



DUTCHESS LAND CONSERVANCY

Preserving Open Land in Dutchess County

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Memorandum

To: Norm Fontaine, Chairman, Town of Amenia Planning Board, Members of the Town Planning Board, and Pedro Torres, Silo Ridge
From: Becky Thornton, President, on behalf of DLC's Board of Directors
Date: December 4, 2014
Re: Silo Ridge Project

As you know, the Silo Ridge project is undoubtedly one of the most important projects to ever come before the Town of Amenia; not only does it affect one of the most important public resources in the Town (the scenic view from Delavergne Hill and the ridgeline as seen throughout town), it is also the first time that the Town's open space Zoning Law is being put into practice. In addition, this is the first time that DLC has considered holding a conservation easement on open space that has been required to be protected in conjunction with an open space development project of this scale.

We first want to applaud the Town of Amenia Planning Board and its consultants for the amount of time and dedication contributed over many years to make this project the best it can be. We also want to thank Silo Ridge for its willingness to listen to the Town's consultants and to make changes to the plan to accommodate considerations that are important to the Town.

DLC has two significant, but different roles, in connection with the review of this project. Most importantly, the Town of Amenia zoning requires that 80% of the land in this type of development (Resort Development Overlay) be protected in perpetuity by a conservation easement granted to a qualified conservation organization such as DLC. A second role we play is as an interested organization that seeks to protect conservation values in Dutchess County.

DLC's process in accepting a conservation easement is similar to the Planning Board's in that we need to review any project that comes before us to ensure that, just as an application received by the Planning Board must comply with the Zoning Law, a proposed conservation easement must meet our conservation easement acceptance criteria and our organizational goals for protecting land. In addition, we need to ensure that we have the capacity and financial ability to oversee the easement in perpetuity. On a complex proposal like this, we must be especially diligent in our review because it involves a long-term commitment to monitor and enforce the conservation easement's provisions, which can be very time consuming and expensive to an organization that holds easements.

In conjunction with this particular project, there are four specific reasons why DLC may be interested in holding the conservation easement on the Open Space:

- 1) to assist the Town in implementing its Open Space zoning law which DLC supported;
- 2) to assist the Town in protecting resources that the Town has designated as important;
- 3) to help ensure that the Open Space is properly stewarded, so that the resources are preserved in perpetuity; DLC is the most experienced and best qualified easement holder in the region to do so; and
- 4) because the project is likely to be developed with or without DLC's involvement. DLC, as a local organization, would like an opportunity to provide our expertise and recommendations to positively influence the outcome of the project.



The project falls within Amenia's Resort Development Overlay District and Town zoning requires 80% of the land be preserved as open space by a conservation easement to be held by a qualified organization as a condition of approval. While DLC is the most obvious choice, we also realize that the Town and Silo Ridge can choose to work with another organization to hold the conservation easement on the Open Space.

DLC has been spending a great deal of time reviewing this complex and dynamic project as a potential holder of the conservation easement because our Board believes that, as currently proposed, it does not meet DLC's criteria for accepting conservation easements. DLC must also assure that its reputation for strong conservation values is not diminished by association with a project that might not adhere to those conservation values. Because of this, DLC has developed the following recommendations for the Planning Board and Silo Ridge's consideration if DLC is to hold the conservation easement.

DLC considers its recommendations as opportunities to improve the project from a conservation standpoint and to help protect the rural character of the Town of Amenia which are among the most important goals of Amenia's Comprehensive Plan. These Recommendations are divided into three categories:

- **General:** Recommendation I is a general overall recommendation.
- **Open Space:** Recommendations II through VI pertain to the Open Space and viewshed proposed to be protected by conservation easement.
- **Development:** Recommendations VII through XIII pertain to the land proposed to be developed.

