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October 28, 2025

VIA UPS OVERNIGHT

Town Board
Town of Cape Vincent
1964 NYS Route 12E
Cape Vincent, NY 13618

Planning Board
Town of Cape Vincent
1964 NYS Route 12E
Cape Vincent, NY 13618

Zoning Board of Appeals
Town of Cape Vincent
1964 NYS Route 12E
Cape Vincent, NY 13618

Re: *Carleton Island Villa Project*

To Whom It May Concern:

As you are aware, this office represents the Friends of Carleton Island. This letter concerns a parcel of real property in the Town of Cape Vincent (the "Town"), identified as tax map parcel no. 39.27-1-16, commonly known as the Carleton Villa (the "Property" or the "Villa"). The Town Board of Cape Vincent, along with the Zoning and Planning Boards are currently considering applications for area variances, a special use permit and site plan approval for Mr. Ronald Clapp (the "Applicant") to operate a hotel/glamp ground on the Property (the "Project"). As you are also likely aware, the Applicant is currently involved in litigation against the Thousand Islands Land Trust, Inc. ("TILT") regarding the enforcement of a conservation easement and declaration applicable to the Property and Carleton Island (the "Island"). It has come to our attention that the Town has confirmed that no further review regarding the area variances, special use permit, and site plan approval applications will occur until the underlying litigation is resolved. This determination makes sense because the outcome of the litigation may either alter the design of the Project or render it unable to proceed. This letter seeks to clarify the scope of the litigation and clarify that regardless of the outcome of the litigation, it will not operate as a final determination for the Project and that there are several remaining underlying issues left to be addressed by the Town.

I. TILT Litigation

Before delving into the remaining underlying issues, it is important to clarify what the underlying lawsuit against the Applicant by TILT will ultimately determine. A copy of TILT's Verified Complaint is attached hereto. In connection with the Project, the Applicant has already begun clearing trees and other vegetation with an excavator, before receiving or requesting any permits or approvals to do so. As a result, the TILT, which owns an adjacent property to the Project, sought a permanent injunction in New York State Supreme Court preventing the Applicant from clearing and excavating the land for the Project. TILT claims that a conservation easement and declaration of restrictions it was granted in 1986 encumbers the Property, limiting its development and preserving its natural environment. TILT also claims that the Applicant's development plan violates both the terms of the conservation easement and the declaration. TILT alleges that the Applicant's unauthorized work on the Property violates the conservation easement and declaration. TILT is seeking a declaratory judgment that the Applicant's development plan violates the terms of the conservation easement and declaration. Moreover, TILT demands compensation to remedy the lost conservation value of the Property resulting from the alleged violations and to restore the Property to its prior state. TILT also desires injunctions to prevent the Applicant from carrying out his development plan and to cure the existing violations. Importantly, the scope of the outcome of the litigation is limited to the extent of the conservation easement and declaration's applicability to the Property. Notably, the Court has paid particular attention to the area within 100 feet of the shoreline, otherwise known as the "buffer zone." Accordingly, Judge James P. McClusky issued an order on May 20, 2024, granting a preliminary injunction preventing any additional clearing or excavation work, but limited the order to include only land within the buffer zone. Relatedly, the New York State Department of Environmental Conservation is investigating the alleged unauthorized clearing.

Therefore, while the litigation will determine any issues concerning the applicability of the conservation easement and declaration to the Property, the underlying issues presented by applications submitted by the Applicant will remain.

II. Underlying Issues Unaffected by TILT Litigation

Many issues pertaining to the Applicant's site plan approval, special use permit, and zoning variances before the respective boards of the Town will remain unresolved regardless of the outcome of the litigation. Moreover, any attempt by the Applicant to remedy any violations of the conservation easement and declaration through the alteration of its development plan to resolve the litigation, would not remedy the issues proposed by the Project as a whole before the Town. These underlying issues are addressed in turn below.

1. Area Variances and Zoning

The resolution of the underlying litigation will not address the Applicant's need for area variances in order to proceed with the Project. Moreover, the balancing of the factors considered by the Zoning Board of Appeals still weighs against the granting of the requested variances. Overall, the size of the variances requested is extremely substantial, the character of the neighborhood will obviously be irrevocably changed, and the environment is likely to be adversely altered by an unprecedented amount of shoreline development.

