the environmental community? Will the HHR be responsible to measure natural conditions downstream from the pond and creek?

- 2- TRAFFIC AND ACCESS TO THE HHR. I'm suspicious of the way in which the HHR represents access in their plans. The first plans had Horton Road included as a direct access into the HHR property. The legend and toning of information in the proposals was vague and not following basic architectural drawing standards. After multiple phone conversation with Glenn Watson and the architect, they adjusted their plans.

Response  
2.89

It's still not clear to me how this property will function if trucks with feed, horses, equipment, manure are going back and forth right in front of everyone's costly weekend homes all day long, never mind the added car traffic of staff, horse owners going back and forth into the facility. The noise, pollution, and annoyance of these trucks will affect the quality of life for those homes. The preferred access to the proposed equestrian facility is undeniably via Horton Road. The HHR assures us this road will not be used. Is that assurance an integral part of their application? If the application is approved, do they have any recourse to use Horton Road if Route 9 is not available?

If the trucks go along Horton Road instead, there are two problems that I see. The first is that now these trucks will negatively affect the residents of Horton

Road. The trucks will lower our property values and make Horton Road an unlivable place if it has a large, busy commercial facility at its end. The second is the danger I foresee of these trucks and cars. Horton road has a dangerous hairpin turn at the top of a steep incline. In the summer of 2017, there was a serious accident here when a speeding car totaled two cars that were sitting in my driveway. An application from the HHR should have a complete traffic plan in place that is approved prior to any formal approvals from the Planning Board. If Route 9 is not approved, then other means of access should be approved before the application is considered any further.

Sincerely,

A handwritten signature in cursive script, appearing to read "Celia Imrey".

Celia Imrey  
August Culbert, Tristan Culbert  
62 Horton Road  
Cold Spring NY 10516

**Subject:** Fwd: Hudson Highlands Reserve  
**From:** Neal Zuckerman <nzuckerman@philipstown.com>  
**Date:** 7/8/2019, 8:39 PM  
**To:** Tara Percacciolo <tpercacciolo@philipstown.com>

Response 2.72, 2.89, 3A.10, 3B.34

Sent from my iPhone

Begin forwarded message:

**From:** Diana Rosato <diana.rosato@att.net>  
**Date:** July 8, 2019 at 6:47:06 PM EDT  
**To:** "amerante@philipstown.com" <amerante@philipstown.com>, "plewis@philipstown.com" <plewis@philipstown.com>, "kconner@philipstown.com" <kconner@philipstown.com>, "nzuckerman@philipstown.com" <nzuckerman@philipstown.com>, "dgagnon@philipstown.com" <dgagnon@philipstown.com>, "dhardy@philipstown.com" <dhardy@philipstown.com>, "ntomann@philipstown.com" <ntomann@philipstown.com>  
**Subject:** RE: Hudson Highlands Reserve

Dear Chairman Merante and Planning Board Members:

Four years ago my husband and I moved to the Glassbury Court community in Cold Spring from the Town of Yorktown in Westchester County. We are very concerned about the proposed Hudson Highlands Reserve development consisting of 25 large homes and an equestrian center which will be able to accommodate 40 horses. How will this development impact the quality of life to residents of my community as well as to those who currently reside along Horton Road and East Mountain Road North? We have all invested money in our properties because we loved the surrounding areas, the beautiful landscapes and living with nature.

I see a number of problems with the building of this development: the increase in traffic on Route 9, the large trucks carrying materials to build this development up and down the 2 main roadways into the development, the ongoing services to cart out the tons of manure on a regular basis, the unwanted horse odors, the contamination of the pond and creek which are located in the center of this proposed building site. How will this development impact the wildlife and environment? How will it impact the resale value of the surrounding properties?

The members of the Planning Board have a responsibility to the current residents of their community. You are entrusted with representing the residents of our town and making sure that our environment is protected. We ask that you not approve this large building site in its present proposal. It is too large in the present form. I hope that the Planning Board will carefully review all comments provided by residents of this community. The Planning Board must address all concerns and assure us that Philipstown laws, regulations and guidelines will be followed. The developer of the Hudson Highlands Reserve but be held accountable in protecting our natural resources.

Respectfully submitted,



**Diana Rosato**

**3 Black Bird Bay  
Cold Spring, NY 10516  
845-809-5956**

July 8<sup>th</sup>, 2019

460 East Mountain Road North  
Cold Spring, New York 10516

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

RE: Hudson Highlands Reserve

Dear Chairman Merante and Honorable Board Members

I am writing to express my concerns regarding the Hudson Highlands Reserve development as it currently stands.

Response  
2.17

As a resident who will be directly impacted, I share the concerns and sentiment expressed so well by the Hudson Highlands Land Trust in their letter to the town planning board dated June 18<sup>th</sup>, 2019. In addition to the many environmental concerns, I would implore the Planning Board to reject the current proposal on the most basic grounds – the disregard for Philipstown’s Comprehensive Plan and the intent of our conservation easements and subdivisions.

As a Planning Board, Philipstown’s residents depend on you to uphold and enforce the Comprehensive Plan and safeguard our community and environment. Moving forward with the plan as it currently stands will set a critical precedent that will fundamentally weaken Philipstown’s ability to enforce the Comprehensive Plan as it was intended as well as manage future developments.

Response  
2.89

As you heard through public comment, there is also the very real life-safety issue associated with ingress and egress traffic to East Mountain Road North and Route 9. The current situation is not ideal, and this intersection is prone to accidents. No approvals should be contemplated without a thorough traffic study and intersection / road engineering review and indicated improvements guaranteed. Entering East Mountain Road North from Route 9 is already difficult, and more so when a car is waiting to exit. Adding large trucks, horse trailers and construction equipment would effectively make this a one-way street when traffic queues up to exit unless improvements are made.

In closing, the HHLT has provided considerable input into actions that can be taken to limit the impact of the HHR project. To date these inputs have been largely ignored. This is yet another reason why approval should not be granted.

Sincerely,



Damian W. McDonald

**Subject:** Re: CHANGE.ORG Petition against the HHR  
**From:** Cold Spring <coldspringproperty@gmail.com>  
**Date:** 7/8/2019, 10:35 PM  
**To:** tpercacciolo@philipstown.com, amerante@philipstown.com

Dear Anthony Merante,

We started a letter to you and your board this morning. Please find the list of signatures attached from the Change.org website as of 10:30 pm. A copy of the letter/petition is attached.

We appreciate your kind attention and concern.

Thank you.

-Concerned Citizens of Cold Spring

On Mon, Jul 8, 2019 at 6:10 PM Cold Spring <coldspringproperty@gmail.com> wrote:

Dear Putnam County news teams,

We Concerned Citizens of Philipstown started a petition this morning. It currently has 120 signatures and is growing by the minute. Link is here:

<http://chnng.it/WhvY5p4P>

We will sent the results at 11 pm tonight to Anthony Merante's email address as well as to Tara Percacciolo, Planning Board Secretary. They are copied here as well.

The deadline for submitting comments is midnight tonight but as we have just started this petition we expect to continue to receive responses and plan to keep the Planning Board appraised.

—Attachments:\_\_\_\_\_

2019.07.08\_

51.5 KB

Change.org\_petition\_signatures\_jobs\_16257092\_  
20190709022108.pdf

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2019.07.08\_Joint Letter to Planning Board.pdf

9.0 KB

July 8, 2019

Dear Philipstown Planning Board,

The Open Space Development code that was adopted by the Town Board in 2011 is an important planning document for protecting the natural beauty, natural resources and wildlife of our region. The first applicant under this code is the Hudson Highlands Reserve applying for permission to develop 25 new homes and an equestrian facility for 40 horses. We urge the Planning Board to reject the HHR application for the following reasons:

Response

3B.34 -The findings of the EIS make it clear the current proposal will disrupt wildlife to such an extent  
3B.54 the aims of the conservation easement cannot be met, especially with respect to the proposed  
3B.70 fragmentation of the conserved areas.

Response

2.51, -The measure of current wildlife populations have not yet been sufficiently established to create  
3B.42 a baseline.

Response

3A.4 -The measure of the negative effects of the horse population and its maintenance with respect to  
wildlife, waterways, traffic, noise have not been sufficiently established.

Response

3D.11, -The protection of views of nature from Breakneck Ridge, New York State's most popular hiking  
3D.5 trail have not been established.

Response

2.85 -Alternate access into the development if the DOT does not approve Route 9 access has not been  
established.

Response

2.93 -Rules and accountability for the HHR management such as pollutants on site, governance, etc,..  
have not been sufficiently established.

Response

2.51 -Accountability, measuring standards, monitoring terms and frequency have not been sufficiently  
established for the conservation easement, the equestrian facility, or the housing development.

-Professional references and credentials for the developer and the architect for a project of this  
size and complexity have not been established.

Response

2.90 In addition, we especially support the detailed concerns of the easement itself, listed in the June  
18, 2019 letter from the HHLT to the Philipstown Planning Board. See  
<https://www.hhlt.org/wp-content/uploads/2019/06/HHLT-Comments-on-HHR-DEIS.pdf>

We recommend the Planning Board consider requiring the applicant to obtain preliminary approval from the NYDOT for the new road access onto Route 9, and requiring the applicant to obtain confirmed participation of an independent agency to monitor the proposed easement prior to further consideration of this application.

Sincerely,

**Concerned Citizens for Philipstown, NY**

**change.org**

Recipient: **Anthony Merante, Tara Percaciollo**

Letter: **Greetings,**

**Ask the Phillipstown Planning Board to vote NO to the Hudson Highlands Reserve application**

# Signatures

<b>Name</b>	<b>Location</b>	<b>Date</b>
Celia Imrey	Cold Spring, NY	2019-06-21
John Clark	Cold Spring, US	2019-07-07
Satoshi Yano	Cold Spring, NY	2019-07-08
Tristan Culbert	Cold Spring, US	2019-07-08
Karen Sachs	New York, US	2019-07-08
Tom Imrey	Van Nuys, US	2019-07-08
Adrian Ellis	Nutley, US	2019-07-08
David Hunter	Cold Spring, US	2019-07-08
Jonathan Hull	Cold Spring, US	2019-07-08
Saul Reiser	Nutley, US	2019-07-08
Nina Cucchiari	Cold Spring, US	2019-07-08
Sara Yano	Cold Spring, NY	2019-07-08
Robert Spurr	Cambridge, US	2019-07-08
Jean claude Temo	Washington, MD	2019-07-08
Jonivan Klajda	Pima, US	2019-07-08
Debra Nairn	Cold spring, US	2019-07-08
Charles McDuffee	Cold Spring, US	2019-07-08
Bonnie Stein	NY, NY	2019-07-08
Jeremy Drysdale	Cold Spring, US	2019-07-08
Paul Tschinkel	Cold Spring, US	2019-07-08



<b>Name</b>	<b>Location</b>	<b>Date</b>
Blank Blank	Norcross, US	2019-07-08
Nina Jody	New York, NY	2019-07-08
Florence Clutch	New York, US	2019-07-08
Pamela Doan	Cold Spring, US	2019-07-08
Pamela Cook	Cold Spring, US	2019-07-08
Katherine Drysdale	Cold Spring, US	2019-07-08
Erik Brown	Cold Spring, US	2019-07-08
Krystal Ford	Philipstown, NY	2019-07-08
Jennie Sexton	Cold Spring, US	2019-07-08
Amy Goldberg	Cold Spring, US	2019-07-08
Trieu Dang	Houston, US	2019-07-08
Jose Rodriguez	Cold Spring, US	2019-07-08
Harley Bryant	Alachua, US	2019-07-08
Melissa Ricketts	Cold Spring, NY	2019-07-08
timothy maxwell	Cold Spring, NY	2019-07-08
Kelly House	Cold Spring, NY	2019-07-08
Melinda Moyer	Cold Spring, US	2019-07-08
Bidu Tashjian	Cold Spring, NY	2019-07-08
Susan Hyatt	Ossining, NY	2019-07-08
Bettina Utz	Cold spring, US	2019-07-08
Dean Lentz	Cold Spring, US	2019-07-08
Davis McCallum	Brooklyn, NY	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Michael Moyer	Philipstown, US	2019-07-08
Keith Sexton	Cold Spring, US	2019-07-08
David Limburg	Cold Spring, NY	2019-07-08
VIRGINIA SOLE-SMITH	Cold Spring, US	2019-07-08
Michael Perricone	Cold Spring, US	2019-07-08
Gaston Alonso	Cold Spring, US	2019-07-08
LJ Langley	Cold Spring, NY	2019-07-08
Edward Kreps	Cold spring, US	2019-07-08
Margaret Yonco-Haines	Garrison, NY	2019-07-08
ANN HAMMOND	Cold Spring, NY	2019-07-08
Jax Taylor	Cold Spring, NY	2019-07-08
James Nicholas	Cold Spring, NY	2019-07-08
Livea Byrne	Cold Spring, US	2019-07-08
Angie Gambuzza	Lindenhurst, NY	2019-07-08
Catherine Serreau Thompson	Irvington, NY	2019-07-08
MICHAEL CASALE	Cold Spring, US	2019-07-08
Nanci McDonald	Cold Spring, US	2019-07-08
Felicity Erwin	Cold Spring, US	2019-07-08
Angela Jones	New York, NY	2019-07-08
suzanne murray	philipstown, US	2019-07-08
charles duffner	Piscataway, NJ	2019-07-08
Chris Porter	Cuyahoga Falls, US	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Steven Loria	Little Falls, US	2019-07-08
Ashley Rauch	Totowa, US	2019-07-08
BARBARA COX	Nutley, US	2019-07-08
Maureen McGrath	Cold Spring, NY	2019-07-08
Claudia Dizenzo	Cold Spring, US	2019-07-08
Jane Hanley	Cold Spring, US	2019-07-08
Sarazina Stein	New York, US	2019-07-08
JAY MUELLER	New York, US	2019-07-08
Catherine Lim	Newark, US	2019-07-08
Christian Ramos	Dows, US	2019-07-08
Anthony Ventura	Petaluma, US	2019-07-08
Cameron Emerson	Mandeville, US	2019-07-08
John Giametta	Cold Spring, US	2019-07-08
Robert Deutsch	New York, US	2019-07-08
wickham Boyle	New York, NY	2019-07-08
Richard Butensky	Cold Spring, US	2019-07-08
Lisa Quartin	Cold Spring, US	2019-07-08
Adam Kozicharow	Cold Spring, US	2019-07-08
Ronan Coleman	Cold Spring, US	2019-07-08
Chris Mathers	Brooklyn, US	2019-07-08
DAWN YOUNG	Lewes, NY	2019-07-08
Diane Spurr	Cambridge, US	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Brayden Santini	Wylie, US	2019-07-08
Laura Nathanson	Cold Spring, US	2019-07-08
Ryan Murphy	Cold Spring, US	2019-07-08
Nancy Berner	Brooklyn, NY	2019-07-08
Diana Hird	Cold Spring, NY	2019-07-08
Diana Cruz-Hasler	Cold Spring, US	2019-07-08
Pamela Coumans	Cold spring, US	2019-07-08
Charles Burleigh	Garrison, US	2019-07-08
Madeline Rae	Little Falls, US	2019-07-08
Jayson Allen	Jacksonville, US	2019-07-08
Doug Starn	Putnam Valley, US	2019-07-08
Isaac Delgadillo	San Carlos, US	2019-07-08
Danny Tran	Honolulu, US	2019-07-08
Richard Wake	Cold Spring, US	2019-07-08
Malachy Cleary	Cold Spring, NY	2019-07-08
Lillian Rosengarten	Cold Spring, NY	2019-07-08
Jennifer Gilleo	Cold spring, US	2019-07-08
Todd Giudice	Cold Spring, NY	2019-07-08
Nils Walter	Garrison, US	2019-07-08
Kalista Parrish	cold spring, US	2019-07-08
sonia ryzy-ryski	cold spring, NY	2019-07-08
alexis lowry	Cold Spring, US	2019-07-08

<b>Name</b>	<b>Location</b>	<b>Date</b>
Edward D Bushek	Fishkill, US	2019-07-08
Allison Sassano	Cold spring, US	2019-07-08
sidney babcock	Garrison, US	2019-07-08
Susan Lowry	Philipstown ny, US	2019-07-08
Vreni Hommes	Cold Spring, NY	2019-07-08
Arely Gutierrez	Broomfield, CO	2019-07-08
Roy Leonard	Astoria, US	2019-07-08
Nicholas Lowry	cold spring, US	2019-07-08
Joe Dizney	Cold Spring, US	2019-07-08
Lara Voloto	cold spring, US	2019-07-08
shari alexander	Cold Spring, US	2019-07-08
Dayna Resi	Willimantic, CT	2019-07-08
Lyn Horst	Cold Spring, US	2019-07-08
David Marzollo	Formia, Italy	2019-07-08
Julia Kisla	Cold Spring, NY	2019-07-08
Damian McDonald	Cold Spring, US	2019-07-08
Eduardo Suastegui	Vallejo, US	2019-07-08
Rosie Gutierrez	Brooklyn, US	2019-07-09
Emanuel Valencia	Santa María, US	2019-07-09
Suzie Gilbert	East Hampton, US	2019-07-09
Kimberly Sevilla	Brooklyn, NY	2019-07-09
Peter Weed	Garrison, US	2019-07-09

**Name**

**Location**

**Date**

Sebastian Ramos-Roux

Hastings On Hudson, US

2019-07-09

Dean Lentz  
345 East Mountain Road North  
Cold Spring, NY 10516

July 7, 2019

Anthony Merante, Chairman  
Philipstown Planning Board  
238 Main Street, PO Box 155  
Cold Spring, NY 10516

RE: Hudson Highlands Reserve

Dear Chairman Merante and Honorable Board Members,

I am writing you today with the following concerns regarding the proposed Hudson Highland Reserve development.

**Negative impact of development on local traffic and Route 9**

Response  
2.90

An adequate study on the traffic impact on Route 9 from the proposed Hudson Highlands Reserve (HRR) project has not been performed. A complete and unbiased study must be performed and evaluated. The proposed project includes, in addition to the 26 homes, an equestrian center with a 100 space parking lot. Along with daily construction traffic, equestrian center maintenance traffic (food and bedding delivery and waste removal), and event traffic, route 9 will become even more congested and dangerous than it is at present regardless of the access point(s) chosen to route 9 from the HRR. Some forms of mitigation would be imminent either by widening route 9 or through the implementation of additional traffic lights.

**Negative impact of development on Ulmar Pond and the Clove Creek Aquifer**

Response  
3A.11

Based on the DEIS performed by the HHR, the Hudson Highlands Land Trust has identified assured negative impact on both Ulmar Pond and the Clove Creek Aquifer primarily as a result from the proposed equestrian center and recommend the required ongoing testing of these two water sources. Who will pay for the ongoing testing? How will test results be qualified and who will enforce negative test results and how?

**Negative impact of development on the Community Character**

Response  
3D.11

The proposed equestrian center and sprawling 26 home subdivision invariably scar this section of East Mountain, the damage will be most likely be visible from many of the area's important hiking vistas such as the network of Scofield Ridge and Fahnestock trail systems.

Response  
2.37

This proposed project is not designed for the Philipstown community but is overtly designed for the benefit of non-residents who will not be concerned or engaged in community issues. The developers continue to guarantee that the HHR Home Owners Association (HOA) will monitor, manage and mitigate any environmental or community concerns. This assurance is a false promise. In the event that the HOA deems it no longer viable to cart away waste from the equestrian center and to dispose of it on location, the town would not be able to control this decision nor be able to provide necessary protections to the aquifer. During this evaluation process as a way to alleviate concerns, the developers have made many

claims to the effect that the HOA will always choose to do what is right for the environment and the community. These claims are not a guarantee. As an indicator of how we can expect the HOA to act were the plans to be approved, we can simply look at the developer's home on East Mountain Road North. They have installed a sprawling set of structures that have little in common with character of the neighborhood, introduced invasive and non-native plant species in their landscaping, do not send their children to our schools, do not know or have relationships with the neighbors, and do not participate in our community apart from their efforts to pursue this development.

The fact that the Hudson Highlands Lands Trust has refused to act as a sponsor this project, is testament to the inauthenticity of the developer's intentions to establish a Conservation Subdivision.

For the above reasons of negative impact on the environment, transit and the community, I respectfully urge the board to push for a conventional subdivision to decrease the amount of homes and omit the equestrian center, in order to best protect the land, waterways, and local traffic routes.

In the event that the conservation subdivision will be granted, I would like to ask the board to insist on clustering the homes further, cutting back the lot sizes and number of homes, moving homes away from the pond, and significantly cutting back the size of the commercial equestrian center. Please, for the sake of our town, do not set a precedent for other conservation subdivisions by approving this masterplan.

Thank you.

Yours sincerely,

Dean Lentz



**Subject:** Fwd: Hudson Highlands Reserve  
**From:** Jon Kiphart <kiphart@gmail.com>  
**Date:** 7/8/2019, 4:27 PM  
**To:** tpercacciolo@philipstown.com

----- Forwarded message -----

**From:** Jon Kiphart <kiphart@gmail.com>  
**Date:** Sun, Jul 7, 2019 at 9:47 AM  
**Subject:** Hudson Highlands Reserve  
**To:** <amerante@philipstown.com>

As a homeowner who has lived full time on Esselborne Road for the past 19 years, I have strong concerns about the development of the Hudson Highlands Reserve.

The first concern is the management of traffic. As the NYSDOT has noted in a letter dated June 7th:

Response  
2.90

"...there is no mention of traffic in the DEIS and the actual Traffic Impact Analysis and/or NYSDOT comments of August 2, 2018 are not included in the Appendix."

This indicates to me that this development has not been thoroughly thought out.

A development of this scale with the attendant commercial and residential traffic would have a powerfully adverse affect on our quality of life here, as it would increase traffic pressure on two already very dangerous intersections where the north and south mountain roads access US 9.

Response

3A.11,  
3A.20

I am also very concerned with the lack of regard the developers have shown for the impact this will have on the lower watershed of our mountain home. The addition of a residential area would be bad enough, but the impact of an equestrian center on the scale they are talking about would be profound on both the natural watershed and the surrounding residential neighborhoods.

Best Regards-  
Jon Kiphart  
38 Esselborne Road

**Subject:** Re: HHR Comments  
**From:** Rick Wake <rick@rickwake.com>  
**Date:** 7/8/2019, 4:26 PM  
**To:** tpercacciolo@philipstown.com  
**CC:** amerante@philipstown.com

For the record, my address is 325 E Mountain Rd N, Cold Spring NY 10516

On Mon, 08 Jul 2019 16:24:27 -0400, Rick Wake wrote:

Dear Philipstown Planning Board,

**Response** 2.17 The Hudson Highlands Reserve project must be rejected. It does not follow the letter or the spirit of the open space law. The purpose of the open space development is to preserve large tracts of open space land in order to maintain the rural appearance and environmental resources of the Town of Philipstown. The HHR project is a farce of an attempt to appear green while continuing the suburban sprawl that the law was designed to prevent.

Sincerely,  
Rick Wake

Irene O'Garden

July 3, 2019

Anthony Merante, Chairman  
Members of Philipstown Planning Board  
238 Main St  
Cold Spring, Ny 10524

Re: Hudson Highlands Reserve DEIS

Dear Chairman Merante and Honorable Board Members—

Thank you for giving the public the opportunity to comment on the Draft Environmental Impact Statement for Hudson Highlands Reserve and for conducting such a brisk and civil public hearing on June 18.

The DEIS states on page 81 that “many of the wildlife species observed were see in the habitat bordering the pond.” Ain’t it the truth.

I know Ulmar Pond and the surrounding lands extremely well—My husband John Pielmeier and I lived on Horton Road from 1984-1996. I’ve watched the darting kingfishers and the sleepy turtles, thrilled to the songs of the wood thrush and the owls there. I’ve swum with the geese, been blistered by the poison ivy and healed by the nearby jewelweed. It is truly land well worth conserving.

If this project is to be our first Conservation Subdivision, let us be certain that it does indeed conserve what is irreplaceable.

With this in mind, I fully support the Hudson Highlands Land Trust’s eight recommended actions on this project.

**Response** Because I am so familiar with the pond, I want to especially support the HHLT’s  
**3B.25** recommendation to remove the five houses slated for the West Side of Ulmar Pond and relocate them with others on the northwest side of the property to preserve contiguous protected land and to ensure the migration corridor of amphibians from Clove Creek to Ulmar Pond.

**Response** I am also concerned that pages 38-39 of the DEIS state that critical maintenance of the pond,  
**3A.18** storm and waste water management will be the responsibility of a Homeowner’s Association. (It also says on p 39 that the equestrian area is part of the HOA responsibility, including the horse barn and paddock area, though elsewhere in the statement this is referred to as a commercial enterprise. Confusing.)



Irene O'Garden

The research I conducted on the NYS Attorney General's website states that Homeowners Associations are like not-for-profit corporations that are either managed by volunteer board members or by a hired management company.

**Response 2.35** These boards can change any rule they like once they have been elected, meaning that regulations about tree cutting, fertilizer runoff, dumping in the pond and so forth can easily be changed if the HOA finds it convenient. And who is really going to be looking to see what pesticide their neighbor is using? The AG's website is clear that HOAs and their board members are extremely difficult to prosecute should homeowners or the Town have a complaint.

**Response 3A.12** Hence, it is critical that the Town oversee regular water testing of Clove Creek, Ulmar Pond and the Aquifer before, during and after construction.

**Response 2.6** Will the homeowners be paying attention? The DEIS describes the public need and benefit served by this project as the need for second homes for New York City dwellers. While these folks may long to serve on a volunteer board for their second home, their focus may be elsewhere. They will likely hire a management firm with no personal connection to the property.

One of the things that makes this land so attractive is the 82-acre Clove Creek Preserve next to it, which was seeded by a 27-acre donation of land along the creek that my husband and I gave to the HHLT in 1992.

The DEIS contains frequent mentions of exotic and invasive species. Let us remember that humans, too, can be a pretty invasive species.

Sustainable houses are a worthy goal. Let us sustain the habitats that surround them. Let us have our first Conservation Subdivision be worthy of the name and serve as a model for those to come after.

Someday we will be absent. Our decisions will live on.

Thank you for your service to our community—

Warmly,



Irene O'Garden and John Pielmeier (*in absentia*)



**Subject:** Fwd: For Public Hearing--Hudson Highlands Reserve  
**From:** Julia Famularo <jfamularo@philipstowndemocrats.com>  
**Date:** 7/8/2019, 3:19 PM  
**To:** Tara Percacciolo <tpercacciolo@philipstown.com>

Hi Tara,

Ande may have already forwarded my email to you. Just making sure.

Best,  
Julia

Begin forwarded message:

**From:** Julia Famularo <juliafamu@gmail.com>  
**Subject:** For Public Hearing--Hudson Highlands Reserve  
**Date:** June 17, 2019 at 6:06:45 PM EDT  
**To:** [amerante@philipstown.com](mailto:amerante@philipstown.com)

Dear Ande, and Members of the Philipstown Planning Board:

I am writing to express my opposition to move the Hudson Highlands Reserve Project forward for the following reasons:

- **The project is too big**, with too many houses spread out on the property, and too many horses. It is unlike any housing development in our Town for its size and character;
- **Conservation Subdivision:** the project does not represent the spirit of a conservation subdivision. The housing is not clustered, the presence of a large equestrian center and its horses may cause ecological damage, and the land that would be 'conserved' is, in any case, not really developable because of steep slopes and other terrain-related obstacles. As the first of its kind in Philipstown, we should ensure that the project is a model example of what a conservation subdivision should be, not a loose and feeble compromise;
- **Water bodies are vulnerable**, including the pond, Clove Creek and the aquifer, and other wetlands in and near Fahnestock State Park. Philipstown has been able to protect its water and quality by careful scrutiny of development projects. However, this outsize project is situated above the aquifer that serves scores of households in our Town. The risk for contamination and overuse to this essential water body alone should be reason to pause approval of the project. In a June 2007 Groundwater Report for the Town, the following advice for protecting the aquifer was offered: *"because of the current*

Response  
2.17

Response  
3A.19

*use levtpèrels and aquifer vulnerability to contamination, a high level of groundwater protection is recommended for the Clove Creek sand and gravel aquifer found along the northern Route 9 corridor.” (<https://www.philipstown.com/topgroundwater.pdf>);*

Response  
2.43

- **Remediations:** the developers have stated they will offer many remediations and plans for addressing environmental concerns, but what assurance do neighbors and residents of Philipstown have that these promises will be kept? How do we ensure that the residents will not overuse pesticides and fertilizers on this fragile ecosystem? The interests of the residents of Philipstown who may have to deal with compliance, the effects of runoff, and other ecological damage must be considered;

Response  
2.34,  
2.98

- **Insufficient sales:** related to the concern noted above is one is that insufficient sales of units could mean that insufficient income would be generated that would be intended to pay for all of the remediations listed in the proposal. Will the Town be forced to provide remediations, or will it have to sue the residents living in the development to obtain proper oversight and compliance? What protections does the developer offer the Town after the project is begun? What if we are stuck with a boondoggle?;

Response  
3D.1

- **Impact on schools:** while the number of households in this proposal may not generate an unsustainable influx of student population to the Haldane Central School District, what precedent does this large development set for future developments that may also have determined and deep-pocketed developers? Will the Board be able to say, “No more—our services and school district cannot absorb this increased population”?

Response  
2.87

- **Vehicle traffic:** Route 9 is already heavily overused by tractor-trailers and other traffic, and this development will likely create more unsafe conditions on the road. If you don't believe me when I say that the road is unsafe, try making a southbound left turn across traffic during rush hour.

Philipstown has been able to control development in order to preserve a landscape and way of life that is beneficial to all who live, work and visit here. It is because of this careful concern for the environment, and our dedicated Planning Board that does its best to prevent overbuilding, that our Town maintains its character and remains a destination for those who desire to escape urban/suburban congestion.

This project is wrong for our Town in its current state. There are too many aspects in which this project could cause actual harm to our landscape, wildlife, and natural resources. It should be rejected as a conservation subdivision, because it isn't one. It should also be rejected because it does not belong here or provide benefit to the Town or its residents. And it should be rejected because it does not provide sufficient protection or planned response when things go wrong. I hope the Planning Board will request significant changes to this proposal before allowing it to move forward.

I sincerely appreciate your time and consideration.

Sincerely,

Julia Famularo

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Julia Famularo  
[juliafamu@gmail.com](mailto:juliafamu@gmail.com)

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Julia Famularo  
[jfamularo@philipstowndemocrats.com](mailto:jfamularo@philipstowndemocrats.com)

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75

Subject: Hudson Highlands Reserve

From: hvreanfia@yahoo.com

Date: 7/8/2019, 3:31 PM

To: tperracchio@philipstown.com

To Chairman Nerwin and The Phillipstown Planning Board

I will try to make this short:

**Response** In my mind conservation is saving trees, protecting the environment, and respecting the wildlife that live in a particular habitat.

**3D.12** I don't feel the Hudson Highlands Reserve is doing that. It sounds like all the buildable land. (I am not sure 45 acres) is going to be "clear cut" all the trees will be cut down. I am assuming that all around the houses and horse area, all the trees will be removed. Since this is an MDR, I don't believe that any of the owners can plant trees and NEVER will there be a tree canopy to hide the subdivision from the vista points.

**Response** User Pond: It appears there is going to be some wall around the pond. animals have been coming to this pond for years. If this was a conservation subdivision, why aren't those animals being protected? What kind of wall will be around the pond? The area around the houses, including the backyards that back up to the pond, will that be all green fertilized grass as in Glastbury Ct?

**Response** The Aquifers: what about all the runoff from those beautiful and dandelion free lawns. Where are all the herbicides, pesticides, fungicides going to go? What about the salt that will be used in the winter? How many square feet of blacktop are on the roads and parking lots?

**Response** 3A.19,2,23 When the calculation was used for water usage was it taken into account the visitors that may come to use the water usage: When the calculation shows, the bathing of the horses, the swimming pools? Will there be ASEPMB permits? Those people can get 25 guests in their houses. If this turns out to be the case we will have to outlaw ASEPMB and the like in Phillipstown.

**Response** 2.39 How can horse shows be regulated? How can you stop the horses from being ridden on East Mountain Rd an already narrow and dangerous road? How would you stop anyone from going around the fire exits?

**Response** route 9 DANGER: This spring it took several hours for me to get home since there were 3 separate serious accidents on route 9 not far from East Mountain. Perhaps a new traffic study is needed. Traffic and traffic accidents along Route 9 seems to have increased in the last few years. Horse trailers, nature trucks, feed trucks, hay wagons, gardeners, employees, visitors, veterinarians, owners, is this what we need on Route 9, more tractor trailers making turns of Route 9?

**Response** 2.90 There is just too much going on in this subdivision with a great possibility that the water can be contaminated or even walls going dry. Once it is approved there is little the town can do. It must be done right without a burden to the town after the builder leaves. This subdivision really doesn't fit into the vision for Phillipstown. The lawns are too sterile, it doesn't protect the environment, no trees, weeds, dandelions or wild animals allowed.

Thank you all for caring about our wonderful town

Anita Chastar  
North Highlands



**Subject:** Fwd: Reject Hudson Highlands Reserve  
**From:** Neal Zuckerman <nzuckerman@philipstown.com>  
**Date:** 7/8/2019, 3:15 PM  
**To:** Tara Percacciolo <tpercacciolo@philipstown.com>

Sent from my iPhone

Begin forwarded message:

**From:** Martha V North <[martha0806@optonline.net](mailto:martha0806@optonline.net)>  
**Date:** June 22, 2019 at 8:52:54 AM EDT  
**To:** [amerante@philipstown.com](mailto:amerante@philipstown.com)  
**Cc:** [plewis@philipstown.com](mailto:plewis@philipstown.com), [kconner@philipstown.com](mailto:kconner@philipstown.com), [nzuckerman@philipstown.com](mailto:nzuckerman@philipstown.com),  
[dgagnon@philipstown.com](mailto:dgagnon@philipstown.com), [dhardy@philipstown.com](mailto:dhardy@philipstown.com), [ntomann@philipstown.com](mailto:ntomann@philipstown.com)  
**Subject:** Reject Hudson Highlands Reserve

David J. North  
21 Thunder Rd.  
Garrison, NY

Dear Mr. Merante,

I am writing to please ask you, and the Planning Board, to reject the Hudson Highlands Reserve development application.

I have voiced my concern in the past to the Board and local newspapers about development in Philipstown.

I believe it is reaching a critical point, and serious measures, perhaps a moratorium, are in order to curb further developments such as this one.

I am speaking for wildlife, and its habitat. I am speaking for our already burdened air and water quality. I am speaking for those of us who sincerely believe the Hudson Highlands are a unique ecosystem that deserves to be protected above and beyond what even most would think is necessary, EVEN WITH all the protected state land we have surrounding us.

You have the opportunity to stop the continued, incremental diminishment of this beautiful ecosystem we call home by NOT approving this development, and future ones like it.

Sincerely, David J. North

**Subject:** Fwd: development on East Mountain  
**From:** Bidu Tashjian <biduceleste@gmail.com>  
**Date:** 7/8/2019, 3:04 PM  
**To:** tpercacciolo@philipstown.com

----- Forwarded message -----

**From:** Bidu Tashjian <biduceleste@gmail.com>  
**Date:** Sun, Jul 7, 2019 at 11:11 AM  
**Subject:** development on East Mountain  
**To:** <amerante@philipstown.com>

I am a 19 year full-time resident of Philipstown, I live on Esselborne Road. I want to voice additional concerns regarding this development and the impact it will have on my life and the many woodland birds and mammals that also call it home.

**Response**

**3B.51** Just this morning I identified a wild bird that I hear presently outside my window. It is called a Wood Thrush. It has the most beautiful flute-like call you can imagine. As I sat this morning with my cup of tea, I was able to finally see this bird singing! They are illusive and hard to spot, but their beautiful song will remain with you. This beautiful bird is a threatened species due to loss of habitat. When tracts of forests are broken up, birds like the Wood Thrush suffer.

The proposed development project would harm this beautiful bird that is already a threatened species. It breaks my heart to think that harm might come its' way.

**Response**

**2.43** I also want to address the fact that this development would house weekend dwellers only. I live next door to a house that is only occupied a couple times a month, if that. My husband and I endured an endless stream of contractors when the house was sold to the said owners. They are never there but the empty house has a regular staff of cleaners and contractors. There is even a pesticide application that is sprayed monthly and wafts into my property and who knows what other dangerous chemicals and poisons are used. Mice can be a big problem with life in the woods and when no one is home, they will take over in no time.

When this couple was spotted we had them over for dinner with a home-made blueberry pie. We haven't heard from them since. They have a busy life elsewhere and can't be bothered by the "locals". How is this going to affect our town with all these weekend homes sitting empty and the owners are absent when it comes to matters of safety and concern for our homes and town?

Let them consider another flat land environment for all of their horses and manure, this whole development stinks, literally. My other neighbor has 2 horses and sometimes the smell is so bad you have to stay indoors.

Thank You for hearing my concerns and thank you for your time.

Ms. Bidu Tashjian

**Subject:** Fwd: Hudson Highlands "Reserve"  
**From:** Bidu Tashjian <biduceleste@gmail.com>  
**Date:** 7/8/2019, 3:03 PM  
**To:** tpercacciolo@philipstown.com

----- Forwarded message -----

**From:** Bidu Tashjian <biduceleste@gmail.com>  
**Date:** Wed, Jun 19, 2019 at 12:00 PM  
**Subject:** Hudson Highlands "Reserve"  
**To:** <amerante@philipstown.com>

Thank You for giving me the opportunity to share my opinion on the development. I am a full-time resident on East Mountain and have been since 2000. I know I am not alone when I say that we moved here hoping for a better quality of life. That quality includes owning land and having the opportunity to interact with Nature.

I fail to see how a development of 25 houses with 40 horses and barns will enhance the area I live in. This is a mountain with rough terrain of rock, trees and wetlands. It is not suitable for horses.

When I think of the destruction of the land for the building of this development my mind races with thoughts of blasting through rock, bulldozers, graders and chainsaws.

I have lived through development of houses near me and know the noise and disruption it brings.

Response

3A.12 I am not happy to hear that these homes will be for weekend use only. Where is the motive for these residents to get involved in our community and its' causes?

I also want to be a voice for the many animals and creatures that call this area home, many will say if you don't see the animal it does not live there. Animals migrate and travel through the area constantly, they use these routes to travel their daily and evening searches for food, etc. This can be confirmed with trail cameras that we have set up on our property. Driving through a road full of frogs is not fun. Just today I saw a dead snake on the road. And who hasn't stopped to assist a turtle crossing the road?

Once this area is destroyed it can never be brought back, do you want to be associated with

Fwd: Hudson Highlands "Reserve"

that?

Thank You, Ms. Bidu Tashjian

Bettina Utz  
 345 East Mountain Road North  
 Cold Spring, NY 10516

To:  
 Philipstown Planning Board  
 238 Main Street, PO Box 155  
 Cold Spring, NY 10516

Cold Spring, July 8, 2019

### **Hudson Highland Reserve**

Dear Chairman Merante, dear members of the Planning Board,

I have been living on East Mountain Road North for 12 years now with my family, and I am writing you today with the following concerns regarding the planned conservation subdivision, proposed by Horton Road LLC.

My concerns can be summarized into four points:

- 1. Access to the Development and Traffic Study**
- 2. Commercial Equestrian Facility on Preserved Land**
- 3. Environmental Issues**
- 4. No Guarantees for Developer's Claims**

---

#### **1. Access to the Development and Traffic Study**

- Response 2.85** a. Alternative access to the development needs to be studied if DOT doesn't allow access directly from Route 9. East Mountain Road North and Horton Road cannot provide sufficient access without causing major traffic issues on both roads.
- Response 2.90** b. A full traffic study still needs to be performed.  
 c. Increased traffic through East Mountain Road North will cause delays for the school bus. If the bus is delayed for any reason during its first run, it will be late for the elementary school run.
- Response 2.67** d. Increased noise and wear and tear on our small residential roads by construction, and from the operation of the large commercial horse facility (including horse events and shows.) The equestrian center is planned with a parking lot for 100 cars in anticipation of large events.

- Response 2.67** e. Entering East Mountain Road North from Route 9 is already very dangerous. Adding traffic from a commercial facility will increase potential for accidents.

## **2. Commercial Equestrian Facility on Preserved Land**

- Response 2.65**
- a. The town code demands 1 acre of land per horse, but this plan allots 11 acres for 40 horses. Not only is this a violation of the code, but also are the horses not kept in a humane way.
  - b. It needs to be thoroughly examined if this equestrian center counts as "agricultural use" and if it may legally be built on the preserved portion of the land.
  - c. Residential developments with equestrian facilities, where the idea of a certain lifestyle draws home buyers, is one of the latest trends in real estate developments. It has to be studied if this type of development is in accordance with our community character. These developments also often fail financially on the horse facility part.
  - d. Negative effects on wildlife, noise levels, and traffic have not been studied adequately.
  - e. In point V.C.5 of the developers DEIS, it is stated that even when cutting the horse occupancy by only 10 horses, the facility will run on a deficit. What if they cannot maintain the maximum 40 horse occupancy at any time? The facility could go bankrupt very quickly. Who will then take care of the oversized buildings? A HOA could easily refuse to maintain it.

## **3. Environmental Issues of the Proposed Development and its Potential Alternatives**

- Response 3B.54** a. Wildlife and protected lands are being fragmented/interrupted by the development.
- Response 2.43** b. Potential pesticide application on lawns situated near or on the waterways (Clove Creek, Ulmar Pond) will have adverse effect on water quality.
- Response 3C.1** c. Road salt during the winter which will run off into the waterways and pose a risk to water quality, wild life, and vegetation.
- Response 3A.19** d. Residential water use and its environmental impact has not been studied to my satisfaction.
- Response 3C.4** e. Horse facility will produce roughly 2000 pounds of manure every day. Runoff from manure is an environmental hazard.
- Response 3A.24** f. Water use of the equestrian facility (5-10 gallons water per horse per day, which equals 200-400 gallons of drinking water each day for 40 horses) seems wasteful and not in concordance with a land preservation.
- Response 2.31** g. Weekenders commuting from NYC, and horse owners driving in from sometimes remote locations, plus the visitors to the horse events will contribute to air pollution, which is not in accordance with a climate smart community.



- h. In point V. of the DEIS, the developer proposes alternatives to the project, one of them being mining of the land. It has to be established that mining cannot be allowed due to environmental concerns.

#### 4. No Guarantees for Developer's Claims

- Response 3D.1 a. Weekend use only cannot be guaranteed, so there will be potential impact on our school and higher taxes for everybody.
- Response 2.35 b. It cannot be guaranteed that a HOA will not vote out certain rulings like pesticide use, frequency of manure removal, general maintenance etc.. The effects of a mismanaged development will be a burden to our community.
- c. The use of the horse facilities could easily be changed from the promised dressage academy to trail riding stables, and in turn encroachment on the protected land cannot be ruled out.
- Response 2.85 d. "Emergency only" access from East Mountain Road North and Horton Road cannot be guaranteed at this point.
- Response 3D.1 e. The claim that the occupants of this development will not use any of the town's infrastructure, services, or resources is wrong. Need for emergency services and road repairs will definitely go up, especially with a 7 day per week year round horse center operation.

For the above reasons of negative impact on the environment and the community, I respectfully urge the board to not allow the development as a conservation subdivision; please consider a conventional subdivision, which will decrease the amount of homes to around 10 and omit the equestrian center. Please, for the sake of the land, wild life, waterways, and our community character, don't let this become a precedent for future developments.

Thank you.

Yours sincerely,

Bettina Utz

ANN HAMMOND  
307 E Mountain Rd S. Cold Spring, NY 10516 fensedgefarm@gmail.com

Chairman Anthony Merante  
Town of Philipstown Planning Board  
238 Main St.  
Cold Spring, NY 10516

July 7, 2019

Dear Mr. Merante and Members of the Board,

Re: Hudson Highlands Reserve (HHR)

I just re-read my two previous letters dated Feb 15 2018 and June 17 2019 and studied the Nov. 30 2017 and June 8 2019 letters and appendices from Hudson Highlands Land Trust (HHLT), and I notice that I'm feeling really frustrated.

What jumps out is how little effort the HHR has made to mitigate the very real concerns that the proposal engenders, and just how much time, energy and money the Planning Board, the community and the HHLT has spent to do a job that should have been done properly by the HHR.

I have personally spent hours studying the proposal, and that's nothing compared to what our volunteer Planning Board and the non-profit HHLT have done. Like many others, I addressed my main concerns regarding the impacts of the proposed development in letter and in person. As I noted at the June 20<sup>th</sup> Planning Board meeting, essentially none of those concerns were mitigated in the DEIS, nor those of dozens of other citizens and entities.

The HHLT and others have offered a serious and exhaustive explanation of the significant defects in this application, especially poor conservation design and flawed or missing science; what I'd like to address here is the underlying flavor of this application, and the apparent unwillingness of the HHR to simply do a good job.

If this is how the enterprise is planned, I shudder to think how it would be executed.

How is it possible that five years after the inception of this project the only serious science I see comes from outside of the project? Indeed, it is clear that, at best, the HHR has done a shoddy job with conservation design, the conduction of scientific study, the interpretation of data, and the resulting DEIS. At worst, it has obfuscated, misrepresented and deceived.

Response  
3A.22,  
3B.60,  
3B.38

Certainly, it has cherry-picked scientific theories and data, using outdated hydrological studies and the aged Lathrop study, which it argues excuses forest fragmentation, while ignoring other points in the same study that did not, as well as the absurd claim that wildlife does not traverse

**ANN HAMMOND**

307 E Mountain Rd S. Cold Spring, NY 10516 fensedgefarm@gmail.com

land with a greater than 25% slope (which, if true, would make the proposed developable land have an even higher conservation value.)

More disturbingly, it has avoided conducting comprehensive scientific studies of the property despite having enjoyed five years of opportunity and having its own consultants' recommendations to do so on record.

**Response** The HHR has also misled stakeholders — including the Planning Board and residents of East  
**2.85, 2.90** Mountain, Esselbourne and Horton Roads — by avoiding mention of the DOT rejection of Route 9 access plans, as well as avoiding submission of requested data to the DOT *for five years*.

I can't know if these actions are based in deliberate deceit, incompetence or hubris, but none of them bode well for a successful endeavor.

It seems to me that the HHR's stock response to community, cultural and environmental concerns is to simply repeat that this is a great plan, so give them what they want.

When my children were toddlers, they did the same thing. But it is highly disturbing behavior from a business that is asking for a huge boon that will impact the future of Philipstown for generations to come, while offering up essentially nothing in return.

Frankly, as the proposal stands right now, I don't see how it even merits the additional density, never mind the enormous and unsustainable equestrian facility.

**Response** Regarding that monstrosity, I don't believe it is compatible with Philipstown's master plan, with a  
**2.65** conservation subdivision, or that its footprint should be counted as conservation acreage. It is an industrial operation — as one gentleman pointed out, a Confined Animal Feedlot Operation (CAFO.)

The entire operation is unsustainable. It creates a large impermeable land feature, negating the concept of an agricultural use. The horses have no food. They have no land to graze or even walk on freely. Leaving aside the fundamental injustice to a sensitive herd animal, all of their feed would need to be shipped in and the resulting waste shipped out.

In light of Putnam County's and Philipstown's pursuit of Climate Smart certification, as well as the State of New York's passage of the Climate Leadership and Community Protection Act, it is unreasonable for the energy footprint of the proposal to remain unconsidered as part of its environmental impact.

I sincerely doubt that two dozen LEED certified homes will counterbalance the carbon footprint of a CAFO. The amount of energy required to truck in and out food and waste is absurd, never

ANN HAMMOND

307 E Mountain Rd S. Cold Spring, NY 10516 fensedgefarm@gmail.com

mind the years of construction, increased energy consumption and traffic from weekend residents, visitors, competitors, staff, contractors, suppliers and horse trucks and trailers.

I understand that the facility might generate tax revenues and a few jobs, but I do not see a net benefit to Philipstown, nor how the staff will afford to live in our community.

This is not an intelligent or respectful proposal, and the Hudson Highlands Reserve does not appear competent, responsible, professional or trust worthy. The HHR has not respected conservation design guidelines, conducted serious scientific study, addressed community concerns, mitigated environmental impacts, communicated openly and honestly or considered energy impacts. This is not a conservation subdivision.

How can Philipstown be Carbon Smart and approve a Climate Stupid conservation subdivision?

Respectfully submitted,

Ann Hammond



----- Original Message -----

From: ricketts <ricketts11@optonline.net>  
To: amerante@philipstown.com  
Date: July 8, 2019 at 1:44 PM  
Subject: HHR Development

Dear Philipstown Planning Board,

I am writing to inform you that I have concerns that the proposed HHR Development may have adverse impacts on the wildlife, Clove Creek, and the water supply. As a resident of Horton Court, I am also very concerned about the potential traffic. Though the developer states repeatedly in the DEIS document that only emergency access would be granted from Horton Road and East Mountain Road North, it appears that they have not obtained any approval to access Route 9. The amount of traffic that will be generated by this development is well more than either of these roads can handle, and the impact of this traffic would most certainly adversely affect the character of this community. We would basically be allowing a commercial development with access through a quiet residential community. We are talking about a lot more traffic than would be generated by 25 homes, we are talking about employees of the facility, trucks to supply the facility as well as carrying out waste, parents driving their kids to riding lessons, as well as people attending events. It is unclear to me why the Developer would be going forward with environmental studies without first obtaining approval from the DOT for road access, perhaps they think if they can't get the approval they will be able to just go ahead and use the existing access from Horton Road and East Mountain Road North. I would ask that the developer gain DOT approval for a new road before any approvals are granted, or any approvals be contingent upon DOT approval.

Sincerely,

Melissa Ricketts

34 Horton Court

Response  
2.85,  
2.90

July 7, 2019

Steven Loria  
541 E Mountain Rd N  
Cold Spring, NY 10516

Anthony Merante, Philipstown Planning Board Chairman and the Philipstown Planning Board  
Philipstown Town Hall  
238 Main Street  
Cold Spring, NY 10516.  
RE: Hudson Highlands Reserve – Comments for February 15th 2018 Public Hearing

Dear Chairman Merante and Honorable Board Members:

This letter is related to Hudson Highlands Reserve Conservation Subdivision project, which encompasses the property located below East Mountain and bordered by Route 9, Horton Road, E Mountain Road N (EMRN) and E Mountain Road S (EMRS), by developers Horton Road LLC.

Please also refer to my written comments I sent to you and the Philipstown Planning Board (Planning Board) on February 11, 2018, which I've included with this letter, since no changes have been made to the original proposal. I also spoke at the last Planning Board meeting on June 20, 2019 at VFW Hall. Therefore, I will try not to repeat what I've already wrote in that letter or what I spoke about at the June 20 Planning Board, but ask that you to ensure that my original letter and spoken comments are part of my formal comments on this project and that they are part of my new comments being submitted today.

**Response  
2.17,  
3B.65**

Firstly, I'd like to say that the proposed project looks to take unfair advantage of our zoning code and what has been stated as goals of our community in the Philipstown's Comprehensive Plan, which serves as the backbone of our zoning code. The project, as submitted, should not be approved by Philipstown.

Secondly, I am in full agreement with every point made by the Hudson Highlands Land Trust (HHLT) in all of their publicly comments, letters and spoken points made against this project. I've also carefully reviewed HHLT's June 18, 2019 comment letter and memo sent to the Planning Board Chairmen, Anthony Merante, and to the Planning Board, respectively, regarding the Draft Environmental Impact Statement (DEIS). I am full agreement with the major concerns and their eight (8) recommended actions in their letter, as well as the summary-level and detailed-level comments in the memo to the Planning Board. Rather than repeat any of their comments and recommendations in this letter, I would instead simply ask their letter and memo be entered into the record as my comments and recommendations as well. The letter and the memo may be found at <https://www.hhlt.org/wp-content/uploads/2019/06/HHLT-Comments-on-HHR-DEIS.pdf>.

I would also urge the Planning board to read the letter that Michelle D. Smith of the HHLT wrote to the Putnam County News and Recorder, dated June 12, 2019, entitled, "Will the Frog and Turtle Survive?" and may be found at <https://www.pcnr.com/articles/will-the-frog-and-turtle-survive/>.

Thirdly, while I spoke at the meeting myself, I also listened very carefully to what the other speakers had to say, all of whom were opposed to the project as it is being proposed. Many of these speakers have impressive backgrounds with a wide range of expertise. But, even if they are not subject matter experts in a particular field, they have all raised important concerns and questions and therefore, I'd like to restate many of them in my letter as **my concerns as well**. I ask that the Planning Board consider deeply, the concerns each of them have made and ensure that all questions receive acceptable responses before any approval is granted for this project. The full video of this meeting, as you know, may be found at:

[https://www.youtube.com/watch?v=KLy7gaE6BIU&feature=youtu.be&fbclid=IwAR3jGiBELg3jxUnmO-a0Eisb\\_p2kets8Velo8fQ6C67r294iCCznIW-c7o](https://www.youtube.com/watch?v=KLy7gaE6BIU&feature=youtu.be&fbclid=IwAR3jGiBELg3jxUnmO-a0Eisb_p2kets8Velo8fQ6C67r294iCCznIW-c7o)

Listed below are most of the speaker's concerns or questions. I have also inserted additional comments, as appropriate, by me in relation to points raised by the speakers. These additional comments by me may be found embedded after each speaker's comments in *italicized* font. Please note that I did not repeat my comments if there were similar points raised earlier in this letter. Please excuse me if I didn't get the spelling of their names correct.

**Public Speaker #2:** Nat Prentice, who lives in Garrison. He reminded us about the relevance of the Philipstown's Comprehensive Plan. Mr. Prentice is serving as the coordinator in the update committee for the updated Plan, known as Philipstown 2020. He spoke about the plan being the backbone for the law in concise and unambiguous language. He stated that when the law is subject to various to various interpretations, as it has in this project, it is important to go back to the plan, particularly since this law is being interpreted for the very first time. He read from Chapter 3, Section R, 2.4 and quoted the following:

**Response 3C.5** • Comprehensive Plan Goal Implementation Action R 2.4 is "Allow open space (cluster) development, with **safeguards to ensure that such developments do not lead to more development than would otherwise occur** and that they preserve open space that the Town wishes to protect."

**Response 2.29** He added if the applicant were to build as a conventional subdivision, the property would only allow 10 or 11 houses.