We understand that DLC's status is different in each case. With respect to the land to be placed under easement, DLC is commenting from the standpoint of a potential easement holder and is seeking to ensure that the eased land complies with DLC's conservation easement acceptance criteria. With respect to the land that is going to be developed, DLC is commenting as an organization with specialized expertise in conservation and open space. Our recommendations are based on our concern for the environment, the scenic viewshed, the effect of the proposed development on the land proposed to be protected as Open Space by the conservation easement, the overall outcome of the project, and its compliance with Town regulations.

Recommendation I – Town Consultant's Recommendations: Consider and fully address the recommendations raised by the Town's Consultants.

DLC recommends:

- a) Silo Ridge: 1) consider the recommendations raised by the Town of Amenia's consultants, 2) constructively address them in a way that satisfies the Town and its consultants concerns, and 3) meets standards set forth under the Amenia Zoning law. Among other things, DLC recommends that the project specifically adhere to the following Town consultants' recommendations:

Viewshed

- Remove screening along lower parts of Route 44. (Janes)
- Remove hedge/fence screening on hairpin – and put screening near improvements. (Janes)
- Revise visual screening concept at hairpin – don't block viewshed. (Klemens)
- Remove the screening at the hairpin turn and install screening downhill near the improvements. (DC Planning)

Calculation of Open Space / Management of Open Space

- Calculation of the 80 percent open space should be revised to exclude land that does not meet regulatory requirements (water tanks, golf academy, impervious surfaces (golf cart parking, stairways and paths), and random disconnected areas). (Janes)
- Golf academy, underground tanks, and other non-agricultural buildings cannot count toward the Open Space. (Johnson)
- Critical to coordinate with DLC regarding delineation of the Open Space. (Johnson)
- Coordination between DLC and Audubon regarding OS markers. (Klemens)
- Identify Areas of Grading within Proposed OS. (Mangarillo)

Estate Lots and Steep Slopes

- Minimize construction on steep slopes. Suggests limiting steep slope construction to areas of 20 percent slope. (DC Planning)
- Impact from estate lots includes loss of bat habitat, and loss of mature second growth forest, as well as collateral visual and stormwater effects. (Klemens)
- All trees that are slated to be removed are not accounted for on the Demolition Plan, which currently calls for removing 1551 trees. (Klemens)
- Proposed Plan as shown will remove all trees in steep, forested areas (which appears to be required due to grading needs). This amount of clearing is in violation of town requirements which are to minimize tree removal, and also in contradiction of the draft findings statement. (Janes)
- Need to show 30,000 s.f. clearing area on each lot in the SPO. (Janes)
- Excessive Retaining Walls don't comply with Town regulations. Stepped walls and other design alternatives may be incorporated. (Mangarillo)
- Retaining walls in excess of 20 feet (Site E-48 requires 40 foot wall). (Janes)
- Effect of retaining walls not incorporated into visual analysis. (Janes)
- Construction of retaining walls within the setbacks. (Everett)
- Some estate lots should be removed. (Klemens)
- Grades of Roads. (Mangarillo)
- Three possible alternative plans for the estate lot area: (Janes)
 - a) Alternative 1, adding 9.9 acres – keeps 26 houses but relocates them.
 - b) Alternative 2, adding 14.6 acres – keeps 26 house, but moves location of six houses to lower areas and has all road access from the lower road.
 - c) Alternative 3, adding 19.4 acres of open space to the project, reduces the number of houses in the estate area to 17, the same number as approved in the 2009 Master Development Plan, and keeps them clustered near the lower road. (Janes)

Golf Course / Habitat Management / Stormwater Management

- Plan is improved from a habitat standpoint, but still has unnecessary impact on steep slopes (cutting, grading). (Klemens)
- Impact from estate lots includes loss of bat habitat, and loss of mature second growth forest, as well as collateral visual and stormwater effects. (Klemens)
- Northern Long-Eared, and Indiana Bats both are suited for the property. Conservation strategy is to avoid destruction of forest habitat, to minimize such destruction, and as last priority to mitigate. (Klemens)
- Location of Pesticide and Fertilizer Storage and Mixing Areas. (Mangarillo)
- Audubon International Statement of Compliance with their criteria. (Mangarillo)
- Update the NRMP, which has not been updated to reflect the new plan. (Klemens)