The Property is zoned "Island District." The Application does not comply with the required front yard setback. Table 7 of the Island District Zoning regulations (Section 3.7) states that the minimum front yard setback is two hundred (200) feet. No structures are permitted in the lot exclusion area defined by the front yard setback. The Project's initial design included approximately 23 cabins and safari tents within the setback area. Importantly, the Project's Second Plan still has seven cabins located directly adjacent to the 100-foot setback line. The Applicant is essentially requesting thirteen front yard setback variances. As far as we can tell (without more detailed drawings) all twelve proposed cabins and the bathhouse will be located entirely within the front yard setback. At least seven of the cabins and the bathhouse are located only 100 feet from shoreline, a 200-foot setback is therefore required. Eight 50% setbacks and five smaller setbacks would completely obliterate the setback requirement in the Town of Cape Vincent Zoning Code (the "Code") and set a terrible precedent for the future development of the entire Town.

The Project contemplates the installation of a high-density camping resort on a narrow neck of land surrounded on all sides by people's homes. The Project includes the installation of four docks and a floating platform in close proximity to existing single-family residences. The Project further includes the construction of an artificial beach, the destruction of a large swath of wooded areas, and the drastic alteration of the shoreline for commercial use. All of these "improvements" will bring noise, light, odors, visual impacts and a heretofore unprecedented increase in density, to the doorsteps of current residents. The proposed development would be completely unprecedented compared to the present use of land on Carleton Island, and thus, it cannot be denied that the severity of the undesirable change that would occur if the Project were allowed to proceed should be considered.

Therefore, the nature and extent of the requested variances will still need to be resolved by the Town.

2. SEQR and Underlying Unaddressed Environmental Concerns

Pursuant to the State Environmental Quality Review Act ("SEQR") and the effects of the Project in the immediate vicinity, there are clear environmental concerns remaining which have not been addressed by the Applicant. Multiple significant environmental impacts have occurred and will continue to occur as a result of the Project proceeding. As previously highlighted in past correspondence with the Town and its boards, the Applicant's proposed development plan will have many negative impacts on the Island's environment, many of which have not been adequately addressed by the Applicant's submitted materials to date. The areas negatively impacted include land, surface water, groundwater, flooding, air, plants and animals, aesthetic resources, historical and archeological resources, parking and traffic, character, noise, and light.

a) Impact on Land

The Project will require the physical alteration of approximately 7 acres of land in a very sensitive area adjacent to the St. Lawrence River and in close proximity to existing residential uses. The Applicant must obtain a SPDES general construction permit in order to disturb such a large acreage. In addition, the Applicant has not provided a storm water pollution prevention plan (SWPPP). The alteration of so much land in such a sensitive area presents a host of issues that must be carefully studied pursuant to SEQR utilizing Part 2 of the FEAF. Namely, the project would potentially involve: construction on land where depth to water table is less than 3 feet; construction on slopes 15% or greater; construction on land where bedrock is within 5 feet of existing ground surface; construction that continues for more than 1 year or in multiple phases; increased erosion; and the Project would be located within a Coastal Erosion hazard area.

b) Impacts on Surface Water, Groundwater, and Flooding

The Project is likely to impact the St. Lawrence River due to its proximity to North and South Bay on Carleton Island. The Applicant has already begun construction of a ramp to facilitate site work and has erected a substantial fence around the Property. We are uncertain as to whether a shoreline permit was obtained from DEC before this work was initiated. The Project includes dredging of the bays, the installation of an artificial beach, four docks, and a large floating platform. In addition, the shoreline will be cleared and altered. It is obvious that a significant impact on the St. Lawrence River is likely due to the Project. Further, the Project has the potential to create a significant impact on the environment due to ground water contamination. Groundwater impacts are likely because the Project does not contain adequate space to accommodate a septic system large enough to service the bathhouse and Villa. The Applicant currently states that it will rely on a septic system to service the site. It does not appear as though there is nearly enough space to accommodate such a large system. The Applicant will be required to obtain drinking water from wells and to dispose of sewage from both the Villa and bathhouse through a new sewage treatment system on a relatively small site. The New

York State Department of Health will ultimately have to sign off on the adequacy of those systems. However, the required systems must be fully designed and included on the site plan so that the Board can evaluate impacts as the lead agency for SEQR review. The Project will also result in development on lands subject to flooding as it will be located in floodplains and designated floodways per Part 1 of the Applicant's FEAF.

c) Impact on Air

The Project will also likely produce a significant impact on the environment due to construction related air emissions through the use of excavators, dump trucks, gas generators, etc.

d) Impact on Plants and Wildlife

The Project will result in significant impacts on plants and animals – that is already happening. The Addendum of the FEAF submitted by the Applicant states that the site may contain two endangered species: (a) the Bald Eagle; and (b) the Indiana Bat. In addition, the NYSDEC Environmental resource mapper identifies three separate rare animal/plant communities of concern at this location including its status as a significant waterfowl concentration area.

e) Impacts on Historic, Archeological, and Aesthetic Resources

The Project would create visual impacts that are obviously in sharp contrast to current land use patterns. This location is a pristine island in the St. Lawrence River that must be protected. The Applicant should be required to prepare visual simulations of the Project both from the perspective of the water, as well as neighboring properties.

