



Town of Copake Comprehensive Plan Amendment  

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Copake, Columbia County NY

# Scenic Resource Protection Plan

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TOWN OF COPAKE COMPREHENSIVE PLAN AMENDMENT

# Scenic Resource Protection Plan

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Special thanks to 876 Copake residents who responded to the Copake Community Planning Survey. Their responses have informed this document.

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<sup>1</sup> Duly constituted as a "Special Board" as defined in § 272-a.2(c) of New York State Town Law. Committee Member affiliations are noted after their names.

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## Introduction

**T**he Town of Copake Scenic Resource Protection Plan is a guide for the immediate and long-range protection, enhancement, and development of the most scenic areas of our rural Town. This plan has been shaped with the input of more than 876 Copake residents.

The Scenic Resource Protection Plan is enacted, pursuant to the provisions of Section 272-a of the New York State Town Law, as an amendment to the Town's existing comprehensive plan. However, it is not intended to constitute a complete revision of the town's existing comprehensive plan. Adoption of the Plan means that all land use regulations must be enacted in accordance with the Plan. Other government agencies must also consider Copake's vision in devising their plans for capital projects. Nothing in this plan is intended to result in, or recommend, the enactment of a zoning ordinance or law amendment or any other land use regulation by the Town Board which will unreasonably restrict or regulate farm operations within agricultural districts in contravention of Article 25-AA of the New York State Agriculture and Markets Law, unless it can be shown that public health or safety is threatened.

The Scenic Resource Protection Plan was prepared during a one-year planning process, initiated after the Town Board recognized there were trends occurring in the Harlem Valley for which the Town was not prepared. While the Town's motto is Copake, Land of Rural Charm, many residents are concerned that new developments may soon make the motto obsolete. The Town Board therefore appointed a Strategic Planning Committee, duly constituted as a Special Board pursuant to Section 272a of the Town Law, for the purpose of recommending amendments to the Town's comprehensive plan. The Committee initiated a public opinion survey in the spring of 2004 to gauge resident viewpoints on a variety of conservation and development issues. The Committee also held several public planning workshops and public hearings. Taken together, the survey and public meetings attempted to answer the question: "What do we want the Town of Copake to be?" Once this question is answered, the next step is to define "How do we get there?"

*"Among the most important powers and duties granted by the legislature to a town government is the authority and responsibility to undertake town comprehensive planning and to regulate land use for the purpose of protecting the public health, safety and general welfare of its citizens."*

New York State Town Law § 272-a

The *Town of Copake Development Plan*, the Town's original comprehensive plan, was adopted in October 1972. This means that much of the background information is over 30 years old. Regional trends are affecting the way Copake is growing. It was clear that a review of the Comprehensive Plan was needed. The Committee began by hiring two professional planners to assist in the process, Deborah Forester of *Engaging People* and J. Theodore Fink of GREENPLAN Inc.

A plan is like a road map showing the routes we need to take to reach our goals, and we can refer to this map to tell us where we are at the moment and how we are progressing. When planning is done right, it will be enjoyed by residents for 100 years or more, but when it's done poorly, it can annoy for 100 years. Even small decisions can have remarkable results. Municipal development decisions are made one by one over a period of years and, by themselves, may seem innocuous enough. But when viewed cumulatively, like the way they would for someone who leaves the community and comes back after a period of years, those decisions can change the landscape in profound ways. Copake has taken a long view at how development decisions are made and the tools that are available for Town decision-makers. These tools include, but are not limited to, education and community participation programs, tax breaks for land or easement donations, land acquisition or purchase of development rights, conservation easements, conservation subdivisions, large lot zoning, flexible lot and/or cluster subdivisions, critical environmental area (CEA) designation, and transfer of development rights.

This Plan includes a specific recommendation for adoption of a Scenic Corridor Overlay Zone (SCOZ), designed to protect one of Copake's most scenic and potentially vulnerable resources. Other recommendations shall follow. The importance of protecting the scenic resources of a community is crucial to the preservation and enhancement of community character, values and economic well-being. The notion of sprawl and its association with strip commercial areas, low density housing developments and disappearing working farms is a growing concern at local, regional and national levels. As areas "sprawl out," there is a loss of scenic quality, so much so that communities are taking action to preserve and protect the quality of their visual environment.