- Is the SWPPP adequate – in regard to the following: changes over time to the amount of impervious surface in the developed area? Proposed sheet flow across the golf course and Open Space, especially in light of the area of land with excessively steep slopes. (Mangarillo)

Lighting

- Due to uplighting and other factors, lighting plan is inconsistent with the Findings Statement. (Janes)
- Up lighting is not appropriate. (Klemens)
- Uplighting does not comply with town regs. (Johnson)
- Lighting plans are not provided for the Estate Lots nor for the Golf Villas. (Johnson)

Treatment of Area inside the hairpin turn

- Question of Town Park in overlook area – whether this should count as Open Space? (Johnson)
- Will the proposed park/overlook include lighting? (Everett)

Additional Questions

- Compliance with Scenic Protection, Aquifer, Stream, and Resort District Overlay regulations: sections of the application should be re-organized to aid evaluating whether the project complies with the regulations of these districts. (Johnson)

Recommendation II - Scenic Views: The Delavergne viewshed is critical to the Town of Amenia and a number of elements including landscaping, lighting, improvements for the Artisan's Overlook, structures/above ground features could have an impact on the scenic viewshed. Based on the Town's Scenic Protection Overlay, both the viewshed from the hill and the view of the hill are important to protect.

DLC Recommends:

- a) Within the viewshed from the hairpin turn at Delavergne Hill (to be defined on a map as "Viewshed Protection Area"), no berms, vegetation or fencing should be permitted that will impair the scenic view from and across the hairpin turn. Grapevines should be permitted on the inside of the hairpin turn as long as they don't impair the long distance views across the open field. (See Map 2)
- b) The new berms constructed along Route 44 are a concern because they impact the scenic view over the golf course, are located in the Scenic Overlay District, and were not anticipated by DLC when initially considering holding a conservation easement. Rather than suggesting removal of these berms, DLC proposes that additional Open Space be added by reducing the Vineyard Cottages to compensate for the loss in views.
- c) Other scenic view points along Route 44 (specifically between the berms and the hairpin turn and to be defined on a map) shall also be defined as part of the "Viewshed Protection Area" with restrictions on berms and other vegetation. (See Map 2)
- d) Trees should be planted closer to the buildings to soften their effects. DLC shall require review and approval of any vegetation to be planted within the Viewshed Protection Area.
- e) Certain areas containing existing trees within the Open Space should be maintained or re-planted if removed (e.g. to the right of the entrance road) to shield or soften the view of buildings from public vantage points.
- f) The golf academy building, impervious golf cart parking area and water tank should be relocated out of the Delavergne Hill viewshed. (See Map 3)
- g) The Artisan's overlook, which provides a tourism component to the project, should not have any lighting, should be rural in nature using natural materials such as stone walls, and have a gravel parking area. If the Winery were removed from the plan the overlook could be located further back into the corner of the field for less visual impact.

- h) DLC retain the right (but not the obligation) to mow the “viewshed protection areas” (in the case that they are not maintained in the future) to ensure the view remains open.

Recommendation III - Open Space: A minimum of 80% of the project site must be included as conservation easement protected Open Space. In addition, the Open Space must be in conformance with the Town’s Resort Development Overlay District restrictions against impervious surface coverage and size and type of structures. With the exception of the Golf Course Open Space (which is a permitted Open Space use by the Town regulations), all other land to be protected as Open Space by a conservation easement should only include quality resource land (open space that is meaningful and not part of the development.)