Historic resources will also be impacted by the Project including the site of a historic fort and the Villa. The Project includes making changes to a historic building and is adjacent to at least one other eligible structure. It is well known that Carleton Island was settled by members of the Mohawk Tribe and was the site of significant events in early American history. Steps have been taken to preserve native remains elsewhere on the island. The Project would be built in close proximity to the site of a British Fort occupied by the Americans during the Revolutionary War, known as Fort Haldimand. The NYS Cultural Resources Information System lists this area likely to contain important archeological resources.

f) Impact on Parking and Traffic

The Applicant has not thought through the impact of additional boat traffic required to operate this business. No parking plans have been provided explaining where

customers and employees will park on the mainland. The proposed density and intensity of use of the development and its close proximity to the shoreline seriously threaten the environment and the use and enjoyment of neighboring properties. It is certainly not in keeping with the traditional character of Carleton Island.

g) Impact on Character, Noise, and Light

The proposed density and intensity of use of the development and its close proximity to the shoreline seriously threaten the environment and the use and enjoyment of neighboring properties. It is certainly not in keeping with the traditional character of Carleton Island. To date, no photometric studies, landscaping plan, drainage plan, noise study and mitigation plan have been provided by the Applicant that complies with DEC program policy.

3. Special Use Permit

Many issues remain regarding the Applicant's special use permit application that need to be addressed by the Town. Carleton Island is located within the Islands District under the Code and possesses historic areas of interest as confirmed by New York State. Section 3.7(1) of the Code takes these historic features into consideration when it states: "land use on or near any area of historic interest will be taken into consideration during the approval process. This district represents the most distinctive land use zone within the Town. Residents of the Islands District have a unique property and living arrangement; one that is both unconventional and independent. Residents do not want or need elaborate infrastructure development. The land-use plan for this District is focused principally on encouraging quality residential development with *some* capacity for *limited, controlled* commercial development, for example, restaurant, hotel, bed and breakfast." The Applicant's special use permit application does not adequately take into consideration or address the historic nature of the Villa and the Property at large. Moreover, the development plans do not represent the limited and controlled commercial development envisioned by the Code. The development plans show a glamp ground and hotel compound that would effectively sever the southwestern tip from the main body of the Island. Such an expansive and aggressive project does not align with the district's primary focus of encouraging residential development.

To date, the Applicant has not provided the Town with adequate information to make a determination on its special use permit. The application lacks sufficient plans and accompanying information regarding the anticipated infrastructure needed for the Project. There are no plans regarding sewage, wastewater, electricity, or supplying water to the Property. The Applicant should be required to provide information about anticipated levels

of noise and illumination in order to allow the Zoning Board to properly evaluate the special use permit application.

According to Section 5.3(e) of the Code: "The intent of the Special Use Permit is to set forth additional requirements which shall apply to certain land uses and activities which, due to their characteristics or the *special* characteristics of the area in which they are to be located, require *special* consideration so that they may be properly located and planned with respect to the objectives of this chapter and their effect on the surrounding properties and community character." The Applicant has not effectively considered the unique characteristics of the Island and surrounding area in making its special use permit application. When considering the standards of review pursuant to Section 5.3(e)(6) of the Code, it is clear that the application and the Project itself is inadequate. The proposed use of the Property would result in undesirable side effects which would be more objectionable to nearby properties due to a dramatic increase in noise, vibration, and illumination. The development plans do not show adequate infrastructure for the proposed use and accessibility for emergency services. The proposed density and intensity of use of the development and its close proximity to the shoreline seriously threaten the environment and the use and enjoyment of neighboring properties. It is certainly not in keeping with the traditional character of Carleton Island. The current proposal is clearly much too intensive compared to the existing development pattern on the island and is in need of being significantly altered.

Therefore, as you can see, numerous issues remain regarding the special use permit application in relation to the Project.

