

December 6, 2022

By email: chowardpost@gmail.com
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Subject: Scenic Hudson comments on The Villas Residences, 49 Spaulding Lane

Dear Chairman Post and Members of the Planning Board:

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.

The Dominican Convent of Our Lady of The Rosary (Dominican Sisters) has applied to rezone their +/-29-acre Villa St. Joseph property to facilitate the development of The Villas Residences, a project consisting of 122 units of affordable housing for seniors. The project location is adjacent to Scenic Hudson's Falling Waters Preserve.

As background, Scenic Hudson and the Dominican Sisters enjoy a collaborative relationship dating back several years when we acquired 149 acres from the Sisters and created Falling Waters Preserve. The Preserve features a meadow with outstanding views of the Catskills, picturesque waterfalls, rock ledges that slant precipitously into the river, and the remains of the Mulford Ice House, a windowless building that held 10,000 tons of ice "harvested" annually from the Hudson River. It is no wonder why Falling Waters Preserve is a favorite of many Saugerties residents, as well as others who travel to the Town to enjoy the Preserve. Scenic Hudson commends the Dominican Sisters' decades of commitment to these ecologically important properties. Without their stewardship, Falling Waters Preserve would not be the beloved community asset that it has become.

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, we must also acknowledge that the project site is constrained by federal wetlands, a floodplain, and steep slopes, which limit suitable areas for building. Additionally, the site borders Scenic Hudson's Falling Waters Preserve; is directly opposite the Hudson River National Historic Landmark District¹; is located in the Ulster North

¹ National Historic Landmarks are historic properties that illustrate the heritage of the United States. The over 2,600 NHLs found in the U.S. today come in many forms: historic buildings, sites, structures, objects, and districts. Each NHL represents an outstanding aspect of American history and culture. Federal funding or approvals that affect historic properties are

Scenic Area of Statewide Significance and vehicular access is limited to one quiet residential street. Therefore, the development of the site requires thoughtful planning and good design. To that end, SEQRA requires reviewing agencies to take a “hard look” at proposed actions and ensure that any identified significant adverse impacts are mitigated to the greatest extent practicable. To make a determination of nonsignificance, the lead agency must determine either that there will be no adverse environmental impacts or that the identified adverse environmental impacts will not be significant.

Our comments—based on staff review of the application as well as visits to the project site, Falling Waters Preserve, and the Tivoli waterfront—are offered in the spirit of collaboration in order to avoid, mitigate and/or minimize impacts to these important resources. The comments relate primarily to the project’s visual impact on Falling Waters Preserve, the nighttime visual impact when viewed from the Hudson River National Historic Landmark District across the Hudson River in Tivoli, and ecological concerns related to excessive filling of the federal wetland, floodplain impacts, loss of tree cover, and potential impact on listed species. In addition, Spaulding Lane residents have contacted us to express concerns about the proposed development. While there are concerns about impacts related to traffic and the visibility of Buildings 3 & 4 from adjacent properties, these are not directly related to Scenic Hudson’s mission. However, we hope these impacts will be taken seriously and that the Planning Board, Applicant, and neighbors will work collaboratively to address these concerns.

Visual Impacts

Nighttime Visual Impacts on the Tivoli Waterfront

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.

Related to the project’s visual impact is how site lighting will appear at night from the Tivoli waterfront, which is in the National Historic Landmark District. The Part 3 FEAF Supplemental Narrative discusses lighting in several places. We commend the Applicant for proposing “Dark Sky-approved or equal,” shielded fixtures so that lighting does not trespass onto adjacent properties and bollard lighting for pedestrian paths.

regulated principally by Section 106 and Section 110(f) of the National Historic Preservation Act. Under Sections 106 and 110(f) of the Act, Federal agencies must “take into account” the effects of their undertakings on historic properties and afford the Advisory Council on Historic Preservation an opportunity to comment on the undertaking and its effects.

Part 3 EAF Supplemental Narrative provides simulations from the Tivoli waterfront, however, these demonstrate views during daylight hours and do not show how site lighting of buildings and streetlights would appear from the waterfront. We appreciate the applicant's proposal to use dark sky compliant lighting, but recommend a nighttime simulation in order to understand how the proposed lighting would impact the view.

Visual Impacts from Falling Waters Preserve

While the Part 3 EAF Supplemental Narrative provides simulations from the Tivoli waterfront, an additional simulation is needed from the red trail in Falling Waters Preserve. The proposed Buildings 3 & 4, which would be four stories tall, are set back less than 70' from the Preserve's property line and would be visible from the popular Red Trail leading to one of the waterfalls in the Preserve. Very little vegetative screening exists currently to help buffer the building from view. Exacerbating the potential for impact, an access road is proposed just a few feet from the property line and trail. The proximity of the access road would result in vehicles operating within approximately 25' of the trail and the road's 22' width leaves little room for the planting of vegetation screening on the development site.