DLC Recommends:

- a) 80 percent of the land be clearly identified and protected by a conservation easement. The Open Space, with the exception of the Golf Course, should be contiguous land that is preserved for scenic and environmental purposes and should protect resources such as natural woodlands, wetlands and viewsheds.
- i. The 80 percent Open Space should exclude land that does not meet regulatory requirements (e.g. the water tank, pump station, non-recreational paths and staircases, golf academy building, impervious golf cart parking area around the golf academy and the road hammerheads cannot be counted as open space), and that it meets DLC’s conservation criteria. Per the RDO district, the Open Space shall not include structures other than non-agricultural buildings not to exceed 200 s.f. and 20 feet in height or impervious surfaces other than trails or golf paths.
 - ii. A conservation easement is forever, so the easement should only include the Golf Course and Natural Woodland/Wetlands Open Space and areas along Route 44 that provide a scenic viewshed and/or buffer where no changes to the existing landscape will occur. Eliminate all areas not considered quality open space.
 - Eliminate random disconnected areas and small odds and ends of open space that don’t make sense if the development were not to occur. Small grassed areas or areas of lawn included as part of the easement Open Space may require alterations as the development evolves and should therefore be removed as part of the easement protected Open Space. (See Maps 4 and 5)
 - Eliminate all areas that will be re-graded in order to accommodate the development (e.g. for lots or along roadways) except within the Golf Course Open Space (where grading and reconstruction should be finished by the time the easement is placed.) (See Map 6)
 - Eliminate or substantially expand the open space areas to both the north and south of the vineyard cottages, especially along the higher elevations. It is not meaningful otherwise (the upper areas currently includes a small strip of about 1.2 acres) and ensure Vineyard Cottages are not within 40 feet of the top of the ridge (as required by the Scenic Protection Overlay district). (See Map 7)
 - iii. Expand the Natural Woodland/Wetlands Open Space areas to accommodate the reduction in open space noted above in order to satisfy the 80% open space requirement. This could include lowering the elevations of some of the higher Estate Lots, moving them off steep slopes and increasing the upland wooded forest area, and/or by reducing or eliminating the Vineyard Cottages and including this area in the easement protected Open Space. (See Map 8)
- b) Since a majority of the Open Space area is natural (with the exception of the Golf Course) there shall be no disturbance or encroachment by construction vehicles, impacts to vegetation and tree root systems, loss of trees, impacts to wetlands and viewshed. Limited tree clearing may be permitted under the Town approved Habitat Management Plan, as required by a forest management plan approved by DLC/Town, and/or to clear for limited trails and small recreational structures as permitted by Town Code, or for safety purposes.

- c) In most Towns, phasing of development occurs in order to sequence the construction and full site plan approval is required upfront for all phases of a project. DLC has concerns that by not requiring full site plan approval (siting, lot lines, grading, drainage, landscaping, etc.) for Phase II (the southern-most Estate Lots) and Phase III (the Vineyard Cottages) that future development of these areas could impact the protected Open Space (e.g. roads to access the Vineyard Cottages might be required through the Open Space if not fully planned in advance, or grading may impact the Open Space, etc.). Because conservation easements are permanent restrictions on land, DLC recommends that it's in everyone's best interests for the Town to require full site plan approval for Phase II and Phase III so that these details can be worked out in advance to ensure that future development of these areas will not impact or expect to encroach upon the permanently protected Open Space.
- d) A survey map is prepared that clearly delineates the Open Space to be protected by conservation easement that conforms to objectives noted herein.
- e) Open Space markers must be permanent and placed at distances that make it easy to monitor the boundaries of the Open Space (50-100 feet) and must be placed before construction (aside from the golf course) begins.

Recommendation IV - Golf Course Open Space / Water Quality and Quantity: There are concerns about water quality and water quantity resulting from the golf course. A golf course is considered a legitimate open space use under Town zoning, but is not something DLC would normally hold a conservation easement on. DLC's interest in the area in which the golf course lies is in the scenic qualities and views over the golf course and any potential future open space use that is non-golf course oriented (e.g. parkland, farmland.)