4. Additional Concerns & Considerations

General concerns raised by the Friends of Carleton Island and the general public remain unaddressed by the Applicant. As the Board is likely aware, there has been substantial opposition to the Project from property owners located on the Island. As such, due to the scope and magnitude of the Project in relation to this opposition, it is likely that an unfavorable decision by the Town would be challenged by various means available at law. Part of this opposition stems from the availability of emergency response services to the island. Importantly, the Town lacks sufficient fire protection and emergency medical service infrastructure to accommodate a major commercial use on Carleton Island. Fire protection and emergency medical services access the island by boat, often by private watercraft, due to the lack of a physical road connection to the mainland. While these emergency services have been adequate to meet the needs of the seasonal residents of Carleton Island thus far, the Project will dramatically increase the demand for fire protection and emergency medical services on the island far beyond the Town's current capacity. As a result, the Town will be required to invest significant resources in additional

emergency services infrastructure if the Project is approved. Factoring in the costs of training and equipping the additional personnel that would be needed to operate a fire boat, the Project will likely require a multimillion-dollar investment by the Town in additional emergency service infrastructure.

Moreover, the Applicant has not secured approval for parking in the Village of Cape Vincent. The application assumes parking for visitors on the mainland. However, the Applicant has failed to obtain any parking approvals.

There is also uncertainty regarding the financial position of the Applicant, which could result in the stalling and potential abandonment of the Project altogether. Moreover, there are concerns about the financial viability of the Project as a whole should it even reach completion. The Applicant has not provided any form of a business plan or revenue projections. Additionally, there are concerns regarding the Applicant's plan for restoration of the Villa. There has been no indication as to what contractors would be retained to undertake the Project and whether they possess the necessary qualifications regarding the restoration of a historic site such as the Villa. As of the date of this letter, the Applicant has undertaken no action to assuage these concerns.

III. Conclusion

Therefore, because the outcome of the TILT litigation against the Applicant will not determine nor address the numerous underlying issues proposed by the applications currently before the respective Town boards, the underlying issues must still be addressed by the Applicant and adjudicated by the respective Town boards.

Very truly yours,

BOND, SCHOENECK & KING, PLLC



Brody D. Smith
Member

BDS/cc
Enclosures

TILT Complaint

STATE OF NEW YORK
SUPREME COURT : COUNTY OF JEFFERSON

THOUSAND ISLANDS LAND TRUST, INC.,

Plaintiff,

-against-

Index No.:

RON CLAPP and CARLETON VILLA, LLC,

Defendants.

VERIFIED COMPLAINT

Plaintiff, THOUSAND ISLANDS LAND TRUST, INC. ("TILT"), by and through its attorneys, Rupp Pfalzgraf LLC, as and for its Complaint against Defendants, RON CLAPP and CARLETON VILLA, LLC ("Defendants"), alleges as follows:

PARTIES

1. At all times relevant to this action, TILT is and has been a not-for-profit corporation with a principal place of business in Jefferson County in the Town of Clayton, New York. TILT is a not-for-profit conservation organization as that term is defined under section 49-0303 of the N.Y. Environmental Conservation Law (the "ECL") because it is organized to conserve and preserve real property and has the power to acquire interests in real property.

2. At all times relevant to this action, Defendant Carleton Villa, LLC ("Carleton Villa") is and has been a domestic limited liability company duly authorized to do business in the State of New York.

3. At all times relevant to this action, Defendant Ron Clapp is and has been a resident of the State of Florida.

JURISDICTION AND VENUE

4. Under N.Y. CPLR § 301 and Article 49, Title 3 of the ECL, this Court has jurisdiction over this action because it concerns rights and interests in real property and a conservation easement located within the State.

5. Under N.Y. CPLR §§ 301 and 302, this Court has jurisdiction over the parties because Defendants are domiciliaries of New York State and/or own or have an interest in real property situated within the State, as well as because Defendants committed acts giving rise to this action in this State.

6. Under N.Y. CPLR §§ 503 and 507, venue in the County of Jefferson is proper because the wrongful acts described herein occurred in this county and because this action concerns real property that is located within this county.

FACTUAL BACKGROUND

7. At all times relevant to this action, Defendant Carleton Villa is and has been the owner of the parcel of real property located on Carleton Island in the Town of Cape Vincent, New York and designated with Tax Map No. 39.27-1-16 (the “Villa Property”).

8. At all times relevant to this action, Defendant Ron Clapp is and has been a member and/or principal of Defendant Carleton Villa.

9. At all times relevant to this action, TILT is and has been the grantee of a conservation easement (the “Conservation Easement” or the “Easement”) encumbering real property on Carleton Island (the “Conservation Property”). A copy of the deed creating the Conservation Easement — entitled “Deed of Conservation Easement in Gross Carleton Island Shoreline Buffer Zone” — is attached hereto as **Exhibit A**.