*I ask the Planning Board, too, that Comprehensive Plan Action R 2.4 be carefully considered and evaluate an alternative that would look more like a conventional subdivision with only 10 or 11 houses and with no equestrian facility.*

**Response 2.27** Public speaker # 3: Susan Anspack, who lives on EMRS. She reminded the Planning Board that there have been **recommendations made that would permit development, but on a scale that would be consistent with this site.** She spoke about the plan of using a **conservation subdivision** for this plan and that it is **inconsistent with the character of the community and with the intent of the regulations enabling such sub-divisions.** She also reminded the Planning Board that none of the suggestions from the public were accepted in the DEIS, and thus no changes were made to the initial proposal. She added that there are **many concerns that should stand in the way** of this project as it is current being proposed. She also, importantly, raised concerns that the developer has **not yet addressed the need for a traffic study, even though the NYS Department of Transportation (DOT) has been asking for traffic detail since 2014 and has been raising a number have of issues that still not been addressed,** including concerns they raised in a June 7, 2019 letter to the Planning Board, pointing to the State Environmental Quality Review Act (SEQR), the DOT, as an involved agency, are **unable to endorse such a project.**

**Response 2.89, 2.85** *I would like to add here that the DOT has already stated there should be no access to the site from Route 9 and that developer has stated that EMRN and Horton Road could also not be used for access unless for emergencies. What, therefore will be done to prevent access via EMRN and Horton Road? I am very concerned about access via EMRN, which is a very steep, curvy road prior to reaching the access for this property. In addition to this safety concern, I am very concerned with additional traffic and subsequently more dangerous situations for vehicles making a left onto EMRN from the southbound lane of Route 9. Speaking from experience over the last 12 years living on East Mountain and taking this access, vehicles, including large 18-wheel trucks, pass stopped vehicles attempting to make this turn and nearly side swipe those stopped vehicles. Many accidents have already occurred here. Public speaker # 11 stated she was in a bad accident at this intersection itself. Access to the property must not, therefore, be via EMRN.*

Response  
2.70

Public speaker #4: Glen Lowery, who lives on Horton Rd. He spoke about the large scale of this project and the scale of the **Equestrian Center**. He noted the 40-horse barn, out-buildings, waste removal, being placed in the middle of a beautiful environment. He said it would have a **negative impact on Clove Creek** and the natural habitat that are there and urged the Planning Board to walk the land and imagine **how the waste removal would be addressed**.

*I have deep concerns with both Clove Creek and the Clove Creek Aquifer and how the tremendous amount of waste forty (40) horses will will produce.*

Response  
2.17,  
3B.65

Public speaker #6: Jocelyn Aposello, who lives in Garrison and runs a small farm. She voiced **significant concerns** with the **precedent** that approval of such a development under a **conservation subdivision** could be set to allow this under a Conservation subdivision.

*I have significant concerns as well with the precedent being set with this project and urge the Planning Board to make sure we stand by our community's values, as expressed in Comprehensive Plan as well as in what is written, including the intent of the regulations in our zoning code and get our community's first major conservation subdivision right!*

Response  
2.17,  
3B.65

Public speaker #7: Jan Baker, spoke on behalf of he and his wife, who reside in Garrison. He said that he supports development, but only in accordance with laws and regulations. He commended the points of the concerns raised by the HHLT. He raised the need to balance the rights of the property owner against the welfare of the local community, the protection of water, wildlife habitat, and vegetation. He spoke about the **critical importance of**

Response  
2.49

**who holds the conservation easement, how the community would monitor compliance, and what the enforcement remedies would be.** He put his trust in the Planning Board and asked that they work with the developer to get this right.

*I'll add to this concern that what must be addressed is how the town will be able to enforce compliance to whatever may be approved where an HOA is managed through its own rules and by-laws?*

Response  
3D.2

Public speaker #8: Heidi Wendal. She mentioned she was a newcomer to the area from NYC and the great hiking opportunities and what the area offers to nature lovers. She stressed that the **first Conservation Subdivision should be a true Conservation Subdivision** as outlined in both the **Comprehensive Plan** and our **zoning code**.

Response  
3B.48

Public speaker #9: Celia Emory, who lives on Horton Road. She mentioned the development of **Glassbury Court**, which she spoke out against in 2009. She stated that when she first moved to Horton Rd 18 years ago, the natural habitat in Clove Creek was rich in wildlife including trout, turtles, bats, and other animals. She added that the natural habitat is sadly now so depleted and she has been calling the New York State Department of Environmental Conservation (NYSDEC) for help as this **development has had such a deleterious effect on the wildlife in her area**. She asked the Planning Board for to do a follow-up on Glassbury Court and an environmental report on it and stressed **the same concerns for this project** and for the Planning Board to consider a **rigorous review**.

Response  
3A.27,

Public speaker #10: Crystal Ford, who lives on Garrison Woods Rd. She asked about the date of the flood maps in lieu of Climate change and forecast for a warmer world. She also is concerned with **water quality** with septic systems and **horse manure flowing into Clove Creek**. She also spoke about how pesticide use will be monitored and how the horses will impact the wildlife.

Response  
2.90,  
2.85

Public speaker #11: Madeleine McGinney, who lives on East Mountain Rd EMRN for 16 years. She is concerned with traffic issues and asked for exactly where the access to the site and whether it has received approval from the DOT. She also asked if a **traffic study** has been **submitted to the DOT**. She raised safety concerns and mentioned that she was a **victim of a traffic accident** at the intersection of Route 9 and East Mountain Road N. In the summer of 2018, she was re-ended by an 18-wheel truck while waiting to make a left turn onto EMRN from the southbound



lane of Route 9 and how the police told her that accidents happen at that intersection all of the time. She asked that the Planning Board demand the **developer to submit a thorough traffic study for review by the DOT**. She also asked that the Planning Board look at the **two letters** submitted to them from the DOT.

See  
annotations  
on Smith  
letter.

Public speaker # 12: Michelle Smith from the HHLT. Due to time constraints, she summarized the **three main concerns** they raised in the **25-page letter** they submitted on June 18, 2019. The three main concerns deal with **wildlife**, the **definition of open space** that's conserved, and with the **home owners association (HOA)** and the **equestrian facility management on environmental impacts**. With respect to wildlife, she stated that there are **shortcomings with the wildlife studies** that need to be remedied. She stated that there is not sufficient mitigation of impacts on **New York Species of Special Concern**; species that have been declining in population across the state. With respect to definition of Open Space and in consistency with the zoning code, the **preserved open space** in the plan is split into two different segments and are **not contiguous**. They **cut-off a wildlife corridor**, they **constrict another corridor**, and also, the conserved open space includes the 11-acre **equestrian facility**, which is fully developed and **doesn't have any conservation value** and therefore, **should not be included in the conserved open space**. With respect to the HOA, she stressed that we **cannot under-estimate the impacts from the HOA and the equestrian facility management** have on the future environmental impacts. The governance of those organizations **will drive what happens with water, with Clove creek, with Clove creek aquifer**, and if anything happens that causes problems, such as financial difficulties, it will impact their governance, which will have an adverse impact on the environmental impacts of this project and their needs to be mitigation plans for that. She concluded that they are very concerned with the loss of biodiversity, and is asking the Planning Board to ensure the **future of biodiversity for Philipstown**.

Response  
3A.9

Public speaker #11: Scott Silver, Director of the Constitution Marsh Audubon Sanctuary and Visitor Center. He asked, **what are the safeguards** for eliminating or minimizing impacts of the equestrian trail riding in the center, with **40 horses generating one ton of manure a day** having an impact on the surrounding areas. He commended the Planning Board for the Open Space zoning law and asked that the **Planning Board respect both the spirit of the law as well as the letter of the law** when making their decisions. He also stressed the concerns with the loss of biodiversity and the **decisions made are irreversible**.

Response  
3D.5

Public speaker # 12: Hank Osbourne, who works with the **NY/NJ Trail Conference**. They work to protect trails from erosion and overuse, improper use, and protect them from other threats. He asked whether anyone has ever been at the top of a mountain and coming across a beautiful view, but one where it had a **single blemish in the middle of nature**. He said that this development was directly east of one of the most popular parks in the State, The Hudson Highlands State Park, which includes the number one **most popular day hike in North America – Breakneck Ridge**. He mentioned that **currently**, from the top of the hill, there is an amazing view to the east over Fahnstock Park, with nothing but green rolling hills and while there is some development along the Route 9 corridor, all of the **hillsides are completely undisturbed**. He stated that the **view is spectacular** and that you cannot tell where Fahnstock Park begins or ends. The **proposed development would be seen from that viewpoint and every other viewpoint** along **Fishkill Ridge and Scofield Ridge**. There are a **total of 11 viewpoints** and all of them look directly east across the green hills. The development **would be the only blemish, or scare, from all of those viewpoints**. The houses would be clearly visible from the trails, and while the equestrian facility would take up less of the view than the houses, at 160,000 square feet, it is the **same size as a Walmart Super store**, which are 170,000 square feet. He asked that a genuine view shed analysis be ordered.

Public speaker # 13: Lynn Rogoff, who lives on EMRS. She said that she cannot believe that while the **public gave extensive feedback** to the developers, they did **not give any attention** to these concerns.

Response  
3B.34  
3C.4,  
3B.49

Public speaker # 14: Ray Warner, who lives in Cold Spring. He stated that the **study does not address the effects of 25 houses on the wildlife corridors** in the area. He noted, though, that he was most concerned with the **40-horse equestrian center**, which he stated has pushed the plan way over the top, even if the 25 houses were allowed to remain. He questioned whether the plans adequately address the **effects of the horses on the wildlife**. He questioned whether the horses would be limited to the equestrian center or would be roaming through the

other areas of the property and what effect of that would have and whether the plan would prohibit that. He also stated that the plan does not address the impact the equestrian center would have on neighboring wetlands.

Response  
2.6

Public speaker #15: Judy Farrell, who is on the Philipstown Town Board. She said that she read the plan cover to cover and stated that the applicant does not address the needs of Philipstown / local residents and only addresses the those of NYC residents. She mentioned that putting **40 horses along 25 new homes raises many questions** that must be answered beyond the economic benefits. She also stated that a **stable horse produces about 50-70 pounds of waste per day**, so with **40 horses**, that comes out to **2,800 pounds of waste per day** and asked about how that would be handled.

Response  
2.17

- Public speaker # 16: Carli Fraccarolli, an Advocacy Associate at Scenic Hudson. She stated that her testimony was on behalf of J. Jeffrey Anzevino, Director of Land Use Advocacy at Scenic Hudson. She stated that the Planning Board's review of this first project seeking approval as a **conservation sub-division is precedent-setting**. She noted that the plan is **inconsistent with provisions of a Conservation Subdivision in Philipstown's zoning code**. She added that the applicant's proposed plan would result in **significant environmental impacts**. She said that Scenic Hudson believes that this project **should be designed to be more consistent with the home siting of the applicant's alternative D plan**. This plan relocates 5 houses from the western side of Ulmar pond and clusters them on smaller lots. She stated that the **equestrian facility should be reduced in size and laid out in a more compact arrangement, leaving a wider habitat corridor to the south**. She added, "As proposed, the Hudson Highlands Reserve **does not adequately meet town code requirements for, nor the generally accepted definition of, a conservation subdivision**. The large house lots **sprawl across the entire western half of the property, dividing remaining natural areas into three separate sections**, resulting in forest fragmentation and would not protect the important habitat values found on the site. Scenic Hudson also **disagrees with the applicant's assertion that removing the five homes from around the pond's west side and reducing impervious and disturbed areas is inconsequential**. Any reduction of impervious and disturbed areas is relevant and consequential and it would result in a smaller amount of lower quality edge habitat that would drive away species that rely on these large areas of contiguous forest. **Any losses of habitat on this site are a loss to some of the largest and most intact areas in the Hudson Valley**. This area is **within the Hudson Highlands Significant Biodiversity Area** as well as the **Hudson Highlands Forest Block designation**. A more concerted effort should be made to cluster this development."

Response  
2.33

Public speaker # 17: Mark Tabashnick, who, with his family, live on EMRS. He raised concerns with what the developer's attorney has said, which is that a great deal of study has gone into this project but that he disagreed with that. He spoke about some of the proposals, pertaining especially to the equestrian center, the developer wants to setup a riding stable, a riding school, and a riding camp. They also want to focus their studies on this area of horsemanship called dressage and provided background on what this is, saying that it is a very disciplined and expensive type of horse training and that it is not very well accepted by most horse communities in the U.S. He questioned the developer's implications about the studies done and suggested that a zoning change may be warranted to **separate this from a residential community**.

Response  
4.12

Public speaker # 18: Dr. William Schuester, a Cornwall resident. He said that he was a professional ecologist and has been the Executive Director for 27 years of the non-profit **Blackrock Forest** in the Hudson Highlands. He gave an overview of his background and extensive experience related to managing Blackrock Forest. He said that he was commenting on the DEIS prepared for this project. He pointed to **Philipstown's Conservation subdivision** as being a **laudable concept** and one to help our communities live sustainably into the future while conserving natural resources **if implemented appropriately**. He iterated that to qualify with a **Conservation Subdivision**, the **zoning law states that such projects must preserve contiguous open space, must protect space with the most conservation value** (In other words, those habitats critical for maintaining populations of our native species that are of special conservation concern). He noted his two concerns, which are 1) the **project fails the contiguous conservation criterion** by establishing a barrier, dividing the conserved parts of the project area; and 2) the **environmental studies to-date fail to adequately address a local amphibian and reptile species** of highest conservation concern and the **habitats required by these species**. He recommended solutions to both of these including, first, by accomplishing **surveys of breeding habitats and species** in the seasons necessary, particularly

Response  
2.71

Response  
2.19

Response  
3B.34

Public speaker # 17: Mark Tabashnick, who, with his family, live on EMRS. He raised concerns with what the developer's attorney has said, which is that a great deal of study has gone into this project but that he disagreed with that. He spoke about some of the proposals, pertaining especially to the equestrian center, the developer wants to setup a riding stable, a riding school, and a riding camp. They also want to focus their studies on this area of horsemanship called dressage and provided background on what this is, saying that it is a very disciplined and expensive type of horse training and that it is not very well accepted by most horse communities in the U.S. He questioned the developer's implications about the studies done and suggested that a zoning change may be warranted to **separate this from a residential community**.

**Response 3B.14** vernal pools during the April – May breeding season. He noted that there’s no other way to know what species of concern are on the site. He added that Wood frogs were found on the site and these are obligate vernal pool breeding species, which means that **there must be vernal pools onsite, but no appropriate search to locate and map these habitats has yet been accomplished in the March – April time period when the must be evaluated.**

**Response 3B.22** level conservation concern, like the marbled and spotted salamander and other wetland requiring threatened species like the wood turtle, **are on the site.** He said that the DEIS, as it stands, **does not present appropriate surveys to draw conclusions on this.**

**Response 3B.42** Public speaker # 19: Perry Pitt, who represents the Putnam Highlands Audubon Society. He said that it is there position that the **DEIS wildlife assessment does not include essential and sufficient monitoring procedures.** The field sightings **do not cover the breeding and nesting times for most species and did not cover a long enough period of time to establish the biological diversity these lands support and what species breed and nest onsite.** He noted the **four field visit dates (May 6, July 6, July 9, and August 1, 2015)** He noted that four field study visits is **simply too short of a time span to conduct meaningful monitoring of birds.** He added that the absence of **breeding bird surveys and counts for birds** to determine that that they are not nesting has been **omitted or not done.** He said that they ask the town Planning Board to consider this a conservation project as the first of many, **it must be an environmental model with real seasonal monitoring and assessments with environmental standards** and that any **future projects must also adhere to it before any consideration by the town.**

**Response 3A.28** Public speaker # 20: Karen Erdle, who is a resident of Garrison. She reminded everyone that almost two years ago, Philipstown signed a **Climate Smart Community Agreement** and that just a few weeks ago, the Putnam County unanimously voted in a climate smart community at the county level. The **agenda** of this initiative is to look for **ways to be smart about our climate and our development.** She commended the Planning Board for doing an EIS, but stressed that now is the time to make sure we **do the right thing.** She noted that there are **two bipartisan pieces of legislation in the State, both of which would strengthen the protection of local wetlands and streams** because current **NYSDEC, only protects areas that are 12.4 acres or larger** and must be on a DEC-approved map. She added that New York State is the only state without such corridors for small wetlands. She said that more than a million species are at risk. She said that the legislation would protect smaller wetlands, rivers, streams, creeks, lakes, and wildlife. She urged the Planning Board to look at what the **State is doing to protect these areas.** She also urged the Planning Board to understand that they are **setting the precedent for what a conservation subdivision looks like** in the Town of Philipstown, where future developers will use this for future development.

**Response 3A.18** Public speaker # 21: Irene O’Garden, who lives in Garrison. She mentioned how much she knows the property and how much wildlife is around the pond on the site. She therefore urged that the **five houses be removed from the west side of the pond.** She stressed that she **fully supports what the HHLT has raised as recommended actions.** She referred to pages 38-39 of the plan and stated that the critical make-up of the environmental, **critical maintenance of the pond, storm water management, and wastewater** is going to be the **responsibility of the HOA.** She provided a definition of what is an HOA, where people are elected to the board and that it is generally a voluntary thing, but that many homeowners may instead want to hire a property management company. She added that she and her husband donated the 27 acres just next to this development, which then became Clove Creek Preserve and meant to be preserved. She concluded that the **first Conservation Subdivision should serve as a model for what is to come after because someday, we will be absent, but our decisions will live on.**

**Response 2.22** Public speaker # 22: Andy Galler, who is a member of the Conservation Board and lives about as far away from the project as one can remain in the Town of Philipstown, in southern Garrison. He stated that the intent of **SEQR** is very specific and that for the **applicant / developer to work with concerned agencies and the community to balance environmental impacts with the effects** that would happen on the economy and social aspects. He said that looking at the DEIS, he was **exceedingly disappointed.** He asked the planning board to focus tremendously on what he was about to say. He said that the **Planning Board should compare the plan’s scoping document with the DEIS, and you should find huge areas of deficiency, all data, questions not asked, and alternative plans cherry-picked** so they are not really realistic. His second point was that he wanted everyone to look at the economics of the project. He noted that the housing market was flat and speculated that it probably will remain flat, due mostly

Response  
2.34

because of the impact of the new U.S. tax code and the deductible of state and local taxes known as SALT. He suggested that there may be problems if all of the houses were not sold and that there aren't the people who would address these problems.

Public speaker # 23: Mickey Danaher. He said that he's not looking to say "no," but how to say, "yes." He's been living in Philipstown for the last 18 years. He said that his **concerns were with the scale and the concentration of the houses and the equestrian center.** He noted that an equestrian center is open to the public, and questioned what was the truly volume of owners and visitors to the site.

Response  
3A.8

Public speaker #25: John Benjamin, who said he was born in Butterfield hospital about 74 years ago and resides in Garrison. He spoke about manure and trout. Though he referred the Planning Board to **Rutgers's University** and a study that the Science Center did, available online, labeled "Horses and Manure – Fact sheet # 306." He said that he was astounded to read that the **average 1,000 pound horse produces 10 – 12 tons of manure a year. With 40 horses, that's between four hundred to four hundred eighty tons of manure a year.** He also noted that the state of New Jersey considers such comparatively large commercial equine centers to be concentrated animal feeding operations (CAFOs). He raised this in the context of pigs and chickens, which are highly regulated but the state to prevent NPK nutrient pollution as well as vermin and pathogen introduction into adjacent aquifers, wetlands, ponds, and /or streams. Admitting that he did not know a great deal about horses, he said that he did know a great deal about trout and brook trout. He added he knew a great deal about clean, clear streams and good fishing, being born and raised in Garrison, fishing as kids, the many brooks in the area. Unfortunately, his two-minute time for speaking ran out to express the remainder of his concerns.

Response  
2.90

Public speaker #26: Adam Herd, who lives on Horton Rd. He stated that he was a **professional real estate developer** and is surprised that a project of this scale does not yet have a traffic study. He reiterated that the State has denied access via Route 9. He said that the addition of **25 more homes and horse trailers on both EMRN and Horton Rd would be very impactful** for what sounds like a commercial facility, with additional traffic on weekends. He stated that the **traffic study must be performed** and that the **access must be determined before proceeding.**

Response  
2.28  
Response  
3B.54

Public speaker # 27: Richard Butensky. He stated that the law says that an applicant may increase the permitted number of dwelling units by use of density bonuses granted at the discretion of the Planning Board. He said that the formula and the density bonus as described shall not be considered an entitlement, as stated in the law. He added that **preserved open space must not result in fragmentation of the open space land in a manner that compromises its conservation value.** It says that in the law. He added that he thinks this plan is compromising the conservation value. He went on to say that the configuration of the open space land and dwellings shall not result in fragmentation of the open space land in a manner that interferes with its proper management and protection of its conservation values. **The final determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board and not the developer.** He said that **that's in the law.**

Response  
2.44

Public speaker # 28: Adrian Kulas. He said he was representing a family that has been indigenous to the area for 12,000 years. He said he was co-director of the Lenape Center, an indigenous organization. He said that they've been praying on this mountain since 2005. He defined the as elders coming from Oklahoma, Wisconsin, Canada, South Dakota, Arizona, New Mexico, and that they know this is a **place of great sacral significance.** He stressed that this **mountain should be left in peace.** He added that he was part of an effort to bring the people home; the original people. He said that **they don't want this type of disrespect to continue anymore** and that it was time to respect what we have in terms of our responsibility to it and **stop playing around with ideas of short-term thinking and short-term profit** that only enhance the lives of a few. He said that **this is indigenous homeland** and it has **deep spiritual religious significance and it must be left alone.**

Public speaker # 30: Allen Brownstein, who said that he was and his wife moved in 2015 and live in Glassbury Court, less than 1.00 mile from this site. He said that there is **considerable concern from people also living in**

**Glassbury Court.** He noted that the expertise involved from the Planning Board as well as the people participating in the process and was looking forward to a good decision by the Planning Board.

Response  
3B.71

Public speaker # 31: David Hammond. He said that on the surface, the development of 39 acres of the total 210 acre site sounds ideal, but that "the devil is in the details." He noted that the 171 acres that would not be developed are on terrain too steep and too wet to be considered. He stated that the proposed plan would effectively split the 210 acres in such a way to preclude the natural and safe passage of any wildlife along this corridor. He noted that this was another hit to Clove Creek at a magnitude that it could ill-afford. He asked for an explanation for the section in the DEIS on page 14 section B.2.C, entitled "Forest Fragmentation Impacts." He said that its concluding statement states that there will be no true fragmentation, though there would be some habitat perforation. He suggested that the use of the adjectives "true" and "some" as quite telling. He asked that Philipstown not lower the bar, and set a poor example in this first test of this enlightened zoning mechanism.

Response

3C.4

Public speaker # 32: Ann Hammond, who said her family lived on EMRS for the last 50+ years. She said that she wrote a letter last year, but nothing from her letter was addressed in the DEIS and nothing was changed in the proposed plan. She also wrote a new 7 page letter, which she said she sent the day earlier. She spoke about the unsustainability of the project with 40 horses living on 11 acres, which will produce a huge amount of waste as well as the 1,000 of pounds of food coming in on large trucks that will have to access the site via EMRN or Horton Road since access via Route 9 has been ruled out by the DOT. She said that there's still a lot that must be considered about this project and she does not like how casually all of the assumptions that it will all be okay, are being made in the document.

Response

3A.9

Response

3A.4

Response

3A.15

Public speaker # 33: Steve Loria, myself, residing on EMRN. I first asked that the letter I submitted in February 2018 and that I would like those points re-submitted. I also stated that I was in full agreement with the arguments made by the HHLT. I also highlighted the points made by some of the other people who were speaking during the meeting. I added this proposed project would have a significant negative impact on the aquifer due to the horses and especially the houses around the pond. I also pointed out that there would be significantly increased usage of water from the 25 proposed homes and the 40 horses. I also stressed how dangerous it was from a traffic perspective for those making a left onto EMRN from the southbound lane of Route 9 and how dangerous it was with cars and trucks passing the turning cars on the right side.

Sincerely,

Steven C. Loria

cc:

Kim Conner, Philipstown Planning Board  
Dennis Gagnon, Philipstown Planning Board  
Peter Lewis, Philipstown Planning Board  
Neal Tomann, Philipstown Planning Board  
Neal Zuckerman, Philipstown Planning Board  
David Hardy, Philipstown Planning Board  
Michelle Smith, Hudson Highlands Land Trust

February 11, 2018

Steven Loria  
541 E Mountain Rd N  
Cold Spring, NY 10516

Anthony Merante, Planning Board Chairman  
Philipstown Town Hall  
238 Main Street  
Cold Spring, NY 10516  
RE: Hudson Highlands Reserve – Comments for February 15th 2018 Public Hearing

Dear Chairman Merante and Honorable Board Members:

I'd like to provide my comments on the Hudson Highlands Reserve Conservation Subdivision project, which encompasses the property located below East Mountain and bordered by Route 9, Horton Road, E Mountain Road N, and E Mountain Road S, by developers Horton Road LLC.

I will start with my belief that the Conservation subdivision law is designed to achieve what it was intended to do, based on the Comprehensive Plan (the plan). Therefore, I ask that Philipstown (the town) should do everything in its power using the code to ensure that undesired development, as clearly outlined in the plan, does not occur and set a precedent for future projects.

Response  
2.18

Unfortunately, this project, as it currently exists, does not seem congruous to the law's purposes. The law was enacted to preserve land and resources that would otherwise not be protected in a standard subdivision, and any attempt made to try to fit it into a conservation subdivision is disappointing at best. A standard subdivision would result in only 8 or 9 houses. It appears that the applicant, in order to circumvent the "intention of the law and the plan," bought additional property that was already protected in order to achieve his results.

This project's impacts to what the plan and the law is intended to protect does just the opposite. The plan calls for an astonishing twenty five houses plus an equestrian facility with forty horses with additional buildings. The horse manure waste from the horses as well as a potentially large number of visitors to the facility, has material negative impact on our natural resources and does not preserve land, which are again the intentions of both the plan and the zoning code.

In order to level set, I'd like to outline important points:

- **State law requires that towns adopt zoning laws in accordance with a Comprehensive Plan (Town Law §263)**
- **A Comprehensive Plan provides the "backbone" for the local zoning law**
- **A comprehensive plan is a statement of a community's goals and a conceptual road map for how to achieve them**
- **The 2007 plan identified a number of goals and strategies developed during the process**
- **Two of these goals, which directly support open space conservation and protection of natural resources and lead to our current conservation subdivision provisions, are:**
  - **Goal 1 - Conserve Philipstown's Rural, Historic and River-Community Character**
  - **Goal 7 - Protect Philipstown's Natural Resources**

Strategies for goal 1 include:

- Discourage intensive development in areas not designated for future growth in the Comprehensive Plan, allowing only low-density development, specifically encouraging open space development, also known as “clustering” or “conservation” development

Strategies for goal 1 include:

- Protect Water Quality and Quantity
- Identify critical parcels of land for preservation
  - Create an ongoing identification process
  - Develop ways to accomplish this preservation
  - Preserve habitat and scenic resources through use of open area regulations
- Adoption of a Natural Resource Protection Plan (NRPP)
  - Implement NRPP through land use regulations and other measures
- Chapter 3 / Implementation of the Comprehensive plan, is structured around the types of actions that can be taken to achieve the Town's Goals and Strategies as presented in Chapter Two (Goals and Strategies). Actions are divided into three general categories: Municipal Regulatory Actions (R), Municipal Non-Regulatory Actions (M) and Non-Municipal Actions (N).
- Comprehensive Plan Goal Implementation Action R 2.4 is “Allow open space (cluster) development, with safeguards to ensure that **such developments do not lead to more development than would otherwise occur** and that they preserve open space that the Town wishes to protect.”

Action R 2.4 explanation, as per Chapter 3, is as follows:

*Open space development, also known as cluster or conservation development, is a technique in which the same number of houses that would be allowed on a parcel under a conventional development scenario are arranged on smaller lots, preserving significant amounts of open space. – The use of this technique should be limited to those places where a conventional suburban development is a realistic possibility, but a cluster would produce a better result, with safeguards so that a developer cannot use this technique to build more units than would otherwise be permitted. – The open space to be preserved should be meaningful blocks of contiguous land that has conservation value and that preserves the rural qualities that the community values so much.*

- Comprehensive Plan Goal Implementation Action M 1: is “Prepare and adopt a natural resources plan.”

Action R 2.4 explanation, as per Chapter 3, is summarized as follows:

- *The natural resources plan would identify existing preserved open space and establish proposed open space preservation.*
- *The natural resources plan could then be linked to regulatory changes, such as open space development provisions.*
- Considerable effort and time went into publishing a Natural Resource and Open Space Protection Plan, which is dated October 4, 2007.

The focus on natural resource functions selected by the community is on:

- Ground and Surface Water
- Biodiversity
- Community Character
- Outdoor Recreation

The outcome of this was the **Open Space Index**, which prioritized land based on combined natural Resource functions. In addition, the Conservation Board and a Natural Resource Officer was established. **Under State Law the Conservation Board must review each development application in any Open Space Index area.**

- Current Philipstown zoning code defines **Open Space Overlay District and Conservation Subdivisions.**

The Open Space Overlay District (OSO) defined in §175-18 of Philipstown Code is as follows:

*Purpose: "Special protection of large tracts of land identified as important for conservation by the Town's Open Space Index is necessary to preserve the Town's natural resources and attractive rural quality" – Definition: "The OSO District shall include land shown in the Open Space Index that is located on parcels of 30 acres or more"*

The Conservation Subdivisions in Philipstown Zoning Code is as follows:

*Purpose: Conservation or clustered subdivisions intended to accommodate development in Open Space Overlay, while preserving natural resources and community character.  
Achieved By: Clustering residential units while preserving large tracts of contiguous open space, protected by a conservation easement.*

- As already stated above, the goal of a Conservation Subdivision is to have a better conservation outcome than a Conventional Subdivision. Density bonuses are earned by providing conservation value.
- It is also important to note that Philipstown's zoning code says that protected Open Space is to be contiguous and shall not result in fragmentation.

I have extracted key comments from HHLT's July 5, 2017 letter, which I've included in italicized text below and I fully support their rationale provided in their letters to the Planning Board (dated July 5, 2017 and February 21, 2017) for not supporting the approval of the project as currently proposed and acting as the land trust for holding the property as required by a conservation subdivision.

*Philipstown's 2006 Comprehensive Planning document recommended Municipal Regulatory Action on Conservation Subdivisions, as described in R2.4 (of Chapter 3) below:*

*"R 2.4- Allow open space (cluster) development, with safeguards to ensure that such developments do not lead to more development than would otherwise occur and that they preserve open space that the Town wishes to protect."*

*In our view, the provision quoted above from section 175-20 B(5) should not be ignored, and it is incumbent on the Planning Board to reach an informed decision whether it has a reasonable basis to*



***believe that the Yield Plan would result in substantially fewer units than the Density Formula. If it concludes that it does, then it should take appropriate action to ensure that the purposes of the Zoning Code provisions, including the safeguards against overdevelopment, are given effect. Furthermore, it is to be expected that the applicant will employ whatever measures it can to try and maximize the number of units by using the Density Formula. So for this and the foregoing reasons, we strongly urge the Planning Board to critically assess the unit count using all available methods in the Zoning Code, especially the use of the Yield Plan method.***

I agree with HHLT's point they raised in their July 5 letter, that the Planning Board ask the applicant to present to the Board a plan for a conventional subdivision detailing as closely as possible what would be required for a conventional subdivision, and a revision of its June 1st conservation subdivision plan that is responsive to the concerns noted in HHLT's letter. As HHLT stated, the Planning Board, with the benefit of advice from its own professional consultants, could then make a definitive decision on whether or not it has the requisite basis for requiring a Yield Plan pursuant to Section 175-20 B(5).

As also noted in HHLT's letter, with respect to Fragmentation and Definition of Open Space, Zoning Code Section 175-19 B provides an overview of Conservation Subdivisions, including the following wording:

***"Conservation subdivision results in the preservation of contiguous open space and important environmental resources, while allowing compact development . . . ,"***

HHLT also stated the following:

*The June 1st Plan shows segmented open space. The separate segments include one nearest Route 9, cut off from the rest of the forest cover by the proposed roads, and the housing units wrapping around Ulmar Pond. The spreading out of development across this south to north divide of the property, beginning at the first hairpin turn from the Route 9 entry road and ending at the last house at the southwest corner of the pond, does not seem consistent with the concept of "compact development."*

Further, in the zoning code, Section 175-21 A(3)(b) states that:

***"The configuration of the open space land and dwellings shall not result in fragmentation of the open space land in a manner that interferes with its proper management and protection of its conservation values."***

*We believe that the fragmentation mentioned above, particularly that associated with the houses wrapped around the pond, does interfere with conservation values, as mentioned previously in our February 21st letter to the Planning Board. In addition to fragmentation of forest cover, the number and size of houses, and road cover around the pond is likely to be detrimental to the water resources on the property and surrounding area as identified in the Conservation Analysis and Findings.*

*In addition, the fragmentation of open space will make easement monitoring and enforcement more challenging.*

*Definition of Open Space: We continue to be concerned that the applicant's definition of open space includes space with structures.*

*Open Space is defined in the Zoning Code as: "An area of land not developed with structures."*

*A Structure is defined in the Zoning Code as: "A static construction of building materials affixed to the ground, such as a building, dam, display stand, gasoline pump, installed mobile home or trailer, reviewing*

*stand, shed, sign, stadium, storage bin, wall, fence, swimming pool, tennis court, road, driveway, sidewalk, or parking lot."*

Therefore, I must conclude that **the proposal does not comply with the zoning code.**

As also noted in HHLT's letter, with respect to the impact of the Equestrian Facility, HHLT stated:

*While there has been much discussion around the legal status of the equestrian facility, our concern is primarily how this operation impacts conservation values of the conserved open space. Zoning Code 175-21 A states that:*

***"Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land as established in the conservation analysis"***

*Given the large number of horses involved in the equestrian operation, and the size of the associated infrastructure, we have significant concerns about the impact of this operation on the conservation values of the protected open space. This includes the impact on contiguous forest cover, wildlife corridors and the numerous water resources impacted by this development (Clove Creek, Clove Creek Aquifer, Ulmar Pond), all of which are documented in the Conservation Analysis and summary Conservation Findings.*

Finally, with respect to what HHLT raised in the July 5, 2017 letter, they made it clear that the current plan would not allow them to hold the conservation easements required for Conservation Subdivisions under Philipstown's Zoning Code. They stated:

*In order for us to accept such a regulatory easement, we must determine, after undertaking a due diligence examination and applying our own analysis, that:*

- 1. The steps defined in the Zoning Code and the vision documented in the Comprehensive Plan for Conservation Subdivisions are followed, and*
- 2. The easement we are taking on truly has conservation value and is one that we have the resources to monitor and enforce in perpetuity. For the reasons documented in Sections A) through D) above, it is unlikely that the June 1st plans as presented to the Planning Board would enable us to make that determination.*

I fully agree with the conclusions reached by the HHLT in their July 5, 2017 letter, that the main points that need to be addressed for the proposal to be approved as a conservation easement are the following:

- The developer is not able to use the Conservation Subdivision to build more units than allowed under a Conventional Subdivision (e.g. require a "Yield Plan" calculation or approximation),*
- Remove the housing lots wrapped around the pond to avoid the fragmentation of open space, and create a conservation outcome protecting the valuable natural resources identified in the Conservation Analysis and summary Findings,*
- Adhere to the definition of Open Space in the Zoning Code, and*
- Prove that the equestrian operations do not adversely impact the valuable natural resources identified in the Conservation Analysis and summary Findings*

HHLT also noted in their July 5, 2017 letter:

- There are several significant adverse environmental impacts of this development as defined by the June 1st plans, including:*

- *Impact of the development on key water sources (Ulmar Pond, the Clove Creek Aquifer, Clove Creek),*
- *Fragmentation of forest cover and impact on wildlife corridors, and*
- *Impact of significant equestrian operations on water, soils, and wildlife corridors.*

I, too, concur with HHLT's conclusion that unless these plans are revised to eliminate these adverse impacts, under SEQ RA, a full Environmental Impact Statement would be required.

I believe the property does not qualify as a conservation subdivision. According to the Philipstown zoning code, the dwellings in a conservation subdivision "shall not result in fragmentation of the open space." Because of zoning restrictions on rural land and open space, if the project were developed as a typical suburban subdivision, it would only have eight or nine houses and we would have a better conservation outcome if it was developed as a conventional subdivision.

Michelle Smith of HHLT rightly warned Planning Board members against setting a bad precedent, noting that other developers, inspired by this project, have similar proposals in the pipeline.

In closing, this is the first project to seek Philipstown Planning Board approval as a "conservation subdivision" under the town's 2011 zoning code and it is imperative to the town that this is done right and that it is compatible with the spirit of the 2007 Comprehensive Plan and that it does not set precedent for unwanted development, resulting in future loss of Open Space Index properties.

Sincerely,

Steven C. Loria

cc:

Neal Zuckerman, Philipstown Planning Board  
Kim Conner, Philipstown Planning Board  
Dennis Gagnon, Philipstown Planning Board  
David Hardy, Philipstown Planning Board  
Peter Lewis, Philipstown Planning Board  
Neal Tomann, Planning Board  
Richard Shea, Philipstown Town Supervisor  
Nancy Montgomery, Philipstown Board  
John Van Tassel, Philipstown Board  
Robert Flaherty, Philipstown Board  
Michael Leonard, Philipstown Board  
Michelle Smith, Hudson Highlands Land Trust

**Supplemental Submission to Philipstown Planning Board**  
**By**  
**Philipstown Conservation Board**  
**Regarding**  
**Hudson Highlands Reserve**

July 8, 2019

Philipstown Planning Board  
PO Box 155  
238 Main Street  
Cold Spring,  
New York 10516

Re: Hudson Highlands Reserve

Dear Chairman Merante and Members of the Philipstown Planning Board:

This is a Supplemental Submission to the Philipstown Planning Board made by the Philipstown Conservation Board with respect to the Draft Environmental Impact Statement (the “DEIS”) filed in regard to Hudson Highlands Reserve (“HHR”). It is intended to supplement the Conservation Board’s primary submission, which is a bullet-point summary that is also being filed today.

The July 19, 2018 Final Scope document approved by the Planning Board on July 19, 2018 identified four different primary areas to be addressed by the DEIS. These four areas were identified as follows:

1. Water Resources (Surface Water; Groundwater; and Floodway and Wetlands)
2. Vegetation and Wildlife
3. Zoning & Land Use; and
4. Community Character

This Supplemental Submission focuses on the issues of (i) Water Resources and (ii) Vegetation and Wildlife, both of which are issues that the Conservation Board believes are properly included within its area of responsibility.

HHR is a proposed 210-acre development in Philipstown, New York. If approved and built, it would be the first Conservation Subdivision in Philipstown. The evaluation and eventual approval or disapproval of the HHR proposal will set important precedents for all future Conservation Subdivision proposals.

The HHR proposal contemplates that roughly 50 of the 210 acres within the development will be used for construction of 25 luxury homes and a 40-horse Equestrian Center. The remaining 159.8 acres, most of which is undevelopable due to the steepness of the terrain, is described in the DEIS as being “undisturbed open space” and is proposed to be left in an undeveloped state, subject to a Conservation Easement, and is referred to in these Comments as the “Conserved Land”. The Conservation Easement also is proposed to cover a commercial Equestrian Center, which will have no undeveloped land. Accordingly, the term “Conserved Land” as used in this Supplemental Submission does not refer to or include the Equestrian Center. As noted in our other submission to the Planning Board, we do not believe that the Equestrian Center should even be considered for inclusion within the Conservation Easement, for the reasons stated in our primary submission.

The Conserved Land is described as serving several important and worthwhile functions:

**“It will protect important habitat and wildlife corridors and allow migration and movement of various animals. It will provide a block of undisturbed contiguous forest that will support the functions of the nearby unfragmented forest within Fahnestock State Park. It will preserve and protect Ulmar Pond, as well as a 140-foot buffer around it. It will also preserve and protect a wetland and bifurcated stream system, along with extensive buffers. The Conservation Easement will also include and preserve the area occupied by the historic stonewall-lined roadway as a cultural and recreational resource.” (DEIS, pp. 39-40)** [The reference to “contiguous forest” appears to refer to forest within the Conserved Land. None of the Conserved Land is contiguous to Fahnestock State Park.]

Plans for HHR call for 10 of the 40 horses at the Equestrian Center to be owned by HHR and available to the public for riding, training, and similar use, at an unstated

but presumably market-rate commercial fee. The fact that the public will be able to pay commercial rates in order to use the Equestrian Center is the primary public benefit identified by HHR in its Draft Environmental Impact Statement (the "DEIS"). The DEIS implies that there are not other equestrian centers available for public use, although such centers appear to be available elsewhere in Putnam and Dutchess Counties.

The remaining 30 horses will be owned and stabled at the Equestrian Center by individuals who have purchased one of the 25 lots in HHR and built a house there. There is no projection of what the fees charged for public use will be or how such fees compare to those charged by other equestrian centers. Appendix G to the DEIS, dealing with the Equestrian Center, appears to suggest that public use of the Equestrian Center is necessary in order to make it economically viable.

Response 3A.9  
Response 3A.11

A significant part of the DEIS relates to the Equestrian Center, primarily because the 40 horses that will be stabled there will produce approximately one million pounds per year of environmentally damaging horse waste, all of which must be contained and then trucked off-site weekly for disposal. Although not described in the DEIS, production of the one million pounds of horse waste that must be removed every year will presumably require the annual trucking into the Equestrian Center of an equivalent one million pounds of feed and straw bedding. Any failure to contain and remove the horse waste properly would risk dangerously contaminating Water Resources. In addition, riding horses on the approximately 160 acres of Conserved Land, which the DEIS says will not occur, would rapidly destroy Vegetation and Wildlife.

### Summary of Conclusions

**HHR's Proposal to Protect Water Resources, Vegetation, & Wildlife Creates an Inherent Conflict of Interest that Could Endanger those Natural Resources:** The DEIS describes an elaborate system of operations and internal self-governance by a Homeowners Association (the "HOA"). All residents of HHR will be required to be members of the HOA, and the board of directors of the HOA will consist of three residents of HHR. The HOA will be charged with determining the amount of annual maintenance charges required to be assessed against and collected from residents, in order to carry out all of the critical, government-like functions and duties assigned to the HOA. The amount of projected annual maintenance charges per resident was not quantified in the DEIS, but it appears likely to be high, given the extensive maintenance and upkeep functions assigned to the HOA.

The HOA also will be charged with managing the Conserved Land that is subject to the Conservation Easement, setting and enforcing all of the rules designed to protect the Conserved Land against overuse or damage by residents - their neighbors - and raising the revenue to successfully maintain and operate the complex systems required to protect groundwater and streams from pollution. As with any HOA, there is an inherent conflict of interest present within the HHR HOA. It is exacerbated in the HHR proposal by the complexity and number of quasi-governmental functions the HOA must assume.

With regard to protection of Water Resources, Vegetation, and Wildlife, for example, it is clearly in the enlightened self-interest of the residents and the members of the HOA to set maintenance charges at whatever rate is required, in order to properly protect all Water Resources, Vegetation, and Wildlife that are at risk and to also carry out all of the other wide variety of functions entrusted to the HOA. Those same residents, however, are the ones who must actually pay the monthly maintenance charges.

Paying any subdivision's monthly maintenance charges is similar to paying taxes: every taxpayer/homeowner wants the benefits that come from spending either tax dollars or HOA maintenance charges, but those same taxpayers/homeowners are often unwilling to vote for the level of taxes/monthly charges required to fund such benefits, and will try to avoid payment of taxes/monthly charges unless there is a significant and immediate benefit to doing so, as well as a significant and immediate sanction for failure to do so. The members of the board of directors of the HOA will be asked every year to determine the annual maintenance charges to be assessed against all residents of HHR, including themselves. There could not be a more clear-cut conflict of interest.

Likewise, protection of the Conserved Land conflicts with what will be an understandably strong desire of the residents of HHR to use the Conserved Land near their homes for whatever recreational purposes attractive to each of them, regardless of the rules. All residents of HHR will be aware that, immediately adjacent to their one-acre lots, there exists an undeveloped park-like 160 acre expanse of forest, streams, pools, wildlife, and similar features in the Conserved Land. Residents will be aware that the public is prohibited from using the Conserved Land for any purpose whatsoever; that access to, and use of, the Conserved Land is reserved exclusively for residents of HHR; and that HHR actually owns the Conserved Land.

Response  
2.36

It defies both experience and human nature to believe that residents will not wish to make full use of the Conserved Land for recreational purposes. There are no public parks or recreation areas within walking distance of HHR; while Philipstown has many such areas, residents of HHR will have to drive in order to reach any of them. The 160 acres of Conserved Land, however, will be within immediate walking distance to every house located within HHR. Indeed, access to such lands will presumably be a major selling point by the developer, so the argument that the residents either will not wish to use such lands or will do so only sparingly seems improbable. People who purchase luxury houses anywhere within the Hudson Highlands expect, depending upon their particular interests, to be able to walk; bike; jog; run; ride horses; hunt; sunbathe; engage in outdoor photography; cookout; barbeque; play ball and other sports; fish; and engage in all normal outdoor recreational pursuits. The temptation to do so in the Conserved Land will be overwhelming, notwithstanding rules purporting to limit such use.

Response  
2.37

As with the conflict inherent in setting and collecting maintenance charges, there will be a similar conflict with respect to use of the Conserved Land. Residents will have an understandable desire to use the Conserved Land, all of which will be private; reserved exclusively for their use; and supported by the maintenance charges that they pay. At the same time, however, the HOA board members will have a duty to conserve and protect such lands against all but minimal human use, not to mention protection against any incursion by horses. Such conflict between the natural inclination of residents and the duties of the HOA board has the potential to become irreconcilable.

**Risks to Water Resources:** With respect to Water Resources, HHR poses serious risks to both groundwater and surface water contained within the area encompassed by HHR, as well as to surrounding groundwater, the watershed for Clove Creek, and the Hudson River itself. **The risk results primarily, but not exclusively, from the fact that the Equestrian Center will generate approximately one million pounds of horse waste per year** (DEIS, Appendix "N": September 21, 2017 report of B. Laing, Environmental Consultant for HHR; 65 lbs of estimated stall waste per horse per day x 40 horses x 365 days = 949,000 lbs. /year).

Response  
3A.11

Runoff from all of such waste, including feces, urine, and soiled stall bedding material, must be prevented from leaching into the soil or being washed into streams. While HHR contemplates adoption of an extensive Manure Management Program, that program must be fully funded from operations of the Equestrian Center; executed perfectly, first by employees of the Equestrian Center, and then by a hired contractor;



and rigorously followed, **in perpetuity**, in order to avoid substantial contamination of both groundwater and surface water.

In addition, the project has a large pond (Ulmar Pond) and a number of intermittent streams, vernal ponds, and wetlands. The DEIS calls for the protection of all of such water resources and outlines how that is intended to be achieved, including through the development and adoption of a lake management plan for Ulmar Pond. There is, however, often a large gap between the predictions of a developer and what actually happens on the property in later years. In the case of HHR, all the developer's comprehensive plans for management and protection of Water Resources must be funded, executed and maintained by the HOA. All of the surface water and groundwater is potentially at risk if the water protection and management plans outlined in the DEIS are not fully funded, properly implemented, and permanently enforced for as long as the Equestrian Center remains in operation.

**AS A RESULT OF THE ISSUES DESCRIBED ABOVE, THE PHILIPSTOWN CONSERVATION BOARD BELIEVES THAT THE RISK POSED BY HHR TO WATER RESOURCES, INCLUDING ULMAR POND, CLOVE CREEK, AND THE HUDSON RIVER, IS VERY HIGH.**

**Risks to Vegetation and Wildlife:** Approximately 160 acres of undeveloped Conserved Land will be included within the Conservation Easement. The DEIS identifies an extensive list of flora and fauna that can be found at the current time within the Conserved Land, and presents an optimistic view of the beneficial impact that the Conservation Easement will have upon all of such vegetation and wildlife. At the same time, the DEIS notes the risk posed to the Conserved Land by human usage:

**“The introduction of human activity can have a detrimental effect on wildlife. It can displace plants and animals from their natural environment. At its worst, it can cause the extirpation of flora and fauna that are necessary to the environment. In order to preserve the environment, destruction of wildlife, especially threatened or endangered species, should be avoided.”** (DEIS, p. 75)

Response  
2.62

How destructive the impact of human usage of the Conserved Land will be is unknowable at the present time. The two primary variables that will determine how destructive human usage will be are those of (i) the frequency and intensity of actual human use of the Conserved Land by residents of HRR, irrespective of subdivision

rules; and (ii) domesticated animal (primarily horses) use of the Conserved Land, irrespective of subdivision rules.

Response  
2.59

With respect to human usage, the Conserved Land will be closed to use by the public and will be available only for use by the homeowners in HHR. That restriction will limit the number of individuals who will be using the land, but it is not clear what uses the residents of HHR will make of the land; how such uses will be regulated; and how aggressively the HOA will enforce protective rules for the Conserved Land. Absent strict guidelines that are actually enforced, use of the Conserved Lands by HHR residents will be likely to degrade them both as a habitat for wildlife and as an “undeveloped contiguous forest.” It is a certainty that the proximity of 160 acres of undeveloped land to the 25 homes that will be built will introduce a permanent population, at least some of the members of which will desire to engage in outdoor recreational activities near where they live, i.e., in the Conserved Land.

Response  
2.60

Horses pose a danger at least as great to the Conserved Land as do humans, both because of the habitat destruction that would be caused by riding and also because of horse waste that would be left in the Conserved Land anytime that horses intrude there. The DEIS implicitly recognizes this fact by stating that riding horses anywhere within HHR other than at the Equestrian Center will be prohibited. The DEIS and its accompanying appendices contain totally inconsistent and contradictory statements, however, with respect to the issue of riding horses outside of the Equestrian Center. Those internal contradictions make all the more important the question of who will monitor and enforce the seeming prohibition against riding horses outside of the Equestrian Center. Some or all of the members of the board of directors of the HOA will be horse owners themselves, and Philipstown is being asked to rely on them to insure that horses do not destroy the wildlife, vegetation, and habitat within the Conserved Land. Whether the HOA does so or not will determine the fate of the Conserved Land.

**AS A RESULT OF THE FOREGOING, THE CONSERVATION BOARD BELIEVES THAT THE RISK POSED BY HHR TO VEGETATION AND WILDLIFE IS VERY HIGH.**

### Recommendations

The Conservation Board recommends that HHR be approved by the Planning Board, but ONLY subject the following changes, all of which should be added to the appropriate documents, and as to all of which any modifications or deletions should be

explicitly prohibited, without written approval of the holder of the Conservation Easement and the Town of Philipstown. **ABSENT ADOPTION BY THE DEVELOPER OF THE RECOMMENDATIONS BELOW, THE CONSERVATION BOARD STRONGLY RECOMMENDS THAT THE PLANNING BOARD DISAPPROVE HRR IN ITS ENTIRETY.**

### **1. Public Board Members**

In order to address the structural conflict of interest inherent within the proposed HOA, the HOA should have a five-person board of directors, consisting of three members elected by residents of HHR and two public members, collectively nominated by Open Spaces Institute; Riverkeeper; Hudson Highlands Land Trust; Constitution Marsh Audubon Center and Sanctuary; Scenic Hudson; and the Philipstown Garden Club. If not all of the six entities listed in the prior sentence wish to participate in the nomination process, the remaining entities should do so. The two public members should be approved and appointed by the Town of Philipstown. Such public members shall be full voting members of the HOA, fully indemnified as are the other board members, and should be authorized to report to the holder of the Conservation Easement, the Town of Philipstown, and the CB any issues or concerns they may wish to raise with respect to HHR. The bylaws of the HOA should be modified to require that at least one public member be present at any meeting of the board in order for it to have a quorum and take any action.

Response  
2.38

An HOA does not typically have or need public members, and if this were a conventional subdivision, without an Equestrian Center, there would be no need for public members. The potential for environmental damage to Water Resources, Vegetation, and Wildlife is so great, however, and the public interest is so strongly implicated, that public members of this HOA board are critical. Public corporations in the United States routinely have independent board members, with no conflicts of interest, and so should the HOA for HRR. The CB additionally recommends that public members be mandatory not only for HHR, but also for all future Conservation Subdivisions.

### **2. Certified Land Trust**

In view of the critical importance of proper administration and enforcement of the Conservation Easement, only a land trust certified by the Land Trust Alliance Accreditation Commission should be accepted by the Town of Philipstown as the holder of the Conservation Easement. As indicated on its website, "The Land Trust Accreditation Commission was incorporated in April 2006 as an independent program

Response  
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of the Land Trust Alliance to operate an innovative program to build and recognize strong land trusts, foster public confidence in land conservation and help ensure the long-term protection of land.” It is the gold standard for land trust accreditation, and the citizens of Philipstown are entitled to nothing less. If a land trust accredited by the Land Trust Accreditation Commission willing to hold the Conservation Easement cannot be found, that will be a red flag for the Town of Philipstown that something is seriously wrong with the proposed development.

### **3. “Trust but Verify”: Testing & Inspection for Water Resources, Vegetation & Wildlife**

It is impossible to know without regular monitoring and testing whether the protections proposed in the DEIS for Water Resources, Vegetation and Wildlife are being implemented properly or are working as contemplated in the DEIS. Philipstown should not be required to pay for such testing, which would not be required, but for the presence of the Equestrian Center and the waste generated by the horses that will be stabled there. The developer should pay for such testing, and, as and when the developer has no lots left to sell in HHR, the HOA should pay for it. Accordingly, the CB recommends the following testing procedures and schedule.

Response  
3A.12

- **Water Resources:** an independent, certified water-testing firm selected by the Town of Philipstown should test Ulmar Pond, representative vernal ponds, Clove Creek, and any other sites selected by it or the Town of Philipstown, at the expense of HHR, and deliver reports simultaneously to HHR and the Town of Philipstown. Such testing should be done monthly. At the option of the Town of Philipstown, such testing may also be required after any rainstorm producing more than one inch of rain in six hours or less.

Response  
2.50

- **Vegetation & Wildlife:** an independent, certified wildlife and habitat management firm selected by the Town of Philipstown should inspect the Conserved Land monthly to determine the degree to which vegetation and wildlife and their habitats are being disturbed, either by construction; human activity; horses being brought onto the Conserved Land; or any other activities. Such inspections and reports should be under the same terms and schedule proposed above for water testing.

