

**TOWN OF NEW SCOTLAND
SPECIAL TOWN BOARD MEETING
January 20, 2016 – 6:30 pm
AGENDA**

1. **Call to Order** *Mr. LaGrange*

2. **Pledge of Allegiance**

3. **Invitation to the General Public to Comment on Agenda Items: Please use the microphone available and state your name for the record** *Mr. LaGrange*

4. **Update re: status of the “Osterhout” barn located on the LeVie Farm development site.** *Mr. LaGrange*

5. **Resolution re: SEQR determination for the barn relocation project** *Mr. LaGrange
Attachment #1*

6. **Adjourn** *Mr. Dolin*

RESOLUTION NO. ____ OF 2016

RESOLUTION ADOPTING NEGATIVE DECLARATION PURSUANT TO NEW YORK STATE ENVIRONMENTAL QUALITY REVIEW ACT (6 NYCRR § 617.7)

Proposed Action: Planning and coordination of all steps associated with moving a 60' x 120' historic wooden barn known as the "Hilton Barn" approximately 600' from its current location on the south side of NYS Route 85A in the Town of New Scotland, Albany County, New York to a temporary location on the north side of Route 85A, at the corner of Hilton Road and Route 85A. The proposed future site for the barn is a one acre parcel adjacent to the Rail Trail and will be improved with new parking. A temporary construction access will be required. The action includes: 1) the solicitation of, and application for, grants/funding from the State of New York, the County of Albany, and private donors; 2) coordinate with the Mohawk Hudson Land Conservancy for the conveyance of a 1 acre parcel of land for the future site of the barn, and a license from the owners of the land to move the barn to the future site; 3) coordination of site preparation for relocation of barn; 4) contracting with barn relocation contractor; 5) coordinate with utility companies; 6) permitting (collectively, the "Action").

SEORA Classification: Unlisted

Lead Agency: Town Board of the Town of New Scotland, New York (the "Town").

WHEREAS, the Town Board of the Town of New Scotland has investigated the feasibility of moving an historic barn, known as the "Hilton Barn," from its current location at the former LeVie property, 171 Maple Road/NYS Route 85A in the Town of New Scotland, Albany County, New York, to a new site on a one acre parcel at the corner of Hilton Road and NYS Route 85A;

WHEREAS, the proposed new site for the Barn is adjacent to the Albany County Rail Trail and in close proximity to the current location of the Barn;

WHEREAS, the Mohawk Hudson Land Conservancy ("MHLC") has obtained an option to purchase the one acre parcel of land and has secured donations to purchase the land;

WHEREAS, MHLC is prepared to convey the one acre parcel to the Town of New Scotland: (A) to facilitate the Barn relocation and/or (B) to provide access to the Rail Trail;

WHEREAS, the historic attributes of the Barn were reviewed and analyzed in connection with the Town of New Scotland Planning Board review of the Country Club Partners, LLC application for the LaVie residential subdivision project because the developer of that project proposed to dismantle the Barn and remove it from the site;

WHEREAS, the Planning Board conducted a SEQRA environmental review of the residential subdivision project, and issued a negative declaration of significance under the State Environmental Quality Review Act (“SEQRA”) after receiving correspondence from the Division of Historic Preservation (“SHPO”) of the New York State Office of Parks, Recreation and Historic Preservation authorizing the developer to remove or dismantle the Barn from the site;

WHEREAS, in early 2015, a Letter of Resolution¹ was entered into between SHPO, NYSDEC, the Town, and Country Club Partners which provides that the developer will make the Barn available to the Town, at no charge, for relocation and adaptive use if the Town determines to relocate the Barn;

WHEREAS, if the Town of New Scotland does not take action to save the Barn, the developer of the residential subdivision project plans to dismantle and remove the Barn from the site, with no plan for reconstruction of the Barn;

WHEREAS, the Town has received certain commitments from the County of Albany regarding contribution of funds and services to assist with the Barn relocation, and the Town will pursue a grant from the State of New York for additional funds to assist with the Barn relocation project;

WHEREAS, consistent with 6 NYCRR § 617.7, the Town Board thoroughly considered the reasonably foreseeable potential environmental effects resulting from design and construction of the Action and the Project improvements; and

WHEREAS, the Town Board considered an Environmental Assessment Form (“EAF”), carefully considered the criteria set forth in 6 NYCRR 617.7, and has identified the relevant areas of environmental concern; and

WHEREAS, the Town Board has considered all the questions in Parts 1 and 2 of the EAF, and has determined that the EAF identified and addressed all areas of concern and none of the potential environmental impacts associated with the proposed Action are significant.

