



Department of Economic and  
Community Development

Connecticut  
still revolutionary

September 13, 2012

Ms. Beth Held  
Field Environmental Officer  
US Department of Housing and Urban Development  
Hartford Field Office  
20 Church Street, 10<sup>th</sup> Floor  
Hartford, Connecticut 06103-3220

Subject: The Villages – A Proposed 120-unit Apartment Community Complex, Montville, CT

Dear Ms. Held:

The State Historic Preservation Office responds here to your letter dated August 28, 2012 regarding the referenced undertaking. The Department of Housing and Urban Development (HUD) is considering providing financial assistance to the Villages at Shantok Hills Development, LLC (hereafter Developer) under the Multifamily Section 221(d)(4) loan program. Pursuant to Section 106 of the National Historic Preservation Act of 1966 (16 USC 470f) and its implementing regulations, the Protection of Historic Properties (36 CFR Part 800 et seq.), HUD finds that the development of a 12.2 acre site on the west side of State Route 32 in Montville will adversely affect a historic property. We note that SHPO has been engaged in substantive consultations with HUD, the Developer, the Mohegan Tribe, the Town of Montville, the Connecticut Department of Economic and Community Development (DECD), of which SHPO is now part, and consultants for the preceding since the summer of 2011. As initially planned, the Developer would construct new multifamily housing on two adjacent properties, referred to as Parcel A and Parcel B. As of a public scoping meeting in January 2012, plans to develop the 6.5 acre Parcel B as a component of this undertaking were dropped. As currently designed, the undertaking will include the construction of a 120-unit apartment complex and associated infrastructure on Parcel A (Project Site). The Project Site is currently undeveloped woodland on the Fort Hill landform. A documented history of quarrying activity has affected the eastern portions of the property; however, multiple cultural features associated with the Mohegan Tribe have been identified within the Project Site and in the surrounding landscape.

Based on a careful consideration of the Environmental Assessment/Environmental Impact Evaluation, written opinions, and the responses to public comments prepared by Fuss and O'Neill (the State's consultants) and their sub-consultants, Archaeological and Historical Services, HUD has determined that the Areas of Potential Effects (Indirect and Direct) contain the core of a Traditional Cultural Property (TCP) that is eligible for listing in the National Register of Historic Places. Further, HUD has determined that the proposed development (undertaking) will adversely affect that TCP and has requested SHPO's concurrence with their findings. SHPO concurs that the area delineated as the "Revised TCP Boundary" in the map titled "Mohegan TCP – Revised" is eligible for listing in the National Register of Historic Places. We specifically concur with the conclusions of the EA/EIE that the Traditional Cultural Property is eligible under Criteria A, B, C, and D (36 CFR Part 60.4). The historic property is a district encompassing, at a minimum, the following contributing resources associated with the Mohegan Tribe:

1. Site 86-54 – Uncas' Fort – the remains of a 17<sup>th</sup> century Mohegan fortification attributed to Uncas, founder of the Mohegan Tribe, and noted in numerous local and tribal histories from the early 18<sup>th</sup> century to present-day.
2. Uncas' Rockshelter – a small overhanging rock formation located immediately southwest of