Further, the introduction of streetlights within close proximity to Falling Waters Preserve could have an adverse impact on migratory birds and other fauna in the Preserve. While "Dark Sky-approved or equal," lighting is proposed, we would like to understand how the lighting from streetlights and Buildings 3 & 4 would impact the Preserve.

Therefore we request a leaf-off visual simulation also be done showing the worst-case scenario of site lighting.

Mitigation of Visual Impacts from Falling Waters Preserve

Should the Visual Analysis/Simulations find that Buildings 3 & 4 would be prominently visible from the Red Trail and site lighting would impact the Preserve, we recommend the following in order to help avoid, mitigate or reduce this visual impact:

- **Remove the access road around the eastern side of Buildings 3 and 4.** Removing the access road from the eastern side of the buildings would provide an extra 22' of width in which to plant vegetative screening and would avoid the visual and noise impact of vehicles adjacent to the property line and trail. Further, the road would result in additional avoidable impacts—increased impervious area, unnecessary fill, excessively tall retaining walls, loss of available land for reforestation, and outdoor lighting impacts on wildlife in Falling Waters Preserve. The Applicant has indicated that most people who will live in the building and their guests and deliveries would enter the parking lot on the western side of the building and exit the same way they entered. It is our understanding that the road continuing around the building is primarily for emergency vehicle access. Removing this portion of the road from the plan—or at least significantly narrowing the road—would leave more room for vegetative screening and limiting access to one

way would reduce the visual impact and noise from vehicles using the road on people enjoying the Preserve.

- **If the access road is absolutely necessary, reduce its 22' width and restrict it to one-way emergency vehicle use.**
- **Planting evergreen trees along the property line and other fast-growing trees and understory plantings between the access road and building.** When a planting plan becomes available, Scenic Hudson would like to review it and provide further specific recommendations to the Applicant and Planning Board regarding the use of native plants that can buffer the building from view.
- **Likewise, we would like to review copies of the building elevations when they become available.** The use of natural building materials, earth-tone colors, and non-reflective glass can help mitigate the building's visibility.
- **The Dumpster Area for Buildings 3 & 4 is only a few feet away from the Preserve's property line.** Could this be moved to the north end of the parking lot and those spaces shifted to where the dumpster area is now indicated? If the dumpster area must be adjacent to the Preserve, it should be screened with a wooden fence and plantings. As an aside, we do not see a dumpster area for Buildings 1 & 2.
- **Finally, would it be possible to move Buildings 3 & 4 slightly to the north and away from the park's boundary?**

Ecological Impacts

In general, our staff review of the plans has found that the ambitious building program and associated access roads, parking, and stormwater infrastructure require an overabundance of grading, fill and retaining walls, much of which infringe on wetlands and buffers. Further, the access road leading to Buildings 3 & 4 would result in a stream crossing built on 13' of fill, the filling of 14,000 sf of federal wetland, and constraining a 98' wide floodplain into a 6' culvert. In addition, the plan proposes building siting that requires the clearing of dozens of large specimen trees and would result in the construction of large buildings and parking lots sited within close proximity of property lines. We are also concerned with impacts associated with the proposed access roads that completely encircle Buildings 1 & 2 and 3 & 4 and highly recommend that these be removed from the plans.

Scenic Hudson is concerned about the potential for impacts related to the construction of the access drive to Buildings 3 & 4 across a +/-100' wide section of federal wetland. The plan proposes a 13' tall berm and culvert only six feet wide. The headwaters and upper reaches of this stream extend west of Route 9W and into commercial and residential neighborhoods of the Town. As such, its watershed is likely to capture large amounts of stormwater that would need to be conveyed downstream through the development site and Falling Waters Preserve into the Hudson River.

Scenic Hudson highly recommends a bridge crossing in order to avoid wetland and floodplain impacts and provide better species connectivity along the stream corridor between the Preserve and areas upstream. Through discussions with the Applicant, it is our understanding that three alternatives were considered: a bridge, half culvert, and full culvert. It was indicated that the bridge was removed from consideration because of cost considerations and a sense that it would not provide substantial ecological benefit over the half culvert. Scenic Hudson would like to review studies of reports that addressed cost vs. ecological benefits of the bridge vs. half culvert. Further, the applicant should provide engineering calculations that demonstrate that the culvert opening is sized sufficiently to accommodate the more intense 500-year storm events that the region has experienced over the past few years.

