

From: [Paolo Volpati-Kedra](#)
To: [Evan Young](#); [Andy P. Aubin](#)
Cc: [Gray Davis](#)
Subject: Conservancy denial from SH
Date: Thursday, December 1, 2022 8:57:43 AM

Good morning Evan and Andy,

Here's the second denial for your records, in addition to CLC's.

Kevin Webb <kwebb@scenichudson.org>

Wed, Nov 30, 4:47 PM (16 hours ago)



to Gray, me



Hi Gray,

Thanks for clarifying.

Unfortunately I don't think Scenic Hudson has a clear role to play here, based on the maps--the scattered lots result in the conserved portion of the property being very fragmented, which we avoid for many reasons. If you would be open to reducing or consolidating the proposed lots substantially to provide a more cohesive conserved area, there might be room for more discussion with us or with the Columbia Land Conservancy, perhaps.

Sorry I can't be more helpful at present!

Kevin Webb (he/him)
Land Project Manager
845 473 4440 Ext 236
Scenic Hudson, Inc.
kwebb@scenichudson.org

Meeting the Moment, Amplifying our Impacts
Read our [Annual Report](#) to learn how we're
addressing the most pressing issues
facing our region, our nation, and our planet.

From: [Gray Davis](#)
To: [Evan Young](#)
Cc: [Andy P. Aubin; Paolo Personal Volpati Kedra](#)
Subject: FW: Catmast Sub ConV Land
Date: Monday, December 5, 2022 3:52:23 PM
Attachments: [image001.png](#)
[MeyerDavis-Logo_53a49cb6-a116-48b8-8441-df80cc87e60e.png](#)

Hi Evan,
Here is the email from Marissa below.
Thanks,
Gray

GRAY DAVIS



MEYER DAVIS

+1 212-627-5574 (office)

+1 646-747-1490 (direct)

+1 917-647-1081 (mobile)

From: Marissa Codey <marissa.codey@clctrust.org>
Sent: Thursday, October 27, 2022 8:06 AM
To: Paolo Volpati-Kedra <pvolpatikedra@gmail.com>
Cc: Gray Davis <graydavis@meyerdavis.com>
Subject: RE: Catmast Sub ConV Land

I think you can safely share that holding a perpetual conservation easement of that nature is a challenging prospect for CLC for a variety of reasons, and that finding an alternative way to guarantee the land stays open would be ideal. We would encourage you all to think about a deed restriction, the HOA holding the land in fee, or some other tool like that. I'm happy to talk directly with representatives from the town if that's helpful, feel free to give them my email. Does that help?

Marissa Codey
Columbia Land Conservancy, Inc.
www.clctrust.org

From: Paolo Volpati-Kedra <pvolpatikedra@gmail.com>
Sent: Wednesday, October 26, 2022 11:03 PM
To: Marissa Codey <marissa.codey@clctrust.org>
Cc: Gray Davis <graydavis@meyerdavis.com>
Subject: Re: Catmast Sub ConV Land

Merissa,

Thank you for your note, we're meeting with the ZBA tomorrow night, any updates we could share would be greatly appreciated.

Paolo

On Wed, Oct 26, 2022 at 10:32 PM Marissa Codey <marissa.codey@clctrust.org> wrote:

Just letting you know I got this. Its been a busy week, but we have an internal team meeting tomorrow and I have this on the agenda to share with others. I'll circle back asap.

Marissa Codey
Columbia Land Conservancy, Inc.
www.clctrust.org

From: Gray Davis <graydavis@meyerdavis.com>
Sent: Monday, October 24, 2022 2:47 PM
To: Marissa Codey <marissa.codey@clctrust.org>
Cc: Paolo Volpati-Kedra <pvolpatikedra@gmail.com>
Subject: Catmast Sub ConV Land

Hi Marissa,

Thank you for your time last week to discuss our project near Copake Lake. It was helpful to have a better understanding of the goals of CLC and how they might apply here.

I have attached preliminary drawings showing Constrained and Conservation Drawings. As I mentioned this property is approximately 110 acres, 60 acres in the RU Zone and 50 in the CL Zone.

The Copake Zoning Codes calls for 36 acres in the RU Zone to be in an easement.

Let us know if you have any questions and appreciate your help with this.

Kind regards,

Gray

GRAY DAVIS



MEYER DAVIS

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Town Board Members,

We would like to introduce ourselves to the Board: Giovanna Battaglia and husband Paolo Volpati-Kedra, Gray Davis and husband Chase Booth. We have lived on the lake for the last 26 years and we are all proud to call this our home. As partners we have purchased 111 acres on Lakeview Road, behind the Lighthouse Marina on Copake Lake, and are proposing to develop 11 lots on the land, ranging in size from 3.25 up to 13.3 acres; the name of the development is The Ridge at Copake Lake, and a rendering of the project is enclosed.