In describing the scenic beauty of a place, there are common characteristics that enhance the visual quality of a community. These characteristics include but are not limited to: sweeping views of rolling farm fields and the surrounding mountains; the physical distinction between the countryside and a Village area; historic structures; water resources such as streams and wetlands; and forested areas. Often, scenic beauty is the common bond for those interested in protecting a specific resource such as farmland, wetlands or gateway areas.

Copake is an excellent example of a community with outstanding scenic beauty, particularly along the Route 22 corridor in the Harlem Valley. It is a diverse community of full-time and part-time residents who are nevertheless united on the issue of protecting valuable community assets. Moreover, they are in agreement on which of those assets are most important.

#### B A C K G R O U N D

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As stated in the Introduction, the Town Board formed the Strategic Planning Committee to explore options for guiding growth and development in the Town which could be incorporated into an amendment to the town's Comprehensive Plan. The Strategic Planning Committee began this process by conducting a survey<sup>2</sup> among taxpayers to gain an understanding of the residents' desires for future development in the Town. As stated in the Community Planning Survey Report prepared by the firm Engaging People, "*The goal [of the survey] was to discover what aspects of Copake its residents find most important, what resources they would most like to protect, what types of development they would like to see in the town, and the mechanisms they deem most appropriate for protecting resources and directing growth... Overall, the most important qualities [identified by residents] were the scenic beauty, rural character, safety, and lifestyle of Copake.*"

The Survey revealed that Copake residents value the Town's scenic beauty more than any other characteristic. The Committee therefore resolved to address protection of its resources first. This amendment to the Town's Comprehensive Plan is the result of that effort.

Survey respondents were asked to rate eleven different qualities and characteristics of Copake. The most important quality was scenic beauty followed by rural character, safety and lifestyle. Approximately two-thirds of the comments in reply to the question about what they liked best about living in Copake noted rural atmosphere and small town living. Importantly, the residents included phrases such as rural character, small town ambience, a lack of tall buildings, scenic beauty and natural environment to characterize what they liked best. When residents were given an opportunity to comment, responses similar to these appeared consistently throughout the survey.

This theme continues to emerge throughout the results when respondents were asked to indicate the importance of thirteen different natural, scenic and cultural resources. The most important resources were open space and

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<sup>2</sup> For complete survey results, please see the September 2004 report on ***Town of Copake Strategic Planning Committee Community Planning Survey*** prepared by Deborah Forester available at Town Hall and on the Town's website at [www.copake.org](http://www.copake.org).

groundwater, both traits associated with scenic quality. In a question asking respondents to rank the importance of ten specific natural resources, scenic areas, lakes, ponds and groundwater ranked highest (on a scale of 1 to 5 with 5 being "very important," these resources ranked 4.74). In terms of protection strategies to be used in Copake, zoning enforcement, zoning, land acquisition and scenic overlays ranked the highest.

The Strategic Planning Committee believes the survey provides strong support for the Town to consider the use of a Scenic Corridor Overlay Zone, and potentially other methods, to protect the Route 22 corridor. An overlay zone is imposed over existing zoning districts and contains provisions that regulate development in addition to those regulations of the underlying zone.

***The Strategic Planning Committee believes the Scenic Corridor Overlay Zone is the best alternative for protecting the Route 22 Corridor's scenic resources.***

There are other effective planning techniques available to protect the scenic resources of the Route 22 Corridor as well as other portions of the Town:

- Education and community participation programs
- Tax incentives for land or easement donations
- Land acquisition and/or purchase of development rights
- Conservation easements
- Conservation subdivisions
- Large lot zoning
- Flexible lot/cluster lot subdivisions
- Critical environmental area (CEA) designation
- Transfer of development rights

Consideration should be given to use of these techniques, in addition to the proposed Scenic Corridor Overlay Zone. Reliance upon zoning as the sole method to protect the corridor is not advisable due to the possibility that changes could be made to the zoning law in the future.