Tree Clearing

We are concerned to see the large number of mature trees that are proposed to be cleared as a result of this plan. As a result, we highly recommend a robust reforestation plan that would plant new native trees of significant size in order to offset the loss of so many trees.

The site is identified as potential habitat for Indiana bats, a federally listed endangered species, both by virtue of proximity to known sites, and because there is appropriate habitat on site. The Applicant is required to avoid direct impacts on the individual bats themselves (i.e., killing bats while they roost in trees during their active season) by limiting tree clearing to winter months. However, it is important to also preserve as many potential roost trees, especially mature shagbark hickories and white oak, as possible. The Site Report indicates that shagbark hickory and oak trees were found on the site, however, species of maple trees also provide the potential for bat roosting. We urge the Applicant and Planning Board to limit tree clearing, especially clearing of mature trees, as this is beneficial for bats, pollinators, other wildlife, ecosystem services, and carbon storage and sequestration. However, we know that some trees must be cleared to accommodate the proposed building footprints. Therefore, we urge that native trees, as large as possible, be planted to replace trees that must be cut. Further new native trees should be monitored and maintained. Trees that do not survive the first two years should be replaced. It's common for contractors to throw some tiny trees in the ground and call it good. Ideally, tree plantings should exceed the number of trees cleared to account for imperfect survival.

Falling Waters Preserve hosts a population of box turtles, listed by New York State as a Species of Concern (S3) and a Species of Greatest Conservation Need (SGCN). Box turtles use complexes of forested, open, and wetland habitats much like what is found at the Preserve and the adjacent Villa St. Joseph Site. Minimizing disturbed areas, wetland and buffer impacts, and tree removal will help the box turtle population that uses both sites.

Additionally, roads are a significant source of mortality for turtles, another reason to limit the two loop roads to one-way/emergency use only and to maximize the size of the opening under the bridge or half culvert associated with the road and wetland crossing.

Miscellaneous

Neighborhood Impacts

As indicated above, residents of the Spaulding Lane neighborhood have contacted us about their concerns related to traffic, density, and visual impact from the neighborhood. We hope the Planning Board and Applicant will work closely with nearby residents to address their concerns the best they can.

Access to Falling Waters Preserve

Scenic Hudson is pleased that residents of the senior housing project will enjoy easy access to Falling Waters Preserve. The development includes two pedestrian entrances to the Preserve via a connecting trail from their five-foot wide paved sidewalk to the Preserve's Red Trail. We believe that it is important to convey Preserve rules and hours to the residents and their visitors. We would request that the Applicant design signs for these and any other locations where the residents and their visitors would enter the Preserve. Scenic Hudson would like to review and approve the design and have the Applicant fabricate and install it.

Stormwater

According to the plans, stormwater falling on the road west of Building 1 would be discharged directly into the wetland south of the building without the benefit of a sediment basin, stormwater retention, or velocity control. We recommend sheet flow into rain gardens constructed between the road and Building 1.

The plans should show how stormwater would be conveyed from rooftops to sedimentation and stormwater basins.

Sidewalks

The plans indicate no sidewalk connection between the two small footbridges east of Building 3. Is a pedestrian connection anticipated between these bridges? If not, we recommend removing the bridge farthest upstream and restoring the site to allow the stream to flow unrestrainedly at this location.

Conclusion

Scenic Hudson commends the Applicant for many aspects of the proposal—addressing the need for affordable housing; siting the buildings off the most visible portion of the site and providing a “common” from which residents can obtain the best views; proposing a green roof on Building 2; and committing to Dark Sky lighting or better. Finally, we are pleased that residents of the project will be able to walk into Falling Waters Preserve and enjoy all it has to offer.

However, we are concerned with several aspects of the site plan, most notably, the potential for visual impacts on Falling Waters Preserve, the Hudson River National Historic Landmark District and Ulster North Scenic Area of Statewide Significance; the access road across the federal wetland; the loss of so many large specimen trees; access roads that completely encircle both sets of buildings; and excessive



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amounts of grading and fill brought onto the site. As this project moves forward and the Board conducts its SEQRA review, we want to raise these issues and make sure the Board considers them when making its determination of significance.

Scenic Hudson hopes that the Planning Board and Applicant will find these comments useful in helping to avoid, minimize or mitigate undue visual and ecological impacts on State and federally designated resources both on the site and adjacent to it.

Very truly yours,

A handwritten signature in black ink that reads "Jeffrey Anzevino".

Jeffrey Anzevino, AICP
Director of Land Use Advocacy