

March 10, 2025

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Chairman, Stefan Yarabek, & Members of the
Saugerties Historic Preservation Commission
4 High Street
Saugerties, NY 12477

**Re: Dominican Sisters of Sparkill – The Villa Residences
49 Spaulding Lane, Saugerties, NY 12477
Saugerties Historic Preservation Commission**

Dear Hon. Chairman Yarabek and Members of the Board:

As you know, this firm represents the Dominican Sisters of Sparkill (DSS), the owners of 49 Spaulding Lane (the “Property” or “Project”) who have partnered with Grow America to develop the Property for affordable housing for seniors and families. Please allow this letter, and the attachments annexed hereto, to be entered into the record of proceedings for the Historic Preservation Commission (“HPC”). On February 27, 2025, the HPC finally conducted and closed its public hearing on the August 2024 nomination petition (the “Petition”) filed by a resident seeking to declare the entire DSS Property and remnants of the Spaulding/Van Leuven House within the existing Villa St. Joseph (the “House”) on the Property as a historic landmark and district, respectively.¹ The HPC permitted the parties to submit written comments via email by March 10, 2025.

¹ As mentioned at the meeting, DSS waited almost six months for the HPC to schedule this public hearing on the Petition. Town Code § 145-5 (D) provides that the HPC “make every effort to hold the public hearing within **12 days** after the date of the notice of the proposed designation is published. Emphasis added. The HPC had this petition since August 2024 and waited until February 2025 to provide DSS with a public hearing. The initial public hearing scheduled for November 25, 2024 was unilaterally canceled by HPC at the 11th hour. Then the HPC again canceled its January 13, 2025 public hearing due to its failure to give “proper notification.” This significant delay only prejudices DSS and leads one to question the true motive here. During this time, DSS is prohibited from going forward in its land use application.

Introduction/Background

The timing of the Petition and the events leading up to the public hearing very clearly demonstrate that this process is nothing more than a blatant attempt to weaponize the HPC to kill an affordable housing Project under the misguided and unsupported rationale that the entire DSS Property and a remnant of a house within Villa St. Joseph are somehow “historic” and worthy of preservation. The process smacks of NIMBYism by a vocal few who live near the proposed Project and do not want to see the property developed. All the studies and empirical data submitted to date unequivocally refute any support for either historic or landmark designation.

By way of background, this process for the Property started nearly three years ago. The DSS, as stewards of the Property for over 90 years, sought to continue its worthwhile mission and legacy to provide a combination of age-restricted affordable senior housing as well as affordable townhomes for families. To that end, DSS and its partner Grow America began the land use entitlement process before the Town Board and the Town Planning Board for the proposed zoning and site development plan approvals. The Town Planning Board assumed the role of lead agency under the N.Y. State Environmental Quality Review Act (“SEQRA”).

After almost two years before the Planning Board, on June 18, 2024, the Planning Board granted DSS an Amended Negative Declaration under SEQRA (“Neg Dec”). A copy of the Neg Dec is annexed hereto as Exhibit A. Specifically, the Neg Dec provides at page one that “The Planning Board of the Town of Saugerties, as Lead Agency, has determined that *the proposed action described below will not have a significant adverse impact on the environment* and a Draft Environmental Impact Statement will not be prepared” (emphasis added).

In issuing a Neg Dec, the Planning Board, as well as involved and interested agencies, specifically, the New York State Historic Preservation Office (“SHPO”), reviewed the Project for any impacts on Historic and Archaeological Resources. The Neg Dec provides that the conclusions regarding historic or archaeological resources remain valid and that the Project will **not** have a significant impact as to those areas (emphasis added).²

It is worth noting on or about December 5, 2023, and January 23, 2024, the HPC submitted correspondence to the Lead Agency indicating its unsupported belief that the House is “almost completely intact within the structure of the Villa...and that “the Negative declaration for historic resources be corrected to a positive declaration.” See Neg Dec at p. 5. This assertion by the HPC was soundly refuted by SHPO as well as the experts from AKRF, Inc. (“AKRF”), environmental planning consultants for DSS and preparer of the SEQRA record for the Project.

In the past 90 years since DSS has been on the Property, neither the Property nor the House was ever designated as a local landmark. It was not until such time that DSS sought to develop its property for affordable housing did this historic designation tactic come to light. Coincidence?

² The initial Neg Dec was issued on October 17, 2023. Due to changes in the Project, the Planning Board reviewed and issued its Amended Neg Dec on June 18, 2024.

We think not. Less than two months after the issuance of June 18, 2024 Neg Dec, the Petition, prepared by Ms. Karlyn Knaust Elia, was filed with the HPC in August 2024.