10. At all times relevant to this action, TILT is and was the owner of real property located on Carleton Island in the Town of Cape Vincent, New York and designated with Tax Map Nos. 28.00-1-1.127 and 28.00-1-1.125 (the “TILT Property”).

11. The Conservation Property includes the entirety of the Villa Property and the TILT Property.

12. TILT also owns the parcel adjoining the Villa Property and the TILT Property designated with Tax Map No. 39.27-1-14 and known as the “Fort Haldimand Preserve.” This is separate and apart from the TILT Property identified in paragraph 10 above.

13. The Conservation Property, including the Villa Property and the TILT Property, are also subject to restrictive covenants set forth in an instrument titled “Declaration of Restrictions of Carleton Island” (the “Declaration ”), a copy of which is attached hereto as **Exhibit B**.

14. In August of 1986, Patten Corporation Northeast, a prior owner of the Conservation Property, created both the Conservation Easement and the Declaration.

15. The land encumbered by the Conservation Easement and the Declaration — i.e., the Conservation Property — is defined in both instruments in accordance with the Map of Carleton Island made by Rhinevault Surveyors dated June 2, 1986 and recorded in the Jefferson County Clerk’s Office on July 9, 1986 (the “Carleton Island Map”). A copy of said map is attached hereto as **Exhibit C**. The Conservation Property consists of Lots 1 through 20 on the Carleton Island Map. The Villa Property is shown as Lot 1 on said map.

A. The Conservation Easement

16. This action is commenced in part to enforce the Conservation Easement (it is also commenced to enforce the Declaration, discussed in Section B below). The Conservation Easement was recorded on September 5, 1986, in the Jefferson County Clerk's Office at Book No. 1037 of Deeds at Page 296.

17. The Conservation Easement is a conservation easement as that term is defined under section 49-0303 of the ECL because it limits development, management, or use of the Conservation Property for the purpose of preserving or maintaining the scenic, open, and natural condition of Carleton Island in a manner that is consistent with the public policy and purposes set forth in section 49-0301 of the ECL.

18. The Conservation Easement establishes that "portions of the [Conservation Property] remain in a substantially undisturbed natural state and have significant[] woodland, wildlife, and aesthetic values."

19. Moreover, the Conservation Easement states that the grantor, Patten Corporation Northeast, "desires to identify and to assure the preservation in perpetuity of the property's significant natural elements, and to maintain its vegetative cover."

20. Accordingly, the agreed-upon purpose of the Conservation Easement is to "preserve and protect in perpetuity the scenic, aesthetic, natural, woodland, wildlife habitat, wetland, watershed, successional vegetative features, and open space features and value of the [Conservation Property]."

21. In order to implement the agreed-upon conservation purpose, Patten Corporation Northeast agreed on limitations on the use of the Conservation Property. Among other limitations, Section 3 of the Easement prohibits the following uses and practices on the Conservation Property:

- (a) The construction or placement of any structures, permanent or temporary, with the exception of duck blinds, docks, and boathouses.
- (b) The cutting of more than 50% of the natural vegetation. Within any 300' frontage there must be one contiguous strip of at least 100' parallel and perpendicular to the shore retained in natural vegetative condition. Except those lots of less than 200' frontage must retain a contiguous 50% of-said frontage in natural vegetative cover but said natural vegetative strip may be less than 100' in frontage.
- (c) Temporary, seasonal or permanent occupancy of the shoreline buffer zone for residential purposes shall be prohibited.

22. To give force and effect to the Conservation Easement, Patten Corporation Northeast conveyed to the grantee of the Conservation Easement several affirmative rights. Specifically, Section 2 of the Easement empowers TILT with the following rights:

- (a) To identify, to preserve and to protect in perpetuity the natural, wildlife, wetland, open space, aesthetic, scenic, successive vegetative, and woodland features and values of the property,
- (b) To enter upon the property to inspect and to enforce the rights herein granted upon prior notice to grantor, their successors and assigns, in a manner that will not unreasonably interfere with the proper uses being made of the property at the time of such entry,
- (c) The right to enforce the terms hereof by proceeding at law or in equity or as otherwise may be appropriate and to require the grantor, at the grantor's expense, to cease non-conforming uses and restore the [Conservation Property] to the conditions that exist on the date of this grant.