Response  
3A.13

- **Baseline Testing:** in order to provide baseline data, both comprehensive water testing and a full field inspection of the Conserved Lands should be undertaken within 30 days of any approval of HHR by the Planning Board and should be done monthly thereafter, in order to provide a meaningful pre-development record of water quality, habitat quality, and the presence or absence of wildlife.

Absent such baselines, it will not be possible to fully evaluate the implications of later testing and inspection.

#### **4. Two Critical Wildlife Corridors Should be Widened**

Two of the most critical wildlife corridors within HHR are, as currently proposed, either unacceptably constricted and/or blocked. Modern wildlife science has established that wildlife does not naturally use narrow, slot-like corridors, particularly when the corridors are adjacent to human settlement or commercial livestock. Two critical proposed HHR corridors should be opened and/or widened. The first corridor runs between Clove Creek and Ulmar Pond. The five houses on the West Side of Ulmar Pond should be moved to other developable land, in order to open that corridor. Likewise, the Equestrian Center, as proposed, impinges significantly on the corridor from the eastern side of HHR to Ulmar Pond, particularly given the presence of 40 horses within it. The Equestrian Center should be reconfigured so as to widen that corridor materially.

Response  
3B.21

#### **5. General Rule (ii) Should be Changed and Made Non-Amendable**

Appendix J to the DEIS contains, among other documents, the General Rules and Regulations of Hudson Highland Reserve Homeowners Association (the "General Rules"). Section 1 of the General Rules contain 35 separate rules applicable to homeowners, covering issues such as the parking of cars; license plates; dogs; cats; signs; fences; gates; maintenance charges; nuisances; and a variety of other issues.

Response  
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The single most important rule of the 35 rules specified is Rule (ii), which is the 35th, last, and least conspicuous of all of the rules. It states as follows: "No horses or horseback riding shall be permitted anywhere in the Community except within the Equestrian Center." While the rule is clear and in keeping with representations of the developer, the importance of it to environmental protection is such that it should have been the first of all of the rules, rather than the last. Placing this critical rule last in a long list of rules, most of which are trivial in comparison, is inappropriate. Accordingly, Rule (ii) should become the first Rule (i.e., Rule (a)), and, in order to emphasize its importance and avoid any contention by any party that they were unaware of the rule, it should be printed in capital letters, in bold-face type.

In addition, Section 6 (16 ) of the Bylaws of the HOA allows the board of directors of the HOA to "amend, modify or repeal" any of the General Rules. Accordingly, current Rule (ii), which should become Rule (a), should include the following sentence: "This

Response  
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rule (a) may not be amended, modified, or repealed without written consent of the holder of the Conservation Easement and the Town of Philipstown.” Likewise, Section 6 (16) of the bylaws of the HOA, which explicitly authorizes amendment, modification, or repeal of any rules, should add a statement prohibiting any amendment, modification, or repeal of current Rule (ii), without the written consent of the holder of the Conservation Easement and of the Town of Philipstown.

#### **6. The Easement Approving Horse Riding Outside of the Equestrian Center Explicitly Violates the Proposed Conservation Easement and Must be Changed**

Response  
2.41

Appendix “T” to the DEIS is the Declaration of Covenants, Restrictions, Easements, Charges and Liens (the “Declaration”), which addresses the issues suggested by its title. Contrary to the intent stated elsewhere to prohibit riding horses anywhere in HHR other than within the Equestrian Center, Article V, Section 2 (iii) of the Declaration explicitly grants an easement approving horse riding outside of the Equestrian Center: “Right-of-way for ingress and egress and/or use and enjoyment by horseback riders who are instructors, students, patrons or invitees of the Equestrian Center, over and on the interior roadways in the Community and over and on the Historic Roadway.”

That provision explicitly approves the use of horses outside of the Equestrian Center, rather than prohibiting such usage, and it significantly undermines the credibility of the developer’s assurances to the contrary. Once horses are permitted to be ridden “over and on the interior roadways in the Community and over and on the Historic Roadway,” it is inevitable that they will begin to be ridden everywhere throughout the Conserved Land. The Declaration must be revised to remove the proposed easement allowing horses to be ridden outside of the Equestrian Center, in conformity to the terms of the Conservation Easement. The Declaration’s grant of an easement allowing horseback riding should be replaced by a prohibition, and the prohibition should be printed in capital letters and in bold-face type.

#### **7. Contingency Planning for Equestrian Center: Quarterly and Annual Financial Statements from the Equestrian Center**

It is of critical importance that the operations of the Equestrian Center be financially successful, since management and employees of the Equestrian Center are responsible for implementing the Manure Management Plan. There are, however, no

**Response 2.72** contingency plans presented anywhere in the DEIS should the income of the Equestrian Center prove inadequate to support, for example, thorough and continuous implementation of the Manure Maintenance Plan. Will Horton Road LLC backstop costs and expenses of the Equestrian Center? If so, for how long? Will the HOA provide such backstop? The importance of flawless execution of waste control and removal is such that HHR should not be approved without some contingency backstop from a responsible third party, in the event the operations of the Equestrian are less successful than projected in the DEIS.

**Response 2.73** In addition, the governing documents for HHR should require that monthly, quarterly, and annual financial statements for the Equestrian Center should be provided to the board of the HOA, so that the board can confirm that operations are generating sufficient revenue for the Equestrian Center to properly perform all of its functions, including the requirements of the Manure Management Program.

**Response 2.74** In addition, a funding plan for recurring capital expenditures relating to pollution prevention at the Equestrian Center should be presented annually to the board of the HOA. For example, the DEIS states that the engineered floors of the 40 horse stalls will need to be rebuilt at least once every ten years, and perhaps more often, in order to function properly and prevent horse waste from leaching into groundwater. What will be the amount of such expenditures? What other, similar capital improvements or replacements will be required? How will such expenditures be funded?

## **8. The Remedies Against the Developer for Breach of the Conservation Easement are Illusory and Must be Strengthened**

Section 6 of the Conservation Easement is entitled, “Grantee’s Remedies for Violation of Easement.” It deals with the rights of the holder of the Conservation Easement (the “Grantee”) against the developer, Horton Road LLC (the “Grantor”) for any and all violations of the terms of the Conservation Easement. As such, it is critically important to the protection of the Conserved Land. As drafted, the rights and remedies are more illusory than real, and the section must be revised to give the Grantee and the Town of Philipstown meaningful remedies with which to enforce the Conservation Easement, in order to adequately protect Water Resources, Vegetation, and Wildlife.

Section 6.2 of the Conservation Easement says that the Grantee may bring an action for injunctive relief, but does not say against whom such action may be brought. This section should state clearly that any such action may be brought against the

Response  
2.52

Grantor at any time until it no longer owns any lots for sale within HHR and, thereafter, against the HOA.

Section 6.3 of the Conservation Easement says that the Grantee may recover damages for violation of the terms of the Conservation Easement or injury to any of the conservation purposes that are protected by its terms, but does not say against whom such damages may be recovered. This section should state clearly that damages may be recovered against the developer at any time until it no longer owns any lots for sale within HHR and, thereafter, against the HOA.

Response  
2.53

Section 6.6 of the Conservation Easement deals with costs of enforcement, including both attorney's fees and any costs of restoration of the Conserved Land. It states that any of such fees and costs shall be borne by the Grantor, if the Grantee prevails in a judicial action. The Grantor, however, is an LLC, which means "Limited Liability Company." One of the purposes of an LLC is to protect the beneficial owners of the LLC from any personal liability. This means that, if the Grantee and/or the Town of Philipstown (pursuant to its third party enforcement rights under Section 6.8 of the Conservation Easement) obtain a judgment against the Grantor for violations of the Conservation Easement, the Grantor may or may not have the funds with which to pay such judgment.

In addition, Section 10.2 of the Conservation Easement explicitly disclaims personal liability for any beneficial owner, confirming that the Easement was drafted with the specific purpose and intent of limiting the ability of the Grantee and the Town of Philipstown to assert any claims against the beneficial owners, even if the Grantor is unable to pay a judgment or respond to other orders of a court. It is not acceptable for the beneficial owners to reap the profits from development of HHR and have the ability to walk away from its liabilities.

Accordingly, the beneficial owner or owners of Horton Road LLC should provide an unconditional guarantee to the Grantee and to the Town of Philipstown, covering any and all obligations of the Grantor under the Conservation Easement, including but not limited to fees, costs, expenses and damages, in the event Horton Road LLC does not pay any sums awarded pursuant to a final, non-appealable judgment against it, in whole or in part, or fails to take any action required of it under any section or provision of the Conservation Easement. Promises by any LLC, including Horton Road LLC, are illusory without either such a personal guaranty, a letter of credit, or another, functionally similar, alternative.



Of course, if the system works as perfectly and flawlessly as the DEIS suggests that it will, the beneficial owners will never have to pay any costs whatsoever from their personal funds. If, however, the beneficial owners are not willing to provide personal guarantees to backstop the promises that they are making, their unwillingness to do so will be a red-flag for the Town of Philipstown that it needs to view all of the promises and undertakings in the DEIS with a high degree of scepticism.

**9. The “Use of Property” Section of the Conservation Easement is Unacceptably Open-Ended and Does not Prohibit Horseback Riding in the Conserved Land**

Response  
2.63

Section 4.1 of the Conservation Easement is entitled “Use of Property.” It is intended to describe what uses may be made of the approximately 160 acres of Conserved Land, not including the Equestrian Center. It lists eight permitted uses as being “included but not limited to.” The section should provide that those eight activities are the only permitted uses, and that future permitted uses may be added upon request of the Grantor or the HOA, subject to written agreement by the Grantee and the Town of Philipstown. Such request for approval should provide the Grantee and the Town of Philipstown 90 days within which to respond. In addition, although it is garbled, the last sentence of Section 4.2 of the Conservation Easement states that horseback riding shall not be permitted outside of the Equestrian Center; that prohibition, clearly written, should be added to Section 4.1 of the Conservation Easement as well.

Respectfully submitted by the Philipstown Conservation Board, July 8, 2019.

Mark Galezo, Chair  
Lew Kingsley  
Robert Repetto  
D.J. (Jan) Baker  
Anthony Deos (alternate)

Andy Galler  
M.J. Martin  
Robert Repetto  
Krystal Ford  
Max Garfinkle, Natural Resource Officer &  
Wetlands Inspector



**Submission by Philipstown Conservation Board**

**To**  
**Philipstown Planning Board**  
**Regarding**  
**Hudson Highlands Reserve**

July 8, 2019

Philipstown Planning Board  
PO Box 155  
238 Main Street  
Cold Spring,  
New York 10516

Re: Hudson Highlands Reserve

Dear Chairman Merante and Members of the Philipstown Planning Board:

The Philipstown Conservation Board ("CB") has thoroughly reviewed the Draft Environmental Impact Statement ("DEIS") developed by the applicant and its consultants for the proposed Hudson Highlands Reserve ("HHR") Conservation Subdivision. The CB unequivocally finds the DEIS to be inadequate and incomplete because it fails to substantively answer a significant number of issues that are contained in the Final Scope for the DEIS adopted on July 19, 2018 by the Planning Board ("PB").

The CB understands that the PB has been inundated with vast amounts of materials for this proposed development. Therefore, for the sake of brevity we have condensed our comments to a list of easy-to-review bullet points. In addition, the CB is also filing a more detailed Supplemental Submission, providing more detail with respect to some of the points raised below. Upon request, the CB can provide additional information on each or all of the CB's concerns.

- **The Proposed HHR looks more like a conventional subdivision than it does a conservation subdivision.** The intention of Town Code, Zoning, and Overlay Districts is to allow developers to obtain a higher density of lots, if they are concentrated on a small part of a larger parcel within areas of minor conservation value, thereby protecting the biodiversity of the majority of the site. This applicant has placed the majority of the development in areas of moderate conservation value. In this situation, areas of moderate value are extremely important on both the meso- and macro- levels. As designed, the property would be fragmented into two unconnected areas with no viably functioning wildlife corridors. This is further exacerbated by the inclusion of a high-density equestrian center.

Response  
2.17

● **A conventional subdivision is preferable to a flawed Conservation Subdivision.** Most of the land within the proposed Conservation Easement is unsuitable for development, given the steep terrain. Accordingly, the CB believes that a conventional subdivision, built in accordance with existing zoning and other regulations would be preferable to a flawed Conservation Subdivision. While there are things that the developer could do to address the concerns that have been expressed, its continued failure to do so suggests that Philipstown would be better served by a conventional subdivision, absent a change in the responsiveness of the developer to the concerns that have been expressed.

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4.1  
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● **Avoiding after-the-fact approval conditions has become a best practice for municipalities.** Ongoing (meaning after development is complete) conservation, water quality, septic, stormwater, and manure management mitigations are an enormous component of how the HHR is currently proposed/ designed. The CB questions whether it is realistic to believe that the subdivision and accompanying equestrian center can actually function as the applicant states that they will. Decision-makers such as the Town Board, the PB or CB should avoid the temptation to remedy incomplete or defective applications with post-approval conditions.

Response  
2.37,  
2.52

● **Homeowners Association (HOA) and general economics of the HHR are troubling.** The applicant has provided a sample template of an extensive HOA agreement, including bylaws, that is supposed to ensure that all the promises by the developer and the rules and safeguards for the subdivision, conservation easement, and equestrian center are strictly followed. Unfortunately, this is not realistic; homeowners change, priorities evolve, and the costs of maintaining such a high level of maintenance may rapidly become untenable; what happens then? What happens if the applicant can only sell half the proposed lots? How will the environmental safeguards be effectively implemented? What if future members of the HOA disagree with the goals and objectives outlined in the DEIS? The HOA has a built-in conflict of interest, which need to be mitigated with clear restrictions from the Planning Board.

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2.36,  
2.37,  
2.52

● **In order to address the HOA conflict of interest, the HOA board of directors should consist of three residents and two public members.** In order to address the structural conflict of interest inherent within the proposed HOA, the HOA should have a five-person board of directors, consisting of three members elected by residents of HHR and two public members. Public companies in the US routinely have independent board members, and HHR and the boards of all future Conservation Subdivisions should do so as well. The two public members should be collectively nominated by Open Spaces Institute; Riverkeeper; Hudson Highlands Land Trust; Constitution Marsh Audubon Center and Sanctuary; Scenic Hudson; and the Philipstown Garden Club. If not all of the six entities listed in the prior sentence wish to participate in the nomination process, the remaining entities should do so. The two public members should be approved and appointed by the Town of Philipstown. Such public members should be full voting members of the HOA, fully indemnified as are the other board members, and should be authorized to report to the Town of Philipstown and the CB any issues or concerns they

Response  
2.38

may wish to raise with respect to HHR. The bylaws of the HOA should be modified to require that at least one public member is present at any meeting of the board in order for it to have a quorum and take any action.

**Response 2.63, 2.35, 2.40, 2.41**

- **The fine print in the HOA By-Laws, the General Rules, and the Declaration of Covenants, Restrictions & Easements is troubling.** The fine print in many of the documents in the Appendices to the DEIS is very troubling, including in particular with respect to the issue of riding horses outside of the Equestrian Center. Contrary to many representations in the DEIS that horses will not be allowed outside of the Equestrian Center, the Declaration explicitly allows for horses to be ridden on any of the “interior roadways in the Community and over and on the Historic Roadway.” In addition, although the General Rules state that horses cannot be ridden outside of the Equestrian Center, the proposed HOA Bylaws allow the HOA board to change the General Rules at any time. What other disturbing issues and possible changes are buried in the fine print? The CB recommends absolute prohibition of horses outside the paddocks and riding areas of the equestrian center. This prohibition should be enforceable by the Town’s code enforcement agents.

**Response 3B.36, 3B.42**

- **Wildlife habitat studies are deficient in both geographic and temporal scope.** No new studies have been undertaken in response to the parameters of the Scoping Document. Existing cited studies were conducted on only select portions of the property, for other earlier proposed projects that were very different in nature (ie, soil mining), for too short a duration, and/or during an inappropriate time window.

**Response 3B.14**

- **Vernal pool inventory was not conducted during the obligate window—early spring (April-May) and therefore no vernal pools were found.** Vernal pools are an extremely important biologic resource. They provide breeding grounds for reptiles and amphibians, which are an integral component of the wildlife composition of the Hudson Highlands and provide an important source of food and nutrients for a wide array of mammals, birds, and invertebrates.

**Response 3B.34, 3B.54, 3B.60**

- **Habitat fragmentation effects have been underestimated and wildlife corridors are too narrow.** The state-of-the-science of habitat fragmentation has greatly advanced since the Lathrop paper was published more than two decades ago (cited by the applicant). The DEIS has not taken the “edge effect” phenomenon into account in the project’s design, which can have major effects on fragmentation and wildlife corridors. Edge effects arise from human activities such as ground and vegetation disturbances, traffic, noise, artificial lighting, chemical pollution, and companion animals. Generally, 300 meters (approximately 900 feet) is cited as the minimum interval where negative edge effects significantly impact the function of wildlife corridors. As proposed due to edge effects, the HHR has no viable wildlife corridors, and forest fragmentation would have many adverse effects on wildlife and the matrix forest. The applicant has seemingly ignored one of the major conclusions included in its own conservation analysis; Steve Coleman, a wetland scientist and ecologist, recommended in his 2014 analysis that the two important wildlife corridors be kept open.

Response 1.3

- **Degradation of Ulmar Pond and its accompanying wetland complex.** The applicant cites the economic need to surround more than half the shoreline of the pond with eight houses, because these are “premium lots”. Placement of houses around the pond, even with a 140 foot buffer, will have a significant negative impact, however, on the riparian corridor. The CB also questions how these lots can be premium, when at best they will have only winter views of the pond, and homeowners will not have direct access to the pond from their own lots. The CB is concerned that the wetlands barrier will not be preserved because it will not be adequately enforced by the proposed volunteer-run, residents-only HOA.

Response 2.65

- **The equestrian center as designed is not the form of an agricultural enterprise that is consistent with a conservation easement.** The CB has significant concerns in regard to this proposed commercial operation on 11 acres. The equestrian center will comprise large areas of indoor space, with impermeable surfaces and very high livestock density. Animal, human, and vehicular traffic from both regular use and special events are of concern, as is the effective management of waste and introduced vermin. As geographically situated, the equestrian center represents a significant man-made barrier to wildlife migration and intensifies the aforementioned edge effect. An equestrian center of this size in operation 24/7, 365 days a year is not consistent with the intent of limited agricultural use provision for a conservation easement. The CB recommends a significant downsizing of the equestrian center, relocation further west/north to increase the width of the wildlife corridor, and its exclusion from the calculation of conserved lands.

Response 2.49

- **Who will hold the conservation easement on this property?** As now proposed, a conservation easement on the HHR would be difficult to steward because of the complexity of maintenance, financial resources required, and the large number of homeowners. Moreover, as previously mentioned, high density agriculture is not in keeping with a true conservation easement. The Hudson Highlands Land Trust has recommended that the conservation easement holder must be nationally accredited by the Land Trust Accreditation Commission. The CB strongly endorses that recommendation.
- **The CB endorses the concerns and recommendations made by the Hudson Highlands Land Trust, the Putnam Highlands Audubon Society, Constitution Marsh, and the Black Rock Forest Consortium.** All of these organizations have a well-deserved reputation for thoughtful environmental and conservation support. None have a history of knee-jerk negative reactions to development. As evidenced by the comments made at the June 20th public hearing, their views and recommendations are consistent with the views of many, if not most, of the residents of Philipstown. **The CB believes that the deep environmental knowledge of the aforementioned groups, particularly with regard to wildlife habitat and water resources, should be given great weight by the PB.**

**Response 3A.11**

- **The remedies proposed in the DEIS for violations of the HOA Bylaws, the Manure Management Plan, and the Conservation Easement are time-consuming, impractical, and unworkable.** According to the numbers in the DEIS, approximately one million pounds per year of horse waste will be generated at the Equestrian Center (DEIS, Appendix "N": September 21, 2017 report of B. Laing, Environmental Consultant for HHR; 65 lbs. stall waste per horse per day x 40 horses x 365 days = 949,000 lbs. per year). Any malfunction in the complicated and critically-important Manure Management Plan will constitute a public emergency. The DEIS enforcement mechanisms, which call for notices of violations, warning letters, and ultimately filing expensive, time-consuming lawsuits, is a recipe for disaster for the water resources and wildlife habitat contained within HHR. In the event of a malfunction that results in an unanswered warning letter, all live stock should be required to be immediately removed from the facility by order of the code enforcement officers of Philipstown, until all violations have been rectified.

The CB understands that the HHR represents the most complicated project to come before the PB. We urge the PB to utilize all constructive comments from the public and involved agencies to modify the proposed HHR subdivision as much as necessary regardless of the applicant's resistance. As a precedent-setting first conservation subdivision for Philipstown, the HHR needs to be done right; it should not only follow all aspects of the Town Code but also adhere to the spirit of the Comprehensive Plan and utilize sound, best-practices for its environmental planning. As currently proposed, it does not meet that standard.

The CB is willing to help the PB develop the final EIS, should the PB wish for it to do so.

Respectfully submitted by the Philipstown Conservation Board, July 8, 2019.

Mark Galezo, Chair  
Lew Kingsley  
Robert Repetto  
D.J. (Jan) Baker  
Krystal Ford

Andy Galler  
M.J. Martin  
Anthony Deos (alternate)  
Max Garfinkle, Natural Resources Officer  
& Wetlands Inspector

Hudson Highlands Reserve DEIS  
Questions for July 8th from Kim Conner  
Page 1 of 2

How many

Response 2.8

- Existing structures including dwellings
- Existing dwellings
- Proposed new structures including dwellings
- Proposed new dwellings including any caretaker residences for the equestrian facility
- Proposed structures related to the equestrian facility
- Proposed structures related to sewage treatment facility
- Parking spaces for cars for the equestrian facility
- Parking spaces for horse trailers for the equestrian facility
- Parking spaces for other purposes unrelated to the equestrian facility

Which of the four LEED building rating systems will the development be built under?

Response 2.9

- LEED for Building Design and Construction
- LEED for Interior Design and Construction
- LEED for Building Operations and Maintenance
- LEED for Neighborhood Development

Response 2.10 Which structures will be built to LEED standards?  
(please list all)

What level of LEED certification will these structures be built under?

Response 2.11

- Certified
- Silver
- Gold
- Platinum

Response 2.12 How many square feet for each proposed new dwelling?  
(please list all)

Response 2.13 How many square feet for each proposed structure related to the equestrian center?  
(please list all)

Response 2.14 How many square feet for each proposed structure which is not a dwelling nor related to the equestrian center?  
(please list all)

Response 2.15 What is the estimated annual energy consumption for each structure, existing and proposed, including heating and cooling?  
(please list all)

Response 2.16 Will there be swimming pools and if so, how many and what size, i.e., what are the dimensions and how many gallons will each hold? Will they be heated? Will their cleaning methods and effluent be controlled by the HOA?



Response  
2.84 Please explain the septic system as planned. We were given to understand that there would be one central system, but the HHR website at <https://www.hudsonhighlandreserve.com/news> says "Domestic water will be provided by individual wellheads, while septic systems will be organized and phased to three separate septic fields."

Response  
2.47 What is the total percentage of the lands to be placed under the conservation easement that consist of Class Slopes, i.e., slopes equal to or over 35%?

What is the total percentage of the lands to be placed under the conservation easement that consist of Class Slopes, i.e., slopes equal to or over 25%?

What is the total percentage of the lands to be placed under the conservation easement that consist of Class Slopes, i.e., slopes equal to or over 15%?

Response  
2.48 What is the total percentage of the lands to be placed under the conservation easement that consist of steep terrain that is located within 50 feet of a watercourse, controlled wetland as defined in Chapter 93 or lands that are regulated by the State of New York pursuant to the Freshwater Wetlands Act (Article 24 of the New York Environmental Conservation Law)?

Response  
2.34 Will the HOA be managed by owners or by management company? Will there be any restriction on whether or not a management company can be engaged?

Response  
2.35 Can the HOA board of directors change the rules/restrictions for the development related to the equestrian center? What changes would the HOA board of directors be permitted to make to the HOA in general?

Response  
2.98 How will the roads be maintained?  
What surfacing materials will be used?  
Will there be storage facilities for salt / grit / sand etc.? If so, how will stored salt / treated grit etc. be prevented from contaminating groundwater?

Response  
2.99  
2.88 How does the applicant plan to resolve the access issues presented by the June 7, 2019 DOT letter from Mary McCullough?

Response  
3A.5 What will the total impervious surface coverage be once the access road is constructed for the HC lot on Route 9 that contains the office building, since that lot will remain a separate lot?

Response  
4.7 In several places in the DEIS, the applicant refers to "commercial taxes generated by the equestrian center"  
Please explain specifically what commercial and other tax revenue would be generated by the equestrian center.

My home is Edgar Thomson & Leo at  
409 South 1st Pass, Garrison with  
my wife Patricia.

This project has been a long  
time awaiting, to get ready for  
the best one. I vote yes to the  
Hudson Highland Reserve project.

Anthony Merante, Chairmen

July 1, 2019

Philippstown Planning Board

Re: Developement North of GlassBury Courte 9

I would like to take this opportunity to express my opinion of this development:

- 1. I believe the constuction of the Twenty Five (25) homes and the the Forty Horse Stable at the above location would a hugh Negative effect on what I believe to be a pristine area.
- 2. A large negative impact on traffic on route 9 from increased volume from both individual and commercial vehicles i.e. horse trailers.
- 3. Possible impact to our Taxes due to increased population in our schools.
- 4. While the 25 homes may be privately owned , by the home owners, the horse stable and horses will be commercial:

a) Does this violate exiting zoning laws

Response 3A.11

b) Pollution from horse waste both solid and liquid, and how doesn't the affect our water table

5. How does this effect to the various wild life in the area.

Response 2.43

6. Should the developement procede who will monitor and ENFORCE and finance the so called assurances to presurve the area , envirement and property.

I coulkd go on and on but when such a large number of area residents are so opposed to this entire developement we should NOT only have the final say in this matter. I beleive the entire project should NOT BE ALLOWED.

*John Mangano*  
JOHN MANGANO

J.M.M.  
8 Black Bird Bay  
Cold Spring, New York 10516

Anthony Merante, Chairmen

July 1, 2019

Phillipstown Planning Board

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3. Possible impact to our Taxes due to increased population in our schools.

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a) Does this violate exiting zoning laws

Response 3A.11 b) Pollution from horse waste both solid and liquid, and how doesn the affect our water table

5. How does this effect to the various wild life in the area.

Response 2.43 6. Should the developement procede who will monitor and ENFORCE and finance the so called assurances to presurve the area , envirement and property.

I could go on and on but when such a large number of area residents are so opposed to this entire development we should NOT only have the final say in this matter. I beleive the entire project should NOT BE ALLOWED.

Linda & Jack Weinstein  
6 Black Bird Bay  
Cold Spring, NY

42



**Fwd: conservation sub-division**

Lynda Ann Ewen <laewen@hotmail.com>  
To: Anthony Merante <adm1243@gmail.com>  
Cc: Anthony Merante <swabby6569@outlook.com>, Lynda Ann Ewen <laewen@hotmail.com>

Sun, Jul 7, 2019 at 8:54 PM

Begin forwarded message:

**From:** Lynda Ann <laewen@hotmail.com>  
**Subject:** conservation sub-division  
**Date:** July 7, 2019 at 7:33:41 PM EDT  
**To:** amerante@philipstown.com

TO: Philipstown Planning Board  
FROM: Lynda Ann Ewen, 18 Yesterday Drive, Cold Spring  
RE: Proposed Hudson Highlands Reserve

I oppose this development because the developers have not met the following concerns:

- Response 3C.4 1. Forty horses require 40 acres devoted to their maintenance. Keeping the horses in limited space and carting urine and manure soaked hay off the mountain in large trucks adding to the traffic on Route 9 is unacceptable.
- 2. The proposed private business of horse training and horse shows runs counter to the spirit and law of a conservation subdivision, which was intended for the development of residences.
- 3. The fact that the developers have failed several times to address the concerns of the planning board suggests that they expect they can "wear down" opposition—an attitude that runs counter to the expectation that they will be good neighbors in our community.
- 4. The refusal by Hudson Highlands Land Trust, a highly respected conservation organization, to play the role of conservator reflects the serious flaws in the plans.

**Subject:** Fwd: Hudson Highland Reserve  
**From:** Linda Valentino <lvalentino@philipstown.com>  
**Date:** 7/8/2019, 9:02 AM  
**To:** Tara <tpercacciolo@philipstown.com>

----- Forwarded Message -----

**Subject:**Hudson Highland Reserve  
**Date:**Sun, 7 Jul 2019 06:19:44 -0400  
**From:**susan lowry <ssusanlowry@gmail.com>  
**To:**lvalentino@philipstown.com

Dear Members of the Planning Board,

We write as citizens of Cold Spring Ny, and neighbors of the proposed Hudson Highlands Reserve development. We live at 130 Horton Road, directly to the south and east of the proposed project. We have lived at this address since 1997 and have come to appreciate the unique qualities of the area with its quiet residential neighborhoods and extensive open space. Indeed, in order to preserve these qualities we partnered with the Hudson Highlands Trust and three of our neighbors to purchase land from the Merson family. We collectively put this land into a conservation easement thus creating over 100 acres of protected land when you include all of our properties. It is with this sense of commitment to the community and open space that we want to address several aspects of the proposed development that we find deeply troubling. To be clear we are not opposed to judicious development and land management but we are vehemently opposed to creating what will in effect be an industrial scale commercial development in the middle of a wooded land under the guise of conservation project. Three aspects of this development are troubling and warrant your careful consideration: the bifurcating of conservation land that will disrupt breeding ground and natural habitats; the over density of the proposed 25 housing sites; and most problematic the 160,000 square foot equestrian center. Others, I am sure will address the impact on the environment and the overly dense housing units. We want to focus your attention on the "Walmart" of equestrian centers, designed to accommodate 40 horses. Both Horton Road and East Mountain Road north are small, windy roads that cut through quiet residential neighborhoods; Horton Road, in fact in partially dirt reflecting its rural status even within the town. How, we ask will forty horses be serviced by either of these roads? It is estimated that 40 horses will produce over 2000 lbs of raw waste a day (37 lbs of manure and 2.4 gallons of urine). Over the course of a year this amounts of approximately 720,000 pounds of waste a year that will need to be removed and serviced. We understand that the current plan calls for removing the manure every two weeks; that means over 28,000 lbs of manure will be stored on site. Where will this be stored? How many truck loads will be required to remove this waste? What are the safeguards that this waste will not pollute the land or local acquifers? What considerations have been made for the smell of this waste polluting our atmosphere? Anyone who have ever gone to an equestrian center or a horse farm knows that these are not neutral sites but come with strong odors, a great deal of mess, which is why they are never in residential areas. Equally, it is estimated that the average horse eats 15-20 lbs of hay per day or 600-800 lbs of hay a per day to feed all forty horses. Since the average

Response  
3B.34  
3B.54  
3B.65

Response  
2.70

Response  
2.89

**Response 3A.9** bale of hay weighs approximately 60 lbs this means that 10-13 bales of hay a day are required to feed all forty horses or well over 3650 bales per year assuming the horses are fed primarily on hay. We ask the same question about provisioning the horses as we do about waste removal. How will this be accomplished? How Many trucks a day/a year will be required to service the horses and what can kind if impact will all this activity have on two of the quietest roads in the area? We are also concerned that an industrial scaled equestrian center will require extensive amenities to support it? Where will parking be for all the cars coming to the center? Where will horse trailers be stored? How many adjacent buildings will be required to support the center?

Any walk around the property under consideration and the adjacent lands to the north, south, and east make clear how wooded and quiet this area is and how damaging a Walmart-sized equestrian center will be to all adjacent properties. Indeed the scale of this equestrian center makes a mockery of the progressive conservation program that Philipstown has recently adopted. You have a unique opportunity at the Planning Board to ensure that the development of Hudson Highlands Reserve is thoughtful and sustainable. It should be a model of what can be achieved not a precedent for using the guise of a conservation development to build a Walmart-sized equestrian center in the middle of a wooded residential neighborhood that many of have gone to great lengths and cost to preserve.

Sincerely,  
Glenn and Susan Lowry  
130 Horton Road

[www.SusanLowryNancyBerner.com](http://www.SusanLowryNancyBerner.com)

To: Philipstown Planning Board  
Philipstown Town Hall  
Cold Spring, N.Y. 10516

From: Mark Tabashnick  
464 E. Mountain Rd. So.  
Cold Spring, N.Y. 10516

Subject: Public Hearing Comments:  
Hudson Highlands Reserve

Date: July 4, 2019

To Whom It May Concern:

Today is a yearly commemoration of the Anniversary of the founding principles of the United States of America on July 4, 1776. As a national holiday, citizens from all 50 United States, celebrate the inherent freedoms and liberties implied by the Constitution and its evolving Amendments. Actions seen then and now too, that portray citizens in voicing their rights and in voting for official representatives who will make into Law the "Will" of the majority.

So too now in 2019 as in 1776, I ask my local representatives, at the Planning Board to weigh in once more on the status and proceedings of a real estate development project: Hudson Highlands Reserve.

After being present and a witness on some of these public meetings, I can wholly attest and confirm that the controversies surrounding the permits and licensing is a valid concern for a majority of residents. Needless to say, as a member of this Board you are well aware of the current facts and developer proposals that you must discern objectively and act upon with your vote.

As a resident of Philipstown, I am compelled to write to you and offer my opinions, not withstanding your powers as well, as it is not for me to decide herein, but at least extend some clarity on the issues.

So for me, I will weigh in on a subject that has caused much debate in the public forum: a proposal for the development and maintenance of a "Commercial Equestrian Center" on site and in nearby proximity to the site plan for 25 houses. At the core of the controversy is whether the developers, their attorneys, and consultants have a true understanding of the historical context of horsemanship in and around this regional area. Unlike training facilities and boarding areas for thoroughbred racing interests, businesses in other well known regions, the underlying premise of the proposed facility is stated to focus on a minor area of equine sport, known as: "Dressage", and sometimes referred to in Olympic style events like Hedge Jumping, and Show performances. History does reveal that interests in this type of training for both horse and rider go back centuries, even before the United States Constitution. Yet, it has never gained the popularity or commercial success to make this sport either commercially viable or substantially practiced by even the most active and interested horse and equine professionals in the United States of America.

Therefore, I ask you, if you concur with my opinions and have substantiated my allegations pertaining to this issue, then all else is logically apparent. Setting aside the environmental impact of feeding the horses and extracting their waste, ecologists have warned of the deteriorating cycle and danger in regards to local ponds and under laying aquavirs. All these issues are well known and have been aired in public meetings. Good Judgment and common sense point to the scope of these concerns, and taken together with others not mentioned here, it's incumbent to review our historical precedent as a Town.

Response  
2.71



The over riding issue for the Philipstown Planning Board is how we plan and regulate future land subdivisions as a community. Real estate developers interested in a full scale commercial dressage equestrian center with riding rings, trails, grazing grounds, sheltered stalls and all weather maintenance facilities need to question their own over riding premises and priorities in regards to local zoning, building codes and historical use. They should not be discouraged in finding a suitable location and in practicing or reviving a sport and life style they are personally interested in following. Yet, their burden is not the truth for many here in Town. Residents of Philipstown have participated by speaking, writing, and debating the issues. Now is the time to act and vote with the majority.

The Hudson Highlands Reserve development, as submitted and reviewed by residents and officials, does not meet the standards inherent in its understanding and goals of any future environmental impact, and as such should be rejected as due process under the Law.

July 5, 2019

Mr. Anthony Merante, Chairman  
Philipstown Planning Board  
238 Main Street  
Cold Spring NY 10516

Re: Hudson Highlands Reserve Housing & Equestrian Center Development

Dear Chairman Merante and Honorable Board Members,

Response  
2.90

I am a resident of Cold Spring who lives near the proposed "Hudson Highlands" a 25 single family home and Equestrian Center development. I am also a professional developer and as such, I am not anti-development and I am very familiar with the process of entitlements. Based on my experience, the Hudson Highlands developer has not presented sufficient information for its site plan to be considered for approval. Specifically, the site plan proposes a direct access/egress to NYS Route 9 even though the New York State Department of Transportation has rejected the developer's request for access. Additionally, the developer has not provided a traffic study so local officials and the public are not able to quantify the potential impact to local roads and other public infrastructure the development poses. Without knowing how access will be provided to the complex and without information to assess the impact of the development on public infrastructure, the site plan cannot be seriously considered at this time and should be rejected.

Prior to a public site plan review a developer should meet with local officials, including the local Fire Authority and Public Works, who should then provide recommendations to the planning board which become part of the public record of the project. I have found that Fire Authorities and Public Works Departments provide valuable insight into site plan life safety concerns, such as fire truck access, and the potential impact the development poses on local roads, drainage, and other public infrastructure. As you know, Site Plan approval can include requirements for the developer to provide offsite improvements to public infrastructure to alleviate burdens imposed by the development, including road widenings, drainage improvements, turn lane construction, and/or adding traffic signals, which I believe needs to be considered for this project.

Response  
2.85

Since Hudson Highlands has been denied direct access to NYS Route 9, the development will most likely connect to East Mountain Road North, East Mountain Road South, or Horton Road. A commercial equestrian center will bring regular traffic of large vehicles with attached horse trailers as well as tractor trailers delivering horse feed and removing manure from approximately 40 horses (*which produce approximately 1 ton of waste per day*). There will also be a significant amount of traffic from planned equestrian events and shows, not to mention 25 additional homes which could become full time residents whether the developer intends to market to weekend residents or not. The likely access roads already have narrow curves with significant blind spots to oncoming traffic. Difficulties navigating the narrow curves of East Mountain Road are well known within the community and if you examine the guardrail on Horton Road, where the grade drops before the bridge over Clove Creek, you will see significant damage from minor accidents at this difficult location as well. I believe that a proper traffic study and review by Philipstown Public Works Department will reveal that whichever road the developer proposes will require significant improvements to accommodate the added commercial truck traffic a

Response  
3A.9

commercial equestrian center would bring. Furthermore, the cost and the construction of these improvements should be the developer's responsibility and the proposed work should be included in the public review of the site plan.

Thank you,

A handwritten signature in black ink, appearing to read "Adam Hird". The signature is written in a cursive, slightly slanted style.

Adam Hird

63 Horton Rd,  
Cold Spring NY

July 7, 2019

Dear Philipstown Planning Board, *Anthony Morente, Chairman*

The APPENDIX R Town of Philipstown, Town Code, Chapter 175, Zoning, Article V. Open Space Development that was adopted by the Town Board on May 5, 2011 is an important planning document for the future of our region. The first applicant under this particular code is an application to develop a parcel in Cold Spring to support 25 new homes and 40 horses, the Hudson Highlands Reserve.

Multiple concerns of this application have been made public. We especially support the concerns of the easement itself, listed in the June 18, 2019 letter from the HHLT to the Philipstown Planning Board, *referenced* attached here.

<https://www.hhlt.org/wp-content/uploads/2019/06/HHLT-Comments-on-HHR-DEIS.pdf>

We urge the Planning Board to reject the HHR application as it stands now for the following reasons:

Response

3B.34, 3B.54  
3B.70

-The findings of the EIS make it clear the current proposal will disrupt wildlife to such an extent the aims of the conservation easement cannot be met, especially with respect to the proposed fragmentation of the conserved areas.

Response

2.51, 3B.42

-The measure of current wildlife populations have not yet been sufficiently established to create a baseline.

Response

3A.4

-The measure of the negative effects of the horse population and its maintenance with respect to wildlife, waterways, traffic, noise have not been sufficiently established.

Response

3D.11, 3D.5

-The protection of views of nature from Breakneck Ridge, New York State's most popular hiking trail have not been established.

Response

2.85,

-Alternate access into the development (if the DOT does not approve Route 9 access) has not been established.

Response

2.93

-Rules and accountability for the HHR management (AIRBNB, pollutants on site, pets, governance, etc..) have not been sufficiently established.

Response

2.51

-Accountability, measuring standards, monitoring terms and frequency have not been sufficiently established for the easement, the equestrian facility or the housing development.

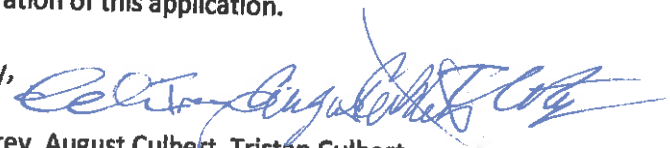
-Professional references and credentials for the developer and the architect for a project of this size and complexity have not been established.

Response

2.90

In addition, we recommend the Planning Board consider requiring the applicant to obtain preliminary approval from the NYDOT for the new road access onto Route 9, and requiring the applicant to obtain confirmed participation of an independent agency to monitor the proposed easement prior to further consideration of this application.

Sincerely,

  
Celia Imrey, August Culbert, Tristan Culbert  
62 Horton Road  
Cold Spring NY 10516

**Subject:** Hudson Highlands Reserve  
**From:** Sidney Babcock <shbabcockiv@gmail.com>  
**Date:** 7/6/2019, 11:16 AM  
**To:** amerante@philipstown.com, tpercacciolo@philipstown.com

Dear Planning Board Members:

It absolutely astonished me that the Hudson Highlands Reserve project has reached this stage with so many, many unanswered questions. Of most concern are the impacts on the environment both anticipated and unanticipated. This project has so many issues that have not been appropriately studied. If approved, the precedent that it will set will be nearly impossible to reverse. This is a moment of truth for our environment and our future. The only real tangible impact that we can have is on a local level. This development is an assault on our communal values. Those that spoke out at the hearing were eloquent and moving. After hearing so much carefully considered opposition, the developer still chooses to proceed as planned. Alas, those plans are ill conceived. The developer does not have any track record to offer for tackling all of the sensitive issues involved here. Indeed, the prime example of the developer's taste and attitude is his converted brownstone on east 89th in Manhattan. The below photographs of that converted brownstone show a complete insensitivity to the neighborhood and what is

image1.jpeg

image2.jpeg

appropriate.

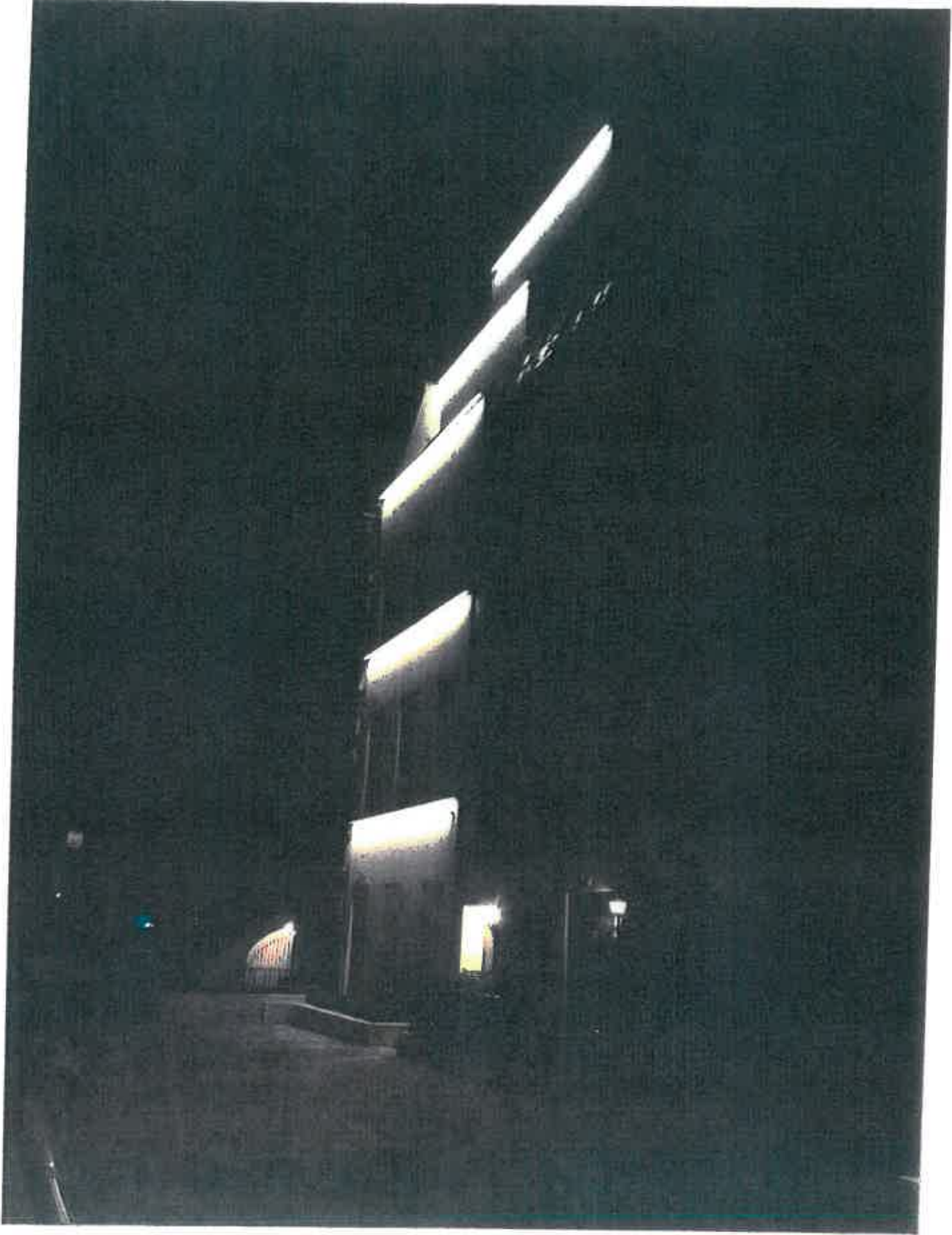
Unfettered by Landmarks, the architect/developer/ owner did what he wanted. The stark white facade is lit on each floor by neon tubing. With this as an example, it is abundantly clear that the proposed development will not take seriously the communities concerns. Just in the last few days, a major report was released about the essential role of trees in combating global warming. We are all now responsible for reversing the looming crisis and have to start now. Wouldn't it be great to live in a world where people of means wanted to improve the environment rather than

exploit it. With so much wealth, a simple gesture of donating the land would be a noble deed and one that the developer and his family could take much pride in.

Thank you for all your thoughtful deliberation in this matter,  
Sidney Babcock  
Garrison, NY

—image1.jpeg

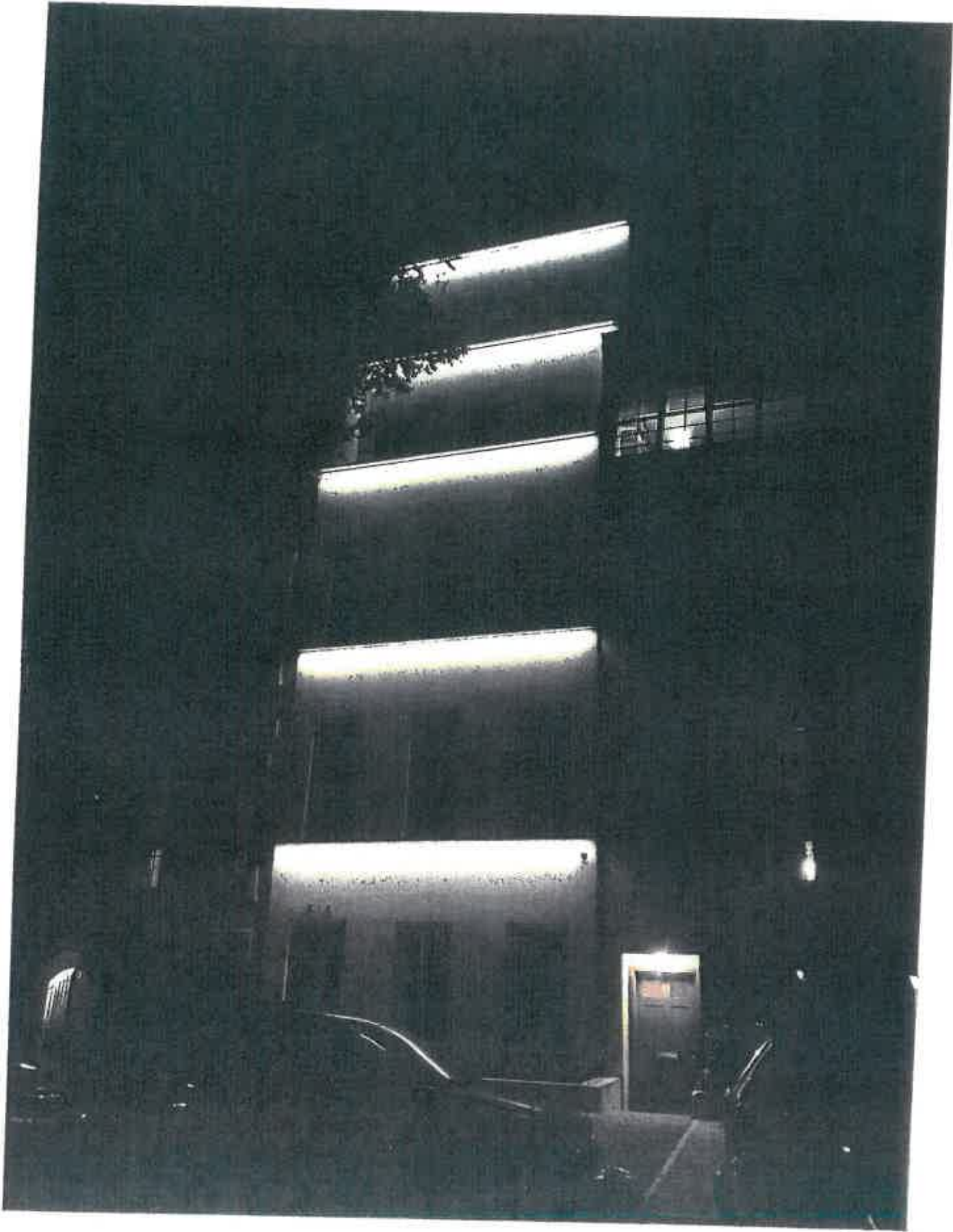
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—image2.jpeg

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**Attachments:**

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<b>image1.jpeg</b>	<b>1.7 MB</b>
<b>image2.jpeg</b>	<b>1.9 MB</b>



**RONALD J. GAINER, P.E., PLLC**  
31 Baldwin Road, Patterson, NY 12563  
Mailing Address: PO BOX 417, Pawling, NY 12564  
office 845-878-6507 cell 845-527-1432

TO: Town of Philipstown Planning Board      DATE: July 5, 2019  
FROM: Ronald J. Gainer, PE      SUBJ: Horton Road LLC Subdivision; NYS Route 9

Project Scope: Proposed "Conservation" Subdivision + Equestrian Center within "Common Area"  
Zoning District: "M" & "RR" (Industrial/Manufacturing & Rural Residential Districts), and encompassing Open Space Conservation (OSO), Scenic Protection (SP0) & Clove Creek Aquifer (CCA) Overlay Districts

As requested, my office has completed review of the May 2019 Draft Environmental Impact Statement (DEIS) prepared for the Hudson Highlands Reserve project, which was accepted as complete by the Town of Philipstown Planning Board on May 16, 2019 and was the subject of a Public Hearing on June 20, 2019.

From this review, it is believed that the following matters warrant further explanation or clarification as the project moves through the environmental review process mandated by NYCRR Part 617.

1. **Project Access** –

From early on in the Board's review process, recognizing the poor geometry, limited width, and other related factors concerning the existing Town roadways bordering the site, as well as the expected traffic to be generated within the project and especially considering the transportation impacts of the equestrian center proposed, the Planning Board determined that that the project's access should only be obtained from NYS Route 9. More recently, the Town of Philipstown Highway Superintendent has expressed similar concerns, and does not support any routine use of either Horton Road or East Mountain Road North for access to the proposed development.

Response

2.85 Nevertheless, based upon limited technical supporting documentation that has apparently been submitted to their office by the applicant's consultants, the New York State Department of Transportation (NYS DOT) has advised that they do not currently support project access from NYS Route 9. It is therefore necessary that, as part of this EIS process, the applicant must conclusively establish to the satisfaction of NYS DOT that suitable mitigation/roadway improvements shall be constructed by the applicant along the Route 9 corridor so as to permit that agency to grant such access so as to avoid adverse impacts to the adjacent Town roadways.

2. **Conservation Subdivision Standards** - The project's design and layout must comply with all requirements of §175-20 of the Town's Zoning Ordinance. Based upon the current design plans for the project, the applicant should clarify how the following standards are met:

a) **Project Density** - Pursuant to §175-20B(1), the applicant has utilized a formula, taking into account the various environmental constraints existing on the tract, in order to establish a permitted overall project density. Through this calculation, they believe that a residential housing count of 25 lots overall is permissible.

Response

2.24 As the Board is aware, my office previously reviewed the environmental constraints mapping to evaluate the application of this formula on the subject project, and through this we established that the overall permitted project density utilizing the "formula method" allowed in the Ordinance is 24 units, considering the entire tract (including the property within the "M" zoning district). Further, if it is determined that no

**RE: DEIS technical comments - Horton Road LLC Subdivision, NYS Route 9**

**Response  
2.25**

density should be assigned to these "M" district lands (since residential uses are not permitted in the Chapter 175 "Use" Table for this zone), the permitted project density would then be reduced to 22 units.

**Response  
2.26**

In summary, as the design and layout of the project plans evolve, this analysis of "constrained lands" must again be reviewed to establish with finality the permitted density for the overall tract. Further, with the provision of the equestrian center, it must be determined whether any resident accommodations will be provided for this amenity and whether this too must be considered against the dwelling count ultimately established for the property.

**Response  
2.33**

- b) **Lot sizes** – Per §175-19B, a variety of lot sizes are recommended so as to represent a "cluster" subdivision layout and so maximize the creation of substantial open space. In §175-20C, it is further suggested that lot sizes as small as those permitted for the Town's "Hamlet" zoning districts be considered (or ½ acre). However, the development proposes a "cookie cutter" layout of lots all generally 1 acre in size, which is not in keeping with the intent of these regulations. This ultimately leads to the opposite effect of committing excessive land to individual lots, and spreading out the development into areas of higher conservation value, which could be avoided with smaller, or at least some variety of lot sizes (i.e.; lots which extend along the west side of Ulmar Pond). It is suggested that various lots around Ulmar Pond either be eliminated or otherwise significantly reduced in size to increase both conserved lands as well as to widen wildlife corridors.

It is recognized that "Alternative D", while having other disadvantages, does represent a different lot arrangement whereby smaller lots are proposed so that additional lands may be protected, specifically in the area of Ulmar Pond. The project design which is ultimately endorsed by the Town should be no less protective of the site's established high and medium conservation value lands.