NOW, THEREFORE, BE IT RESOLVED, that based upon the Town Board’s review of the EAF; the SEQRA review conducted by the Planning Board; the Town Board’s independent analysis of the proposed Barn relocation and the proposed site for the Barn; and evaluation of the criteria for determining significance found at 6 NYCRR Part 617.7, the Town Board hereby finds that the Action will not have a significant impact on the environment; and

BE IT FURTHER RESOLVED, that this determination of significance shall be considered a Negative Declaration made pursuant to Article 8 of the Environmental Conservation Law, and the Town hereby determines that the requirements of the SEQRA regulations, 6 NYCRR § 617.7, have been met; and it is

¹ A copy of the Resolution is annexed as **Exhibit A** to this Resolution.

FURTHER RESOLVED, that the Town Board hereby determines that the Action will not result in significant adverse environmental effects, and that no environmental impact statement or further SEQRA consideration is required; and it is

FURTHER RESOLVED, that the facts and reasons supporting this determination are that the proposed Action and use of the land:

- (a) is consistent with the Town's zoning law and comprehensive plan;
- (b) will not result in a material change in the use or intensity of use of the land;
- (c) is consistent with the community character;
- (d) will not change traffic levels or impact infrastructure;
- (e) will not impact public or private wells or water supplies or septic systems;
- (f) will not impact historic, archaeological, architecture or aesthetic resources;
- (g) will not have an adverse impact on natural resources (wetlands, waterbodies, etc.);
- (h) will not result in an increase in erosion, flooding or drainage;
- (i) will not cause a hazard to environmental resources or human health;
- (j) will not have an adverse impact on any Critical Environmental Area or the environmental characteristics of the neighborhood.

A motion by Member _____, seconded by Member _____, to adopt Resolution No. ___ of 2016.

In favor: _____
Opposed: _____
Motion Approved: _____

The Resolution was adopted at a meeting of the Town Board of the Town of New Scotland duly conducted on January 20, 2016.

**LETTER OF RESOLUTION AMONG
NEW YORK STATE OFFICE OF PARKS, RECREATION & HISTORIC PRESERVATION
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
THE TOWN OF NEW SCOTLAND
AND COUNTRY CLUB PARTNERS
REGARDING THE LEVIE FARM SUBDIVISION**

WHEREAS, the LeVie Farm Subdivision proposed by Country Club Partners will require a Town water district extension to be approved by the New York State Department of Environmental Conservation (NYSDEC); and

WHEREAS, the NYSDEC has consulted with the New York State Office of Parks, Recreation, and Historic Preservation (OPRHP), in accordance with the Section 14.09 of the New York State Parks, Recreation, and Historic Preservation Act of 1980 and 9 NYCRR §428, and

WHEREAS, OPRHP has determined that the LeVie Barn is eligible for inclusion in the State and National Registers of Historic Places, and

WHEREAS, Country Club Partners is proposing to a residential subdivision which was approved by the Town of New Scotland with the following condition: "The project owner shall offer, without charge or fee; the barn located on Lot 18 to the Town of New Scotland for preservation and relocation and the owner shall not demolish or deconstruct the barn until after February 28, 2015. If by February 28, 2015, the owner of Lot 18 is notified by the Town of New Scotland that the Town has received a proposal to relocate this barn to another location, the owner must allow until May 31, 2015 for the barn to be deconstructed and relocated", and

WHEREAS, either the demolition of the barn, if the above condition is not met, or its relocation and adaptive reuse will have an adverse impact on the eligible resource, and

WHEREAS, OPRHP has consulted with representatives of the New York Department of Environmental Conservation (DEC) who are involved with the Project through a required permit in accordance with Section 14.09 implementing regulations of the New York State Parks, Recreation and Historic Preservation Law.

NOW, THEREFORE, the OPRHP, DEC and Sponsor agree that the Project shall be implemented in accordance with the following stipulations in order to take into account the impact of the undertaking on historic properties.

STIPULATIONS

The Sponsor will ensure that the following measures are carried out:

- I. The LeVie Barn, at no charge, shall be made available for relocation and adaptive reuse as set forth in the resolution of the Town of New Scotland Planning Board recited above. Documentation of these efforts are documented in Attachment A of this agreement; and
- II. The mitigation plan to document the LeVie Barn, prior to the dismantling or demolition of the structure, is to be completed to HABS Level II standards. Instead of the large format photography specified in HABS Level II standards, printed digital photographs of 8x10 inches at 300 ppi will be provided. The photographs will comply with guidelines published by the Universal Photographic Digital Imaging Guidelines found at <http://www.updig.org/>. The complete documentation plan is appended in Attachment B. Two bound copies of the documentation using appropriate archival materials will be prepared. One copy will be submitted to a local repository and the second copy will be sent to OPRHP

EXHIBIT A

for submission to the NYS Archives. A third fully digital copy of an archival disk will also be submitted to OPRHP for their records.