The Petition Must Be Denied in All Respects Because Empirical Data Shows Neither the House Nor the Property Warrant Landmark or Historic District Designation

A) The New York State Office of Parks, Recreation, and Historic Preservation (“OPRHP”), aka SHPO, Concludes That the House Is Not Eligible for Historic Preservation

Not once, but three times SHPO agreed with the studies and findings presented by AKRF as part of the SEQRA process that the House is not eligible for the State or National Registers of Historic Places due to loss of integrity. Annexed as Exhibit **B** in support of DSS and in opposition to the Petition are the following reports and statements, collectively, by AKRF previously submitted to HPC, Planning Board and Town Board:

- 1) Memo from AKRF’s Aaron Werner, Senior Technical Director, AICP, to the Town Planning Board dated May 7, 2024, which includes May 5, 2024 SHPO letter and April 2024 AKRF Architectural Evaluation Report for the House;
- 2) Letter responding to the August 2024 nomination of the Property from Elizabeth Meade, Senior Technical Director, PhD, RPA and Molly McDonald, Senior Technical Director, RPA, both of AKRF, to the Town Board dated October 1, 2024;
- 3) Letter responding to a report by Neil Larson & Associates from Molly McDonald, Senior Technical Director, RPA to Chairman, Stefan Yarabek of HPC dated January 16, 2025;
- 4) Statement from Aaron Werner, Senior Technical Director, ACIP, AKRF, read into record at the February 27, 2025, HPC public hearing;
- 5) Statement from Molly McDonald, Senior Technical Director, RPA, AKRF, read into the record at the February 27, 2025, HPC public hearing; and
- 6) Statement from Elizabeth D. Meade, Senior Technical Director, PhD, RPA AKRF, read into the record at the February 27, 2025, HPC public hearing.

First, OPRHP, through comments issued through the Cultural Resource Information System (“CRIS”) on November 9, 2021, provides that “*OPRHP did not identify any of the structures on the Project Site as known or potential historic architectural resources.*” Emphasis added.

Second, following a review of AKRF’s report submitted to OPRHP in April 2024 entitled “Historic Architectural Evaluation of the Villa St. Joseph Building,” OPRHP again stated that “SHPO has completed our review of the Historic Architectural Evaluation of the Villa St. Joseph Building, submitted on April 25, 2024. Based on the information provided, we concur that the Villa St. Joseph Building...is not eligible for the State or National Registers of Historic Places due to loss of integrity.” In essence, the changes made to the House over the many years altered its

historic appearance. The House, as confirmed by SHPO, lacks integrity of design, workmanship, materials, and association and simply does not meet State/National Register eligibility criteria.

Lastly, in response to the report of the HPC's Neil Larson & Associates (the "Larson Report") dated January 2, 2025, SHPO, in its letter to HPC dated January 23, 2025, provides as follows:

The [Larson Report] aims to contextualize and analyze both the remnants of the former 18th century stone structure and surrounding landscape. *After carefully reviewing the document, the SHPO maintains the opinion that the property known as the St. Joseph's Villa is not eligible for the State or National Registers of Historic Places.* An explanation of our review is as follows:

Regarding the evaluation of the house, Mr. Larson writes, "Mentally stripping away what the Dominican Sisters have built, a compromised but largely intact object remains" (page 4). The SHPO must evaluate buildings based on their current conditions, and although the author makes an interesting case for the house as a relic of its early history, *the building is too altered to be able to understand this history in its current condition.* If there were a plan to physically strip away the existing alterations, SHPO could reevaluate the remains at that time, but there is no guarantee that what is uncovered would ultimately be determined eligible. The property is also not considered a ruin in its current configuration. *See SHPO Letter dated January 23, 2025, annexed hereto as Exhibit C (emphasis added).*

Accordingly, based on the foregoing findings, the House does not qualify as a landmark for either local, state or national designation.

B) The Property Does Not Qualify As a Historic District

An examination of the record here before the Town Board, Planning Board, and now the HPC, presents an interesting fact and development that cannot be ignored. Before this Petition came to be, much of the discussion before the Town Board, Planning Board and SHPO focused on the House. Even certain members of the HPC, as part of the SEQRA process, were convinced, albeit erroneously, that the House was fully intact inside the Villa. Once conclusive facts were established that the House lost its historic integrity and appearance long ago, the neighbors and Petition shifted the attack to have the entire Property declared a historic district under Chapter 145 of the Town Code.

The Larson Report suggests that the entire DSS Property may be eligible for the National Register as a "cultural landscape." Both SHPO and AKRF soundly refute such a proposition. The word "cultural landscape" is not a term defined anywhere in the Town Code. Also, "cultural

landscapes” are not a National Register category in the sense that buildings, districts, sites structures or objects are, and no new language has been recently added to the National Register criteria regarding cultural landscapes. See January 16, 2025 letter from Molly McDonald to Chair Yarabek, Exhibit B.