**Response  
2.65**

- c) **Equestrian Center within what is being proposed as "preserved conservation area"** – Town regulations make clear that the purpose of open space development is to preserve large tracts of open space land in order to maintain the rural appearance and environmental resources of the Town. Yet the project proposes to place an 11-acre equestrian facility and ancillary structures, parking, access drives, etc. within such space which is to be proposed to be "permanently protected". While the provision of such a facility may be permitted, it certainly should not be considered as "open space" within the meaning of the term.

**Response  
3A.26**

Further, an "accessory bldg" for the equestrian center is shown, of unknown size and purpose. The need for the size of, and uses planned within, this building, as well as the manner its location was determined, should be explained. Placement of this structure closer to the equestrian center (possibly between the equestrian parking area and adjacent dead-end roadway), so as to reduce the overall area encumbered by the equestrian center and to increase wildlife corridors, should be considered. This is especially important since, as noted in the DEIS, seeps have been noted in this area and "...are fragile habitats that are an important resource for water dependent wildlife and vegetation". Yet, the proposed accessory building and related improvements (pavement/parking/manure enclosure/dumpster) are currently planned in proximity to the identified seeps.

**3. Stormwater Design Concerns –**

**Response  
3A.1**

- a) **General** – The design information contained within Appendix M is far too preliminary to permit a detailed evaluation of the stormwater design or compliance with SWPPP requirements. Initially, in order to allow for any analysis of stormwater design facilities and related disturbance issues, the conceptual design



**RE: DEIS technical comments - Horton Road LLC Subdivision, NYS Route 9**

information should be added to the "Preliminary Utility Plan" (once the project's constraint mapping is overlaid) so that their general sizing, function and practicality can be established.

Response  
3A.2

- b) **Stormwater Controls along project roadways** – the conceptual drainage design suggests the use of dry swales with check dams along all project roadways. While this is an appropriate stormwater conveyance for lesser sloped areas, both the "entry road" and "main road" contain areas of significant grades where this would not be appropriate. Formal drainage facilities will be required in such areas. In other areas, turf- or soil-reinforcement techniques will be necessary to prevent erosive conditions. These should all be noted, so that as the project advances necessary E/C measures are followed.

Response  
3A.3

- c) **Stormwater controls within individual lots or common areas** – It is noted that each lot is proposed to contain individual rain gardens as mitigation. It should be explained what controls and enforcement mechanisms will be established on any such required improvements to assure their long-term viability and function. Beyond these techniques, various water quality treatment measures will serve multiple residences, which will further tax the ability to control and manage these facilities.

Response  
3A.4

- d) **Calculation of impervious areas** – It is noted that all outdoor paddock areas will include an impermeable barrier to address potential pollution concerns of the horses to be housed on the property. It is uncertain whether this, as well as the management and treatment of run-off from such areas, is addressed by the conceptual stormwater design incorporated into the DEIS. Additionally, the treatment of run-off from such equestrian areas from a water quality standpoint must be incorporated into the design plans.

**4. Project Design considerations –**

Response  
2.91

- a) **Construction Standards** – Although Town roadway standards specify a maximum grade of 10%, it is understood that some relief will be sought for both roadway grades and consideration of alternate roadway construction standards for access to the individual lots. While grades of up to 12% may be warranted along the entrance roadway in order to both obtain access from Route 9 and to minimize the extent of cuts and fills along its profile, all other roadways should comply with maximum grade requirements.

Response  
2.92

- b) **Construction Sequencing/Project Phasing** – Beyond an understanding of the overall project design envisioned by the applicant, it is necessary for the applicant to provide a detailed explanation of the manner that the project will be phased to assure that the construction of all required project infrastructure proceeds logically. Provided that NYS DOT ultimately authorizes the Route 9 access currently proposed, the extent of construction envisioned (which must conform with minimum phasing requirements of 276 of NYS Town Law) should be explained. The timing of the equestrian center's construction should also be noted, as well as whether any aspects of this facility will be phased.

Response  
2.86

- c) **Project Roadway layouts** – It is recognized that a primary goal of conservation subdivisions is to preserve the rural appearance and environmental resources of the Town. Therefore, while secondary emergency access to the site represents an appropriate design consideration, this should be accomplished with the least impact to the site's identified sensitive lands. Given this, it would appear that the proposed secondary access that will extend out to Horton Road seems redundant, especially since an access already exists to this roadway which serves other residences adjacent to the project. Elimination of the project's secondary, emergency access would provide larger wildlife buffers in an area encumbered by seeps,



**RE: DEIS technical comments - Horton Road LLC Subdivision, NYS Route 9**

wetlands, and stream corridors. The applicant should further review whether the existing access out to Horton Road could serve as the emergency access envisioned.

Response  
2.93

- d) **Control over limits on disturbed areas within individual lots** – “Limits of Disturbance” lines extend through portions of most individual lots planned within the project. The manner that these could reasonably be enforced should be explained, or otherwise it should be acknowledged that overall project disturbances will be greater than that currently outlined.

5. **Utility Design Considerations** –

a) **General** –

Response  
2.81

- While various project mapping illustrates overall site constraints, the “preliminary utility plan” does not. To allow for a detailed analysis of the utility designs and related disturbance issues, this information should be added to the plan.

b) **Sanitary Sewers** -

Response  
2.82

- Due to the drawing’s scale, the sanitary sewer layout illustrated on the plan is difficult to read. Its clarity could be improved if the sanitary improvements were highlighted in color, better labeled and a legend added for the various symbols used.
- Various lots or other facilities appear to be incorrectly labeled on the sanitary profiles. For example, the facilities needed to serve lots 24 & 25 are mis-labeled on the profiles. The preliminary design information should be further reviewed, and corrected wherever necessary.
- The facilities showing at the rear of Lot 21 should be labeled and their purpose explained.

Response  
2.83

- c) **Fire Protection** – all Fire protection measures proposed for the project should be identified, including any suction hydrants within existing water resources on the tract. Appropriate access to, and required maintenance of, such facilities should be specified in the EIS documents.

6. **Other Comments** –

Response  
2.97

- It is noted that all property owners will be proportionally responsible for the expenses involved in the maintenance of all common facilities, sanitary sewer system components and the equestrian center. However, not all property owners may board horses at the facility. What accommodation, if any, will be made for such owners?

It is recommended that the above technical concerns, as well as all other comments received during the course of the public comment period, be addressed in a Final Environmental Impact Statement (FEIS) to be prepared for the project.

c: Stephen Gaba, Esq.  
Aaron Werner, AKRF



516 E. Mountain Rd S.  
Cold Spring, NY 10516  
July 6, 2019

Anthony Merante, Chair  
Philipstown Planning Board  
238 Main Street  
Cold Spring, NY 10516

Re: Hudson Highlands Reserve-DEIS Comments

Dear Chair Merante and fellow Board Members:

Notwithstanding many suggestions from the public, as well as from environmentalists and conservationists, for addressing environmental issues, the DEIS did not make any changes to the Hudson Highlands Reserve proposal. A sampling of the specific issues that have yet to be addressed or mitigated are:

Response  
3B.25

-5 houses are too close to Ulmar Pond;

Response  
2.65

-the commercial equestrian facility is too large for the site and should be removed from the conservation land;

Response  
2.90

-a traffic study for the proposed access from Route 9 has not been conducted according to NYS DOT notwithstanding a request for same in 2014.

I support the recommendations by the Hudson Highlands Land Trust (HHLT) to address the deficiencies in the DEIS. The thorough and thoughtful 25-page report includes 8 specific actions to remedy deficiencies in the studies of significant impacts and to mitigate identified impacts.

Based on the track record of this developer, I am not optimistic that the FEIS will look much different from the DEIS. Many groups, including the HHLT, have tried to suggest accommodations to the developer only to be told their experts believe the requested studies and/or mitigation are unnecessary.

The Planning Board, as the lead agency, will determine whether the project sponsor responds satisfactorily to the comments of other agencies and the public. As the first Conservation Subdivision proposal in Philipstown, it is imperative that we get this right.

Sincerely,  
/s/  
Susan Anspach

July 5, 2019

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

Re: Hudson Highlands Reserve ("HHR")


Dear Chairman Merante and Honorable Board Members,

Response  
2.21

Thank you for the opportunity at the hearing on June 20<sup>th</sup> to raise with you some of my concerns about HHR and to call your attention to the recently enacted Climate Leadership and Community Protection Act ("CLCPA"). This Act identifies the emission of greenhouse gases as the principal cause of climate change and sets a goal for New York State of net zero emissions by 2050—the date after which it is thought that catastrophic damage from climate change may become irreversible. I don't want to trouble you by repeating here what I said then, but I would like to add a couple of points that, given the two-minute time constraint, I was unable to make at the hearing.

With the enactment of the CLCPA, it is now more than ever incumbent upon planning boards to consider the environmental impact of greenhouse gas emissions when reviewing projects under SEQRA. The Full Environmental Assessment Form asks the question in Section D.2.j. whether the proposed action will result in a substantial increase in traffic. Given the likelihood of 25 additional cars regularly transporting NYC residents back and forth to their second homes at HHR and while there, to and from those homes to Cold Spring and other places in the community, the proposed action will surely result in a substantial increase in traffic (as the DOT has separately found) and in the emission of greenhouse gases.. A correct answer of Yes in D.2.j would also have triggered question *vii* : "Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles?" Since the proposed action does not appear to include any such access or accommodations, and given the greenhouse gas emissions likely to result, absent mitigation, from the 25 additional cars, I urge the Planning Board, at a minimum, to require that HHR include a fully adequate on-site charging station meeting the DC Fast Charger standard. Without that convenience, homeowners are much less likely to own or drive cars powered by electricity and emission free. And without conversion of the transportation sector to electric or other fossil fuel free energy sources, the 2050 goal is far less likely to be achieved.

Very truly yours,

  
Irvine D. Flinn  
88 Canopus Hill Road,  
Garrison, NY 10524



RUDOLPH S. RAUCH

P.O. Box 117  
Cold Spring, NY 11056

July 5, 2019

Mr. Anthony Merante, Chairman  
Town of Philipstown Planning Board  
238 Main Street  
Cold Spring, NY 10516

RE: Hudson Highlands Reserve

Dear Chairman Merante and Members of the Planning Board:

I am writing for two reasons. First, I want to restate the concerns that I expressed in a letter of June 27, 2018 to the Planning Board, a copy of which I enclose. As far as I am able to tell, none of those concerns has been addressed in a public comment by the Applicant; indeed, no answer has emerged that suggests that the Applicant has troubled to consider them. I believe that *all* the points raised in last year's letter are germane to the Board's consideration of whether the DEIS may be accepted as final.

Second, in the year since I wrote, several other concerns have arisen as I have listened to comments from fellow Philipstown residents at Planning Board meetings, as well as in conversations with others across our community. Two seem particularly relevant. Nowhere does the Applicant show concern for the impact that the proposed equestrian facility will have on scenic views from parklands controlled by New York State. Much of the land in those parks was donated to the State by citizens who believed that its scenic beauty would be zealously protected for future generations to enjoy. The Applicant has taken no measures to assess the impact that his "conservation subdivision" would have on that enjoyment. Surely, visual simulation, including balloon tests, should be required to demonstrate what damage to the scenic value of the protected land would ensue from construction of the equestrian facility. Second, while the Applicant's representatives assure Planning Board meetings that manifold benefits will inure to the community when the development is built, nowhere does the Applicant trouble to show *how* the proposed equestrian facility will enhance recreational opportunities for members of the community. Dressage is an expensive sport; how will lodging 40 horses in a large barn improve the lives of Philipstown residents?

Response  
3D.13

Response  
3D.11

Thank you for your attention, and for your diligence and patience as this proposal has moved through many long meetings, over many years.

Respectfully,



COPY

356 Lane Gate Road  
Cold Spring, New York 10516

June 27, 2018

Mr. Andy Merante, Chair, Town of Philipstown Planning Board  
Cc: Ms. Tara Percacciolo, Secretary, Philipstown Planning Board  
238 Main Street  
Cold Spring, NY 10516

Dear Chairman Merante,

I am writing out of concern that the implications for vehicular traffic of the proposed Hudson Highlands Reserve development have not received sufficient scrutiny in the course of the assessment of the project's impact on our community. While the primary impact will doubtless be to slow down traffic on Route 9, I fear that the size of the proposed equestrian facility and the number of upscale private houses will lead to a surge in car and truck traffic across all of Philipstown. Accordingly, I am writing to ask that a traffic study be prescribed in the scoping document for the Draft EIS. Following are some specific concerns that I hope could be addressed in such a study.

Response 3A.9

1. The manure produced by 40 horses will need to be trucked offsite. A speaker at the Planning Board meeting on June 21 estimated that this "throughput" would amount to some 360 tons annually. That figure is EXCLUSIVE of bedding; that bedding, moreover, will need to be trucked ONTO the site, as will all the hay required to feed the horses. I cannot estimate how many truck trips will be required each day to sustain this large operation; I am certain that simple answer is, "Many." That answer is not sufficient.
2. The Sponsor states that the equestrian operation will require a staff of twelve. That figure does not, I believe, include all the ancillary employees required by a well-run academy that provides training for competitive equitation—whether show-jumping or Dressage. These are: individual trainers, farriers, veterinarians. Add to the car trips needed to bring these employees to the site--whether on a daily or occasional basis--the trips required to transport the horses by truck to and from competitive events, and the potential for major disruption of traffic grows significantly.
3. To the trips required to meet the needs mentioned in points 1 and 2, must be added the trips that bring household and grounds maintenance personnel to the 25 houses envisioned by the Sponsor. Ulmer Pond is not a swimming lake; at least some of the houses nestled around it are likely to feature a pool. Leaving aside the negative impact of these pools on the water table, the pools themselves will need regular maintenance, which means more outside service calls. Will the "homeowners association" contemplated by the Sponsor dictate how homeowners' pools are to be maintained? Will the

Response 3B.68

pools—and grounds of each house-- be serviced by employees of that association? If so, how many such employees does the Sponsor calculate will be needed? How many cars does that calculation imply will come to the Project each day?

These points illustrate my concerns, and I urge that they be incorporated in the scoping document. But many of these “issues” arise because the scale of the equestrian facility envisaged by the Sponsor is inappropriate, and because the number of houses requiring frequent service calls by outside providers is too great. The siting of those houses has been addressed by others—specifically the Hudson Highlands Land Trust—and there is no need to reiterate the points they made. However, if the number of houses were reduced to a level permitted “as of right,” were this development not considered a “Conservation Subdivision,” the traffic impacts would be considerably reduced.

My thanks to you and your fellow Planning Board members for your attention—not only to my letter, but to the complex, lengthy and sometimes contentious, process of reviewing this proposed development.

Respectfully,

Rudolph S. Rauch



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Suite 401  
White Plains, NY 10601  
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fax: 914 949-7559  
[www.akrf.com](http://www.akrf.com)

## Memorandum

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**To:** Town of Philipstown Planning Board  
**From:** AKRF, Inc.  
**Date:** July 3, 2019  
**Re:** Hudson Highlands Reserve Conservation Subdivision DEIS – Substantive Comments  
**Cc:** Stephen Gaba, Ron Gainer, Tara Percaciollo

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AKRF, Inc. (AKRF) has reviewed the May 2019 Draft Environmental Impact Statement (DEIS) prepared for the Hudson Highlands Reserve project. This document had previously been reviewed by AKRF for completeness. On May 16, 2019, the Town of Philipstown Planning Board, serving as Lead Agency pursuant to the State Environmental Quality Review Act (SEQRA), accepted the document as complete.

The following comments comprise AKRF's additional substantive review of the DEIS.

### GENERAL COMMENTS

1. A summary of the substantive DEIS comments received from the Planning Board, the Planning Board's consultants, and the public (both at the June 20, 2019 DEIS hearing and through the conclusion of the July 8, 2019 deadline for written comments) must be part of the Final Environmental Impact Statement (FEIS). The full hearing record (transcript) should be attached as an appendix to the FEIS and must be made available for public review along with any other reference material.
2. In addition to addressing substantive public comments, the FEIS must incorporate responses to all substantive comments received from Interested and Involved Agencies since the acceptance of the DEIS. This includes the comments received from the New York State Department of Transportation (NYSDOT) on June 7, 2019. The applicant's response should provide existing information from the Traffic Impact Study (TIS) previously completed for the proposed project by Kimley-Horn, as well as any additional information or supplemental analysis necessary to address NYSDOT's comments and concerns related to site access, sight distance, and drainage.

### I. INTRODUCTION

1. We have reviewed this material and have no substantive comments on this chapter.

## II. EXECUTIVE SUMMARY

- Response 1.1 2. The impact summary table included in the Executive Summary should include a note regarding the significance of the impact cited for the 24,000 gpd water demand from the proposed project.
- Response 1.2 3. If an impact summary table will carry over to the FEIS, an additional column noting where within the document the discussion/analysis relevant to each topic can be found.
- Response 1.3 4. The third paragraph found under B.1.b includes a currently unsupported statement that Ulmar Pond will actually be in better condition after the proposed project is developed” due to the retention of a lake management firm through the HOA. We note an inconsistency in that later in the DEIS (Section IV.A.2.a.ii), this same statement is prefaced with the phrase “the project sponsor believes...” which is more appropriate.

## III. DESCRIPTION OF THE PROPOSED PROJECT

- Response 1.4 5. The discussion of the existing architecturally significant house and barn on the property first appears in the DEIS as the fourth paragraph on page 24. The text indicates that the house “will remain on one of the Hudson Highlands Reserve residential lots” and that the barn will be “restored and adaptively reused for meetings by the HOA.” AKRF has reviewed the previously issued letters on the proposed project from the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP). The FEIS should refer to these letters while clarifying that the 1920’s home and the 1825 barn have been identified as architecturally significant through extensive site surveys and consultation with OPRHP, and that the proposed adaptive reuse of the barn will be designed through close coordination with OPRHP as development of the proposed project progresses. The existing language in the DEIS regarding historic significance seems to indicate that the determination of architectural significance was made by the Applicant without consulting with OPRHP, which is not the case. The applicant should provide the Planning Board with written concurrence from the SHPO that the proposal to adaptively reuse the barn is acceptable.
- Response 2.30 6. Review of the site plan, specifically Figure 4 of the DEIS, shows that the existing historic house referenced above would be part of proposed Lot 18 and the existing historic barn would be part of the common HOA lot. It is unclear from the narrative if the existing house on proposed Lot 18 is currently occupied. In addition, if this house would share Lot 18 with an additional house constructed as a result of the proposed project (Figure 16 appears to show it would), how did the existing house factor into the overall density calculation for the proposed project, if at all? In addition, if the house is to be restored in a similar fashion to the barn, the applicant should provide the Planning Board with written concurrence from the SHPO that the proposed restoration is acceptable.
- Response 2.31 7. The Applicant envisions the residential lots to predominately serve as second home investment properties for New York City renters. The Applicant does not envision year-round permanent occupancy. As lead agency the Planning Board is permitted to request analysis of impacts associated with year-round occupancy as part of the FEIS, if determined warranted during the public review of the DEIS. Similar comments were raised by the Planning Board and during the public hearing.
- Response 2.32 8. Why is the area of the project site just north of the Horton Road cul-de-sac and south/east of Ulmar Pond, classified as “Residential Multi Family” on the existing land use map (Figure 14)?
- Response 2.65 9. The Applicant’s explanation for why the Equestrian Center meets the definition of a permitted use within a conservation easement appears to be solely based on the types of uses referenced in Town Code Section 175-21(A)(3)(b) – recreation, agriculture, etc. However, the FEIS should expand on this language and provide further justification for why the Applicant believes that the development of approximately 11 acres of the proposed conservation area with a 60,000-square-foot building and associated impervious surfaces for parking and waste management, placed between steep slopes and a pond, does not “impair the conservation value of the land,” as paraphrased from the same section of the Town Code.

- Response 2.76 10. Additional information on odor control (the use of ionizers, etc.) should be incorporated into the discussion of the proposed “open walled shed” for equine waste collection/storage. The text references a maximum on-site storage period of 14 days, and odor control is a concern that has been raised, particularly during the warm summer months when usage of the equestrian center is expected to be at its peak. This storage bin does not appear to be sealed to provide any kind of odor control (based on the figure provided). The text as well as the schematic shown in Figure 24 note that this storage bin would be 40 cubic feet in size. The rationale for sizing this container, based on the maximum of 40 horses, should also be described.
- Response 2.94  
Response 2.95 11. The FEIS should include a general summary of the Applicant’s anticipated phasing and duration of construction for all components of the proposed project, while making references to the preliminary SWPPP included as Appendix M. It is also unclear from the text if the equestrian center would be constructed before or after the homes. The FEIS should also clearly describe the Applicant’s plan for marketing and developing the residential component of the subdivision over time. Would the applicant serve as the master designer and builder for all prospective buyers, or would buyers be permitted to retain their own architect/contractor to design and build a house pursuant to prescribed design guidelines established by the Applicant/HOA?
- Response 2.100 12. The FEIS should specify whether or not blasting is envisioned as part of construction, particularly for the entrance road construction on steep rocky slopes. If blasting will be necessary, compliance with all requirements of the Town Code should be summarized in relation to the proposed project’s activities.
- Response 2.96 13. The Applicant should perform a cut and fill analysis on the latest version of the development program and include it in the FEIS.
- Response 2.79 14. The FEIS should confirm whether or not “storm drainage system” as listed among the common elements to be under control of the HOA includes the cisterns, retention basins, rain gardens, etc. proposed through the SWPPP or if some of those elements could occur on individually owned residential lots.

#### **IV. EXISTING CONDITIONS, ANTICIPATED IMPACTS AND MITIGATION**

##### *IV.A WATER RESOURCES*

- Response 2.80 15. Refer to comment #14 above. The FEIS should provide additional information on both the placement and maintenance of any proposed stormwater management cisterns, retention basins, rain gardens, etc., while making references to the preliminary SWPPP included as Appendix M. Will these facilities be solely within the common HOA lot (with stormwater conveyed through roadway drains/gutters) or will individual homeowners be required to construct stormwater management facilities on individual lots?
- Response 1.3 16. Regarding the sentence on page 66: “In this way, the project sponsor believes the pond will actually be in better condition after the project is developed than it is now,” – refer to comment #4 found above.
- Response 3A.10 17. As indicated in correspondence between the Applicant and their consultants cited within the DEIS, runoff and septic discharge from development of residential and equestrian uses and land clearing raise likelihood of increased (not decreased) discharge of nutrient pollutants which could worsen eutrophic conditions in Ulmar Pond. Pond management to avoid/minimize such impacts is proposed. The Solitude letter (2.15.18), indicates that since the 2015 pond water quality sampling was a one-time sampling event, a water quality monitoring program should be initiated to begin generating a robust baseline of data to use for the effective management of the system. No subsequent water sampling of Ulmar Pond is provided in the DEIS to support the contention that the pond is frequently eutrophic for management purposes. Despite the pond’s one-time phytoplankton bloom, fish sampling showed fish condition/health and species assemblage was high value for angling and aquatic plant sampling showed good conditions, with only trace density of filamentous algae and invasive curly-leaf pond weed. Similarly, the Clove Creek macroinvertebrate sampling showed an even mix of

species indicative of a generally healthy system. Protection of the pond and creek with proper site design are of utmost importance. Consideration should be given to further minimizing proposed development around Ulmar Pond to the maximum extent practicable. The incorporated letter from Allied Biological (6.29.15) 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 use of and development around the pond present the possibility that the pond will be degraded, unless clear restrictions are placed on pond use, on the density and distance of development, and on the mitigation measures (new vegetated buffers, etc.) proposed to protect it.

- Response 2.77
18. Page 70 of the DEIS indicates that the entirety of the equestrian center, including all outside riding and paddocks, would be lined with an impenetrable barrier to capture runoff/leachate. This is a considerable acreage of impermeable surface that may create a runoff attenuation (or leachate capture) issue. By reducing potential impact to groundwater this approach may unnecessarily increase the size of stormwater management facilities on site. The FEIS should provide additional information on the comparison of impacts to groundwater vs. impacts to stormwater with or without the impermeable layer proposed for installation beneath the outdoor equestrian facilities. Has the SWPPP accounted for flow volume/rate that would result from the installation of this impermeable barrier? Will runoff collected from outdoor riding/paddock areas be diverted to the non-point surface water detention basins or will it be treated with septic flows? This issue speaks to the complexities of properly managing runoff from equestrian uses. This issue must be referred to the Town Engineer.
19. AKRF will defer to the Town Engineer for any additional substantive comments related to the analysis of water resources in the DEIS, including review of the SWPPP presented in Appendix M.

#### *IV.B VEGETATION AND WILDLIFE*

- Response 3B.1
20. The following ecological reports have been completed for the project site by the current and former property owner. Please verify that this is a comprehensive list:
- a. Phase I Biodiversity and Environmental Assessment. Stephen Coleman. 11.16.09.
  - b. Additional Environmental Studies. Stephen Coleman. 7.1.10.
  - c. Response to DEC comments. Stephen Coleman. 3.24.11.
  - d. Additional Field Assessments. Stephen Coleman. 7.12.11.
  - e. Timber Rattlesnake Habitat Assessment Report. Brandon Ruhe. 8.25.14 (revised 9.11.14).
  - f. Wetland Delineation & Environmental Assessment Report. Stephen Coleman. 9.15.14.
  - g. Limnology/WQ Report. Chris Doyle (Allied Biological). 6.29.15.
  - h. Natural Resource Investigation. Hudson Highlands Environmental Consulting - Stephen Gross, Randy Stechert, Donald Smith. Joan Hansen. 8.12.15.
  - i. Regarding Ulmar Pond Lake Mgt. Chris Doyle (Solitude). 2.15.18.
- Response 3B.14
21. Ecological analyses should include a vernal pool study conducted during the appropriate season (March/April). If a vernal pool(s) is present, protection of forested buffers should be provided, in accordance with MCA Technical Paper Series: No. 5. Conservation Pool-Breeding Amphibians in Residential and Commercial Developments in the Northeastern United States. (Klemens and Calhoun, 2002). This issue had been raised by the Planning Board and others during the completeness review.
- Response 3B.15
22. There is no detailed description of each ecological community (habitat cover type) corresponding to the communities shown in Figure 26 in the DEIS. Instead, there is a general description of the forest communities at page 79 describing the overall site. In order to gauge habitat impacts from the proposed project, the vegetation cover types shown in Figure 26 must be reconciled with:

- a. The previously demarcated “potential development area” mapped by the conservation analysis completed for the site;
- b. The previous habitat descriptions of the site provided by ecological consultants (Coleman, Ruhe, Hansen); and,
- c. The sometimes low habitat-value descriptions due to non-native species colonization provided in the DEIS chapter. While the descriptions provided under “vegetation associated with seeps” and “vegetation along stream corridors” (p.80) are helpful and specific, the vegetation description under “upland deciduous forest community” (p. 77 and 79) does not clearly indicate how/if it corresponds to the habitats shown in Figure 26: Vegetation Associations.

Response  
3B.7

23. The general picture of onsite habitats is clear. As described in the DEIS (p.79), “deciduous forests occur on more than 90 percent of the property” and (p.80) “...exotic species were found...surrounding the eastern access road...from Horton Road...and near Ulmar Pond. Portions of the property further removed from these areas...were occupied by native species generally absent of exotic species.” Studies completed for the site by the current and previous property owners confirm this, indicating that the forest overstory on the majority of site is comprised of native species (oak, hickory, maple, tulip poplar) and that the understory is primarily native as well, with such species as maple-leaved viburnum, witch hazel, striped maple, low-bush blueberry, Christmas fern, etc. Where non-native species occur, these are typically Japanese barberry and garlic mustard at lower elevations. Despite this general picture, the extent of the non-native species colonizations on the site, and their adverse effects on habitat value cannot be measured from the information provided due to the sometimes conflicting record of information from past studies and due to internal discrepancies of habitat character/composition in the DEIS. The reason this is important to clarify is due to the frequent characterizations of onsite habitat as being low value due to non-native species colonization which is cited as minimizing the effects of the proposed development. For example: “The layout avoids those areas that are least disturbed and occupied by a community of native plant species...” and “those areas infested with exotic plant species can be developed with the least environmental impact.” (p.94); “The highest incidence of prior disturbance on the project site occurred within the areas now proposed for development, which had been historically subject to human occupation. Moreover, the proposed area of development has already been heavily impacted by the intrusion of invasive species.” (p.96); “The proposed development has been placed within the portion of the project site closest to Route 9 and neighboring residential development. This area is already considered especially impacted by its proximity to these features, as well as due to existing site disturbances including occupied structures, roadways, cleared areas, and vegetated areas that are heavily compromised by exotic invasive species.” (p.103). Descriptions in the DEIS, and in the past ecological reports that accompany the DEIS, do not fully support these characterizations.

Response  
3B.8

24. Non-native species such as Japanese barberry (*Berberis thunbergii*) and Japanese stiltgrass (*Microstegium vimineum*) occur frequently in forested habitats of the Hudson Valley. Their adverse effects on habitat value are typically minor unless they crowd out large expanses of other vegetation in all strata, which does not appear to be the case at the project site. In sum, the frequent focus in the DEIS on the adverse effects of non-native plant species appears over emphasized. The Town could consider enlisting the services of an independent ecological consultant to verify the ecological community types onsite, particularly within the footprint of proposed disturbance. In this way, the conflicting record of habitat value can be reconciled and project impacts properly gauged.

Response  
3B.2

25. As discussed further below, keeping the proposed site plan to the more disturbed portions of the site where historic development and past surface disturbance occurred is appropriate. However, the proposed site plan extends beyond these areas into portions of the site with higher habitat value. This is not made clear in the DEIS and should be fully addressed in the FEIS.



- Response 3B.3 26. Coleman (11.16.09) identified “rocky well drained upland consistent with a Chestnut-Oak Forest and Oak-Tulip Forest...also exhibits species representative of the Appalachian Oak-Hickory Forest also described by Reschke 1990.” However, presence of these NYSDEC-designated ecological community types onsite is discounted in the DEIS.
- Response 3B.4 27. Coleman (9.15.14) identified “a plateau area just northwest of the pond consists of rolling, elongated ridge....species composition similar to an Appalachian Oak-Pine forest (Reschke 1990) which is dominated by white pine, black cherry, black oak, red maple, sugar maple, red oak and Christmas fern.” This habitat type is not listed in the DEIS.
- Response 3B.5 28. Coleman (11.16.09) finds Acidic Talus Slope ecological community type onsite, located “at the southeast end of the study area at the constriction point before entering the eastern portion of the lot (Parcel “A”).” This community is not mapped/described in the DEIS.
- Response 3B.9 29. The 8.12.15 vegetation survey says the project site examined ranged in elevation from 360 to 500 feet at the property boundaries – but the site elevation reaches 800 feet. Please verify that the survey examined the entire site or if just a portion the project site was assessed.
- Response 3A.25 30. Section B.1.a (p. 80) indicates that two (2) hillside seeps were found, “both on the slope east of the cleared area”. One at the north end of the cleared area (Area D on Figure 26), and a larger one at the south end. These are fragile habitats that are an important resource for water dependent wildlife. Additionally, these seeps as described have hydrophytic vegetation (*Juncus*, *Carex*, *Sphagnum*, *Symplocarpus foetidus*, *Impatiens capensis*, etc.) and are connected via surface flow to onsite wetlands – why were these seeps not flagged as wetland themselves? The DEIS must clarify if any portion of these two hillside seeps is located within the proposed development footprint. Both seeps must be located accurately on map/figure (at present they are not) and, as discussed above, they must be delineated/flagged as wetland if they meet the USACE 3-parameter approach. The development footprint must be adjusted to avoid these seeps and each should be provided with an appropriate buffer. This comment was conveyed during the DEIS completeness review and remains unaddressed.
- Response 3B.54 31. Forest fragmentation is too narrowly defined in the DEIS. (p.94-99). Considering the project site alone, which is the only scale of analysis presented in the DEIS, the proposed site plan does not bifurcate the project site itself but instead reduces it in size by developing its western and central portions, leaving the easternmost parcel undeveloped. While this would not fully divide the project site into two or more non-contiguous fragments (the DEIS’s definition of fragmentation) it substantially reduces the amount of closed-canopy forest on the project site and furthers habitat fragmentation at the local and regional scales. We encourage the applicant to look more broadly at the definition of forest fragmentation, at the parcel-scale, site-scale, local-scale and regional-scale, and its adverse effects. The project site is part of a larger comparatively contiguous closed canopy forest that spans the boundaries of the site.
- Response 3B.55 32. The project site is part of the Hudson Highlands ecozone, comprised of substantially contiguous blocks of forest through which local roads, trails, and scattered development occurs. With development, the project site becomes a smaller “fragment” in this regional forest. With each development/encroachment/reduction of the blocks that make up this regional forest, the potential spread of invasive plants and animals increases in the remaining (unaffected) forested land. This is true for the proposed project, by bringing development closer to the eastern portions of the site the remaining forested land will be reduced in size and what is left will be unbuffered to the west. The remaining forested land will not serve the same ecosystem services to the same extent that it does at present, including the likelihood that this remaining forest will provide viable habitat for increasingly rare plants/animals that require larger tracts of land to thrive. To the contrary, the DEIS suggests that development of the western half of the site will have minimal effects on the remaining forest. The proposed development will expand the area of indirect impacts (nest parasitism, pet predation, invasive plant colonization, light and noise impacts, etc.) that the DEIS indicates occurs on portions of the western-half of the site by Route 9 at present, further eastwards into less-disturbed forest. Suggestions

in the DEIS that adverse effects to the 90% closed-canopy forest that occupies the site will be minimal are unsupported – at p. 104: “New development on land adjacent or close to existing development has very limited impact as the habitat of these areas is already significantly impacted by existing adjacent or nearby development.” And at p. 96: “In addition, the forested area proposed for development is already impacted by the “fragmenting effect” of the noise from nearby Route 9, which has been found by researchers to extend anywhere from 250 meters to 1000 meters due to road noise.” These statements are inaccurate. The applicant cannot contend that only portions of the site reduced in value due to proximity to Route 9 and historic homesteads will be affected and yet ignore the spread of “compromised” habitat that will result from the proposed new development. The DEIS concedes this point elsewhere, at page 96: “The proposed development will have the impact of extending the fragmenting effect farther in the direction of the unfragmented forest.” We agree with this statement.

33. To illustrate the importance of scale to the question of forest fragmentation: Of the six tax parcels that comprise the project site, the proposed site plan largely develops or bifurcates five of them, with only the final parcel acquired by the project sponsor remaining undeveloped, lot #17.-1-76.111. Thus, considered at the “parcel scale”, the proposed site plan causes substantial fragmentation. At the local scale, considering the project site’s relationship to immediately adjacent parcels, surrounding land is largely forested with only local roads and scattered low-density development to the north and east. The proposed project will widen the suburban land use cover type along Route 9 substantially, furthering the reduction in the block of local-scale largely contiguous forest that extends from the project site eastwards into these adjacent forested lands, including Fahnestock State Park. Finally, at the regional scale, the proposed project will reduce the finite acreage of undeveloped forested habitat that comprises the Hudson Highlands ecozone. The DEIS focuses on fragmentation at the project-site scale, but must also consider the bigger picture. This is not to say that the project site must remain undeveloped. Rather, the lead agency must consider these adverse effects from forest fragmentation which have not been presented fully/at all appropriate scales in the DEIS.
34. Related to the issue of forest fragmentation is its relationship to surrounding forest community types. As discussed in the DEIS, the project site is located adjacent to two NYNHP-mapped/designated “Significant Natural Communities (SNC)”, specifically a “high quality occurrence” of the “Appalachian Oak-Hickory Forest” community and the “Chestnut Oak Forest” community. Clearly, based on species descriptions provided in the DEIS these two ecological community types occur within the project site itself. Despite the fact that these community types are described as intermixed with other plant assemblages, the argument can clearly be made that the project site contributes to the “matrix” of forest that surrounds the NHP-mapped Appalachian Oak-Hickory Forest and Chestnut-Oak Forest.
35. The NYSDEC Hudson Valley Natural Resource Mapper maps the project site itself as part of the following two forest habitat designations: “Matrix Forest Block” and as part of the most critical “Large Forests: Globally Significant (>15,000 acres)”:
- a. Matrix Forest Blocks: Matrix forests represent the largest, most intact forests in the northeastern United States, whose size and natural condition allow for the maintenance of ecological processes, forest communities, and populations of forest-interior species. Conserving large, high quality forests and connections between them will allow plants and animals to move north and higher in elevation as the climate warms. (Publisher: The Nature Conservancy Eastern Conservation Science and the New York Natural Heritage Program. Publication Year: 2006).
  - b. Large Forests: The Hudson Valley is largely forested, but forest patches differ in relative ecological significance based on size, connectedness to other forest patches, and other factors such as invasive species and deer browse. In general, larger forests provide greater ecological value than smaller, fragmented patches, and many wildlife species depend on intact forests of at least 200 acres with little or no human development. Smaller forests may nevertheless provide important habitat values and stormwater-related benefits.

Response  
3B.56

Response  
3B.57

Response  
3B.58

(Publication: This layer was created from 2010 land cover data developed for the National Oceanic and Atmospheric Administration's Coastal Change Analysis Program. 2015).

The project site's connection to these Matrix and Large forest NYS-mapped designations is also evident when examining aerial photos contained in the DEIS and larger-scale aerial imagery. However, at p.94, the DEIS states: "Approximately 16 acres of forest with an oak-hickory association will be disturbed as part of the proposed project, but this forest should not be considered as part of the Appalachian oak-hickory matrix forest. Contrary to being a matrix forest, this particular forest type was observed on the property in smaller, fragmented communities." This statement does not appear to be accurate, based on review of the NYSDEC-mapping of the matrix forest and aerial imagery.

- Response 3B.10
36. The DEIS (p.106) suggests that planting of native species in home landscaping will counterbalance the project's habitat disturbance and habitat fragmentation effects. In truth, roads/lawns create disturbance that facilitates the spread of invasive species even if native ornamentals are required by HOA guidelines. Such measures, if judiciously enforced for the life of a project, can only hope to minimize the spread of invasive species.
- Response 2.101
37. The applicability of the Town of Philipstown Code's 175-36 – Steep terrain and ridgeline protection regulations, is not provided/calculated in the DEIS. This analysis is necessary to make an informed decision about the location of the overall development program with respect to steep slopes.
- Response 3B.6
38. Based on information presented in the DEIS and appendices, AKRF is in agreement with the general findings of the Conservation 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 Ulmar 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. However, we feel that more must be done to achieve a site plan that adequately accomplishes these goals.
- Response 3B.11
39. The site plan footprint (limit-of-disturbance) presented in the DEIS is larger than the plan presented in December 2016 immediately after completion of the approved conservation analysis, notably at: the location of three stormwater detention basins flanking the entrance road within Oak and Tulip Poplar-Hemlock-Hickory-Oak habitat types (Figure 26); at the first turn of the loop drive within Oak and Sugar Maple-Black Birch-Tulip Poplar-Hickory-Oak forest; at the emergency access road traversing the oak community in the northern portion of the site, and; at the Equestrian parking and new cul-de-sac for three residences at the easternmost portion of the site plan within Tulip Poplar-Sugar Maple-Oak and Sugar Maple-Black Birch-Tulip Poplar-Hickory-Oak forest. These changes are moving the site plan in the direction of greater ecological impacts, not reduced impacts.
- Response 4.1
40. The proposed site plan resembles large-lot residential and should be further reduced in footprint to constitute a true cluster subdivision. With a community septic system, as is proposed, it appears that significantly more centralization/consolidation, i.e. more cluster, could be achieved than is proposed at present. Such consolidation will undoubtedly improve habitat preservation in-line with the identified conservation values of the land as explored in the Conservation Assessment and DEIS. The proposed Alternative D, Cluster Subdivision with ½ acre lots, offers some benefit by preserving more of the terrestrial-aquatic habitat linkages by eliminating houses around Ulmar Pond and eliminating one of the two drives off Horton Road, but does not substantially reduce impacts to the onsite habitat overall and adds a longer cul-de-sac extending northeastwards. A cluster layout alternative more protective of onsite habitat is warranted.
41. The following components of the proposed site plan should be reconsidered to reduce the site plan's ecological impacts:

- Response 4.2
- a. Emergency access roads to north connecting with East Mountain Road and two roadways to south connecting with Horton Road appear redundant, and fragment the oak-dominated uplands from the more mesic, lowland forest and wetlands/streams to the south/west. Removing two of these roadways, most critically the southern drives that sever the connection between upland and wetland, is advised to retain critical movement of animals between aquatic and terrestrial habitats.
  - b. Onsite roadways need animal crossing tunnels (box culverts) especially at stream/wetland crossings to facilitate movement of animals from uplands to downslope wetlands. Similarly, such features as Cape Cod Curbing to reduce reptile/amphibian mortality is advised.
  - c. Lots 24, 25, 18, and 19 should be moved/removed/consolidated to preserve connectivity between Ulmar Pond and surrounding upland habitat.
  - d. Lots 13, 14, 15, 16, and 17 should be moved/removed/consolidated to protect less-disturbed, oak-dominated forest and reduce forest fragmentation.
  - e. Lots 9 and 10 should be moved/removed/consolidated to protect oak-dominated rocky spine exhibiting potential timber rattlesnake and/or copperhead foraging habitat identified by Coleman.
  - f. The Equestrian Center and its parking/amenities should be moved more centrally (northwestwards) to widen the habitat corridor between upland and wetlands (and Ulmar Pond).
- Response 2.27, 2.24
42. Regarding residential density, and the site plan modifications recommended above, please note, from Town Code Section 175-20 – Standards for Conservation Subdivisions: “(5) The maximum number of units as determined by this §175-20B, whether derived from the density formula or the yield plan, and the density bonuses described in Subsection B(4) shall not be considered an entitlement. The applicant must also demonstrate compliance with all applicable criteria and standards of the Zoning Law, Land Development Regulations, and other applicable laws and regulations. These requirements may result in an actual approvable unit count that is less than the maximum allowed by Subsections B(1), (2) or (4) above.”
- Response 2.45
43. Refer to comment #9 above. The DEIS indicates that the proposed 170.8 acres of Conservation Area includes the Equestrian Center, the SSTS and Reserve SSTS areas. Such areas are essentially “developed” and not appropriate to include in the Conservation Area. Per Town Code §175-21.A.3.a/b, uses allowed in conservation easement must “protect the conservation values identified in the conservation analysis.” Conversion of forested land, with its well-documented conservation values, to an indoor/outdoor riding rings, horse boarding stalls, roadways and parking, and sub-surface septic treatment systems does not further the conservation value of the land. Note also Town Code §175-20.H.2: “Such open space may be owned by a homeowner’s association...as long as it is protected from development by a conservation easement and does not result in fragmentation of the open space land in a manner that compromises its conservation value.” The Equestrian Center and SSTS, and their related developed areas, do not appear compliant with this section of the Town Code.
- Response 2.46
44. Appendix K: Conservation Easement: Section 4.3(d) Pedestrian Trails, Utilities and Drainage Ways. This section is not restrictively defined so potential impacts to undeveloped lands are unknown. Also, Section 4.6 Clearing of Trees and Vegetation, is similarly poorly defined for conservation lands which are to remain undisturbed. By contrast, Section, 4.2 Equestrian Center, is clearly defined and appropriate: “Horses and horseback riding shall be permitted only in the 11.1 acres of the Equestrian Center, in all other areas horses of the Property and the Conservation Subdivision horseback riding shall be prohibited.”
45. Some figures (e.g. Fig 19) show the limit-of-disturbance (LOD) line including the SSTS Reserve Area, several do not (Figure 30). Some appropriately show the LOD including the proposed residential lot-

- Response 3B.12 lines as the boundary of potential disturbance (Fig 30), others do not (Fig. 19, Fig. 20, Fig. 33). The LOD must include the outermost grade lines and the entirety of the residential lots to account for potential future disturbance. Despite the best intentions of HOA Declarations, individual homeowners may clear to their lot lines in the future to the detriment of the intent of the Conservation Subdivision. No portion of the residential lots is within the proposed Conservation Easement area (Fig. 17) so their future development is a potential reality. In order for the lead agency to measure the potential adverse environmental effects of the development, the FEIS must make clear and consistent how much acreage will be disturbed/preserved at the outset of development plus what additional lands could be disturbed in the future due to the reserve SSTS and future homeowner clearing, in graphical and table form.
- Response 3B.16 46. Although there is some disagreement between the studies completed to date on the project site regarding the potential presence of the timber rattlesnake (*Crotalus horridus*), studies presented by Coleman/Ruhe and the Conservation Findings (Appendix B, p.5) indicate that at minimum the site may provide summer foraging habitat for this species. Considering the varied record, the lead agency will find it difficult make its own determination on the proposed project's potential effects to this NYS "threatened" species. Therefore, the Applicant should implement the Mitigation Recommendations of NYSDEC's "Guidelines for Reviewing Projects for Potential Impacts to the Timber Rattlesnake" for the protection of timber rattlesnakes during construction of the proposed project.
- Response 3B.17 47. The DEIS at p. 87 (B.1.b.iii) does not provide the USFWS summer roosting season tree removal restriction dates for the federally "endangered" Indiana bat (*Myotis sodalis*), which is April 1 to September 31, depending on distance to hibernaculum. (USFWS NY Field Office, Indiana Bat Project Review Fact Sheet).
- Response 3B.18 48. Regarding forest interior-nesting birds, this ecological function would be adversely affected by the proposed project and should be termed an unavoidable adverse impact. The suggestion that such impacts can be "remediated...by landscaping with trees and shrubs native to the area..." (p.106) is not accurate.
- Response 3B.19 49. Insufficient analysis is provided regarding adverse impacts, and potential impact avoidance measures, to the State-protected or rare wildlife species identified or expected to occur onsite based on available habitat. These include northern copperhead snake, eastern hognose snake, eastern worm snake, eastern box turtle, wood turtle, and red shouldered hawk. For example, eastern hognose and worm snakes are found in old field habitat – however, it appears the majority of this habitat is to be developed. True cluster development to preserve specific habitat areas, and measures to preserve existing upland-wetland linkages are among those that should be further examined in the FEIS in reference to these species.
- Response 3B.20 50. At pg. 106: "Constricting light and sound disturbance has also been shown to lessen the impact of development." Aside from citing the existing site topography, no specific measures proposed by the Applicant to minimize lighting/sound are discussed.

#### IV.C - ZONING AND LAND USE

- Response 3C.1 51. Figure 20 from the Water Resources section of the DEIS shows the boundaries of the Clove Creek Aquifer and Regional Aquifer subdistricts of the Town's Aquifer Overlay District in relation to the project site and proposed limits of disturbance, but they are not shown as overlays on the zoning map (Figure 8) nor are they discussed in the text on existing zoning conditions on page 108 – only the Open Space Overlay is mentioned. The FEIS should describe the applicability of the aquifer overlays on the proposed project and how the project will comply (i.e. the requirements of Town Code section 175-16 and the special permit approval necessary).
- Response 3C.2 52. The two paragraphs on the top of page 112 include repetitive language when referring to the 11.1 acre area of the project site proposed for rezoning from M to RR and subsequently planned for conservation purposes. If this language will be used in the FEIS, please consolidate the language into one paragraph as follows:

"The 11.1 acres of this property is categorized as having a high or medium conservation value, with 2.0 acres categorized as having a high conservation value and 9.1 acres categorized as having a medium conservation value. This land is adjacent to Clove Creek and fronts Route 9 and contains steep slopes, wetlands, and significant water ecology, making it unsuited for most uses permitted in the M district. Rezoning the 11.1 acres from M to RR will allow the Applicant to designate this portion of the property, except for the area needed to accommodate the road that is necessary to access the developed areas of the Reserve, as open space and preserve it under a conservation easement. This action will allow the property to be compatible with the surrounding area and future development."

#### IV.D COMMUNITY CHARACTER

Response  
2.89

53. Regarding this language on page 120: "...the applicant's designers made certain that Horton Road and East Mountain Road North would not be used for any routine access to the project. It is noted that access to both of these Town roads will be maintained for emergency purposes only..." - how have the applicant's designers made certain that these critical roads will not be used for routine access, and will solely be used for emergency purposes? For example, have the designers included barriers or automated gates along the periphery of those roads with access only for emergency personnel? Please include more information on how this has been made certain, and how the current plan is code-compliant with the minimum design requirements for emergency access.

Response  
3D.11

54. Page 135: Similar to how other viewpoints are presented graphically in this section of the DEIS, a panoramic photograph depicting the view of the project site from Scofield Ridge should be incorporated into the FEIS to accompany the plan and profile section diagram already included in Figure 36. The text included in the third paragraph of page 135 is not fully supported by the plan and profile section drawing, and inclusion of a panoramic photograph of this viewpoint would provide further context for the lead agency to draw conclusions. This issue has also been raised as a concern during the public hearing.

#### V. ALTERNATIVES

Response  
4.3

55. Similar to the conclusive statements in terms of project viability for Alternatives A, C, D, and E, Alternative B should include a conclusive statement on whether this alternative is economically viable or not and what the environmental impacts would be. A few sentences would suffice, however this comparison is crucial for readers when evaluating the different alternatives and their impacts in comparison with each other.

Response  
4.4

56. In Alternative D, the applicant states that, "the lot size would be reduced from around one acre to one-half acre...the area of disturbance would be reduced to 42.8 acres from 45.7 acres, thereby reducing the overall environmental impact from the project by just 2.9 acres...the amount of impervious surfaces would also be reduced to approximately 8.6 acres, or just about 2.5 acres less than the current proposal." There is barely a difference between the Alternative D cluster subdivision, with smaller lots and relocation of homes, and the proposed plan. The definition of a cluster development, as stated in Town Code Section 175-11, is a development that "clusters in nodes surrounded by open space and, where practical, in the traditional compact pattern found in the Town's hamlets." Clustering is intended to help create smaller, more compact development in areas away from environmental constraints, and is a planning technique often used to preserve open space. Here, the clustering only shows a 2.9-acre reduction in environmental impact and a 2.5-acre reduction in impervious surfaces, both of which should reflect larger reductions. AKRF does not agree that Alternative D qualifies as a cluster subdivision, as it does not show the elements of proper clustering to qualify. The Applicant should create a proper cluster subdivision that reflects the principles of 'clustering' and a larger preservation of open space.

57. Alternative D assumes the loss of potential value of homes. How are the projections of potential loss of value percentages derived? The FEIS should provide calculations or a basis for the projections. The Applicant states that, "based on the projected asking prices for the lots around Ulmar Pond and those

Response 4.5 elsewhere in the proposed subdivision, it is estimated by the Project Sponsor that the impact on the potential value of the homes removed from around Ulmar Pond would be a loss of about 65%. Based on the asking price the Project Sponsor would place on a half-acre lot compared to the one-acre lots, the loss of potential value for the other homes is projected to be about 40%." Other than stating that the Project Sponsor estimates these numbers, the text has not provided calculations or a basis for the projections for these values. Please provide the calculations, and research behind these projections in an Appendix and reference them within the text.

Response 4.6 58. Alternatives B, D, and E require a fiscal analysis for the residential development, similar to what has been provided for the equestrian facility in Alternatives C and E. It is important for readers to know how much projected revenue will be generated from these different alternatives given the varying scenarios with and without the equestrian facility. Please provide the fiscal analysis for each alternative in an Appendix and reference these findings within the FEIS.

#### **VI. ADVERSE ENVIRONMENTAL IMPACTS THAT CANNOT BE AVOIDED**

Response 5.1 59. According to Chapter 5 Section C.35 of the SEQR Handbook, "certain adverse environmental impacts can be expected to occur regardless of the mitigation measures employed; for example, there is typically permanent loss of vegetation when building a new facility and any related parking. Because such unavoidable impacts must be factored into final agency decision making, the SEQR regulations provide that an EIS must contain an identification and assessment of impacts that cannot be avoided or adequately mitigated. The discussion of unavoidable impacts must meet the same substantive requirements as all other discussions of impacts and alternatives." For example, the applicant should note a permanent loss of 11.1 acres of existing vegetation, instead of 'removal of 45.7 acres of existing vegetation of which 34.6 acres would be replaced with lawn and landscaping.' The applicant should review the bullets listed in the DEIS, and include just those from each section of the DEIS where impacts are unavoidable and where the proposed mitigation will be unable to offset the unavoidable impacts. In addition, the FEIS should specify which adverse environmental impacts cannot be avoided in the short-term versus long-term. This comment was previously included as part of AKRF's completeness review memo and has not yet been addressed.

Response 5.2 60. The FEIS should separate the adverse environmental impacts in bullet points into topics or categories and expanded upon why they are unavoidable. This comment was previously included as part of AKRF's completeness memo and has not yet been addressed.

#### **VII. IRREVERSIBLE AND IRRETRIEVABLE COMMITMENT OF RESOURCES**

61. We have reviewed this material and have no substantive comments on this chapter.

#### **VIII. GROWTH INDUCING ASPECTS**

62. We have reviewed this material and have no substantive comments on this chapter.

Heidi A. Wendel and Joseph L. Hirsch  
29 Secor Street  
Nelsonville, NY 10516  
Heidi.wendel@gmail.com  
Joehirsch6@yahoo.com

July 3, 2019

BY EMAIL TO SECRETARY OF THE BUILDING DEPARTMENT

Town of Philipstown Planning Board  
238 Main Street  
Cold Spring, NY 10516

Re: **Opposition to Hudson Highlands Reserve Application**

Dear Planning Board,

We are writing to express our vehement opposition to the application by the Hudson Highlands Reserve at Route 9 and Horton Road. We oppose the project, as proposed by the applicant, for all of the reasons expressed by the public commenters at the Public Hearing on June 20, 2019, as well as for the reasons set forth in the Hudson Highlands Land Trust's ("HHLT's") letter regarding the application, and for the reasons set forth in the Perspective by HHLT President Michelle Smith in the PCNR.

Among other reasons (set forth in the above-cited documents and other parts of the record, such as the video of the public comments at the hearing cited above), we oppose the project as follows:

- Response 2.17, 3B.65**

  - The applicant should not be permitted to take advantage of Cold Spring's Conservation Subdivision law to include more houses than would be permitted in a regular (non-conservation) subdivision, because the project does not fall within the spirit of the Conservation Subdivision provisions. The project should be treated for what it is, a non-conservation subdivision, and should not be permitted any additional residences beyond what it could include under that law. Further, a project of any size must be required to cluster the housing and provide a true conservation easement that would ensure genuine preservation and conservation of the vulnerable land in question, and no deterioration of habitat for wildlife. The existing conservation easement is currently proposed for the areas of the site that are the least valuable for wildlife use. A true conservation easement would instead allow wildlife to co-exist with housing on the site.
- Response 3B.54, 3B.34**

  - The housing, as sited, blocks wildlife access to the pond by fragmenting the site.