EXECUTION AND IMPLEMENTATION of this Letter of Resolution evidences that DEC and the Sponsor have satisfied Section 14.09 responsibilities.

By: *Richard Puopert* Date: *1/16/15*
OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

By: _____ Date: _____
DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By: _____ Date: _____
COUNTRY CLUB PARTNERS LLC

By: *Thomas E. Wolin* Date: *2/2/2015*
TOWN OF NEW SCOTLAND

ATTACHMENT A

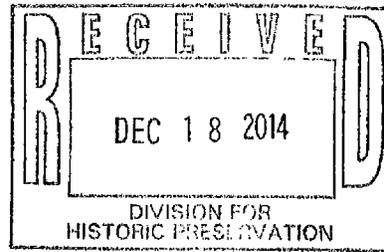


*Consulting
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Land Planners

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FOUNDER
Ben B. Hershberg, P.E., L.S.
(1901-2002)

PARTNERS
Daniel R. Hershberg, P.E., L.S.
Abraham F. Sofer, R.A.
Francis G. McCloskey, L.S.

December 16, 2014

Sloane Bullough
Historic Sites Restoration Coordinator
Technical Preservation Services Unit
Division for Historic Preservation
New York State Office of Parks, Recreation, and Historic Preservation
PO Box 189
Waterford, NY 12188

**RE: Levi Farm Subdivision
#171 N.Y.S. Route 85A
New Scotland (T), Albany County
12PR03936
H&H File No. 20090036**

Dear Ms. Bullough:

On September 12, 2012, Hershberg & Hershberg filed a Project Review Form with New York State Office of Parks, Recreation, and Historic Preservation.

On September 21, 2012 we received a letter from Philip Perazio assigning a project number (12PR03936) and determining that a Phase I Cultural Resource Survey would be appropriate.

On November 6, 2012, the Applicant's retained Columbia Heritage, Ltd. to perform a Phase I Cultural Resource Study. The Phase 1 identified "archaeological deposit consists of structural remains, architectural debris, and waste material associated with what appears to have been a 19th century dwelling, probably belonging to the Hilton family."

On December 20, 2012, the Applicant's retained Columbia Heritage, Ltd. to perform a Phase II Cultural Resource Study.

On November 22, 2013 I sent letters inviting Daniel Mackay, *Director of Public Policy* of the Preservation League of New York, Mr. Alan Kowlowitz, President of New Scotland Historical Association and Robert Parmenter to establish times for a visit to the barn to examine its potential for relocation.

On December 9, 2013 Mr. Mackay wrote to me by e-mail the following: "I will be bringing several folks to the barn access meeting – two property owners interested in possibly hosting the barn on their own sites, as well as personnel with experience in assessing the structural condition and opportunity for deconstruction of post-and-beam structures."

On January 7, 2014 I received the following e-mail from Barry hollander: "After the barn inspection mid-December, we got the impression from Mackay and others that the relocation project was too large for them to handle. Since the inspection, the barn advocates have not contacted us regarding the barn.

At the February 4, 2013 meeting of the Town of New Scotland Planning Board an indication of an approval would be granted providing that arrangements could be made to permit deconstructing and relocation of the barn.

On February 12, 2014 in an e-mail to the Chair of the Planning Board and the Planning Board attorney I proposed the following language for a note on the subdivision plan:

The barn located on Lot 18 shall not be demolished or deconstructed until after February 28, 2015. If by February 28, 2015, the owner of Lot 18 is notified by the Town of New Scotland that they have received a proposal to relocate this barn to another location, the owner must allow until May 31, 2015 to allow the barn to be deconstructed and relocated.

On February 12, 2014 I wrote to the Applicants the following: Cindy Elliot has someone who might be interested in taking the barn without relying on government grants, etc.. Can one of you contact Cindy to make arrangements to gain access to the barn for an inspection? (Note: Cynthia Elliot, PLS, had been a Town of New Scotland Planning Board member during this application process)

On February 17, 2014 Daniel Mackay wrote to me: "Daniel, I am hoping to arrange access to the LaVie Barn for no more than three hours this coming Friday, February 21, between noon and three. I won't need all that time, but still need to fine-tune the arrival of a consultant from Cazenovia with expertise in barn relocation." (Note: The consultant was later identified in a memo to the Planning Board dated as "Randy Nash, an experienced timber-frame craftsman from the Cazenovia area")

On March 3, 2014 Daniel Mackay wrote a memo to Charles Voss, Chairman of the Planning Board, which included the following quote "*The Spotlight article notes Mr. Nash stating the barn has "little historical significance." This quote is missing its context in the conversation that was occurring at that time. Randy was noting that this barn is an aberration in the development of barns in New York State, a distinct and unique branch amongst the evolution of barn design. As such, it does not represent a link in a larger lineage of barn evolution, but a specific departure.*"

