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2024-01-04 (13)

Sean M. Kemp
Justin L. Cole
Of Counsel
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LAW OFFICES
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January 4, 2024

Via Hand Delivery

Chairman Joshua Vogt
Town of Hurley Zoning Board of Appeals
P.O. Box 569
Hurley, NY 12443

Via Hand Delivery

Maggie Colan, Secretary
Town of Hurley Zoning Board of Appeals
P.O. Box 569
Hurley, NY 12443

Re: Dave T. Doglas Trust Appeal of ZEO Determination Relating to
1756 Hurley Mt. Road
File No.: 6965.27.01.23

Dear Chairman Vogt and Ms. Colan:

In connection with the above referenced appeal, enclosed please find the following:

- Town of Hurley Zoning Board of Appeals Application;
- Check made payable to Town of Hurley for the sum of \$650;
- Check made payable to Town of Hurley for the sum of \$100;
- SEQRA Environmental Assessment;
- Written narrative detailing the appeal together with Exhibits "1" – "13". Please note that the letter authorizing representative powers is Exhibit "2" and the ZEO's determination that is being appealed is annexed as Exhibit "3" to the narrative. Also, annexed to the narrative are copies of the relevant deeds and aerial photos, among other things.

Thank you for your attention to this matter. Should you require further information or clarification, please do not hesitate to contact me.

Very truly yours,


Sean M. Kemp



**ZONING BOARD OF APPEALS
TOWN OF HURLEY
PO BOX 569
Hurley, New York 12443
planning@townofhurley.org
(845)331-7474 Ext. 6**

FOR OFFICE USE ONLY:

Application # _____ Date Filed: _____ Fee Paid: _____ Receipt No. _____

Date of Decision: _____

Please review the information in this packet and Chapter 210 of the Town of Hurley Code thoroughly.

Forms and Submittals – Required with submission

- ◆ Code Review Form – Code Enforcement Office (CEO’s Determination of denial of which the Appeal is based on)
- ◆ Application
- ◆ Fee
- ◆ SEQRA Environmental Assessment Form (Short EAF Part 1 only)
<http://www.dec.ny.gov/eafmapper/> . You MUST use this site to complete the Short EAF
- ◆ Written Narrative detailing section of code being appealed and reasons for Appealing to overturn CEO/Determination
- ◆ Letter Authorizing Representative Powers, if applicable.(If Applicant is not the property owner, a signed and notarized letter by all property owners listed in the deed authorizing named individual to act as their agent must accompany the application.
- ◆ A sketch plan drawn to scale or site plan to assist in the visual aspect of the Appeal
- ◆ Aerial Photos <https://ulstercountyny.gov/maps/parcel-viewer/>
- ◆ Deed and Easements

All Appeals must be filed within 30 days of the date of the CEO/ZEO Determination in order to be valid

All Applications and supporting materials must be completed and dropped off to the Zoning Board of Appeals (ZBA) Secretary 2 weeks before the monthly ZBA meeting, which is held on the second Thursday of each month, by 4:00PM to be placed on the following agenda. An electronic copy of the entire packet must be submitted on a USB or emailed to



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planning@townofhurley.org along with the hard copy and a check or money order payable to the Town of Hurley.

-If any agent is representing an applicant and/or property owners, a signed and notarized letter by the applicant(s) and/or property owner(s) listed in the deed authorizing the named individual to act as their agent must accompany the application.

APPLICATION

1. Name of Project: 1756 Hurley Mt. Road

2. All Property owners listed in the Deed: The Dave T. Douglas Trust

Mailing Address: 200 Park Avenue South, Floor 8, New York, New York 10003

Physical Address: 8 Dug Hill Road

Primary Phone: () n/a Cell Phone: () n/a

Email Address: n/a

3. Applicant Name (if other than owner): Sean M. Kemp, Esq.

Mailing Address: Marvin Kemp & Cole PLLC, PO Box 151, Rhinebeck, NY 12572

Primary Phone: () 845-876-3024 Cell Phone: () 732-371-7430

Email Address: sean@marvinkemp.com

4. Site Location: Property at issue: 1756 Hurley Mt. Rd

Tax Map Number: Section: 55.2 Block 1 Lot 8 Zoning District: A4 Total Acreage of Parcel(s): 5.9

5. This project is (check one): () Expansion of Use (x) Change of use () New Construction

6. Description of current use and facilities (buildings, use, other facilities, vacant land, etc.): 1756 Hurley Mt. Road was once vacant land and is now used as a commercial operation

7. Describe current use(s) of all contiguous parcels (Include all types, Vacant Land, Residential, Commercial, Agricultural, Industrial, etc.): Residential

8. Description of proposed use and facilities of parcel (If more space is needed please use a separate piece of paper): n/a - Please see attached letter



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9. Will this project require permits or approval from any Federal, State or County agencies?
 n/a _____ If yes, please list the names: n/a

10. Is the project contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places: UNK If yes, name: _____

11. Surveyor/Engineer/Attorney/Architect Name, if Applicable: N/a

Mailing Address: _____

Telephone: () _____ Cell Phone: () _____

Email: _____

Applicant states that they are the owner or authorized agent of the owner for which the foregoing work is proposed to be done, and that they are duly authorized to perform such work, and that all work will be performed in accordance with all applicable State, County, and Local Ordinances.

Signature of all Owners in the Deed:

[Signature] : Sean M. Kemp, Attorney
 Date: 1/4/24

NOTARIZATION:

Acknowledgement Form State of New York) ss.: County of Dutchess)
 On the 4th day of January in the year 2024, before me, the undersigned notary public, personally appeared Sean M. Kemp, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public Erin Patsey Expiration: 3/2/2024

210-60- Interpretations.

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the Code Enforcement Officer/Zoning Enforcement Officer and to that end shall have all the powers of the Code Enforcement Officer/Zoning Enforcement Officer from whose order, requirement or decision the appeal is taken.

Erin Lynn Patsey
 Notary Public, State of New York
 Registration No. 01PA6405189
 Qualified in Dutchess County
 Commission Expires March 02, 2024



**ZONING BOARD OF APPEALS
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The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer/Zoning Enforcement Officer under this chapter in accordance with the procedure set forth herewith:

- A. Notice of appeal shall be filed with the Code Enforcement Officer/Zoning Enforcement Officer and the Secretary to the Board of Appeals in writing, in a form required by such Board, within 30 days of the date of the action appealed from, specifying the grounds thereof
- B. Upon filing of a notice of appeal and payment of a filing fee as set forth in the fee schedule as adopted and amended from time to time by resolution of the Town Board by the appellant or applicant, the Code Enforcement Officer/Zoning Enforcement Officer shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.
- C. The Board of Appeals shall set a reasonable date for the hearing of each appeal, of which hearing date the appellant shall be given notice and at which hearing he or she shall appear in person or by agent or by attorney.
- D. An appeal stays all proceedings in furtherance of the action appealed from, unless the Code Enforcement Officer/Zoning Enforcement Officer certifies to the Board of Appeals, after notice of appeal shall have been filed with him or her, that, by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the Code Enforcement Officer/Zoning Enforcement Officer and on due cause shown.
- E. Following public notice and hearing, the Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premises and, to that end, shall have all the power of the Code Enforcement Officer/Zoning Enforcement Officer. If the action by the Board of Appeals is to reverse the action of the Code Enforcement Officer/Zoning Enforcement Officer in whole, the filing fee shall be refunded to the appellant. The Board of Appeals shall decide the same within 62 days following the final hearing

Answer in detail, the reasons the CEO/ZEO Determination is being Appealed:

Basis for denial by CEO/ZEO

Please see attached letter



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Reasons for challenging the above denial, be as specific as possible using as many exhibits as necessary to support your rationale

Rev: 08/2022

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information			
Name of Action or Project: Appeal of ZEO Determination			
Project Location (describe, and attach a location map): 1756 Hurley Mt. Road, Hurley, New York, please see letter			
Brief Description of Proposed Action: This is an appeal of the ZEO's determination that 1756 Hurley Mt. Road is being used in a lawful manner and in compliance with the Town of Hurley Zoning Code. Accordingly, much of the information herein is unknown and/or tis not relevant to this appeal.			
Name of Applicant or Sponsor: The Dave T. Doglas Trust, c/o Sean M. Kemp, Esq., Marvin Kemp & Cole PLLC		Telephone: 845-876-3024 E-Mail: sean@marvinkemp.com	
Address: PO Box 151			
City/PO: Rhinebeck		State: NY	Zip Code: 12572
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input checked="" type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval:			YES <input type="checkbox"/>
3. a. Total acreage of the site of the proposed action? _____ n/a acres b. Total acreage to be physically disturbed? _____ n/a acres c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ n/a acres			NO <input checked="" type="checkbox"/>
4. Check all land uses that occur on, are adjoining or near the proposed action: <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input checked="" type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): <input type="checkbox"/> Parkland			

5. Is the proposed action,	NO	YES	N/A
a. A permitted use under the zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6. Is the proposed action consistent with the predominant character of the existing built or natural landscape?	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? If Yes, identify: <u>UNK</u>	NO <input type="checkbox"/>	YES <input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	YES <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: <u>N/A</u>	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: <u>N/A</u>	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: <u>N/A</u>	NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>	
12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory?	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input type="checkbox"/> <input type="checkbox"/>	
13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: _____ _____ _____	NO <input type="checkbox"/> <input type="checkbox"/>	YES <input checked="" type="checkbox"/> <input type="checkbox"/>	

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input checked="" type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input checked="" type="checkbox"/> Wetland <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Suburban		
15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered?	NO <input type="checkbox"/>	YES <input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO <input type="checkbox"/>	YES <input type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources? If Yes,	NO <input type="checkbox"/>	YES <input type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input type="checkbox"/>	<input type="checkbox"/>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? If Yes, briefly describe: <u>UNK</u>	<input type="checkbox"/>	<input type="checkbox"/>

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? If Yes, explain the purpose and size of the impoundment: <u>UNK</u>	NO <input type="checkbox"/>	YES <input type="checkbox"/>

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: <u>UNK</u>	NO <input type="checkbox"/>	YES <input type="checkbox"/>

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: <u>UNK</u>	NO <input type="checkbox"/>	YES <input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>SEAN M. KEMP, ESQ</u>		Date: <u>4/4/24</u>
Signature: <u>[Signature]</u>		Title: <u>ATTORNEY</u>



Sean M. Kemp
Justin L. Cole
Of Counsel
John R. Marvin

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January 4, 2024

Via Hand Delivery

Chairman Joshua Vogt
Town of Hurley Zoning Board of Appeals
P.O. Box 569
Hurley, NY 12443

Via Hand Delivery

Maggie Colan, Secretary
Town of Hurley Zoning Board of Appeals
P.O. Box 569
Hurley, NY 12443

Re: Dave T. Doglas Trust Appeal of ZEO Determination Relating to
1756 Hurley Mt. Road
File No.: 6965.27.01.23

Dear Chairman Vogt and Ms. Colan:

I represent The Doglas Trust, the owner of real property commonly known as 8 Dug Hill Road (SBL#55.2-3-15.110). A copy of the deed into The Doglas Trust is annexed hereto as Exhibit "1". A letter dated December 28, 2023, signed by Anthony Bonsignore, the Trustee of The Doglas Trust, confirming my authority to appear before this board in this matter is annexed hereto as Exhibit "2".

This is an appeal from a determination made by Paul Economos, Building Inspector and Zoning Enforcement Officer (the "ZEO"), dated December 5, 2023, a copy of which is annexed hereto as Exhibit "3", wherein Mr. Economos determined that a complaint submitted on behalf of The Doglas Trust regarding the unlawful commercial use of a neighboring property "could not be substantiated by visual confirmation". It is respectfully submitted that the ZEO's determination is incorrect and should be reversed for the reasons set forth below.

On November 22, 2023, the undersigned filed a formal complaint with the ZEO relating to the illegal use of 1756 Hurley Mt. Road (SBL#55.2-1-8) (the "Property"). A copy of the complaint is annexed hereto as Exhibit "4" (the "Complaint").

The Property is owned by Hurley Mountain Farms LLC. A copy of the Hurley Mountain Farms LLC Department of State Entity Information and the deed for the Property is annexed hereto as Exhibit "5". A copy of the Ulster County Property card relating to the Property is annexed hereto as Exhibit "6". It is our understanding that Mr. Lee Winne and Andrew Zell are the members of Hurley Mountain Farms LLC.

The Property consists of approximately 5.9 acres and is located in the A-4 zoning district. Pursuant to the Town of Hurley Table of Use Regulations, Agriculture is a permitted use in the A-4 zoning district. Almost all commercial uses are prohibited in this zoning district.

As set forth in the Complaint, in 2014, the owners of Hurley Mountain Farms LLC, Mr. Andrew Zell and Mr. Lee Winne, represented to the Town of Hurley that they were going to use the Property for agricultural purposes. They stated that they would be growing various species of trees and shrubs on the Property in addition to processing mulch on the Property in accordance with NYS Ag & Markets law. According to Planning Board meeting minutes from June 2014, a copy of which are annexed hereto as Exhibit “7”, the owners had no plans to erect buildings or park/store heavy equipment and trucks at the Property. Unfortunately, the current use of the Property is not consistent with any of the representations that were previously made to the Town of Hurley by Mr. Zell and Mr. Winne. The Property is being used as a full-scale commercial operation in contravention of the applicable zoning law and NYS Ag & Markets law.

The Property is essentially a depot for storage and processing waste generated from commercial tree removal activities. Visible from the road are substantial piles of trees, mulch, stone and other debris. Furthermore, in direct opposition to the owners’ prior assurances, large trucks, construction equipment, sheds and shipping containers are being parked and stored on the Property. Additionally, as noted in the Complaint, the use of the Property generates noise and air pollution which severely interfere with the reasonable use and enjoyment of nearby properties and could also threaten the water quality of the Englishman’s Creek, which traverses the Property.

Aerial photographs of the Property from the Ulster County Parcel Viewer are annexed hereto as Exhibit “8”. An aerial photograph from Google Earth is annexed hereto as Exhibit “9”. These photographs show the Property going from vacant land to a commercial operation lacking any indicia of legitimate agricultural use.

Not only is the Property used to store heavy equipment, trucks, construction debris and waste from the operation of Mr. Winne’s tree removal business, L.W. Tree Service, Inc., see, Department of State Entity Information annexed hereto as Exhibit “10”, but it also serves as the place of business for Hurley Excavation and Landscaping Inc. A copy of this company’s webpage indicating its place of business as 1756 Hurley Mountain Road is annexed hereto as Exhibit “11”. A copy of this company’s Department of State Entity Information identifying Mr. Zell as the CEO is annexed hereto as Exhibit “12”. Based on its webpage, Hurley Excavation and Landscaping Inc. specializes in excavation services, and has nothing to do with agriculture¹.

Despite the undeniable visual evidence supporting the validity of the Complaint, the ZEO somehow concluded that the Complaint could not be substantiated by “visual confirmation”. See, Exhibit “3”. Notably, the ZEO’s letter did not provide any details regarding the various

¹ It should be noted that none of the entities involved with the Property are listed as farm corporations on the NY Department of State website. See, Exhibits “5”, “10” and “12”.

inspections that were performed by his office. He simply stated in conclusory form that that the complaint was not unsubstantiated.

By email dated December 12, 2023, the Town of Hurley Building Department provided the undersigned with a collection of documents, copies of which are annexed hereto as Exhibit "13", that the ZEO purportedly relied upon to make render his determination. Contained within this set of documents are what appear to be notes from the "inspections" that were performed by the ZEO's office. However, these notes, like the determination letter, are completely lacking in detail. They are devoid of comprehensive notes or photographic evidence substantiating the ZEO's determination.

Per Section 210-54 Town of Hurley Code (the "Code"), the Zoning Enforcement Officer is endowed with specific powers and duties, encompassing the review of complaints, record maintenance, and enforcement actions to ensure zoning law compliance. It appears evident that the ZEO has failed in executing these responsibilities by inadequately addressing the discrepancy between the Property's actual commercial use and its permissible "agricultural" use.

Conclusively, the current operations at the Property are not in line with a legitimate agricultural use, but function as a commercial enterprise in violation of the Town of Hurley Code. Accordingly, we respectfully request the reversal of the ZEO's determination and prompt issuance of a violation, compelling the owners of the Property to comply with the law.

Thank you for your attention to this matter. Should you require further information or clarification, please do not hesitate to contact me.

Very truly yours,



Sean M. Kemp

EXHIBIT “1”



ULSTER COUNTY – STATE OF NEW YORK
 NINA POSTUPACK, COUNTY CLERK
 244 FAIR STREET, KINGSTON, NEW YORK 12401

COUNTY CLERK'S RECORDING PAGE

THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



BOOK/PAGE: 7121 / 138
 INSTRUMENT #: 2022-14837

Receipt#: 2022066068
 Clerk: JCAH
 Rec Date: 08/29/2022 03:47:46 PM
 Doc Grp: D
 Descrip: DEED
 Num Pgs: 4
 Rec'd Frm: TITLESQ CLOSING&ESCROW SERV INC

Party1: SCHIRESON KERN
 Party2: ALTMAN HOWARD AS TRTEE
 Town: HURLEY
 55.2-3-15.110

Recording:

Cover Page	5.00
Recording Fee	30.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
Notice of Transfer of Sal	10.00
RP5217 Residential/Agricu	116.00
RP5217 - County	9.00

Sub Total: 195.00

Transfer Tax	
Transfer Tax - State	20200.00
Mansion Tax	50500.00

Sub Total: 70700.00

Total: 70895.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****

Transfer Tax #: 596
 Transfer Tax
 Consideration: 5050000.00

Transfer Tax - State	20200.00
Mansion Tax	50500.00

Total: 70700.00

Record and Return To:

WAYNE GRAFF ESQ
 GRAFF LAW LLC
 78 MAIN ST
 KINGSTON NY 12401

WARNING***

*** Information may be amended during the verification process, and may not be reflected on this cover page.

THIS PAGE CONSTITUTES THE CLERK'S ENDORSEMENT, REQUIRED BY SECTION 316-a (5) & 319 OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK.

Nina Postupack
 Nina Postupack
 Ulster County Clerk

3
27
98

THIS INDENTURE, made the 19th day of August, 2022,

BETWEEN KERN SCHIRESON AND PATRICIA AMADOR, residing at 182 W. 82nd Street, Apr. 4W, New York, New York 10013, party of the first part, and

HOWARD ALTMAN, AS TRUSTEE OF THE DAVE T. DOGLAS TRUST, with an address of GTBA9100 Wilshire Boulevard, Beverly Hills, California 90212, party of the second part,

WITNESSETH, that the party of the first part, in consideration of One Dollar (\$1.00), lawful money of the United States, and other good and valuable consideration, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL THAT PIECE OR PARCEL OF LAND, situate in the Town of Hurley, County of Ulster and the State of New York bounded and described as follows:

⊕

BEGINNING at a reinforcement rod set on the north bounds of Hurley Mountain Road intersecting with the north bounds of Dug Mill Road; thence from said point of beginning along Dug Hill Road for the following fourteen courses and distances: North 75° 10' 00" West 74.57 feet, North 79° 47' 09" West 116.01 feet, North 80° 37' 37" West 70.91 feet, North 76° 55' 39" West 105.69 feet, North 73° 19' 48" West 121.65 feet, North 62° 01' 12" West 47.66 feet, North 41° 30' 19" West 72.41 feet, North 23° 37' 53" West 21.64 feet, North 10° 45' 05" West 50.36 feet, North 04° 13' 22" West 109.83 feet, North 07° 50' 14" West 50.82 feet, North 09° 54' 44" West 112.45 feet, North 12° 20' 44" West 156.40 feet, and North 11° 37' 33" West 112.34 feet to a triple blazed tree; thence along lands now or formerly Evan Matthews and Mary Piskoz (Liber 3869, page 84) for the following eleven courses and distances: North 77° 06' 58" East 415.43 feet, North 26° 14' 46" East 149.13 feet, North 36° 58' 48" East 177.96 feet, North 53° 44' 20" East 348.79 feet, North 38° 31' 29" East 170.33 feet, North 46° 51' 31" East 141.95 feet, North 55° 35' 19" East 92.71 feet, North 41° 21' 01" East 132.25 feet, North 48° 30' 49" East 182.75 feet, North 60° 25' 34" East 67.07 feet, and North 68° 48' 51" East 155.17 feet to a triple blazed tree near stone wall intersection; thence along the same for the following two courses and distances: North 26° 16' 18" West 90.91 feet and North 26° 22' 26" West 84.09 feet to a set reinforcement rod; thence North 63° 37' 34" East along lands now or formerly Robert MacKinnon (Liber 3550, page 101) 125.47 feet to a set reinforcement rod; thence South 26° 22' 26" East along lands now or formerly Robert MacKinnon (Liber 3806, page 327) 1982.34 feet to a set reinforcement rod; thence along the north bounds of Hurley Mountain Road for the following nineteen courses and distances: South 56° 22' 37" West 329.24 feet, South 57° 00' 34" West 487.98 feet, South 62° 04' 20" West 48.94 feet, South 65° 40' 35" West 160.61 feet, South 77° 38' 26" West 154.66 feet, South 85° 37' 26" West 95.04 feet, North 84° 39' 17" West 89.43 feet, North 78° 53' 35" West 36.95 feet, North 70° 35' 31" West 20.35 feet, North 67° 29' 18" West 64.50 feet, North 63° 08' 46" West 44.56 feet, North 59° 08' 13" West 91.25 feet, North 54° 50' 05" West 82.47 feet, North 59° 24' 13" West 82.80 feet, North 79° 53' 57" West 60.23 feet, South 83° 54' 49" West 55.53 feet, South 74° 01' 28" West 73.41 feet, South 80° 10' 53" West 18.14 feet, and South 89° 08' 39" West 31.07 feet to the point and place of beginning.

Containing 73.53 acres.

SUBJECT TO all utility grants and easements of record affecting the premises described herein.

BEING THE SAME PREMISES conveyed by Diego Uchitel and April Uchitel to Kern Schireson and Patricia Amador by deed dated February 15, 2017 and recorded in the Ulster County Clerk's Office on February 16, 2017 as Instrument Number 2017-2564.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

✓ Titlesq


TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.


AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.


IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.


KERN SCHIRESON


PATRICIA AMADOR

STATE OF NEW YORK)
COUNTY OF ULSTER) ss:

On August 19, 2022, before me, the undersigned, a notary public in and for said State, personally appeared **KERN SCHIRESON**, known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

PAUL T. KELLAR
Notary Public, State of New York
Qualified in Ulster County
Commission Expires January 31, 2026

STATE OF NEW YORK)
COUNTY OF ULSTER) ss:

On August 19, 2022, before me, the undersigned, a notary public in and for said State, personally appeared **PATRICIA AMADOR**, known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


Notary Public

PAUL T. KELLAR
Notary Public, State of New York
Qualified in Ulster County
Commission Expires January 31, 2026

RECORD AND RETURN: WAYNE GRAFF, ESQ.
 GRAFF LAW, LLC
 78 MAIN STREET
 KINGSTON, NEW YORK 12401

FOR COUNTY USE ONLY

C1. SWIS Code 512800
 C2. Date Deed Recorded 08/29/2022
 C3. Book 7121 C4. Page 138



New York State Department of Taxation and Finance
 Office of Real Property Tax Services
RP- 5217-PDF
 Real Property Transfer Report (8/10)

PROPERTY INFORMATION

1. Property Location 8 Dug Hill Road
 * STREET NUMBER * STREET NAME
 Hurley 12443
 * CITY OR TOWN VILLAGE * ZIP CODE

2. Buyer Name Altman Howard, Trustee
 * LAST NAME/COMPANY FIRST NAME
Dave T. Douglas Trust
 LAST NAME/COMPANY FIRST NAME

3. Tax Billing Address Indicate where future Tax Bills are to be sent if other than buyer address(at bottom of form)
 LAST NAME/COMPANY FIRST NAME
 STREET NUMBER AND NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR Part of a Parcel (Only if Part of a Parcel) Check as they apply:
 4A. Planning Board with Subdivision Authority Exists
 4B. Subdivision Approval was Required for Transfer
 4C. Parcel Approved for Subdivision with Map Provided

5. Deed Property Size X * FRONT FEET OR 73.50 * DEPTH * ACRES
 4B. Subdivision Approval was Required for Transfer
 4C. Parcel Approved for Subdivision with Map Provided

6. Seller Name Schireson Kern
 * LAST NAME/COMPANY FIRST NAME
Amador Patricia
 LAST NAME/COMPANY FIRST NAME

*7. Select the description which most accurately describes the use of the property at the time of sale:
 A. One Family Residential
 Check the boxes below as they apply:
 8. Ownership Type is Condominium
 9. New Construction on a Vacant Land
 10A. Property Located within an Agricultural District
 10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District

SALE INFORMATION

11. Sale Contract Date 07/22/2022
 *12. Date of Sale/Transfer 8/26/2022
 *13. Full Sale Price 5,050,000.00
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

14. Indicate the value of personal property included in the sale 0.00

15. Check one or more of these conditions as applicable to transfer:
 A. Sale Between Relatives or Former Relatives
 B. Sale between Related Companies or Partners in Business.
 C. One of the Buyers is also a Seller
 D. Buyer or Seller is Government Agency or Lending Institution
 E. Deed Type not Warranty or Bargain and Sale (Specify Below)
 F. Sale of Fractional or Less than Fee Interest (Specify Below)
 G. Significant Change in Property Between Taxable Status and Sale Dates
 H. Sale of Business is Included in Sale Price
 I. Other Unusual Factors Affecting Sale Price (Specify Below)
 J. None
 Comment(s) on Condition:

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YY) 22 *17. Total Assessed Value 1,375,000
 *18. Property Class 240 *19. School District Name Kingston
 *20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))
55.2-3-15.110

CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

SELLER SIGNATURE

 SELLER SIGNATURE DATE 8-19-22
BUYER SIGNATURE
 HOWARD ALTMAN AS TRUSTEE
 BY
 BUYER SIGNATURE DATE 8-25-22
 WAYNE GRAFF AUTHORIZED REPRESENTATIVE

BUYER CONTACT INFORMATION
 (Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual/responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)
 Altman Howard, Trustee
 * LAST NAME FIRST NAME
 *AREA CODE *TELEPHONE NUMBER (Ex. 9599999)
 GTBA9100 Wilshire Boulevard
 * STREET NUMBER * STREET NAME
 Beverly Hills CA 90212
 *CITY OR TOWN *STATE *ZIP CODE
BUYER'S ATTORNEY
 Graff Wayne
 LAST NAME FIRST NAME
 (845) 338-4993
 AREA CODE TELEPHONE NUMBER (Ex. 9999999)

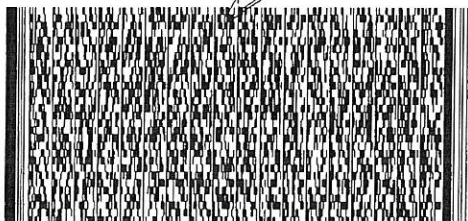


EXHIBIT “2”

December 28, 2023

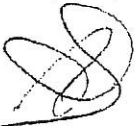
Attn: Chairman Joshua Vogt
Town of Hurley Zoning Board of Appeals
P.O. Box 569
Hurley NY 12443

Re: Dave T. Doglas Trust
8 Dug Hill Road, Hurley
File No.: 6965.27.01.23

Dear Chairman Vogt:

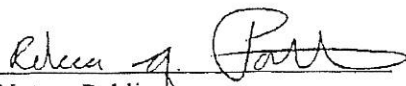
My name is Anthony Bonsignore. I am the trustee of The Dave T. Doglas Trust, which is the owner of real property located in the Town of Hurley and commonly known as 8 Dug Hill Road, SBL #55.2-3-15.110. This will confirm that Sean M. Kemp of Marvin Kemp & Cole PLLC is authorized to appear before this board on behalf of The Dave T. Doglas Trust.