Response  
3B.14

- The applicant has not conducted an adequate study of wildlife on the property, including the location of vernal pools that provide habitat for peeper frogs, salamanders and other amphibious and reptilian life. Such studies would have to be done in March, April and May, when the vernal pools come to life. During that season of each year, thousands of peeper frogs hatch. Their haunting calls help provide an idyllic soundtrack to our area's natural beauty. The sound of the peepers in spring is a powerful reason many are drawn to live in the Hudson Valley, as we were (we live across from a vernal pool). If an adequate study of the effects the proposed development will have on the vernal pool wildlife shows that the project will harm amphibian life on the site, then the board must deny the application.

Response  
2.64

- The proposed equestrian center amounts to a commercial operation that will bring even more traffic to the area's already choked roads. That will unquestionably lead to even more serious accidents than already occur there. Emergency services that serve the area are already enormously overburdened.

Response  
2.75

- The equestrian center, as proposed, would create inhumane conditions for horses, who would apparently be stabled for their entire lives. According to the existing proposal, each horse would have a range of slightly less than a quarter acre to graze and roam during its rare time outdoors. That is a sliver of the acreage a horse needs. Additionally, the manure the horses produce will heavily pollute the land that surrounds the center, as well as the streams, pond, vernal pools and wetlands, and will decimate nearby wildlife.
- Horses already go begging around Cold Spring. Owners of existing equine establishments trying to offload their horses are legion in our area. We need fewer of these, not more.
- The applicant has been unable to negotiate with any party willing to accept custody of the conservation easement.

Response  
2.34

- The applicant's proposal to have a homeowner's association oversee and enforce whatever site conditions are proposed to protect the site's environment is a non-starter. There is no assurance a homeowner would have the qualifications or ability to do so. The fall-back that a lawsuit could be brought if conditions are not followed is inadequate. The proposal should not be dependent on neighbors or other affected parties having to sue over detrimental effects of the project that should have been avoided in the application in the first place.

For these reasons, and all the others cited in the documents and at the public hearing, we strongly request that the Planning Board deny the application by the Hudson Highlands Reserve.

Sincerely,

Heidi Wendel and Joe Hirsch

Cc: Chairman of the Planning Board

July 3, 2019

Anna and Paul Kantor  
17 Yesterday Drive  
Cold Spring, NY 10516

Email: [pkantor1@optonline.net](mailto:pkantor1@optonline.net)

Philipstown Planning Board  
Town of Philipstown  
238 Main Street  
Cold Spring, NY 10516

Dear Planning Board Members,

We wish to express our profound opposition to the pending proposal for the Hudson Highlands Reserve that is now before the board. We attended the public hearing on June 20, 2019 because this matter is of utmost importance to us as homeowners at Glassbury Court, located nearby the proposed Conservation Subdivision. After reading most of the documentation available through the town hall and listening to the many criticisms leveled by diverse parties at the hearing, it is difficult to imagine a worse development proposal. Unlike Glassbury, which transformed a run-down quarry into a bright, attractive and socially useful addition to the Highlands, the HHR plan has few redeeming features. As specified in the planning materials, this development proposes to transform a pristine and ecologically important area of the highlands into a hideous commercial and residential enclave. The HHR will bring into a delicate ecological environment a large polluting commercial horse-riding business that is harmful to wildlife that will stand out as an anomalous scar in an otherwise green and pleasant setting. A wide variety of critics have pointed out the enormous increase in traffic that will result from this development, as well as the substantial pollution of land and water in our neighborhood by a large concentration of horses feeding and excreting.

The residential parts of this development are also questionable. Unlike Glassbury, which has added significantly to the area's housing stock with more than 90 homes dedicated to underserved residents (seniors and civil servants), the HHR proposes 25 homes aimed at the luxury market and part time residents seeking weekend retreats. The ill-conceived housing plan has been judged to choke off access by valued wildlife to critical ponds and waterways, while only leaving less valuable (to wildlife) landscape on surrounding slopes. Although the area should be open to weekenders, it should not be at the price of accommodating a large quasi commercial development that has so many negative consequences for the environment.

We strongly urge the board to reject this development proposal since it clearly is not in the public interest.

Sincerely

Paul and Anna Kantor

**Subject:** DRAFT ENVIRONMENTAL IMPACT STATEMENT- Hudson Highlands Reserve  
**From:** Martha Ferris <marthaferris1@gmail.com>  
**Date:** 7/2/2019, 12:34 PM  
**To:** amerante@philipstown.com, tpercacciolo@philipstown.com

July 2, 2019

Anthony Merante, Chairman  
 Planning Board  
 Street

Philipstown  
 238 Main  
 Cold Spring NY 10516

**RE:** Hudson Highlands Reserve – Draft Environmental Impact Statement

Dear Chairman Merante and Honorable Board Members –

Thank you for welcoming public comments on the Draft Environmental Impact Statement (DEIS) for Hudson Highlands Reserve. I understand that the development presents an important, precedent setting situation for the community. I also understand that the Hudson Highlands Land Trust opposes the current proposed plan because it fails to protect wildlife pathways and key habitat, safeguard Clove Creek and the Clove Creek Aquifer, and preserve scenic vistas from our two state parks nearby. Soon after my husband and I moved to the Hudson River Valley from Mississippi a year ago we received a welcome packet from the Hudson Highlands Land Trust with an offer for one of their local experts to visit to our property and help us identify native trees and plants and learn more about our land. We accepted their offer, and the two experts who came were incredibly generous with their time and expertise. We are deeply grateful to their organization for the important work they do to protect the precious ecosystem of the Hudson River Valley. I support their opposition to the proposed “conservation subdivision” as currently designed and hope that you will implement their eight suggested actions to remedy the deficiencies in the studies of significant impacts presented by proponents of the

development. The HHLT's actions would mitigate those impacts.

I believe that any "conservation subdivision" design in our area should be guided by proper wildlife and scenic analysis, as proposed by the Hudson Highlands Land Trust, and that includes the Hudson Highlands Reserve.

Thank you for this opportunity to comment on the DEIS.

Sincerely,

Martha Ferris Kostmayer  
40 Dancing Rock Road  
Garrison, NY 10524

PS. I will be sending you a hard copy of this letter for your records as well.

Friday, June 28, 2019

# HHR Comments/Questions

*A. Merante*

## Equestrian Facility (EF)

- "the growth and financial viability of the HHR EF is dependent on the development of an effective community riding/horsemanship program."

Response  
2.67

• What is the contemplated volume of traffic if the EF "will offer programs for both HOA members and the general public?"

• is the EF an "important part of the business in generating cash flow?"

- While most conservation easements allow agricultural uses,

Response  
2.58

• is this not an 'industrial form of agriculture?"

• is this structure allowed on preserved open space - it is a fully-developed area consisting mainly of impervious surfaces.

### Is this not anathema to the spirit of a conservation subdivision and conservation easement?

How was it determined that

"as urban incomes have grown, access to and engagement with horses on any level . ." there is a need to satisfy demand for such facilities.

Response  
2.2

"to satisfy a local need . . . facility-owned school horses in service of a comprehensive high-quality program for local children who are eager to participate in [horse activities] . . . ."

Where are the studies establishing a "public need for the project . . . ."

Response  
2.3

- Where are the studies establishing that there is a significant second-home demand in the Hudson Valley?

And a "long established pattern of second-home demand in (sic, Philipstown)?"

How is the fact that "Philipstown is part of an area that is easily reached from New York City, where city residents buy a **second** home while choosing to continue to rent in the city," **relevant to the creation of a conservation subdivision?**

Friday, June 28, 2019

Response 2.4 Is there, or has there been, an explicit call for “new housing stock in Philipstown.”

... especially on the price scale as described in the project information and on such sensitive land?

Response 2.5 ... has there been an expressed call for increased tax revenue [for what need?] -  
and what is the particular benefit of “commercial taxes?”

Anthony Merante, Chairmen

July 1, 2019

Phillipstown Planning Board

Re: Development North of GlassBury Courte 9

I would like to take this opportunity to express my opinion of this development:

1. I believe the constuction of the Twenty Five (25) homes and the the Forty Horse Stable at the above location would a hugh Negative effect on what I believe to be a pristine area.

2. A large negative impact on traffic on route 9 from increased volume from both individual and commercial vehicles i.e. horse trailers.

3. Possible impact to our Taxes due to increased population in our schools.

4. While the 25 homes may be privately owned , by the home owners, the horse stable and horses will be commercial:

a) Does this violate exiting zonning laws

b) Polution from horse waste both solid and liquid, and how does the affect our water

Response  
3A.11

table

5. How does this effect to the various wild life in the area.

Response  
2.43

6. Should the development procede who will monitor and ENFORCE and finance the so called assurances to presurve the area , envirement and property.

I coulkd go on and on but when such a large number of area residents are so opposed to this entire developement we should NOT only have the final say in this matter. I beleive the entire project should NOT BE ALLOWED.

*Richard J. Kernell*  
20 YESTERDAY DR.  
COLD SPRING N.Y.

June 27, 2019

Anthony Merante, Chairman  
Philipstown Planning Board

Dear Chairman Merante,

I am writing as a Philipstown resident with a longstanding interest and involvement in the Town's recreation programs. I should emphasize that I am writing as a local taxpayer and not a representative of any official entity.

I am very concerned that the equestrian facility envisaged for the Hudson Highlands Reserve Development will bring no recreational benefits or opportunities to our community. The facility as currently planned is designed for residents of the development, friends of those residents and people capable of paying the very high cost of maintaining horses trained in dressage.

Response  
3B.34  
3D.5

Aside from my interest in the recreational aspect of the development, as a taxpayer I am extremely worried about the impact of this development on traffic, wildlife and scenic values that we have worked so long and hard to preserve in our community.

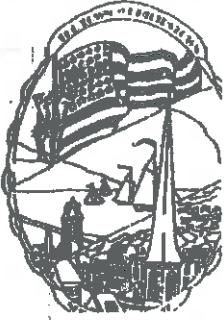
Thank you for listening and for the valuable work you and your Board do for our community.

Respectfully,



Claudio Marzollo  
256 Lane Gate Rd  
Cold Spring





## Town of Philipstown

HIGHWAY DEPARTMENT  
50 Fishkill Road  
Cold Spring, New York 10516  
(845) 265-3530  
Fax (845) 265-7886

Carl Frisenda  
Highway Superintendent

June 25, 2019

Mr. Anthony D. Merante, Chairman and Planning Board members  
TOWN OF PHILIPSTOWN PLANNING BOARD  
238 Main Street  
PO Box 155  
Cold Spring, NY 10516

RE: Hudson Highlands Reserve Conservation Subdivision  
NYS Route 9

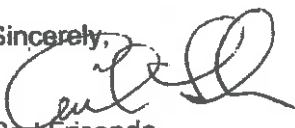
Dear Hon. Chairman and Board members:

This letter is offered to relative to the access planned for the above referenced project, which is currently before your Board. We have monitored the progress of this development proposal since it was first introduced, and have always supported the Board's initial determination that project access may only be obtained from NYS Route 9, so as to avoid any increase in traffic on the existing town roadways which abut the tract. As the Board is aware, neither Horton Road or East Mountain Road North is suited for the traffic that the 25-unit housing development and 40-stall equestrian center can be expected to generate, including horse trailers, delivery and other maintenance vehicles which will necessarily be a significant component of this development scheme.

However, it has just come to the attention of this Department that NYS DOT does not currently support project access from NYS Route 9. Be advised that this Department will continue to strongly object to the use of town roadways to serve this project. Route 9 represents the only feasible means of routine access for the scope of development envisioned by the applicant.

Should you have any questions, please don't hesitate to contact my office.

Sincerely,



Carl Frisenda  
Highway Superintendent

cc: Ronald J. Gainer, PE, PLLC

Response  
2.85

# LYNN ROGOFF

464 East Mountain Road South Cold Spring, NY 10516 M: 646-234-3336 | lrogoff@gmail.com

Planning Board  
Philipstown, NY 10516

June 21, 2019

Dear Anthony Merante, Peter Lewis, Kim Conner, Neal Zuckerman, Dennis Gagnon, Dave Hardy,

Hudsonhighlandreserve.com,  
Commercial Representations  
and Greenwashing

Ladies Gentleman, as a landowner directly bordering the development on East Mountain Road South, my argument tonight is that the entire community gave them detailed, extensive, dedicated, feedback last year in the cold winter weather. It appears that they chose rather to expand their plan and give short attention to our major concerns.

They chose not to act with any humility and thus not decrease the equestrian center numbers or the number of houses, now including indoor swimming pools, nor even bother to get approval by the DOT on the traffic on East Mountain.

They continue to claim on their website, hudsonhighlandreserve.com, that people will not use the community schools, roads and resources, but will home owners spend millions to visit only once in a while and not use community roads, schools and other resources such as water, light, wildlife and air? It does not make sense that people would pay millions of dollars and not use our community resources.

Response  
3D.1

Indeed, the plan is still for 40 horses and now there are plans for commercial events and classes and manure machinery on their website. I reviewed their web site and it states "the central attraction to the development is the equestrian facility. We have determined the equestrian center, clubhouse, and paddocks to compose the amenities package for the development... including a separate building housing a second indoor arena and spectator area."

Their representations appear to use the language of environmentalism but rather MMH appears to be a case of greenwashing. Greenwashing is the practice of making an unsubstantiated or misleading claim about the environmental benefits of a product, service, and technology or company practice. Greenwashing can make a company appear to be more environmentally friendly than it really is.

**This appears to be a commercial venture built around an equestrian facility rather than a conservation subdivision.**

**I urge you to deny the HHR proposal until they modify their plan to address the concerns of our community.**

**Here are web sites that are material to our planning board long term thinking on the outlook for our community and the business model for equestrian center subdivisions:**

**[what-you-should-know-about-horse-communities](#)**

**[horse-lovers-pony-up-for-equestrian-friendly-communities-](#)**

**Best Regards,**

**Lynn Rogoff**

**Subject:** Fwd: Hudson Highlands Reserve  
**From:** Linda Valentino <lvalentino@philipstown.com>  
**Date:** 6/24/2019, 9:26 AM  
**To:** Tara <tpercacciolo@philipstown.com>

----- Forwarded Message -----  
**Subject:**Hudson Highlands Reserve  
**Date:**Tue, 18 Jun 2019 17:15:18 -0400  
**From:**Diana Hird <dianahird@me.com>  
**To:**amerante@philipstown.com  
**CC:**lvalentino@philipstown.com

Mr. Anthony Merante  
Chairman  
Philipstown Planning Board

Dear Mr. Merante:

I am writing to express my deep concern regarding the current construction plan proposed by the Hudson Highlands Reserve real estate developer. Notwithstanding the public relations spin in the real estate developer's redesigned website, the HHR development as currently conceived raises serious threats to our environment.

The areas of environmental concern are numerous. I have the following questions:

1. What is the impact of a 40-horse farm on water resources?
2. What is the impact on wildlife of the current layout?
3. What is the impact on traffic safety for Rt. 9, Horton Rd. and East Mountain Road? It sounds like they are building a commercial barn with riding lessons and riding shows which will bring in much more than just residential traffic.

I thank you for all the time and consideration you have been giving to this matter.

Sincerely,  
Diana Hird

Response

3C.4  
3B.34

Michael W. Klemens, LLC  
105 Main Street/POB 105  
Falls Village, CT 06031

June 21, 2019

Mr. Anthony Merante, Chairman  
c/o Tara Percacciolo  
Phillipstown Planning Board  
238 Main Street/POB 155  
Cold Spring, NY 10516

Dear Chairman Merante and Members of the Phillipstown Planning Board:

The Hudson Highlands Land Trust (HHLT) has submitted comments to your Board dated June 18<sup>th</sup> 2019 on the DEIS prepared for the Hudson Highland Reserve. In October 2018, on behalf of HHLT, I reviewed the extensive documentation, studies, and other materials submitted by the Applicant which are included as Appendix C of the DEIS, namely the Conservation Analysis and Environmental Assessment Form Part III.

Response  
3B.41

The Conservation Analysis and the DEIS relies upon the studies and documents that I reviewed last October. No additional studies or analyses address the issues and deficiencies that I detailed in my memorandum of October 10, 2018 to the HHLT, which is appended as Exhibit B in their submission. My academic and professional qualifications are appended as Exhibit A of HHLT's comment letter. The deficiencies that I detailed last October still remain outstanding, unresolved, and are very relevant to your evaluation of the completeness of the DEIS and its accompanying Conservation Analysis in Appendix C.

Absent addressing these issues, in my professional opinion the DEIS and its accompanying Conservation Analysis should be deemed to be incomplete by the Phillipstown Planning Board and the Applicant should be directed by the Board to conduct the necessary studies and analyses to address these deficiencies.

If I can provide any additional information to you on this matter, please feel free to contact me.

Sincerely,



Michael W. Klemens, PhD

**Subject:** Hudson Highlands Preserve Project

**From:** <msarch@ix.netcom.com>

**Date:** 6/21/2019, 12:16 PM

**To:** amerante@philipstown.com

**CC:** tpercacciolo@philipstown.com

Dear Mr. Merante:

I wanted to comment about the Hudson Highlands Reserve project, specifically about the care and well being of the proposed 40 horses. Much was said last night about their waste but what about their overall well being? Most of these equestrian developments, that are all the rage today, are built on thousands of acres of land, most of them on flat terrain, which is conducive to grazing and exercise for the horses. This site, which is wooded and on hilly terrain, has not enough flat and open acreage to be an appropriate site for proper care of 40 horses. I could see this type of project in Millbrook, or Rhinebeck, or Bedford, but not here on this site. The proposed lives of these horses, spending most of the time in their stables with food brought in from the outside, could end up becoming quite unhealthy and a form of animal abuse. I hope that this will be addressed by the applicant.

Thank you, Madeleine McGinley

Response  
2.75

# Kimley»»Horn

June 17, 2019

Mr. Anthony Merante, Chairman  
Town of Philipstown Planning Board  
238 Main Street,  
Cold Spring, NY 10516

Re: Hudson Highlands Reserve  
(NYSDOT SEQRA# 14-0300)

Dear Mr. Merante:

I am in receipt of NYSDOT's correspondence on the above matter, dated June 7, 2019, and am writing to ensure that all appropriate actions have been and will be taken to continue the review process.

The applicant has been working on this project with NYSDOT since December of 2014, when the Department indicated that, subject to the submission of certain materials pertaining to the entrance road's design (detailed below), NYSDOT "would allow access to Route 9". As indicated below, the applicant subsequently completed the requested traffic-related studies<sup>1</sup> and purchased an adjacent parcel on Route 9, so that the entrance road could be better positioned by increasing the distance of the proposed entrance road from the creek.

On June 6 of 2018, the Town Planning Board sent NYSDOT a Draft Scope for the preparation of a Draft Environmental Impact Statement (DEIS).

In its June 20, 2018 correspondence, NYSDOT indicated that the Draft Scope did not "contain anything regarding proposed traffic impacts and mitigation".

On July 12, 2018, Glenn Watson (of Badey and Watson) provided NYSDOT with a copy of Kimley-Horn's traffic analysis and a requested sight distance matrix. Mr. Watson noted that "Traffic" was not included in the draft scoping document because that issue "was answered to the satisfaction of the Planning Board during the Conservation Analysis and the EAF processes"<sup>2</sup>. Mr. Watson's letter (attached) also provided a detailed explanation as to why access from Horton Road or East Mountain Road North would not be feasible for this project.

In its August 2, 2018 report on the July 12, 2018 submission, NYSDOT had some additional questions that related to the suitability of the proposed US 9 access (would there be phasing, were the traffic projections up to date, account for trucks and speed when calculating sight distances, provide a left-turn lane analysis). In the email that accompanied NYSDOT's report, the Department's Mr. Zimmer noted that these, and how the development would affect drainage on the state highway were the remaining potential concerns.

<sup>1</sup> The drainage study will be submitted to the NYSDOT upon finalization of the site layout.

<sup>2</sup> In an 8/21/2018 email, Chris Robbins (the Town's Planning Consultant) noted that "The Final Scope will not be amended to capture these most recent DOT comments as they were made on and are specific to the State's review of the project's TIS (*Traffic Impact Study*) and not the Scope."

Kimley-Horn provided answers directly to Mr. Zimmer's traffic -related questions in a letter dated October 11, 2018 (with a cc to Ed Goff and Mike Sassi, also at NYSDOT), which indicated that the entrance road, as proposed at that time, would satisfy the Department's criteria for design and that all of the information in the traffic analysis was up to date.

We believe that, once the site layout is complete and the drainage study provided to NYSDOT, we will have provided all of the requested materials and information for NYSDOT to conclude that the proposed entrance road design will meet all of the Department's criteria to safely accommodate all vehicles expected to use it.

Very truly yours,

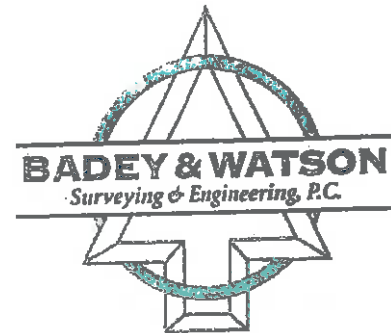
KIMLEY-HORN of New York.



John Canning, P.E.  
Project Manager

cc. Mary McCullough  
Lee Zimmer





June 27, 2018

Mary McCullough  
SEQRA /HWP Unit  
New York State Department of Transportation  
4 Burnett Boulevard  
Poughkeepsie, NY 12503

Re: NYSDOT SEQRA #14-300  
Hudson Highlands Reserve  
Route 9, Town of Philipstown  
Putnam County

Dear Ms. McCullough:

This letter is sent in response to your letter to Philipstown Planning Board Chairman Anthony Merante dated June 20, 2018, which was forwarded to us as the project's surveyors and engineers.

The reason that "Traffic" was not included in the draft scoping document is that the question was answered to the satisfaction of the Planning Board during the Conservation Analysis and EAF processes.

For your edification, I am attaching a copy of the "Traffic Impact Analysis" prepared by John Canning, P.E. of Kimley-Horn of New York, P.C., along with sight line profiles prepared by our office. AKRF reviewed the report on behalf of the Planning Board and recommended that traffic impacts have been adequately addressed.

To the best of my knowledge, there has been no written communication with NYSDOT concerning this project. However, we did meet with Albert R. DeNigro, Permit Engineer, on two occasions early in the planning process. During our initial meeting, Mr. DeNigro advised us that the proposed entry was too close to the guiderail protecting the bridge over Clove Creek. Subsequently, our client purchased adjoining commercial property to the north, which allowed us to relocate the intersection approximately 50 feet further north and further away from the guiderail.

The proposed project does not anticipate regular access to either Horton Road or East Mountain Road North, although it does provide for emergency access routes over existing driveways to both roads. Public opposition aside, and there is more than a little, neither road is suited for the traffic that the project will generate. As the scoping document indicates, in addition to the 25 homes that are being proposed, the plan includes a 40-horse equestrian center, which will require occasional horse trailers, feed deliveries, manure removal and other


service vehicles as well as the additional automobile traffic that it will generate. All of this, of course, was considered during the preparation of Mr. Canning's report.

Horton Road is a dead-end street that is about 3,000 feet long. Most of it is a narrow dirt road. There is a particularly sharp horizontal angle in the road that is at the precipice of a sudden grade change from relatively level to -11%, then quickly to -19%, and then almost immediately crosses a bridge that we believe is inadequate. Mill Road connects to Horton Road avoiding the bridge, but it is also very steep and has a difficult horizontal geometry.

East Mountain Road North is a narrow road that runs along a protected creek. While the road is relatively straight and gentle there is insufficient room to make it suitable for the equestrian related traffic and the disturbance that would be required to construct the intersection and roadway into the project would require significant disturbance and blasting, which we do not anticipate will be required at the Route 9 entry point.

We trust that the information in this letter and its attachments is adequate for your review. If it is not, or if you have any questions, please do not hesitate to contact me. Thank you for your attention and concern.

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

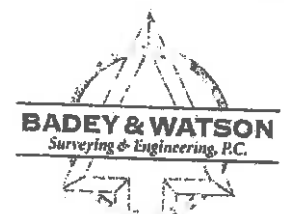
Cc: File U:\86-2288\WO\_21792\_Hudson Highlands Reserve\SEQRA\Responses\MM27\N18BP\_Response\_to\_DOT.docx  
Ulises Liceaga, HHR  
Stephen M. Gross  
Richard L. O'Rourke, Esquire  
John Canning, P.E.

June 27, 2018

Mary McCullough

Page 2 of 2

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**BADEY & WATSON**  
**Surveying & Engineering, P.C.**  
 3063 Route 9. Cold Spring. New York 10516

**LETTER of TRANSMITTAL**

Date: 13 Jul 2018  
 File No. 86-228  
 W. O. # 21792  
 RE:

**TO:**

Mary McCullough  
 SEQRA/HWP Unit  
 New York State Department of Transportation  
 4 Burnett Boulevard  
 Poughkeepsie, NY 12503

Utilises License  
 Hudson Highlands Reserve, Rte 9 & Horton  
 Lot No. on Subdivision  
 Tax Map  
 Permit/Title/PO #

Sent via:  US MAIL  MESSENGER  FEDEX  UPS-2 DAY  UPS-NIGHT  
 PICK-UP  FAX  UPS-COD  UPS-3 DAY  UPS-GRND

**We are sending :**

copies	date	description of document
1	12-Jul-18	Letter Reg.: NYSDOT SEQRA #14-300 (MM27JN18BP_Response_to_DOT.docx)
1		Traffic Impact Analysis
1	20-Jul-17	Sheet 1 of 1 Sight Lines & Profiles for Hudson Highlands Reserve (SB21792_R10_V17)
1		Thumb Drive

**REMARKS:**

Copies to: File

Yours truly:

③ Comment regarding  
Environ. Impact  
Report

④ Develop is  
inevitable

⑤ 1st. Conversation  
⑥ Subdivision  
→ DEC's president

⑦ CSE  
County

SPRING NAL UPDATE

### NYS pending environmental legislation

- ④ A.3658/ S.5576 wetlands protection
- A.4666/ S.5612 protects streams

These two pieces of legislation would strengthen protection of local wetlands and streams. Current DEC protections only cover areas that encompass 12.4 acres or more if they are on a DEC approved map. NYS is the only state in the North east that does not have protection for smaller wetlands and the more than 1 millions species that are at risk. This legislation would protect smaller wetlands, rivers, streams, creeks, lakes, and wildlife.



### The Birds and Bees Protection Act

S5816A/ A.7639

This NYS legislation is aimed at a 6 year moratorium on Neonicotinoids so that the DEC can study them more carefully to determine how best to protect our pollinators and agricultural economy. Pollinators that can be affected by these pesticides include; bees, butterflies, bats, beetles, moths, flies and other native pollinators that are crucial to agriculture in NYS.

⑤ Don't know  
see if  
legis.

**Putnam County to Vote on  
Climate Smart Pledge on  
June 4, 2019 @ 7:00 PM  
Carmel, NY**

*The proposal to take the Climate Smart Pledge was voted out of committee on May 17, 2019. It will now go before our County Legislator for approval. If you would like to comment, please send a quick note to [putcoleg@putnamcountyny.com](mailto:putcoleg@putnamcountyny.com)*

### Town meeting - June 6, 2019

- ▶ Vote to support the 2019 Hudson River Estuary Program grant "Green Corridors".
- ▶ Climate Smart Community Update

*"Never believe that a few caring people can't change the world. For indeed, that's all who ever have." Margaret Mead*

Response 3A.28

Karen Ertl  
Rec'd @ 6/20/19 PH

Rec'd @ 6/29/19 YH

18

J. Perry Pitt

Comments submitted for Planning Board Hearing on Thursday, June 20 at 7:30 pm, by Putnam Highlands Audubon Society, PO Box 292, Cold Spring, NY 10516

I represent the Putnam Highlands Audubon Society with over 250 local members in the area. We appreciate the thoughtful concern the Philipstown Planning Board is giving to the proposed Hudson Highland Reserve "conservation subdivision" project. In line with the Town's adopted Conservation goals in 2017 it is our position that the DEIS wildlife assessment for this project does not include essential and sufficient monitoring procedures. The field sightings done did not cover the breeding and nesting times of most species and did not cover a long enough period of time to establish the biological diversity these lands support and what species breed and nest on the site.

Response  
3B.42 In the DEIS, "Wildlife Sightings" and "Existing Conditions" are included with four field date visits on May 6 & 26, July 9 and August 1, 2015. Four field visits is simply too short a time span to conduct meaningful monitoring of birds. The absence of breeding bird surveys and counts for birds to determine they are not nesting have been omitted, or not done. Bird species breed at different times during the year. Owls breed in winter, Hawks and Eagles breed in Spring through the Summer months and it takes vigorous monitoring and surveying to find their nest sites. Migrating warbler species and forest birds that breed here during the late Spring and Summer would also have been largely missed by the short visit dates.

Response  
3B.43 Forest bird species have been a special concern to Audubon as their numbers have  
3B.18 been dropping. Loss of habitat, fragmentation of forest habitat, as well as climate change are causing these species to decline. Any additional stressors can spell real trouble for these species.

Response  
3B.44, The Warblers migrate thousands of miles back north to their breeding grounds in  
3B.43 the Hudson Valley from South and Central America, Mexico and southern U.S. They do this because the long daylight hours provide them with the time needed to feed and raise their young nestlings. The Hudson Valley and the Hudson River act as migration corridors for birds that stop here to breed, and those that stop to feed up, before continuing up to the northern boreal forests. The plant community in our town supports the insects that these birds need to sustain them on their migrations.

Response  
3B.18 Several bird species listed on the NY State "Special Concern List" are known breeders and nesters in adjacent lands. These include:

Sharp-shinned Hawk, Cooper's Hawk, Red-shouldered Hawk, Whip-poor-will, Cerulean Warbler and possibly Golden-winged Warbler.

Bald Eagles are on the NY State "Endangered Species List" with nearby nests.

Response  
2.19, Reptile and amphibian studies were also not done thoroughly for this study.  
3B.16, Serpents move in June from their over-wintering shelters in hollow logs or caves  
3B.29 where they spend the winter. Turtles also start moving to areas where the females will lay eggs in very late May or June. Again, the "wildlife sightings" were not done during the seasonal time where they could be monitored.

- Response 3B.22, 3B.29** "Species of Special Concern" on the NY State List that are likely to be found on these lands since they are on adjacent properties are: Spotted Turtles and Wood Turtles. I personally rescued a Wood Turtle that was crossing the road in the direction of this property from East Mountain Road South two weeks ago. In addition, Salamanders, such as the Jefferson Salamander, another species on the NY State "Species of Special Concern List" are likely to be found there as well. Amphibians are shy secretive animals that live on the forest floor and near streams and it takes many hours of turning over logs and rocks to establish their presence.
- Response 3B.28** There is no mention of audio monitoring for the presence of bat species so this component of wildlife sightings is missing as well.
- Response 3B.45** There is also no mention of monitoring for New England Cottontails which are known to breed on the ridge. They are also on the NY State "Species of Special Concern" list.
- Response 3B.46** The project has been designed with houses forming a half circle around the pond which means that wildlife use will be limited or become non-existent. Building houses near the pond means that lawns, ornamental shrubs and decorative plantings will replace the native plant species that form a pond community that supports pond species. Chemicals used to support the lawns and ornamentals will find its way into the pond and disrupt the natural processes of ponds and the wildlife they support. Has the Town studied the wetland delineation infield?
- Response 3B.47** Constructing an equestrian center with 40 horses on the property will likely mean eutrophication of the pond and a lowering of the dissolved oxygen available for fish. Clove Creek and its tributaries will also suffer from the degradation of water quality.
- Response 3A.17** We have learned over the past decades that fragmentation of forests result in increased invasive plants and decreased native plants. Many non-profits in this Town have supported the "green corridor" concept that allows wildlife species to migrate and survive unhindered by buildings, roads and other developments. Putnam Highlands Audubon, Constitution Marsh Audubon, Hudson Highlands Land Trust, Scenic Hudson and New York State Parks have all worked together for many decades to preserve lands in our community that form a "green corridor" and promote survival of our native flora and fauna.
- Response 3B.69** When "conservation building designs" were first introduced they seemed to be a solution to rampant sprawl. The reality, is that the lands the projects set aside as "conservation areas" are usually areas that are unbuildable anyway. They are devoid of the very resources that native plants and wildlife need to survive. The habitats used for the building areas are the ones that animal species need.
- Response 2.18** We ask the Town Planning Board to consider that this "conservation project" is the first of many. It must be an environmental model with real seasonal monitoring and assessments, with environmental standards and limits that any future projects must also adhere to before consideration in this Town.

Submitted by,

**Connie Mayer-Bakall**

**President of Putnam Highlands Audubon Society**

**PO Box 292, Cold Spring, NY 10516**

Rec'd @ 6/20/19 PH from  
Carli Fraccarolli



SAVING THE LAND THAT MATTERS MOST

Scenic Hudson, Inc.  
One Civic Center Plaza  
Suite 200  
Poughkeepsie, NY 12601-3157  
Tel: 845 473 4440  
Fax: 845 473 2648  
info@scenic Hudson.org  
www.scenic Hudson.org

**Statement of**

**Jeffrey Anzevino, AICP  
Director of Land Use Advocacy  
Scenic Hudson, Inc.**

**Town of Philipstown Planning Board  
Public Hearing**

**Hudson Highlands Reserve**

**June 20, 2019**

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My name is Carli Fraccarolli, Advocacy Associate for Scenic Hudson. Scenic Hudson helps citizens and communities preserve land and farms and create parks where people experience the outdoors and enjoy the Hudson River. I am delivering this testimony on behalf of Jeffrey Anzevino, Scenic Hudson's Director of Land Use Advocacy. Scenic Hudson will submit a more comprehensive comment letter before July 8<sup>th</sup>.

**Response 4.11** As the first project seeking Planning Board approval as a "conservation subdivision" under the town's 2011 zoning code, the Planning Board's review of this proposal will be precedent-setting. As proposed, the applicant's preferred alternative, Alternative E, is inconsistent with provisions in Philipstown's conservation subdivision zoning code. Further, it would result in significant environmental impacts with respect to biodiversity and habitat connectivity, water quality and aquifer protection, and adverse visual impact from the Wilkinson Trail on Scofield Ridge. It is crucial that these impacts and inconsistencies are taken into consideration when making a decision.

**Response 2.33** Scenic Hudson believes that the project should be redesigned to be more consistent with the home siting of Alternative D. This relocates five residencies from the western side of Ulmar Pond and clusters them on smaller lots. In addition, we believe that the equestrian facility should be reduced in size and laid out in a more compact arrangement leaving a wider habitat corridor to the south.

**Proposal is not a Consistent Conservation Subdivision**

**Response 2.17** As proposed, Hudson Highlands Reserve does not adequately meet town code requirements for, nor the generally accepted definition of, a conservation subdivision. As we stated in our February 15<sup>th</sup>, 2018 letter, rather than cluster homes in a compact arrangements, the applicant proposes homes spread out along multiple cul-de-sacs. The large house lots sprawl across the entire western half of the property, dividing remaining natural areas into three separate sections. This would result in forest fragmentation and would not protect the important habitat values found on the site. This is inconsistent with Philipstown's zoning, which requires that:

*"The configuration of the open space land and dwellings shall not result in fragmentation of the open space land in a manner that interferes with its proper management and protection of its conservation values."*

(Section 175-21 A(3)(b))



**Response 4.12** Scenic Hudson disagrees with the applicant's assertion (page 141) that removing the five homes from the pond's west side and reducing impervious area (by 2.5 acres) and disturbed area (by 2.9 acres) is inconsequential. Any removal and reduction of impervious and disturbed area is consequential, and consequently decreases the perimeter of the development. This results in a smaller amount of lower-quality edge habitat that would drive away species that rely on large areas of contiguous forest.

#### **Biodiversity**

**Response 3B.70** The area surrounding the proposed Hudson Highlands Reserve project site is widely known for its value to biodiversity and the natural beauty of the Hudson Valley. The site is within the NYSDEC Hudson River Estuary Program's *Hudson Highlands Significant Biodiversity Area*. Likewise, The Nature Conservancy recognizes the value of the large, continuous forests in this area with their *Hudson Highlands Forest Block* designation.

Any losses of habitat on this site are a loss to some of the largest and most intact areas of forest habitat in the Hudson Valley. Further, developments must conserve habitat corridors to allow wildlife (including threatened and endangered wildlife known to occur in the area) to move between habitat types on and off the project site, including travel between wooded uplands, Ulmar Pond, and Clove Creek. The applicant's preferred alternative, particularly when proposed under the guise of a conservation subdivision, does not conserve these corridors and, moreover, fragments the site.

For the reasons above, a more concerted effort should be made to cluster the development. Minimizing its footprint and including strong mitigation measures are critical to minimizing the development's negative impacts on this notable forest and biodiversity.

#### **Water Quality**

**Response 3A.19** Scenic Hudson is concerned that a 40-horse commercial facility and sprawling residential development will have negative water quality impacts on Clove Creek and its aquifer. Further study is needed to assess the risk these pieces of infrastructure pose to important regional water resources.

#### **Visual Impact**

**Response 3D.10** The draft environmental impact statement (DEIS) does not take into account visual impact from Scofield Ridge, asserting that views from these trails are unimportant and described as "distant views...and...seasonally available to all but the hardiest of hikers who might visit the ridge in the winter." This is not the case. The Wilkinson trail is mapped and maintained by the NY-NJ Trail Conference and Scofield Ridge is increasingly popular amongst hikers, even during leaf off conditions late fall through the spring.

**Response 3D.6** Further, the DEIS cites a previous visual analysis (page 135) included in Appendix T, that determines the site might be visible from three vantage points along Scofield Ridge. Appendix T references Exhibits M-4 through M-12, however these are not included in the Appendix. Scenic Hudson recommends that visual simulations should be provided from these three locations on Scofield Ridge.

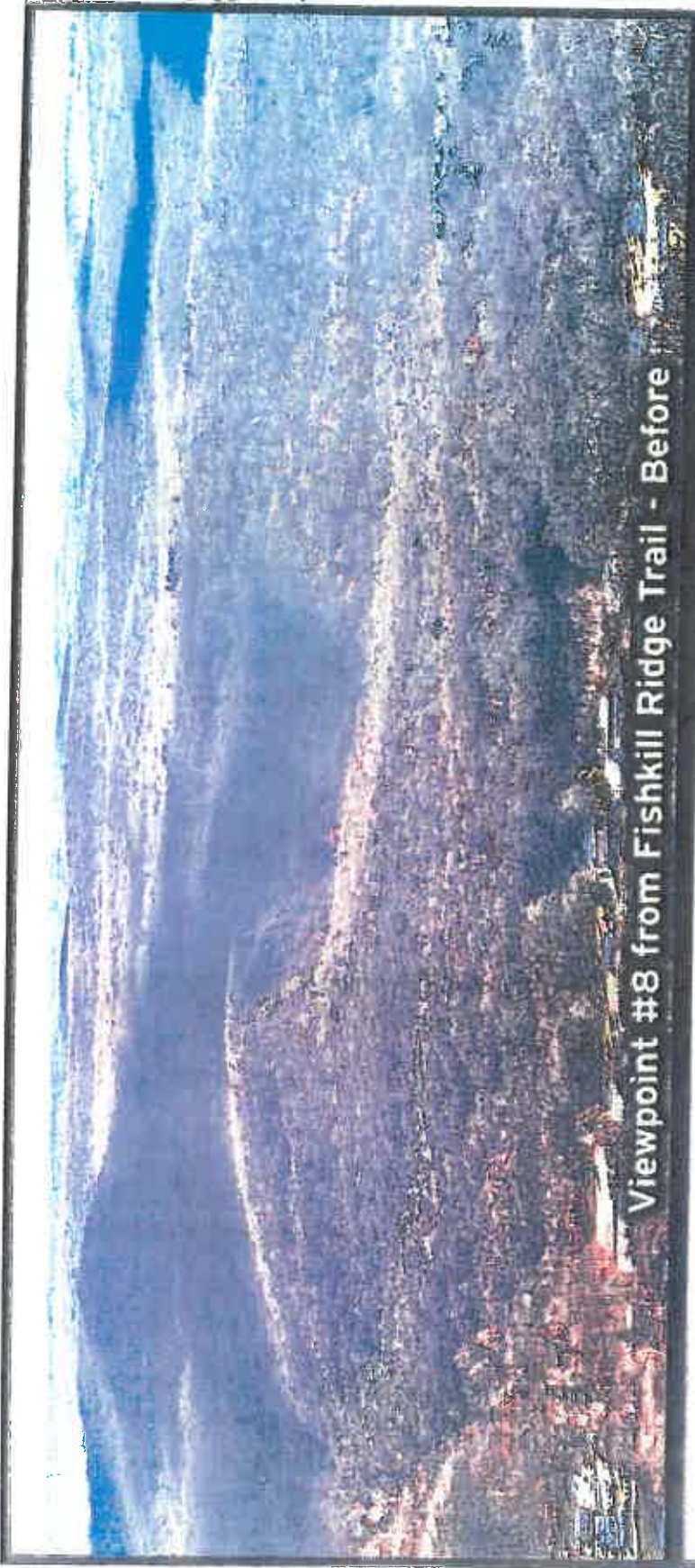
#### **Conclusion**

Your review of this project will set the precedent—good or bad—for reviews of proposed conservation subdivisions in the future. Therefore, and given its location in the *Hudson Highlands Significant Biodiversity Area* and *Hudson Highlands Forest Block*, it is critically important that you review this conservation subdivision application in strict accordance with the Town Code.

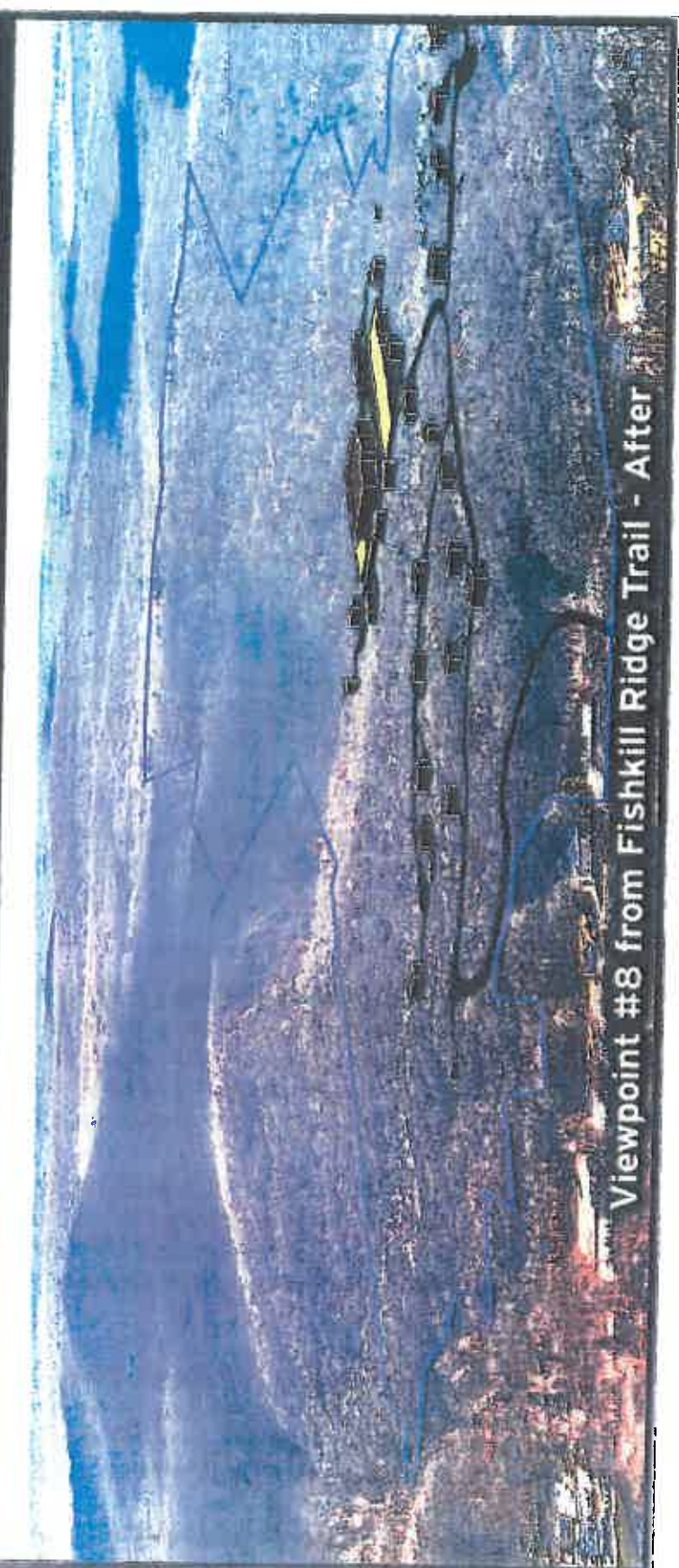
Scenic Hudson appreciates this opportunity to provide these comments tonight.

Hank Osborn

Rec'd @ 6/20/19 PH

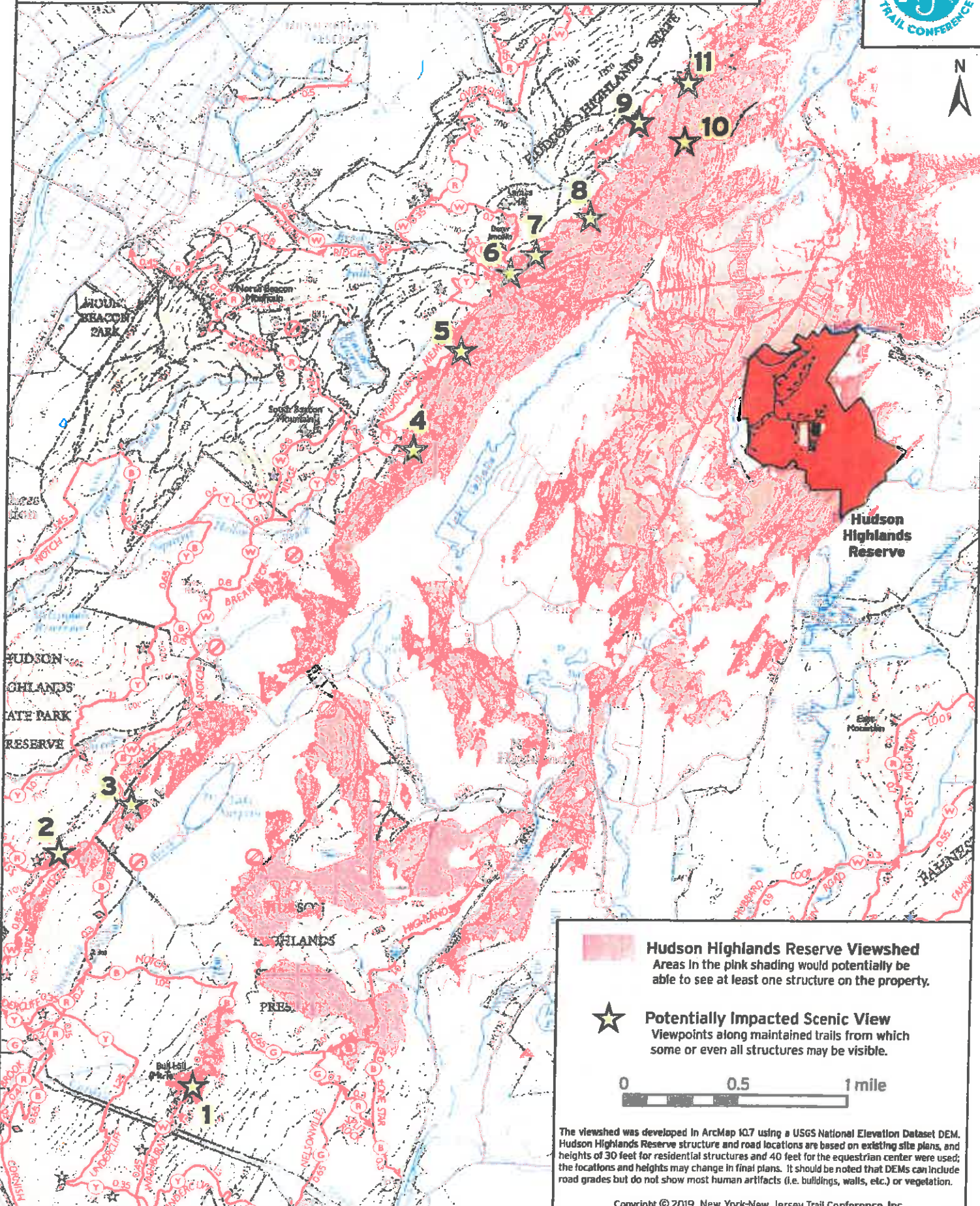



Viewpoint #8 from Fishkill Ridge Trail - Before




Viewpoint #8 from Fishkill Ridge Trail - After

# Hudson Highlands Reserve near Hudson Highlands State Park Preserve: Viewshed Analysis and Trail System Impact



 **Hudson Highlands Reserve Viewshed**  
Areas in the pink shading would potentially be able to see at least one structure on the property.

 **Potentially Impacted Scenic View**  
Viewpoints along maintained trails from which some or even all structures may be visible.

0      0.5      1 mile

The viewshed was developed in ArcMap 10.7 using a USGS National Elevation Dataset DEM. Hudson Highlands Reserve structure and road locations are based on existing site plans, and heights of 30 feet for residential structures and 40 feet for the equestrian center were used; the locations and heights may change in final plans. It should be noted that DEMs can include road grades but do not show most human artifacts (i.e. buildings, walls, etc.) or vegetation.

Rec'd @ 6/20/19 PH 15

Margaret McKinley

Public Hearing  
DOT  
DEIS

Public Hearing Hudson Highlands Reserve

I have been

I am a resident of Philipstown, living on East Mountain Road North for 16 years. Although I have several concerns about the proposed Hudson Highlands Reserve project, I would like to specifically focus on the traffic safety issues associated with access to the site. First and foremost, I would like clarification on exactly where the main access point to the site will be and if it has gotten approval from the DOT. Second, I would like to know if a traffic study has been submitted to the DOT.

is it approved, EMRN, Horton Rd?

Response 2.90

I know I speak for many of my neighbors, for whom safety is a priority, when I ask about a traffic study. But I don't just speak for my current neighbors, I also speak for the safety of any potential future neighbors who might live in proposed Hudson Highlands Reserve. I also speak as a victim of a serious car accident at the intersection of Route 9 and EMRN, which is currently shown as proposed access point to site.

Last summer, I was waiting on the southbound side of Route 9 to make a left turn to go home onto East Mountain Road North. My car was rear-ended and totaled by an 18 wheeler tractor trailer going over 50 MPH and I was spun into the oncoming traffic. At that instant, I thought I would never see my son again. I suffered trauma and serious injuries, and the police said I am lucky to be alive. The police also mentioned that accidents happen at this spot all the time. So you can imagine why this is an important issue for me.

But the point is not my accident, it's everyone's safety who travels up and down route 9. It seems that Route 9, in its entirety, has gotten worse, with many more accidents causing fatalities and even wide spread power outages. I would hope that our Planning Board demands submittal of a thorough traffic study from the applicant for review by the DOT. Regardless of where the main access point ends up, I would hope that the applicant would provide mitigation, given the additional traffic that the proposed project would generate. Solutions such as a turning lane, flashing lights or reduction of speed limit along that section of Route 9 need to be looked at.

so which is it?

Response 2.85

I would like the Board to address two letters it received from the DOT: In the first letter dated June 20, 2018, the DOT deemed the direct access off of route 9 to the development as "not necessary" because there are access points on East Mountain Road North and Horton Road. As far as EMRN goes, it's already hard to get into and out of Route 9 from this narrow road. Further traffic and horse trailers would worsen the bottleneck and increase hazards on a road which is also part of Haldane School Bus Route.



*clear*  
In the second letter dated June 7, 2019 it is ~~apparent~~ that a full traffic study has not been submitted to the DOT. They raise ~~again~~ concerns they raised one year ago that were not addressed in the ~~Draft Environmental Impact~~ *DEIS* Statement. The DOT notes that there is no mention of traffic in the DEIS and the Traffic Impact Analysis and DOT comments are not included in the appendix. They are now asking the Board to address all of their comments. ~~The most important statement from the letter is that,~~ "as an involved agency", the DOT is "unable to endorse the DEIS." How can this project be approved by the Board without endorsement from the DOT?

In this letter, the DOT also wonders if the applicant addressed any of their Traffic Study Comments of 8/1/18 , which includes item 7. "perform the left turn analysis for the Route 9 Southbound left turn into the site". This is exactly where my accident occurred. Has this analysis ever been done? If direct route 9 access is not granted, if someone were to travel south on Route 9 to get to their new home or horse stable at the Hudson Highlands Preserve, they would need to make that left turn onto East Mountain Road North, where there is currently no turning lane, in a 50 MPH zone. ~~This is a turn the residents of EMRN make on a daily basis and most of us are, frankly, terrified of it.~~

~~In summary,~~ please clarify if any traffic studies have been done, what they show and when the DOT's comments will be addressed. Please also clarify which access points to the site have been approved.

Thank you.

Title

Comprehensive Plan (CP) is Relevant to this application

CP is a statement of a community's goals and a conceptual roadmap for how to achieve them.

It isn't the law, but it does provide the "backbone" for the law in concise, unambiguous language.

When the law itself, in this case our open space development zoning law, becomes subject to a variety of interpretations as it has in this application, I believe that there is an opportunity to go back to the CP, particularly when that law is being interpreted for the first time in the history of the town.

So amongst other things here is what the CP says about open space development

Response 3C.5

Read headline on Chapter 3 Section R 2.4 of Comprehensive Plan

Repeat "with safeguards to ensure that such developments do not lead to more development than would otherwise occur"

Response 2.29

Because the property we are discussing is located in the Town's OSO zone, the applicant would be allowed to build 10 houses under the law pertaining to a conventional subdivision. Yet the open space plan the

Response 2.24

PB is considering calls for 25 houses and a commercial equestrian center capable of housing 40 horses. I was out of time at this point

Because the applicant's plan calls for more development than would otherwise occur (under conventional subdivision zoning) it is in my opinion that it is not in keeping with either the terms or the spirit of the Town's existing CP.