23. Further, Sections 5 and 6 of the Easement provide TILT enforcement rights as follows:

5. Enforcement Rights of Grantee. In the event of a violation of any term, condition, covenant, or restriction contained in this easement, after thirty (30) days notice of violation to the grantor, the grantee may institute a suit to enjoin by temporary and/or permanent injunction such violation, or for damages for breach of covenant, or may take such other action as it deems necessary to insure compliance with the terms, conditions, covenants, and purposes of this easement: provided, however, that any failure to so act by the grantee shall not be deemed to be a waiver or a forfeiture of the right to enforce any term, condition, covenant, or purpose of this easement in the future.

6. Restoration. Grantor further intends that should any prohibited activity be undertaken on the property, the grantee, except in the case of emergencies requiring immediate action, shall after 30 days of written notification of such violation have the right to cause the restoration of that portion of the property affected by such activity to the condition that existed prior to the undertaking of such prohibited activity. In such case, the cost of such restoration shall be borne by grantor, its successors or assigns.

B. The Declaration

24. This action is commenced in part to enforce the Declaration. The Declaration was recorded on September 11, 1986, in the Jefferson County Clerk's Office at Book No. of 1038 Deeds at Page 211.

25. For the purpose of providing uniform restrictive covenants for the Conservation Property and to protect scenic and other conservation values, Patten Corporation Northeast, the owner of the Conservation Property at the time of conveyance of the Declaration, created restrictive covenants. Among other restrictions, the Declaration provides as follows:

4. The placement of trailers, mobile homes, or motor homes on the [Conservation Property] at any time for any reason is prohibited.

...

7. The dumping of ashes, trash, garbage and other unsightly material is prohibited.

...

9. Construction of all structures within the 100' shoreline buffer area as shown on [the Carleton Island Map], with the exception of duckblinds, docks and boathouses, is prohibited.

...

15. There shall be no commercial . . . excavation on any lot at any time.

...

16. There shall be no grading of land surface, excavation, or exhumation activity on any portion of Lots 1, 2, and 20 located within the Fort Haldimand Buffer Zone, i.e. within "limits of nominated lands" as shown on the [Carleton Island Map] without a minimum 30 day notice to [TILT]. All parties may be relieved from the responsibility of this notice requirement upon written approval by the New York State Historic Preservation Officer and a representative of the New York State Museum.

26. The purpose of the Declaration is and was to benefit the Conservation Property, then held by Patten Corporation Northeast, and to provide for the orderly and uniform development of such property. Therefore, TILT is entitled to enforce the Declaration as the owner of the TILT Property.

27. Further, the circumstances of the Declaration demonstrate that Patten Corporation Northeast intended that the grantee of the Conservation Easement be entitled to enforce the Declaration. Therefore, TILT also is entitled to enforce the Declaration as the grantee of the Conservation Easement.

C. Violations in Defendants' Development Plan

28. On or about October 4, 2023, Defendants submitted to the Town of Cape Vincent a Special Use Permit Application seeking regulatory approval for a plan of development for the Villa Property (the "Development Plan"). A copy of said application is attached hereto as **Exhibit D**.

29. Defendants have submitted updated "Site Plans" to the Town of Cape Vincent as part of the permit application process. The most recent Site Plan submitted by Defendants is attached hereto as **Exhibit E** (the "Site Plan").

30. The Development Plan, as depicted by the Site Plan, will violate both the Conservation Easement and the Declaration. Violations apparent from the Site Plan include, but are not limited to, the following:

31. The following structures depicted in the Site Plan would violate the prohibition on “structures” within Section 3(a) of the Conservation Easement:

- The “Beach Expansion”;
- Other structures associated with the beach, including structures mandated by the New York State Department of Health for bathing beaches;
- The “Floating Platform”;
- Suspected utility line(s) shown as a dotted line labeled “E”;
- The “Stone Retaining Wall”;
- The “mulch/gravel” path(s);
- The “Cobblestone paved” path(s); and
- The “Community Garden”.

32. The Site Plan depicts the removal of a large number of trees and/or other vegetation from the Villa Property, which would violate the limits on cutting natural vegetation in Section 3(b) of the Conservation Easement.

33. The 12 “cabins” depicted on the Site Plan would violate the prohibition of “trailers, mobile homes, or motor homes” within Section 4 of the Declaration.

34. The construction necessary to effectuate the Development Plan as depicted in the Site Plan would violate the prohibition on dumping of ashes, trash, garbage or unsightly material within Section 7 of the Declaration.

35. The construction necessary to effectuate the Development Plan as depicted in the Site Plan would violate the prohibition on commercial excavation under Section 15 of the Declaration given that the excavation would be for the purposes of facilitating the commercial use of the Villa Property.