The Strategic Planning Committee believes a Scenic Corridor Overlay is consistent with the following stated goals and objectives in Copake's existing comprehensive plan:

- ✓ *Provide a predominantly open and rural character to the Town.*
- ✓ *Encourage agriculture to continue in the Town by establishing zoning policies designed to minimize agricultural-residential conflicts.*

- ✓ *Preserve the natural environment.*
- ✓ *Provide sites for commercial development in clusters. Strip commercial development should be discouraged.*
- ✓ *Industrial development shall be encouraged on sites where access is acceptable and where such uses will not adversely affect the proper development of adjacent properties.*
- ✓ *Establish an adequate system of recreation and open spaces with particular emphasis along existing waterways.*
- ✓ *Encourage commercial recreation development consistent with open and rural character of the Town.*

The Committee is also aware of the concerns for this area by their neighbors in Ancram, who recently completed a similar planning process. In 2003, the Town of Ancram Town Board passed a local law establishing a Scenic Corridor Overlay Zone along the entire length of Route 22 corridor in Ancram. Citing scenic, environmental and recreational resources, the Town Board of Ancram seeks to protect the overall rural character of the town using this technique. The same resources Ancram sought to protect exist and extend into, the Copake portion of the Route 22 corridor. Similarly, in the nearby town of Northeast, that portion of town adjacent to the Ancram Route 22 corridor is zoned primarily conservation.

#### THE ROUTE 22 CORRIDOR

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The Town of Copake is located in the southeastern section of Columbia County, New York. It is approximately 41 square miles in area. Copake is primarily an agricultural and residential community with a large percentage of acreage remaining undeveloped. This open space is used mainly for agricultural and recreational purposes. A significant portion of the Town's land area also comprises undeveloped mountain and hillside with slopes exceeding 15 percent.

The many hills, knolls and mountains that provide these steep slopes are an essential part of Copake's physical character. They have dictated the way roadways pass through the Town. In turn, these roadways make accessible the scenic resources within the Town; they allow the opportunity to view the many beautiful farms, mountain top vistas, lower valley viewsheds and scenic roadsides.

Among these roadways is the Route 22 corridor in Copake which stretches 350 miles from Manhattan to Mount Royal Park in Montreal, Canada. This is the major north-south roadway in the Town and for nearly its entire length in town, the two-lane road parallels the base of the Taconic Plateau and the Alander Ridge whose rugged slopes provide drivers with some of the best scenery in the Harlem Valley. In 1968, the reported 24 hour traffic volume<sup>3</sup> for Route 22 was 2,200 vehicles. Today, more than 3,600<sup>4</sup> vehicles travel along the roadway in Copake each day.

Copake also has New York State Route 23 and a series of county roadways that crisscross it from all directions. These roads are primarily two lane rural roadways that meander and wind through and around the rolling hillsides and agricultural lands. Due to the rolling topography of the town, most of the roadways have scenic views of significant quality including many panoramic views of the Taconic Mountain range.

The views are no less remarkable looking down on Copake from atop the Taconic Plateau. In a front page article in the Escapes Section of the October 8, 2004 New York Times, that view is featured in a photograph of Copake taken from atop the Alander Ridge. Its caption reads, "On the South Taconic Trail, the view sweeps from Massachusetts into New York." The article describes the views from the Taconic peaks as "gratifying and plentiful." Likewise, the adjacent Mt. Everett State Forest Preserve in Massachusetts offers breathtaking overlooks into the Route 22 corridor.

The State of New York has recognized the scenic importance of the Harlem Valley and the Taconic Mountain range through its acquisition of lands in this area for the Taconic State Park. The Park, which is also located in the towns of Ancram and Northeast in Dutchess County, consists of almost 6,000 acres including approximately 3,000 acres in Copake. The New York State Open Space Plan, *Conserving Open Space in New York State* recommends that the State should "*continue to provide permanent protection for the Taconic Ridge through acquisitions of fee and easements, including the Taconic Crest Trail, and encourage local management to assure the continuance of the forest industry in this area and the protection of farmland on the New York side of the Route 22 corridor.*"

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<sup>3</sup> Reported in the ***Existing Conditions, Goals and Objectives – Towns of Ancram, Copake, Hillsdale, New York*** completed by Murphy & Kren Planning Associates, Inc. April, 1971.