The Larson Report contradicts itself regarding the eligibility and integrity of the landscape and actually makes the case against the finding of a historic cultural landscape. Even SHPO, in its January 23, 2025 letter, notes this contradiction in the Larson Report:

The discussion of the property as a cultural landscape is another interesting analysis, however, the assessment fails to identify existing character defining features that convey the property’s significance and integrity. To be defined as a cultural landscape there must be tangible remains of historic processes or patterns, and as Mr. Larson writes, “The terrain may be intact but all evidence of plantings, built features and circulation patterns has been lost; much of the landscape has been permitted to reforest with immature trees” (page 5). The longevity of human interaction at the site does not hold significance if the character defining features, as outlined by the National Park Service, do not exist. This directly contradicts the designation of a cultural landscape, and as such, the SHPO has determined that the St. Joseph’s Villa property does not meet these criteria.

See Exhibit C (emphasis added).

As noted by SHPO and AKRF, the Larson Report provides absolutely no new information on the Property that has not already been reviewed by SHPO. Incredibly, neither Mr. Larson nor his associate entered the Villa St. Joseph building as part of the site visit, which was attended by members of the DSS applicant team. That alone should disqualify the Larson Report from any consideration by HPC. Accordingly, the Property does not qualify as a historic district. SHPO has previously evaluated the Property, both as a whole and as a collection of buildings and found that they do not meet the National or State Register criteria.

C) The Petition Grossly Misinterprets Materials and Statements Contained in the Phase 1A Archaeological Documentary Study

Pursuant to Section 14.09 of the NYS Historic Preservation Act, and in consultation with SHPO, AKRF prepared a Phase 1A Archaeological Documentary Study and concluded that the Project site is sensitive for both precontact and historic period resources. The comments made at the public hearing reaffirm those conclusions. However, this is a normal process that occurs after the Project is approved and before the start of any ground-disturbing activities. The Petition seems to suggest that the Phase 1A Study should effectively stop the Project because it is somehow historic from an archaeological basis. The Petition ignores the practical effect and procedures an applicant must follow before development can occur.

Further testing to confirm the presence or absence of archaeological resources is required and will be completed prior to the start of ground-disturbing activities associated with the Project. The three phases of the archaeological process are as follows: Phase 1 (or 1A and then 1B) involves a combination of documentary research to identify areas of archaeological sensitivity and testing a sample of those sensitive areas to confirm the presence or absence of archaeological resources. If those elements are present, a Phase 2 Archaeological Survey and Evaluation is completed to delineate the horizontal and vertical limits of any identified archaeological sites and to determine if the site(s) is "significant," or eligible for listing on the State and National Registers of Historic Places.

In the event an archaeological site is significant, and the Project cannot be redesigned to avoid it, then a Phase 3 Data Recovery is completed to collect all relevant archaeological data, curate all significant recovered resources, and mitigate any project impacts. Each stage of work would be coordinated with SHPO, which would review and approve the scopes of work submitted in advance of each phase of construction. Because the Project is expected to receive State and/or Federal affordable housing subsidies, it is expected that the Project will be subject to Section 106 of the National Historic Preservation Act of 1966. Among other requirements, Section 106 requires consultation with Consulting Parties, including federally recognized Indigenous Nations with ancestral or cultural connections to Ulster County. As such, any required archaeological investigations requiring ground disturbance/testing will occur following the initiation of the Section 106 process. DSS is committed to this process and must comply. The fact that DSS must comply with the Section 106 process does not mean that the Property should be considered a historic district.

DSS Procedural and Due Process Concerns Over the HPC Public Hearing and Nomination

DSS has serious concerns regarding the actions of the HPC in connection with the Project. At the beginning of and during various points of the February 27, 2025 public hearing, the HPC made statements that this nomination process was intended to be objective. In other words, the role of the HPC is to not have any pre-determined notions or conclusions but to ascertain facts which would either support or deny a nomination. While § 145-5 does provide the HPC with the ability to propose a designation, that is not what happened here. Rather, pursuant to § 145-5 (C), a request for designation of an individual landmark or historic district was initiated by an individual, Ms. Elia. Because the Petition was made by an individual, the HPC had an obligation to act objectively when considering such a Petition.³

³ Pursuant to Town Code § 145-5 (E), the HPC is to take testimony or documentary evidence at the public hearing by the Commission, owner(s) and any interested parties regarding the archaeological, historic, architectural or cultural importance of the proposed landmark or historic district. The Commission shall make a decision in writing within 62 days of closing of the public hearing and send by certified mail with return receipt requested a copy of its decision to the owner(s) of the property or properties and also deliver copies to be filed with the Town Clerk, with the Building Inspector and with the Town Assessor. The Commission's decision shall state the reason for granting, modifying or denying a landmark designation.