D. Violations by Defendants' Development Efforts

36. By letter dated March 1, 2024, counsel for TILT advised Defendants that the Development Plan would violate the Conservation Easement and the Declaration, and demanded that Defendants cease and desist from all efforts to proceed with the Development Plan.

37. By letter dated March 20, 2024, counsel for Defendants advised TILT that they believed that the Development Plan would not violate either the Conservation Easement or the Declaration.

38. On April 9, 2024, representatives of TILT visited the Fort Haldimand Preserve adjacent to the Villa Property and observed heavy earth-moving and/or vegetation removal equipment in use on the Villa Property (Defendants' "Development Efforts"). They observed representatives of Defendants cut down or destroy a significant amount of vegetation on the Villa Property.

39. Prior to April 9, 2024, TILT was not aware of any efforts by Defendants to begin work on the Development Plan.

40. Defendants did not provide TILT with 30 days' notice of such activity as required by Section 16 of the Declaration.

41. Upon information and belief, Defendants did not obtain written approval for such activity from the New York State Historic Preservation Officer or a representative of the New York State Museum.

42. Upon information and belief, Defendants' Development Efforts on the Villa Property have violated the Conservation Easement and the Declaration in other ways. Because TILT has not had the opportunity to ascertain Defendants' activities on the Villa Property specifically, Defendants' violations cannot be alleged specifically as of the date of this Complaint. However, upon information and belief, Defendants' Development Efforts have violated the limits on cutting natural vegetation in Section 3(b) of the Conservation Easement.

FIRST CAUSE OF ACTION
(Declaratory Judgment and Permanent Injunction)

43. TILT repeats, reiterates, and re-alleges each and every allegation that is set forth in paragraphs "1" through "42" of this Complaint with the same force and effect as though fully set forth at length herein.

44. As stated above, the Development Plan would violate the restrictions of the Conservation Easement and the Declaration.

45. Further, as stated above, Defendants' Development efforts already have violated the restrictions of the Conservation Easement and the Declaration.

46. TILT is entitled to enforce said restrictions.

47. Moreover, the Development Plan and Defendants' Development Efforts pose a threat to the natural, wildlife, wetland, open space, aesthetic, scenic, successive vegetative, and woodland features and values of the Villa Property.

48. Therefore, pursuant to Section 2 of the Conservation Easement, TILT is entitled to commence a proceeding to preserve and protect said features and values, including for a judgment ceasing the Development Plan and Defendants' Development Efforts.

49. Defendants' Development Efforts demonstrate an intent to carry out the Development Plan regardless of violations of the Conservation Easement or the Declaration.

50. TILT has no adequate remedy at law.

51. Based on the foregoing, TILT is entitled to a declaratory judgment that Defendants' Development Plan would violate the Conservation Easement and the Declaration.

52. Additionally, based on the foregoing, TILT is entitled to a permanent injunction enjoining Defendants from taking any steps on the Villa Property to carry out the Development Plan.

SECOND CAUSE OF ACTION
(Violations of the Conservation Easement and Declaration)

53. TILT repeats, reiterates, and re-alleges each and every allegation that is set forth in paragraphs "1" through "52" of this Complaint with the same force and effect as though fully set forth at length herein.

54. Upon information and belief, Defendants' Development Efforts already have violated the Conservation Easement and/or Declaration.

55. Pursuant to the Conservation Easement, if there have been any violations and they have not been cured within thirty days' notice thereof, TILT is entitled to enforce the Conservation Easement in law or equity. As discussed above, TILT provided notice to

Defendants on March 1, 2024 that the Development Plan would violate the Conservation Easement, but Defendants carried on with Defendants' Development Efforts anyway.

56. Moreover, Defendants' violations contravene the purpose of the Conservation Easement and are detrimental to the scenic, aesthetic, natural, woodland, wildlife habitat, wetland, watershed, successional vegetative features, and open space features and value of the Villa Property.

57. Based on the foregoing, TILT is entitled to a judgment for a monetary amount that is sufficient to cure the violations of the Conservation Easement and the Declaration, to restore the Villa Property as closely as possible to its condition prior to those violations, and to otherwise mitigate and/or cure any damage to the Villa Property. Also, in this respect, TILT is entitled to a declaratory judgment that pursuant to sections 2(c), 5, and 6 of the Conservation Easement, TILT has all rights necessary to undertake and/or procure all reasonable efforts to cure the violations of the Conservation Easement, including, but not limited to, the right to enter onto the Villa Property and/or having contractors to do so for the purposes of undertaking such efforts.