Our intent in approaching this project is to preserve much of the wooded nature of the site by limiting and monitoring the removal of as few trees as possible. It is our further and firm intention to protect the natural beauty of the site with the ultimate goal of no homes being visible from the lake, the road, or any of the neighbors. Our design mission is very focused on details, for instance it goes to the extent of using exterior colors that will blend with the natural surroundings, and exterior lights with shades to direct the light downward, thus not visible from the water. The lots will be accessible via the proposed private drive which starts at Lakeview Road and is being designed to meet the Town's specifications, with a planned turnaround at the end of the drive. Each lot will be supplied by power that will be run underground and will have its own Board of Health approved septic system and well. We have been diligently working with Crawford and Associates from Hudson since April 2022; engineers Andy Aubin and Evan Young have been assisting us with all aspects of the design and engineering of the proposed project and have been totally aligned with our philosophy since the project's inception. An appropriate Stormwater Plan is being developed for the site, and we welcome the opportunity to collaborate with the Town's engineer on this important topic. Additionally, the property has 100' of water frontage along Lakeview Road, and there are plans to install a pair of seasonal docks to give the residents of The Ridge access to the lake.

Our reputation in the area is well respected as is our integrity when approaching home building; we have developed several properties around the lake and have always focused on doing it the right way with designs that honor the lake and its natural beauty. Our projects tend to be quiet and understated with thoughtful landscapes biased on using native planting. For the past 26 years and for all the projects we completed on the lake and surrounding areas, our focus as partners has always been to work with local businesses and contractors, as a way to help the local economy flourish and us being a small but proud contributor to its growth.

We would like to conclude by saying that we plan to live here, and it only makes sense that we are so adamant about ensuring that we preserve what attracted us to the area in the first place, which is its rural charm, natural beauty, and long-lasting legacy.

Sincerely,

Giovanna, Paolo, Chase, and Gray

Morton D. Shulman
Lawrence E. Howard
Malcolm A. McPherson*



PO Box 1000
17 Old Route 66
Averill Park, New York 12018

January 18, 2023

Jeanne E. Mettler, Supervisor
& Town Board Members
Copake Town Hall
230 Mountain View Road
Copake, NY 12516

Re: Virtus Nostra, LLC, Major Subdivision - The Ridge at Copake Lake.

Dear Supervisor Mettler and Board Members:

I represent Virtus Nostra, LLC and I write to you regarding its application for a Major Subdivision known as The Ridge at Copake Lake.

Subdivision approvals are typically handled by the Planning Board and occasionally, as was the case here, with some Zoning Board participation. The Town Board does not normally play a role. However, in this case there are two issues that require the Town Board's involvement. The first is a decision regarding the legal mechanism that will be used to protect the required Conservation Land. The second issue relates to Recreation Fees and the amount to be charged per residential unit.

The Ridge at Copake Lake is located off of Lakeview Road on a one hundred eleven acre property. Eleven single-family homes blend with the topography and range in size from just over three acres to just over thirteen acres. The final plat will have approximately forty-eight acres of conserved land and the community is currently planned to be managed by a Home Owner's Association ("HOA"). The HOA, will own the private road, any required stormwater areas and a portion of the Conservation Land.

Although there are numerous laws that are relevant to the approval of this project the following are the most relevant at this stage. The Town Board and the Planning Board are responsible for the remaining decisions and they will be primarily guided by: *The Town of Copake Zoning, Chapter 232, Article VII Special Provisions for Subdivisions, §232-17. Flexible lot subdivisions. ("Zoning"). The Town of Copake Subdivision of Land, Chapter 197, Articles I-VII. ("Subdivision") and the NYS Town Law, Article 16 Zoning and Planning, §276-279 ("State Law")*.

The applicants first appeared before the Planning Board on the 1st day of September 2022 and have attended five meetings, so far. The public hearing was opened on December 1st, was continued on January 5th, and remains open. During that same period the project was referred to the Zoning Board. An Area Variance related to the size and location of the required Conservation Land was granted over the course of the Zoning Board's October and November meetings. To date, the Planning Board has granted Sketch Plan approval. In order to proceed through final approval, the Town Board needs to reach decisions on the form of legal protection for the Conservation Land and on the Recreation Fee questions.

As mentioned above, approximately forty-eight acres of land in the subdivision will be permanently protected upon final subdivision approval. The Town's Zoning in §232-17.1. *Permanent open space in flexible lot subdivisions. Subsection (C) Permanent preservation by conservation easement*, states that "[a] perpetual conservation easement restricting development of the open space land . . . pursuant to . . . §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, and/or to a qualified not-for-profit conservation organization acceptable to the Planning Board."

At the Town Board's request, the applicants have contacted the only two not-for-profit conservation organizations with an interest in the area that might be willing to hold a Conservation Easement¹ ("CE") on the Conservation Lands. Both organizations have politely declined our requests. Email correspondence with Columbia Land Conservancy and with Scenic Hudson has been provided for your review. Since there is no qualified not-for-profit conservation organization willing to accept a CE, we are left with a few other options. The simplest option is for the Town to accept a CE on the Conservation Lands; pursuant to the Zoning. I have provided a Draft CE that could be used for this purpose.