Very truly yours,



Anthony Bonsignore

Sworn to before me this 28th day
of December, 2023


Notary Public

Rebecca J Patrona NOTARY PUBLIC, STATE OF NEW YORK Registration No. 01PA0001832 Qualified in Westchester County Commission Expires February 22, 2027
--

EXHIBIT “3”

Town of Hurley
P.O. Box 569
Hurley, New York 12443
Phone: 845-331-7474
Fax: 845-331-5502



Paul Economos
Building Inspector
buildinginspector@townofhurley.org

12/5/2023

Sean M. Kemp, Esq.
Law Offices
Marvin Kemp & Cole PLLC
44 West Market Street – PO Box 151
Rhinebeck, NY 12572

Re: Zoning complaint
1756 Hurley Mountain Road
SBL #55.2-1-8

Dear Counselor Kemp,

Please be advised that the subject property was visited and inspected on November 21, 24, 28, 30 and again on December 1st. No activity was observed on any of these inspections, and your complaint could not be substantiated by visual confirmation. The complaint is not deemed valid and the file is now closed.

Regards,

A handwritten signature in black ink, appearing to read "Paul Economos", with a long horizontal flourish at the end.

Paul Economos
Building Inspector, Zoning Enforcement Officer
Town of Hurley
PO Box 569
Hurley, NY 12443

Cc: Andrew Zell
Lee Winne

EXHIBIT “4”



Sean M. Kemp
Justin L. Cole
Of Counsel
John R. Marvin

LAW OFFICES
MARVIN KEMP & COLE PLLC
44 WEST MARKET STREET - P.O. BOX 151
RHINEBECK, NEW YORK 12572

Telephone: (845) 876-3024
Facsimile: (845) 876-5622
www.marvinkemp.com

November 20, 2023

Via email: building@townofhurley.org

Ms. Erin Stewart, Building Clerk
Mr. Paul Economos, ZEO
Mr. Troy Ashdown, Building Inspector and Code Officer
Town of Hurley, Building Department
PO Box 569/10 Wamsley Place
Hurley, NY 12443

Re: Zoning Enforcement Complaint – 1756 Hurley Mt. Road (SBL #55.2-1-8)
Our File No.: 6965.27.01.23

Dear Ms. Stewart, Mr. Economos and Mr. Ashdown:

I am writing on behalf of the Dave T. Doglas Trust, the owner of real property commonly known as 8 Dug Hill Road, Town of Hurley, New York (SBL# 55.2-3-15.110).

Please allow this to serve as a formal written complaint regarding the unlawful use of nearby real property owned by Hurley Mountain Farms LLC and commonly known as 1756 Hurley Mt. Road, Town of Hurley, New York (SBL #55.2-1-8) (the "Property").

In 2014, the owners of Hurley Mountain Farms LLC, Mr. Andrew Zelle and Mr. Lee Winne, represented to the Town of Hurley that they were going to use the Property for agricultural purposes. They stated that they would be growing various species of trees and shrubs on the Property in addition to processing mulch on the Property in accordance with NYS Ag & Markets law. According to Planning Board meeting minutes from June 2014, the owners had no plans to erect buildings or park/store heavy equipment and trucks at the Property. Unfortunately, the current use of the Property is not consistent with any of the representations that were previously made to the Town of Hurley by Mr. Zelle and Mr. Winne.

Currently, the Property is part of a full-scale commercial operation related to a tree removal company, LW Tree Service, which is owned by Lee Winne. This use deviates significantly from any legitimate agricultural purpose. The Property is essentially a depot for storage and processing waste generated from commercial tree removal activities. Visible from the road are

substantial piles of trees, mulch and other debris. Furthermore, in direct opposition to the owners' prior assurances, large trucks, construction equipment, sheds and shipping containers are being parked and stored on the Property. Put simply, the Property looks like a dump.

It is evident that the Property is not being used for any legitimate agricultural purpose but instead serves LW Tree Service as a hub for storing commercial vehicles and equipment, as well as processing wood that it cuts down for its clients. Daily operations involving obnoxiously loud equipment and burning piles of debris, which produce dark clouds of smoke and ash, severely interfere with the reasonable use and enjoyment of nearby properties. This is clearly an unlawful commercial use in a residential area.

While my client respects and supports legitimate agricultural uses within the community, this operation, falsely presented as agricultural, is a commercial enterprise that operates in direct contravention of the local zoning law. The continued use of the Property for these purposes is not only a violation of the Town of Hurley Zoning Code but also poses significant health and safety risks to the community. Additionally, the location of this unlawful use near the Englishman's Creek, which traverses the Property, only exacerbates the potential health and safety risks.

Based on the foregoing, we respectfully request that the Town of Hurley promptly investigate this complaint. Please do not hesitate to contact me with any questions or concerns.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S M Kemp', written in a cursive style.

Sean M. Kemp

EXHIBIT “5”

Department of State Division of Corporations

Entity Information

[Return to Results](#)

[Return to Search](#)

Entity Details ^

ENTITY NAME: HURLEY MOUNTAIN FARMS LLC
DOS ID: 4637455
FOREIGN LEGAL NAME:
FICTITIOUS NAME:
ENTITY TYPE: DOMESTIC LIMITED LIABILITY COMPANY
DURATION DATE/LATEST DATE OF DISSOLUTION:
SECTION OF LAW: 203 LLC - LIMITED LIABILITY COMPANY LAW
ENTITY STATUS: ACTIVE
DATE OF INITIAL DOS FILING: 09/17/2014
REASON FOR STATUS:
EFFECTIVE DATE INITIAL FILING: 09/17/2014
INACTIVE DATE:
FOREIGN FORMATION DATE:
STATEMENT STATUS: PAST DUE
COUNTY: ULSTER
NEXT STATEMENT DUE DATE: 09/30/2022
JURISDICTION: NEW YORK, UNITED STATES
NFP CATEGORY:

[ENTITY DISPLAY](#)

[GENERAL HISTORY](#)

[FILING HISTORY](#)

[MISCELLANEOUS](#)

[ASSIGNED AGENT HISTORY](#)

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: THE LLC

Address: P.O. BOX 97, HURLEY, NY, UNITED STATES, 12443

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name:

Address:

Principal Executive Office Address

Address:

Registered Agent Name and Address

Name:

Address:

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share
-------------	------------------	-----------------

Ulster County
Nina Postupack
County Clerk
Kingston, NY 12401



60 2014 00012590

Volm-5795 Pg-148

Instrument Number: 2014- 00012590

Recorded On: October 17, 2014 As
D01 - Deed

Parties: MATHEWS EVAN T
To
HURLEY MOUNTAIN FARMS LLC

Billable Pages: 5

Recorded By: ABBACY

Num Of Pages: 5

Comment:

**** Examined and Charged as Follows: ****

D01 - Deed	65.00	RP5217-125	125.00	Tax Affidavit TP 584	5.00
Recording Charge:	195.00				
	Amount	Consideration Amount	RS#/CS#		
Tax-Transfer	120.00	30,000.00	1002	Basic	0.00
HURLEY				Local	0.00 Special Additional 0.00
				Additional	0.00 Transfer 120.00
Tax Charge:	120.00				

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Ulster County,

File Information:

Document Number: 2014- 00012590
Receipt Number: 1407878
Recorded Date/Time: October 17, 2014 10:29:00A
Book-Vol/Pg: Bk-D VI-5795 Pg-148
Cashier / Station: r rsec / Cashier Station 2

Record and Return To:

MICHAEL A MORIELLO ESQ
RISELEY&MORIELLO PLLC
111 GREEN ST PO BOX 4465
KINGSTON NY 12402



Nina Postupack Ulster County Clerk

5
11/20/07

THIS INDENTURE, made the 17th day of October, Two Thousand and Fourteen

BETWEEN

EVAN T. MATHEWS, residing at 90 Dug Hill Road, Hurley, NY 12443, party of the first part, and

HURLEY MOUNTAIN FARMS LLC, with an address of P. O. Box 97, Hurley, NY 12443, party of the second part,

WITNESSETH, that the party of the first part, in consideration of Ten (\$10.00) Dollars, lawful money of the United States, and other good and valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the Town of Hurley, County of Ulster and State of New York, and more particularly described as follows:

**SEE SCHEDULE "A" ANNEXED HERETO
AND INCORPORATED BY REFERENCE HEREIN.**

BEING and intended to be the same premises whereby all interest of EVAN T. MATTHEWS and MARY A. PISKOZ in the premises was conveyed to EVAN T. MATTHEWS by Deed dated September 11, 2007, and recorded in the Ulster County Clerk's office on September 12, 2007 as instrument number 2007-00021420.

SUBJECT to all grants, appropriations, easements, covenants, reservations, restrictions, oil, gas or mineral rights and rights-of-way of record, if any.

TOGETHER, will all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:


EVAN T. MATTHEWS

CHECKED AD
ENTERED AK
MARKOFF _____



State of New York, County of Ulster ss.:

On the 17th day of October, in the year 2014, before me, the undersigned, a Notary Public in and for the State of New York, personally appeared EVAN T. MATTHEWS, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.



Notary Public
CHRISTOPHER S. COLEMAN
NOTARY PUBLIC, State of New York
No. 02004978418
Qualified in: Ulster County
Commission Expires March 4, 2015

State of New York, County of _____ ss.:

On the ___ day of _____, in the year 20___, before me, the undersigned, a Notary Public in and for the State of New York, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

*Bargain and Sale Deed
With Covenant Against Grantor's Acts*

TITLE No. 1412-182274

EVAN T. MATTHEWS

TO

HURLEY MOUNTAIN FARMS LLC

SECTION: 55.2

BLOCK: 1

LOT: 8

COUNTY/TOWN:

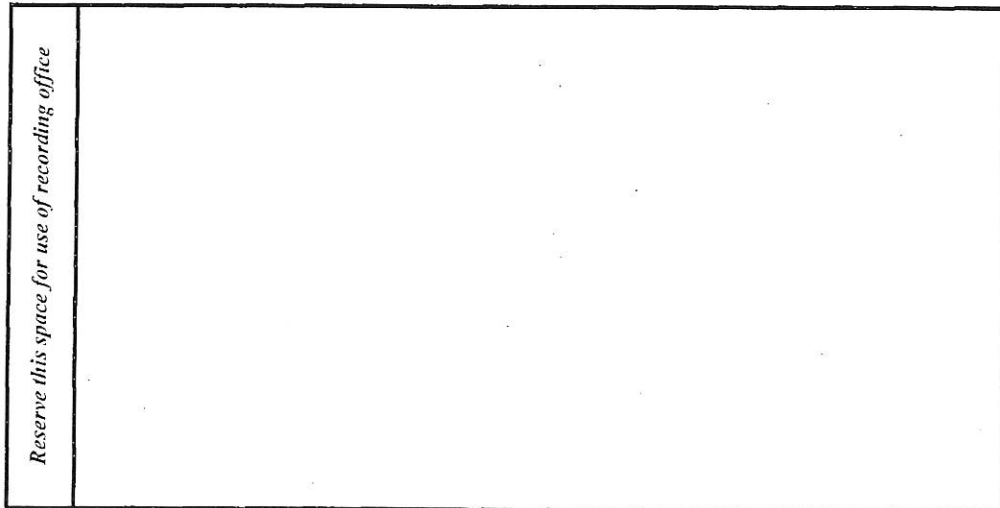
ULSTER/HURLEY

RECORD & RETURN BY MAIL

TO:

Michael A. Moriello, Esq.
Riseley and Moriello, PLLC
111 Green Street/P. O. Box 4465
Kingston, NY 12402

Reserve this space for use of recording office



Schedule A

"ALL THAT PIECE OR PARCEL of land situate in the Town of Hurley, County of Ulster and State of New York described as follows:

Beginning at a spike set at the center of Dug Hill Road being North 74 degrees 31' 26" West along the center of the road 34.96 feet from the center of a metal culvert (36" dia) and being North 17 degrees 19' 54" East 25.01 feet from a set reinforcement rod; thence from said POINT AND PLACE OF BEGINNING, along lands now or formerly Beverly J. Daley (L.1770 p.261) as per a boundary line agreement (L.1301 p. 306) the following twenty five courses an distances:

South 17 degrees 19' 54" West 67.00 feet
 North 59 degrees 52' 14" East 16.98 feet
 South 47 degrees 29' 16" East 36.17 feet
 South 17 degrees 14' 54" West 54.74 feet
 South 32 degrees 05' 36" East 14.17 feet
 South 74 degrees 56' 16" East 17.43 feet
 South 59 degrees 44' 26" East 35.19 feet
 South 01 degrees 07' 36" East 29.69 feet
 South 31 degrees 53' 26" East 8.97 feet
 South 55 degrees 33' 36" East 34.34 feet
 South 23 degrees 47' 56" East 33.66 feet
 South 14 degrees 48' 36" East 55.01 feet
 South 59 degrees 35' 06" East 51.03 feet
 South 36 degrees 33' 46" East 29.89 feet
 South 15 degrees 40' 54" West 27.62 feet
 South 10 degrees 20' 26" East 21.03 feet
 South 62 degrees 08' 04" West 15.97 feet
 South 48 degrees 39' 24" West 47.01 feet
 South 39 degrees 30' 34" West 48.10 feet
 South 53 degrees 52' 44" West 14.97 feet
 South 22 degrees 35' 24" West 12.04 feet
 South 07 degrees 47' 04" West 18.17 feet
 South 05 degrees 35' 36" East 49.49 feet
 South 07 degrees 07' 54" West 14.97 feet

South 82 degrees 58' 48" East 41.28 feet to a point in the centerline of Hurley Mountain Road; thence along the centerline of Hurley Mountain Road South 23 degrees 27' 52" West 78.19 feet to a point being South 72 degrees 16' 18" East 25.13 feet from a found iron bar; thence along lands now or formerly Gregg and Roslyn Mazzilli (L.3122, p. 207), generally along a wood rail fence, North 72 degrees 16' 18" West 389.05 feet to a found reinforcement rod on the east bounds of lands of New York State (Project/Map No. 3159); thence along the east bounds of New York State, North 17 degrees 34' 23" West generally along a wire fence 119.87 feet, to a found stone monument; thence North 03 degrees 06' 52" East generally along a wire fence 582.87 feet, to a found stone monument; thence North 10 degrees 26' 52" East along said lands of New

York State 202.62 feet to a spike set in the center of Dug Hill Road; thence along said center of Dug Hill Road the five courses and distances:

South 05 degrees 18' 33" East 188.14 feet

South 19 degrees 42' 44" East 53.71 feet

South 34 degrees 11' 51" East 33.65 feet

South 54 degrees 50' 26" East 41.62 feet

South 67 degrees 18' 35" East 170.13 feet to the POINT AND PLACE OF

BEGINNING.

Containing 5.924 Acres

EXCEPTING the rights of the public over the bounds of Dug Hill Road and Hurley Mountain Road..”

Being the same premises conveyed by Evan T Matthews and Mary A. Piskoz to Evan T. Matthews and Mary A. Piskoz by deed dated May 12th, 2003 and recorded in the Ulster County Clerk's Office on May 14th, 2003 as Instrument Number 2003-00013610.

FOR COUNTY USE ONLY

C1. SWIS Code 572840
 C2. Date Deed Recorded 10/17/14
 C3. Book 5795 C4. Page 148



New York State Department of
Taxation and Finance
 Office of Real Property Tax Services
RP- 5217-PDF
 Real Property Transfer Report (8/10)

PROPERTY INFORMATION

1. Property Location Dug Hill Road
 *STREET NUMBER *STREET NAME
Hurley
 *CITY OR TOWN *ZIP CODE 12443

2. Buyer Name Hurley Mountain Farms LLC
 *LAST NAME/COMPANY FIRST NAME

3. Tax Billing Address
 Indicate where future Tax Bills are to be sent if other than buyer address(at bottom of form)
 *LAST NAME/COMPANY FIRST NAME
 STREET NUMBER AND NAME CITY OR TOWN STATE ZIP CODE

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR Part of a Parcel (Only If Part of a Parcel) Check as they apply:
 4A. Planning Board with Subdivision Authority Exists
 4B. Subdivision Approval was Required for Transfer
 4C. Parcel Approved for Subdivision with Map Provided

5. Deed Property Size
 *FRONT FEET X *DEPTH *ACRES 5.60
 4B. Subdivision Approval was Required for Transfer
 4C. Parcel Approved for Subdivision with Map Provided

6. Seller Name Matthews Evan T.
 *LAST NAME/COMPANY FIRST NAME
 LAST NAME/COMPANY FIRST NAME

7. Select the description which most accurately describes the use of the property at the time of sale:
 E. Agricultural
 Check the boxes below as they apply:
 8. Ownership Type is Condominium
 9. New Construction on a Vacant Land
 10A. Property Located within an Agricultural District
 10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District

SALE INFORMATION

11. Sale Contract Date 08/18/2014
 *12. Date of Sale/Transfer 10/17/2014
 *13. Full Sale Price 30,000.00
 (Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) Please round to the nearest whole dollar amount.

14. Indicate the value of personal property included in the sale 0.00

15. Check one or more of these conditions as applicable to transfer:
 A. Sale Between Relatives or Former Relatives
 B. Sale between Related Companies or Partners in Business.
 C. One of the Buyers is also a Seller
 D. Buyer or Seller is Government Agency or Lending Institution
 E. Deed Type not Warranty or Bargain and Sale (Specify Below)
 F. Sale of Fractional or Less than Fee Interest (Specify Below)
 G. Significant Change in Property Between Taxable Status and Sale Dates
 H. Sale of Business is Included in Sale Price
 I. Other Unusual Factors Affecting Sale Price (Specify Below)
 J. None
 Comment(s) on Condition:

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YY) 14 *17. Total Assessed Value 38,000
 *18. Property Class 311 105 *19. School District Name Kingston
 *20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))

CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

SELLER SIGNATURE

 DATE
 BUYER SIGNATURE
HURLEY MOUNTAIN FARMS LLC
 DATE

BUYER CONTACT INFORMATION
 (Enter information for the buyer. Note: If buyer is LLC, society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual/responsible party who can answer questions regarding the transfer must be entered. Type or print clearly.)
 Zell Andrew
 *LAST NAME FIRST NAME
 (914) 388-6195
 *AREA CODE *TELEPHONE NUMBER (Ex: 9999999)
 PO Box 97
 *STREET NUMBER *STREET NAME
 Hurley NY 12443
 *CITY OR TOWN *STATE *ZIP CODE
BUYER'S ATTORNEY
 Moriello Michael
 *LAST NAME FIRST NAME
 (845) 338-6603
 *AREA CODE *TELEPHONE NUMBER (Ex: 9999999)

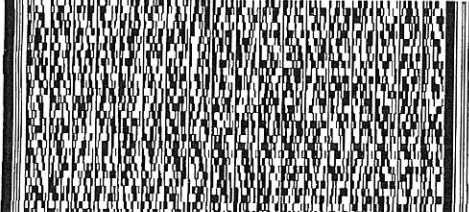


EXHIBIT “6”



Image Mate Online

Residential

- Property Info
- Owner/Sales
- Inventory
- Improvements
- Report

Municipality of Town of Hurley

SWIS:	512800	Tax ID:	55.2-1-8
-------	--------	---------	----------

Tax Map ID / Property Data

Status:	Active	Roll Section:	Taxable
Address:	1756 Hurley Mt Rd		
Property Class:	314 - Rural vac<10	Site Property Class:	314 - Rural vac<10
Ownership Code:			
Site:	Res 1	In Ag. District:	Yes
Zoning Code:	-	Bldg. Style:	0
Neighborhood:	51003 -	School District:	Kingston
Total Acreage/Size:	5.60	Equalization Rate:	----
Land Assessment:	2023 - \$37,400 2022 - \$37,400	Total Assessment:	2023 - \$37,400 2022 - \$37,400
Full Market Value:	2023 - \$58,075 2022 - \$48,953		
Deed Book:	5795	Deed Page:	148
Grid East:	603428	Grid North:	1125250

Special Districts for 2023

Description	Units	Percent	Type	Value
FD051-Hurley fire	0	0%		0
LB053-Hurley library	0	0%		0

Special Districts for 2022

Description	Units	Percent	Type	Value
FD051-Hurley fire	0	0%		0

Photographs

No Photo Available

Pictometry Connect

Maps

- View Tax Map
- Pin Property on GIS Map

LB053-Hurley library	0	0%		0
Land Types				
Type			Size	
Undeveloped			4.00 acres	
Woodland			1.60 acres	

EXHIBIT “7”

minutes June 2, 2014 Planning Board meeting

Mr. Andrew Zell was present.

Mr. Zell presented a map of a parcel of land he may possibly purchase on the corner of Hurley Mountain Road/Dug Hill Road and is owned by Evan Matthews. The parcel is in the A-4 District. The A-4 District allows soil mining, with a Special Use Permit but the A-4 already is in Agriculture District. The proposal is to grow small trees along the proposed road to buffer the one adjoining property owner, and to stockpile mulch, top soil, and other landscaping materials with possibly a loader parked on the parcel. There is no plan for any buildings, parking/storing any other heavy equipment, i.e. dump trucks, etc. Mr. Michael Moriello is representing Mr. Zell and he interprets this proposal fits as Agricultural use.

Mr. Zell notes that Lee Winne is his business partner and will only use his products from his tree business. He will only sell their products. This is strictly a farm land usage in Hurley.

Mr. Sorensen suggested that Mr. Moriello do a write up on the actual plan. The Planning Board suggests that Mr. Zell contact Glenn Hoffstatter with the proposal for his recommendations/comments.

Mr. Karl Brueckner excused himself as the Chairman and Doug Whitaker was appointed as acting Chairman.

Mr. Karl Brueckner presented his proposal to build a 48' x 16' x 13' Four-Bay Carport to be attached to a 2-Bay Garage located at 2 Brueckner Lane, West Hurley, NY. The property is in the A-4 District, therefore a Visual Assessment Review is required. The color samples were presented with Sikken's Wood Finish Natural for siding to match the existing home and Antique Bronze Metal for the roofing.

Mr. Giebelhaus made a motion to grant a Final Approval on the Visual Assessment Review. Ms. Cline Giebelhaus seconded the motion. Motion carried unanimously

Ms. Cline made a motion to approve the May 5, 2014 Regular Meeting Minutes. Mr. Zell seconded the motion. Motion carried unanimously. Mr. Gramzow and Mr. Rice abstained from vote.

Mr. Whitaker made a motion to approve the May 5, 2014 Public Hearing Minutes of Diane Raimondo. Ms. Cline seconded the motion. Motion carried unanimously. Mr. Gramzow and Mr. Rice abstained from vote.

Mr. Bruecker made a motion to adjourn the meeting. Mr. Rice seconded the motion. Motion carried unanimously.

Meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Dale Whipple
Secretary to Planning Board

EXHIBIT “8”

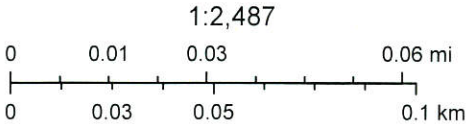
Ulster County Parcel Viewer



January 4, 2024

-  Override 1
-  Override 1
-  Tax_Parcels

2004
Aerial view



NYS ITS Geospatial Services, UC Real Property Tax Service Agency (<https://ulstercountyny.gov/real-property>) and UC assessors (<https://ulstercountyny.gov/real-property/assessors>)

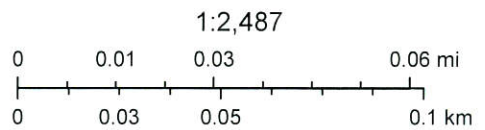
Ulster County Parcel Viewer



January 4, 2024

-  Override 1
-  Override 1
-  Tax_Parcels




2009
Aerial view



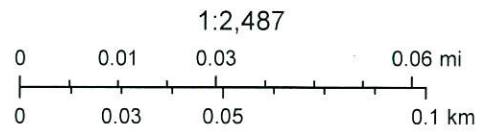
Ulster County Parcel Viewer



January 4, 2024

-  Override 1
-  Override 1
-  Tax_Parcels

2013
Aerial view



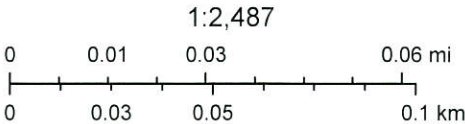
Ulster County Parcel Viewer



January 4, 2024

-  Override 1
-  Override 1
-  Tax_Parcels

2016
Aerial view



NYS ITS Geospatial Services, UC Real Property Tax Service Agency (<https://ulstercountyny.gov/real-property>) and UC assessors (<https://ulstercountyny.gov/real-property/assessors>)

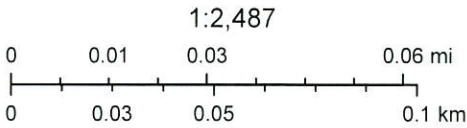
Ulster County Parcel Viewer



January 4, 2024

-  Override 1
-  Override 1
-  Tax_Parcels

2021
Aerial view



NYS ITS Geospatial Services, UC Real Property Tax Service Agency (<https://ulstercounty.ny.gov/real-property>) and UC assessors (<https://ulstercounty.ny.gov/real-property/assessors>)

EXHIBIT “9”



Hurley Mountain Rd

5



EXHIBIT “10”

Department of State Division of Corporations

Entity Information

[Return to Results](#)[Return to Search](#)

Entity Details

ENTITY NAME: L.W. TREE SERVICE, INC.
DOS ID: 3757786
FOREIGN LEGAL NAME:
FICTITIOUS NAME:
ENTITY TYPE: DOMESTIC BUSINESS CORPORATION
DURATION DATE/LATEST DATE OF DISSOLUTION:
SECTION OF LAW: 402 BCL - BUSINESS CORPORATION LAW
ENTITY STATUS: ACTIVE
DATE OF INITIAL DOS FILING: 12/31/2008
REASON FOR STATUS:
EFFECTIVE DATE INITIAL FILING: 12/31/2008
INACTIVE DATE:
FOREIGN FORMATION DATE:
STATEMENT STATUS: PAST DUE DATE
COUNTY: ULSTER
NEXT STATEMENT DUE DATE: 12/31/2014
JURISDICTION: NEW YORK, UNITED STATES
NFP CATEGORY:

ENTITY DISPLAY

FILE HISTORY

FILING HISTORY

FINANCIAL HISTORY

ASSIGNMENT HISTORY

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: ERIC SCHNEIDER, ESQ.