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- (cont.) the Parcel A boundary and outside the Area of Potential Effects (Direct).
3. Uncas' Spring and Cabin – a spring and associated house site with a cellar/foundation on the west side of State Route 32 and attributed to Uncas. Uncas Spring is the site of offerings made by contemporary tribal members, according to the Mohegan THPO.
  4. The historic Fort Hill Farm complex located southwest of Parcel A and adjacent to the Mohegan Elder's Housing development on State Route 32. Fort Hill Farm was the last communally-owned parcel held by the Mohegan Tribe in the 19<sup>th</sup>-century.
  5. Mohegan Congregation Church – individually listed in the State Register of Historic Places and closely associated with tribal continuity through the 19<sup>th</sup> and early 20<sup>th</sup>-centuries.
  6. Moshup's Rock – located adjacent to the Mohegan Congregational Church, this stone feature is traditionally attributed to the footstep of the giant Moshup. Granny Squannit, Moshup's wife was a leader of the Makiawisug, or "Little People".
  7. The 1931 Tantaquidgeon Museum on Church Lane. This museum of Indian history and culture was built by John Tantaquidgeon, his son Harold and his daughter, Gladys Tantaquidgeon.
  8. Stone Features 2 through 10 and Stone Feature 13, identified on Figure 4 of Appendix E of the EA/EIE. These features are believed by the Mohegan Tribe to have been made by the Little People, spirits that protect the Tribe.
  9. The Fort Hill landform that is strongly associated with the spirit of Uncas and the Little People who sustain tribal identity and protect the tribal elders.

SHPO believes that additional contributing resources in the form of surficial stone features are very likely to be present within the revised TCP boundary but exterior to the Project Site. We note that the Cultural Resources Assessment Survey undertaken by Historical Perspectives, Inc (HPI), consultants to the Developers, included the clearing of leaf litter and pedestrian survey of Parcel B, abutting the current Project Site to the north. HPI noted, "there are additional rock clusters in Area B, but each was not identified and flagged because this parcel is not part of the HUD-funded development."<sup>1</sup> We also note that the Tribe has expressed the belief that all of Mohegan Hill is of great significance to the Mohegan People. SHPO respectfully acknowledges that there are many highly significant historic properties associated with the Tribe located on Mohegan Hill but outside the revised TCP boundary. These include Cohegan's Rock west of Interstate Route 395, Fort Shantok, a National Historic Landmark, and Papoose Ledge on the eastern margins of Mohegan Hill near Massapeag Side Road. SHPO in no way diminishes the significance of these and other potentially significant sites that are intimately associated with Mohegan history and traditions. We do, however, concur with HUD that the revised TCP boundary addressed here is based on a careful consideration of information developed through consultation with the Tribe and other parties. The revised boundary encompasses a district of clearly identifiable historic resources that together reflect significant aspects of Mohegan history and traditional cultural and religious practices. The revised TCP boundary evidences HUD's good faith effort to consider historic properties and appears sufficient to address the potential effects of this undertaking to those historic properties.

HUD acknowledges the Mohegan Tribe's special expertise in evaluating the National Register-eligibility of properties that may possess religious and cultural significance to them (36 CFR Part 800.4(a)(1)). The

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<sup>1</sup> *Phase IB Archaeological Reconnaissance Survey, The Villages, 1710 & 1856 Norwich-New London Turnpike (RTE. 32), Uncasville, Town of Montville, New London County, CT, Faline-Schneiderman, at Page 8.*  
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Tribe's opinion regarding the significance of Mohegan Hill was established through government-to-

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government consultations between HUD and the Tribe and through consultations amongst the Tribe and other parties, including SHPO. The Tribe's opinion is expressed formally in a letter from James Quinn, Tribal Historic Preservation Officer, to HUD on February 10, 2012. In that letter, Mr. Quinn states:

Mohegan Hill is a large part of Mohegan identity and its importance to our people stretches back many generations and remains as a significant source of Mohegan identity today. There are powerful spiritual forces that reside on the Hill and protect the Tribe's well-being... We are not just Mohegan, we are *from* Mohegan [Emphasis in original].

That letter further establishes specific features within the Project Site that have significance to the Tribe's traditional cultural and religious beliefs:

The sacred stone piles on Mohegan Hill are a critical feature of the traditional landscape of Mohegan Hill. They were created by the "Little People" who live deep within the ground of Mohegan Hill. These "Little People" or *Makiawisug* are the ancient culture heroes of this region... These stone piles also possess powers that protect the Mohegan people from outsiders. Not only do the Little People still live within the ground on the Hill and continue to guard the stones, these stone piles are perceived as being made of the bones of Mother Earth and they contain messages that guide generation after generation of Mohegan People. Contemporary Mohegan tribal members make offerings to the Little People in hopes that they will continue to protect our Tribe.