Respectfully submitted,

Nat Prentice, Coordinator of the Town of Philipstown's Comp Plan Update Committee June 20, 2019 Tel. 845-661-8937

rec'd @ 6/20/19 A  
13

Comments made by David C. Gordon of Garrison, NY  
Philipstown Planning Board Public Hearing  
June 20, 2019 at 34 Kemble Avenue, Cold Spring, NY.

**Topic: Hudson Highlands Reserve and its Draft Environmental Impact Statement.**

Good evening and thank you to the Board for taking my comment. Thank you also for holding this important review of the Hudson Highlands Reserve proposal.

On the surface the development of only <sup>39</sup>~~twenty-five~~ acres of a 210 acre site sounds ideal.

171. BUT the devil is in the details, usually. There is good reason that the ~~185~~ acres left undeveloped are not being developed. These acres tend to be on terrain too steep or too wet to be considered.

Response  
2.18

The proposed development of ~~24 (as is it)~~ 25) L E E D platinum level certified homes and a forty-horse barn dressage complex will effectively split the 210 acres in such a way as to preclude the natural and safe passage of any wildlife along this corridor.

Response  
3B.34,  
3B.54

And poor old Clove Creek takes yet another hit of a magnitude that it can ill afford.

Response  
3A.11

Perhaps, someone could explain the section in the Draft Environmental Impact Statement on page 14, Section B. 2. c entitled "Forest Fragmentation Impacts"

Response  
3B.67

Its concluding sentence states, quote, "There will be no TRUE fragmentation, though there will be SOME habitat perforation." The use of the adjectives 'true' and 'some' seem to be quite telling.

Sounds a bit like being a little pregnant.

In conclusion, we, here in Philipstown, have more than 25 of these designated Conservation Subdivisions.

Let us not lower the bar and set a poor example in this, the first test of this enlightened zoning mechanism.

Thank you for your attention.



My name is Dr. William Schuster. I am a Cornwall resident, a professional ecologist, and have been Executive Director for the past 27 years of the non-profit Black Rock Forest in the Hudson Highlands. In that capacity I have extensively studied Highlands ecology, have published a book chapter on the subject, and have used scientific knowledge and principles to manage the 4000-acre BRF for decades.

I am commenting on the DEIS prepared for the Hudson Highlands Reserve, proposed to become Phillipstown's first "Conservation Subdivision." This is a laudable concept and one that should help our communities live sustainably into the future, while conserving our natural resources, if implemented appropriately. To qualify as a CS, the zoning code states that such projects must preserve contiguous open space and must protect the areas with the most conservation value- in other words those habitats critical for maintaining populations of our native species that are of special conservation concern.

My two concerns are, first that the project as proposed fails the contiguous conservation criterion by establishing a barrier dividing the conserved parts of the project area, and second that the environmental studies to date fail to adequately address the local amphibian and reptile species of highest conservation concern, and the habitats required by these species.

These two problems should and can be addressed- first by accomplishing surveys of breeding habitats and species in the seasons necessary- particularly vernal pools during the April-May breeding season. There is no other way to know what species of conservation concern are on site. As Dr. Michael Klemens pointed out in a letter sent earlier to the planning board- wood frogs were found on site and these are OBLIGATE vernal pool breeding species. That means there must be vernal pools on site but no appropriate search to locate and map these habitats has yet been accomplished within the March-April time period when they must be evaluated. The Phillipstown community should KNOW whether or not vernal-pond-requiring species of state-level conservation concern like the marbled and spotted salamander, and other wetland-requiring threatened species like the wood turtle, are on site. The DEIS as it stands does not present appropriate surveys to draw conclusions on this.

Second, the development of the property should be shifted by some additional clustering of some house locations- especially moving them away from the edge of Ulmar Pond- thereby providing for east-west ecological connectivity. The proposed houses and roads are now laid out in a contiguous north-south line that effectively divides the site by a wildlife-inhospitable barrier. The need to maintain east-west connectivity is amplified by the fact that there are large parks not far to the east- Fahnestock SP- and west- Hudson Highlands SP. And Ulmar Pond is nearly encircled by these developed lots and and thus is cut off from the surrounding uplands needed for a healthy pond environment.

As ecological science and conservation have developed in recent years, it has become clear that if we want a future that will still include most of our native wildlife species we must pay more attention to connectivity than we have in the past. This will require conserving connectivity where it exists, mitigating barriers where they exist, and certainly not creating new barriers to wildlife movement.

I feel it is the responsibility of the planning board to see that these actions are required of projects that seek the classification of Conservation subdivisions.

William Schuster, 131 Continental Road, Cornwall NY 12518. Dated June 20, 2019

*William Schuster*

**Subject:** Fwd: Objection to East Mountain Conservation Easement being considered at tonight's board meeting.

**From:** Linda Valentino <lvalentino@philipstown.com>

**Date:** 6/20/2019, 1:43 PM

**To:** Tara <tpercacciolo@philipstown.com>

----- Forwarded Message -----

**Subject:** Objection to East Mountain Conservation Easement being considered at tonight's board meeting.

**Date:** Thu, 20 Jun 2019 13:08:12 -0400

**From:** Tara Vamos <tara@itsallaboutmovement.com>

**To:** [amerante@philipstown.com](mailto:amerante@philipstown.com), [lvalentino@philipstown.com](mailto:lvalentino@philipstown.com)

Dear Board Members,

Thank you all for your time and careful consideration regarding this conservation easement being considered at a public meeting tonight, 6/20 at the Old VFW.

I'm not able to attend the meeting tonight. I live in Philipstown, and I am very concerned that this development will have a negative environmental impact. I am also concerned that granting this conservation easement will open the door for other easements that do not adequately protect our waterways and wildlife.

**Response** Any horse facility will involve horse manure, discarded horse bedding, and considerable truck and trailer traffic. Additional wear and tear on the road way will mean increased erosion as well as erosion and soli compaction if trailers are being parked or unloaded on unpaved areas. All of this will lead to both silt and fecal matter in the local waterways.

3A.9

I don't see how this development meets the conservation requirements.

Thank you for your time and consideration,

Tara Vamos

6 Rock St.

Cold Spring, NY 10516

**Subject:** Fwd: Philipstown Planning Board Public Hearing Comments  
- Hudson Highlands Reserve Conservation Subdivision  
**From:** Linda Valentino <lvalentino@philipstown.com>  
**Date:** 6/20/2019, 1:01 PM  
**To:** Tara <tpercacciolo@philipstown.com>

----- Forwarded Message -----

**Subject:** Philipstown Planning Board Public Hearing Comments -  
Hudson Highlands Reserve Conservation Subdivision

**Date:** Thu, 20 Jun 2019 11:53:38 -0400

**From:** Ginny <[ginnyflies@usa.net](mailto:ginnyflies@usa.net)>

**To:** [amerante@philipstown.com](mailto:amerante@philipstown.com)

**CC:** [plewis@philipstown.com](mailto:plewis@philipstown.com), [kconner@philipstown.com](mailto:kconner@philipstown.com),  
[nzuckerman@philipstown.com](mailto:nzuckerman@philipstown.com), [gagnon@philipstown.com](mailto:gagnon@philipstown.com),  
[dhardy@philipstown.com](mailto:dhardy@philipstown.com), [ntomann@philipstown.com](mailto:ntomann@philipstown.com),  
[lvalentino@philipstown.com](mailto:lvalentino@philipstown.com)

Dear Chairman Merante and Members of the Philipstown Planning Board,

Due to personal circumstances, I am unable to attend this evenings Public Hearing on the subject Subdivision.

I am a resident of Dutchess County with Ancestors interred in the North Highlands Cemetery on the Corner of Horton Road and Route 9 in Philipstown – Including, but not limited to, my Great Grandparents John B. and Freeloove (Ireland) Hawks.

My concerns are as follows:

I am having difficulty placing the subject subdivision in relation to the North Highlands Cemetery on the Corner of Horton Road and Route 9. It is difficult to ascertain this information from the on-line plans.

**Response**  
**2.100** I notice blasting noted as small to moderate impact - EAF Page 10 of 13 of Part 2 - 15b Noise Odor Light. However I do not see it noted as being required to be addressed in the Scoping Document or in the DEIS?? Why didn't the Town require this to be addressed in the Scope? And why is it not addressed in the DEIS?

There are significant early monuments still standing in the North Highlands Cemetery including that of my great grandparents. It would be very disheartening if it along with others were to be toppled by blasting when such may have been avoided if proper attention had been paid to the blasting impact.

This is my concern. Please see that my comments are entered into the public record for the subject Public Hearing.

Thank you for this opportunity to address my concerns.

Virginia A. Buechele  
Great Granddaughter of John B. Hawks and Freeloove Ireland.  
Dutchess County  
(845)518-4458

788 Old Albany Post Road  
 Garrison, NY 10524  
 June 13, 2019

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

Dear Mr. Merante and Members of the Board,

In considering the application of the Hudson Highlands Reserve, I am appalled that the project is proposed at all. It will ruin an ecologically important and beautiful site.

Response  
 3A.11

However, there are four of the more egregious proposals. One is to manage the huge amount of manure (forty horses!) and sewage (25 family houses) on site. Since the property is part of the Clove Creek Watershed the **removal of manure and sewage is very important.**

Response  
 2.6

A second specific concern is the "Weekender" issue. There will be 25 new families in Philipstown who do not plan to be part of our community. Each with their own swimming pool and more than one horse, they can live in seclusion.

Response  
 2.75

It may not be a concern to most of us, but to maintain 40 horses that will never be out at pasture (not required by the stable's commercial designation) is unacceptable. The Weekenders presumably will ride only two or three days of the week; how and by whom are they exercised on the other days?

Response  
 2.85

Fourth, DOT has not approved a new access to Rt. 9. Is either Horton Rd. or East Mountain Rd. North suitable for construction vehicles and horse trailers?

I ask you, please, to deny this application. Thank you for your diligence and patience.

  
 Betsy Calhoun

**Subject:** Fwd: For Planning Board Meeting June 20, Re:HHR Project  
**From:** Town Clerk <townclerk@philipstown.com>  
**Date:** 6/20/2019, 8:21 AM  
**To:** Tara Percacciolo <tpercacciolo@philipstown.com>

----- Forwarded message -----

**From:** Ellen Dinerman <edin279@sbcglobal.net>  
**Date:** Wed, Jun 19, 2019 at 9:49 PM  
**Subject:** For Planning Board Meeting June 20, Re:HHR Project  
**To:** <townclerk@philipstown.com>  
**Cc:** <lvalentino@philipstown.com>

Dear Philipstown Planning Board,

I am the owner of 425 East Mountain Road South. This house was built by my grandparents in 1920. I think the HHR project's border will be across East Mountain Road South from me. The area is quiet.

I want to share my concerns about the HHR Project. I have read their website and it raises many questions.

This is a new model of development and needs to be done in line with the mandates for conservation, as it will become a precedent for future development.

Is the conserved land open to the public? Will the pond be open to the community? It appears that the only element that will "benefit" or be open to the community is the option of some of the horseback riding lessons.

**Response 2.17** How will the traditional subdivision co-exist with the intent of Conservation Development?

It seems that there was an insufficient environmental survey, and questionable presentation of environmental data.

**Response 2.90** It seems that the developer has not addressed the DOT's 2014 request for information, DOT's 6/2018 refusal to grant access to Route 9, and HHR's perpetuation of the fiction that neither East Mountain Rd N nor Horton Rd would be used for access.

**Response 3.B.70** Are wildlife corridors being increased to accommodate the loss of wild area?

**Response 2.31** It is being marketed as "second homes"; what will be the impact if people live there year-round (i.e. water, septic, etc.)?

Will the developer make a commitment to limit tree cutting to the necessary lot envelope?

**Response 3B.72** What are the developer's plans to mitigate the noise during the construction?

**Fwd: For Planning Board Meeting June 20, Re:HHR Project**

I would appreciate just an acknowledgement that you received this email.

Thank you,  
Ellen Dinerman

P.S. Will the meeting be streamed live?

—  
Tina M. Merando  
Town Clerk  
Town of Philipstown  
238 Main St.  
Cold Spring, NY 10516

TEL: 845-265-3329  
FAX: 845-265-3958

**Subject:** Hudson Highlands Reserve DEIS  
**From:** SCHNEIDERMAN <robfern8@optonline.net>  
**Date:** 6/19/2019, 5:17 PM  
**To:** tpercacciolo@philipstown.com

I have some questions after reading the DEIS:

Response  
3A.11

1. Protocols were described in handling the large quantities of equine waste for the 40 horse stable. Once the facility is operational, does the Town monitor adherence to those protocols to mitigate the potential impacts (odor, insects, ground water and surface runoff)?
2. Will the facility be open to the public for riding lessons or competitions?

Thank you.

-Rob Schneiderman





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info@hhlt.org  
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June 18<sup>th</sup>, 2019

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

RE: Hudson Highlands Reserve – Draft Environmental Impact Statement

Dear Chairman Merante and Honorable Board Members –

We appreciate the opportunity to comment on the Draft Environmental Impact Statement (DEIS) for Hudson Highlands Reserve. Please find attached to this letter a **25-page report** with our full comments on the DEIS.

We appreciate the work the applicant has done in producing the DEIS, their desire to conserve land and natural resources, and their plan to construct energy efficient homes. However, we have several major concerns with the DEIS, including:

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

The attached **25-page report** contains our comments, including eight (8) recommended actions to remedy deficiencies in the studies of significant impacts, and to mitigate identified impacts. These 8 actions are also listed below:

**Response (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.

3B.14  
Response  
3B.23

**Response (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.

Response  
2.65

**(iii)** 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 **Response 4.9** impacts on NY Species of Special Concern.



- Response 3B.27** (iv) 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 3D.8** (v) Complete visual simulations of the development from viewpoints in Hudson Highlands and Fahnestock State Parks. Take appropriate mitigation steps once visual impacts are known.
- Response 3A.16** (vi) 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.
- Response 2.49** (vii) Require that the conservation easement holder be nationally accredited by the Land Trust Accreditation Commission. [www.landtrustaccreditation.org](http://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 2.68** (viii) 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.

Quoting from Exhibit B to our full report, 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 the opportunity to comment on the DEIS.

Sincerely,



Michelle Smith, Executive Director



**DATE:** June 18<sup>th</sup>, 2019  
**TO:** Philipstown Planning Board  
**FROM:** Michelle Smith, Executive Director, Hudson Highlands Land Trust (HHLT)  
**RE:** Hudson Highlands Reserve – Draft Environmental Impact Statement (DEIS)

This document and the attached Exhibits detail our comments on the DEIS for the proposed development known as Hudson Highlands Reserve. Items (1) – (4) on Pages 1-3 provide a summary of our comments. Item (5) on Page 4 proposes eight (8) remedies to cure both deficiencies in the analysis of significant impacts, and to provide mitigation of identified significant impacts. Pages 5-14 provide details of our comments with references to the relevant pages of the DEIS and its appendices. This is followed by Exhibits A through E, which further support our comments.

### **SUMMARY OF COMMENTS**

**(1) Vegetation and Wildlife (Section IV.B of DEIS):** The analysis of wildlife is incomplete and there is insufficient mitigation of identified impacts. The rationale for these conclusions are summarized below and discussed in detail in the relevant sections following this summary:

a. **Incomplete Studies of Amphibians and Reptiles:** The DEIS concludes *“No areas were observed that would support the seasonal presence of vernal pools”*. However, the study from which this conclusion was drawn was conducted in May 2015, too late in the year for vernal pool identification, particularly in a dry year. (2015 was an especially dry year, with precipitation significantly below average by May.) An indicator species for vernal pools (wood frog) was identified on site and documented as ubiquitous in the area, and yet the search for vernal pools was not conducted in the appropriate seasonal window of March through April. There was insufficient research conducted to determine the full suite of species of amphibians and reptiles on site, including salamanders and turtles. Additionally, the DEIS states that *“two other species of Special Concern, eastern hognose and eastern worm snakes, may also utilize the site”*, but these were not studied further.

Response  
3B.14

b. **Insufficient Mitigation of Significant Impacts:** Significant impacts to NY Species of Special Concern, such as the observed red-shouldered hawk and eastern box turtle are identified but, for the eastern box turtle, the only mitigation action proposed is to move turtles elsewhere if they are discovered on site during construction. Relocation of eastern box turtles is harmful to the species, and is associated with high mortality. In the case of the red-shouldered hawk, the sole mitigation action proposed is to protect the upland 50+ acre forested parcel, despite the DEIS stating that *“Nesting almost always occurs near water, such as a swamp, river or pond.”* Similarly, potential impacts to wood thrush, a Species of Greatest Conservation Need, were inadequately addressed.

Response  
3B.23

- Response 3B.34
- c. **Necessary Wildlife Corridors are Blocked:** One of the major conclusions in the Steven Coleman letter dated September 2014 in DEIS Appendix C is the necessity to protect the wildlife corridor between Clove Creek and Ulmar Pond. However, this is overlooked in the Site Plan design by placing five (5) houses and a road along the west side of Ulmar Pond, thereby blocking this corridor, and creating a potentially significant impact to amphibians and reptiles without any compensatory mitigation.
- Response 3B.26
- d. **Limited Discussion of Impact of Equestrian Facility on Wildlife:** The impact of the proposed 40-horse facility on wildlife habitat is not adequately addressed, especially its impact on the corridor between the eastern slopes of the property and Ulmar Pond.
- Response 3B.60
- e. **Outdated Science on Landscape Fragmentation:** The key conclusions about fragmentation in the DEIS are drawn from the 1998 Lathrop paper. In the 20 years since this paper was published, the science of conservation biology as it pertains to habitat fragmentation and connectivity has evolved tremendously, and this updated science should be used as the basis for decision-making. Up-to-date science more fully accounts for the entire suite of impacts that result from the placement of development into natural areas. In addition, the conclusions drawn from the Lathrop paper focus on only one of five criteria for conservation development – proximity to existing human infrastructure (or “habitat fragmentation potential”). The DEIS does not factor in the other four criteria, including proximity to water resources, where development in close proximity (such as houses wrapped around a pond) has severe adverse impacts, according to the Lathrop Paper.

(2) **Water Resources (Section IV.A of DEIS):** As for wildlife impacts, we find the analysis of water impacts to be incomplete, as follows:

- Response 3A.6
- a. **Impact of Impervious Surface:** The DEIS claims that only 11 acres of the development consist of impervious surface. However, the equestrian facility alone is 11 acres and is described as being close to impervious in order to manage horse waste. The amount of impervious and “functionally impervious” surface in the equestrian facility requires further explanation. The significant increase in impervious and functionally impervious surface above the pond and uphill from Clove Creek, as well as changes in water flow due to increased water withdrawal, and loss of natural vegetation, may change water quality downstream. This has not been sufficiently studied or mitigated.
- Response 3A.14
- b. **Incomplete Study of Pond and Creek:** The DEIS (Appendix C) includes a report from Allied Biological (now Solitude Lake Management) disclosing that water quality was only studied on a single day (of an especially dry year) – June 29, 2015. The report acknowledged this did not give a complete picture and that a proper study should take place over May through September. Despite four years passing since this recommendation was made, and that water quality was identified in the Planning Board’s Determination of Significance in June 2018, the complete study recommended by Allied Biological/Solitude is not included in the DEIS. Therefore, the study of water quality appears incomplete, based on the Limnology section in DEIS Appendix C.

**Response 3B.14** c. **Inadequate Studies of Vernal Pools:** Vernal Pools, an important wetland resource, have not been properly studied, as noted above. Apart from serving as important wildlife habitat, vernal pools play an important role in the detention and infiltration of waters, as well as de-nitrification of the waters they collect.

**Response 3A.15** d. **Severe Impact of Proximity to Water:** The adverse impact of development so close to water resources as identified in the Lathrop paper in Appendix P has been overlooked in the impact analysis.

**Response 3A.19** e. **Chazen Study on Priority Parcels for Clove Creek Aquifer:** We include a new analysis from the Chazen Companies on the relative importance of this area to the Clove Creek Aquifer and suggest it be considered in the impact analysis.

(3) **Zoning and Land Use (Section IV.C of DEIS):** The conserved open space is made up of two (2) disconnected segments, separated by the houses on the west side of the pond. In addition, it includes the large equestrian facility, and a strip of land in between two rows of houses along the historic road. This design is inconsistent with the zoning code, as follows:

**Response 3C.3** a. **Requirements for contiguous open space and wildlife corridors as defined in zoning code 175-19 and 175-20 are not met.** The conserved open space is cut into two pieces, creating a barrier to one important wildlife corridor and severely restricting another. There appears to be no mitigation proposed for this.

**Response 2.65** b. **The equestrian facility 11 acres should not be included in the conserved open space because it is inconsistent with 175-21 A(3)(b) of the code, which says "agricultural structures shall be permitted on preserved open space land, provided that they do not impair the conservation value of the land".** The equestrian facility appears to be a fully developed area and consists mainly of impervious (or functionally impervious) surface.

**Response 2.54** c. **Requirements for the conserved open space to be structured in way that does not adversely interfere with management and protection of conservation values in zoning code 175-21 is not met.** No mitigation or avoidance of these problems is proposed.

**Response 3D.6** (4) **Community Character (Section IV.D of DEIS):** The proposed site plan is one of a sprawling subdivision spread across the developable area of the property, and placing the undevelopable areas in a conservation easement. The DEIS does not include a visual analysis or simulation from Scofield Ridge or Fahnestock State Park as required in V.D.b.1 of the Final Scope. Rather, there only is a site-line illustration from Scofield Ridge. While DEIS Appendix T promises a viewshed analysis of nine scenic points along Scofield Ridge, those pages are missing from Appendix T and do not seem to be elsewhere in the DEIS. In any case, the viewshed document in Appendix T is from 2011 for a proposed soil mine and not for the proposed Conservation Subdivision. There is also no viewshed analysis from Fahnestock State Park, even though this area is specifically flagged in the Philipstown Natural Resources and Open Space Plan as being visible from trails in Fahnestock.

**(5) Proposed Remedies to Analysis Deficiencies and Mitigation of Impacts:** In order to complete the analysis of significant impacts identified in the Determination of Significance by the Planning Board, and to mitigate identified impacts, we recommend these 8 actions:

- Response 3B.14 (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 identified NY Species of Special Concern, once these studies are complete.**
- Response 2.65 (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.**
- Response 4.9 (iii) **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.**
- Response 3B.27 (iv) **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 3D.8 (v) **Complete visual simulations of the development from viewpoints in Hudson Highlands and Fahnestock State Parks. Take appropriate mitigation steps once impacts are known.**
- Response 3A.16 (vi) **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.**
- Response 2.49 (vii) **Require that the conservation easement holder be nationally accredited by the Land Trust Accreditation Commission. [www.landtrustaccreditation.org](http://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 2.68 (viii) **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.**

**DETAILED COMMENTS FOR EACH PART OF SECTION IV OF DEIS REPORT**

**Area of Concern #1: Vegetation and Wildlife (Section IV.B of DEIS)**

**a. Incomplete Studies of Amphibians and Reptiles:**

- **Vernal Pools have not been properly studied.** In October 2018, HHLT hired Dr. Michael Klemens (a renowned herpetologist, whose bio is attached in Exhibit A) to review the environmental studies submitted by the applicant in their July 21, 2016 Conservation Analysis, included in Appendix C of the DEIS, and used to support the conclusion that there are no areas observed that would support vernal pools on site (DEIS Page 88). Dr. Klemens summarized his findings in a memorandum to HHLT, which concluded that the vernal pool study was conducted too late in the year (May 2015) to be able to detect the presence of vernal pools. However, he also found in the record that an indicator species of vernal pools, namely, wood frogs, are present on site and described as being ubiquitous across the local area (Page 89 DEIS). Dr. Klemens informed us that vernal pools can only be properly identified in March – April studies. His letter can be found in Exhibit B. We also sought advice from Dr. William Schuster, the Executive Director of the Black Rock Forest Consortium, another well-respected scientist in New York State, about the window for conducting vernal pool studies in the Hudson Highlands, and he also informed us that it is March to April. His letter is included in Exhibit C.

Response  
3B.14

Furthermore, we note that 2015 was an especially dry year, with water shortages by summer and an approximate six (6) inch deficit in precipitation by May 2015 across the county, according to data found here: <https://www.ncdc.noaa.gov/cag/county/time-series/NY-079/pcp/1/5/1895-2019>. The time of year and rainfall deficit combined, make May 2015 a poor choice for looking for evidence of vernal pools.

A few excerpts from Dr. Klemens' memorandum to HHLT dated October 2018 summarize his concern that vernal pools have not been properly studied on the site, based on the applicant's language on Page 88 and in Appendix C of the DEIS: *"One of the most troubling inconsistencies in the report is the statement that there are no vernal pools on the site, yet, a vernal pool indicator species, the wood frog, *Rana sylvatica*, was observed on the site on May 22, 2015. This means that somewhere, either on or off the site, a stand-alone depressional vernal pool or a vernal pool imbedded within a larger wetland (=cryptic vernal pool) exists. In 2015, the first field herpetological field visit occurred on May 6th. This was far too late in the season to document calling wood frogs, or even detect their egg masses. This type of field work needed to occur in March through early April."* and he said:

Response  
3B.39

*"Identification and mapping of vernal pool areas on and off the site is an essential missing component of the Conservation Analysis. Some potential areas that may have vernal pool functions include floodplain depressions along Clove Creek, shallow fringing areas of Ulmar Pond that are essentially free of predatory fish, or as-of-yet undetected vernal pools in the forests, on or off site. Once pools are mapped, then the impact of the proposed layout and its consistency with Calhoun and Klemens (2002) can be determined."*

Response  
3B.40

We note that Page 86 of the DEIS in Section IV.B.1.b on Existing Wildlife Conditions refers to the Biodiversity Assessment of the North Highlands which describes vernal pools, referring to them as Intermittent Woodland Pools, as follows:

*“Intermittent Woodland Pools (IWPs) are scattered throughout the study area. The Biodiversity Assessment Manual defines them as shallow pools, “surrounded by upland forest, usually retaining standing water during winter and spring but drying up by mid-summer of most years”. The manual goes on to point out that “these small habitats are often damaged because their values are not appreciated by landowners, or because they are overlooked in the environmental reviews of development projects.”*

Given that this development is a Conservation Subdivision, proper study of vernal pools should be conducted and the site plan responsive to protecting this habitat.

Response  
3B.28

The DEIS also omits the presence of salamanders living on site (DEIS Page92). However, the Conservation Analysis (Appendix C CD Page 237) clearly documents the presence of two species of salamander found by herpetologist Brandon Ruhe in his June and July 2014 site visits. Thus, it is apparent that amphibians have not been properly studied on the site. The presence of salamanders is not acknowledged in the body of the DEIS (despite the data that supports it in the Conservation Analysis in Appendix C), indicating that their habitat protection has not been considered.

Response  
3B.14

It is essential that a proper study of vernal pools be conducted, which means conducting the study in the March-April window, and would therefore need to be conducted in 2020 at the earliest. This is the only way to understand the full range of amphibian habitat on the site and the sensitive areas where development should be avoided, especially since a number of salamanders potentially occurring on the site are NY listed “Species of Special Concern” (specifically Jefferson and marbled salamanders).

<https://www.dec.ny.gov/animals/7494.html>

Response  
3B.29

- **Lack of Study for Presence of Box and Wood Turtles:** The “potential developable area” of the site is heavily developed in the proposed site plan (DEIS Figure 15). While much effort has been expended in studying Timber Rattlesnake presence on the site, very little has been expended on the extent of the presence of Eastern Box and Wood turtles (in addition to the absence of amphibian studies) who would prefer such habitat, and are both listed as species of Special Concern in New York State. The letter from Dr. Klemens in Exhibit B states: “[...] nor efforts to ascertain the use of the so-termed “medium conservation value” central portion of the site for wood and box turtles. Such open and disturbed areas are actually very valuable for ecotonal species including both these turtles as well as a variety of snakes.”

- b. **Insufficient Mitigation of Significant Impacts:** Four NY “Species of Special Concern” are mentioned in the DEIS, including two that were observed on the property – eastern box turtle and red shouldered hawk. The DEIS stated: “It is therefore critical that the proposed



Response  
3B.24

*project preserves this portion of the property, and as much as possible of other forested portions of the site as contiguous habitat, including measures to preserve wildlife corridors throughout the site.” (DEIS Page 99). However, no specific mitigation steps for the impact of the fully developed area on their habitat or these corridors were offered other than mention of the conservation easement on the upland slopes (DEIS Page 99) and mitigation incidental to steps taken to protect bat habitat.*

The DEIS also mentions on Page 107, the following about the red-shouldered hawk:

*“The New York populations have steadily declined, and the primary causes are loss of habitat, logging, agriculture, and suburban development. The raptor usually nests high in the crotch of a tree and commonly in relatively large tracts of moist woodlands almost always near open water or wetlands. These raptors tend to be secretive and avoid inhabited areas. Therefore, site development could discourage the hawk from nesting and foraging on the site.”*

Response  
3B.30

Based on this language in the DEIS, current nest sites are likely to be near the pond area, which is ringed by residential properties in the proposed site plan. Other than stating that limiting tree removal to sometime prior to mid-May or after mid-August will *“minimize any potential impact on a nesting red-shouldered hawk, should a nest be present”* (DEIS Page 99), no sufficient actions to mitigate the impact of the houses ringing the pond are given in the DEIS.

Response  
3B.31

Eastern box turtles prefer bottomland forest over hillsides and ridges and evidence of them has been found on site near the wetlands (DEIS Page 89). Since they are likely to favor the “potential developable area” portion of the site (shown on DEIS Page 15) that is almost fully developed, versus the upland steep slopes, we would expect to see mitigation steps included in the DEIS to protect their habitat. However, the only mitigation proposed is to relocate them away from their preferred habitat if they are found onsite during construction (DEIS Page 99). Relocation of Eastern Box Turtles has been proven to result in increased mortality. (See Bridget M. Donaldson, Arthur C. Echternacht "Aquatic Habitat Use Relative to Home Range and Seasonal Movement of Eastern Box Turtles (*Terrapene carolina carolina*: Emydidae) in Eastern Tennessee," *Journal of Herpetology*, 39(2), 278-284, (1 June 2005))

Box turtles have a strong sense of home range and are likely to return to the area from where they have been removed. Also, a mosaic of open field, forest and wet areas are important for the box turtle, yet no mitigation is considered for the box turtle’s long-term reduced access to the pond and its fringing wetlands, nor for the loss of the open field and edge habitat proposed for development.

No mitigation actions were identified for the two additional Species of Special Concern that were identified as having “suspected” presence on the property—eastern hognose snake and eastern worm snake—aside from protection of the 50+ acre forested parcel. Eastern hognose snakes feed primarily on toads (Source: University of Florida Herpetology

Department, <https://www.floridamuseum.ufl.edu/herpetology/fl-snakes/list/heterodon-platirhinos/>). The American toad, which was observed on the property, breeds in “the shallow waters of ponds, ditches, lakes, marshes, and wet meadows” according to NY DEC Frogs & Toads of New York State fact sheet. Disturbance of the pond on site may reduce the eastern hognose snakes’ primary food source.

Response  
3B.32

As with eastern box turtles, relocation would not be a viable mitigation action for this species, as it is associated with heightened mortality and reduced ecological fitness. (Plummer, Michael V., and Nathan E. Mills. “Spatial Ecology and Survivorship of Resident and Translocated Hognose Snakes (*Heterodon Platirhinos*).” *Journal of Herpetology*, vol. 34, no. 4, 2000, pp. 565–575. JSTOR, [www.jstor.org/stable/1565272](http://www.jstor.org/stable/1565272)).

Response  
3B.33

Also, potential impacts to wood thrush, a Species of Greatest Conservation Need, were not adequately addressed. The wood thrush management guidelines cited in Appendix Q recommend giving “special consideration to sites with features that naturally maintain vertical layering and horizontal patchiness, such as hillsides, streams, and wooded wetlands.” Wood thrush access to the stream and wetlands on the property are not adequately addressed, and would be essentially blocked by the proposed development. The proposed development does not adequately match the cited Figure 7 of an ideal conservation subdivision, but rather creates excessive forest edge with its current design.

- c. **Necessary Wildlife Corridors are Blocked:** In 2014 Steven Coleman, a wetlands scientist and ecologist, recommended two important wildlife corridors be protected on the property, as documented in the Conservation Analysis (see Appendix C, CD), Page 7:

Response  
3B.34

*“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.”*

And in his September 2014 letter on Page 232 of the Conservation Analysis:

*“The location of the proposed development (houses around the pond, road networks and equestrian facilities) may interfere with some of the movement patterns of wood turtles and other reptile and amphibian species that may travel between the Creek wetlands and the adjacent pond to the southwest, and also make the site less attractive to forest interior bird species.*

*In particular, the east-west and south-north movement throughout the subject parcel may be restricted from the proposed layout. Provisions should be made as part of the subdivision layout to accommodate the ability of wildlife species to move freely throughout the site. This is especially important to allow movement corridors between the adjacent Clove Creek wetlands and the pond in the southern portion of the parcel, and also maintaining a south to north connection along the eastern side of the parcel.”*

The corridors recommended by Mr. Coleman will be blocked or constricted in the proposed site plan. The corridor between Clove Creek and Ulmar pond is blocked by the houses and road ringing the western side of the pond. The corridor between Ulmar Pond and the upland habitat to the east is significantly constricted by the expansive footprint of the Equestrian Facility.

Shortly after his September 2014 report, Mr. Coleman appeared to no longer be engaged on this project, but his recommendations remain a crucial mitigation finding documented in the DEIS but not reflected in the current Site Plan.

The environmental consultant hired after Mr. Coleman, Mr. Steven Gross, discounted this wildlife corridor in a letter to the Planning Board dated March 16, 2017 saying that *“The pathway suggested in the HHLT letter would involve crossing a prohibitively steep 76% slope, and does not represent a wildlife corridor deserving of any protective measures.”* We sought advice from Dr. Michael Klemens on the ability of amphibians and reptiles to traverse steep slopes and received the following response, as shown in the letter in Exhibit B:

*“Coleman calls for a large east-west corridor to be left between Clove Creek (a known habitat for the wood turtle, *Glyptemys insculpta*) and Ulmar Pond, but subsequent testimony in the record (via letters and verbal comments from the applicant’s environmental consultant) states that the slope is too steep to allow passage from Clove Creek east to the project site and the need for this broad corridor is dismissed. This is complete nonsense as wood and snapping turtles have been observed climbing over chain link fencing. While not able to climb over vertical fencing like wood and snapping turtles because of their high domed shells (which have a different center of gravity than the dorsally compressed snapping and wood turtles), box turtles clamber up and down very steep talus slopes at West Rock Ridge (New Haven/Hamden CT). As far as amphibians and snakes are concerned, they navigate up and down slopes without difficulty.”*

We note that documentation of the inability of amphibians and reptiles to traverse steep slopes does not appear to be included in the DEIS, and therefore the Coleman recommendation for changes to the site plan to preserve wildlife corridors does not appear to be contradicted in the DEIS.

- d. **Limited Discussion of Impact of Equestrian Facility on Wildlife:** The DEIS Final Scope called for a description of the impacts on wildlife, *“including from the equestrian center.”* (Final Scope adopted July 19, 2018 Section V.B.2.) Thus, the DEIS should have included a discussion of impacts on wildlife movement between the eastern slopes and Ulmar Pond as alluded to in the Coleman 2014 letter mentioned above (Conservation Analysis Page 232).

Response  
3B.35

However, the main discussion of the impact of the equestrian facility in this section of the DEIS is simply the rationale for it as a permissible use, rather than its impact on wildlife movement corridors and how that will be mitigated (DEIS Section IV.B.2.b.1 at Page 101).

- e. **Outdated Science on Landscape Fragmentation:** The main source of information on fragmentation cited in the DEIS is the Lathrop 1998 paper about Sterling Forest. This paper is now 20 years old and in the intervening two decades both mapping technology and the science of analyzing the effects of fragmentation and perforation has progressed significantly, and these more up-to-date approaches should be used to create a site design that fully protects natural resources. Fragmentation is a multifaceted issue that includes many aspects e.g. sound, light and chemical pollution, in addition to loss of contiguous forest and habitat/forest perforation. A forest may be effectively fragmented without visually appearing to be so, and simple straight line pathways are now no longer understood to factor in the full set of obstacles in movement across the landscape (Beier, Paul. (2018). A rule of thumb for widths of conservation corridors: Width of Conservation Corridors. Conservation Biology. 10.1111/cobi.13256.).

Response  
3B.60

Also, fragmentation is now defined, in part, by functional loss within the ecosystem: whether wildlife continue to have the ability to access different habitats for their different needs that they seek during daily, seasonal, annual, or lifecycle-based migrations.

The Lathrop Paper also specifically mentions the sensitivity of three wildlife species in a nearby area of the Highlands region (Sterling Forest), one of which is found on the property: red-shouldered hawk. It specifically sites the red-shouldered hawk's need for both "forested wetlands and adjacent upland forest" (p. 34), underscoring again the need for species' access to different habitats, like both water and forests.

Response  
3B.61

Further, the Lathrop study states that its methodology is not meant for specific development siting, but rather it is a landscape overview. Lathrop Paper DEIS Appendix P Page 35 (or Page 11 of the PDF file) says: "*this analysis was not designed to assess specific site suitability (i.e., for individual building placement).*"

Response  
3B.62

The methodology in the Lathrop paper creates a composite model of five (5) criteria to assess development constraints (listed on p.32 in Table 1). The applicant applies only one (1) of these criteria – proximity to existing infrastructure (or "habitat fragmentation potential") – and does not factor in criteria such as proximity of development to water resources. Using just one criterion would not qualify as using the same methodology. In particular, one of the excluded criteria is proximity to water resources, and if that were included, the houses around the pond would likely have been found to have a severe adverse environmental impact, based on the Lathrop paper model.

Response  
3B.63

The environmental suitability assessment for Sterling Forest (that was addressed in the Lathrop paper) was a starting point for understanding the site constraints. The Lathrop paper authors explicitly describe other considerations that were also important but not captured by the spatial assessment, including the need to cluster the development, which has not happened in this site plan due to the spreading of the houses and equestrian facility throughout the entire developable area of the site (Lathrop Paper DEIS Appendix P Page 35, 37 or PDF pages 11, 13).

Response  
3B.64

Again we consulted Dr. Michael Klemens on this issue and the response was (See Exhibit B):

Response  
3B.60

*"The applicant's responses to concerns about fragmentation caused by the site plan are based largely on Lathrop's (1998) paper. While in no way disparaging this work, I should point out that the field of conservation biology, conservation design, and application of scientific data into the conservation design process has expanded tremendously in the intervening two decades. A review of Johnson and Klemens' 2005 volume Nature in Fragments: The Legacy of Sprawl (Columbia University Press) begins to nuance many of the challenges in Lathrop's 1998 paper."*

We suggest that this more updated science be applied to site plan design.

#### **Area of Concern #2: Water Resources (Section IV.A of DEIS)**

Response  
3A.6

- a. **Impact of Impervious Surface:** The DEIS states that 11.1 acres of the property consists of impervious surface (DEIS Page 51). However, the size of the equestrian facility alone is 11 acres and from the description of it, most of it appears to consist of a substrate approximating impervious surface in order to manage horse waste. Therefore it is hard to understand how only 3.5 acres of impervious surface are assigned to the equestrian facility. More detail needs to be provided as to what is treated as impervious versus permeable in the equestrian facility.

Response  
3A.7

Additionally, the equestrian facility's significant increase in impervious surface and forest clearing near the pond and uphill from Clove Creek, as well as potential changes in water flow due to increased water withdrawal for water supply and cleaning for 40 horses, may change surface water quality in terms of sedimentation, flow rate, and temperature. Clove Creek and the stream tributary that connects Ulmar Pond to it are considered "valuable and sensitive fisheries resources" according to NYS DEC. The impact of the commercial equestrian facility to native brook trout populations is not addressed.

Response  
3A.14

- b. **Incomplete Study of Pond and Creek:** In summarizing the report from Allied Biological, in Appendix C of the DEIS, commentary on Page 144 of the Conservation Analysis says *"Water quality monitoring was conducted on one date in late June for this baseline study (June 29 [2015]). We understand that this is not ideal, but the project timeline restricted us to one sampling date. A much more complete picture of the fluctuating water quality would have been obtained if sampling occurred throughout the entire growing season (typically considered May through September in the northeast). Future water quality monitoring efforts in this basin should strongly consider full season sampling efforts, of at least three sampling dates."* Despite this recommendation from four years ago (i.e. in 2015), and the Planning Board's requirement for a full environmental review including water impacts in June 2018, the DEIS does not include the water quality study recommended by Allied Biological.

Response  
3B.14

c. **Inadequate Studies of Vernal Pools:** The fact that vernal pools have not been studied properly as indicated in Area of Concern #1 implies that the understanding of hydrology and water resources on the property is incomplete.

Response  
3A.15

d. **Severe Impact of Proximity to Water:** The DEIS relies heavily on the Lathrop paper in Appendix P to justify the siting of the 25 houses spread out across the property from North to South. However, that analysis ignores another key criterion for conservation development used in the Lathrop paper, which is proximity to water resources. Here the Lathrop paper suggests that anything within 300 feet of surface waters will have a severe adverse environmental impact (Lathrop Paper DEIS Appendix P Page 33, Fig. 2 B). This would apply to the houses around the pond.

Response  
3A.19

e. **Chazen Study on Priority Parcels for Clove Creek Aquifer:** In October 2018, The Chazen Companies performed an analysis for HHLT on land parcels that have the highest impact on the flow of water into the Clove Creek Aquifer. Based on soils, slopes, land cover and amount of land directly over the Clove Creek Aquifer (CCA), the Hudson Highlands Reserve parcels are some of the most valuable for ensuring the sustainability of the CCA on both a per acre and total acreage basis. The Planning Board should carefully consider the impact on the Clove Creek Aquifer of this development, given the parcels' importance to the Aquifer. Maps and methodology from The Chazen study are attached as Exhibit D.

#### Area of Concern #3: Land Use and Zoning (Section IV.C of DEIS)

Response  
3C.3

a. **Requirement for Contiguous Open Space and Wildlife Corridors is Not Met:** Section 175-19B of the Zoning Code states: "*Conservation subdivision results in the preservation of contiguous open space and important environmental resources [...]*". Section 175-20H (2) states that the required open space must be "*protected from development by a conservation easement and does not result in fragmentation of the open space land in a manner that compromises its conservation value.*" However, the applicant's proposed conserved open space is cut in two distinct pieces by the houses that line the western side of the pond. This fragments habitat for amphibians and reptiles as noted in the Coleman September 2014 letter included in the Conservation Analysis (Appendix C CD Pages 7 and 232). Furthermore, the layout of the equestrian facility constricts the corridor from the steep slopes on the east side of the property to Ulmar Pond.

Response  
3B.25

Coleman noted the need to maintain a robust wildlife corridor between Clove Creek and Ulmar Pond and also between the upland habitat and Ulmar Pond. While this need does not appear to be contradicted elsewhere in the DEIS and its Appendices, the site plan does not reflect this recommendation. Therefore, the DEIS indicates that the site plan causes fragmentation of habitat with an adverse environmental impact that is not mitigated.

Response  
3C.3

As stated above, the zoning code provides that the preserved open space in a conservation subdivision must not result in fragmentation of the land in a manner that "compromises its conservation value". Thus, protected open space in a conservation subdivision must be contiguous and preserve important environmental resources. The slicing of open space into

two pieces, and the failure to adequately protect documented wildlife corridors as evidenced by the conflict between the proposed site plan and the Coleman letter, compromises the conservation value resulting in a site plan that does not comply with 175-19B or 175-20H.

Response  
2.65

**b. The equestrian facility 11 acres should not be included in the conserved open space because it is inconsistent with 175-21 A(3)(b) of the code.** Section 175-21 A(3)(b) says *“agricultural structures shall be permitted on preserved open space land, provided that they do not impair the conservation value of the land”*. The equestrian facility appears to be a fully developed area and consists mainly of impervious (or close to impervious) surface. Even the turnout paddocks and outdoor arena will be developed with near impervious surface, impairing the conservation value. The remainder of the equestrian facility consists of buildings and horse trailer parking that clearly impair conservation values.

Response  
2.55

**c. Requirements for Conserved Open Space are not Met:** Section 175-21A(1) of the Zoning Code states: *“The open space protected must include all the land determined pursuant to § 175-20A(4) to have the most conservation value and, subject to § 175-20H, as much other land having conservation value as possible (as established by the conservation analysis and conservation findings)”*. This requirement is not met because almost all of the “potential developable land” (DEIS Figure 15) is developed, and yet much of that land is important for wildlife as noted in the Coleman 2014 letter, and as preferred habitat for NYS Species of Special Concern that use the site, as discussed in Dr. Klemens letter in Exhibit B. Furthermore, if the deficiencies in the applicant’s wildlife studies around vernal pools, amphibians and reptiles are corrected, it is likely this habitat will be found in this “potential developable area” also.

Response  
4.8

We believe a site plan can be constructed so that all of the five (5) houses on the western side of the pond can be relocated away from the pond, where most of the other houses are, while still maintaining 1-acre size lots. We engaged LandVest, Inc. to draft a conceptual plan of how 24 houses could all be located away from the pond on 1-acre lots and this configuration is shown in Exhibit E. We note that they relied only on publicly available information and did not visit the site. In addition, we think the equestrian facility can be reconfigured to move the trailer parking, in order to facilitate a wider corridor between the eastern slopes and the pond.

Response  
4.10

While the DEIS says that moving a house away from the pond reduces its value by 65% (DEIS Page 145), the freeing up of most of the pond area for common passive recreational use by all residents will likely increase the value of all houses in the subdivision significantly, potentially offsetting this impact.

Response  
2.54

Section 175-21A (3)(b) of the zoning code states *“The configuration of the open space land and dwellings shall not result in fragmentation of the open space land in a manner that interferes with its proper management and protection of its conservation values.”* We have already commented that the configuration of the open space cuts off one important wildlife corridor (between Clove Creek and Ulmar Pond) and constricts another (between

the eastern slopes and Ulmar Pond). In addition, because of the houses wrapped around the pond and the easement land going in between the rows of houses on either side of the old road, all houses face the conservation easement, without natural or manmade barriers (such as a road). This means that an easement holder must face potential violations and encroachments from 25 different homeowners, as well as users of the equestrian facility. This layout makes easement monitoring and enforcement excessively cumbersome and adversely interferes with proper management of the conservation values.

**Area of Concern #4: Community Character (Section IV.D of DEIS)**

**Response 3D.7** The layout of the subdivision is similar to a sprawling suburban subdivision spread across the entirety of the developable area of the property.

**Response 3D.8** The Final Scope called for a visual analysis of the subdivision from both Scofield Ridge in Hudson Highlands State Park and from Fahnestock State Park (Final Scope V.D.1.b.). No such visual analysis is provided in the DEIS. Rather, DEIS Page 136 shows a site-line illustration between Scofield Ridge and the proposed development, but does not show what the development would look like from Scofield Ridge – i.e. a visual simulation. Appendix T includes an old visual study for a soil mine from 2011, but nothing specific to this Conservation Subdivision. The visual study in Appendix T references Exhibits M4 – M12 with the viewshed analysis for nine viewpoints on hiking trails along Scofield Ridge, but those pages are **not included in Appendix T of the DEIS** (only Exhibit M1 is included). Therefore, the DEIS does not appear to include any viewshed analysis or visual simulations along Scofield Ridge. Even if it did include the old analysis from the mining project, it would not be suitable to reflect the visual impact of the Conservation Subdivision.

**Response 3D.9** Furthermore, no visual analysis from Fahnestock State Park is included, even though the Philipstown Natural Resource and Open Space Plan specifically calls out visual impact of this area as one reason why it was identified in the Open Space Inventory, as Area 17: East Mountain (Natural Resource and Open Space Plan Page 9). The rationale for including the area proposed for Hudson Highlands Reserve in the town's Open Space Inventory reads as follows:  
*"Within the Clove Creek watershed, this area includes residential parcels accessed from East Mountain Rd North and South, Esselborne Rd, and Horton Rd. The ridge is visible from Route 9 and from trails in Clarence Fahnestock State Park."* (Open Space Index Page 4.)

**Exhibits Attached:**

Exhibit A – Bio for Dr Michael Klemens

Exhibit B – October 2018 letter from Dr. Michael Klemens summarizing his review of the contents of Appendix C to the DEIS (which has not changed since October 2018)

Exhibit C—Letter from Dr. William Schuster of Black Rock Forest on the appropriate window to conduct vernal pool studies

Exhibit D – Chazen Report on priority parcels for Clove Creek Aquifer

Exhibit E – LandVest alternative site plan design to move houses away from Ulmar Pond



## **EXHIBIT A**

### **Dr. Michael Klemens Bio**

**Dr. Klemens is a conservation biologist with research interests in biogeography and ecology of amphibians and reptiles, ecologically informed land use planning, and the conservation biology of freshwater turtles and tortoises. He founded the Metropolitan Conservation Alliance (MCA), a consortium of municipalities, planners and scientists working together to improve the stewardship of natural resources in the Hudson Valley and Connecticut. MCA and Dr. Klemens earned an achievement award from the American Planning Association recognizing accomplishment in integrating complex ecological data into the land-use decision-making process. In 2011, Adirondack Wild: Friends of the Forest Preserve retained Dr. Klemens as an expert witness at the Adirondack Club and Resort adjudicatory hearing. In addition to his consultancy with Adirondack Wild, Dr. Klemens is a Research Associate in Herpetology at the American Museum of Natural History and serves as gubernatorial appointee to the Connecticut Siting Council which determines the placement of telecommunications and energy generation facilities statewide within Connecticut. He is the Chair of the Planning and Zoning Commission in his home town of Salisbury, CT, and has worked for many years with the Wildlife Conservation Society, the Cary Institute of Ecosystem Studies and served as a consultant for various government agencies and not-for-profit organizations.**

Michael W. Klemens, LLC  
POB 432  
105 Main Street  
Falls Village, CT 06031  
October 10, 2018

Michelle Smith, Executive Director  
Hudson Highland Land Trust  
POB 226  
20 Nazareth Way  
Garrison, NY 10524

Dear Michelle:

Let me begin by stating that it is very difficult to be handed off volumes of material to review and from that to try to piece together the ecological review history (or lack thereof) concerning this project. So, if I make an error in recounting the sequence of events over the last years, please call these to my attention. From what I am reading studies on this project date back at least to 2009, and there have been various attempt to develop this property including a proposed mine.

#### THE RECORD

Compounding the difficulty of reviewing this file are that there have been many studies conducted on the site by different consultants, and the subject site has been enlarged in this process to add additional parcels of land to meet various set-aside and access requirements. This has resulted in an apparently uneven study of the entire six-parcel site, and indeed some of the studies are in conflict with one another. Nowhere is there a summary of efforts expended in biological inventory, the researcher's hours, and the seasonality of the studies. It is well known that by missing certain seasonal activity windows, species can be overlooked. While documenting a species "presence" is quite straightforward, documenting a species "absence" is far more labor intensive. If one reviews the Federal (USFWS) Bog Turtle Recovery Plan that I wrote for the USFWS in 2001, you will note that we attempted to standardize efforts required to demonstrate an "absence" that included strict standards for person-effort per acre, number of visits, seasonal timing, and weather conditions for such studies. I bring this up only to illustrate the difficulties of concluding species absence with confidence absent a structured study that optimizes the potential for species detection by gearing sampling to coincide with the correct seasonal activity windows for the target species and provides for repeated sampling to conclude an absence.

Response  
3B.36

The mere generation of piles of paper, much of it repeated in the Conservation Analysis and Environmental Assessment volumes, does not necessarily equate to due diligence on the site. What has occurred here is that studies were added in a step-wise process as additional parcels were incorporated, and by that very process has resulted in a record that is both uneven in study effort, but more seriously deficient and at times in conflict with previous studies.

We are provided with summaries of the work by Hudson Highlands Environmental Consulting (August 12, 2015) which is a practice I have termed "corporatized science" where the individual consultants

Response  
3B.37

reports are not submitted, but a summary created by a project manager. While these managers may be scientifically credentialed, what other scientists really need to be able to review the reports are the actual field data and reports of the sub-consultants, not summaries. What I would need to see are those primary data to assess whether or not sufficient effort has been expended on all six parcels to adequately assess the biodiversity. These individuals who conducted the field work need to be present at a public hearing so they can be cross-examined by interested parties. For example, Coleman sub-contracted the timber rattlesnake surveys to Brandon M. Ruhe, a highly qualified herpetologist. What would be very useful to know is the species of amphibians and reptiles he found during the considerable time he spent on site. I have worked with Mr. Ruhe in the past, and I know that he keeps copious notes concerning any species of amphibian or reptile he encounters in the course of his field work. My concerns over "corporatized science" are not restricted to this project. If you examine recent public hearing transcripts of the Connecticut Siting Council (where I am a gubernatorial appointee) you will find that there have been several recent cases where I have requested that hearings be continued to allow the Council to hear direct testimony from the individuals conducting the research, not summaries crafted to fit regulatory frameworks by project managers.

#### HERPETOLOGICAL STUDIES

My professional expertise is that of an academically-trained conservation biologist/ecologist. My research background is in herpetology, the study of amphibians and reptiles. These two groups of vertebrates make up a high percentage of endangered, threatened, special concern, and declining species when compared to other organisms. This is in part to various constraints that are amplified by development, including poor dispersal abilities, specific habitat requirements, and in some species, primarily turtles and venomous snakes, low reproductive output. As such, these organisms are ideal to evaluate the conservation effectiveness, or lack thereof, of a proposed development. Several different individuals with herpetological expertise conducted studies on the site. But these studies in part contradict one another especially as it pertains to conservation outcomes.

Response  
3B.38

Coleman calls for a large east-west corridor to be left between Clove Creek (a known habitat for the wood turtle, *Glyptemys insculpata*) and Ulmar Pond, but subsequent testimony in the record (via letters and verbal comments from the applicant's environmental consultant) states that the slope is too steep to allow passage from Clove Creek east to the project site and the need for this broad corridor is dismissed. This is complete nonsense as wood and snapping turtles have been observed climbing over chain link fencing. While not able to climb over vertical fencing like wood and snapping turtles because of their high domed shells (which have a different center of gravity than the dorsally compressed snapping and wood turtles), box turtles clamber up and down very steep talus slopes at West Rock Ridge (New Haven/Hamden CT). As far as amphibians and snakes are concerned, they navigate up and down slopes without difficulty.