Address: POST OFFICE BOX 3936, KINGSTON, NY, UNITED STATES, 12402

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name: LEE R WINNE

Address: PO BOX 531, HURLEY, NY, UNITED STATES, 12443

Principal Executive Office Address

Address: 228 EAGLE NEST RD, HURLEY, NY, UNITED STATES, 12443

Registered Agent Name and Address

Name:

Address:

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share
NO PAR VALUE	200	\$0.00000

EXHIBIT “11”

Start Now

1756 HURLEY MOUNTAIN ROAD, HURLEY, NEW YORK TEL: 1-914-988-6195

HURLEY EXCAVATION & LANDSCAPING

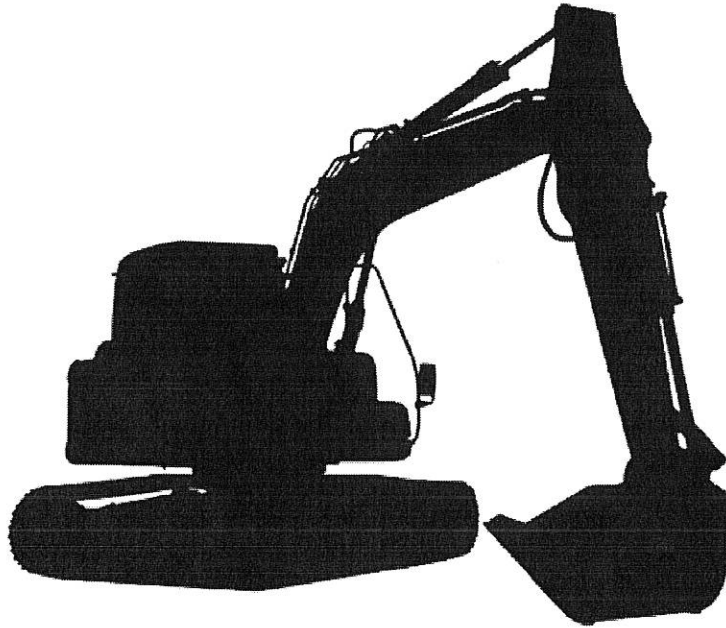
OUR SERVICES

PRICELIST

CONTACT

HURLEY

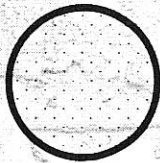
EXCAVATION & LANDSCAPING



OUR SERVICES



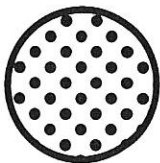
services. We have been in business for 15 years because we are trustworthy, reliable and take pride in our work. Hurley Excavation and Landscaping provides land clearing, installation of new ponds and repairs, new gravel driveways, gravel roads, riding arenas, pad sites & parking lots, drainage solutions and basement excavation. However, our company isn't just about excavation services, we have a variety of services including demolition, lot clean up, sediment & erosion control and retaining wall installation. For help with your site excavation, [contact us](#) at [1-914-388-6195](tel:1-914-388-6195) to set up an appointment. We will be happy to provide you with a professional consultation to talk about what we can do for you.



GENERAL EXCAVATION

Let us get the job done right & efficiently.

Hurley Excavation and Landscaping provides land clearing, installation of new ponds and repairs, new gravel driveways, gravel roads, riding arenas, pad sites & parking lots, drainage solutions and basement excavation.

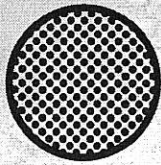


SITE PREP

We work with both home owners & other trades in all phases of construction.

Hurley Excavation and Landscaping isn't just about excavation services, we have a variety of services including demolition, lot clean up, sediment & erosion control and retaining wall installation.

...that will provide
water suppression and
Our 100% Natural Mulch
...with no dyes or artificial coloring.



STONE & GRAVEL

You Order > We Deliver

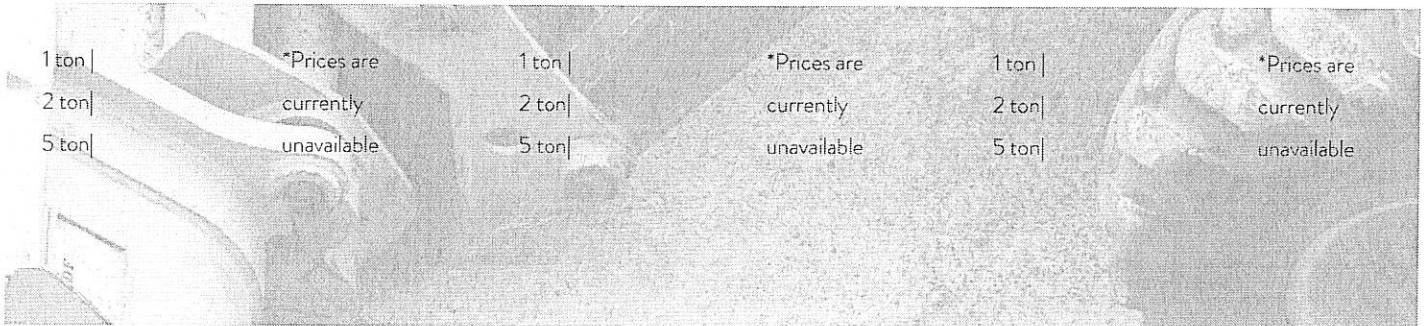
It's as simple as picking up the phone and calling us today!
No matter the quantity we can get it to you! We look
forward to serving you.



PRICELIST

CALL NOW

WE OFFER QUALITY MULCH, SOIL & GRAVEL FOR ALL YOUR
RESIDENTIAL & COMMERCIAL NEEDS.



1 ton |
2 ton |
5 ton |

*Prices are
currently
unavailable

1 ton |
2 ton |
5 ton |

*Prices are
currently
unavailable

1 ton |
2 ton |
5 ton |

*Prices are
currently
unavailable

CONTACT

CALL NOW



name *

email *

phone

message

get in touch

ADDRESS

HURLEY MOUNTAIN RD
HURLEY, NY 12443

TEL

1-914-388-6195

EMAIL

HURLEYEXCAVATION@GMAIL.COM

OPENING HOURS

Mon - Fri: 8am - 4pm

Saturday: 9am - 3pm

Start Now

1756 HURLEY MOUNTAIN ROAD, HURLEY, NEW YORK TEL: 1 914 868 6195

HURLEY EXCAVATION & LANDSCAPING

OUR SERVICES

PRICELIST

CONTACT



EXHIBIT “12”

Department of State Division of Corporations

Entity Information

[Return to Results](#)[Return to Search](#)

Entity Details ^

ENTITY NAME: HURLEY EXCAVATION AND LANDSCAPING INC.

DOS ID: 3596539

FOREIGN LEGAL NAME:

FICTITIOUS NAME:

ENTITY TYPE: DOMESTIC BUSINESS CORPORATION

DURATION DATE/LATEST DATE OF DISSOLUTION:

SECTION OF LAW: 402 BCL - BUSINESS CORPORATION LAW

ENTITY STATUS: ACTIVE

DATE OF INITIAL DOS FILING: 11/21/2007

REASON FOR STATUS:

EFFECTIVE DATE INITIAL FILING: 11/21/2007

INACTIVE DATE:

FOREIGN FORMATION DATE:

STATEMENT STATUS: CURRENT

COUNTY: ULSTER

NEXT STATEMENT DUE DATE: 11/30/2023

JURISDICTION: NEW YORK, UNITED STATES

NFP CATEGORY:

[ENTITY DISPLAY](#)

[FILING HISTORY](#)

[FILING HISTORY](#)

[SECURITY REPORTS](#)

[REGISTERED AGENT HISTORY](#)

Service of Process on the Secretary of State as Agent

The Post Office address to which the Secretary of State shall mail a copy of any process against the corporation served upon the Secretary of State by personal delivery:

Name: THE CORPORATION

Address: P.O. BOX 97, HURLEY, NY, UNITED STATES, 12443

Electronic Service of Process on the Secretary of State as agent: Not Permitted

Chief Executive Officer's Name and Address

Name: ANDREW ZELL

Address: PO BOX 97, HURLEY, NY, UNITED STATES, 12443

Principal Executive Office Address

Address: 575 CREEKSIDE RD, HURLEY, NY, UNITED STATES, 12443

Registered Agent Name and Address

Name:

Address:

Entity Primary Location Name and Address

Name:

Address:

Farmcorpflag

Is The Entity A Farm Corporation: NO

Stock Information

Share Value	Number Of Shares	Value Per Share
NO PAR VALUE	200	\$0.00000

EXHIBIT “13”



Paul Economos <buildinginspector@townofhurley.org>

Zell property, 1764 Hurley Mtn. road

1 message

Troy Ashdown <buildinginspector2@townofhurley.org>
To: Paul Economos <buildinginspector@townofhurley.org>

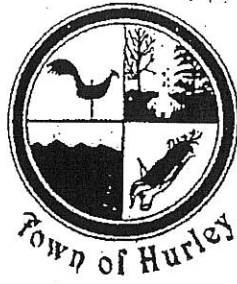
Fri, Dec 1, 2023 at 10:46 AM

Paul,

Please note that at the time of inspection aprox. 9 am this morning, no activity was going on at the above property.

- Inspector Troy Ashdown

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

Building Inspector

1:45

Site Inspection Report

Date: 11/30/2023

55.2-18

(UNACCOMPANIED)

Address: 1756 HURLEY
MOUNTAIN ROAD
HURLEY, NY 12443

Type of Inspection: COMPLIANT
FOLLOW UP 45°
MOSTLY SUNNY

Comments:

NO CHANGE IN SITE CONDITIONS, NO
ACTIVITY OBSERVED. DROVE AROUND SITE, 7
LOOPS PLUS MIDDIE.

Pass (contingent upon):

NO VIOLATIONS OBSERVED

Did Not Pass:

Inspector

Contractor/ Agent

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

10:15
34°

Building Inspector

PTLY CLOUDY

Site Inspection Report

Date: 11/28/2023

65.2-1-8

Address: 1756 HURLEY
MOUNTAIN
ROAD

Type of Inspection: COMPLAINT
UNACCOMPANIED
BY OWNER
OR AGENT

Comments:

NO ACTIVITY, SITE IS QUIET
STAKE PILES LARGELY UNCHANGED FROM LAST
INSPECTION: SCREENED SAND, WOOD CHIPS, MULCH, ETC.

Pass (contingent upon):

PLACEMENTS

Did Not Pass: _____

Inspector _____

Contractor/ Agent _____

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

Site Inspection Report

11:30-11:45

Building Inspector

SUNNY 42°

Date: 11/24/23

Address: 1756 HURLEY MAIN RD Type of Inspection: COMPLIANCE

HURLEY, NY 12443

UNANNOUNCED,
UNACCOMPANIED INSPECTION

Comments: ON SITE, DROVE CIRCUIT AROUND PROPERTY.
NO CHANGE FROM PREVIOUS CONSIDATIONS.
NO VIOLATIONS OBSERVED
CONDITIONS MEET ALL USE AS PER APPROVED
AND CONFIRMED BY ZBA

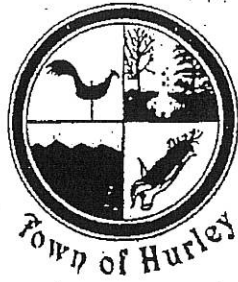
Pass (contingent upon): [Signature]

Did Not Pass: _____

Inspector [Signature]

Contractor/ Agent _____

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

Building Inspector

Site Inspection Report

Date: 11/21/23

55-2-1-8

10:45 A.M.

Cloudy 33°

Address: 1756 Hurley Main Road Type of Inspection: COMPLAINT

HURLEY, NY 12443

NOISE

USE NOT CONSISTENT
W/ REPRESENTATIONS

Comments:

CALLER MR. ZELL IN A.M. REQUESTED PERMISSION
TO ENTER PROPERTY. VERBALLY GRANTED
WOOD CHIP MULCH PILES - BY PRODUCT, SOME
6'x12' PILES. GRINDER ON SITE, (2) POWER
BOXES. NO GRINDER AT TIME OF INSPECTION
SCREWER NOT OPERATING. EQUIPMENT & TRUCKS
NO VIOLATIONS OBSERVED, NO NOISE.

Pass (contingent upon):

[Signature]

Did Not Pass: _____

Inspector

PAUL ECONOMOS

Contractor/ Agent _____



Search in mail



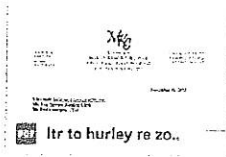
- Compose
- Mail
- Inbox 4
- Chat
- Starred
- Snoozed
- Spaces
- Sent
- Drafts
- Meet
- More

Labels

- 2023 Complaints
- 2023 Permits reports 1
- Annie emails 1
- Cedar
- PB
- Saved stuff
- Stormwater 1

recipient(s) named above. This message may be an attorney-client communication and as such, privileged and confidential. If you are not an intended recipient, you may not review, copy or distribute this message. If you have received this communication in error, please notify us immediately by e-mail and delete the original message.

One attachment • Scanned by Gmail



Paul Economos
to sean, Troy, Building

Received thank you. We will begin monitoring the property and make a determination when we have a clear understanding o

Paul Economos
Building Inspector
Town of Hurley
10 Wamsley Place
Hurley, NY 12443
845-331-7474 Ext. 3

- Reply
- Reply all
- Forward

Message sent

Application for Public Access to Records

To: Record Access Officer
From Name/Agency: Chris Zell
Phone Number: 914-388-7804

I/we hereby apply to inspect the following record: Any complaints submitted
After July 2023 for Hurley Mt. FARMS

Signature: [Handwritten Signature] Representing: Hurley Excavation

Mailing Address: 237 Thomas St
Hurley, NY 12443

For Agency Use Only

Approved

Denied for the following reason(s):

- Confidential Disclosure
- Unwarranted Invasion of Personal Privacy
- Record of which the Agency is Legal Custodian can't be found
- Record is NOT maintained by this Agency
- Exempted by Statute other than the Freedom of Information Act

Other (specify): _____

Signature: [Handwritten Signature] Title: Bureau Date: 11/27/2023
INSPECTOR
TRAINING ENFORCEMENT OFFICER

Notice: You have the right to appeal a denial of this application to the head of this agency

Name: _____ Business Address: _____

Who must fully explain his/her reason for such denial in writing seven days of receipt of an appeal

I Hereby Appeal: _____

Signature: _____ Date: _____



Paul Economos <buildinginspector@townofhurley.org>

Zell property, 1764 Hurley Mtn. road

1 message

Troy Ashdown <buildinginspector2@townofhurley.org>
To: Paul Economos <buildinginspector@townofhurley.org>

Fri, Dec 1, 2023 at 10:46 AM

Paul,

Please note that at the time of inspection aprox. 9 am this morning, no activity was going on at the above property.

- Inspector Troy Ashdown

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

Building Inspector
1:45

Site Inspection Report

Date: 11/30/2023
55.2-1-8

(UNACCOMPANIED)

Address: 1756 HURLEY
MOUNTAIN ROAD
HURLEY, NY 12443

Type of Inspection: COMPLIANT
Followed 45°
mostly sunny

Comments: NO CHANGE TO SITE CONDITIONS, NO
ACTIVITY OBSERVED. DROVE AROUND SITE, 2
LOOPS PLUS MIDDIE.

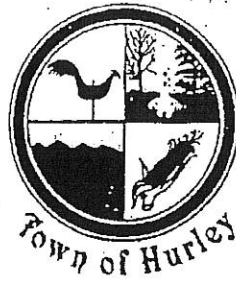
Pass (contingent upon): NO VIOLATIONS OBSERVED

Did Not Pass: _____

Inspector [Signature]

Contractor/ Agent _____

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

10:15
34°

Building Inspector

PTLY CLOUDY

Site Inspection Report

Date: 11/28/2023

55.2-1-8

Address: 1756 HURLEY
MOUNTAIN
ROAD

Type of Inspection: COMPLAINT
UNACCOMPANIED
BY OWNER
OR AGENT

Comments:

NO ACTIVITY, SITE IS QUIET
STAIR PRES LARKEN UNCHANGED FROM LAST
INSPECTION: SCREENED SAND, WOOD CHIPS, MULCH, ETC.

Pass (contingent upon):

PLHennings

Did Not Pass: _____

Inspector

[Signature]

Contractor/ Agent

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

Site Inspection Report

11-30-11-15

Building Inspector

SUNNY 42°

Date: 11/24/23

Address: 1756 HURLEY MAIN RD Type of Inspection: COMPLIANCE

HURLEY, NY 12443

UNANNOUNCED,
UNACCOMPANIED INSPECTION

Comments: ON SITE, DROVE CONCRETE AROUND PROPERTY.
NO CHANGE FROM PREVIOUS CONDITIONS.

NO VIOLATIONS OBSERVED

CONDITIONS MEET THE USE AS PER APPROVED
AND CONFIRMED BY ZIBA

Pass (contingent upon):

Did Not Pass:

Inspector

Contractor/ Agent

Town of Hurley
Building Department
Tel: 845-331-7474 ext. 3
Fax: 845-331-5502



National Historic Landmark

Building Inspector

Site Inspection Report

55-21-8

Date: 11/21/23

10:45 A.M.

Cloudy 33°

Address: 175B Hurley Main Road Type of Inspection: COMPLAINT
HURLEY, NY 12443 NOISE

USE NOT CONSISTENT
W/ REPRESENTATIONS

Comments:

CALL MR. ZELL IN A.M. REQUESTED PERMISSION
TO ENTER PROPERTY. VERBALLY GRANTED.
WOOD CHIP MULCH PILES - BY PRODUCT, SOME
GRAND PILES. GRAND ON SITE, (2) COVER
BOXES. NO GRAND AT END OF INSPECTION
SCREWER NOT OPERATING. EQUIPMENT + TRUCKS.
NO VIBRATIONS OBSERVED, NO NOISE.

Pass (contingent upon): [Signature]

Did Not Pass: _____

Inspector PAUL ECONOMOS Contractor/ Agent _____



Sean M. Kemp
Justin L. Cole
Of Counsel
John R. Marvin

LAW OFFICES
MARVIN KEMP & COLE PLLC
44 WEST MARKET STREET - P.O. BOX 151
RHINEBECK, NEW YORK 12572

Telephone: (845) 876-3024
Facsimile: (845) 876-5622
www.marvinkemp.com

November 20, 2023

Via email: building@townofhurley.org

Ms. Erin Stewart, Building Clerk
Mr. Paul Economos, ZEO
Mr. Troy Ashdown, Building Inspector and Code Officer
Town of Hurley, Building Department
PO Box 569/10 Wamsley Place
Hurley, NY 12443

Re: Zoning Enforcement Complaint – 1756 Hurley Mt. Road (SBL #55.2-1-8)
Our File No.: 6965.27.01.23

Dear Ms. Stewart, Mr. Economos and Mr. Ashdown:

I am writing on behalf of the Dave T. Douglas Trust, the owner of real property commonly known as 8 Dug Hill Road, Town of Hurley, New York (SBL# 55.2-3-15.110).

Please allow this to serve as a formal written complaint regarding the unlawful use of nearby real property owned by Hurley Mountain Farms LLC and commonly known as 1756 Hurley Mt. Road, Town of Hurley, New York (SBL #55.2-1-8) (the “Property”).

In 2014, the owners of Hurley Mountain Farms LLC, Mr. Andrew Zelle and Mr. Lee Winne, represented to the Town of Hurley that they were going to use the Property for agricultural purposes. They stated that they would be growing various species of trees and shrubs on the Property in addition to processing mulch on the Property in accordance with NYS Ag & Markets law. According to Planning Board meeting minutes from June 2014, the owners had no plans to erect buildings or park/store heavy equipment and trucks at the Property. Unfortunately, the current use of the Property is not consistent with any of the representations that were previously made to the Town of Hurley by Mr. Zelle and Mr. Winne.

Currently, the Property is part of a full-scale commercial operation related to a tree removal company, LW Tree Service, which is owned by Lee Winne. This use deviates significantly from any legitimate agricultural purpose. The Property is essentially a depot for storage and processing waste generated from commercial tree removal activities. Visible from the road are

substantial piles of trees, mulch and other debris. Furthermore, in direct opposition to the owners' prior assurances, large trucks, construction equipment, sheds and shipping containers are being parked and stored on the Property. Put simply, the Property looks like a dump.

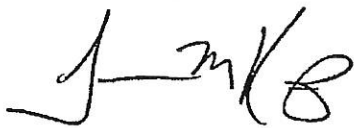
It is evident that the Property is not being used for any legitimate agricultural purpose but instead serves LW Tree Service as a hub for storing commercial vehicles and equipment, as well as processing wood that it cuts down for its clients. Daily operations involving obnoxiously loud equipment and burning piles of debris, which produce dark clouds of smoke and ash, severely interfere with the reasonable use and enjoyment of nearby properties. This is clearly an unlawful commercial use in a residential area.

While my client respects and supports legitimate agricultural uses within the community, this operation, falsely presented as agricultural, is a commercial enterprise that operates in direct contravention of the local zoning law. The continued use of the Property for these purposes is not only a violation of the Town of Hurley Zoning Code but also poses significant health and safety risks to the community. Additionally, the location of this unlawful use near the Englishman's Creek, which traverses the Property, only exacerbates the potential health and safety risks.

Based on the foregoing, we respectfully request that the Town of Hurley promptly investigate this complaint. Please do not hesitate to contact me with any questions or concerns.

Thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S M Kemp', written in a cursive style.

Sean M. Kemp

**Guidelines for Review of Local Laws That Define “Farm Operations”,
“Farm”, “Agriculture”, “Farmland” or Any Similar Term**

Pursuant to Article 25-AA, the term “farm operation” is used to identify and define commercial enterprises, through the use of land, buildings, equipment and practices, to carry-out an agricultural enterprise. Over the years, the State Legislature has amended the Agriculture and Markets Law (AML) to enhance the breadth of what constitutes a farm operation, including the type of crops, livestock and livestock products considered to be part of an agricultural enterprise.

In the administration of the AML regarding a municipality’s definition of “farm,” “agriculture,” “farmland” or any similar term used to describe an agricultural/farm operation in its zoning code, the Department compares the municipal definition to the State’s definition of “farm operation” as defined below. If a municipal definition does not encompass the breadth of crops, livestock, livestock products and farm enterprises identified in the AML, the local law may be deemed to be unreasonably restrictive and in violation of AML §305-a (1).

When a municipality examines its local laws for consistency with the AML, it is important to take into consideration certain aspects of the State’s definition of “farm operation.” Under the AML, a farm operation includes the production, preparation and marketing of crops, livestock and livestock products that are produced on land that is owned or rented, contiguous or non-contiguous to one another. Land can be owned or rented in another town or county and still be considered part of the farm operation. Furthermore, start-up farms may also be protected under the AML as long as the land is located within an agricultural district. Start-up farms will be described in another section of this document.

Definition of Farm Operation in the AML

301(11). "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a “commercial horse boarding operation” as defined in subdivision thirteen of this section, a “timber operation” as defined in subdivision fourteen of this section, “compost, mulch or other biomass crops” as defined in subdivision sixteen of this section and “commercial equine operation” as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

301(2). "Crops, livestock and livestock products" shall include but not be limited to the following:

- a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b. Fruits, including apples, peaches, grapes, cherries and berries.
- c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed

buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.

f. Maple sap.

g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

h. Aquaculture products, including fish, fish products, water plants and shellfish.

i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.

301(13). "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

301(14). "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

301(16). "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

- 301(17). "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing, notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

Start-Up Farm Periods

In the administration of the AML, the Department has considered the needs of "start-up" farm operations when the land used for agricultural purposes is located within a county adopted, State certified agricultural district. The Department examines the activity to be conducted, level of investment and involvement in the farm; soil and topographic characteristics of the property; agricultural knowledge of the landowner; and other factors that may specifically apply to a proposed agricultural activity. Concerning protections afforded under AML §305-a to farm operations, including "start-up farms," municipalities should allow a reasonable period of time to establish the farm operation and its production of crops/livestock/livestock products. The Department considers the following start-up periods to be reasonable for a farm to achieve the level of production of its own goods that may be required by a local government for certain processing and marketing activities conducted by the farm¹:

Crops: 2 years

Hops: 3 years

Livestock: 2 years

Nurseries and Greenhouses: 2 years

Aquaculture: 2 years

Apiaries: 2 years

Christmas Trees: 8-10 years

Maple: 2 years

Orchards and Berries: 3-5 years

¹ Local governments may, of course, provide longer start-up periods in their discretion; and should consider weather, disease and other factors that may impact production.

Vineyards: 5 years

Woody Biomass: 3 years

Acreage and Gross Sales Requirements

Under the AML, a "farm operation" must be a "commercial enterprise." A "farm operation" is not required to be eligible for receipt of an agricultural assessment or meet the acreage and gross sales requirements to receive an agricultural assessment [AML §301(4) – *Land Used in Agricultural Production*].

In the absence of minimum acreage and gross sales requirements, the Department evaluates such factors as the acreage in production; capital investment and business assets; gross sales of crops, livestock and livestock products; the type of enterprise and number of years in operation. If needed, the Department also evaluates a number of other factors, including, but not limited to:

- 1) the landowner's intent (especially for "start-up" farms);
- 2) whether the farm is operated in a businesslike manner;
- 3) time and effort spent on farming;
- 4) whether the landowner, or their advisors, have the knowledge needed to carry on the farming activity as a successful business;
- 5) whether the landowner was successful, or has experience with, similar activities in the past;
- 6) whether the landowner can expect future appreciation of the assets used in the business; and
- 7) whether the landowner's investment is at risk.