The opinions of the Mohegan Tribe concerning a potential TCP were addressed at length in the EA/EIE and subsequently in response to several public comments arising from review of that document. In summary, it is SHPO's opinion that the Tribe's assertion that Mohegan Hill, in general, and the area encompassed by the revised TCP boundary, in particular, have a long-expressed spiritual and cultural significance to the Mohegan People is supported by ethnographies, local histories, the Tribe's own comments and the published works of Mohegan Tribal Medicine Woman, Melissa Tantaquidgeon-Zobel. The expression of the Tribe's belief that Mohegan Hill and Fort Hill on which the Project Site is located are home to powerful spirits that sustain Mohegan identity was established prior to the current plans to develop the Project Site. Numerous physical features within the revised TCP boundary reflecting Mohegan history and the Tribe's traditional cultural beliefs are present on the landscape and can be observed by non-tribal parties.

Several substantive objections to the National Register eligibility of the Mohegan Hill TCP have been raised by consulting parties. We respond to the two issues that SHPO believes are the most critical considerations. The Developers have provided their opinion that the TCP is not eligible for listing in the National Register of Historic Places due to a loss of integrity. The Developers also assert that the State's



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consultants have used an inappropriate “Indian-specific standard that is explicitly tribe-oriented.”<sup>2</sup> SHPO disagrees, noting that the contributing resources identified within the district boundaries retain their ability to express their direct association with Mohegan history and traditional cultural beliefs and practices and that the district, itself, clearly retains its significance to the Tribe. The retention of integrity is addressed by the EA/EIE through reference to both the opinions of the Tribe and through independently verifiable conditions. As noted by the State’s consultants in response to the Developer’s assertion:

It is undeniable that the primary significance of the area represented by the potential TCP is in the eyes of the Mohegan people, both past and present. ***Without such an approach, the “Traditional Cultural Property” designation would make no sense in any circumstances.*** At the same time, the EIE/EA brings to bear an array of historical and ethnographic evidence, as well as description of existing physical conditions, to evaluate whether the Mohegans’ point of view is reasonable. There is no “face-value acceptance” of Tribal views.<sup>3</sup> [Emphasis added]

The Protection of Historic Properties regulations (36 CFR Part 800 et seq) implementing Section 106 of the National Historic Preservation Act clearly establish that the federal agency “shall shall acknowledge that Indian tribes and Native Hawaiian organizations possess special expertise in assessing the eligibility of historic properties that may possess religious and cultural significance to them” (36 CFR Part 800.4(c)(1)). In view of the Part 800 regulations and the National Park Service’s guidance on evaluating historic properties, inclusive of National Register Bulletins 15 and 38, it is our opinion that the HUD’s determination of eligibility places appropriate weight on the views of the Mohegan Tribe and other sources of information in assessing whether the Mohegan Hill TCP district, as defined by the revised TCP boundary, retains its essential integrity of design, materials, workmanship, feeling, and association.

The Developers have also asserted that the Mohegan Hill TCP is not eligible for listing in the National Register due to its religious use by the Mohegan Tribe. This objection arises from the Developers interpretation of the “Criteria Considerations” under 36 CFR Part 60.4. The Criteria Considerations establish that:

Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria of if they fall within the following categories:

- (a) A religious property deriving primary significance from architectural or artistic distinction or

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<sup>2</sup> Vlad Coric – Written comments of The Village at Shantok Hill Development, LLC (Applicants) to the May 2012 draft Environmental Impact Evaluation and Environmental Assessment, The Villages, Montville, Connecticut – Submitted to HUD and DECD on May 22, 2012. At Page 6.

<sup>3</sup> DECD – Villages Draft Response to Comments 8/14/2012 at Page 7 & 8.  
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(a) **historical importance** [Emphasis added]...