DLC Recommends:

- a) DLC envisions holding a "Scenic and Open Space Easement" on the Golf Course. DLC doesn't have the staff capacity to oversee water issues and it would be an onerous commitment for DLC to monitor wells, water test compliance, and water quantity.
- b) DLC recommends that the Town assure its residents that water quality and quantity issues have been resolved satisfactorily (see Recommendation VIII below.)

Recommendation V - Ownership: There are questions about the proposed ownership and management of both the Open Space and the developed area.

DLC Recommends:

- a) Clarification in writing of the owner and management entity of all Open Space and all land that abuts the Open Space.

Recommendation VI - DLC Bonding and Indemnity: DLC needs to safeguard its interest in the land it is responsible for protecting if it is to hold a conservation easement on the Open Space.

DLC Recommends:

- a) That a restoration bond or other performance guarantee be established, including indemnification of DLC if, the project fails. This should be limited to activities to be conducted on the land under conservation easement as part of the conservation easement. (The Town should insist on the usual performance guarantees for all site improvements not under easement.)

Recommendation VII - Estate Homes and Steep Slopes: The Estate Homes proposed in both Phase I and Phase II located generally at the southern end of the property are a concern due to significant visual, ecological, and storm water management impacts, disturbance to ecologically sensitive mature second growth forested slopes (used by endangered bats for habitat), clearing of contiguous natural forest, and location within the Town's Scenic Protection Overlay area. Waivers with regard to viewshed and steep

slope disturbance have been requested. Over 100 acres of steep slopes are projected to be disturbed, some of these in excess of 30 percent, which will require significant re-grading, tall retaining walls, extensive tree and vegetation removal, erosion, storm water, visual, ecological and habitat impacts. Providing site plan details and an improved design could reduce or eliminate these impacts. If at all feasible, this component of the project should be greatly reduced in impact.

DLC Recommends:

- a) Reducing the impacts to steep slopes, forested areas and the viewshed by providing full detailed site plans and an improved design of this area ensuring the project is brought into compliance with the Consultants' recommendations. For example grading should not exceed 20% (as recommended by Dutchess County Planning) for the Estate Lots, which also reduces 1) the amount of steep slope alteration for the project, 2) the need for excessive grading and large retaining walls, 3) clear-cutting of large areas of forest, 4) visual impacts, and 5) the number of waivers requested.
- b) Eliminating or moving the Estate Lots that are currently located at the highest elevations as shown in consultant George Janes' alternatives one through three, thereby increasing the area of wooded open space by 10 to 19 acres.
- c) Preserving as many existing trees as possible to reduce the amount of visual and environmental impact to the existing landscape, and replant trees to around all new homes to soften and screen the views of the Estate Homes from off site.

Recommendation VIII - Water Quality and Quantity / Stormwater/ Erosion Control: There are concerns about water quality issues stemming from the golf course, and water quantity issues from both the golf course and development use as well as stormwater runoff and erosion control issues resulting from the development on steep slopes.

DLC Recommends:

- a) That the Town assure its residents that water quality and quantity issues have been resolved satisfactorily and will not impact the Town's drinking water or the underlying aquifer now or in the future. The Town should:
 - i. require that the use of well water for irrigation of the golf course be prohibited until a second hydrogeologist confirms that the significant draw required for this will not affect the aquifer, now or in the future;
 - ii. require that recycled wastewater be used to irrigate the golf course rather than drawing upon limited aquifer resources as noted under item XI below; and
 - iii. retain the ability to restrict water usage if a problem is encountered.
- b) The Town require and receive periodic confirmation that the Golf Course meets Audubon International's certification program standards to ensure sound environmental planning, wildlife and habitat management, chemical use reduction and safety, water conservation, water quality management and outreach and education.
- c) The Town ensure vegetative buffers on all streams and ponds within the wetlands and golf course area meet Town standards and approval, and are in place.
- d) The Town ensure storm water runoff and erosion control is sufficient to meet Town and DEC standards and is in place during all construction and that storm water runoff and erosion does not impact the open space or other areas of the Property.