Leased and Owned Land

If a farm leases land for inclusion into its operation, crops or livestock grown/raised on leased land are treated the same as crops/livestock grown/raised on owned land. In both instances, the farmer must be producing the crop or raising the livestock as part of their operation; i.e., the farmer must be at financial risk if the crop/livestock fails or succeeds. Farmers either plant themselves or hire custom operators to plant and harvest crops on owned and/or leased land. Farmers may also hire custom operators to raise their livestock. In both instances, however, it is the farmer that provides the seed/livestock, fertilizer, pesticide/herbicide, feed, etc. and pays for the labor and custom applicator to produce/harvest the crop or raise the livestock. In this manner, the harvested crop or livestock raised are the farmer's, whether the crop yields or finished weight of livestock are successful or diminished.

Conclusion

If an agricultural operation is determined to be a farm operation as defined in AML §301(11), whether it is an existing or start-up agricultural enterprise, it may be afforded protections under the AML if the land is also located within a county adopted, State certified agricultural district.

**LAW OFFICE OF
MICHAEL A. MORIELLO, P.C.**

Michael A. Moriello, Esq.

111 Green Street
Post Office Box 4465
Kingston, New York 12402
E-Mail: mike@moriellolaw.com

Tel: (845) 338-6603
Fax: (845) 340-1614

January 18, 2023

Town of Hurley Building Department
Mr. Eric Kitchen/Mr. Thomas Tryon, CEO
PO Box 569
Hurley, New York 12443

RE: December 15, 2014 Complaint by Rachel Hyman Rouse:
Hurley Mountain Farms LLC Farm Operations

[VIA E-MAIL]

Dear Eric:

In accordance with my conversation with Mr. Andrew Zell, I enclose copies of the following documents, same in connection with the above referenced matter [copy of complaint annexed].

- 1) August 19, 2014 Request for Interpretation.
- 2) September 24, 2014 Record on Appeal before the Town of Hurley Zoning Board of Appeals.
- 3) November 14, 2014 Town of Hurley Zoning Board of Appeals Decision.

By virtue of the record and the November 14, 2014 Zoning Board of Appeals Decision, all of my client's activities are protected and lawful farm operations under the Agriculture and Markets Law of New York State and the Town of Hurley Zoning Law.

The issues which are the subject of the December 15, 2022 complaint by Ms. Rachel Hyman Rouse were fully determined over eight (8) years ago. In this regard, my client's activities will continue, unabated, despite the complaint and/or purported "involvement" by any real estate brokers.

I am providing this documentation at the request of my client, inasmuch as it is my understanding that the records on file at the Town of Hurley Town Hall may not be complete.

Should you have any questions, do not hesitate to contact me.

Very truly yours,



MAM:cam
Enclosures
cc: Mr. Andrew Zell

**LAW OFFICE OF
MICHAEL A. MORIELLO, P.C.**

Michael A. Moriello, Esq.

111 Green Street
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Kingston, New York 12402
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January 18, 2023

Town of Hurley Building Department
Mr. Eric Kitchen/Mr. Thomas Tryon, CEO
PO Box 569
Hurley, New York 12443

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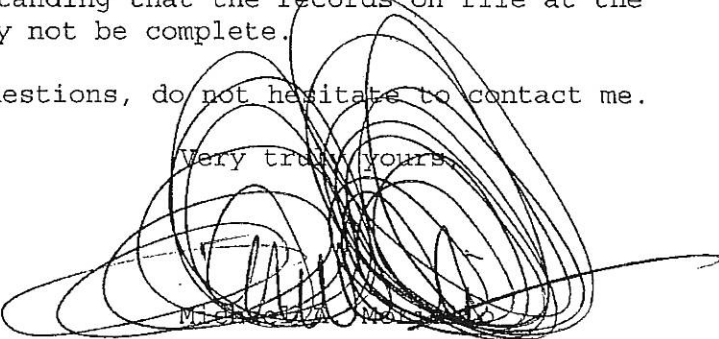
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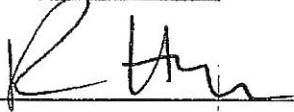
MAM:cam

Enclosures

cc: Mr. Andrew Zell

TOWN OF HURLEY
BUILDING & ZONING DEPARTMENT

COMPLAINT FORM

Date: 12/15/22
Name: Rachel Hyman Rouse
Address: 6417 Montgomery St
Rhinbeck NY 12572
Phone: _____ Cell: 917-686-4906
Signature (required)*: 

Information on property you have a complaint against:

Property Address: 1756 Hurley Mountain Rd
Hurley NY
Property Owner's Name: Hurly Mountain Farms LLC

Complaint: Full scale commercial operation in an
A-4 residential zone. Consistent, loud
mechanical sounds, multiple commercial
vehicles, dump trucks, pick up trucks,
excavators, bull dozers, shipping containers
storage sheds and piles of wood, dirt

Please complete form and return to: Town of Hurley
Building Department
P.O. Box 569
Hurley, NY 12443
Phone: 331-7474, x3
Fax: 331-5502

chippers
Commercial
traffic + personnel
on site

RISELEY & MORIELLO
ATTORNEYS AT LAW
111 Green Street
Post Office Box 4465
Kingston, New York 12402
E-Mail: mamrfr@aol.com

Richard F. Riseley
Michael A. Moriello

Tel: (845) 338-6603
Fax: (845) 340-1614

August 19, 2014

Town of Hurley Building Inspector
Mr. Glenn Hoffstatter
PO Box 569
Hurley, New York 12443

RE: In the Matter of the Planned Agricultural Use of
Andrew Zell and Lee Winne: Request for Interpretation

Dear Glenn:

In accordance with our conversation, I am submitting this Request for Interpretation on behalf of my clients Mr. Andrew Zell and Mr. Lee Winne, same in connection with the above referenced matter.

This Request for Interpretation is made pursuant to Section 210-54(A) of the Town of Hurley Zoning Law and Sections 267-a(4) and 267-a(5) of the Town Law of New York State.

Questions Presented: Is an agricultural nursery which will employ top soil, mulch, compost [screening and grinding] and associated accessory uses a permitted as of right agricultural use within the A-4 Zoning District?

Answer: It is submitted that the above question is to be answered in the affirmative, inasmuch as discretionary Site Development Plan and Special Use Permit Approvals are not required, based upon the following legal address.

I. Brief History: My clients are contract vendees for purchase of a 5.9 acre premises situate within the A-4 Zoning District and along Dug Hill Road, said premises being currently zoned in fee by Evan Matthews and Mary Piskoz [Town of Hurley S/B/L #55.002-1-8]. A copy of the current Deed to the subject premises is annexed hereto as Exhibit "A".

Upon purchase of said lands, my clients plan to coordinate the agricultural activities upon said lands with approximately 2 acres of additional lands leased from RO Davenport & Sons, Inc., thereby comprising a total of approximately 8 acres of land.

Access to the subject premises is via existing farm land along Dug Hill Road and a copy of the June 2, 2003 survey of the premises as prepared by Donald Brewer, PLS, is annexed hereto as Exhibit "B".

II. Legal Analysis: Agricultural uses are permitted, "as of right" within the A-4 Zoning District and there is no discretionary permit review associated therewith by virtue of the Town of Hurley Use Regulations, SEQRA [6 NYCRR Parts 617.5(c)(19), as well as Section 305-a(1) of the Agriculture and Markets Law of New York State. Copies of said statutory authority are annexed hereto and made a part hereof collectively as Exhibit "C".

In addition, "compost, mulch or other organic biomass crops" are classified as being part of a "farm operation" and as "agricultural uses" thereon pursuant to Sections 301-a(11) and 301-a(16) of the Agriculture and Markets Law of New York State. [Copies of said statutes are annexed hereto and made a part hereof collectively as Exhibit "D".]

Owing to the operation of Sections 305-a(1) of the New York State Agriculture and Markets Law, the State of New York has established a state-wide general statutory scheme for the protection and continued viability of agricultural uses which cannot be superceded by the Town of Hurley under its Zoning Law. Sasso v. Osgood, 86 NY2d 375 (1995), Albany Area Builders Association v. Town of Guilderland, 74 NY2d 372 (1989).

Meaning, once the New York State general state-wide statutory scheme for the regulation of Agriculture is applicable, there is no conference of discretionary review authority upon the Code Enforcement Officer for the ministerial act of determining whether the planned agricultural use, as stated above, is an agricultural use under the Town of Hurley Zoning Law. Incorporated Village of Atlantic Beach v. Gavalas, 81 NY2d 322 (1993), Filmways Communications v. Douglas, 106 AD2d 185 (1985), aff'd 65 NY2d 878 (1985), Plus v. Bletsch, 70 NY2d 920 (1987); see also, 6 NYCRR Part 617.5(c)(19).

It is further submitted that, once a municipality adopts the New York State Building and Fire Code (which is a uniform state regulatory statute), it may not unilaterally impose more restrictive conditions than those set forth within said Code. Con Edison v. Town of Red Hook, 60 NY2d 99 (1983).

Therefore, any attempt to subject my clients to Site Development Plan and/or Special Use Permit review in the instant case would actually be an unauthorized regulation of the details, method and manner of my clients' agricultural business enterprise. St. Onge v. Donovan, 71 NY2d 507 (1988), Dexter v. Town Board, 36 NY2d 102 (1976).

Further addressing the classified agricultural "Farm Operation" in relation to the Town of Hurley Zoning Law, a Zoning Law is in derogation of common law; therefore, the meaning of terms within said law are to be construed in a light most favorable to the applicant/landowner, and against the municipal authority. 440 East 102nd Street Corp. v. Murdock, 285 NY 298 (1941), Thompson Industries v. Incorporated Village of Port Washington North, 27 NY2d 537 (1970).

Therefore, zoning restrictions are not to be extended by implication to prohibit a use and will be limited to what is clearly proscribed. Offshore Restaurant Corp. v. Linden, 30 NY2d 160 (1972), Kurlander v. Incorporated Village of Hempstead, 31 Misc2d 121 (1961), Ansonia Associates v. Continental Ansonia Garage Corporation, 132 Misc2d 731 (1986).

With respect to all of the above stated statutory constricts, it is noted that the terms "agriculture" and "farming" are not defined under the Town of Hurley Zoning Law. Accordingly, the New York State legislative language set further within Section 301 of the Agriculture and Markets Law clearly authorizes the issuance of building permits for all agricultural uses which meet the use requirements of Section 210-10 of the Town of Hurley Zoning Law. In this manner, plain and unambiguous statutory language must be followed in order to construe the meaning of a statute. Catholic Charities v. Zoning Board of Appeals of the City of Norwich, 187 AD2d 903 (3rd Dept, 1992).

Even assuming arguendo, that the meaning of the Town of Hurley Zoning Law is somehow unclear, a long line of Third Department cases holds that any ambiguity, doubt, or apparent conflict involving regulatory terms or meaning must be resolved in favor of the applicant/landowner. Hess Realty Corp. v. Planning Commission, 198 Ad2d 588 (3rd Dept, 1993), Freihofer v. Lake George Town Board, 147 AD2d 865 (3rd Dept, 1989), Bonded Concrete, Inc. v. Zoning Board of Appeals of the Town of Saugerties, 268 AD2d 771 (3rd Dept, 2000), lv. den. 94 NY2d 704 (2000).

III. SEQRA Exemption:

Agricultural uses are exempt from SEQRA review and classified as Type II Actions thereunder. In this regard, the agricultural use at issue is not subject to environmental review as it is a Type II Action pursuant to 6 NYCRR Part 617.5(c)(3). Accordingly, this action qualifies as a Type II Action under SEQRA pursuant to the following regulatory authority:

1. 6 NYCRR Part 617.5(c)(3), as an agricultural farm management practice which includes the construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming; and,
2. 6 NYCRR Part 617.5(c)(19), regarding the ministerial issuance of Building Permits.

A review of the applicable case law reveals that a plethora of agricultural activities have been judicially determined to be classified as Type II under SEQRA. These agricultural activities have been historically extended to construction of manure management farm buildings and utilization of mobile homes for farm labor housing. See generally, Lysander v. Hafner, 96 NY2d 558 (2001), Pure Air and Water, Inc. v. Davidsen, 246 AD2d 786 (3rd Dept, 1998), app. dismd., 91 NY2d 955 (1999), app. den. 92 NY2d 807 (1999), app. dismd., 93 NY2d 1013, Humane

Society of United States v. Empire State Development Corporation, 53 AD3d 1013 (2008).

Moreover, in the event that any opponent of my clients' plans were to attempt to assert that discretionary review is applicable in the instant case, the same would be further pre-empted and superceded by the New York State Department of Agriculture and Markets state wide statutory scheme; whether the farm operation is included within the Agricultural District or not. Village of Lacona v. New York State Department of Agriculture and Markets, 51 AD3d 1319 (3rd Dept, 2008).

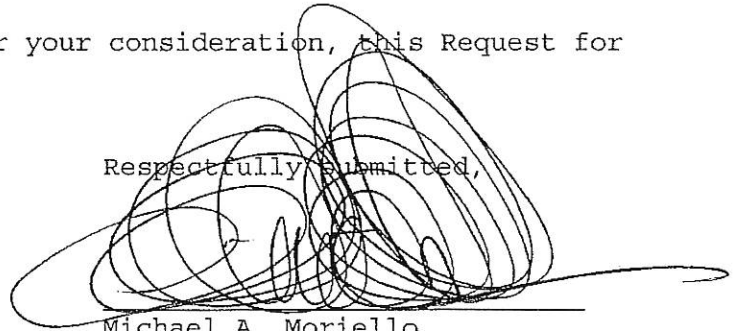
Finally, I note that pursuant to SEQRA [6 NYCRR Part 617.5(c)(31), this Request for Interpretation is classified as a Type II Action thereunder and is thereby precluded from environmental review by the Town of Hurley Zoning Board of Appeals. Frampton v. Zoning Board of Appeals of the Town of Lloyd, 114 AD2d 671 (3rd Dept, 1985).

IV. Conclusion: Based upon all of the above, it is submitted that the planned agricultural uses of my clients are not to be regulated pursuant to Site Development Plan and/or Special Use Permit discretionary review under the Town of Hurley Zoning Law. Accordingly, based upon the facts and law set forth above, it is respectfully requested that the Town of Hurley Building Inspector provide an Interpretation which agrees with the foregoing address.

Should you have any questions, do not hesitate to contact me.

Thanking you in advance for your consideration, this Request for Interpretation is,

Respectfully Submitted,

A large, dense, and somewhat chaotic handwritten signature in black ink, consisting of many overlapping loops and lines, covering the signature area.

Michael A. Moriello

MAM:def
Enclosures
cc: Messrs. Zell and Winne
Christopher Coleman, Esq.

RISELEY & MORIELLO

ATTORNEYS AT LAW

111 Green Street

Post Office Box 4465

Kingston, New York 12402

E-Mail: mamrfr@aol.com

Tel: (845) 338-6603

Fax: (845) 340-1614

Richard F. Riseley
Michael A. Moriello

September 24, 2014

Town of Hurley Zoning Board of Appeals
Matthew Jankowski, Esq., Chairman
Town Hall
10 Wamsley Place
PO Box 569
Hurley, New York 12443

RE: In the Matter of the Appeal of Andrew Zell

Dear Chairman Jankowski and Board Members:

This Appeal is submitted by Mr. Andrew Zell [hereinafter the "Petitioner"] in response to certain September 4, 2014 and September 18, 2014 Interpretations as issued by the Town of Hurley Building Inspector with respect to Petitioner's proposed use of the Mathews/Piskoz premises for an agricultural nursery.

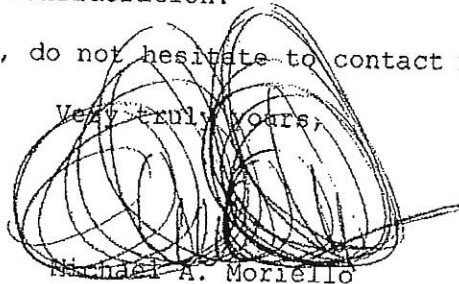
The statutory authority by which this Appeal arises is set forth within Sections 267-a(4) and 267-a(5) of the Town Law of New York State, as well as Article IX of the Town of Hurley Zoning Law.

In connection with the foregoing, you will find the following documents for your review:

- 1.) Application Fee/Application Form.
- 2.) August 19, 2014 Request for Interpretation.
- 3.) September 4, 2014 Interpretation.
- 4.) September 15, 2014 correspondence by Andrew Zell.
- 5.) September 18, 2014 Interpretation.
- 6.) Michael A. Moriello, Esq. Supplement to Appeal.
- 7.) Michael A. Moriello, Esq. September 24, 2014 correspondence.

Please place this matter on the Town of Hurley Zoning Board of Appeals October 9, 2014 Agenda for consideration.

Should you have any questions, do not hesitate to contact me.

Very truly yours,

 Michael A. Moriello

MAM:def

Enclosures

cc: Mr. Andrew Zell
Town of Hurley Building Inspector
Town of Hurley Town Board

TOWN OF HURLEY ZONING BOARD OF APPEALS APPLICATION

Date: September 22, 2014

Owner: Evan Matthews and Mary Piskoz

Address: 90 Dug Hill Road
Hurley, New York 12443

Section, Block & Lot: 55.002-1-8

Phone: N/A Cell Phone: N/A

Name of Applicant (if other than owner): Andrew Zell

Phone Number: (845) 338-6603

APPLICATION IS MADE FOR:

Area Variance Use Variance Interpretation Appeal

Description of request:

Appeal of the Town of Hurley Building Inspector's September 4, 2014 and September 18, 2014 Interpretations based upon the August 19, 2014 Request for Interpretation of Andrew Zell (see documents annexed hereto collectively).

Location of affected premises: Dug Hill Road, Hurley, New York

Size of lot: Front 500' Rear 389' Depth 920' Area 5.924 Acres

Present use of property: (i.e. residential, single family w/garage, etc):
Vacant land.

Requested use of property:
Agricultural

- Attach a scaled drawing of property showing building locations, physical characteristics and measurements from buildings to property lines (both proposed & existing)
- Provide a detailed description of the factors which should be considered by the ZBA in reviewing this request. If the request is an area variance, you may consult the list of criteria which is provided with this application form.
- Attach appropriate fee payable to the Town Clerk - \$100 (appeals) \$ 50 (variance)
- Send original and two copies of this form and all attachments to the Zoning Enforcement Officer.
- Applicant must contact ZBA Secretary at 338-2565 to confirm placement on agenda.

RISELEY & MORIELLO
ATTORNEYS AT LAW
111 Green Street
Post Office Box 4465
Kingston, New York 12402
E-Mail: mamrfr@aol.com

Richard F. Riseley
Michael A. Moriello

Tel: (845) 338-6603
Fax: (845) 340-1614

August 19, 2014

Town of Hurley Building Inspector
Mr. Glenn Hoffstatter
PO Box 569
Hurley, New York 12443

RE: In the Matter of the Planned Agricultural Use of
Andrew Zell and Lee Winne: Request for Interpretation

Dear Glenn:

In accordance with our conversation, I am submitting this Request for Interpretation on behalf of my clients Mr. Andrew Zell and Mr. Lee Winne, same in connection with the above referenced matter.

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Questions Presented: Is an agricultural nursery which will employ top soil, mulch, compost [screening and grinding] and associated accessory uses a permitted as of right agricultural use within the A-4 Zoning District?

Answer: It is submitted that the above question is to be answered in the affirmative, inasmuch as discretionary Site Development Plan and Special Use Permit Approvals are not required, based upon the following legal address.

I. Brief History: My clients are contract vendees for purchase of a 5.9 acre premises situate within the A-4 Zoning District and along Dug Hill Road, said premises being currently zoned in fee by Evan Matthews and Mary Piskoz [Town of Hurley S/B/L #55.002-1-8]. A copy of the current Deed to the subject premises is annexed hereto as Exhibit "A".

Upon purchase of said lands, my clients plan to coordinate the agricultural activities upon said lands with approximately 2 acres of additional lands leased from RO Davenport & Sons, Inc., thereby comprising a total of approximately 8 acres of land.

Access to the subject premises is via existing farm land along Dug Hill Road and a copy of the June 2, 2003 survey of the premises as prepared by Donald Brewer, PLS, is annexed hereto as Exhibit "B".

II. Legal Analysis: Agricultural uses are permitted, "as of right" within the A-4 Zoning District and there is no discretionary permit review associated therewith by virtue of the Town of Hurley Use Regulations, SEQRA [6 NYCRR Parts 617.5(c)(19), as well as Section 305-a(1) of the Agriculture and Markets Law of New York State. Copies of said statutory authority are annexed hereto and made a part hereof collectively as Exhibit "C".

In addition, "compost, mulch or other organic biomass crops" are classified as being part of a "farm operation" and as "agricultural uses" thereon pursuant to Sections 301-a(11) and 301-a(16) of the Agriculture and Markets Law of New York State. [Copies of said statutes are annexed hereto and made a part hereof collectively as Exhibit "D".]

Owing to the operation of Sections 305-a(1) of the New York State Agriculture and Markets Law, the State of New York has established a state-wide general statutory scheme for the protection and continued viability of agricultural uses which cannot be superceded by the Town of Hurley under its Zoning Law. Sasso v. Osgood, 86 NY2d 375 (1995), Albany Area Builders Association v. Town of Guilderland, 74 NY2d 372 (1989).

Meaning, once the New York State general state-wide statutory scheme for the regulation of Agriculture is applicable, there is no conference of discretionary review authority upon the Code Enforcement Officer for the ministerial act of determining whether the planned agricultural use, as stated above, is an agricultural use under the Town of Hurley Zoning Law. Incorporated Village of Atlantic Beach v. Gavalas, 81 NY2d 322 (1993), Filmways Communications v. Douglas, 106 AD2d 185 (1985), aff'd 65 NY2d 878 (1985), Plus v. Bletsch, 70 NY2d 920 (1987); see also, 6 NYCRR Part 617.5(c)(19).

It is further submitted that, once a municipality adopts the New York State Building and Fire Code (which is a uniform state regulatory statute), it may not unilaterally impose more restrictive conditions than those set forth within said Code. Con Edison v. Town of Red Hook, 60 NY2d 99 (1983).

Therefore, any attempt to subject my clients to Site Development Plan and/or Special Use Permit review in the instant case would actually be an unauthorized regulation of the details, method and manner of my clients' agricultural business enterprise. St. Onge v. Donovan, 71 NY2d 507 (1988), Dexter v. Town Board, 36 NY2d 102 (1976).

Further addressing the classified agricultural "Farm Operation" in relation to the Town of Hurley Zoning Law, a Zoning Law is in derogation of common law; therefore, the meaning of terms within said law are to be construed in a light most favorable to the applicant/landowner, and against the municipal authority. 440 East 102nd Street Corp. v. Murdock, 285 NY 298 (1941), Thompson Industries v. Incorporated Village of Port Washington North, 27 NY2d 537 (1970).

Therefore, zoning restrictions are not to be extended by implication to prohibit a use and will be limited to what is clearly proscribed. Offshore Restaurant Corp. v. Linden, 30 NY2d 160 (1972), Kurlander v. Incorporated Village of Hempstead, 31 Misc2d 121 (1961), Ansonia Associates v. Continental Ansonia Garage Corporation, 132 Misc2d 731 (1986).

With respect to all of the above stated statutory constricts, it is noted that the terms "agriculture" and "farming" are not defined under the Town of Hurley Zoning Law. Accordingly, the New York State legislative language set further within Section 301 of the Agriculture and Markets Law clearly authorizes the issuance of building permits for all agricultural uses which meet the use requirements of Section 210-10 of the Town of Hurley Zoning Law. In this manner, plain and unambiguous statutory language must be followed in order to construe the meaning of a statute. Catholic Charities v. Zoning Board of Appeals of the City of Norwich, 187 AD2d 903 (3rd Dept, 1992).

Even assuming arguendo, that the meaning of the Town of Hurley Zoning Law is somehow unclear, a long line of Third Department cases holds that any ambiguity, doubt, or apparent conflict involving regulatory terms or meaning must be resolved in favor of the applicant/landowner. Hess Realty Corp. v. Planning Commission, 198 Ad2d 588 (3rd Dept, 1993), Freihofer v. Lake George Town Board, 147 AD2d 865 (3rd Dept, 1989), Bonded Concrete, Inc. v. Zoning Board of Appeals of the Town of Saugerties, 268 AD2d 771 (3rd Dept, 2000), lv. den. 94 NY2d 704 (2000).

III. SEQRA Exemption:

Agricultural uses are exempt from SEQRA review and classified as Type II Actions thereunder. In this regard, the agricultural use at issue is not subject to environmental review as it is a Type II Action pursuant to 6 NYCRR Part 617.5(c)(3). Accordingly, this action qualifies as a Type II Action under SEQRA pursuant to the following regulatory authority:

1. 6 NYCRR Part 617.5(c)(3), as an agricultural farm management practice which includes the construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming; and,
2. 6 NYCRR Part 617.5(c)(19), regarding the ministerial issuance of Building Permits.

A review of the applicable case law reveals that a plethora of agricultural activities have been judicially determined to be classified as Type II under SEQRA. These agricultural activities have been historically extended to construction of manure management farm buildings and utilization of mobile homes for farm labor housing. See generally, Lysander v. Hafner, 96 NY2d 558 (2001), Pure Air and Water, Inc. v. Davidsen, 246 AD2d 786 (3rd Dept, 1998), app. dismd., 91 NY2d 955 (1999), app. den. 92 NY2d 807 (1999), app. dismd., 93 NY2d 1013, Humane

Society of United States v. Empire State Development Corporation, 53 AD3d 1013 (2008).

Moreover, in the event that any opponent of my clients' plans were to attempt to assert that discretionary review is applicable in the instant case, the same would be further pre-empted and superceded by the New York State Department of Agriculture and Markets state wide statutory scheme; whether the farm operation is included within the Agricultural District or not. Village of Lacona v. New York State Department of Agriculture and Markets, 51 AD3d 1319 (3rd Dept, 2008).

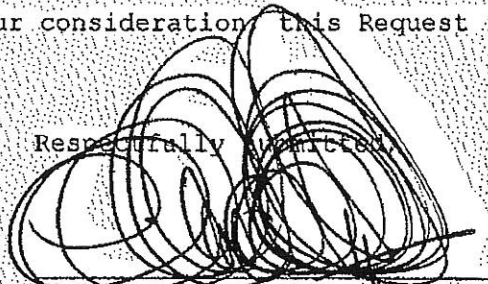
Finally, I note that pursuant to SEQRA [6 NYCRR Part 617.5(c) (31), this Request for Interpretation is classified as a Type II Action thereunder and is thereby precluded from environmental review by the Town of Hurley Zoning Board of Appeals. Frampton v. Zoning Board of Appeals of the Town of Lloyd, 114 AD2d 671 (3rd Dept, 1985).