<sup>4</sup> According to a 2001 Traffic Volume Report for Columbia County produced by the New York State Department of Transportation, the annual average daily traffic for a 4 mile section from Route 344 in Copake Falls North to Route 23 in Hillsdale was 3,636 vehicles.

All of the communities of the Hudson and Harlem valleys can boast of their natural, cultural and scenic resources. These resources are especially abundant and diverse in the Town of Copake. Contained within the Town's perimeter are lakes, ponds, mountain ranges, forest blocks, trout fishing streams, hiking trails, biking trails, wildlife habitats, wetlands, family farms, historic buildings, fields, meadows, fens and bogs.

Following is a list of some of the Town's best known scenic resources:

- Numerous family owned and operated farms
- Taconic State Park
- Harlem Valley Rail Trail
- Roeliff-Jansen Kill, Nosterkill and Bash Bish Stream
- Copake Ironworks Museum
- Copake Ironworks Schoolhouse
- Historic Churches (Copake Methodist Church, St. John's in the Wilderness, West Copake Reform Church)
- Historic business structures (Copake General Store, Church Street Deli, etc.)
- Harlem Division and Central New England Railroad Stations
- Taconic Wayside Inn
- Alander Ridge and the Taconic Plateau
- Copake Lake, Upper and Lower Rhoda Lakes, Snyder Pond, Chrysler Pond and Robinson Pond along their related residential communities
- Catamount Ski Area

Finally, the importance of Copake's landscape has been recognized not only on the local and state level, but also internationally. In 1998, The Nature Conservancy (TNC) designated the Berkshire Taconic Landscape, of which Copake is the largest section in New York State, as one its "Last Great Places" *throughout the world*. TNC describes it as one of the largest, healthiest and most diverse remaining blocks of forest in the area<sup>5</sup>. There are significant environmental resources in the entire Berkshire Taconic Landscape including unfragmented, mountainous forest, water resources including underground networks, streams and "some of the highest quality calcareous wetlands in the world"<sup>6</sup> and habitat for more than 150 rare and endangered species. (See Appendix 2 for maps of the region and its resources.)

The diversity and quality of these resources is a double-edged sword. While they are the characteristics that have made Copake especially attractive as both

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<sup>5</sup> From the Nature Conservancy Website <http://www.lastgreatplaces.org/berkshire/explore/art7545.html>.

<sup>6</sup> Ibid

a full and part-time residential community and a tourist destination, their appeal now invites unprecedented and possibly damaging development pressure. It is therefore the challenge of the Strategic Planning Committee to encourage development in a way that benefits Copake while preserving Copake's resources so that the assets that have made it special are protected for future generations.

#### THE VIEWSHED

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A "viewshed" is a map showing the geographic area of what can be seen from a specified point. In this analysis, several locations along Route 22 were selected to provide evidence of the dramatic views along the corridor. The sites were selected because the public at large has access to these viewing locations and they offer unobstructed views of the Town's most scenic landscapes. The Viewshed map is shown as Figure 3 in Appendix 2.

#### RECOMMENDATIONS

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It is recommended that a Scenic Corridor Overlay Zone be enacted by the Town Board as an amendment to its zoning law incorporating the recommended components and provisions as set forth in Appendix 1 annexed hereto to protect the town's Route 22 Corridor. The proposed Scenic Corridor Overlay Zone (SCOZ) can contain a variety of standards to protect the scenic, environmental and recreational resources of the corridor. The geographic extent of the SCOZ is depicted in Appendix 2, Figure 5 as extending from the Massachusetts border to 1,500 feet west from the center line of Route 22. This is the same physical dimensions as the Town of Ancram's SCOZ to provide for consistency in protection of this shared resource within the Route 22 Corridor.

The Town Board may want to consider, in the future, the adoption of scenic corridor overlay zones to protect the scenic, environmental and recreational resources of other significant areas of the town.

