

Statement of:

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Director of Land Use Advocacy
Scenic Hudson, Inc.**

**Town of Saugerties
Town Board**

**The Villas
Proposed Rezoning from Low Density Residential (LDR)
To
High Density Residential (HDR)**

December 5, 2023

Scenic Hudson, Inc. fights threats to the Hudson River and natural resources of the Hudson Valley. We also seek to advance projects that adhere to our established principles and values as outlined in our published guide, *Revitalizing Hudson Riverfronts*. The Scenic Hudson Land Trust preserves land and farms and creates parks that connect people with the inspirational power of the Hudson River. We review many projects throughout the Valley during environmental review processes under the State Environmental Quality Review Act (SEQRA) and add our voice to those of community members for consideration by planning boards or other lead agencies.

Scenic Hudson has submitted substantive comments to the Planning Board on December 6, 2022. We appreciate that the Applicant has taken several steps intended to address our concerns:

- Moving the southernmost buildings (3 & 4) 30' to the north;
- Moving the dumpsters 20' from the property line and providing screening with an eight-foot fence and plantings;
- Commitment to Dark Sky or equivalent lighting; and
- Agreeing to produce a sign with Falling Waters Preserve hours of operation and park rules and post it where project trails enter the preserve.

Our specific comments relative to the rezoning and project are as follows

Visual Impact of the Proposed Rezoning

Central to Scenic Hudson's mission is the protection of scenic resources, particularly views from and to the historic resources such as National Historic Landmarks, Scenic Areas of Statewide Significance, and the Hudson River itself. The proposed project is located in the Ulster North Scenic Area of Statewide

Significance (SASS) on slopes above the Hudson River and prominently visible from the Hudson River National Historic Landmark District.¹

Having only received visual simulations yesterday, our initial review of the simulations finds that the northernmost buildings are quite visible from Tivoli Landing, a public park within the National Historic Landmark District. We were always under the impression that these buildings would be screened by existing trees. Further, the simulations demonstrate that the proposed buildings are substantially larger than the existing structure proposed for demolition. Given the potential for adverse visual impact on a National Historic Landmark and the project's need for a US Army Corps of Engineer's permit, a review under the provisions of Section 106 of the National Historic Preservation Act of 1966 will be required.²

If during the Section 106 Review, the National Park Service determines that the visual impact would constitute a "direct effect" on the National Historic Landmark, compliance with Section 110(f) of the National Historic Preservation Act is required. Section 110(f) requires that Federal agencies exercise a higher standard of care when considering undertakings that may directly and adversely affect NHLs. The law requires that agencies, "to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark." In those cases when an agency's undertaking directly and adversely affects an NHL, or when Federal permits, licenses, grants, and other programs and projects under its jurisdiction or carried out by a state or local government pursuant to a Federal delegation or approval so affect an NHL, the agency should consider *all prudent and feasible alternatives to avoid an adverse effect on the NHL*. (Sec. 110(a)(2)(B) and sec. 110(f)) (emphasis added).³

We also recommend that if it has not already been apprised, the Village of Tivoli should be notified of the rezoning petition so that the Village can participate in this review.

Lack of Proper Notice

Scenic Hudson did not receive public notice regarding this public hearing, nor of the hearing last September. As an adjacent property owner we should have been notified. As a result, our staff has not had the opportunity to thoroughly review the latest iteration of the plans. We respectfully ask that, given this and the upcoming holidays the, Town Board keep open the public hearing another 60 days.

Conclusion

Scenic Hudson is well aware of Ulster County's pressing need for affordable senior housing, and we applaud the Dominican Sisters for working to address that need. That said, the project site is constrained by federal wetlands, a floodplain, and steep slopes, which limit suitable areas for building. The site is also between the end of a cul-de-sac with an established neighborhood single family homes and Falling Waters Preserve.

¹ https://npgallery.nps.gov/NRHP/GetAsset/NHLS/90002219_text

² <https://www.achp.gov/digital-library-section-106-landing/national-historic-preservation-act>

³ <https://www.ecfr.gov/current/title-36/chapter-VIII/part-800/subpart-B/section-800.10>



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Finally, the site is in the Ulster North Scenic Area of Statewide Significance and directly opposite the Hudson River National Historic Landmark District. Therefore the utmost care is required in site planning for this project.

Given we had just been apprised of the public hearing, Scenic Hudson respectfully requests that the Town Board keep open the public hearing so that our staff can thoroughly review the plans and determine if it is even appropriate to rezone the property before all its approvals, including Section 106 Review are complete.

Thank you.