Recommendation IX – Lighting: Lighting is an issue as it can affect the open space/wildlife habitat and viewshed from off site. It appears that some uplighting is being considered while downlighting is required by Amenia's zoning code.

DLC Recommends:

- a) Requiring lighting that is low intensity, fully shielded, using motion detectors and lighting curfews, and including limits on street and exterior lighting. No evening tennis or golf lighting or lights at the Artisan Overlook should be allowed. Down-lighting and cut-off fixtures are strongly recommended.
- b) Eliminating up-lighting from the plan.
- c) Not permitting street lights along rural roads within any of the single family residential areas or Vineyard Cottages.
- d) Controlling glare by requiring "Dark Sky" standards as noted in the Findings Statement.

Recommendation X – Architecture/Design Guidelines: Silo Ridge has provided architectural guidelines to fit the project into the landscape including design and color guidelines. Concerns arise if the project fails and another group owns the property that the architecture, color, etc. may not fit in (e.g. a pink or brightly colored house is constructed on one of the more visible Estate lots.)

DLC Recommends:

- a) As part of its approval, the Town ensures that Silo Ridge follows the *Silo Ridge Design Standards for Estate Homes and Golf Villas*, as prepared by the Town of Amenia Planning Board Consultants on behalf of the Planning Board (Draft 10/23/2014), or any updates thereto as long as the updates are substantially similar to and serve to enhance the 10/23/14 draft, and follows the *Silo Ridge Design Guidelines for Estate Home Sites*, dated August 21, 2014, ensuring compliance with whichever standard/guideline is more restrictive.
- b) That a reasonable size limitation be placed on all homes because homes that are excessively large can seriously impact the scenic view of the property from offsite.
- c) That DLC have the opportunity to review any changes to design and/or architectural standards/guidelines if they are altered from the current proposed standards/guidelines to ensure that the visual impact of new structures built on the landscape is minimized.

Recommendation XI - Wastewater Treatment Plant: The Wastewater Treatment Plant has been relocated from the Route 44 Scenic Overlay District to a location near the proposed Maintenance Facility.

DLC Recommends:

- a) That the Town ensure that the relocated Wastewater Treatment Plant meets Town, NYSDEC, and Dutchess County Department of Health standards and that any concerns by Town consultants and Town residents are properly addressed.
- b) Using recycled wastewater to irrigate the golf course and reduce the draw impacts to the aquifer.

Recommendation XII - Waivers and Consistency: A number of waivers from the Town's zoning laws, including protections provided by the Scenic Protection Overlay (SPO), Resort Development Overlay (RDO), and Aquifer Overlay District are requested. While some of the waivers are requested to minimize impacts of the project, others can be avoided with very minor project changes. Also, there should be consistency in terms of the numbers, calculations, commitments, and impacts for things like open space calculations, steep slope disturbance, total project acreage, and location of project components.

DLC Recommends:

- a) The Town and Silo Ridge should avoid waivers where project modifications can achieve zoning compliance, such as relocating the Estate Homes off of steep slopes.
- c) Silo Ridge ensures consistency among documents and plans.

Recommendation XIII - Town Bonding: DLC needs to safeguard its interest in the land it is responsible for protecting if it is to hold a conservation easement on the Open Space.

DLC Recommends:

- a) Silo Ridge provides a Reclamation Bond (if the project fails they must restore the property) to the Town that is sufficient to fully restore the property (following DEC established or other regulatory standards).

In Conclusion: DLC's Board's final decision regarding the acceptance of an easement on the Silo Ridge project will depend on substantive changes in the project to address the issues itemized above to DLC's satisfaction. A final decision by DLC's board to accept an easement will not be reached until it considers the overall conservation value of the Open Space at the time that the final plan is ready for Town approval. Toward that end, DLC will work with the Town and Silo Ridge in good faith toward an easement that is acceptable to all parties.