At the public hearing, DSS questioned whether this process was in fact objective based on certain incidents that occurred leading up to the public hearing. The first instance is the very public hearing notice published by the HPC. That notice provides, in part:

The purpose of the public hearing is to receive comments about an application under consideration by the Commission to designate the Property known as The Villa of St. Joseph as a local historic landmark. The designation includes the Villa, *the historic stone house* within the Villa as well as the *historic* cultural landscape of the property.

A copy of the public notice is annexed hereto as Exhibit D (emphasis added).

SHPO, on more than one occasion, stated it could not identify any known or potential historic architectural resources with respect to the House. *See* Exhibits B, C. HPC was aware of this before the scheduled public hearing. Yet, astonishingly, the public notice states a specific finding and leads anyone reading it to surmise the House and the Property have already been deemed “historic.” This qualifier, “historic,” in a public notice indicates where the HPC is going with respect to the Petition.

Another troubling fact that was brought to the HPC’s attention at the public hearing, was an email from Mr. Larson to Chairman Yarabek dated November 15, 2024. Given that the Petition was submitted by someone other than the HPC, the HPC had an obligation to act objectively as to whether the Petition should be granted or denied. Furthermore, DSS would believe that Mr. Larson, retained by HPC, should have been reviewing the Petition to provide an objective third party review. However, the email from Mr. Larson (provided to HPC at the public hearing) makes clear he was not charged with making an objective finding. The email provides:

I’ve looked over the stuff and now have a beginning understanding of the issue. *I think we may be able to make a case for eligibility.* However, I would like to see the SHPO letter determining the property not eligible for the National Register and also the AKRF architectural survey before making a proposal.

A copy of the email from Mr. Larson to Chair Yarabek is annexed hereto as Exhibit E (emphasis added).

Again, the task by Mr. Larson should have been to review the Petition and the data and make an objective finding as to whether the Petition should be granted or denied. Clearly, Mr. Larson was instructed to support the Petition regardless of the data showing otherwise.

More concerning, however, is an email uncovered between the Secretary to the HPC and the author of the Petition, Ms. Elia, dated September 17, 2024 (less than a month after the Petition was filed with the HPC). A copy of that email, provided to the HPC at the public hearing, is annexed hereto as Exhibit F. That email, regrettably, shows the Secretary and author of the Petition working together to draft it and assist in having it become a Designation five months

before what was supposed to have been an objective public hearing. The Secretary makes the following statements to Ms. Elia:

...the Town Attorneys hate the Power tripping Commission... The Designation will be the finalized Nomination Booklet. Right now, I need to inform people, with the capacity to prove what they are being told, so that it moves along while we cover our legal bases. We can work on a finalized version simultaneously...can you send me your latest draft of the nomination? I'm going to mark the pages as 'Draft'... Remember, although it is undefined, the Town Board can 'Disapprove' any designation of the HPC if they do so within 60 days of receipt, with Findings. It's the 'with Findings' part that frightens me...The more boxes that are check marked it may be the more opportunity for opposition to develop or conjure up findings, and I don't know if they need to provide the findings for each box our just one. I have a bad feeling the developers will 'assist' the town board with findings, and then move to disapprove and hope that nobody files an Article 78 Petition against the Town.

After reading these emails, one would hopefully understand the concerns and doubt expressed by DSS as to whether this process is truly an objective one. Despite statements made at the public hearing that this was an open and objective process, these emails serve only to further cast doubt on this process and bring to light the main goal of this misguided Petition, namely, to cater to general neighborhood opposition to stop this affordable housing Project.

Conclusion

Based on all the foregoing, the Petition must be denied in every respect. Out of all the speakers who spoke in favor of the Petition, no one presented any empirical data to refute the findings and studies conducted during the SEQRA process by AKRF, SHPO and others. DSS and its team of experts, along with SHPO, have more than demonstrated that this Petition should be denied in its entirety. For the HPC to find otherwise would be arbitrary, capricious and contrary to law and in violation of DSS' procedural and due process rights. Lastly, we attach as exhibit **G**, statements in opposition to the Petition from the following individuals: Sister Irene Ellis, Prioress, Matthew Wexler, Grow America, Sister Grace Hogan, Sister Margo Saich, Sister Eileen Gannon, Sister Valerie Lordi, Sister Mary Shea, Sister Maureen Foy, Sister Nancy Richter, Sister Cecilia LaPietra, David Coppola, Sister Christine Ferrar, Sister Joan Correia, Sister Gloria Lowe, Cheryl Burton, Sister Margaret Flaherty, Ed O'Leary, Sister Kathleen O'Connor, Carole Davide, Patti McCallion, Joan Monastero, Sister Marie Peter Buckley, and Sister Aileen Donovan.

Thank you for your attention to this matter.

Very truly yours,

BLEAKLEY PLATT & SCHMIDT LLP



Lino J. Sciarretta, Esq.

Enclosures

cc: John Greco, Esq., Town Attorney (via email)