IV. Conclusion: Based upon all of the above, it is submitted that the planned agricultural uses of my clients are not to be regulated pursuant to Site Development Plan and/or Special Use Permit discretionary review under the Town of Hurley Zoning Law. Accordingly, based upon the facts and law set forth above, it is respectfully requested that the Town of Hurley Building Inspector provide an Interpretation which agrees with the foregoing address.

Should you have any questions, do not hesitate to contact me.

Thanking you in advance for your consideration this Request for Interpretation is,

Respectfully submitted,



Michael A. Moriello

MAM:def

Enclosures

cc: Messrs. Zell and Winne
Christopher Coleman, Esq.

EXHIBIT "A"

Ulster County
Albert Spada
County Clerk



Instrument Number: 2003-00009306

Recorded On: April 07, 2003

As
D01 - Deed

Parties: MACKINNON ROBERT A BY ATTY

To
MATTHEWS EVAN T

Billable Pages: 6

Recorded By: TSC

Num Of Pages: 6

Comment: HURLEY

**** Examined and Charged as Follows: ****

D01 - Deed	43.00	RP5217	25.00	Tax Affidavit TP 584	5.00
Recording Charge:	73.00				
		Consideration Amount	RS#CS#		
Tax-Transfer	100.00	25,000.00	4965	Basic	0.00
				Additional	0.00
				Special Additional	0.00
				Transfer	100.00
Tax Charge:	100.00				

**** THIS PAGE IS PART OF THE INSTRUMENT ****

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Ulster County,

File Information:

Document Number: 2003-00009306
Receipt Number: 30339
Recorded Date/Time: April 07, 2003 04:28P
Book-Vol/Pg: Bk-D VI-3567 Pg-252

Record and Return To:

MATTHEW & GRIECO
PO BOX 3127
KINGSTON NY 12402



Albert Spada

ALBERT SPADA, ULSTER COUNTY CLERK

6
that

**BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR
(INDIVIDUAL)**

STATUTORY FORM C

THIS IS A LEGALLY BINDING INSTRUMENT. IF NOT FULLY UNDERSTOOD, WE RECOMMEND ALL PARTIES TO THE INSTRUMENT CONSULT AN ATTORNEY BEFORE SIGNING.

THIS INDENTURE, made the APRIL 7 2003,

between

ROBERT A. MacKINNON, BY LAURINDA MAC KINNON HIS ATTORNEY IN FACT of 3181 NORTH MADERA MESA PLACE, TUCSON, Arizona 85749,

party of the first part, and

EVAN MATTHEWS, of 8 DUG HILL RD HURLEY, New York 12443,

MARY A PISKOZ AS JOINT TENANTS
party of the second part:

WITNESSETH, that the party of the first part, in consideration of one dollar and other good and valuable consideration, lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, HIS HEIRS and assigns forever, all that certain piece and parcel of land situate in TOWN OF HURLEY, ULSTER COUNTY, NEW YORK, and more particularly described in Schedule A attached hereto

together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, HIS HEIRS and assigns forever. And the party of the first part covenants that he has not done or suffered anything whereby the said premises have been encumbered in any way whatever.

And the party of the first part/grantor, in compliance with Section 13 of the Lien Law, covenants that the party of the first part/grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" or "grantor" shall be construed as if it read "parties" or "grantors" whenever the sense of this document so requires.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal the day and year first above written.

Robert A. MacKinnon by Laurinda MacKinnon
Seller Robert A. MacKinnon by
Laurinda MacKinnon Attorney-in-Fact
Attorney-in-Fact

CHECKED OL

ENTERED BT

MARK/OFF _____

JTSL

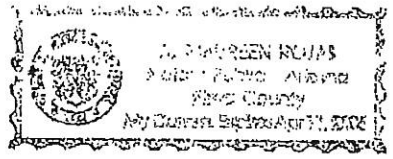
Acknowledgment by a Person Outside New York State (RPL § 309-b)

STATE OF ARIZONA)
COUNTY OF PIMA) ss.:
)

On the 1st day of April, 2003, before me, the undersigned, personally appeared LAURINDA MacKINNON personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she executed the same in her capacity(ies), and that by her signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual(s) made such appearance before the undersigned in TUCSON, ARIZONA.

Laurinda MacKinnon
(signature and office of individual taking acknowledgment)

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 1st DAY OF April, 2003,
BY *Laurinda MacKinnon*
[Signature]
NOTARY PUBLIC



DEED

Title No.

Section 55.2

Block 1

Lot 8

ROBERT A. MacKINNON BY
LAURINDA MacKINNON

County or Town HURLEY, ULSTER COUNTY

To

Street Address

EVAN MATTHEWS

HURLEY, New York 12443

Return By Mail To:

<p>S. JAMES MATTHEWS, ESQ. MATTHEWS & GRIECO 89 JOHN STREET PO BOX 3127 KINGSTON, NEW YORK 12402</p>
--

Reserve This Space For Use Of Recording Office

ALL THAT PIECE OR PARCEL of land situate in the Town of Hurley, County of Ulster and State of New York described as follows:

Beginning at a spike set at the center of Dug Hill Road being North 74°31'26" West along the center of the road 34.96 feet from the center of a metal culvert (36" dia.) and being North 17°19'54" East 25.01 feet from a set reinforcement rod; thence from said POINT AND PLACE OF BEGINNING, along lands now or formerly Beverly J. Daley (L.1770 p.261) as per a boundary line agreement (L.1301 p.306) the following twenty five courses and distances:

- South 17°19'54" West 67.00 feet
- North 59°52'14" East 16.98 feet
- South 47°29'16" East 36.17 feet
- South 17°14'54" West 54.74 feet
- South 32°05'36" East 14.17 feet
- South 74°56'16" East 17.43 feet
- South 59°44'26" East 35.19 feet
- South 01°07'36" East 29.69 feet
- South 31°53'26" East 8.97 feet
- South 55°33'36" East 34.34 feet
- South 23°47'56" East 33.66 feet
- South 14°48'36" East 55.01 feet
- South 59°35'06" East 51.03 feet
- South 36°33'46" East 29.89 feet
- South 15°40'54" West 27.62 feet
- South 10°20'26" East 21.03 feet
- South 62°08'04" West 15.97 feet
- South 48°39'24" West 47.01 feet
- South 39°30'34" West 48.10 feet
- South 53°52'44" West 14.97 feet
- South 22°35'24" West 12.04 feet
- South 07°47'04" West 18.17 feet
- South 05°35'36" East 49.49 feet

South 07°07'54" West 14.97 feet

South 82°58'48" East 41.28 feet to a point in the centerline of Hurley Mountain Road; thence along the centerline of Hurley Mountain Road South 23°27'52" West 78.19 feet to a point being South 72°16'18" East 25.13 feet from a found iron bar; thence along lands now or formerly Gregg and Roslyn Mazzilli (L.3122, p. 207), generally along a wood rail fence, North 72°16'18" West 389.05 feet to a found reinforcement rod on the east bounds of lands of New York State (Project/Map No.3159); thence along the east bounds of New York State, North 17°34'23" West generally along a wire fence 119.87 feet, to a found stone monument; thence North 03°06'52" East generally along a wire fence 582.87 feet, to a found stone monument; thence North 10°26'52" East along said lands of New York State 202.62 feet to a spike set in the center of Dug Hill Road; thence along said center of Dug Hill Road the five courses and distances:

South 05°18'33" East 188.14 feet

South 19°42'44" East 53.71 feet

South 34°11'51" East 33.65 feet

South 54°50'26" East 41.62 feet

South 67°18'35" East 170.13 feet to the **POINT AND PLACE OF BEGINNING.**

Containing 5.924 Acres

EXCEPTING the rights of the public over the bounds of Dug Hill Road and Hurley Mountain Road.

Being the Same premise described in a deed dated 4/01/1966 from Joseph F. McSpirit, as grantor to Robert A. McKinnon, as grantee, and filed in the Ulster County Clerk's Office in Liber 1180, at page 409.

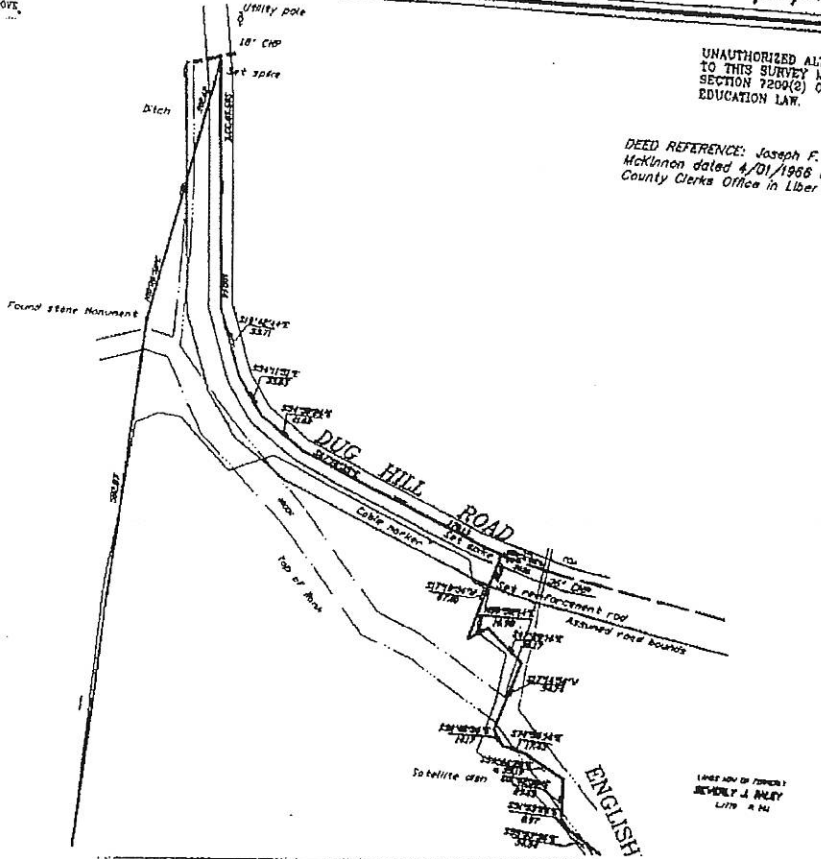
EXHIBIT "B"

NEVER BE THOU SHALT NOT REMOVE
TRY NEIGHBOR'S LANDMARK ...

UNAUTHORIZED ALTERATION OR AT
TO THIS SURVEY MAP IS A VIOLAT
SECTION 7209(2) OF THE NEW YOI
EDUCATION LAW.

DEED REFERENCE: Joseph F. McSpirt to R.
McKinnon dated 4/01/1986 and filed in th
County Clerks Office in Liber 1180 deeds p.

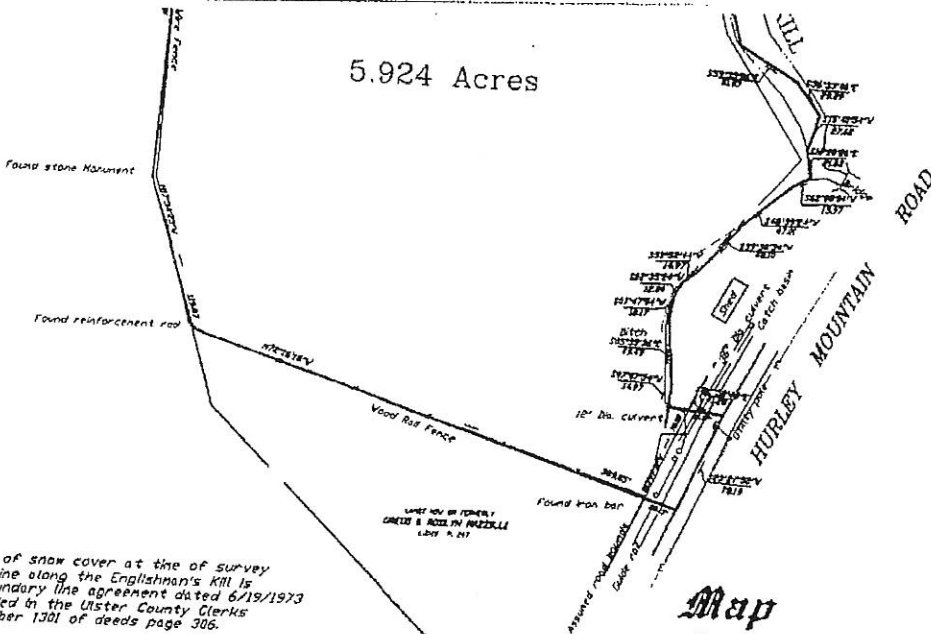
MAGNETIC NORTH
December 1982



LINE OF
NEW YORK STATE
PROPERTY IN 271

LINE OF TOWN OF
HURLEY & HURLEY
LIBER 1180

5.924 Acres



26 inches of snow cover at the of survey
Property line along the Englishman's Kill is
45 per boundary line agreement dated 6/19/1973
and recorded in the Ulster County Clerks
Office in Liber 1301 of deeds page 305.

V.P. BREWER, P.L.L.C.
SURVEYING AND FORESTRY
Reg. No. 49803
10 Bay 3926
New York 12402
430 339-1487

Map completed 1/7/2003
Map revised 6/2/2003

Map
of Survey for
Evan C. Matthews
Mary A. Piskoz
TOWN OF HURLEY COUNTY OF ULSTER
STATE OF NEW YORK

Tax Map 55.002-01-08

SCALE: 1 inch = 66 Feet

FILE 560.01

SEORA REGULATIONS

617.4
617.5

- (9) any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 Code of Federal Regulation (CFR) Parts 60 and 63, 1994 (see section 617.17 of this Part));
- (10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR Part 62, 1994 (see section 617.17 of this Part); or
- (11) any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part.

617.5 TYPE II ACTIONS.



(a) Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, article 8. The actions identified in subdivision (c) of this section apply to all agencies.

(b) Each agency may adopt its own list of Type II actions to supplement the actions in subdivision (c) of this section. No agency is bound by an action on another agency's Type II list. An agency that identifies an action as not requiring any determination or procedure under this Part is not an involved agency. Each of the actions on an agency Type II list must:

- (1) in no case, have a significant adverse impact on the environment based on the criteria contained in subdivision 617.7(c) of this Part; and
- (2) not be a Type I action as defined in section 617.4 of this Part.



(c) The following actions are not subject to review under this Part:

- (1) maintenance or repair involving no substantial changes in an existing structure or facility;
- (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;



- (3) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;
- (4) repaving of existing highways not involving the addition of new travel lanes;
- (5) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (6) maintenance of existing landscaping or natural growth;
- (7) construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;
- (8) routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings;
- (9) construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system;
- (10) construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;
- (11) extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;
- (12) granting of individual setback and lot line variances;
- (13) granting of an area variance(s) for a single-family, two-family or three-family residence;
- (14) public or private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides;
- (15) minor temporary uses of land having negligible or no permanent impact on the environment;

ZONING

Table of Use Regulations
 [Amended 9-21-1991 by L.L. No. 1-1991; 6-23-1992 by L.L. No. 2-1992;
 11-24-2003 by L.L. No. 2-2003; 8-23-2004 by L.L. No. 1-2004]

Symbols:

- (P) Designates a use permitted by right.
- (S) Designates a use permitted by right, subject to site plan review.
- (X) Designates a conditional use contingent on securing a special use permit in each case, from the Planning Board in compliance with the specific standards set forth in Article VI and subject to site plan review.

Type **A-4*** A-2.5 R-1 R-2 NC B-1 B-2 I-1 H

Residential Uses

Detached one-family dwelling	P	P	P	P	P	P	—	—	P
Semidetached one-family dwelling	P	P	P	P	P	P	—	—	P
Two-family dwelling	P	P	P	P	P	P	—	—	P
Townhouses subject to § 210-38	S	S	S	S	S	—	—	—	—
Mobile home	P	P	—	—	—	—	—	—	—
Mobile home park	—	S	—	—	—	—	—	—	—
Medical and dental service facility	—	—	X	—	—	X	X	X	—

General Uses

Agriculture (not including the keeping of fowl or farm animals)	P	P	P	P	P	P	P	P	P
Agriculture (including the keeping of fowl or farm animals)	P	P	—	—	—	—	—	—	—
Retail sale of agricultural produce grown on the same lot or farm from a road stand	X	X	—	—	—	—	—	—	—

MARKETS LAW

AGRICULTURE AND MARKETS LAW

§ 305-a

Conversion of Agricultural Land to Non-Agricultural Use

Conversion of Agricultural Land to Non-Agricultural Use

Conversion of Agricultural Land to Non-Agricultural Use

Conversion of Agricultural Land to Non-Agricultural Use

Conversion of Agricultural Land to Non-Agricultural Use

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Conversion of Agricultural Land to Non-Agricultural Use

Conversion of Agricultural Land to Non-Agricultural Use

Conversion of Agricultural Land to Non-Agricultural Use

Op. Counsel SBPPS No. 13, 2001 WL 34072390, 2001.

Agricultural production

Farmers rented for several years to another and now being farmed by a grower who plants a different crop. Did the former lessee, as not a newly established farm operation for purposes of section 305(a) for the Agricultural Land Markets Law. Op. Counsel SBPPS No. 12, 2005 WL 1987408, 2005.

Assessors

An Assessor may not require a county soil and water conservation plan to revise its worksheets when the assessor uses to administer the Agricultural Districts Law, but the assessor may require such revision in certain circumstances. An assessor may not rely on zoning regulations to conclude that an area is classified as such worksheets are resident in a nature within the assessor's personal observation is required. Op. Counsel SBPPS No. 02, 2005 WL 3097886, 2005.

Erroneous assessment

A transfer of development rights is associated with property in an agricultural assessment under section 305 or 306 of the Agriculture and Markets Law does not constitute a conversion of the use of such property. Op. Counsel SBPPS No. 70, 2005 WL 3324065, 2005.

Where a life tenant is confined to a care home, occupancy of the life tenant's home by the spouse, relative, or partner qualifies such home as eligible for the school tax credit. Op. Counsel SBPPS No. 15, 2005 WL 3072436, 2005.

305-a Coordination of local planning and land use decision-making with the agricultural districts program

Policy of local governments. All local governments when exercising their powers to enact and administer comprehensive plans and

10. Conversion to non-agricultural use

A property which is excluded from the boundaries of an agricultural district and a district review may be converted therefrom to non-agricultural use without incurring liability for conversion payments. The county legislative body may, however, enact to prevent the avoidance of conversion payments by refusing to amend all agricultural district boundaries upon a finding that the land in question is still viable farmland whose continued inclusion in the district furthers the purposes for which such district was originally created. Op. Counsel SBPPS No. 02, 2004 WL 3517142, 2004.

Consumer pre-harvest crop payment contracts under a community supported agriculture program may be included in gross sales for purposes of determining eligibility for an agricultural assessment, provided those making the payments have no ownership interest in the farm. Op. Counsel SBPPS No. 102, 2007 WL 441817, 2007.

11. Gross sales requirement

The Programs within conservation incentive payments may not be offered to a computing the statutory gross sales requirement. Op. Counsel SBPPS No. 100, 2007 WL 3314276, 2007.

12. Penalty for conversion

Agricultural lands carrying an agricultural assessment which is disallowed by gravel mining will not be subject to a conversion payment, provided such land is restored and ready for a resumption of farming by the next taxable status date following such mining. If such restoration does not take place by the date conversion payments will be owed. Op. Counsel SBPPS No. 106, 2007 WL 4316141, 2007.

§ 305-a

AGRICULTURE AND MARKETS LAW

Local laws, ordinances, rules or regulations shall exercise those powers in such manner as may realize the policy and goals set forth in this article and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.

1. Upon the request of any municipality, farm owner or operator, the commissioner shall render an opinion to the appropriate local government officials as to whether farm operations would be unreasonably restricted or regulated by proposed changes in local land use regulations, ordinances or local laws pertaining to agricultural practices and to the appropriate local land use enforcement officials administering local land use regulations, ordinances or local laws or reviewing a permit pertaining to agricultural practices.

The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district may bring an action to enforce the provisions of this subdivision.

2. Agricultural data statement, submission or evaluation. Any application for a special use permit, site plan approval, variances, or subdivision approval requiring municipal review and approval by a planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board, zoning board of appeals, town board, or village board of trustees shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.

3. Agricultural data statement, notice provision. Upon the receipt of such application by the planning board, zoning board or appeals town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners or persons identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation on the said project. The cost of mailing said notice shall be borne by the applicant.

4. Agricultural data statement, content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site

AGRICULTURE AND MARKETS LAW

of the proposed project relative to information identified in the agricultural data statement. (Added L 1992, c. 534, § 3. Amended L 2011, c. 497, § 1, eff. Sept. 23, 2011.)

Research R

Encyclopedias. 41 Am. Jur. Proof of Facts 3d 495, Chaffin on Mobile and Manufactured Home (20 Am. Jur. Proof of Facts 3d 253, E. Other Legal Requirements, Poultry Animals (19 Am. Jur. 2d 1181-1182).

Forms. Carmody, Wat. 24 S. 145, 142; Defects in Treatises and Practice Aids (New York Zoning Law and Practice, Formulations and Agriculture).

Notes of D

Construction with other laws. 15 Farm operations restrictions. 23

1. Construction and application

Whereas a municipality seeks to administer a zoning ordinance in a manner that is in conflict with the policy objectives of the Agriculture and Markets Law, the zoning ordinance is superseded. Inter Lakes Health, Inc. v. Town of Ticonderoga, Town Bd., 3 Dept. 2004 (3 A.D.3d 846, 786 N.Y.S.2d 643). Zoning and Planning § 1020.

Provision of Agriculture and Markets Law prohibiting local governments from unreasonably restricting or regulating farm operations within agricultural districts does not exempt from its reach zoning ordinances enacted prior to the creation of a particular agricultural district. Inter Lakes Health, Inc. v. Town of Ticonderoga, Town Bd., 3 Dept. 2004 (3 A.D.3d 846, 786 N.Y.S.2d 643). Zoning and Planning § 1022, Zoning and Planning § 1030.

Amendments to Agriculture and Markets law that prohibited administering local laws in a manner that would unreasonably restrict farming were intended to correct technical errors and to strengthen and limit the protections against unreasonably re-

AGRICULTURE AND MARKETS LAW

...ing a new orchard or vineyard and rented by a newly established farm and or fourth year of agricultural ... acres used as a single operation for ... Christmas trees that will be made ... fourth or fifth year of agricultural

...piary products operation which is ... of (1) not less than seven acres ... a single operation in the preceding ... value of ten thousand dollars or ... used as a single operation in the ... gross sales value of fifty thousand ... to support an apinary products ... be limited to the land under a ... ducts are produced, harvested and ... maintained by the operation ... landowners. Notwithstanding any ... , rented land associated with an ... ible for an agricultural assessment

... by a farm operation in its first or ... ion or in the case of a commercial ... nd year of operation, that consists ... bling at least ten horses, regardless ... ousand dollars or more in gross ... ted through the provision of com ... but not limited to riding lessons ... horses or through the production ... stock products, or through both the ... ne activities and such production ... subdivision be construed to include ... ction is horse racing

... , development or extraction activi ... e of fixtures and equipment which ... development or extraction of oil ... ig access roads, drilling apparatus ... id turbines.

... ricultural land" means land which ... of high value crops, including, but ... horticultural specialties.

... ns land highly suitable for a farm

AGRICULTURE AND MARKETS LAW

EXHIBIT "D" 301

... (b) Conversion means an outward or affirmative act changing the use of agricultural land and shall not mean the purchase or holding of such land.

... (c) Gross sales value means the proceeds from the sale of:

... (a) Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state.

... (b) Woodland products from farm woodland eligible to receive an agricultural assessment not to exceed two thousand dollars annually.

... (c) Honey and beeswax produced by bees or hives located on an otherwise qualified farm operation but which does not independently satisfy the gross sales requirement.

... (d) Maple syrup processed from maple sap produced on land used in agricultural production in combination with the same or an otherwise qualified farm operation.

... (e) Or payments received by leasee of lands set aside pursuant to paragraph (f) of subdivision four of this section.

... (f) Or payments received by thoroughbred breeders pursuant to section two hundred fifty four of the racing, pari-mutuel, wagering and breeding law and ...

... (g) Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.

Renumbered 9

... (11) Farm operation means the land and on-farm buildings, equipment, manure processing and handling facilities and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation, as defined in subdivision thirteen of this section, a rubber operation as defined in subdivision fourteen of this section, compost, mulch or other biomass crops, as defined in subdivision sixteen of this section and commercial equine operation as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

... (12) Agricultural data statement means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five of this article.

... (13) Commercial horse boarding operation means an agricultural enterprise consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops.

livestock and livestock products, or through boarding and such production. Under no circumstances shall this subsection be construed to include operations whose primary or chief function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or whose first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

15. "Agricultural tourism" means activities, including the production of maple sap and pure maple products, made therefrom, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

16. [As added by L. 2008, c. 341. See also subd. 15 below.] "Apriary products operation" means an agricultural enterprise, consisting of land owned by the operation upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apriary products for sale.

16. [As added by L. 2008, c. 336. See also subd. 16 above.] "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation or by such farm operation of the excess agricultural waste and the on-farm processing, mixing or handling of on-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation agricultural waste. This shall also include the on-farm processing, mixing or handling of on-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves and wastes, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizer, soil enhancers or supplements, or bedding materials, for purposes of this section. "Compost" shall be processed by the aerobic thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten

horses, regardless of ownership, that receive more in gross receipts annually from provision of commercial equine activities, including lessons, trail riding activities or the production for sale of crops, livestock through both the provision of such commercial production. Under no circumstances shall this subsection be construed to include operations whose primary or chief function is horse racing. Notwithstanding any other provision of this subdivision, a commercial equine operation that is proposed or whose first or second year of operation may qualify as a commercial equine operation if it is an agricultural enterprise, consisting of at least seven acres and stables at the end of the first year of operation. (Added L. 1987, c. 774, § 4. Amended L. 1990, § 3; L. 1989, c. 398, § 1; L. 1989, c. 448; L. 1990, c. 396, § 1; L. 1992, c. 27, § 1; L. 1993, c. 534, § 1; L. 1992, c. 797, § 1; L. 1993, c. 440, c. 556, § 1, 2; L. 1995, c. 235, § 1; L. 1995, c. 1997, c. 62, § 1, eff. May 20, 1997; L. 1997, c. 473, § 1, 2, eff. Sept. 7, 1997; L. 2001, c. 388, § 1, eff. Oct. 31, 2001; L. 2002, c. 516, § 1, eff. Sept. 17, 2002; L. 2003, c. 479, § 1, eff. Sept. 9, 2003; L. 2004, c. 10, § 1, eff. Feb. 24, 2004; L. 2005, c. 200, § 1, eff. July 12, 2005; L. 2005, c. 687, § 1, 2, eff. Aug. 23, 2005; L. 2006, c. 600, § 2, eff. Aug. 10, 2006; L. 2008, c. 341, § 1, eff. Sept. 4, 2008; L. 2009, c. 601, § 1, eff. Sept. 25, 2009; L. 2010, c. 120, § 1, 2, eff. June 15, 2010; L. 2011, c. 334, § 1, 2, eff. Aug. 3, 2011; L. 2012, c. 344, § 1, eff. Sept. 30, 2012.)