We recommend the SCOZ impose restrictions on certain kinds of development. These restrictions would fall into two general categories:

1. **Prohibited Uses.** Certain uses that are currently permitted subject to Site Plan approval from the Planning Board, and/or subject to a Special Use Permit from the Town Zoning Board of Appeals would be prohibited under the SCOZ. They are:

1. Extractive operations and soil mining. New or expanded mine sites that require a Mined Land Reclamation permit from the New York State Department of Environmental Conservation (DEC), in accordance with Title 27 of Article 23 of the New York State Environmental Conservation Law, are prohibited in the SCOZ. This prohibition will continue to apply in the event that the DEC changes the current mining threshold which is the lesser of 1,000 tons or 750 cubic yards of minerals within twelve successive calendar months or 100 cubic yards of minerals from or adjacent to any body of water not subject to the jurisdiction of Article 15 of the New York State Environmental Conservation Law. Extractive operations and soil mining that are below the NYS DEC permitting thresholds stated herein will continue to be regulated under Town Zoning Law which currently requires that a Special Use Permit be obtained for such activities.
2. Telecommunications towers
3. Radio and television stations and towers
4. Bus stations
5. Mobile home parks
6. Power plants
7. Fuel Storage and distribution

All uses that are currently prohibited should continue to be prohibited.

**2. Regulated Uses.** We also recommend that other than the prohibited uses noted above, any use that is currently permitted, permitted subject to Site Plan approval from the Planning Board, and/or subject to a Special Use Permit from the Town Zoning Board of Appeals, also be subject to SCOZ Design Regulations. Those uses include:

1. storage of five or fewer construction vehicles on ten acres or more, plus 100 feet from any lot lines
2. hospitals/nursing home
3. public utility structures and buildings
4. recreation use of mountain land, ski area, ski tow, etc.

5. school and nursery school
6. solar energy equipment
7. commercial greenhouse
8. convenience store, gas filling station
9. farm machinery, equipment, trailer rental or sales, service
10. motel
11. theatre, concert hall
12. veterinary, animal hospital, kennel
13. federal, state, county or town offices, fire station, highway department
14. membership or non-profit club
15. public utility lines
16. retail sales of produce grown principally on the same lot
17. summer camps and retreats
18. gift shop, antiques shop
19. restaurant

The recommended Design Regulations as contained in Appendix 1 would apply to all uses and would apply to any uses that may be added in the future. Existing lawful non-conforming uses will continue to be allowed but subject to §232-24 of the Zoning Code which governs nonconforming buildings, uses and lots.

ADOPTION OF THE SCENIC RESOURCE PROTECTION  
PLAN

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Municipal comprehensive planning is a dynamic process designed to govern the day-to-day decisions of Town officials and others. In this case, the process consists of:

1. Adoption of an amendment to the comprehensive plan and enactment of land use controls by the legislative board as an amendment to the Town Code, once consensus is reached. The plan is a blueprint while the land use controls, such as zoning, are the tools.
2. Administration of the Plan and Zoning Law by the Planning Board and interpretation and relief from hardship by the Zoning Board of Appeals.
3. Guidance from the Plan in all policy matters acted on by the Town Board and consideration of the Plan by other agencies.

To become a legally binding amendment to the town's comprehensive plan, the Plan must undergo at least two public hearings, one by the Strategic Planning Committee and one by the Town Board. It must also be subject to an environmental review under the State Environmental Quality Review Act (SEQR), and must be reviewed by the Columbia County Department of Planning for intermunicipal effects. Adoption of the Plan will commit the Town to carrying out the vision articulated by residents.

A municipality's ability to use its powers to implement the vision expressed in this Scenic Resource Protection Plan stems from Section 272-a of the Town Law as well as from the New York State Constitution. Article XIV Section 4 of the Constitution states:

NY State Constitution, Article XIV:

The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. The legislature, in implementing this policy, shall include adequate provision for the abatement of air and water pollution and of excessive and unnecessary noise, the protection of agricultural lands, wetlands and shorelines, and the development and regulation of water resources.