On March 4, 2014, Jeffrey baker, Attorney for the Planning Board e-mailed me the following: *Your note generally is acceptable, I have made a few changes below. Let me know if you have questions, otherwise I think we can move ahead tonight.*

The project owner shall offer, without charge or fee, the barn

located on Lot 18 to the Town of New Scotland for preservation and relocation and the owner shall not demolish or deconstruct the barn until after February 28, 2015. If by February 28, 2015, the owner of Lot 18 is notified by the Town of New Scotland that the Town has received a proposal to relocate this barn to another location, the owner must allow until May 31, 2015 for the barn to be deconstructed and relocated.

Daniel Mackay arranged for a group of 3-5 people to visit the barn May 30, 2014. Arrangements were made by the Applicant to show the barn.

On October 29, 2014 Columbia Heritage, Ltd. forwarded information on the barn to SHPO which included the following:

As you are aware, the LeVie Barn is situated within the proposed LeVie Farm single-family residential subdivision. The structure is currently being used to house the maintenance department for the adjacent Colonie Country Club. Its design, which makes it difficult to store maintenance equipment, and the degree of deterioration of the both the building and the slate roof would require a minimum of \$150,000 to repair, make it unsuitable to continue to serve this function. The developer of the proposed subdivision, Colonie Country Club Partners, LLC, have explored the feasibility of retaining the building in place for use as an agricultural barn, relocating it to another part of the property, and adapting it for re-use within the subdivision under the Residential Agriculture A zoning which applies to the parcel. The project engineer, Daniel Hershberg, P.E. of Hershberg & Hershberg, Civil Engineers & Surveyors, reports " the developers have no way to implement an adaptive reuse of the barn in a manner which would allow for the site to be developed for single family lots. Any reasonable layout of single family residential lots would leave the barn as an encumbrance to marketing of these lots for use by home buildings. Every home builder consulted by the applicant insisted that the barn be demolished or moved." As such, the barn cannot be seen as prudent and feasible to save as is.

Recognizing the historical significance of the structure, the developer would like to have the barn dismantled and moved off the property to be reassembled elsewhere, preferably within the township. In discussions with the Town early in 2014, the developer had set a date of February 28, 2015 for an entity to be found to disassemble and remove the barn and allows until May 31, 2015 for the barn to be removed. It is our understanding that to date several parties have viewed the property. As part of our historical consulting services, we will be acquainting the developer with additional individuals and entities with whom we are familiar and who are likely to have an interest in obtaining and relocating the building. This is seen by all parties concerned as the most feasible preferable alternative to demolition. Should it prove not possible to find a person or group willing to dismantle and reassemble the barn, demolition would remain as the only alternative. In any case,

documentation of the existing structure would be needed to mitigate whichever adverse impact occurs.

If you require any additional information please feel free to contact me at your convenience.

Sincerely yours,
HERSHBERG & HERSHBERG



Daniel R. Hershberg, P.E. & L.S.

Ec: Fred Wander, Esq.
Barry Hollander

DRH/dan/20090036NYSOPRHP121614.doc

ATTACHMENT B

Recordation of the LeVie Barn

The mitigation plan to document the LeVie Barn, prior to dismantling or demolition of the structure, is to be completed to modified HABS Level II Standards. This will include the following:

1. Printed digital photographs of 8x10 inches at 300 ppi, will be provided in place of large format black and white photography (As modified per NYSOPRHP from the HABS II Standard). The photographs will comply with guidelines published by the Universal Photographic Digital Imaging Guidelines found at <http://www.updig.org/>. Each photograph will be clearly labeled and keyed to a drawing. They will document the interior and exterior of the barn and historic images will be included if they can be located.
2. A narrative history of the LeVie Barn within the context of the history of the Hilton Farm. This will include the architectural period of significance, style, method of construction, and the work of its designer, Frank Osterhout.
3. To bound copies of the documentation using appropriate archival material will be prepared. One copy will be submitted to a local repository and the second copy will be sent to OPRHP for submission to the NYS Archives. A third fully digital copy of an archival disk will also be submitted to ORHP for their records.
4. The completed report, based on the requirements above, will have the following components and format:

INTRODUCTION

- Project Location
- National Register Eligibility Determination/SHPO

HISTORIC CONTEXT

- Community Development
- Industry/Agriculture
- Architecture

STATEMENT OF SIGNIFICANCE

NARRATIVE HISTORY

BIBLIOGRAPHY

- References
- Maps
- Personal Communication

APPENDICES

- Photographic Log
- Photographs (HABS Standard modified by NYSHPO to 8 x10" color digital)
- CDR of Final Report