§ 301A-1281 (e) (encl.)

Historical and Statutory

L. 2008, c. 341 legislation, farm
L. 2008, c. 341, § 1 provides: farm
nomi
This act shall take effect immediately (July 21, 2008) and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after such effective date.
L. 2006, c. 600 legislation, farm
L. 2006, c. 600, § 1 provides: farm
and f
§ 1. Legislative intent. Farm and f
and f
economic, social and environmental, may
well-being of all New Yorkers. New
York State has been establishing pol-
icies and programs to promote ad-
vancing agricultural economy through
the diversification of farm businesses
and products in order to generate provi-

Town of Hurley
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Fax 845-331-0058



National Historic Landmark

Glenn Hoffstatter
Code Enforcement Officer
Building Inspector
MS4 Stormwater Officer
building@townofhurley.org

Mr. Michael Moriello
Riseley & Moriello
P.O. Box 4465, 111 Green Street
Kingston, New York 12402

9/4/2014

RE: Zoning interpretation for Property (SBL 55.2-1-8) Dug Hill Road Hurley, New York.

Dear Michael:

I am in receipt of your letter and supporting documentation dated August 19, 2014 requesting an Interpretation with regards to a proposed agricultural use located at the property referenced above.

The referenced property is located in the A-4 District according to the Town of Hurley, Zoning Map. Section 210-10 of the Town Zoning Code states, Permitted uses in all districts shall be in accordance with the Table of Use Regulations. The Table of Use Regulations states the an Agricultural Use (not including the keeping of fowl or farm animals) is a Use Permitted by Right in the A-4 District.

With regards to your request, it is my Interpretation that the use of the referenced property as an agricultural nursery as defined as a "Crop" under section 301-a 2 d (Horticultural Specialties) of New York State Agriculture and Markets Law would be a use permitted by right and that Site Development Plan and Special Use Permit approvals are not required.

However, if by employ you mean to import top soil, mulch, compost or other organic matter to be ground, screened, mixed or processed on site and then used or sold off site, my opinion is that this would not be considered an "agricultural use" pursuant to section 301-a(16) of the Agriculture and Markets Law of New York State and not an allowable use in the A-4 district.

Should you have any further questions, please feel free to contact me.

Sincerely,


Glenn Hoffstatter

ANDREW ZELL
PO Box 97
Hurley, New York 12443

September 15, 2014

Town of Hurley Building Inspector
Mr. Glenn Hoffstatter
Town Hall, Wamsley Place
PO Box 569
Hurley, New York 12443

RE: In the Matter of the Request for Interpretation for the
Planned Agricultural Use of Andrew Zell and Lee Winne

Dear Glenn:

As the August 19, 2014 Request for Interpretation submitted by Michael Moriello, Esq. is somewhat rambling, I am writing this letter so you may better understand the intended use of the future farm operation on Hurley Mountain Road and its consistency with the Agriculture and Markets Law.

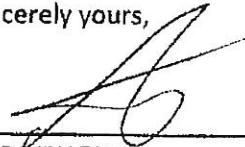
Lee and I intend on using the land for an Agricultural Nursery, in which we will be planting and growing various species of trees and shrubs. To do such farming, it will require us to put nutrients into the soil and control vegetation around the plantings. In order to do this we will be composting, grinding and screening several raw products on site. Compost that is screened will be needed for plant bedding and for future plantings. The resulting mulch that we produce is unique. Our grinder has a one inch screen that produces fine mulch that is very conducive for weed control and anaerobic decomposition. All compost has to be screened and mixed in order to product a proper topsoil mix. We will not be marketing the off farm generated organic matter until it is processed on our farm operation into mulch or topsoil. It is the resultant mulch which will be marketed consistently with Section 301(16) of the Agriculture and Markets Law.

Composting, grinding and screening of topsoil must be done in large quantities in order for it to be cost effective for the farm. As a result, we will have agricultural by-products that are produced on the farm and agricultural waste at the farm operation. Such by-products will need to be marketed in order to accommodate the farm operation on the premises and to manage this agricultural commodity. Composting and mulching for this farm operation requires the products to be maintained at a temperature suitable for composting. In order to do so, this operational by-product cannot sit for a long period of time or it will be rendered valueless. Again, the off farm generated organic matter will not be marketed as mulch or topsoil until it is agriculturally processed, mixed and/or handled as part of our farm operation.

'23/1/17

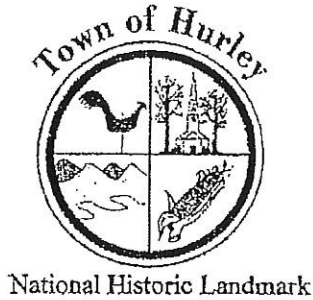
I hope this letter helps to clarify the intended use of the property. I believe that this intended use is permitted by right in the A-4 Zoning District under the Town of Hurley Zoning Law. Current delays have already resulted in the possible loss on next year's season for our farm operation. Therefore, I am formally requesting that you rescind the relevant portion of your September 4, 2014 Interpretation consistent with this request, due to the fact that there may have been a miscommunication on the intended agricultural use of the property.

Sincerely yours,

A handwritten signature in black ink, appearing to be 'A Zell', written over a horizontal line.

ANDREW ZELL

Town of Hurley
PO Box 569
Hurley, New York 12443
845-331-7474 Ext. 4
Fax 845-331-0058



Glenn Hoffstatter
Code Enforcement Officer
Building Inspector
MS4 Stormwater Officer
building@townofhurley.org

Mr. Andrew Zell
PO Box 97
Hurley, New York 12443

September 18, 2014

RE: Request for interpretation

Dear Mr. Zell


Thank you for your letter dated September 15, 2014 clarifying the proposed use and processes involved in regards to your request for interpretation of planned agricultural uses described in the August 19 2014 letter I received from Mr. Moriello.

Upon reviewing your letter, my interpretation has not changed from the interpretation of the letter received from Mr. Moriello. It is still my opinion that on-farm processing, mixing or handling of off-farm generated organic matter to be partially used on-farm and partially used off-farm, or sold is not in conformance with New York States Agriculture and Markets Law, Article 25AA section 301 (16).

With the proposed use not in conformance with section 301 (16) it is my interpretation that the use is not a farm operation as defined in section 210-5 (Terms Defined) of the Code of the Town of Hurley or section 301 (11) of the agriculture and markets Law.

With the use as proposed it is my determination that it is not an agricultural use but a retail or wholesale use and is not an allowable use in the A-4 District.

Sincerely,


Glenn Hoffstatter

RISELEY & MORIELLO
ATTORNEYS AT LAW
111 Green Street
Post Office Box 4465
Kingston, New York 12402
E-Mail: mamrfr@aol.com

Richard F. Riseley
Michael A. Moriello

Tel: (845) 338-6603
Fax: (845) 340-1614

**Supplement to Appeal in the Matter of the
Application of Andrew Zell:
Town of Hurley Zoning Board of Appeals**

With respect to the September 4, 2014 Interpretation by the Town of Hurley Building Inspector, it is submitted that the August 19, 2014 Request for Interpretation speaks for itself with respect to the agricultural use proposed by my client.

In this regard, I further note that the plain meaning of the New York State Department of Agriculture and Markets Law specifically calls for the activities which my client plans to undertake to be classified as agricultural [see Sections 301-1(11) and 301-a(16) of the Agriculture and Markets Law of New York State]. In addition, based upon my reading of the September 4, 2014 Interpretation, it appears that the Town of Hurley Building Inspector agrees, to a point.

Where the disagreement appears to lie is with respect to the paragraph of the Interpretation which reads as follows:

"However, if by employ you mean to import top soil, mulch, compost or other organic matter to be ground, screened, mixed or processed on site and then used or sold off site, my opinion is that this would not be considered an "agricultural use" pursuant to Section 301-a(16) of the Agriculture and Markets Law of New York State and not an allowable use in the A-4 district."

I have reviewed the New York State Department of Agriculture and Market's "Guidelines for Review of Local Laws Affecting On-Farm Composting Facilities" and with regard to the same, posit the following:

a.) The "guidelines" have no force of law and have been developed as internally by the department.

b.) The guidelines are superceded by the statutory language of Sections 301-a(11) and 301-a(16) of the Agriculture and Markets Law of New York State, which does not limit the off farm marketing of the agricultural product as set forth within Petitioner's September 15, 2014 correspondence to the Town of Hurley Building Inspector.

c.) There is no language within the Town of Hurley Zoning Law which countermands the conclusions within paragraphs (a) and (b) above.

d.) The Town of Hurley Building Inspector has offered no evidentiary proof in support of his September 4, 2014 and September 18, 2014 Interpretations. Said Interpretations are based upon what appears to be his naked opinion.

Based upon the foregoing, it is submitted that the Interpretation of the Town of Hurley Building Inspector should be reversed in order to permit the agricultural activities described within Petitioner's September 15, 2014 correspondence to be pursued as of right.

In the alternative and in the event that the Town of Hurley Zoning Board of Appeals does not agree with the Petitioner, it is requested that this board overrule that portion of the Town of Hurley Building Inspector's September 4, 2014 Interpretation which concludes, that the "import of top soil, mulch, compost or other organic matter to be ground, screened, mixed or processed on site"... is "not an allowable use in the A-4 district".

Based upon the facts and law cited within the submittal, it is further requested that the Town of Hurley Zoning Board of Appeals overrule the entire September 18, 2014 Interpretation of the Town of Hurley Building Inspector [see copy of your writer's related correspondence annexed].

Based upon my review of the Town of Hurley Zoning Law and other authority, such use would be "allowable" within the A-4 Zoning District as "Extraction operations and soil mining in compliance with Section 210-33".

This use would be subject to Town of Hurley Planning Board review under site plan and conditional use permit criteria in a discretionary manner and subject to SEQRA review and any associated permitting by other involved agencies.

If a portion of the Petitioner's planned use upon the premises is not agricultural under the Town of Hurley Zoning Law, it certainly should be a permitted use under the Use Table and Section 210-33 of said Law, subject to discretionary reviews as aforesaid.

This request for alternative relief is made with the reservation of all rights at law under the original Request for Interpretation that all of Petitioner's planned use of the premises is agricultural.

WHEREFORE, it is requested that the Town of Hurley Zoning Board of Appeals rule in favor of Petitioner as follows:

1.) That the planned agricultural use by Petitioner, including the processing and marketing of mulch and topsoil as agricultural by-products, is an as of right use under the Town of Hurley Zoning Law and the Agriculture and Markets Law of New York State; or in the alternative,

2.) That the planned agricultural use by Petitioner includes a non-agricultural use (processing and marketing of mulch and soil) which requires the issuance of a conditional use permit, together with site plan approval by the Town of Hurley Planning Board under Section 210-33 of the Town of Hurley Zoning Law and following all required discretionary reviews.

Thanking the Town of Hurley Zoning Board of Appeals for its consideration, this Supplement to Appeal is,

Dated: September 24, 2014

Respectfully Submitted,

Michael A. Moriello, Esq.

MAM:def

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September 24, 2014

Town of Hurley Town Board
Mr. Gary Bellows, Supervisor
Town Hall
10 Wamsley Place
PO Box 569
Hurley, New York 12443

RE: In the Matter of the Appeal of Andrew Zell:
Town of Hurley Zoning Board of Appeals

Dear Gary and Board Members:

Enclosed please find copy of September 18, 2014
correspondence by the Town of Hurley Building Inspector, same in
connection with the above referenced matter.

I do not intend to take up your time with a long
dissertation of the facts which have led to this correspondence,
as the proceeding before the Town of Hurley Zoning Board of
Appeals will presumably bring my client's problem into clearer
focus.

However, I do believe that it is important to state that I
find this correspondence to be antagonistic towards my client in
light of the fact that the Building Inspector previously stated
his unsubstantiated opinion within a September 4, 2014
Interpretation [copy annexed].

It is no secret that the Building Inspector and my client
view the agricultural use of the Matthews/Piskoz premises for
processing of organic matter and the off farm marketing of mulch
and topsoil in a differing manner. Accordingly, my client has
properly availed himself of the laws of the Town of Hurley and
New York State to obtain relief from the Building Inspector's
opinion.

In consideration of the foregoing, I would request that the
Town Board advise the Building Inspector to refrain from further
gratuitous offerings of his opinion, as the proceedings before

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845-331-7474 Ext. 4
Fax 845-331-0058



National Historic Landmark

Glenn Hoffstatter
Code Enforcement Officer
Building Inspector
MS4 Stormwater Officer
building@townofhurley.org

Mr. Andrew Zell
PO Box 97
Hurley, New York 12443

September 18, 2014

RE: Request for interpretation

Dear Mr. Zell

Thank you for your letter dated September 15, 2014 clarifying the proposed use and processes involved in regards to your request for interpretation of planned agricultural uses described in the August 19 2014 letter I received from Mr. Moriello.

Upon reviewing your letter, my interpretation has not changed from the interpretation of the letter received from Mr. Moriello. It is still my opinion that on-farm processing, mixing or handling of off-farm generated organic matter to be partially used on-farm and partially used off-farm, or sold is not in conformance with New York States Agriculture and Markets Law, Article 25AA section 301 (16).

With the proposed use not in conformance with section 301 (16) it is my interpretation that the use is not a farm operation as defined in section 210-5 (Terms Defined) of the Code of the Town of Hurley or section 301 (11) of the agriculture and markets Law.

With the use as proposed it is my determination that it is not an agricultural use but a retail or wholesale use and is not an allowable use in the A-4 District.

Sincerely,


Glenn Hoffstatter

Town of Hurley
PO Box 569
Hurley, New York 12443
845-331-7474 Ext. 4
Fax 845-331-0058



National Historic Landmark

Glenn Hoffstatter
Code Enforcement Officer
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MS4 Stormwater Officer
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Mr. Michael Moriello
Riseley & Moriello
P.O. Box 4465, 111 Green Street
Kingston, New York 12402

9/4/2014

RE: Zoning interpretation for Property (SBL 55.2-1-8) Dug Hill Road Hurley, New York.

Dear Michael:

I am in receipt of your letter and supporting documentation dated August 19, 2014 requesting an Interpretation with regards to a proposed agricultural use located at the property referenced above.

The referenced property is located in the A-4 District according to the Town of Hurley, Zoning Map. Section 210-10 of the Town Zoning Code states, Permitted uses in all districts shall be in accordance with the Table of Use Regulations. The Table of Use Regulations states that an Agricultural Use (not including the keeping of fowl or farm animals) is a Use Permitted by Right in the A-4 District.

With regards to your request, it is my Interpretation that the use of the referenced property as an agricultural nursery as defined as a "Crop" under section 301-a 2 d (Horticultural Specialties) of New York State Agriculture and Markets Law would be a use permitted by right and that Site Development Plan and Special Use Permit approvals are not required.

However, if by employ you mean to import top soil, mulch, compost or other organic matter to be ground, screened, mixed or processed on site and then used or sold off site, my opinion is that this would not be considered an "agricultural use" pursuant to section 301-a(16) of the Agriculture and Markets Law of New York State and not an allowable use in the A-4 district.

Should you have any further questions, please feel free to contact me.

Sincerely,


Glenn Hoffstatter

Town of Hurley
P.O. Box 569
Hurley, New York 12443



Zoning Board of Appeals
Tel: 845-331-7474 ext. 337
Fax: 845-331-0058
e-mail: zoning@townofhurley.org

National Historic Landmark

Andrew Zell
P.O. Box 97
Hurley, N.Y. 12443
November, 14, 2014

Dear Mr Zell:

Please be advised your petition whether the interpretation, based upon the appeal of C.E.O. Hoffstatter, of your proposed use of property at 90 Dug Hill Road, Hurley, N.Y. falls within the definition of farm operation pursuant to New York Agriculture and Market Law and within Town of Hurley Zoning Law was considered by the Town of Hurley Zoning Board of Appeals at your public hearing on November 13, 2014. The board voted to approve your appeal.

Sincerely,

A handwritten signature in cursive script that reads "Doris J. Alden".

Doris J. Alden
Secretary, Z.B.A.

cc: Hurley Planning Board
C.E.O. Hoffstatter
Hurley Town clerk
Attorney Michael Moriello

CO. CLERK'S OFFICE
NOV 18 2014

Town of Hurley
PO Box 569
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National Historic Landmark

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Code Enforcement Officer
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MS4 Stormwater Officer
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Mr. Michael Moriello
Riseley & Moriello
P.O. Box 4465, 111 Green Street
Kingston, New York 12402

9/2/2014

RE: Zoning interpretation for Property (SBL 55.2-1-8) Dug Hill Road Hurley, New York.

Dear Michael:

I am in receipt of your letter and supporting documentation dated August 19, 2014 requesting an interpretation with regards to a proposed agricultural use located at the property referenced above.

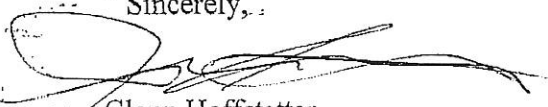
The referenced property is located in the A-4 District according to the Town of Hurley, Zoning Map. Section 210-10 of the Town Zoning Code states, Permitted uses in all districts shall be in accordance with the Table of Use Regulations. The Table of Use Regulations states that an Agricultural Use (not including the keeping of fowl or farm animals) is a Use Permitted by Right in the A-4 District.

With regards to your request, it is my interpretation that the use of the referenced property as an agricultural use in accordance with sections 301.2 d (Horticultural Specialties) and 301.16 (Compost, mulch or other organic biomass crops) of the New York State Agriculture and Markets Law is a use permitted by right and that Site Development Plan and Special Use Permit approvals are not required.

However, the referenced property is located in a Special Flood Area as shown on Flood Insurance Rate Map # 360857 0009 C, which may require an Elevation Certificate and or a Flood Plain Development Permit in accordance with the Code of the Town of Hurley Section 100 (Flood Plain Prevention) depending on the actual use.

Should you have any further questions, please feel free to contact me.

Sincerely,



Glenn Hoffstatter
Code Enforcement Officer

Town of Hurley
PO Box 569
Hurley, New York 12443
845-331-7474 Ext. 4
Fax 845-331-0058



National Historic Landmark

Glenn Hoffstatter
Code Enforcement Officer
Building Inspector
MS4 Stormwater Officer
building@townofhurley.org

Mr. Michael Moriello
Riseley & Moriello
P.O. Box 4465, 111 Green Street
Kingston, New York 12402

9/4/2014

RE: Zoning interpretation for Property (SBL 55.2-1-8) Dug Hill Road Hurley, New York.

Dear Michael:

I am in receipt of your letter and supporting documentation dated August 19, 2014 requesting an Interpretation with regards to a proposed agricultural use located at the property referenced above.

The referenced property is located in the A-4 District according to the Town of Hurley, Zoning Map. Section 210-10 of the Town Zoning Code states, Permitted uses in all districts shall be in accordance with the Table of Use Regulations. The Table of Use Regulations states that an Agricultural Use (not including the keeping of fowl or farm animals) is a Use Permitted by Right in the A-4 District.

With regards to your request, it is my Interpretation that the use of the referenced property as an agricultural nursery as defined as a "Crop" under section 301-a 2 d (Horticultural Specialties) of New York State Agriculture and Markets Law would be a use permitted by right and that Site Development Plan and Special Use Permit approvals are not required.

However, if by employ you mean to import top soil, mulch, compost or other organic matter to be ground, screened, mixed or processed on site and then used or sold off site, my opinion is that this would not be considered an "agricultural use" pursuant to section 301-a(16) of the Agriculture and Markets Law of New York State and not an allowable use in the A-4 district.

Should you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Glenn Hoffstatter", written over a horizontal line.

Glenn Hoffstatter

Town of Hurley
PO Box 569
Hurley, New York 12443
845-331-7474 Ext. 4
Fax 845-331-0058



National Historic Landmark

Glenn Hoffstatter
Code Enforcement Officer
Building Inspector
MS4 Stormwater Officer
building@townofhurley.org

Mr. Michael Moriello
Riseley & Moriello
P.O. Box 4465, 111 Green Street
Kingston, New York 12402

9/11/2014

RE: Zoning interpretation for Property (SBL 55.2-1-8) Dug Hill Road Hurley, New York.

Dear Michael:

I am in receipt of your letter and supporting documentation dated August 19, 2014 requesting an Interpretation with regards to a proposed agricultural use located at the property referenced above.

The referenced property is located in the A-4 District according to the Town of Hurley, Zoning Map. Section 210-10 of the Town Zoning Code states, Permitted uses in all districts shall be in accordance with the Table of Use Regulations. The Table of Use Regulations states that an Agricultural Use (not including the keeping of fowl or farm animals) is a Use Permitted by Right in the A-4 District.

With regards to your request, it is my Interpretation that the use of the referenced property as an agricultural nursery as defined as a "Crop" under section 301- 2 d (Horticultural Specialties) and (Farm Operations) including "compost, mulch or other biomass crops as defined in section 301-11 and in accordance with section 301-16 of New York State Agriculture and Markets Law, Article 25 AA, would be a use permitted by right and that Site Development Plan and Special Use Permit approvals are not required.

Should you have any further questions, please feel free to contact me.

Sincerely,

Glenn Hoffstatter

ANDREW ZELL
PO Box 97
Hurley, New York 12443

RECEIVED
SEP 16 2014
TOWN OF HURLEY
BUILDING DEPARTMENT

September 15, 2014

Town of Hurley Building Inspector
Mr. Glenn Hoffstatter
Town Hall, Wamsley Place
PO Box 569
Hurley, New York 12443

RE: In the Matter of the Request for Interpretation for the
Planned Agricultural Use of Andrew Zell and Lee Winne

Dear Glenn:

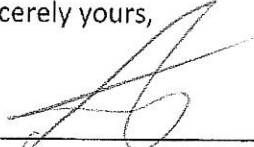
As the August 19, 2014 Request for Interpretation submitted by Michael Moriello, Esq. is somewhat rambling, I am writing this letter so you may better understand the intended use of the future farm operation on Hurley Mountain Road and its consistency with the Agriculture and Markets Law.

Lee and I intend on using the land for an Agricultural Nursery, in which we will be planting and growing various species of trees and shrubs. To do such farming, it will require us to put nutrients into the soil and control vegetation around the plantings. In order to do this we will be composting, grinding and screening several raw products on site. Compost that is screened will be needed for plant bedding and for future plantings. The resulting mulch that we produce is unique. Our grinder has a one inch screen that produces fine mulch that is very conducive for weed control and anaerobic decomposition. All compost has to be screened and mixed in order to product a proper topsoil mix. We will not be marketing the off farm generated organic matter until it is processed on our farm operation into mulch or topsoil. It is the resultant mulch which will be marketed consistently with Section 301(16) of the Agriculture and Markets Law.

Composting, grinding and screening of topsoil must be done in large quantities in order for it to be cost effective for the farm. As a result, we will have agricultural by-products that are produced on the farm and agricultural waste at the farm operation. Such by-products will need to be marketed in order to accommodate the farm operation on the premises and to manage this agricultural commodity. Composting and mulching for this farm operation requires the products to be maintained at a temperature suitable for composting. In order to do so, this operational by-product cannot sit for a long period of time or it will be rendered valueless. Again, the off farm generated organic matter will not be marketed as mulch or topsoil until it is agriculturally processed, mixed and/or handled as part of our farm operation.

I hope this letter helps to clarify the intended use of the property. I believe that this intended use is permitted by right in the A-4 Zoning District under the Town of Hurley Zoning Law. Current delays have already resulted in the possible loss on next year's season for our farm operation. Therefore, I am formally requesting that you rescind the relevant portion of your September 4, 2014 Interpretation consistent with this request, due to the fact that there may have been a miscommunication on the intended agricultural use of the property.

Sincerely yours,



ANDREW ZELL

Town of Hurley
PO Box 569
Hurley, New York 12443
845-331-7474 Ext. 4
Fax 845-331-0058



National Historic Landmark

Glenn Hoffstatter
Code Enforcement Officer
Building Inspector
MS4 Stormwater Officer
building@townofhurley.org

Mr. Andrew Zell
PO Box 97
Hurley, New York 12443

September 18, 2014

RE: Request for interpretation

Dear Mr. Zell

Thank you for your letter dated September 15, 2014 clarifying the proposed use and processes involved in regards to your request for interpretation of planned agricultural uses described in the August 19 2014 letter I received from Mr. Moriello.

Upon reviewing your letter, my interpretation has not changed from the interpretation of the letter received from Mr. Moriello. It is still my opinion that on-farm processing, mixing or handling of off-farm generated organic matter to be partially used on-farm and partially used off-farm, or sold is not in conformance with New York States Agriculture and Markets Law, Article 25AA section 301 (16).

With the proposed use not in conformance with section 301 (16) it is my interpretation that the use is not a farm operation as defined in section 210-5 (Terms Defined) of the Code of the Town of Hurley or section 301 (11) of the agriculture and markets Law.

With the use as proposed it is my determination that it is not an agricultural use but a retail or wholesale use and is not an allowable use in the A-4 District.

Sincerely,


Glenn Hoffstatter

RISELEY & MORIELLO
ATTORNEYS AT LAW
111 Green Street
Post Office Box 4465
Kingston, New York 12402
E-Mail: mamrfr@aol.com

Richard F. Riseley
Michael A. Moriello

Tel: (845) 338-6603
Fax: (845) 340-1614

August 19, 2014



Town of Hurley Building Inspector
Mr. Glenn Hoffstatter
PO Box 569
Hurley, New York 12443

RE: In the Matter of the Planned Agricultural Use of
Andrew Zell and Lee Winne: Request for Interpretation

Dear Glenn:

In accordance with our conversation, I am submitting this Request for Interpretation on behalf of my clients Mr. Andrew Zell and Mr. Lee Winne, same in connection with the above referenced matter.

This Request for Interpretation is made pursuant to Section 210-54(A) of the Town of Hurley Zoning Law and Sections 267-a(4) and 267-a(5) of the Town Law of New York State.