If the Town is unwilling to hold a CE pursuant to the zoning, there are several variations that would substantively secure the objectives of the Town's zoning. A waiver pursuant to Article VI Waivers, of the Subdivision provisions may be granted by the Planning Board. Such a waiver is consistent with the Zoning (§232-17.2. *Flexible lot subdivision procedures.*), with Subdivision (§197-24. *Waiver of requirements.* & §197-25. *Planning*

¹ A conservation easement is a legal agreement that protects the natural resources of land by restricting future land use and development of the property in perpetuity. It is a form of real property. In New York, a government entity or non-profit (typically a land trust) holds a deed of easement while the land owner maintains ownership and a negotiated set of reserved rights.

Board requirements.) and with State Law (*TWN §277. Subdivision review; approval of plats; additional requisites 7. Waiver of requirements.*) Upon the recommendation of the Town Board, the Planning Board could exercise its authority and waive the requirement that the Town hold a CE.

Assuming a waiver is granted, alternative mechanisms are available. The following two options are the most practical. The first is to provide the Town the same enforcement powers as the CE holds but to place them in the Declaration of Covenants, Rules and Restrictions that will be recorded as part of the creation of the HOA. The second is to execute the CE and hold it in escrow at Town Hall, allowing for the recording and use of the CE controls, if ever needed, at the Town's discretion. The forging is akin to another section of the Zoning that requires an irrevocable offer of dedication of Conservation Land to the Town.² The proposed Conservation Land is proposed to be owned as part of several of the future home owners' lots with an additional portion owned by the HOA. The applicants are open to discuss these options and any other creative solution that will satisfy the Town Board.

The other question before the Town Board is one that may best be handled by the Planning Board. It has been suggested that a payment to the Town of Copake, of "*a sum as established by the Town Board,*" should be paid as a waiver, in lieu of a designation of recreation land on the subdivision plat, pursuant to the provisions in *§197-19. Parks, open spaces and natural features*. It is my contention that no fee is due, thereby negating the need for the Town Board to "*establish a sum.*" The support for this contention is twofold. First, the Ridge at Copake Lake provides recreation space for its residents on that portion of the Conservation Land which will be owned by the HOA, that area will be designated on the final plat. Second, in order for the Town to establish a sum and collect recreation fees in this context, State Law³ requires that . . .

(b) Land for park, playground or other recreational purposes may not be required until the planning board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the town based on projected population growth to which the particular subdivision plat will contribute.

² §232-17.1. Permanent open space in flexible lot subdivisions. E. Ownership of open space land.

³ TWN §277. Subdivision review; approval of plats; additional requisites, 4. Reservation of parkland on subdivision plats containing residential units.

The applicants are not aware of any findings have been made, which include an evaluation of the present and anticipated future needs for park and recreational facilities based on projected population growth as it may be impacted by the proposed subdivision. If there are no “findings” pursuant to State Law that require a designation of parkland, then a fee in lieu of designation cannot be required. However, notwithstanding these assertions, the applicants are willing to voluntarily make a reasonable contribution to assist with the Town’s recreation needs and are happy to discuss the size of a contribution with the Town Board.

On behalf of the applicants, I thank the Board for its careful consideration and the opportunity to explore these issues and at the upcoming workshop.

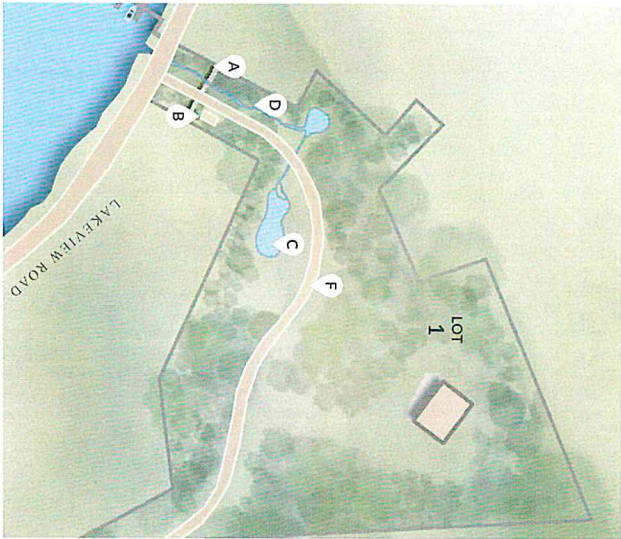
Sincerely,

A handwritten signature in black ink, appearing to read 'Lawrence Howard', with a stylized flourish at the end.

Lawrence Howard

THE RIDGE

T COPAKE LAKE



ENLARGED PLAN LEGEND

| | | | |
|---|---------------|---|-------|
| A | ENTRANCE GATE | D | CREEK |
| B | GATE HOUSE | E | DOCK |
| C | POND | F | ROAD |