One of the most troubling inconsistencies in the report is the statement that there are no vernal pools on the site, yet, a vernal pool indicator species, the wood frog, *Rana sylvatica*, was observed on the site on May 22, 2015. This means that somewhere, either on or off the site, a stand-alone depressional vernal pool or a vernal pool imbedded within a larger wetland (=cryptic vernal pool) exists. In 2015, the first field herpetological field visit to occurred on May 6<sup>th</sup>. This was far too late in the season to

Response  
3B.39

document calling wood frogs, or even detect their egg masses. This type of field work needed to occur in March through early April. Testimony provided by the Hudson Highlands Land Trust called for up to 500-foot buffers for amphibians and reptiles. Actually, in the case of vernal pools, the critical terrestrial habitat required to sustain 95% of the vernal pool amphibian population extends 750 feet from the pool's high-water mark. While some development can be accommodated in the area between 100-750 feet from a vernal pool, it must be done in a manner consistent with the standards outlined in Calhoun and Klemens (2002) which is the "industry standard" for developments within vernal pool sheds and can be found on the Army Corps of Engineers website.

Response  
3B.40

Identification and mapping of vernal pool areas on and off the site is an essential missing component of the Conservation Analysis. Some potential areas that may have vernal pool functions include floodplain depressions along Clove Creek, shallow fringing areas of Ulmar Pond that are essentially free of predatory fish, or as-of-yet undetected vernal pools in the forests, on or off site. Once pools are mapped, then the impact of the proposed layout and its consistency with Calhoun and Klemens (2002) can be determined. While there appears to have been considerable focus on the presence of timber rattlesnakes on the site, there seems to have been no concerted efforts to evaluate vernal pool activity in March and April, nor efforts to ascertain the use of the so-termed "medium conservation value" central portion of the site for wood and box turtles. Such open and disturbed areas are actually very valuable for ecotonal species including both these turtles as well as a variety of snakes.

#### CONSERVATION ANALYSIS/CONSERVATION DESIGN

Response  
3B.60

The applicant's responses to concerns about fragmentation caused by the site plan are based largely on Lathrop's (1998) paper. While in no way disparaging this work, I should point out that the field of conservation biology, conservation design, and application of scientific data into the conservation design process has expanded tremendously in the intervening two decades. A review of Johnson and Klemens' 2005 volume *Nature in Fragments: The Legacy of Sprawl* (Columbia University Press) begins to nuance many of the challenges in Lathrop's 1998 paper. In 2006, I was the senior author on a publication entitled *From Planning to Action: Biodiversity Conservation in Connecticut Towns*. This publication received an award from the CT Chapter of the American Planning Association for integrating complex ecological information into the municipal land-use decision making process. In 2017 I authored *Pathways to a Connected Adirondack Park* which expanded much of the thinking of how local decision-makers can effectively apply conservation biology concepts.

These publications were not only a result of my academic background and research interests, but the fact that I am very familiar with the local land-use decision-making process, having served for more than thirty years as a planning board member, including the past chair of the Rye NY Planning Commission, and the current Chair of Salisbury CT Planning Commission. I know first-hand 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.

The Phillipstown code desires to encourage conservation subdivisions recognizing the incredible natural resources that occur within the Town. In particular, the code calls for protected open space in a Conservation Subdivision that "shall not result in fragmentation of the open space land in a manner that

Response  
3B.65

*interferes with its proper management and protection of its conservation values*". But like all well-intentioned regulations, it is how the theory and intent of the law plays out on the land. The primary flaw I recognize in this current approach is that, by its very evaluative nature, it has become a driver of habitat fragmentation. While it assesses areas of high and medium conservation value, the end result is protecting the high conservation value areas and intensively developing the "medium conservation value" areas as stated in the AKRF letter of July 12, 2017 (page 3) that: *Part 3 should recognize that the proposed layout of the subdivision will disturb a significant part of the property identified to have "medium conservation value" and will necessitate the removal of mature, valuable vegetation in these areas.* This effectively means that the "medium conservation value" area is being intensively developed with 25 residences and a 40-horse stable. This effectively means that any wildlife movement through the site will be significantly compromised (save those species commensal with humans) and that the "high conservation value" areas will lose important connections both within the site and to the larger ecosystem. It is also important to take note as stated in the code in Section 175-21 (A) (1) that *"The open space protected must include all the land determined pursuant to § 175-20A (4) to have the most conservation value and, subject to § 175-20H, as much other land having conservation value as possible."*

In *Pathways* (2017) I outline three scales of consideration when assessing the appropriateness of a conservation design. The first is the macro-scale, looking at how the site lies within the larger ecosystem which has been characterized in the Conservation Analysis. However, there are two additional scales that are not properly considered. The meso-scale scale examines the placement of the built environment as it impacts, or protects, the through site connection for the dispersal and maintenance of biodiversity. The proposed development eliminates connections through the "medium conservation value" area by an intensification of use that is incongruent with long-term sustainable protection. The "medium conservation value" area that has become in fact an ecological throw-away, despite the fact that conservation design standards state that not only should one protect the slopes and wetlands but also provide meaningful (functional) connectivity through the developable areas of the site to sustain the entire ecosystem.

Response  
3B.66

The concept of meaningful connectivity stems from the abuse of the corridor approach to connectivity. While certain species follow defined dispersal routes, the majority of species disperse across the landscape akin to sheet flow of water across a field. Therefore, in order to maintain habitat porosity to allow the movement of wildlife through a development site requires leaving broad areas within the "medium conservation value" area intact to connect the Clove Creek floodplain and the surrounding forest slopes. The current design, filling up most of the "medium conservation value" area with development and hardscape, in the manner proposed, will irretrievably sever the connectivity between Clove Creek and the forested slopes. In the March 13, 2018 responses to public comments on Page 8 (Comment 1.12) Hammond states correctly that "conservation subdivisions include the developer setting aside valuable, *developable* land, which may be rewarded with additional building density." More of the "medium conservation value" area needs to be protected, in a manner that protects connectivity, and that could possibly be rewarded with density bonuses elsewhere on the site. Finally, Response 1.18 on Page 12 of the response document mistakenly interprets the development as perforation, not fragmentation. Perforation maintains connections to adjacent habitats. The current development configuration for the reasons I have stated previously is not perforation, but fragmentation. It essentially creates a hardscape "wall" across the central low-lying portion of the site.

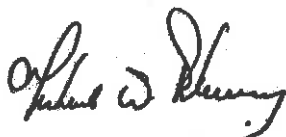
Response

3B.68

Finally, the micro-scale needs to be considered. This is very much part of the site plan design, but recognizes a host of impediments to wildlife movement created by hardscape. Ecological traps (designs that capture and kills small wildlife) such as curbs, catch basins, drains, hydrodynamic separators all need to be evaluated in terms of how they impede wildlife movement. In-ground swimming pools, which are stated as discretionary but possible on the house sites, can have a major impact on migrating wildlife. There are mitigation strategies to avoid this including wildlife-excluders incorporated into pool fencing. In short, apart from placing the site into a larger regional conservation context, the conservation analysis and design applied at the meso and micro levels fail to protect the ecological integrity of the site, and are reasonably likely to cause unreasonable and lasting significant impacts to the natural resources on and off the site.

If I can provide further detail or explanation, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael W. Klemens". The signature is written in a cursive style with a large, stylized initial "M".

Michael W. Klemens, PhD



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**Past Chairs**  
 William T. Golden (1989-2007)  
*Founding Chair*

Sibyl R. Golden (2007-2017)

January 29, 2019

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

Dear Chairman Merante and members of the Philipstown Planning Board,

I am writing to state that in your review of the Hudson Highlands Reserve application, a thorough examination of the whole property by a qualified biologist needs to be conducted during a narrow time window (i.e. starting early March) to confirm whether or not the property contains vernal pools. If they do exist on site, repeated surveys need to be conducted from March through April to determine what organisms they support. A number of species require the continued existence of vernal pools to survive. Since the adults generally disperse away from the pools after breeding, assessing their breeding status requires searching for and examining spermatophores- which are produced early and are quite ephemeral- and any developing eggs that are produced. Nocturnal mating calls and the presence of developing larvae are also indicative, and can only be evaluated within the same early spring time window.

This matter came to my attention in my capacity as a long time volunteer member of the board of Hudson Highlands Land Trust. I am a career forest ecologist and have been Executive Director of Black Rock Forest in Cornwall, New York, for more than 26 years, with decades of direct knowledge of its many vernal pools. I have additional personal experience surveying vernal pools and assessing the breeding status of sensitive amphibian species. I am glad to note, however, that you are also receiving information from Michael Klemens, who is undoubtedly a highly qualified and top expert herpetologist.

Please feel free to contact me if you have any questions or require additional information that I may be able to provide.

Sincerely,

William Schuster  
 Executive Director

Response  
 3B.14



HUDSON VALLEY OFFICE  
21 Fox Street  
Poughkeepsie, NY 12601  
P: 845.454.3980 or 888.539.9073  
www.chazencompanies.com

October 1, 2018

Revised February 27, 2019

Michelle D. Smith, Executive Director  
Hudson Highlands Land Trust  
20 Nazareth Way  
Garrison, NY 10524

## Response 3A.19

**Re: Professional Services Proposal  
Groundwater Resource Management  
Chazen Project Number 41824.00 Task 001**

Dear Ms. Smith:

The Chazen Companies (Chazen) has completed hydrogeologic analyses to identify properties with potential source water conservation value associated with the reservoir and watershed system supporting the Cold Spring and Nelsonville Water Supply (Reservoir Source) and the Clove Creek Aquifer (CCA).

The two evaluations were completed using similar methodologies, described as follows:

- Watershed delineations were completed for the CCA and the Reservoir Source utilizing ArcGIS Spatial Analyst software and USGS 10-meter resolution digital elevation models (DEMs). The mapped delineations are attached.
  - Clove Creek Aquifer watershed map. This map shows: 1) the aerial extent of the CCA from the existing Philipstown zoning maps (yellow cross hatch), 2) areas where precipitation and groundwater recharge flow into or directly onto the CCA (dark blue hatch), and 3) upland streams and their watersheds which flow onto the CCA (light blue outline). These three zones, respectively, represent the direct aquifer footprint, areas where aquifer recharge directly enters or migrates directly into the CCA, and areas where streamflow passes over and may be drawn into the CCA. The upland watershed (light blue hatch) extends marginally beyond the sheet boundaries north into Dutchess County and south into the Town of Putnam Valley.
  - Reservoir Source map. This map shows: 1) the joint Cold Spring reservoirs on Foundry Pond Road and the Foundry Brook Reservoir with adjoining water plant 2) areas where precipitation and groundwater recharge flow into these reservoirs (dark blue hatch), and 3) streams and their watersheds which flow into the reservoirs (light blue hatch). Respectively, these identify the active municipal reservoirs, areas where groundwater and stormwater flow directly into reservoirs, and areas where streams and their watersheds deliver water to the reservoirs. For planning purposes, the figure also shows Jaycox Pond and related watershed collection areas as far downstream as its outlet confluence with Foundry Brook, in case this reservoir is ever incorporated into the municipal source water system.
- For parcels within or partially within these delineation areas, Chazen completed a source water analysis to rank the water conservation value for all vacant or nominally-developed parcels. The scoring was developed as follows:



- **Hydrologic Soil Groups:** The Natural Resource Conservation Service assigned all soils into four Hydrologic Soil Groups (HSG) based on the soil's runoff potential. HSG A soils are very granular and allow most rain to recharge into the subsurface, while most HSG D soils include clay that prevents most recharge. For purposes of CCA recharge and sustained flows into Reservoirs, HSG A soils were assigned three points and HSG B soils were assigned two points. Areas with C or D soils provide nominal aquifer recharge and peak runoff to reservoirs which frequently overtop the dams so are considered of lower source water conservation value.
- **Slopes:** Steep slopes promote rapid runoff while lower slopes promote water retention in soils and vegetation allowing time for groundwater infiltration or for delayed arrival at reservoirs. Slopes under 10% were assigned three points. Slopes between 10 and 15 % received two points, and slopes between 15 and 20 percent received one point.
- **Land Cover:** Using 2011 National Land Cover Data (NLCD), non-developed land including forests, scrub/shrub, pasture/hay, and wetlands received three points. Developed open space, typically assigned for low-density rural development and cultivated crops were assigned two points, and low intensity development and barren land were assigned one point.
- **Land within the Clover Creek Aquifer:** for the CCA figure, land directly over the CCA was assigned three bonus points.

These scores were assigned on a pixel land area basis and then summed to create a total score per pixel of land area. The sum of the scored pixels values within individual parcels was calculated to determine a parcel's total conservation score. The score was also divided by the acres within the respective analysis area (CCA or Reservoir Source), yielding the score-per-acre values. Only vacant parcels of two acres or greater, or developed parcels greater than 10 acres, were included in the analyses. Attached spreadsheets provide the scoring record for all parcels evaluated in the CCA and Reservoir Source analyses.

We hope this analysis provides Hudson Highlands Land Trust and the Town of Philipstown a useful basis for considering source water conservation initiatives. Parcels scoring highly on either a "per acre" or "total score" basis can be interpreted to be of relatively higher conservation importance to the protection of water resources, whether for the current municipal reservoirs or the Clove Creek Aquifer.

We would welcome the opportunity to continue working together on water supply, water resource, or related natural resource conservation and planning initiatives. In general, the most important measures streamside protection approaches may include risk management along Fishkill Road and broadly-applied stream and floodplain setback and disturbance avoidance programs. And for the source water parcels identified by this evaluation, source water protection options range from full no-build acquisition/agreements, through less restrictive conservation agreements, to simple due-diligence reviews of site, wastewater, and stormwater designs.

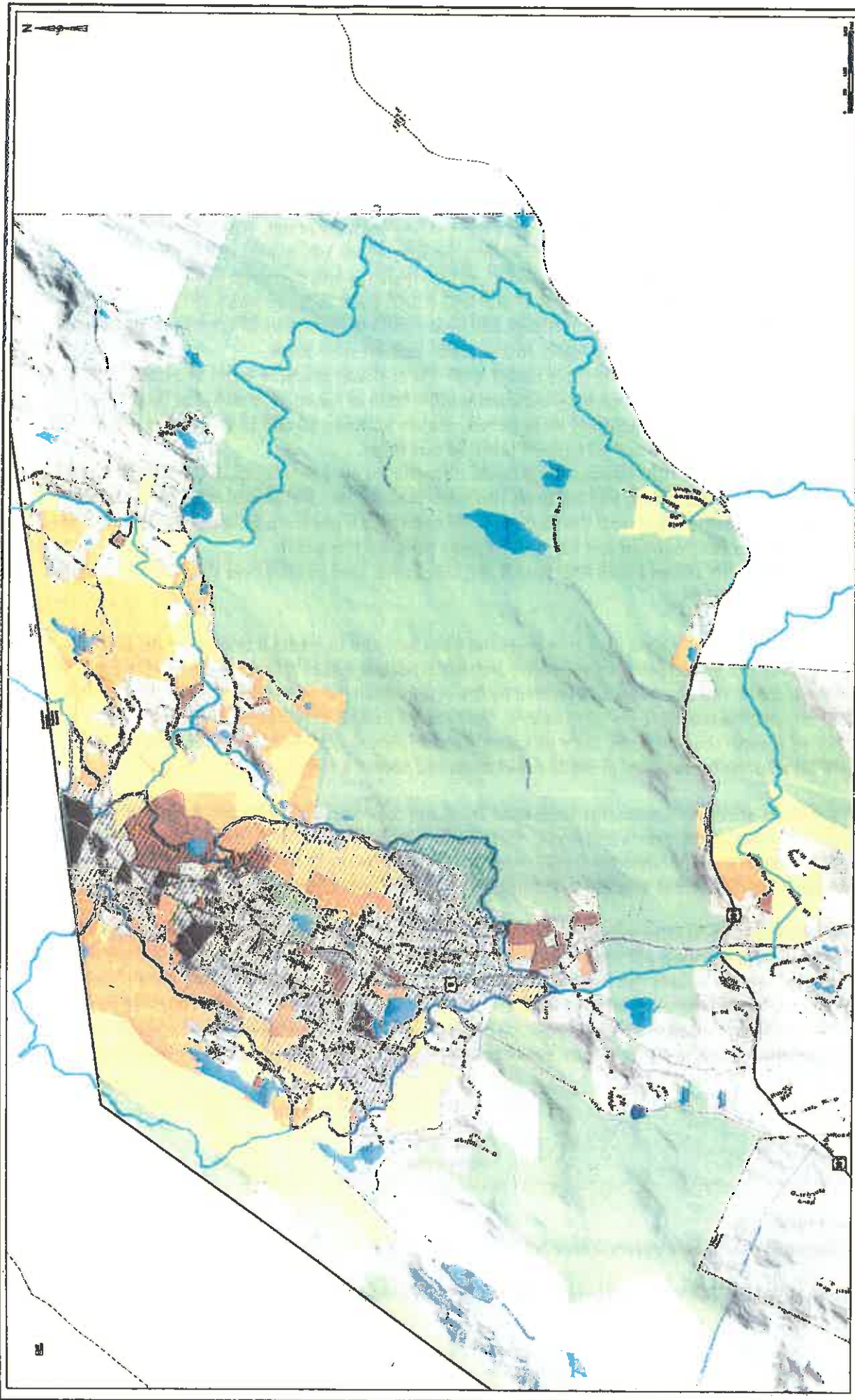
Sincerely,



Russell Urban-Mead, P.G.  
Senior Hydrogeologist / VP, Environmental Services

Referenced: Clove Creek Aquifer watershed map, Reservoir Source map, Ranked Parcel spreadsheet  
cc: file

# Exhibit D



County	Delaware
Date	08/20/09
Scale	1 inch = 1,000 feet
Project	W-100-001
Page	1

**Delaware Department of Transportation**  
**Parcel Prioritization**  
**Clover Creek Aquifer Accumulation Area**  
 Town of Philadelphia - Pottam County, New York

**Clover Creek Aquifer**

**Protected Land**

**Tax Parcels**

**Clover Creek Aquifer Accumulation Area**

**Stream Input**

**Prioritization based on Score per Acre**

- Highest Priority
- High Priority
- Moderate Priority
- Lower Priority
- Lowest Priority

**CHAZEN ENGINEERING, LAND SURVEYING & LANDSCAPE ARCHITECTURE CO., P.A.C.**

**Delaware County Office:**  
 200 West Chester Pike  
 Pottam, NY 12071  
 Phone: (518) 434-3280

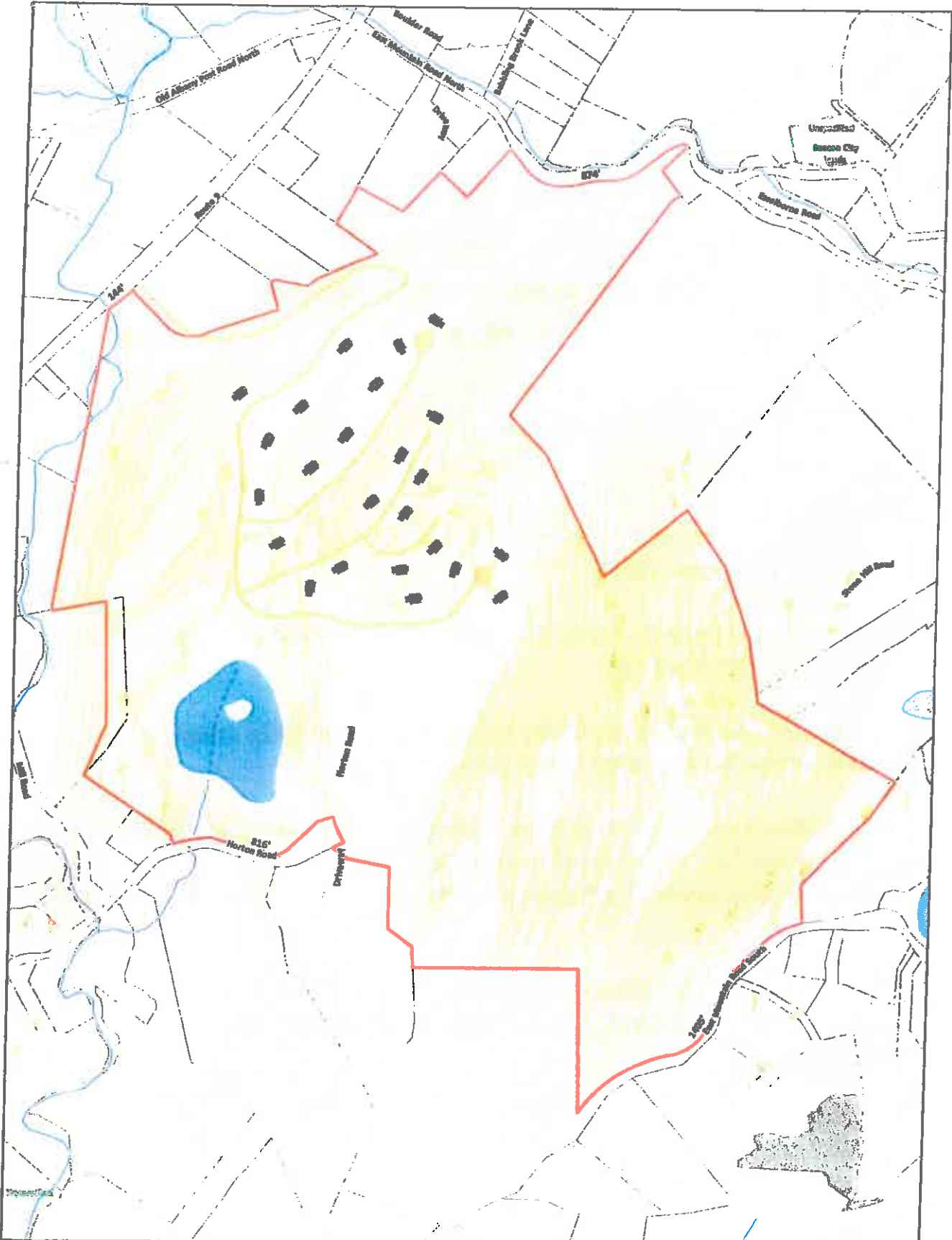
**North County Office:**  
 270 Bay Road, NW  
 Tuxedo, NY 10986  
 Phone: (815) 275-0085

We are a product of The Chazen Companies. It should be used for informational only. Please do not rely on this information for any other purpose other than the intended use of this site. The Chazen Companies expressly disclaims any responsibility or liability from the use of this map for any purpose other than the intended use.

**THE CHAZEN COMPANIES**

Professional Land Surveyors  
 Registered Professional Engineers  
 Registered Professional Architects  
 Registered Professional Planners  
 Registered Professional Geologists

1000 West Chester Pike  
 Pottam, NY 12071  
 Phone: (518) 434-3280



**Legend**

- Subject Property - 205.43 ±Ac
- Percent Slope >20%
- Subdivision access roads
- Driveways
- Potential Homes
- Adjacent Properties
- Protected Land
- Open Water
- Wetlands
- Perennial Streams
- Intermittent Streams
- Contours (ft)

Credits: Background from ESRI "Terrain Base" map service.

**Concept 2 - Homes shifted to lower slope areas away from lake**

Project Number: 10496  
Date: 10/16/2018



**Hudson Highlands**  
Phillipstown, NY

This plan is conceptual only and is not represented as an engineered plan.  
**LandVest**

*Harold Lyons & Sons, Inc.*

3175 Route 9

Cold Spring, New York 10516

845-265-2189 -- fax 845-265-2469

PC-59

June 18, 2019

Town of Philipstown  
Planning Board  
P O Box 155  
Cold Spring, New York 10516

Hudson Highland Reserve, Route 9, Horton Road & East Mountain Road North  
Applicant - Horton Road, LLC

I feel the creation of 25 single family homes and an equestrian center at this location would be a true asset to our community.

For over fifteen years, I, and my father before me, have done work for the owners of Horton Road LLC. I have found them to be respectful of the environment and they always went above and beyond plans to beautify and follow all guidelines for safety.

I hope the board grants them the right to build and add value not only to their property, but to Philipstown. This seems like a perfect plan and I am 100% in favor of this project.

Sincerely,



Nathan Lyons

President

Harold Lyons & Sons, Inc.

Cc: Horton Road, LLC

**Subject:** Hudson Highlands Preserve Project

**From:** <msarch@ix.netcom.com>

**Date:** 6/11/2019, 4:54 PM

**To:** amerante@philipstown.com

**CC:** tpercacciolo@philipstown.com

Dear Philipstown Planning Board:

I am writing as a concerned resident of Philipstown, living on East Mountain Road North, regarding the proposed project Hudson Highlands Preserve, off of Route 9 , between East Mountain Road North and Horton Road.

Although I have several concerns about this project, I would like to specifically address the traffic patterns associated with vehicular access to the proposed residences and equestrian facility. The plan currently shows access from East Mountain Road North and Horton Road. Although, at one point, access directly off of Route 9 was discussed, it has come to my attention that the DOT has denied access off of route 9 to the development. That leaves East Mountain Road North as one of the entrances, which is already hard to get out of onto Route 9, and is on the school bus route, a potential bottleneck and hazard.

Response

2.90,

2.85

I have also recently learned that a traffic study has not been done yet, which is surprising to me, given the scale of this project, and the dangers that already exist in that area of Route 9. If someone were to travel south on Route 9 to get to their home or horse stable at the Hudson Highlands Preserve, they would need to make a left turn onto East Mountain Road North, where there is currently no turning lane, in a 50 MPH zone. I was the unfortunate victim of a serious car accident at this intersection last year, as I was waiting to make a left turn to go home onto East Mountain Road North. My car was rear ended and totaled by an 18 wheeler tractor trailer going 50 MPH. I suffered trauma and injuries that I am still recovering from, and the police said I am lucky to be alive. The police also mentioned that accidents happen at this spot all the time. (Still fearful, I do not make that left turn anymore, and go further south to Glassbury Court, where there is a turning lane to turn around.)

But the point is not my accident, it's anybody's future accident. I would hope that our community demands a proper traffic study from the developer so that future accidents can be avoided at this intersection. It seems there is an accident every week on Route 9. Turning lanes and reduction of speed limits is essential, especially with the added traffic that Hudson Highlands Preserve will generate. Please let me know if you know of any traffic studies done or if they will be done.

Thank you,  
Madeleine McGinley  
534 East Mountain Road North  
Cold SpNYg, 10516

JOHN BENJAMIN  
265 Avery Road  
Garrison, New York 10524

Anthony Merante, Chairman  
Philipstown Planning Board  
238 Main Street  
Cold Spring, New York 10516

June 16, 2019

Dear Mr. Merante and Board Members:

RE: Hudson Highlands Reserve(DEIS)

I don't know much about horses, etc., but Rutgers University does. I refer you to their study: Rutgers Equine Science Center document :(www.esc.rutgers.edu/fact\_sheet/horses and manure)

Horses and Manure: Fact Sheet #036- I was astounded to read that the average 1000 pound horse produces 10-12 Tons of manure a year! Do the math: 40 horses!= 400 to 480 TONS of manure per year! I found it also very interesting that the State considers such large commercial equine centers to be Concentrated Animal Feeding Operations(CAFO'S) which are tightly regulated in the hopes of preventing NPK nutrient pollution, as well as vermin and pathogen introduction in to adjacent aquifers, wetlands, ponds and/ or streams.

On the other hand, I do know a great deal about Brook Trout, clean, clear streams and good fishing! Born and raised in Garrison, as kids we fished many of the small brooks, sometimes lucky enough to lure out a little "brookie " or two. As a guide in Colorado, and as a Trout Unlimited member, my knowledge has grown over these 73+ years! I know very well that these trout really are "the canary in the coal mine", the indicator species for a waterways health.

I do know for certain that horse shit and pristine streams do not mix. I know for certain that if such a mix is allowed to occur; the trout will vanish and all we'll have left is a bunch of suckers.

Thank You,

John Benjamin

Response  
3A.8

ANN HAMMOND  
307 E Mountain Rd S. Cold Spring, NY 10516 fensedgefarm@gmail.com

Chairman Anthony Merante  
Town of Philipstown Planning Board  
238 Main St.  
Cold Spring, NY 10516

June 17, 2019

Dear Mr. Merante and Members of the Board,

Re: Hudson Highlands Reserve

I live on East Mountain Rd South, studied Environmental Science and Chemistry for 4 years at SUNY, and have a BA in Biology. I read the DEIS and preceding documents with as much attention as time allowed. I admit that there is much I still do not know, but I have seen enough to be sincerely troubled by the proposed Hudson Highlands Reserve (HHR).

My first concern is that, from the presentation of the project some 5 years ago, it seems to me that the HHR has not significantly responded to the concerns and solutions expressed by the Town of Philipstown, or the expert opinion of the Hudson Valley Land Trust.

Each time the HHR has been given direction or feedback, it only changes the minimum necessary to attain their original plan, which is to more than double the number of houses that it would be able to build in a traditional subdivision.

This fact alone would be sufficient to convince me, should I sit on the Planning Board, to deny the application for a Conservation Subdivision.

Response 2.29 Before a protest is raised that the HHR is actually entitled to 25-29 houses, using the two calculation methods cited, let's all acknowledge that that is a red herring. Expert opinion is that zoning and the land would not actually support more than 10 or 11 houses without a conservation subdivision, and, as pointed out in Ms. Gilbert's 6/12 PCNR letter to the editor,

Response 2.18 neither would 40 horses be supported. This means that the HHR is using a law intended to conserve and protect open space against the town itself while "preserving" land that was already preserved.

Response 3B.52, 3B.34 One could almost accept that were it not that – not content to abuse the spirit of the law – the applicant has refused to make more than the minimum of the modifications suggested by the Hudson Valley Land Trust, the community, and the Town of Philipstown Planning Department. For example, the HHR continues to insist that leaving a proper wildlife corridor or building true clustered housing – as is recommended by sound conservation subdivision planning – wouldn't work for their bottom line. It makes much of leaving a 130 foot buffer between building lots and the pond, which is more than legally required, when the gold standard is 100 METERS, almost 3 times the amount of space proposed by HHR (328 feet.)

ANN HAMMOND

307 E Mountain Rd S. Cold Spring, NY 10516 fensedgefarm@gmail.com

Response 3C.6 The rebuttal to almost all concerns or requests is the repetition that the HHR is preserving 170.8 acres of land with higher conservation value and therefore whatever negative environmental effect generated is acceptable. I disagree. This land was already preserved from development by current regulation. Stubbornly insisting that that is enough value to get away with doing whatever one wants is not a valid argument.

Response 2.18 The HHR does not seem to understand that the Conservation Subdivision is at the discretion of the Philipstown Planning Board, which represents the community of Philipstown, not the developer and its desire for profits.

I understand that there is a flaw in the way the law was written, which allows this kind of dubious action, and that needs to be fixed. In fact, I requested last March that Philipstown enact a moratorium on any future conservation subdivisions until the law has been corrected, and I respectfully request it again today.

Given that this would be the very first conservation subdivision in Philipstown, I think it critical to be cautious in granting such a boon, as we know that it will set a precedent that may be difficult to correct.

The developer speaks about benefits to the community, the environment and the local economy; offering respect and a willingness to understand and accommodate the community, the environment and our hard working representatives would be a solid way to gain standing.

I believe, from a practical standpoint, that granting a conservation subdivision to a developer that has stubbornly refused to respond to reasonable requests and conservation standards would a mistake.

The above is my opinion. Attached are considerations which I do not believe have been satisfactorily addressed by the DEIS; some of them were not even considered.

Respectfully,

  
Ann Hammond



HUDSON HIGHLANDS RESERVE DEIS/EAF  
OBSERVATIONS & UNANSWERED QUESTIONS

ENVIRONMENTAL SURVEY

- Insufficient study of the environment has been done.
  - Response 3B.36, 3B.42
    - Plant and wildlife surveys were only done in May, June and July. Due to migration and seasonal changes surveys should be made throughout the year.
    - Further, one cannot determine that there are no vernal pools by looking in late spring. Vernal pools by definition are early spring phenomena, and climate data is clear that spring now comes earlier. Stating that "No areas were observed that contained evidence of (i.e. matted and stained leaves, drift lines, etc.), or would support the seasonal presence of vernal pools" and subsequently not taking the time during the following FIVE years to actually verify is unacceptable.
  - Response 3B.14
    - Why haven't any further surveys been taken?
- Wildlife corridors from conserved lands to water sources have not been protected as per recommendation of Conversation Analysis Report and the Hudson Highlands Land Trust. Houses should not be ringing the pond. Riparian buffer zones should be 100 meters. This is a proposed Conservation Development. Developer should be proposing a state of the art conservation techniques, not the same old gated community.
  - Response 3B.34
- Preservation of bat roosting sites. The argument that bats move from tree to tree on a nightly basis and thus taking down trees in which they may roost will have no effect on bat population makes no sense. If you take down trees, there will be an effect, regardless of whether it is the colony's only roosting site, or one of several.
  - Response 3B.53
- HHR discounts importance of land proposed for development because it was previously disturbed. Every acre of East Mountain is traversed by stone walls; it has all been disturbed. It appears that the last disturbance of the HHR property was 80 years ago. An 80 year old forest may not have the same conservation value of a forest last disturbed 150 years ago, but these are the forests that our wildlife live in today. Discounting the environmental cost of development is misleading.
  - Response 3B.7
- Penetration is a form of fragmentation. Please don't sell it as something different.
  - Response 3B.67
- Conservation findings recommended that invasive barberry and stilt grass be removed but no plan for removal is mentioned in the DEIS. This may seem small but addressing it would be evidence of good faith.
  - Response 3B.13, 3B-8
- Recommendations were made to minimize impact on increasing fragmentation of forest by defining a specified building envelope on each lot, prohibiting the removal of vegetation outside this envelope during construction. I see no evidence of this recommendation being proposed by developer.
  - Response 3B.72
- NYDEC letter dated 10/23/2014 states "If this proposed project is still under development one year from now, we recommend that you contact us again so that we may update this response with the most current information." Five years later, I see no evidence of any more recent citations or contact with NYDEC.

Response  
3B.19,  
3B.32

- Herpetology study suggests that ... old fields, loamy soils, and an abundance of decaying logs may provide habitat for two relatively uncommon species, i.e. eastern hognose snakes, and eastern worm snakes, both listed as special concern in New York. Retaining this habitat within the conservation area would help mitigate the environmental adverse impacts from the proposed subdivision. There is no evidence that this recommendation has been addressed, in fact, I fear that the proposed developed area is precisely the old fields and loamy soils. Am I mistaken?

#### CULTURAL

Response  
3D.2

- No proposal was made for public access to Ulmar Pond, as suggested in the Conservation Analysis. Instead the development proposes "affordable" dressage lessons at an environmentally unsustainable, and presumably unsustainably expensive equestrian facility. Developer states that no attempt to allow access will be made unless it is granted 25 houses. It seems HHR wants everything and is willing to give essentially nothing. No proposal was made for some type of access in order to even 'sweeten the pot,' except for eventual paid access to the equestrian facility.

Response  
2.7

- Developer emphasizes that residents will be able to enjoy open space and neighborhood walkability. I'm not sure that the intent of the master plan was to provide this to incoming residents by taking open space from the community at large.
- Developer discourses on trend that equestrian developments are the new golf communities. I don't think that that is the type of culture or open space that Philipstown is looking for.

#### TRAFFIC

Response  
2.87

- Traffic problems have not even been considered.
- 2017 traffic study states that posted speed limit on EMRN is 30. I don't think there is a posted speed limit, but my inquiries last year resulted in a 25 mile an hour speed limit.
- Study of traffic increase was based on 2011 numbers, now 8 years old. These should be updated, as traffic has increased significantly. No discussion of trucks and horse trailers was made. A 50 second wait to find a suitable gap in the traffic stream is laughably short during weekday PM peak hours. Hours of operation seem extremely unlikely. 8-5, especially in the summer, seems unlikely.

Response  
2.90

- The 6/20/18 DOT letter has been available for a year, but the DEIS does not address it. Were the developer operating in good faith, it would have addressed this concern. In fact, the DOT's 6/20/18 determination also notes that it had requested details on the proposed access as far back as 2014, which have not been provided. This lack of openness about the very real roadway issue is a concern.

#### LAWNS

Response  
2.42

- Lawns are mini environmental disasters. Planning Board asked for limits on clearing/lawn areas, but I see no attempt to limit lawns. Insistence on 25 one acre lots, as opposed to truly clustered housing, is not coherent with a conservation development.

## WATER

- Response 3A.20 • Proposed water usage is unclear and may be misleading. Developer proposes adding 26 wells, claiming an average use of 24,000 GPD will not affect watershed and provides annual watershed data. However, providing annual averages does not illustrate how daily water usage will affect Clove Creek, especially in the summer.
- Response 3A.20,1.1 • Likewise claims about the annual groundwater recharge rate of 65,568,911 gallons per year (or 179,641 GPD) do not clarify the recharge rate and water usage effects on the aquifer in the summer, when water supply is most critical and most in demand. The levels of our creeks and streams are already dropping in June. The water from my mother's well has changed significantly in the last 30 years.
- Response 3A.22 • Dated water information. As mentioned in HHLT letter dated 11/30/17, water data cited is 12 years old. Where is the new data?
- Response 3A.23 • Data on water usage is perplexing, as I believe it is significantly less than US averages. The US national average is 400 gallons per day, and this doesn't include filling pools, watering lawns or gardens. On what assumptions were water usage based?
- Response 3A.24 • This may be nitpicking, but developer claims that the average recharge rate is nearly 9 times the demand, but my math says that it is only roughly 7.5 times the demand. How was this calculated? I'm not qualified to judge if this is a sufficient recharge rate, but the difference between 7.5 and 9 is nearly 20%.
- Response 1.1 • In light of the above, I would like to see clarity on water use assumptions, seasonal water usage and recharge, and a ground water management plan
- Response 2.43 • Developer claims that use of pesticides and fertilizers as well as equestrian use of conserved land would be regulated by HOA, but who will enforce the HOA regulations? It is well known that many homeowners in drought-stricken environments regularly ignore lawn watering bans and that people do whatever they want in their own yards. If each household has a lawn, it seems likely that it will be irrigated, fertilized and have pesticides applied. Who will control that?
- Response 2.74 • "To prevent leaching of horse manure and urine into the watershed, all areas where the horses will be housed, ridden or turned out (stalls, rings, and paddocks) will feature an impenetrable surface designed specifically to prevent horse waste leaching." What does this mean? Water will still fall on that land. It will take horse urine with it. Where will it go? Will it increase storm runoff? How does having 11 impenetrable acres affect the annual recharge rate?

## IMPACTS ON COMMUNITY

Growth Inducing Aspects (P. 149 DEIS)

- Response 2.31 Developer claims that, "As the projected population of the residential homes is relatively small, and MAY not include permanent year-round residents, the demand on commercial services in the Town will be relatively modest."
- I see two issues here. First, thus far, developer has claimed that HOA would guarantee no year round residents, yet plan states that it may include permanent year-round residents. As

ANN HAMMOND

307 E Mountain Rd S. Cold Spring, NY 10516 fensedgefarm@gmail.com

Philipstown has already seen, seasonal developments, such as Trout Brook and Lake Valhalla, do change into year-round developments. The Haldane School District facilities are already burdened, what would the possible addition of 50 more students do to it? (25 houses x 1.9 2017 average children per family in USA.)

I would like to see an exploration of the effect of year-round residency on the school system and other public services and hear commentary from local service providers.

On page 113 of the DEIS

Response  
2.17

"The Applicant has carefully positioned each lot so as to maximize the preservation of open space and protect important cultural and environmental resources. Furthermore, by having a 'community' subsurface sanitary treatment system area, the proposed development is further "clustered." This is a perversion of the concept of clustering.

It's also not clear to me whether -- with the exception of the 130 foot riparian buffer -- any of the conservation value areas on the more developable land are begin conserved.

HOA

Response  
2.60

Discussion of HOA does not explain who will ensure people on horses stay out of protected forests or how conserved land will be protected.

How are the covenants and restrictions in the HOA agreement dictated and enforced?

Response  
2.49

Should an acceptable conservation development eventually be proposed, it should be required that easement holder be an accredited land trust in good standing with the Land Trust Alliance or other reputable organization determined by the Planning Board. Furthermore, the developer must be required to establish a fund *not only* to perpetually finance the inspections by easement holder but also any eventual legal fees required to enforce the conservation.

I took some time to read the 6/1/2017 Full Environmental Assessment Form and a few things jump right out in Part 2.

7. I disagree with the assessment that the proposed action will have no or small impact on species listed as special concern. There are several species of special concern, most notably turtles, and wildlife corridors are being diminished/interrupted. How can there be no or small impact?

13. The claim that there will be no impact on transportation system is absurd. Trailers, trucks, weekenders, events. Are they kidding? Also, who is going to enforce the limitation of the attendees of events to owners, students, and family and friends? HOAs are notoriously weak and often complicit. Is the supervising body (land trust or other) supposed to monitor and enforce? How will that be paid for?

17. Consistency with community plans. *The proposed action may cause a change in density of development that is not supported by existing infrastructure or is distant from existing infrastructure.* How can HHR check off NO? That's exactly what they're asking to do.

**ANN HAMMOND**

307 E Mountain Rd S. Cold Spring, NY 10516 fensedgefarm@gmail.com

I think that it is important for the HHR to remember that it's up to the developer to mitigate the concerns of our Planning Board. It is not the concern of the Planning Board that the developer make a profit. This is Philipstown's first conservation subdivision. It must BE a conservation subdivision to all intents and purposes.

18. Consistency with community character. I do not know why this question was answered with a NO. It is clearly a yes. There are no types of facilities like this one, and no recent developments like this one in Philipstown. It is inconsistent with the zoning. Further, 18b. is almost certainly true; 25 houses, up to 100 people at an event that has terrible road access will eventually affect fire, police, ambulances and schools. 18 E and F are also both true. The proposed action is inconsistent with both the predominant architectural scale and character and the existing natural landscape.

Response  
2.28

In conclusion, the HHR conservation subdivision, years from its original proposal, still does not offer sufficient conservation enhancements to qualify for the additional density. We are still looking at a developer who spent some money on undevelopable land and in exchange for that wishes to build a conventional subdivision with more than double the number of allowable houses and horses, plus a huge and unsustainable equestrian facility.

Response  
2.29

To summarize, there is a multitude of reasons to deny a conservation subdivision to this project.

- Environmentally unsustainable equestrian facility is incoherent with intent of Conservation Development
- Traditional subdivision is incoherent with the intent of Conservation Development
- Demonstrated unwillingness to respect the spirit of the Conservation Subdivision
- Insufficient environmental survey, and questionable presentation of environmental data
- Refusal to provide best practices wildlife corridors
- Refusal to propose true clustered housing
- Developer's troubling lack of attention to the DOT's 2014 request for information, DOT's 6/2018 refusal to grant access to Route 9, and HHR's perpetuation of the fiction that neither East Mountain Rd N nor Horton Rd would be used for access
- Lack of serious consideration of very real effects on traffic that the addition of 25 homes and dozens of autos would affect
- Lack of clarity on water usage and recharge statistics
- Lack of clarity on the potential for year-round residents
- Lack of clarity on impacts on public services
- Lack of clarity on commitment to limit tree cutting to necessary lot envelope
- Lack of clarity on HOA enforcement



Department of Transportation

ANDREW M. CUOMO Governor

MARIE THERESE DOMINGUEZ Acting Commissioner

LANCE MacMILLAN, P.E. Regional Director

June 7, 2019

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

Re: NYSDOT SEQRA # 14-0300
Hudson Highlands Reserve
Route 9, Town of Philipstown
Putnam County

Dear Mr. Merante:

The New York State Department of Transportation (NYSDOT) is in receipt of a Draft Environmental Impact Statement (DEIS) received on May 30, 2019 and dated April 4, 2019.

We note again that there is no mention of traffic in the DEIS and the actual Traffic Impact Analysis and/or NYSDOT comments of August 2, 2018 are not included in the Appendix.

Response 2.90

Mr. Watson's July 12, 2018 letter states that "The reason that "Traffic" was not included in the draft scoping document is that the question was answered to the satisfaction of the Planning Board during the Conservation Analysis and EAF process." We are glad the Planning Board's concerns were answered, but what about everyone else? This is a Public document, you need to say you looked at it as part of the SEQR process and state your conclusions. Therefore, under 6 NYCRR Part 617 State Environmental Quality Review (SEQR), as an Involved Agency, we are unable to endorse the DEIS for this project.

Response 2.85

We are wondering if the Applicant addressed any of the NYSDOT comments or the request for additional information (i.e. Drainage Report, Site Distance Matrix). I have included past letters and our comment report requesting certain items be addressed. Please address all comments prior to issuance of the Final EIS.

Thank you for your interest in highway safety.

Very truly yours,

Mary McCullough
SEQRA - HWP Unit
NYSDOT - Region 8
4 Burnett Blvd.
Poughkeepsie, NY 12603

Attachment

cc: Permit Engineer, Residency 8-3
Lance Gorney P.E., Regional Highway Work Permit Coordinator
Lee Zimmer, P.E. NYSDOT Traffic & Safety
Putnam County Planning
Ulises Liceaga, Horton Road LLC, 315 East 91st St., 2nd floor, New York, NY 10128
Glennon Watson, LS, Badey & Watson, 3063 Route 9, Cold Spring, NY 10516

## **McCullough, Mary (DOT)**

---

**From:** Zimmer, Lee (DOT)  
**Sent:** Thursday, August 02, 2018 1:32 PM  
**To:** Glenn Watson  
**Cc:** McCullough, Mary (DOT)  
**Subject:** SEQR # 14-0300 Hudson Highlands Reserve 2018 07 19 Submission Traffic Report  
**Attachments:** 14-300 Traffic Comment Report.doc

Glenn:

I have reviewed the Traffic Study you submitted for the Hudson Highlands Reserve project on July the 19 2018. Please include the SEQR # (14-300) on all correspondence to facilitate document storage and retrieval. I have attached a report of the Departments comments. The most major comment would be the use of the "car" values for sight distance matrix, when on page 13 of the Kimely-Horn report, trucks associated with the equestrian center are the design vehicle for the driveway. It is reasonable to expect this facility to have some truck traffic, therefore the site driveway should be able to handle these vehicles.

Anything else please let me know.

**Lee A. Zimmer P.E.**

Traffic Signals & Highway Work Permits

**New York State Department of Transportation, Hudson Valley**

4 Burnett Boulevard, Poughkeepsie, NY 12603

(845) 437-3320 | [lee.zimmer@dot.ny.gov](mailto:lee.zimmer@dot.ny.gov) | [www.dot.ny.gov](http://www.dot.ny.gov)



**Department of  
Transportation**



**Department of  
Transportation**

**ANDREW M. CUOMO**  
Governor

**MATTHEW J. DRISCOLL**  
Commissioner

**Cathy Calhoun**  
Chief of Staff

**MEMORANDUM**

Final Environmental Impact Statement  
Submission dated July 12<sup>th</sup>, 2018

**Hudson Highland Reserve**

**SEQR # 14-300  
Town of Phillipstown  
Putnam County**



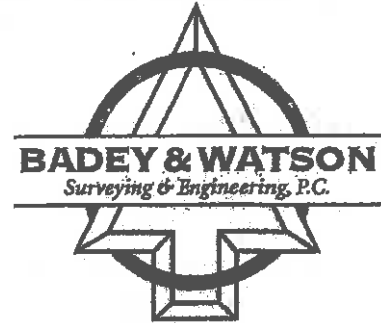
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The following comments result from the review of the project submission dated July 12, 2018.

### **Traffic Study Comments**

1. Please have the applicant submit a PERM33.com with the first section filled out and a remit the permit fee of \$1,400.
2. Please use the ITE 10<sup>th</sup> Generation land use codes for the Trip Generation in the Traffic Study.
3. Will the project have any phases or is this the full build out? Will there be any future increase to the number of stables, if yes will the lead agency direct the applicant to perform a left turn analysis?
4. Are there any new or proposed development in the area that may affect the traffic study?
5. Since trucks are expected to use the site driveway please use either the combination truck or the single unit truck for the sight distance matrix.
6. Please use the design speed not the posted speed limit for the sight distance matrix.
7. Please perform the left turn analysis for the Route 9 southbound left turn into the site.
8. Is the ETC 2021? If so, please state this in the traffic study.
9. Is there any proposed mitigation for this development?

End of report



July 12, 2018

Mary McCullough  
SEQRA /HWP Unit  
New York State Department of Transportation  
4 Burnett Boulevard  
Poughkeepsie, NY 12503

Re: NYSDOT SEQRA #14-300  
Hudson Highlands Reserve  
Route 9, Town of Philipstown  
Putnam County

Dear Ms. McCullough:

This letter is sent in response to your letter to Philipstown Planning Board Chairman Anthony Merante dated June 20, 2018, which was forwarded to us as the project's surveyors and engineers.

The reason that "Traffic" was not included in the draft scoping document is that the question was answered to the satisfaction of the Planning Board during the Conservation Analysis and EAF processes.

I am attaching a copy of the "Traffic Impact Analysis" prepared by John Canning, P.E. of Kimley-Horn of New York, P.C., along with sight line profiles prepared by our office. AKRF reviewed the report on behalf of the Planning Board and recommended that traffic impacts have been adequately addressed.

To the best of my knowledge, there has been no written communication with NYSDOT concerning this project. However, we did meet with Albert R. DeNigro, Permit Engineer, on two occasions early in the planning process. During our initial meeting, Mr. DeNigro advised us that the proposed entry was too close to the guiderail protecting the bridge over Clove Creek. Subsequently, our client purchased adjoining commercial property to the north, which allowed us to relocate the intersection approximately 50 feet further north and further away from the guiderail.

The proposed project does not anticipate regular access to either Horton Road or East Mountain Road North, although it does provide for emergency access routes over existing driveways to both roads. Public opposition aside, and there is more than a little, neither road is suited for the traffic that the project will generate. As the scoping document indicates, in addition to the 25 homes that are being proposed, the plan includes a 40-horse equestrian center, which will require occasional horse trailers, feed deliveries, manure removal and other service vehicles as well as the additional automobile traffic that it will generate. All of this, of course, was considered during the preparation of Mr. Canning's report.

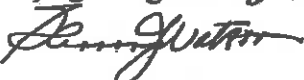
[www.Badey-Watson.com](http://www.Badey-Watson.com)

Horton Road is a dead-end street that is about 3,000 feet long. Most of it is a narrow dirt road. There is a particularly sharp horizontal angle in the road that is at the precipice of a sudden grade change from relatively level to -11%, then quickly to -19%, and then almost immediately crosses a bridge that we believe is inadequate. Mill Road connects to Horton Road avoiding the bridge, but it is also very steep and has a difficult horizontal geometry.

East Mountain Road North is a narrow road that runs along a protected creek. While the road is relatively straight and gentle there is insufficient room to make it suitable for the equestrian related traffic and the disturbance that would be required to construct the intersection and roadway into the project would require significant disturbance and blasting, which we do not anticipate will be required at the Route 9 entry point.

We trust that the information in this letter and its attachments is adequate for your review. If it is not, or if you have any questions, please do not hesitate to contact me. If the Department continues to have concerns regarding the provision of access from US Route 9, please advise when we may meet with you to discuss. Thank you for your attention and concern.

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\SEQRA\Responses\MM27\N18BP\_Response\_to\_DOT.docx  
Ulises Liceaga, HHR  
Stephen M. Gross  
Richard L. O'Rourke, Esquire  
John Canning, P.E.





**Department of  
Transportation**

**ANDREW M. CUOMO**  
Governor

**PAUL A. KARAS**  
Acting Commissioner

**LANCE MacMILLAN, P.E.**  
Acting Regional Director

June 20, 2018

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

**Re: NYSDOT SEQRA # 14-0300  
Hudson Highlands Reserve  
Route 9, Town of Philipstown  
Orange County**

Dear Mr. Merante:

The New York State Department of Transportation (NYSDOT) is in receipt of a submittal dated June 6, 2018 and received on June 14, 2018. The submittal contains a Positive Declaration, a Resolution adopting the Positive Declaration, a Full Environmental Assessment form and a Draft Scope for the DEIS.

We note that the draft scoping document does not contain anything regarding proposed traffic impacts and mitigation. In 2014, we requested details of your proposed access to Route 9, showing exact location to the existing bridge and guiderail. To date, we still have not received them. A Traffic Impact Study, Drainage Report and sight distance matrix were also requested. To date, we have not received any of them.

*As per Section 5A.4 of the Policy & Standards - When a property fronting on a State highway also fronts on and has access to any other public street, road, or highway that intersects the State highway, the Department may restrict access to the State highway if it determines that such access would be detrimental to the safety and/or operation of the State highway.*

Based upon the limited information submitted to date, and having multiple access points from both Horton Road and East Mountain Road North, direct access onto Route 9 is not necessary.

Thank you for your interest in highway safety.

Very truly yours,

Mary McCullough  
HWP/SEQR Unit

cc: Permit Field Engineer, Residency 8-3  
Putnam County Planning

NYS DOT SEQ# 14-0300

PLANNING BOARD  
TOWN OF PHILIPSTOWN; PUTNAM COUNTY

---

In the matter of the application of

Horton Road LLC Conservation Subdivision  
NYS Route 9

---

RESPONSE TO REQUEST THAT TOWN OF PHILIPSTOWN PLANNING BOARD SERVE  
AS LEAD AGENCY

On behalf of the New York State Department of Transportation - Region 8,

I acknowledge receipt of the Lead Agency notice in this matter, which was mailed on  
January 18, 2017.

The above-named involved agency hereby

(Please check one)

- CONSENTS that the Town of Philipstown Planning Board serve as Lead Agency in this application and requests that the undersigned continue to be notified on filings and hearings in this matter.
- DOES NOT CONSENT to the Town of Philipstown Planning Board serving as Lead Agency in this application and wishes that the New York State Department of Transportation - Region 8 serve as Lead Agency. To contest Lead Agency designation, the undersigned intends to follow the procedures outlined in 6 NYCRR 617.6 (b)(5).

DATED: 2/22/2017

SIGNATURE: 

NOTE → ENCLOSED PLEASE FIND OUR EARLIER  
COMMENTS REGARDING THIS PROPOSAL.



State of New York  
Department of Transportation  
Region Eight  
4 Burnett Boulevard  
Poughkeepsie, New York 12603  
[www.nysdot.gov](http://www.nysdot.gov)

William J. Gorton, P.E.  
Regional Director

Joan McDonald  
Commissioner

December 31, 2014

Mr. Ande Merante, Chairman  
Town of Phillipstown Planning Board  
238 Main Street  
P.O. Box 155  
Cold Spring, New York 10516

Re: **NYS DOT SEQRA# 14-0300**  
**Hudson Highlands Reserve**  
**Town of Phillipstown, Putnam County**

Dear Mr. Merante:

We have received Site Plan, Full Environmental Assessment Form and Lead Agency designation request dated November 18, 2014, received on November 20, 2014. We consent to the Town of Phillipstown Planning Board assuming the role of Lead Agency for review of the referenced proposal.