Questions Presented: Is an agricultural nursery which will employ top soil, mulch, compost [screening and grinding] and associated accessory uses a permitted as of right agricultural use within the A-4 Zoning District?

Answer: It is submitted that the above question is to be answered in the affirmative, inasmuch as discretionary Site Development Plan and Special Use Permit Approvals are not required, based upon the following legal address.

I. Brief History: My clients are contract vendees for purchase of a 5.9 acre premises situate within the A-4 Zoning District and along Dug Hill Road, said premises being currently zoned in fee by Evan Matthews and Mary Piskoz [Town of Hurley S/B/L #55.002-1-8]. A copy of the current Deed to the subject premises is annexed hereto as Exhibit "A".

Upon purchase of said lands, my clients plan to coordinate the agricultural activities upon said lands with approximately 2 acres of additional lands leased from RO Davenport & Sons, Inc., thereby comprising a total of approximately 8 acres of land.

Access to the subject premises is via existing farm land along Dug Hill Road and a copy of the June 2, 2003 survey of the premises as prepared by Donald Brewer, PLS, is annexed hereto as Exhibit "B".

II. Legal Analysis: Agricultural uses are permitted, "as of right" within the A-4 Zoning District and there is no discretionary permit review associated therewith by virtue of the Town of Hurley Use Regulations, SEQRA [6 NYCRR Parts 617.5(c)(19), as well as Section 305-a(1) of the Agriculture and Markets Law of New York State. Copies of said statutory authority are annexed hereto and made a part hereof collectively as Exhibit "C".

In addition, "compost, mulch or other organic biomass crops" are classified as being part of a "farm operation" and as "agricultural uses" thereon pursuant to Sections 301-a(11) and 301-a(16) of the Agriculture and Markets Law of New York State. [Copies of said statutes are annexed hereto and made a part hereof collectively as Exhibit "D".]

Owing to the operation of Sections 305-a(1) of the New York State Agriculture and Markets Law, the State of New York has established a state-wide general statutory scheme for the protection and continued viability of agricultural uses which cannot be superceded by the Town of Hurley under its Zoning Law. Sasso v. Osgood, 86 NY2d 375 (1995), Albany Area Builders Association v. Town of Guilderland, 74 NY2d 372 (1989).

Meaning, once the New York State general state-wide statutory scheme for the regulation of Agriculture is applicable, there is no conference of discretionary review authority upon the Code Enforcement Officer for the ministerial act of determining whether the planned agricultural use, as stated above, is an agricultural use under the Town of Hurley Zoning Law. Incorporated Village of Atlantic Beach v. Gavalas, 81 NY2d 322 (1993), Filmways Communications v. Douglas, 106 AD2d 185 (1985), aff'd 65 NY2d 878 (1985), Plus v. Bletsch, 70 NY2d 920 (1987); see also, 6 NYCRR Part 617.5(c)(19).

It is further submitted that, once a municipality adopts the New York State Building and Fire Code (which is a uniform state regulatory statute), it may not unilaterally impose more restrictive conditions than those set forth within said Code. Con Edison v. Town of Red Hook, 60 NY2d 99 (1983).

Therefore, any attempt to subject my clients to Site Development Plan and/or Special Use Permit review in the instant case would actually be an unauthorized regulation of the details, method and manner of my clients' agricultural business enterprise. St. Onge v. Donovan, 71 NY2d 507 (1988), Dexter v. Town Board, 36 NY2d 102 (1976).

Further addressing the classified agricultural "Farm Operation" in relation to the Town of Hurley Zoning Law, a Zoning Law is in derogation of common law; therefore, the meaning of terms within said law are to be construed in a light most favorable to the applicant/landowner, and against the municipal authority. 440 East 102nd Street Corp. v. Murdock, 285 NY 298 (1941), Thompson Industries v. Incorporated Village of Port Washington North, 27 NY2d 537 (1970).

Therefore, zoning restrictions are not to be extended by implication to prohibit a use and will be limited to what is clearly proscribed. Offshore Restaurant Corp. v. Linden, 30 NY2d 160 (1972), Kurlander v. Incorporated Village of Hempstead, 31 Misc2d 121 (1961), Ansonia Associates v. Continental Ansonia Garage Corporation, 132 Misc2d 731 (1986).

With respect to all of the above stated statutory constricts, it is noted that the terms "agriculture" and "farming" are not defined under the Town of Hurley Zoning Law. Accordingly, the New York State legislative language set further within Section 301 of the Agriculture and Markets Law clearly authorizes the issuance of building permits for all agricultural uses which meet the use requirements of Section 210-10 of the Town of Hurley Zoning Law. In this manner, plain and unambiguous statutory language must be followed in order to construe the meaning of a statute. Catholic Charities v. Zoning Board of Appeals of the City of Norwich, 187 AD2d 903 (3rd Dept, 1992).

Even assuming arguendo, that the meaning of the Town of Hurley Zoning Law is somehow unclear, a long line of Third Department cases holds that any ambiguity, doubt, or apparent conflict involving regulatory terms or meaning must be resolved in favor of the applicant/landowner. Hess Realty Corp. v. Planning Commission, 198 Ad2d 588 (3rd Dept, 1993), Freihofer v. Lake George Town Board, 147 AD2d 865 (3rd Dept, 1989), Bonded Concrete, Inc. v. Zoning Board of Appeals of the Town of Saugerties, 268 AD2d 771 (3rd Dept, 2000), lv. den. 94 NY2d 704 (2000).

III. SEQRA Exemption:

Agricultural uses are exempt from SEQRA review and classified as Type II Actions thereunder. In this regard, the agricultural use at issue is not subject to environmental review as it is a Type II Action pursuant to 6 NYCRR Part 617.5(c)(3). Accordingly, this action qualifies as a Type II Action under SEQRA pursuant to the following regulatory authority:

1. 6 NYCRR Part 617.5(c)(3), as an agricultural farm management practice which includes the construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming; and,
2. 6 NYCRR Part 617.5(c)(19), regarding the ministerial issuance of Building Permits.

A review of the applicable case law reveals that a plethora of agricultural activities have been judicially determined to be classified as Type II under SEQRA. These agricultural activities have been historically extended to construction of manure management farm buildings and utilization of mobile homes for farm labor housing. See generally, Lysander v. Hafner, 96 NY2d 558 (2001), Pure Air and Water, Inc. v. Davidsen, 246 AD2d 786 (3rd Dept, 1998), app. dismd., 91 NY2d 955 (1999), app. den. 92 NY2d 807 (1999), app. dismd., 93 NY2d 1013, Humane

Society of United States v. Empire State Development Corporation, 53 AD3d 1013 (2008).

Moreover, in the event that any opponent of my clients' plans were to attempt to assert that discretionary review is applicable in the instant case, the same would be further pre-empted and superceded by the New York State Department of Agriculture and Markets state wide statutory scheme; whether the farm operation is included within the Agricultural District or not. Village of Lacona v. New York State Department of Agriculture and Markets, 51 AD3d 1319 (3rd Dept, 2008).

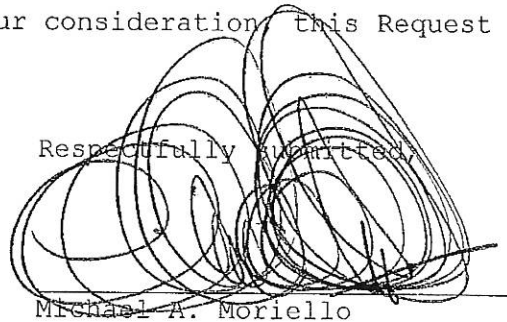
Finally, I note that pursuant to SEQRA [6 NYCRR Part 617.5(c)(31), this Request for Interpretation is classified as a Type II Action thereunder and is thereby precluded from environmental review by the Town of Hurley Zoning Board of Appeals. Frampton v. Zoning Board of Appeals of the Town of Lloyd, 114 AD2d 671 (3rd Dept, 1985).

IV. Conclusion: Based upon all of the above, it is submitted that the planned agricultural uses of my clients are not to be regulated pursuant to Site Development Plan and/or Special Use Permit discretionary review under the Town of Hurley Zoning Law. Accordingly, based upon the facts and law set forth above, it is respectfully requested that the Town of Hurley Building Inspector provide an Interpretation which agrees with the foregoing address.

Should you have any questions, do not hesitate to contact me.

Thanking you in advance for your consideration, this Request for Interpretation is,

Respectfully submitted,

A large, dense, and somewhat illegible handwritten signature in black ink, consisting of many overlapping loops and scribbles.

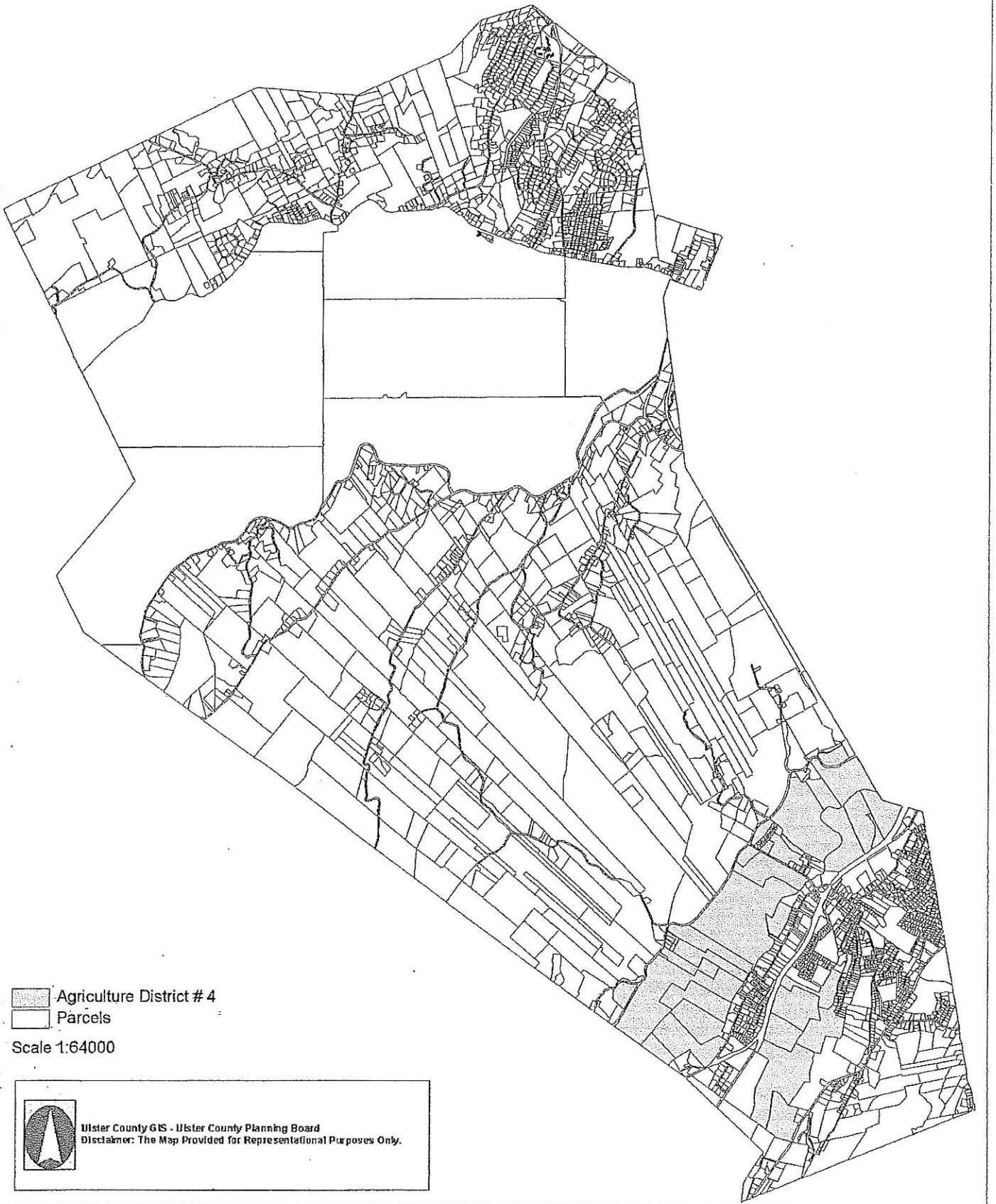
Michael A. Moriello

MAM:def

Enclosures

cc: Messrs. Zell and Winne
Christopher Coleman, Esq.

Town of Hurley Agriculture District



DISTRICT	SECTION	BLOCK	LOT	PRINT_KEY	ACREAGE
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HURLEY

4	47.4	3	5	47.4-3-5	74
	55.12	4	27	55.12-4-27	30.9
	55.2	1	11	55.2-1-11	18.9
	55.2	2	1	55.2-2-1	148.2
	55.2	2	2.1	55.2-2-2.1	23.3
	55.2	2	9	55.2-2-9	34.5
	55.2	2	10	55.2-2-10	41.7
	55.2	2	11	55.2-2-11	191.8
	55.2	2	12	55.2-2-12	20.9
	55.2	2	13	55.2-2-13	52.3
	55.2	2	14	55.2-2-14	10.6
	55.2	2	15	55.2-2-15	11.3
	55.2	2	16	55.2-2-16	5.5
	55.2	2	17	55.2-2-17	117.9
	55.2	2	18	55.2-2-18	21.5
	55.2	2	19	55.2-2-19	39.1
	55.2	2	20	55.2-2-20	37.7
	55.2	2	21	55.2-2-21	7.1
	55.4	4	1	55.4-4-1 <i>OUT</i>	58.4
	55.4	4	2	55.4-4-2 <i>OUT</i>	48.5
	55.4	4	14	55.4-4-14 <i>OUT</i>	39.2
	55.4	4	15	55.4-4-15 <i>OUT</i>	112.6
	55.4	4	16	55.4-4-16 <i>OUT</i>	33.8
	55.4	10	1	55.4-10-1	52.8
	55.4	10	2	55.4-10-2	49.5
	55.4	10	3	55.4-10-3	65.8
	55.4	10	4	55.4-10-4	17.1
	55.4	10	14	55.4-10-14 <i>OUT</i>	0.2
	55.8	3	46	55.8-3-46	60.3
	55.8	9	23	55.8-9-23	4.3
	55.8	9	24	55.8-9-24	21.9

Summary for 'TOWN' = HURLEY (31 detail records)

Total Acreage	1451.6
Average Parcel Size	46.8

Agriculture and Markets

Article 25AA

§ 301. Definitions. When used in this article:

1. "Agricultural assessment value" means the value per acre assigned to land for assessment purposes determined pursuant to the capitalized value of production procedure prescribed by section three hundred four-a of this article.

2. "Crops, livestock and livestock products" shall include but not be limited to the following:

a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.

b. Fruits, including apples, peaches, grapes, cherries and berries.

c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.

d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.

f. Maple sap.

g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.

h. Aquaculture products, including fish, fish products, water plants and shellfish.

i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.

3. "Farm woodland" means land used for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.

4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation or a commercial equine operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:

a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.

a-1. Land used by a not-for-profit institution for the purposes of agricultural research that is intended to improve the quality or quantity of crops, livestock or livestock products. Such land shall

qualify for an agricultural assessment upon application made pursuant to paragraph (a) of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such

production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.

c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment. Such land shall include land used for agricultural amusements which are produced from crops grown or produced on the farm, provided that such crops are harvested and marketed in the same manner as other crops produced on such farm. Such agricultural amusements shall include, but not be limited to, so-called "corn mazes" or "hay bale mazes".

d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.

e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.

f. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.

g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph f of this subdivision.

h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.

i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm

operation in its first, second, third or fourth year of agricultural production.

j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.

k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

l. Land that is owned or rented by a farm operation in its first or second year of agricultural production or in the case of a commercial equine operation, in its first or second year of operation, that consists of not less than seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing.

5. "Oil, gas or wind exploration, development or extraction activities" means the installation and use of fixtures and equipment which are necessary for the exploration, development or extraction of oil, natural gas or wind energy, including access roads, drilling apparatus, pumping facilities, pipelines, and wind turbines.

6. "Unique and irreplaceable agricultural land" means land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.

7. "Viable agricultural land" means land highly suitable for a farm operation as defined in this section.

8. "Conversion" means an outward or affirmative act changing the use of agricultural land and shall not mean the nonuse or idling of such land.

9. "Gross sales value" means the proceeds from the sale of:

a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;

b. Woodland products from farm woodland eligible to receive an agricultural assessment, not to exceed two thousand dollars annually;

c. Honey and beeswax produced by bees in hives located on an otherwise qualified farm operation but which does not independently satisfy the gross sales requirement;

d. Maple syrup processed from maple sap produced on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation;

e. Or payments received by reason of land set aside pursuant to paragraph e of subdivision four of this section;

f. Or payments received by thoroughbred breeders pursuant to section two hundred fifty-four of the racing, pari-mutuel wagering and breeding law; and

g. Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section, "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

12. "Agricultural data statement" means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five-a of this article.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

15. "Agricultural tourism" means activities, including the production of maple sap and pure maple products made therefrom, conducted by a

"farmer on-farm for the enjoyment and/or education of the public, which

primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

* 16. "Apiary products operation" means an agricultural enterprise, consisting of land owned by the operation, upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apiary products for sale.

* NB There are 2 sb 16's

* 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste, and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

* NB There are 2 sb 16's

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, an agricultural enterprise that is proposed or in its first or second year of operation may qualify as a commercial equine operation if it consists of at least seven acres and stables at least ten horses, regardless of ownership, by the end of the first year of operation.

Town of Hurley
PO Box 569
Hurley, New York 12443
845-331-7474 Ext. 4
Fax 845-331-0058



National Historic Landmark

Glenn Hoffstatter
Code Enforcement Officer
Building Inspector
MS4 Stormwater Officer
building@townofhurley.org

Mr. Michael Moriello
Riseley & Moriello
P.O. Box 4465, 111 Green Street
Kingston, New York 12402

9/4/2014

RE: Zoning interpretation for Property (SBL 55.2-1-8) Dug Hill Road Hurley, New York.

Dear Michael:

I am in receipt of your letter and supporting documentation dated August 19, 2014 requesting an Interpretation with regards to a proposed agricultural use located at the property referenced above.

The referenced property is located in the A-4 District according to the Town of Hurley, Zoning Map. Section 210-10 of the Town Zoning Code states, Permitted uses in all districts shall be in accordance with the Table of Use Regulations. The Table of Use Regulations states the an Agricultural Use (not including the keeping of fowl or farm animals) is a Use Permitted by Right in the A-4 District.

With regards to your request, it is my Interpretation that the use of the referenced property as an agricultural nursery as defined as a "Crop" under section 301-a 2 d (Horticultural Specialties) of New York State Agriculture and Markets Law would be a use permitted by right and that Site Development Plan and Special Use Permit approvals are not required.

However, if by employ you mean to import top soil, mulch, compost or other organic matter to be ground, screened, mixed or processed on site and then used or sold off site, my opinion is that this would not be considered an "agricultural use" pursuant to section 301-a(16) of the Agriculture and Markets Law of New York State and not an allowable use in the A-4 district.

Should you have any further questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Glenn Hoffstatter', written over a horizontal line.

Glenn Hoffstatter

Andrew 914 388 6195

Local Laws and Agricultural Districts: Guidance for Local Governments and Farmers

Article XIV, Section 4 of the New York State Constitution, added in 1970, provides that the policy of the State shall be to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products and states that the legislature, in implementing this policy, shall include adequate provision for the protection of agricultural lands. Shortly thereafter, in 1971, the Agricultural Districts Law, Agriculture and Markets Law (AML) Article 25-AA, was enacted implementing that policy. Section 305-a of Article 25-AA contains the following mandate:

"Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article [*Article 25-AA of the Agriculture and Markets Law*], and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened."

For purposes of AML §305-a, subd. 1, "Farm operation" means: "...the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a 'commercial horse boarding operation' as defined in subdivision thirteen of this section, 'timber processing' as defined in subdivision fourteen of this section and 'compost, mulch and other biomass crops' as defined in subdivision sixteen of this section. For purposes of this section, such farm operation shall also include the production, management and harvesting of 'farm woodland,' as defined in subdivision three of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other." The definition of "crops, livestock and livestock products" is contained in AML §301(2).

The brochure *Local Laws and Agricultural Districts: How Do They Relate?* was prepared by the Department to assist municipalities in drafting and administering local laws and ordinances which may affect farming in an agricultural district. The brochure also offers guidance to farmers on the application of AML §305-a. Local governments and farmers are encouraged to review that document for information on the procedure for requesting Department assistance as well as general discussion of the law. The following guidelines provide more details on the application of AML §305-a to several common agricultural topics. However, they should not be substituted for legal advice from a municipality's attorney. The Department hopes that this information will assist local governments and farmers in resolving issues that may impact farm operations within their communities.¹

GENERAL INFORMATION

In examining whether a local law is unreasonably restrictive, the Department of Agriculture and Markets considers several factors, including, but not limited to: whether the requirements adversely affect the farm operator's ability to manage the farm operation effectively and

¹ Local laws and their administration are reviewed on a case-by-case basis. These guidance documents are intended to inform local governments and farmers generally of how the Department interprets and applies AML §305-a. The facts and circumstances of each particular matter are addressed uniformly and in accordance with applicable statutory requirements.

Definitions @ 305A 3. - Farm woodland not including
land used for processing or retail
merchandising of woodland products

EXHIBIT "A"

Ulster County
Albert Spada
County Clerk



Instrument Number: 2003-00009306

Recorded On: April 07, 2003

As
D01 - Deed

Parties: MACKINNON ROBERT A BY ATTY
To
MATTHEWS EVAN T

Recorded By: TSC

Billable Pages: 6

Comment: HURLEY

Num Of Pages: 6

** Examined and Charged as Follows: **

D01 - Deed	43.00	RP5217	25.00	Tax Affidavit TP 584	5.00
Recording Charge:	73.00				
		Consideration			
	Amount	Amount	RS#/CS#		
Tax-Transfer	100.00	25,000.00	4965	Basic	0.00
				Additional	0.00
				Special Additional	0.00
				Transfer	100.00
Tax Charge:	100.00				

** THIS PAGE IS PART OF THE INSTRUMENT **

I hereby certify that the within and foregoing was recorded in the Clerk's Office For: Ulster County,

File Information:

Document Number: 2003-00009306
Receipt Number: 30339
Recorded Date/Time: April 07, 2003 04:26P
Book-Vol/Pg: Bk-D VI-3567 Pg-252

Record and Return To:

MATTHEW & GRIECO
PO BOX 3127
KINGSTON NY 12402



Albert Spada

ALBERT SPADA, ULSTER COUNTY CLERK

6
not

**BARGAIN AND SALE DEED WITH COVENANT AGAINST GRANTOR
(INDIVIDUAL)**

STATUTORY FORM C

THIS IS A LEGALLY BINDING INSTRUMENT. IF NOT FULLY UNDERSTOOD, WE RECOMMEND ALL PARTIES TO THE INSTRUMENT CONSULT AN ATTORNEY BEFORE SIGNING.

THIS INDENTURE, made the APRIL 7 2003,

between

ROBERT A. MacKINNON, BY LAURINDA MAC KINNON HIS ATTORNEY IN FACT of 3181 NORTH MADERA MESA PLACE, TUCSON, Arizona 85749,

party of the first part, and

EVAN MATTHEWS, of 8 DUG HILL RD HURLEY, New York 12443,

MARY A PISKOZ AS JOINT TENANTS
party of the second part:

WITNESSETH, that the party of the first part, in consideration of one dollar and other good and valuable consideration, lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, HIS HEIRS and assigns forever, all that certain piece and parcel of land situate in TOWN OF HURLEY, ULSTER COUNTY, NEW YORK, and more particularly described in Schedule A attached hereto

together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, HIS HEIRS and assigns forever. And the party of the first part covenants that he has not done or suffered anything whereby the said premises have been encumbered in any way whatever.

And the party of the first part/grantor, in compliance with Section 13 of the Lien Law, covenants that the party of the first part/grantor will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" or "grantor" shall be construed as if it read "parties" or "grantors" whenever the sense of this document so requires.

IN WITNESS WHEREOF, the party of the first part has hereunto set his hand and seal the day and year first above written.

Robert A. MacKinnon by Laurinda MacKinnon
Seller Robert A. MacKinnon by
Laurinda MacKinnon Attorney-in-Fact
Attorney-in-Fact

CHECKED DL

ENTERED BH

MARK/OFF _____

VTSL

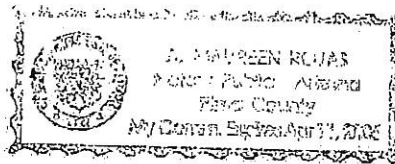
Acknowledgment by a Person Outside New York State (RPL § 309-b)

STATE OF ARIZONA)
COUNTY OF PIMA) ss.:
)

On the 1st day of April, 2003, before me, the undersigned, personally appeared LAURINDA MacKINNON personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that she executed the same in her capacity(ies), and that by her signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual(s) made such appearance before the undersigned in TUCSON, ARIZONA.

[Signature]
(signature and office of individual taking acknowledgment)

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 1st DAY OF April, 2003,
BY Laurinda MacKinnon
[Signature]
NOTARY PUBLIC



DEED

Title No.