58. In the alternative to the relief demanded in the previous paragraph and to the extent that TILT is deemed not to have an adequate remedy at law, TILT is entitled to an injunction compelling Defendants to cure Defendants' violations of the Conservation Easement and the Declaration by restoring the Property to its condition prior to the violations, and otherwise mitigating and/or curing any damage to the Property resulting therefrom.

59. Lastly, based on the foregoing, TILT is entitled to a judgment for a monetary amount that is sufficient to compensate it for the lost conservation value of the

Conservation Property that is a direct and proximate result of Defendants' violations of the Conservation Easement and the Declaration.

THIRD CAUSE OF ACTION
(For Attorneys' Fees and Costs)

60. TILT repeats, reiterates, and re-alleges each and every allegation that is set forth in paragraphs "1" through "59" of this Complaint with the same force and effect as though fully set forth at length herein.

61. The Conservation Easement provides that Defendants are required to pay for all expenses necessary to enforce the terms of the Conservation Easement, to cease non-conforming uses, and to restore the Villa Property to the condition in which it existed prior to such uses. Accordingly, TILT is entitled to recover from Defendants all attorneys' fees and disbursements incurred by TILT as a result of any violation of the Conservation Easement and/or any enforcement action by TILT.

62. As discussed above, upon information and belief, Defendants' Development Efforts have violated the Conservation Easement.

63. Accordingly, TILT is entitled to a judgment for a monetary amount that is sufficient to reimburse TILT for any and all reasonable expenses, including, but not limited to, attorneys' fees, that have been and that will be incurred in connection with this action and that have been and that will be otherwise incurred to enforce the Conservation Easement and/or to address and/or to cure Defendants' violations of the Conservation Easement.

WHEREFORE, TILT demands a judgment against Defendants as follows:

- a. For a declaratory judgment that the Development Plan would violate the Conservation Easement and/or the Declaration;
- b. For an injunction enjoining Defendants from taking any steps to carry out Defendants' Development Plan;
- c. For a monetary amount that is sufficient to cure the violations of the Conservation Easement and the Declaration, to restore the Property as closely as possible to its condition prior to those violations, and to otherwise mitigate and/or cure any damage to the Villa Property;
- d. For an injunction compelling Defendants to cure Defendants' violations of the Conservation Easement and the Declaration by restoring the Villa Property to its condition prior to the violations, and otherwise mitigating and/or curing any damage to the Villa Property resulting therefrom;
- e. For a monetary amount that is sufficient to compensate TILT for the lost conservation value of the Villa Property that is a direct and proximate result of Defendants' violations of the Conservation Easement and the Declaration;
- f. For a monetary amount that is sufficient to reimburse TILT for reasonable expenses, including attorneys' fees, that have been and that will be incurred in connection with this action and that have been and that will be otherwise incurred to address and to cure Defendants' violations of the Conservation Easement; and/or

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- g. Such additional and further relief that the Court and/or jury deems just and proper.

Dated: April 10, 2024
Saratoga Springs, NY

RUPP PFALZGRAF LLC

Attorneys for Plaintiff

By: 

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TO: CARLETON VILLA, LLC
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RON CLAPP

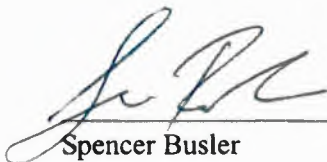
711 N. Broadway
Lantana, FL 33462

Verification

STATE OF NEW YORK)
) ss.:
 COUNTY OF Jefferson)

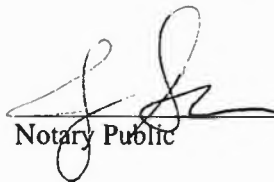
I, Spencer Busler, being duly sworn, state:

I am the Assistant Director and Director of Land Conservation for the Plaintiff, Thousand Islands Land Trust, Inc., and I hereby state that I have read the foregoing Verified Complaint and know the contents thereof; and that the same are true to my own knowledge, except as to the matters therein alleged on information and belief and as to those matters I believe it to be true. The grounds of my belief as to all matters in the Verified Complaint not stated upon my own knowledge are investigations which I have caused to be made concerning the subject matter of this Verified Complaint and information that I have acquired in the course of my duties as a representative of Thousand Islands Land Trust, Inc. and from books and papers of the same.



Spencer Busler

Sworn to before me this
10th day of April, 2024



Notary Public

JORDAN M. SANFORD
 Notary Public, State of New York
 No. 01SA6422138
 Qualified in Jefferson County
 Commission Expires Sept. 13, 2025