The proposed action involves development of 28 detached single family homes along with an equestrian center for the community. We have completed our review and have the following comments to offer:


- This Department does not allow more than one access to highway system for minor residential developments. However, considering weight/truck restrictions on East Mountain Road North and limited use of Horton Road, we would allow access to Route 9.
- We would like to point out that the proposed access to Route 9 is very close to the existing guide rail and bridge. We want the applicant to provide design details for the access to Route 9, showing exact location in reference to the bridge and guide rail.
- We also want the applicant to explore the possibility of improving East Mountain Road North rather than seeking access to Route 9. It may be economically most viable option.
- A sight distance matrix along with travelling speed must be shown on the map for our review.
- A drainage study must be prepared and submitted for our review and comments.
- A Traffic Impact Study must be prepared for any equestrian events planned at this location.

We suggest that the applicant address all the above mentioned concerns and resubmit the proposal for our review and comments.

We would also like to inform you that the proposed configuration of access driveway and any additional work within the NYS DOT Right-of-Way requires a Highway Work Permit (HWP). Depending upon the size of the proposed improvement or impact to the NYS DOT Right-of-Way, additional engineering details may be required. The applicant should also be encouraged to review the permit process and all required HWP forms on the NYS DOT website (<https://www.dot.ny.gov/index>).

Thank you for your interest in highway safety.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Akhter A. Shareef', written over a horizontal line.

Akhter A. Shareef  
Senior Transportation Analyst

cc: Michael Sassi, Traffic Engineering and Safety Group, Region 8  
Rock DeNigro, Permit Field Engineer, Residency 8-3



State of New York  
Department of Transportation  
Region Eight  
4 Burnett Boulevard  
Poughkeepsie, New York 12603  
[www.nysdot.gov](http://www.nysdot.gov)

William J. Gorton, P.E.  
Regional Director

Joan McDonald  
Commissioner

December 31, 2014

Mr. Ande Merante, Chairman  
Town of Phillipstown Planning Board  
238 Main Street  
P.O. Box 155  
Cold Spring, New York 10516

**Re: NYSDOT SEQRA# 14-0300  
Hudson Highlands Reserve  
Town of Phillipstown, Putnam County**

Dear Mr. Merante:

We have received Site Plan, Full Environmental Assessment Form and Lead Agency designation request dated November 18, 2014, received on November 20, 2014. We consent to the Town of Phillipstown Planning Board assuming the role of Lead Agency for review of the referenced proposal.

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Thank you for your interest in highway safety.



Very truly yours,



**Akhter A. Shareef**  
**Senior Transportation Analyst**

**cc: Michael Sassi, Traffic Engineering and Safety Group, Region 8**  
**Rock DeNigro, Permit Field Engineer, Residency 8-3**



**PHILIPSTOWN PLANNING BOARD  
MEETING MINUTES  
June 20, 2019**

The Philipstown Planning Board held its regular monthly meeting on Thursday, June 20, 2019 at the Old VFW Hall, 34 Kemble Ave., Cold Spring, New York.

Present: Anthony Merante, Chairman  
Kim Conner  
Neal Tomann  
Peter Lewis  
David Hardy  
Neal Zuckerman  
Dennis Gagnon  
Ronald Gainer, Town Engineer  
Stephen Gaba, Counsel  
Aaron Werner, AKRF

Chairman Merante opened the meeting at 7:30 p.m. with the Pledge of Allegiance. Roll call was taken by Ms. Percacciolo.

**A. Minutes**

The minutes of the May 16, 2019 Regular Monthly Meeting were reviewed.

Ms. Conner moved to adopt the minutes of May 16, 2019 and Mr. Hardy seconded the motion. The vote was as follows:

Anthony Merante	-	Aye
Kim Conner	-	Aye
Dennis Gagnon	-	Aye
Peter Lewis	-	Aye
Neal Tomann	-	Aye
Neal Zuckerman	-	Aye
David Hardy	-	Aye

**B. Return of Escrow**

**Miranda L. Grimm-Juby, Trustee, 977 East Mountain Road South  
TM# 18.-2-11.2, 18.-2-9.1, 18.-2-9.2**

Mr. Gaba reported there is one outstanding charge that needs to be remedied but suggested the board approve the return of escrow conditioned on the payment of such.

Ms. Conner moved to return the escrow of Miranda L. Grimm Juby pending the payment of the outstanding charge and Mr. Tomann seconded the motion. The vote was as follows:

Anthony Merante	-	Aye
Kim Conner	-	Aye
Dennis Gagnon	-	Aye
Peter Lewis	-	Aye
Neal Tomann	-	Aye
Neal Zuckerman	-	Aye
David Hardy	-	Aye

### **C. Public Hearing**

#### **Hudson Highland Reserve, Route 9 & Horton Road**

At the start of the discussion it was noted that the applicant had a representative on site to take a stenographic record of all discussions, which would be made available for the Town's records.

Chairman Merante read an abbreviated version of the public hearing notice.

Chairman Merante stated that on May 16<sup>th</sup> the Planning Board determined that the Draft Environmental Impact Statement was complete for public review and comment. It examines the nature and extent of identified potential environmental impacts as well as steps which could be taken to minimize or avoid adverse impacts. Written comments will be accepted until July 8<sup>th</sup> and should be addressed to the Planning Board. The Chairman explained that the board chose to extend this period beyond the minimum 10 days after the close of the Public Hearing. He requested that anyone who wishes to speak at this public hearing sign in with their name, address and any affiliations. He stated they would first give the project sponsor 5 minutes to give a brief description of the project. Chairman Merante made it clear, this is not a question and answer period, and all comments should be directed to the Planning Board. Comments should be limited to 2 minutes and should be limited to the DEIS. He noted that the meeting is being filmed and all comments will be recorded by a stenographer. It was requested that when it is your turn to speak you approach the microphone and identify yourself. Chairman Merante then asked if any of the board members had any brief comments.

Neal Zuckerman stated he had a couple of points to make and they are directed to the members of the public. He stated that as a Planning Board member he draws on 5 areas of input to ultimately vote: the applicant's word, the code, the board's experts, his own experience and judgement and the input of the public. He stated the public has had some input but most of the airtime has been confined to the first 4 areas he noted. He stated that from all of those inputs he arrived at and voted for a positive declaration of environmental impact with 3 explicit concerns supporting his vote which he has expressed numerous times. Mr. Zuckerman explained that last month when the board accepted the DEIS, which does not mean the Board's agreement with all statements in the DEIS, he again stated those same concerns about this project's environmental impact and was validated with the project's representatives that no changes were offered in this submission that addressed his concerns. He stated that public input on this project is critical and asked that the public be objective and respectful in conveying their perspective. Mr. Zuckerman informed the board as well as the public that he would have to leave the meeting by 9:45 pm.

As no other board members wished to make comments at this time, the Chairman turned the floor over to the applicant's team to give a brief description of the project.

Richard O'Rourke, attorney with the law firm Keane & Beane PC representing the property owner and the chief architect on the project, Ulises Liceaga, stated he would keep his comments brief as this meeting's concept is to hear from the public with respect to comments and questions that they have regarding the document which is the consideration of tonight's meeting. Mr. O'Rourke stated the books that are considerable are present and have been available to the public for some time and shall remain available to the public. He stated a great deal of study has gone into this and has been done with respect to this property, all of which is necessary when proposing a project that is setting aside so much open space and attempting to develop a quality subdivision and equestrian center. Mr. O'Rourke explained the proposal is for there to be a community of what could be termed 'green homes' which means that the homes shall be built to the highest standards in terms of environmental sensitivity and to complement the natural landscape, all to be developed alongside a carefully planned state-of-the-art equestrian facility. He stated the homes are not limited only to owners who intend to board horses at the equestrian facility but are targeted for those that envision using this property for seasonal use and of like-minded residents who intend to encourage and maintain ecological value of this property. Mr. O'Rourke explained the remaining 159.8 acres are to be left untouched and preserved as open space by legal instruments that will keep it as undisturbed open space in perpetuity. According to the conservation analysis previously prepared, the land intended for the preservation is of high ecological and conservation value and will be protected and will maintain the natural integrity for native species that inhabit the land. He continued, because there are some misunderstandings and misconceptions as to what is proposed, including the access points, the proposed development, and the resulting impacts, their consultants will provide a very brief review of precisely what is proposed, what the project benefits are, and why they believe this project is not only good for the community but also for the environment. Mr. O'Rourke stated they are creating opportunities for recreation in a quality development and the analysis that has been undertaken provides a framework of protection and quality development that will ultimately benefit the community on a much larger scale. He apologized because the format of the public hearing and the regulations of SEQRA do not allow questions to be answered this evening, and that by law the questions will be answered in writing as part of the process. He stated they will be responsive in accordance with the law which will require the questions posed this evening to be answered in writing in what is called the Final Environmental Impact Statement. Mr. O'Rourke introduced Steve Gross, the applicant's consulting planner, to give a quick run-through of their proposal.

Steve Gross, principal of Hudson Highlands Environmental Consulting, stated he would give a quick orientation for anyone who might not be as familiar with the project. He stated this is a conservation subdivision which means it's a design that takes into account the environmental constraints and the environmental benefits or features of the property to come up with a design. They started with a conservation analysis that looked at all of the natural resources that were on the property along with the constraints and mapped them out. The map was displayed and showed the darkest reddish areas to be of high conservation value, the yellow shows areas of medium conservation value, and the blue shows the lowest conservation value or potential development area. Some factors that are considered when deeming the conservation value of a piece of land include wetlands and watercourses, native vegetation, and steep slopes. Mr. Gross

pointed out a historic road that runs through part of the property and some existing structures as well as an area that had been subject to some previous occupation and development. He stated the flattest areas of the site are located in the blue area and pointed out other areas where steep slopes exist. Mr. Gross explained the development was planned to avoid the constraints, avoid the steep slopes and preserve the most highly beneficial parts of the property, the most ecologically sensitive parts, especially the wetlands, wetlands buffer, the pond, native areas, native vegetation & high value habitat. He stated they have a lot of invasive species in the area that had been previously subject to development, so the development was clustered into these areas.

At this time, the Chairman stated they would begin hearing public comment, going down the sign-in sheet name by name.

**Lynda Ann Ewen, Glassbury Court** – Ms. Ewen stated she is present representing only herself but stated she is Vice-Chair of the Philipstown Aging at Home Organization and is a member of Glassbury Court, which is a neighbor of this development. Ms. Ewen stated she was looking for clarification as all of this has been very confusing. She stated Michelle Smith wrote a wonderful article in the paper and thanked her for doing so. She suggested anyone who has not yet read it take a look. Ms. Ewen stated the applicant is applying for a conservation subdivision which means a conservator, an organization that says ‘you’ve played by the rules and we will make sure you continue to keep playing’. She stated it is her understanding that the Hudson Highlands Land Trust did not accept the proposal as it was given, which means they have serious questions about whether this is indeed a conservation subdivision. Ms. Ewen then stated that 40 horses is a lot of horses and according to the zoning regulations of the Town of Philipstown each horse requires an acre. She questioned if there is 40 acres set aside for the 40 horses. She stated those were her 2 main concerns.

Chairman Merante asked that the audience not applaud after every speaker as there are a lot of people who wish to speak tonight and the board would like to keep the meeting moving.

**Nat Prentice, Garrison resident** – Mr. Prentice explained he was in attendance to remind the board of the relevance of the Comprehensive Plan to this particular proceeding. He stated he is the coordinator of the town’s Comprehensive Plan Update Committee and was also a member of the special board that wrote the existing plan. He reminded the board the plan is a statement of community goals and sets out a conceptual roadmap as to how to achieve them. Mr. Prentice explained it is not the law but in fact does provide a backbone to the law in very concise and ambiguous language. When the law, in this case the open development zoning law, becomes subject to a variety of interpretations, as it has in this application, he believes there is an opportunity to go back to the Comprehensive Plan and see what it says about open space development, particularly, when this law is being interpreted for the very first time in the history of the town. Mr. Prentice read Chapter 3, Section R 2.4 of the Comprehensive Plan which states: “Allow open space (cluster) development, with safeguards to ensure that such developments do not lead to more development than would otherwise occur and that they preserve open space that the Town wishes to protect.” He repeated, “with safeguards to ensure that such developments do not lead to more development than would otherwise occur” and explained that he does not understand as much about this application as the board does but his interpretation is that because

they are in the Open Space Overlay, if the applicant was applying for a conventional subdivision they would only have the opportunity to build 10 houses. This plan calls for 25 houses and a commercial equestrian center capable of housing 40 horses.

**Susan Anspach, 516 East Mountain Rd S** – Ms. Anspach explained that having attended most of the public hearings held on this proposal she has seen a number of recommendations that would permit development but on a scale that's consistent with the limits of the site. However, this developer seems to think that by utilizing a conservation subdivision designation, which sets aside 159.8 of the 210 acres as undisturbed open space, he can develop however he wants, even if it's inconsistent with the character of the community or the intent of the regulations enabling such subdivisions. Accordingly, none of the suggestions from the public were accepted into the DEIS and thus no changes were made to the initial proposal. As you've heard previously or read in written submissions, there are many concerns that should stand in the way of this project going forward as is. However, at this late date what is even more revealing about the intentions of this developer is his duplicity in addressing the required traffic study for this project. She continued, when neighbors objected to access being on the windy and narrow roads of Horton Street and East Mountain Road North the developer was quick to claim that those roads would only be in cases of emergency and access to the project would be directly from route 9. Apparently, since 2014 the NYS DOT has been asking for details regarding this proposed Route 9 access. After the 2018 Scoping sessions the DOT raised a number of issues; to date those DOT concerns have not been addressed. Ms. Anspach quoted the June 7, 2019 letter from DOT stating "Therefore, under 6 NYCRR Part 617 State Environmental Quality Review (SEQR), as an Involved Agency, we are unable to endorse the DEIS for this project." She concluded, since this is Philipstown's first conservation subdivision, we need to get it right.

**Glenn Lowry, 130 Horton Rd** – Mr. Lowry explained that he and his wife are direct neighbors to this development. He stated they are not against development and actually believe an intelligent and sound land management program that includes housing and potentially a stable is viable. What they are deeply concerned about is the scale of the equestrian center. He requested everyone draw their attention to the idea of a 40-horse barn with all the attendant outbuildings, parking, circulation, waste removal, in the middle of what is already a beautiful environment that's about to be further protected with an easement. He equated it to putting a factory or gravel-pit on Main Street; the scale makes no sense. Mr. Lowry stated he is deeply concerned that this will have a negative impact not just on our immediate environment but on Clove Creek and the nature and natural habitats that are there. He urged the board to go and walk that land and imagine what all of that waste removal will look like, how it's going to function, and the scale of the barn and horses involved.

**Irvine Flinn, Garrison** – Mr. Flinn stated he was in attendance this evening particularly because the previous day our state legislature enacted the Climate Leadership & Community Protection Act which the governor has now signed into law. He stated there is scientific consensus that continued emissions of carbon dioxide, methane and other greenhouse gases caused by human intervention in the natural order will result in catastrophic climate change. The new law sets our state's goal at net zero for such emissions by the year 2050. Mr. Flinn stated we are here this evening to consider the environmental impacts of a proposal to build 25 houses on what is essentially undeveloped forest land abutting a pond and fishing stream. This project is not

designed to provide needed affordable housing for full-time residents of our community. Mr. Flinn suggested it is designed to attract apparently well-to-do New York City families seeking second homes, many of whom will likely drive back and forth on the 50+ miles each way in cars emitting exhaust from gasoline engines and when they're here they won't be walking across the street to Foodtown for their groceries. There will be 25 additional gas emitting cars driving into town seeking space in the Foodtown parking lot. He suggested their city homes will likely remain heated while their new second homes up here will be heated with oil, propane, or maybe electric heat pumps hopefully. If it is heat pumps, where will they get their cleanly generated electricity? Mr. Flinn stated there is nothing in the site plan indicating a solar array.

**Jocelyn Apicello, Garrison** – Ms. Apicello explained that she runs a farm in Garrison and has a small nonprofit called The Ecological Citizens Project and is a volunteer on the Climate Smart Communities Task Force. She explained the precedent that could be set here by allowing a “conservation subdivision” has really compelled her to make her voice heard tonight as a professor of public health who considers housing and land-use decisions as paramount to the public's health and particularly to the health inequities we find in our society today but also as a resident of Philipstown who is proud of this place and really encourages all of us to continue to be a positive model for a healthy ecologically conscious lifestyle up here in New York State. She continued, the truth is this region of the state is poised to take in an increasing population as a result of predicted climate change displacement patterns. She encouraged all to brace ourselves for this by continuing to conserve land and develop smartly; that is to protect important forests and wetland areas that are known carbon sinks and will do more to pull carbon out of our atmosphere than we ever realized, and to discourage the development of single family, detached homes on larger plots that cut off nature from other humans and wildlife, especially in open spaces that are deemed conservation subdivisions. Ms. Apicello stated a recent New York Times article just published reported that in most cities across this country it is illegal to build anything other than single family detached housing in roughly 75% of all land. This trend in detached, large scale, single family housing developments are a result of local zoning laws. The economic and racial segregation that persists in towns and cities across this country is not only a result of federal and private bank lending policies but a result of local zoning and planning decisions. She urged the board to use their power to really make this conservation subdivision be what it's worth.

**D.J. Baker, Garrison** – Mr. Baker stated he and his wife are longtime residents of Garrison. He and his wife support the right of private property owners to develop their property but only in accordance with applicable rules and regulations. He believes that the filing by Hudson Highlands Land Trust is a superb commentary on issues that have been raised by Hudson Highlands Reserve and commend the points they raised to the Planning Board. Mr. Baker stated these are not easy issues or simple questions. There has to be balance between the rights of the property owner against the welfare of the community, of water, of wildlife habitat and of vegetation. He believes it can be done but it will take a lot of thought and effort and compromise by the proposed developer. He stated it will be critically important as to who holds the conservation easement, how the community monitors compliance and what the enforcement remedies are. Mr. Baker stated they have a lot of confidence in the Planning Board and believe they can get it right. He stated this developer has the talent, ability and resources to work with the board to get it right.



**Heidi Wendel** – Ms. Wendel stated she is new to the area and wanted to express her view as a newcomer. She stated she moved here for the hiking and the beauty of this area which is so famous historically. She moved from 114<sup>th</sup> Street in New York City and believes this area is well known for its unbelievable beauty and hiking opportunities. To call this a conservation subdivision is extremely unfair to the new generation of hikers and nature lovers and sends the wrong message to people like her 28-year-old daughter and her boyfriend who love this area for its beauty and historic properties. Ms. Wendel stated in addition to being extremely important to have the first conservation subdivision truly be a conservation subdivision with the qualities that Michelle Smith discussed in her perspective in the PCNR, it's also important to remember that ultimately it will greatly reduce housing prices and the value of properties in this area.

**Celia Imrey, 62 Horton Rd** – Ms. Imrey reported she lives at 62 Horton Road and has been there for 18 years. She stated she would like to understand whether or not it's possible to have a proper set of accountability and responsibility for any type of environmental project going forward in Philipstown. The reason she asks is that Glassbury Court was put into her neighborhood in 2009 with a lot of opposition from that area. The neighbors collected together to oppose it and it was put in as a conservation. However, when she first got to her home in 2001, she could not even step into Clove Creek without being nibbled by trout. There were turtles everywhere and bats in the sky at night. There were so many night noises that she would be woken up and is sad to report that the natural habitat at her home has depleted greatly in the last 18 years, right across from that development. Ms. Imrey stated she has been calling the DEC to ask if someone can come and make a report. She stated she has gotten a permit to restock her stream with trout because she is so disturbed at how few there are. She requested the Planning Board do a follow-up report for Glassbury Court on the environmental impact that it's had on that area already. She stated she is really worried about this project for the same reasons. She urged the board to consider a rigorous accountability for any proposal for the properties.

**Krystal Ford, Garrison Woods Rd** – Ms. Ford stated she is concerned about a couple of things, one of them being water quality. She questioned how up to date the flood zone maps are. She explained that as we have a warming world, we're going to be wetter. She's concerned about the horse waste and septic systems overflowing and questioned how they will make sure the waste doesn't end up in Clove Creek. She questioned how pesticide and fertilizer use is going to be strictly monitored. She also questioned how the horses will impact the wildlife in the area and if wildlife will be scared off.

**Madeleine McGinley, East Mountain Rd N** – Ms. McGinley reported she has been living on East Mountain Rd N for 16 years. She stated she would like to focus on the traffic issues associated with access to the site. She requested clarification on exactly where the main access point will be and if it has gotten approval from NYS DOT. She questioned if a traffic study has been submitted to the DOT. Ms. McGinley explained she speaks for many of her neighbors, current and future neighbors, for whom safety is a priority when questioning about the traffic study. She stated she also speaks for the safety of any potential future neighbors who might live at the proposed Hudson Highlands Reserve. She explained she also speaks as a victim of a very serious car accident at the intersection of Route 9 & East Mountain Rd N, which is currently shown as a proposed access point to the site. She explained that last summer she was waiting on

the southbound side of Route 9 to make the left turn to go home on to East Mountain Rd N when her car was rear-ended and totaled by an 18-wheeler tractor-trailer going over 50 miles an hour and was spun into oncoming traffic. Ms. McGinley stated she suffered trauma and serious injuries and the police explained she was lucky to be alive. She stated the police also mentioned that accidents happen at that spot all the time. Ms. McGinley stated the point is not her accident but the safety of everyone who travels up and down Route 9. She expressed her hope that the Planning Board demand the submittal of a thorough traffic study for review by the DOT and that the applicant would provide mitigation given the additional traffic that the proposed project would generate. She suggested solutions such as a turning lane, flashing lights, or a reduction of the speed limit along that section of Route 9 need to be looked at. She requested the board address 2 letters received from DOT. In the first letter, dated June 20, 2018, the DOT deemed the direct access off Route 9 to the development as not necessary because there are access points on East Mountain Rd N and Horton Road. She stated it is already hard to get in and out of those 2 roads and added traffic and horse trailers would worsen the bottleneck and increase hazards on a road which is already part of the Haldane school bus route.

**Michelle Smith, Hudson Highlands Land Trust** – Ms. Smith stated that 2 days prior the Land Trust submitted a 25-page report with their comments on the DEIS but these 2 minutes would not allow the time to go through all of that. To summarize, she stated their 3 main concerns have to do with wildlife, the definition of open space that's conserved, and the Homeowners Association and equestrian facility management and their environmental impacts. Regarding wildlife, she reported they hired their own experts and believe there are shortcomings in the wildlife studies that need to be remedied. The Trust also believes that there is not sufficient mitigation of impacts on New York species of special concern, those are species that have been declining in population across the state. Ms. Smith stated, on the definition of open space and consistency with the zoning code, you will see that the conserved open space is actually split into 2 different segments that are disconnected; they're not contiguous. They cut off a wildlife corridor and constrict another corridor. Ms. Smith also added that the conserved open space includes the 11-acre equestrian facility which is fully developed and therefore doesn't really have any residual conservation value and therefore the Land Trust does not think it should be included in the conserved open space. Finally, she stated we can not underestimate the impact that the Homeowners Association and the equestrian facility management have on the future environmental impacts. The governance of those organizations will drive what happens with water, with Clove Creek, with the Clove Creek Aquifer and if anything goes wrong with them, if they get into financial difficulty or have problems in their governance, that will have an adverse impact on the environmental impacts of this project; there needs to be mitigation for that. Lastly, Ms. Smith expressed their concern about the loss of biodiversity locally and globally. She stated this is a difficult task and they want this project to work and the Planning Board is on the front lines of ensuring the future of biodiversity in Philipstown and hopes the board will take this information very seriously.

**Scott Silver, Constitution Marsh Audubon Sanctuary & Visitor Center** – Mr. Silver reported he is the new director of the Constitution Marsh Audubon Sanctuary and Visitor Center and thanked the board for the opportunity to speak. He questioned what safeguards are in place for eliminating or minimizing any impact of equestrian trail riding within the center once everything is built and there are 40 horses on the land, generating approximately one ton of manure and

urine a day. He suggested the impact on the surrounding areas will also be very great. Mr. Silver commended the board for the open space zoning law and asked that they respect the spirit of the law as well as the letter of the law when making their decisions. He stated they are very concerned with the loss of biodiversity as well. Mr. Silver stated he understands that it's always a one-way street; we make these mistakes and then we don't have a change to go back and do it again. He requested and expects that the board would be diligent in their decision making.

**Hank Osborn** – Mr. Osborn distributed a copy of a viewshed analysis to the members of the board. He reported he works for the New York/New Jersey Trail conference and they work to protect trails from erosion, overuse, improper use and various other threats. He posed the question, have you ever been to the top of a mountain and seen a beautiful view? A beautiful view that featured a single blemish in the middle of nature? He stated the Hudson Highlands Reserve project site is directly east of one of the most popular parks in the state, the Hudson Highlands State Park. The park includes the number one most popular day hike in North America, Breakneck Ridge. From the top of the ridge there's an amazing view to the east, over rolling hills, over all of Fahnestock park, there's nothing but green hills as far as you can see. There is some development along the Route 9 corridor but it is all concentrated right along the road. All the hillsides above are completely undisturbed. The view is spectacular; you cannot tell where Fahnestock Park begins or ends. He reported the proposed development would be seen from that viewpoint and every other viewpoint along the Fishkill Ridge and Scofield Ridge. There is a total of 11 viewpoints, all of them look directly east across the green hills; the proposed development would be the only blemish or scar in every one of those 11 viewpoints. The houses would be clearly visible from the trails, the equestrian facility would take up far less of the view than the houses but at 160,000 square feet it is the same size as a Walmart Superstore, which is 170,000 square feet. He continued, the proposed development will damage the views and damage the trail experience. He stated at the trail conference they created a viewshed analysis and the data clearly shows that the development will not be hidden at all. Mr. Osborn requested that a genuine viewshed analysis be ordered for this project.

**Lynn Rogoff** – Ms. Rogoff stated she has lived here for 30 years and had received notice in the mail about this public hearing inviting her to attend this evening. She stated she cannot believe that last winter the public gave a detailed and extensive dedicated feedback to the Hudson Highlands Reserve and it appears that they chose rather to expand the plan and gave short attention to the public's major concerns. Ms. Rogoff stated it appears that it was not important to them and they chose to not decrease the equestrian center or the number of houses. She stated they have indoor swimming pools on their website as something that will go in the houses. They, Hudson Highland Reserve, continue to claim on their website that people will not use the community schools, roads and resources but will spend millions to visit once in a while. Their plan still calls for 40 horses and now there are plans for commercial events and classes and manure machinery on their website. Ms. Rogoff reported she has reviewed their website and it states that the central attraction to the development is the equestrian facility and they have determined the equestrian center, clubhouse, paddocks to compose the amenities package for the development including a separate building housing a second indoor arena and spectator area. Ms. Rogoff stated it now appears that they represent that this development will not use community roads, schools and other resources such as our water, light, wildlife and air. It does not make

sense that people would pay millions of dollars and not use our community resources. She says their representation appears to be greenwashing.

**Ray Warner, Cold Spring** – Mr. Warner reported that his family opposes the project and stated the study does not adequately address the affects of 25 houses on the wildlife corridors in the area. What they are most concerned about is the 40-horse equestrian center. He stated this pushes it way over the top and even if the houses were not too much this would clearly be too much. They question whether it adequately addresses the effects the horses will have on wildlife and whether the horses will be limited to the equestrian center or be roaming through the other areas of the property and if so, what effect that will have. He questioned if there is anything in the plan that will prohibit that from happening later on. Mr. Warner added they think the plan does not adequately address the affect of the equestrian center on neighboring wetlands.

**Judy Farrell, Town Board** – Ms. Farrell stated she is on the Town Board of Philipstown and received a copy of the DEIS and read it cover to cover. She stated it struck her on page 27 under *A.2, Public Need for the Project and Benefits*, that the applicants did not discuss the public needs of Philipstown residents but the needs of New York City residents, which was puzzling. Then on page 28 there's a lot of data from the American Horse Council on the economic impact of the equine industry. Ms. Farrell stated she loves horses but putting 40 horses alongside 25 new homes raises many questions that must be answered and not just about the economic benefits. Again, on page 31 there's an analysis on the best places in the US to buy an investment property and again it says that the weekenders are likely to purchase these properties and they're good long-term investment. Ms. Farrell reported it also said a stabled horse produces 50-70 pounds of manure daily adding that with 40 horses that comes out to 2,800 pounds of poop a day in our region. It's a little vague on how that will be handled in the impact. Ms. Farrell urged that we consider the input and speak to, survey, and have focus groups with the residents of East Mountain Rd N, East Mountain Rd S and Horton Road and hear what they might see as an adequate public and community benefit.

**Carli Fraccarolli, Scenic Hudson** – Ms. Fraccarolli stated she is the advocacy associate at Scenic Hudson and is delivering this testimony on behalf of Jeffrey Anzevino, director of land use advocacy at Scenic Hudson. As the first project seeking Planning Board approval as a conservation subdivision the board's review of this proposal will be precedent-setting. As proposed, the applicants preferred alternative E is inconsistent with provisions in the Philipstown conservation subdivision zoning code. Further, it would result in significant environmental impacts. Scenic Hudson believes that the project should be redesigned to be more consistent with the home siting of the applicants alternative D; this relocates 5 residences from the western side of Ulmar pond and clusters them on smaller lots. In addition, they believe that the equestrian facility should be reduced in size and laid out in a more compact arrangement leaving a wider habitat corridor to the south. As proposed, Hudson Highlands Reserve does not adequately meet town requirements for, nor the generally accepted definition of a conservation subdivision. The large house lots sprawl across the entire western half of the property dividing remaining natural areas into 3 separate sections resulting in forest fragmentation and would not protect the important habitat values found on the site. Scenic Hudson also disagrees with the applicant's assertion that removing the 5 homes from around the ponds west side and reducing impervious and disturbed area is inconsequential. Any reduction of impervious and disturbed area is relevant

and consequential and would result in a smaller amount of lower quality edge habitat that would drive away species that rely on these large areas of contiguous forest. Any losses of habitat on this site are a loss to some of the largest and most intact areas of forest habitat in the Hudson Valley. This area is within the Hudson Highlands Significant Biodiversity Area as well as the Hudson Highlands Forest Block designation. A more concerted effort should be made to cluster this development.

Chairman Merante advised anyone who has prepared written statements to submit them to the Planning Board secretary which will be included in the responses.

**Mark Tabashnick, East Mountain Rd S** – Mr. Tabashnick reported the attorney for the applicant says a great deal of study has gone into this project. He disagrees with that and if you look into some of their proposals pertaining especially to the equestrian center you will see that in detail, they want to set up a riding stable, a riding school and a riding camp. They also want to focus their studies on this area of horsemanship called dressage. Mr. Tabashnick stated it is a very disciplined and very expensive type of horse training and is not very well taken by most of the horse community in the US. Most of the horse communities are just about riding professionally, they may be training racehorses or things like that. So, to imply that there was a great deal of study into this means to him that they didn't look at the actual specifics of what they're proposing in their equestrian community. In fact, what would be more likely, and what he suggests the board delve into, is a zoning change to make this a more commercial activity rather than a residential activity and would probably be more appropriate; if they wanted to go ahead and develop a commercial equestrian center, that would probably be something that would be separate from residential. He stated that trying to bring these 2 together does not fall under the scope of what the community wants of a residential facility and if the scale is changed it would likely improve the acceptance. Mr. Tabashnick stated we all try to live together and if this is going to be a facility for everyone that he thinks it has to be addressed that way.

**Bill Schuster** – Dr. William Shuster stated he is a Cornwall resident, a professional ecologist, and has been executive director for 27 years of the nonprofit Black Rock Forest in the Hudson Highlands. In that capacity he has studied extensively Highlands ecology, has published a book chapter on the subject, and has used scientific knowledge and principles to manage the 4,000-acre Black Rock Forest for decades. He stated he is commenting on the DEIS prepared for the Hudson Highlands Reserve proposal to become Philipstown's first conservation subdivision. He stated this is a laudable concept and one that should help our communities live sustainably into the future while conserving natural resources, if implemented appropriately. To qualify as a conservation subdivision the zoning code states such projects must preserve contiguous open space and must protect areas with the most conservation value; in other words, those habitats critical for maintaining populations of our native species that are of special conservation concern. Mr. Schuster's 2 concerns are first that the project as proposed fails to the contiguous conservation criterion by establishing a barrier dividing the conserved parts of the project area and second that the environmental studies today failed to adequately address the local amphibian and reptile species of highest conservation concern and the habitats required by these species. These 2 problems should be addressed first by accomplishing surveys of breeding habitats and species in the seasons necessary, particularly vernal pools, during the April to May breeding season. There's no other way to know what species of concern are on the site. He stated wood

frogs were found on the site and these are obligate vernal pool breeding species; that means there must be vernal pools on site but no appropriate search to locate and map these habitats has yet been accomplished in the March to April time period when they must be evaluated. The Philipstown community should know whether or not a vernal pond requiring species of state level conservation concern, like the marbled and spotted salamander and other wetland requiring threatened species like the wood turtle, are on site. The DEIS as it stands does not present appropriate surveys to draw conclusions on this.

**J. Perry Pitt, Putnam Highlands Audubon Society** – Mr. Pitt stated he represents the Putnam Highlands Audubon Society with over 250 members in the area and stated they appreciate the thought and concern that the Planning Board is giving to this project. He stated it is the Audubon Society's position that the DEIS wildlife assessment for this project does not include essential and sufficient monitoring procedures. The field sightings did not cover the breeding and nesting times. For most species it did not cover a long enough period of time to establish the biological diversity that these lands support and what species breed and nest on site. In the DEIS the wildlife sightings and existing conditions are included with 4 field date visits on May 6 & 26, July 9 and August 1, 2015. 4 field study visits is simply too short a time span to conduct meaningful monitoring of birds. The absence of breeding bird surveys and counts for birds to determine they are not nesting have been omitted or not done. They ask the Planning Board to consider this is a conservation project and is the first of many. It must be the environmental model with real seasonal monitoring assessments with environmental standards and limits that any future project must adhere to before any consideration to the town.

**Karen Ertl, Garrison** – Ms. Ertl stated her intent was to remind everybody in the room that almost 2 years ago today the Town of Philipstown signed a Climate Smart Community agreement. She stated the County, just a few weeks ago, unanimously voted in a Climate Smart Community County. The agenda of that initiative is to look for ways to be smart about our climate and our development. She stated that while she understands and accepts that development is inevitable, and commended the board for doing an impact report, she thinks that now 'the rubber hits the road'. There are 2 bipartisan legislations in the state that would strengthen the protection of local wetlands and streams. Current DEC protection only covers areas that encompass 12.4 acres or more and it has to be on a DEC approved map. Ms. Ertl reported New York State is the only state without such corridors for small wetlands. More than a million species are at risk. This legislation would protect smaller wetlands, rivers, streams, creeks, lakes and wildlife. She encouraged the board not to hurry this project through but to see what the state of New York is doing to protect our small wetlands. She asked that the board please understand that it is setting the precedent for what a conservation subdivision looks like in the Town of Philipstown.

**Irene O'Garden, Garrison** – Ms. O'Garden stated she lives in Garrison but she knows this land and Ulmar Pond well. She stated she lived there for 12 years and walked much of this property. As it says in the environmental impact statement, most of the observed wildlife is right around that pond, kingfishers, geese, etc. So, one of the things she would like to see happen is those 5 houses be removed from the west side of the pond and conserve what is irreplaceable. She stated she fully supports HHLT's 8 recommended actions. Ms. O'Garden stated she is also concerned that, according to page 38 & 39 of the environmental impact statement, the critical maintenance

of the pond, stormwater management, wastewater, is going to be the responsibility of a Homeowners Association. She stated she looked this up and a HOA is essentially like a not-for-profit organization; people get elected to the boards, it's generally a volunteer thing. She stated she's sure that people who live in New York City and have a second home might want to get really involved in the HOA but they might just want to hire a management company, which plenty of people do, and it's very difficult to have any kind of legal proceedings against that. She explained that one of the things that makes the land so attractive is the land that she and her husband donated, 27 acres that is right next to it, that then became Clove Creek Preserve. She stated there is frequent mention in the statement about exotic and invasive species and noted that humans too can be a pretty invasive species. Ms. O'Garden stated that sustainable houses are a worthy goal but suggested we sustain the habitats that surround them and that our first conservation subdivision should serve as a model for those to come after as one day we will be absent but these decisions will live on.

**Andy Galler** – Mr. Galler explained he is a member of the Philipstown Conservation Board and he lives about as far away from this project in southern Garrison as one can in town. He stated he has read the binder cover to cover and is very familiar with the project. Basically, the intent of SEQRA is very, very specific and that is for the applicant, the developer, to work with concerned agencies and the community to balance environmental impacts with the effects that would happen on the economy and social aspects. Looking at the DEIS he was exceedingly disappointed. He stated if you take the Scoping document and compare it to this DEIS, and asked that the Planning Board and their experts focus on this tremendously, he thinks what you will find is huge areas of deficiency, old data, questions not asked and alternative plans cherry-picked so they're not really realistic. Mr. Galler then requested everyone look at the economics of the project. The housing market is flat and probably going to remain flat not so much because of the economy but we no longer have the \$10,000 deduction and millennials really don't want houses. So, all of a sudden, we have a complex that has intense mitigation that needs to be kept up continually but what happens if only 2 houses are sold or even only 10 houses are sold, is this feasible? Who is going to take care of it after that? He urged everyone, including the board, to really think about that.

**Mickey Deneher** – Mr. Deneher stated the idea is not to say no but how do we say yes? He stated he has been in Philipstown for 18 years and loves the community and how everyone takes care of it. He stated his concerns are also the scale and the concentration of the houses and the equestrian center. One of the things he has been thinking about is that the equestrian center is open to the public, so what's the volume there? He questioned if the houses will in fact become Airbnb's and what the volume could be there. He stated there's been talk of a traffic study and that the amount of accidents that have been happening lately are just too much; Route 9 gets closed down all the time. There is talk about the manure as it being held on site for 14 days, that's almost 20 tons, and then it's got to be transported out. He questioned what happens with that if there is a problem on Route 9. Mr. Deneher reiterated the fact that we don't want to say no, we want to say yes and see Philipstown go forward but we also want to see Philipstown maintain the beauty that everyone here believes in.

**John Benjamin** – Mr. Benjamin reported that he was born in Butterfield hospital about 74 years ago. He stated he would like to speak about manure and trout. Mr. Benjamin explained he

doesn't know much about horses but Rutgers University does and referred the board to their study that the Rutgers Equine Science Center did, a document that can be looked at online labeled '*Horses & Manure*' *Fact sheet #036*. Mr. Benjamin stated he was astounded to read that the average thousand-pound horse produces 10 to 12 tons of manure a year. If you do the math, 40 horses, that's 400-480 tons of manure a year. He stated it's also interesting that the state of New Jersey considers such large commercial equine centers to be concentrated animal feeding operations (CAFO). CAFO's are tightly regulated by the state in the hopes of preventing NPK nutrient pollution as well as vermin and pathogen introduction into adjacent aquifers, wetlands, ponds and/or streams. On the other hand, Mr. Benjamin reported he does know a great deal about trout and brook trout and about clean, clear streams and fishing. He stated he was born and raised in Garrison and has fished many of the small brooks. As a guide in Colorado and as a Trout Unlimited member, he stated his knowledge has grown over these 73.5 years.

**Adam Hird, 63 Horton Rd** – Mr. Hird reported that he is actually a professional real estate developer. He stated he has developed over 4 million square feet and has actually never seen a project get this far along without a traffic study. His understanding is that the state has denied the direct access to Route 9 and we don't know, as he stands here today, how they're accessing the property. He stated there has been talk of traffic and accidents on Route 9 but we also know that East Mountain Road and Horton Road are tight roads. Mr. Hird opined that this really needs to slow down, there needs to be a traffic study and the access needs to be figured out before it can go any further.

**Richard Butensky** – Mr. Butensky reported that the law says that an applicant may increase the permitted number of dwelling units by use of density bonuses granted at the discretion of the Planning Board. The applicant seems to think that they have a right to it but it's at the board's discretion. The density bonus as described shall not be considered an entitlement, that's what the law says, though it seems some people think it is. Preserved open space must not result in fragmentation of the open space land in a manner that compromises its conservation value; it says that in the law and Mr. Butensky expressed he thinks it's been compromised. The configuration of the open space land and dwellings shall not result in fragmentation of the open space land in a manner that interferes with its proper management and protection of its conservation values. The final determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the planning board. It is not made by the developer, it's made by the Planning Board, that's in the law. Mr. Butensky stated there's an old joke, this guy prays to win the lottery, he prays and prays and prays and says "I'm a good man". Day and night, three times a day he prays. Finally, after years and years he's there praying and he hears a voice and it's God and he says "meet me half way, buy a ticket". They need to buy a ticket. This is conservation.

**Hadrien Coumans** – Mr. Coumans stated he was here representing a family that has been indigenous to this area for 12,000 years. He is co-director of Lenape Center, an indigenous organization. He stated they have been praying on this mountain since 2005, elders coming from Oklahoma, Wisconsin, Canada, South Dakota, Arizona and New Mexico and they know that this is a place of great sacral significance; this mountain should be left in peace. He stated he is part of an effort to bring the people home, the original people. They don't want this type of disrespect to continue anymore. He stated it is time to respect what we have in terms of our responsibility to



it and stop playing around with ideas of short-term thinking and short-term profit that only enhance the lives of maybe a minority and a few. Mr. Coumans stated we are all in this together but at the end of the day this is indigenous homeland; this is land that has deep spiritual religious significance and it must be left alone.

**Madeline Rae** – Ms. Rae explained that when she first was looking into the LLC that is behind this project, she was taken aback that they didn't put their names to it and that it was a blind LLC. So, she looked at the architect whose name is on all the filings and his address matches the address of the LLC, it's the same one. It's in New York, 91<sup>st</sup> Street, and also that address is shared with a construction company. So, right now, she knows who the developers are because they're all living together or working together in New York City. And not that that's a crime or means that it shouldn't be done or developed, but it seems to her that these people can move this development anywhere. The cons tonight outweigh the pros. They live in NYC, they're just looking for a place to put an equestrian subdivision. She stated equestrian subdivisions are the latest fad in subdivisions in America, California, Texas, Florida, the Carolina's. Golf subdivisions are played, they're saturated, so now they're doing subdivisions with horses. Ms. Rae reported these are first-time builders of this subdivision. If you go on the architect's website there's not a 25, 1-acre home development on the site. The construction company, there's not a 25 home, 1-acre development, there's not an equestrian center. The architect says on his site that he is the general contractor of all his projects which include homes and interiors. She stated she does not know how this is our first project and it seems to her that we have to trust these first-term developers who are just looking for a fad. They're just developers to make money promising us a lot of tax dollars. She questioned, what if this development turns into a 501-C and if that has an implication on our tax dollars, she does not know. She stated the board does not have a crystal ball but it does have a responsibility to pass the baton as stewards to the next Planning Board members.

**Alan Brownstein** – Mr. Brownstein informed the board that he and his wife Patty moved here in 2015 after deciding in 2005 that they were determined to move here. He stated they live in Glassbury Court which is less than 1 mile from the site. They live there with nearly 200 other residents. Mr. Brownstein stated he does not know the views of all the other residents of Glassbury Court as to whether they support or oppose the project but he does know that there is considerable concern and that concern is noticeable by the number of people from that community that are present tonight. He asked that everyone in the room from Glassbury raise their hand. He stated his point to the board is that there is a large community here with considerable concern about the decision that is being made. He stated the expertise here and the process that is taking place is excellent and it is important to avoid a mistake with this decision because once a mistake is made it cannot be undone. Mr. Brownstein questioned if people know the difference between an optimist and a pessimist and stated the answer is simple, the pessimist has better data. He stated he is impressed with the fact that many of the questions being raised are data-driven and looks forward to a good decision by this Planning Board.

**David Gordon** – Mr. Gordon stated that on the surface the development of only 39 acres of a 210-acre site sounds ideal, but the devil is in the details usually. There's good reason that 171 acres were left undeveloped and are not going to be ever developed and those acres tend to be on terrain that's too steep and too wet to be considered. The proposed development of 25 LEED

platinum-level certified homes and 40 horse barn dressage complex will effectively split the 210 acres in such a way as to preclude the natural and safe passage of any wildlife along this corridor. And poor old Clove Creek takes yet another hit of a magnitude that it can ill afford. Perhaps someone could explain the section in the DEIS on page 14 section *B.2.C entitled Forest Fragmentation Impacts*. Its concluding sentence states “there will be no true fragmentation though there will be some habitat perforation.” Mr. Gordon suggested the use of the adjectives ‘true’ and ‘some’ seemed to be quite telling and stated it sounds like ‘being a little pregnant’. He concluded, we here in Philipstown have more than 25 of these designated conservation subdivisions, let us not lower the bar and set a poor example in this, the first test of this enlightened zoning mechanism.

**Ann Hammond** – Ms. Hammond explained that her family has lived on East Mountain Rd S for 50+ years and she had written a letter to the Planning Board last year. She reported that not one point in that letter was addressed in the DEIS and nothing was changed in the plan. She reported she has also submitted a 7-page letter which she dropped off yesterday and sent via email the day before. Ms. Hammond stated she realized the 1 thing no one has mentioned, maybe someone has thought about it, but we’ve talked a lot about the tonnage of manure going out, well, this is completely unstainable, environmentally. Everything those horses eat has to come in too because they can’t live on 11 acres. In fact, they’re not even really allowed out. She stated, we will leave aside the fact that these are actually sensitive herd animals that need to graze for health, that’s not the point of the DEIS although it is, in her opinion, inhumane. But, all of that food has to come in on great big trucks because they’re not allowed grazing out there on that land. So, however many thousands of pounds of poop are going out just as many is coming in, in great big trucks, on those two tiny roads that you can barely get out of already because we know now that DOT is not letting them out on Route 9. She opined that a lot has yet to be considered about this project and she does not like how casually all of the assumptions that it will all be okay are being made in the document.

**Steven Loria** – Mr. Loria reported that he lives on East Mountain Rd. He stated that he had submitted a letter back in February of 2018. He stated he did not have the time here tonight that it would take to restate all the already made points from the Hudson Highlands Land Trust and all of the public comments and letters and points made against the project, however is in complete agreement with those arguments. He wished to also highlight the points of other concerned citizens here in Philipstown including the individual from the NYS Trails Conference and the impact on the views, it’s really important to consider. He also supports the comments made about how this project is completely inconsistent with the Philipstown Comprehensive Plan and existing code related to the subdivision. This project will set a horrific precedent on future developments to be considered under that. Several other points he wished to also reiterate are the impacts on the water aquifer as well as the amount of water the project will be consuming with 25 houses and 40 horses, the numbers are astonishing. The manure that those horses would produce is also a significant reason not to allow this development as is. The traffic situation and how the DOT comments will be addressed is something he would like to know. He is concerned that if the decision is to move access to East Mountain Rd N how that would create a more dangerous situation than already exists. For those people that are making left turns on EMRN from Route 9, it’s already dangerous as cars pass on the right-hand side. He questioned if this board allows that type of access if it will take responsibility for the accidents that may cause.

**Craig Muraszewski** – Mr. Muraszewski stated he lives at the very bottom of the proposed plan, where the road would enter. He stated in purchasing his home two and a half years ago he had no idea, no plan, there is no sign, there is no proposal that there would ever be 25 homes and an equestrian center across from the 9 acres of property that he purchased, nor would he have put his family's life savings into a home that was abandoned essentially to know that suddenly 25 homes would be across the street from him. That being said, in his first year there they called the Sheriff's Department and 45 minutes later someone showed up. He questioned if Philipstown or Putnam County has put any plan in place for fire, additional police, ambulance or anything to assist these homeowners because at the moment when you call it's all volunteer for the Fire Department, the Sheriffs are very stretched and the ambulances are also volunteer. His last comment was to question if anyone has thought about the mental health of the people of this community, the noise, the traffic, the anger that this will bring upon the people who live within that area. He suggested we really have to think about the mental health of what people will feel; the stress on the road, being bombarded by trucks and the sounds of chainsaws and every day drilling, all of that noise. He stated there's a reason that all of these people pointed out several things here. The law is in place to protect land and they were written for reasons and the board is here to uphold those laws.

Mr. Werner stated he wished to point out, because a lot of stuff was raised about the DOT comments that, in addition to the public comments that we're hearing tonight and that are coming in in written form as well by the July 8<sup>th</sup> deadline, the DEIS was also circulated to the interested and involved agencies after it was accepted last month. So far there's been the DOT comments, again that just came this month, requesting some additional information from the applicants traffic consultant, among other items. Since these comments came from an involved agency the applicant is required to address those for the Final EIS and it is Mr. Werner's understanding that they have already agreed to do that. As far as the next steps here, the July 8<sup>th</sup> deadline is for written comments, that will remain open. Once that is expired all these comments that have been given tonight, which have been recorded by a stenographer, which are also on video and in written form, will be compiled by the applicant and their consultants. They'll share those with the board's consultants for review prior to releasing them to you guys to review them for official release on preparing the FEIS. So, at the July meeting there should be a set of comments put together by the applicant's team, reviewed by the board's consultants first, given to the board and then at that meeting the board can officially release them to address those for the FEIS. Mr. Werner continued, the FEIS, the SEQRA regulations have a minimum 45 days from the end of the public hearing is when the FEIS should be filed but that can also be extended under different circumstances should it be necessary. We will have to wait and see at the next meeting if we need to do that but for now these comments will all be compiled and shared with the consultants first and then we'll talk about them at the July meeting.

Chairman Merante questioned when this will all be ready for public review. Mr. Werner explained that after the July 8<sup>th</sup> deadline, between then and the July 18<sup>th</sup> meeting those comments should be all put into written form by the applicant's team summarizing what's been heard this evening, what's been sent in writing. They have to categorize them by topic in the DEIS and then those should be shared with the Town's consultants. The consultants will review those before

providing them to the board and then at the meeting on July 18<sup>th</sup> we'll review them all as a group and the board will decide if it wants to go ahead and give them the green light to go ahead and start addressing those for the FEIS.

Mr. Gaba stated he would just like to point out for everyone who spoke tonight that the board necessarily had to limit the amount of speaking time because of the large number of people who appeared this evening. As Mr. Werner alluded to the written comment period is open until July 8<sup>th</sup> so if anyone had something that they wanted to say that they didn't get a chance to get out in their 2 minutes or if they simply wish to reinforce what they said, you can submit written comments to the board up to July 8<sup>th</sup> and your comments will be considered. Mr. Gaba explained to the Chairman, what Mr. Werner was speaking about as far as the next step is that in order to prepare the FEIS the applicant has to put together every comment and question that has been raised and then address that in the FEIS. So, what's going to happen next is we're going to get a compilation of all the comments that you've heard, and you want to make sure all the comments are included within it so if there's something that's left out you have to point it out, and when the board is satisfied that all of the comments, all the issues raised are in that then you give the applicant the green light to prepare the FEIS and that is what's going to happen at next month's meeting.

Mr. Zuckerman suggested that sounds like an odd process. The public speaks, the applicant writes down what the public said about the project – it's strange – and then come back and tell us what these people said about their project?

Mr. Gaba explained they are going to address the comments. Mr. Zuckerman questioned who is writing the list of all the comments?

Mr. Gaba stated the applicant is. Mr. Gaba stated there will be the stenographic record to review as well. He stated that is just the first step; the second is preparing the FEIS to address those questions and comments. That document will be put together saying how those were addressed and why and how those potential environmental impacts are being mitigated, but that's a step beyond what's going to happen in July.

Mr. Gainer stated that as has been described already by the consultants, all the comments received, both written and verbal, are going to be assembled. That's going to be done through the Planning Board Secretary, and with the receipt of the stenographic record, and then formally the board is going to submit that record to the applicant and ask them to respond. So, there's going to be significant effort to put together all those comments to assure that the compilation is complete and is formally transmitted from the Planning Board, as lead agency, to the applicant with the direction to respond to all comments raised.

Mr. Werner stated we are giving the applicant first crack at compiling the comments for review by the Planning Board, approving them, and then going ahead and addressing them for the FEIS after the July meeting. A member of the public questioned what happens then. Mr. Werner explained, July 18<sup>th</sup> is when the board will officially release the set of comments for the applicant to address in the FEIS, which could take a while to develop but, in that document, there will be responses to all the comments raised. There will be responses to the DOT and any other involved

agency comments that come in between now and July 8<sup>th</sup>. Mr. Werner noted that the board is welcome to also submit comments by July 8<sup>th</sup> and the consultants are also going to have some comments as well.

Peter Hoffman of Garrison approached the microphone and questioned when the board anticipates that there will be a conclusion to these deliberations. Chairman Merante stated they do not have an answer for that question.

Mr. Gaba explained the way that it works is the FEIS will be prepared by the applicant and submitted to the board. The board will consider it much like they considered the DEIS and determine whether or not to accept it, whether all the comments have been adequately addressed, all of the issues were addressed within it. Then, once they accept that the board will go on to consider a document called a Findings Statement, and the Findings Statement is going to determine whether or not all of the identified potentially significant adverse environmental impacts have been mitigated to the maximum extent practicable or, if they haven't been, do you have to make changes to the plan in order for that to occur or, if they can't be, whether the application should be denied because they're not. So, the Findings Statement is, he thinks, the penultimate step before determination is made on this, and we can't give a time as to when that's going to occur. It's going to depend in large part on how soon the applicant turns around submitting the FEIS and whether it's complete once it's submitted.

Ms. Conner moved to close the public hearing except for written comments which will be accepted through July 8<sup>th</sup> and Mr. Tomann seconded the motion. The vote was as follows:

Anthony Merante	-	Aye
Kim Conner	-	Aye
Dennis Gagnon	-	Aye
Peter Lewis	-	Aye
Neal Tomann	-	Aye
Neal Zuckerman	-	Aye
David Hardy	-	Aye

Ms. Conner moved to adjourn the meeting and Mr. Tomann seconded the motion. The vote was as follows:

Anthony Merante	-	Aye
Kim Conner	-	Aye
Dennis Gagnon	-	Aye
Peter Lewis	-	Aye
Neal Tomann	-	Aye
Neal Zuckerman	-	Aye
David Hardy	-	Aye

The motion passed unanimously and the meeting adjourned at 9:16 pm.

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

Respectfully submitted by,

Tara K. Percacciolo

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