SHPO concurs with the State's consultants that the Mohegan's traditional beliefs and practices, themselves, have historical significance. This is an important element in the application of the Criteria Considerations. The National Park Service's formal guidance on the application of the Criteria Considerations in National Register Bulletin 15 states:

When evaluating properties associated with traditional cultures, it is important to recognize that often these cultures do not make clear distinctions between what is secular and what is sacred. **Criteria Consideration A is not intended to exclude traditional cultural resources merely because they have religious uses or are considered sacred.** A property or natural feature important to a traditional culture's religion and mythology is eligible if its importance has been ethnohistorically documented and if the site can be clearly defined;

and:

A religious property can be eligible under Criterion A for any of three reasons:

- It is significant under a theme in the history of religion having secular scholarly recognition; or
- It is significant under another historical theme, such as exploration, settlement, social philanthropy, or education; or
- **It is significantly associated with traditional cultural values.** [Empahsis added]

It is SHPO's opinion that information gathered through HUD and DECD's efforts to identify and evaluate historic properties within the Areas of Potential Effects provide strong support for HUD's eligibility determination and provide a sound basis for SHPO's concurrence with that determination. We specifically concur with the State's consultants that the Mohegan Hill TCP, as encompassed by the revised TCP boundary submitted to SHPO is eligible for listing in the National Register under Criteria A and B, and individual components add to the potential TCP's significance under Criteria C and D.

SHPO further concurs with HUD that the project, as currently proposed, will have an adverse effect on the Mohegan Hill TCP. An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association<sup>4</sup>. SHPO's concurrence with HUD's finding of an adverse effect is based on the significant alterations to the Fort Hill landscape that will be required for grading and construction of the apartment complex. Although quarrying activity and previous development has already impacted sections of Fort Hill, the Tribe has clearly expressed its belief that bedrock continues to sustain the spirit of Uncas and the Little People. Construction of buildings in between the significant stone features will affect the historic setting of these resources, and may also affect the historic design of the features to the extent that the features represent an inter-related complex of individual elements.

<sup>4</sup> 36 CFR Part 800.5(a)(1)



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The construction of the apartment complex will also adversely affect the visual connection between Fort Hill and contributing resources located along Church Lane. The Tribe has identified this viewshed as an important element in their spiritual and traditional connection to the Mohegan Hill TCP.

SHPO looks forward to additional consultations with HUD and the other parties to resolve the adverse effects through avoidance, minimization, or other appropriate forms of mitigation. We also wish to acknowledge the significant efforts of HUD to address its responsibilities under the National Historic Preservation Act for this undertaking and for the forthright manner in which the Agency has conducted its consultations with SHPO. This office further acknowledges the expressed willingness of the Developers to work with the other parties to develop an appropriate plan of mitigation. Finally, SHPO acknowledges that Tribe's consent to disclose of detailed information concerning the nature of the sensitive historic resources on, and of, Mohegan Hill. Such willingness to openly discuss the Tribe's traditional beliefs has afforded all consulting parties, including the general public, an opportunity to comment on the substantive matters under consideration by HUD.

Based on extensive consultations amongst the parties involved in this process, the current lack of consensus in establishing appropriate means of resolving the adverse effects, and the public controversy that has developed during this process, SHPO believes that the direct participation of the Advisory Council for Historic Preservation would be greatly beneficial to all parties. We are particularly mindful of the important relationship amongst the Town of Montville, the residents of the Town, and the Mohegan Tribe and believe that this relationship is a fundamental element in current and future efforts to identify and preserve Montville's rich historic heritage.

Sincerely,

Daniel T. Forrest  
Deputy State Historic Preservation Officer

cc:

Jaime Loichinger/ACHP  
Nancy Boone/HUD-FPO  
Nelson Tereso/DECD  
James Quinn/Mohegan THPO  
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