Section 55.2

Block 1

Lot 8

**ROBERT A. MacKINNON BY
LAURINDA MacKINNON**

County or Town HURLEY, ULSTER COUNTY

To

Street Address

EVAN MATTHEWS

HURLEY, New York 12443

Return By Mail To:

S. JAMES MATTHEWS, ESQ.

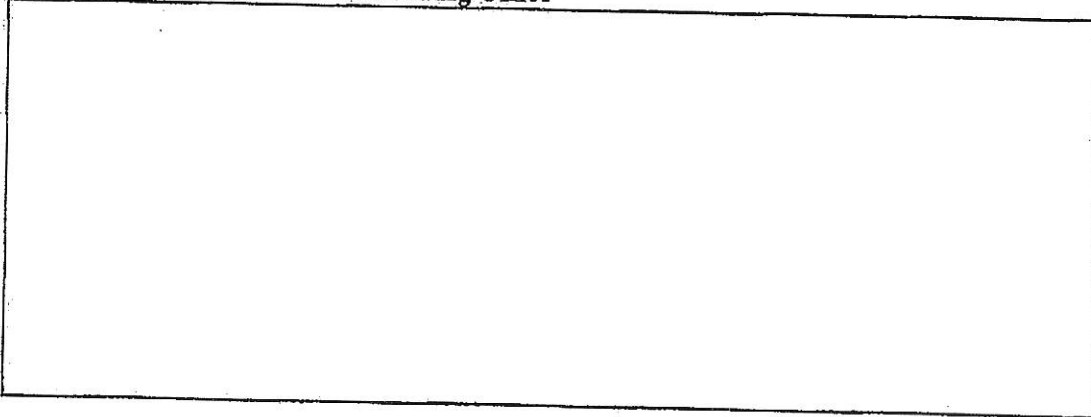
MATTHEWS & GRIECO

89 JOHN STREET

PO BOX 3127

KINGSTON, NEW YORK 12402

Reserve This Space For Use Of Recording Office



ALL THAT PIECE OR PARCEL of land situate in the Town of Hurley, County of Ulster and State of New York described as follows:

Beginning at a spike set at the center of Dug Hill Road being North $74^{\circ}31'26''$ West along the center of the road 34.96 feet from the center of a metal culvert (36" dia.) and being North $17^{\circ}19'54''$ East 25.01 feet from a set reinforcement rod; thence from said POINT AND PLACE OF BEGINNING, along lands now or formerly Beverly J. Daley (L.1770 p.261) as per a boundary line agreement (L.1301 p.306) the following twenty five courses and distances:

- South $17^{\circ}19'54''$ West 67.00 feet
- North $59^{\circ}52'14''$ East 16.98 feet
- South $47^{\circ}29'16''$ East 36.17 feet
- South $17^{\circ}14'54''$ West 54.74 feet
- South $32^{\circ}05'36''$ East 14.17 feet
- South $74^{\circ}56'16''$ East 17.43 feet
- South $59^{\circ}44'26''$ East 35.19 feet
- South $01^{\circ}07'36''$ East 29.69 feet
- South $31^{\circ}53'26''$ East 8.97 feet
- South $55^{\circ}33'36''$ East 34.34 feet
- South $23^{\circ}47'56''$ East 33.66 feet
- South $14^{\circ}48'36''$ East 55.01 feet
- South $59^{\circ}35'06''$ East 51.03 feet
- South $36^{\circ}33'46''$ East 29.89 feet
- South $15^{\circ}40'54''$ West 27.62 feet
- South $10^{\circ}20'26''$ East 21.03 feet
- South $62^{\circ}08'04''$ West 15.97 feet
- South $48^{\circ}39'24''$ West 47.01 feet
- South $39^{\circ}30'34''$ West 48.10 feet
- South $53^{\circ}52'44''$ West 14.97 feet
- South $22^{\circ}35'24''$ West 12.04 feet
- South $07^{\circ}47'04''$ West 18.17 feet
- South $05^{\circ}35'36''$ East 49.49 feet

South 07°07'54" West 14.97 feet

South 82°58'48" East 41.28 feet to a point in the centerline of Hurley Mountain Road; thence along the centerline of Hurley Mountain Road South 23°27'52" West 78.19 feet to a point being South 72°16'18" East 25.13 feet from a found iron bar; thence along lands now or formerly Gregg and Roslyn Mazzilli (L.3122, p. 207), generally along a wood rail fence, North 72°16'18" West 389.05 feet to a found reinforcement rod on the east bounds of lands of New York State (Project/Map No.3159); thence along the east bounds of New York State, North 17°34'23" West generally along a wire fence 119.87 feet, to a found stone monument; thence North 03°06'52" East generally along a wire fence 582.87 feet, to a found stone monument; thence North 10°26'52" East along said lands of New York State 202.62 feet to a spike set in the center of Dug Hill Road; thence along said center of Dug Hill Road the five courses and distances:

South 05°18'33" East 188.14 feet

South 19°42'44" East 53.71 feet

South 34°11'51" East 33.65 feet

South 54°50'26" East 41.62 feet

South 67°18'35" East 170.13 feet to the **POINT AND PLACE OF BEGINNING.**

Containing 5.924 Acres

EXCEPTING the rights of the public over the bounds of Dug Hill Road and Hurley Mountain Road.

Being the Same premise described in a deed dated 4/01/1966 from Joseph F. McSpirit, as grantor to Robert A. McKinnon, as grantee, and filed in the Ulster County Clerk's Office in Liber 1180, at page 409.

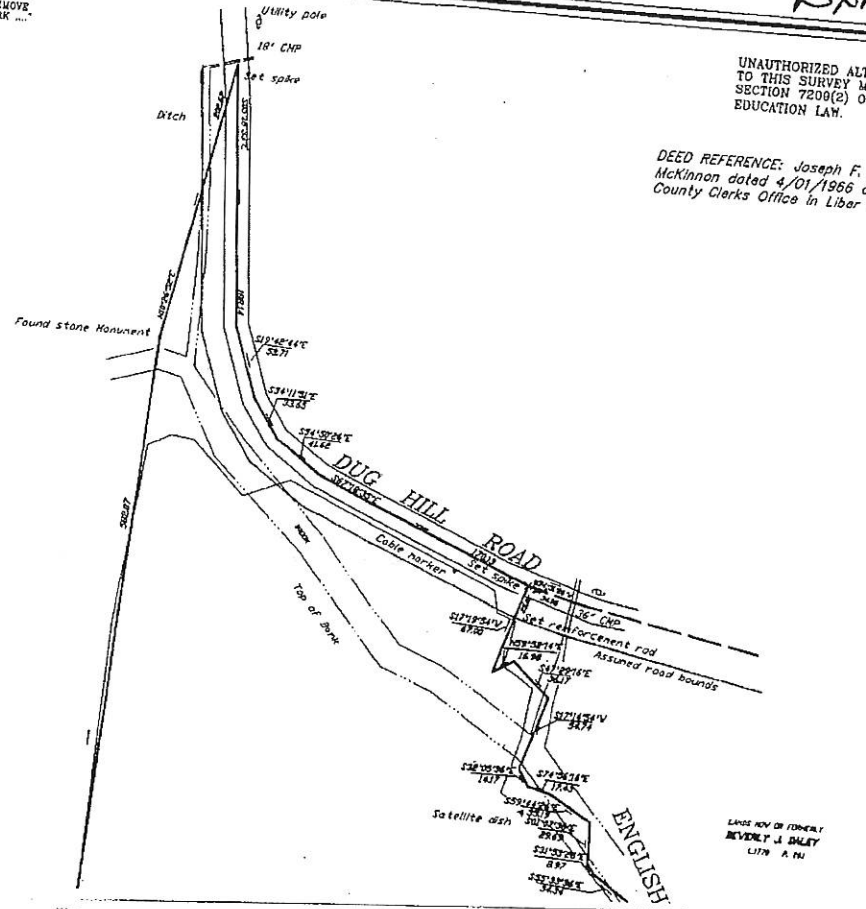
EXHIBIT B^H

DEUT 1814 "THOU SHALT NOT REMOVE
TRY NEIGHBOR'S LANDMARK ..."

UNAUTHORIZED ALTERATION OR AD
TO THIS SURVEY MAP IS A VIOLAT
SECTION 7209(2) OF THE NEW YOR
EDUCATION LAW.

DEED REFERENCE: Joseph F. McSpirt to R
McKinnon dated 4/01/1966 and filed in th
County Clerks Office in Liber 1180 deeds p

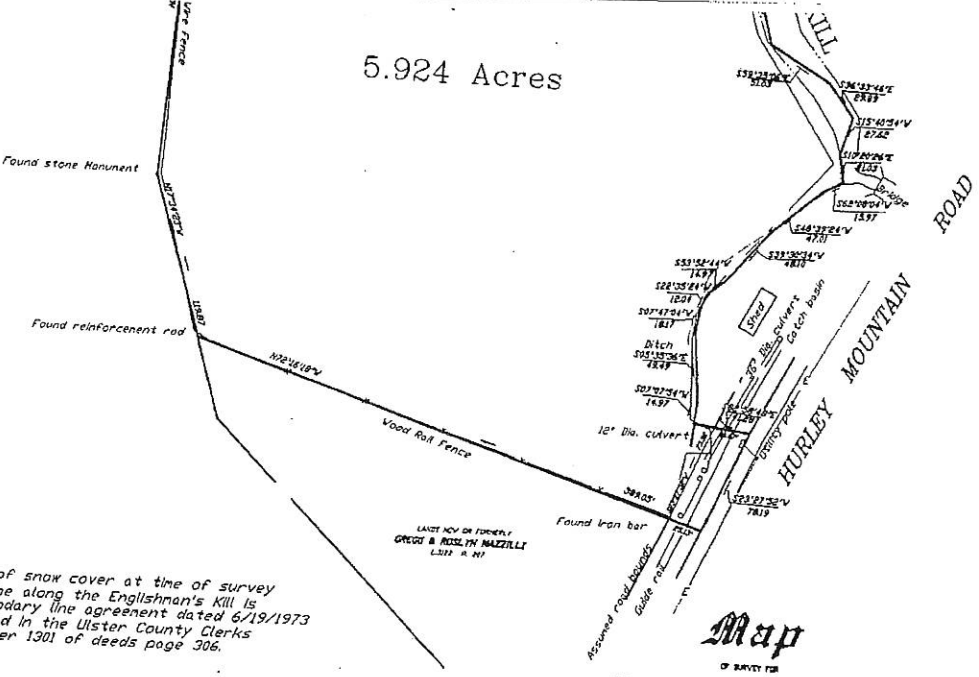
MAGNETIC AERITY
December 2002



LANE OF
NEW YORK STATE
Projection No. 213

LANE NO. OF FOREMANT
BEVERLY J. DALEY
L178 A. 111

5.924 Acres



26 inches of snow cover at time of survey
Property line along the Englishman's Kill is
as per boundary line agreement dated 6/19/1973
and recorded in the Ulster County Clerks
Office in Liber 1301 of deeds page 306.

W.L. BREWER, P.L.S.
SURVEYING AND FORESTRY
Reg. No. 49803
P.O. Box 3835
New York 12402
451 339-1487

Map completed 1/7/2003
Map revised 6/2/2003

Map
OF SURVEY FOR
Evan T. Matthews
Mary A. Piskoz
ESTATE IN
TOWN OF HURLEY COUNTY OF ULSTER
STATE OF NEW YORK

Tax Map 55.002-01-08 SCALE 1 inch = 60 feet

FILE 580.01

SEORA REGULATIONS

617.4
617.5

- (9) any Unlisted action (unless the action is designed for the preservation of the facility or site) occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register, or that is listed on the State Register of Historic Places (The National Register of Historic Places is established by 36 Code of Federal Regulation (CFR) Parts 60 and 63, 1994 (see section 617.17 of this Part));
- (10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR Part 62, 1994 (see section 617.17 of this Part); or
- (11) any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part.

617.5 TYPE II ACTIONS.

- * (a) Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, article 8. The actions identified in subdivision (c) of this section apply to all agencies.
- (b) Each agency may adopt its own list of Type II actions to supplement the actions in subdivision (c) of this section. No agency is bound by an action on another agency's Type II list. An agency that identifies an action as not requiring any determination or procedure under this Part is not an involved agency. Each of the actions on an agency Type II list must:
 - (1) in no case, have a significant adverse impact on the environment based on the criteria contained in subdivision 617.7(c) of this Part; and
 - (2) not be a Type I action as defined in section 617.4 of this Part.
- * (c) The following actions are not subject to review under this Part:
 - (1) maintenance or repair involving no substantial changes in an existing structure or facility;
 - (2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building or fire codes, unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;



- (3) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;
- (4) repaving of existing highways not involving the addition of new travel lanes;
- (5) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (6) maintenance of existing landscaping or natural growth;
- (7) construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;
- (8) routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings;
- (9) construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (11) and the installation, maintenance and/or upgrade of a drinking water well and a septic system;
- (10) construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;
- (11) extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;
- (12) granting of individual setback and lot line variances;
- (13) granting of an area variance(s) for a single-family, two-family or three-family residence;
- (14) public or private best forest management (silvicultural) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides;
- (15) minor temporary uses of land having negligible or no permanent impact on the environment;

ZONING

Table of Use Regulations [Amended 9-21-1991 by L.L. No. 1-1991; 6-23-1992 by L.L. No. 2-1992; 11-24-2003 by L.L. No. 2-2003; 8-23-2004 by L.L. No. 1-2004]

Symbols:

- (P) Designates a use permitted by right.
- (S) Designates a use permitted by right, subject to site plan review.
- (X) Designates a conditional use contingent on securing a special use permit in each case, from the Planning Board in compliance with the specific standards set forth in Article VI and subject to site plan review.

Type	A-4*	A-2.5	R-1	R-2	NC	B-1	B-2	I-1	H
Residential Uses									
Detached one-family dwelling	P	P	P	P	P	P	—	—	P
Semidetached one-family dwelling	P	P	P	P	P	P	—	—	P
Two-family dwelling	P	P	P	P	P	P	—	—	P
Townhouses subject to § 210-38	S	S	S	S	S	—	—	—	—
Mobile home	P	P	—	—	—	—	—	—	—
Mobile home park	—	S	—	—	—	—	—	—	—
Medical and dental service facility	—	—	X	—	—	X	X	X	—
General Uses									
Agriculture (not including the keeping of fowl or farm animals)	P	P	P	P	P	P	P	P	P
Agriculture (including the keeping of fowl or farm animals)	P	P	—	—	—	—	—	—	—
Retail sale of agricultural produce grown on the same lot or farm from a road stand	X	X	—	—	—	—	—	—	—

erty by Eminent

minent Domain,
Local Land Use

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Op.Counsel SBRPS No. 13, 2001 WL 34072390, 2001.

4. Agricultural production

Farmland rented for several years to another and now being farmed by its owner who plants a different crop than did the former lessee is not a newly established farm operation for purposes of section 301(4) of the Agriculture and Markets Law. 11 Op.Counsel SBRPS No. 121, 2008 WL 1887108, 2008.

5. Assessors

An assessor may not require a county soil and water conservation district to revise its worksheets which the assessor uses to administer the Agricultural Districts Law, but the assessor may request such revision in certain circumstances. An assessor may not rely solely on zoning requirements to conclude that areas classified by such worksheets are residential in nature, rather, the assessor's personal observation is required. 11 Op.Counsel SBRPS No. 92, 2005 WL 5907886, 2005.

9. Erroneous assessment

A transfer of development rights associated with property receiving an agricultural assessment under section 305 or 306 of the Agriculture and Markets Law does not constitute a "conversion" of the use of such property. 11 Op.Counsel SBRPS No. 76, 2005 WL 3824066, 2005.

Where a life tenant is confined to a nursing home, occupancy of the life tenant's home by the (non-spouse) remainderman disqualifies such home from eligibility for the school tax relief (STAR) or senior citizens exemption. 11 Op.Counsel SBRPS No. 12, 2001 WL 34072389, 2001.

§ 305-a. Coordination of local planning and land use decision-making with the agricultural districts program

1. Policy of local governments. a. Local governments, when exercising their powers to enact and administer comprehensive plans and

10. Conversion to non-agricultural use

A property, which is excluded from the boundaries of an agricultural district after a district review, may be converted thereafter to a non-agricultural use without incurring liability for conversion payments. The county legislative body, however, may act to prevent the avoidance of conversion payments by refusing to amend an agricultural district's boundaries upon a finding that the land in question is still viable farmland whose continued inclusion in the district furthers the purposes for which such district was originally created. 11 Op.Counsel SBRPS No. 62, 2004 WL 3717142, 2004.

Consumer pre-harvest crop payment contracts under a community supported agricultural program may be included in gross sales for purposes of determining eligibility for an agricultural assessment provided those making the payments have no ownership interest in the farm. 11 Op.Counsel SBRPS No. 102, 2007 WL 3318177, 2007.

11. Gross sales requirement

The Program's wildlife conservation incentive payments may not be considered in computing the statutory gross sales requirement. 11 Op.Counsel SBRPS No. 100, 2007 WL 3318176, 2007.

12. Penalty for conversion

Agricultural land receiving an agricultural assessment, which is disturbed by gravel mining, will not be subject to a conversion payment provided such land is restored and ready for a resumption of farming by the next taxable status date following such mining. If such restoration does not take place by that date, conversion payments will be owed. 11 Op.Counsel SBRPS No. 105, 2007 WL 3318181, 2007.

local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.

b. Upon the request of any municipality, farm owner or operator, the commissioner shall render an opinion to the appropriate local government officials, as to whether farm operations would be unreasonably restricted or regulated by proposed changes in local land use regulations, ordinances or local laws pertaining to agricultural practices and to the appropriate local land use enforcement officials administering local land use regulations, ordinances, or local laws or reviewing a permit pertaining to agricultural practices.

c. The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district, may bring an action to enforce the provisions of this subdivision.

2. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by a planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board, zoning board of appeals, town board, or village board of trustees shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.

3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.

4. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site

of the proposed project relative to identified in the agricultural data statement.
(Added L. 1992, c. 534, § 3. Amended L. 2011, c. 497, § 1, eff. Sept. 23, 2011.)

Research B

Encyclopedias

- 41 Am. Jur. Proof of Facts 3d 495, Challenging Mobile and Manufactured Home
- 120 Am. Jur. Proof of Facts 3d 253, Eminent Domain: Other Legal Requirements, Pleading and Practice
- Animals.

Forms

- Carmony-Wait, 2d § 145.1442, Defects in

Treatises and Practice Aids

- New York Zoning Law and Practice, Form and Procedure: Regulations and Agriculture

Notes of L

Construction with other laws 15

Farm operations restrictions 2

1. Construction and application

Where a municipality seeks to administer a zoning ordinance in a manner that is in conflict with the policy objectives of the Agriculture and Markets Law, the zoning ordinance is superseded. *Inter-Lakes Health, Inc. v. Town of Ticonderoga Town Bd.* (3 Dept. 2004) 13 A.D.3d 846, 786 N.Y.S.2d 643. *Zoning And Planning* ¶ 1020

Provision of Agriculture and Markets Law prohibiting local governments from unreasonably restricting or regulating farm operations within agricultural districts does not exempt from its reach zoning ordinances enacted prior to the creation of a particular agricultural district. *Inter-Lakes Health, Inc. v. Town of Ticonderoga Town Bd.* (3 Dept. 2004) 13 A.D.3d 846, 786 N.Y.S.2d 643. *Zoning And Planning* ¶ 1022; *Zoning And Planning* ¶ 1080.

Amendments to Agricultural and Markets law that prohibited administering local laws in a manner that would unreasonably restrict farming were intended to correct technical errors and to strengthen, not limit, the protections against unreasonably re-

...ing a new orchard or vineyard and
...rented by a newly established farm
...third or fourth year of agricultural

...acres used as a single operation for
...mas trees when such land is used
...Christmas trees that will be made
...transplanting or cut from the stump
...rented by a newly established farm
...fourth or fifth year of agricultural

...piary products operation which is
...sts of (i) not less than seven acres
...a single operation in the preceding
...sale of crops, livestock or livestock
...s value of ten thousand dollars or
...used as a single operation in the
...ction for sale of crops, livestock or
...gross sales value of fifty thousand
...d to support an apiary products
...be limited to, the land under a
...ducts are produced, harvested and
...rea maintained by the operation
...landowners. Notwithstanding any
...rented land associated with an
...gible for an agricultural assessment

...by a farm operation in its first or
...nd year of operation, that consists
...bling at least ten horses, regardless
...ousand dollars or more in gross
...ted through the provision of com-
...but not limited to riding lessons,
...horses or through the production
...tock products, or through both the
...ne activities and such production,
...subdivision be construed to include
...ction is horse racing.

...development or extraction activi-
...of fixtures and equipment which
...development or extraction of oil,
...g access roads, drilling apparatus,
...id turbines.

...gricultural land" means land which
...of high value crops, including, but
...horticultural specialties.

...ans land highly suitable for a farm

8. "Conversion" means an outward or affirmative act changing the use of agricultural land and shall not mean the nonuse or idling of such land.

9. "Gross sales value" means the proceeds from the sale of:

a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;

b. Woodland products from farm woodland eligible to receive an agricultural assessment, not to exceed two thousand dollars annually;

c. Honey and beeswax produced by bees in hives located on an otherwise qualified farm operation but which does not independently satisfy the gross sales requirement;

d. Maple syrup processed from maple sap produced on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation;

e. Or payments received by reason of land set aside pursuant to paragraph e of subdivision four of this section;

f. Or payments received by thoroughbred breeders pursuant to section two hundred fifty-four of the racing pari-mutuel wagering and breeding law; and

g. Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.

Renumbered 9.

11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section, a "timber operation" as defined in subdivision fourteen of this section, "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section and "commercial equine operation" as defined in subdivision seventeen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

12. "Agricultural data statement" means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five a of this article.

13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops.

livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on-site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.

14. "Timber operation" means the on-farm production, management, harvesting, processing and marketing of timber grown on the farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.

15. "Agricultural tourism" means activities, including the production of maple sap and pure maple products made therefrom, conducted by a farmer on-farm for the enjoyment and/or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.

16. [As added by L.2008, c. 341. See, also, subd. 16 below.] "Apiary products operation" means an agricultural enterprise, consisting of land owned by the operation, upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apian products for sale.

16. [As added by L.2008, c. 536. See, also, subd. 16 above.] "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste, and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

17. "Commercial equine operation" means an agricultural enterprise, consisting of at least seven acres and stabling at least ten

horses, regardless of ownership, that is more in gross receipts annually from provision of commercial equine activities, riding lessons, trail riding activities or the production for sale of crops, livestock through both the provision of such co such production. Under no circumstances construed to include operations whose horse racing. Notwithstanding any other agricultural enterprise that is proposed of operation may qualify as a commercial of at least seven acres and stables at ownership, by the end of the first year o (Added L.1987, c. 774, § 1. Amended L.199 § 3; L.1989, c. 398, § 1; L.1989, c. 448; L.1990, c. 396, § 1; L.1992, c. 27, § 1; L.19 534, § 1; L.1992, c. 797, § 1; L.1993, c. 440; c. 556, §§ 1, 2; L.1995, c. 235, § 1; L.1995, c L.1997, c. 62, § 1, eff. May 20, 1997; L.1997 L.1999, c. 473, §§ 1, 2, eff. Sept. 7, 1999; L.2 L.2001, c. 388, § 1, eff. Oct. 31, 2001; L.2002, L.2002, c. 516, § 1, eff. Sept. 17, 2002; L.20 L.2003, c. 479, § 1, eff. Sept. 9, 2003; L.200 L.2004, c. 10, § 1, eff. Feb. 24, 2004; L.20 L.2005, c. 200, § 1, eff. July 12, 2005; L.200 L.2005, c. 587, §§ 1, 2, eff. Aug. 23, 2005; L. L.2006, c. 600, § 2, eff. Aug. 16, 2006; L.20 2008; L.2008, c. 511, § 1, eff. Sept. 4, 2008; 1, 2009; L.2008, c. 611, § 1, eff. Sept. 25, 20 2010; L.2010, c. 120, §§ 1, 2, eff. June 15, 20 2011; L.2011, c. 384, §§ 1, 2, eff. Aug. 3, 201 2012; L.2012, c. 344, § 1, eff. Sept. 30, 2012.)

17-USCA § 1281 et seq.

Historical and Statu

L.2008, c. 341 legislation farm

L.2008, c. 341, § 4, provides: "A farm nomi
"This act shall take effect immedi- "A brace
ately [July 21, 2008] and shall apply farm
to assessment rolls prepared on the diver
basis of taxable status dates occur- helpi
ring on or after such effective date."

L.2006, c. 600 legislation and

L.2006, c. 600, § 1, provides: the i
"§ 1. Legislative intent: Farm about
ing in this state is essential to the omy,
economic, social and environmental may
well-being of all New Yorkers. New times
York state has led in establishing pol- their
icies and programs to promote a "T
strong agricultural economy through affir
the diversification of farm businesses touris
and products in order to generate provis

SCHEDULE A (continued)

THENCE RUNNING ALONG LAND NOW OR FORMERLY OF EVA ORLOWSKI THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. SOUTH 39 DEGREES 39 MINUTES 00 SECONDS EAST, 177.30 FEET TO A 1 ¼" PIPE FOUND;
2. NORTH 56 DEGREES 15 MINUTES 00 SECONDS EAST, 63.48 FEET TO THE CENTER OF MAVERICK ROAD (ULSTER COUNTY ROUTE NUMBER 43);

THENCE ALONG THE CENTER OF MAVERICK ROAD (ULSTER COUNTY ROUTE NUMBER 43) THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. SOUTH 3 DEGREES 37 MINUTES 00 SECONDS EAST, 25.33 FEET;
2. SOUTH 6 DEGREES 18 MINUTES 00 SECONDS EAST, 11.88 FEET AS PER SURVEY (11.77 FEET AS PER DEED) TO THE POINT OR PLACE OF BEGINNING.

CONTAINING 1.056 ACRES OF LAND MORE OR LESS.

TAX LOT 46.200

ALL THAT PARCEL OF LAND, SITUATE IN WEST HURLEY, THE TOWN OF HURLEY, COUNTY OF ULSTER, AND STATE OF NEW YORK, BEING BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT A 2" PIPE FOUND ON THE EASTERLY SIDE OF A TOWN MAINTAINED ROAD KNOWN AS MUSE ROAD, SAID POINT BEING ON THE NORTHERLY LINE OF LAND NOW OR FORMERLY OF NADJA LAZANSKY;

THENCE RUNNING ALONG LAND NOW OR FORMERLY OF NADJA LAZANSKY, CROSSING SAID MUSE ROAD, SOUTH 84 DEGREES 00 MINUTES 00 SECONDS WEST, 72.95 FEET TO A POINT IN THE CENTER OF A CERTAIN PRIVATE ROAD OR RIGHT OF WAY KNOWN AS VANDERLOO LANE;

THENCE RUNNING ALONG LAND NOW OR FORMERLY OF SPENCER M. GLUCK & BETH ABRAMS THE FOLLOWING TWO (2) COURSES AND DISTANCES:

1. NORTH 57 DEGREES 12 MINUTES 00 SECONDS WEST, 84.35 FEET;
2. NORTH 68 DEGREES 01 MINUTES 00 SECONDS WEST, 53.20 FEET TO A 1 ¼" PIPE FOUND ON THE NORTHERLY SIDE OF SAID RIGHT OF WAY;

THENCE RUNNING ALONG OTHER LAND NOW OR FORMERLY OF JOSEPH TREGGOR NORTH 21 DEGREES 16 MINUTES 00 SECONDS EAST, 156.50 FEET TO THE SOUTHWEST CORNER OF LAND NOW OR FORMERLY OF WILLIAM GARY MCGRAW, JR.;

SCHEDULE A (continued)

THENCE ALONG LAND NOW OR FORMERLY OF WILLIAM GARY MCGRAW, JR. NORTH 78 DEGREES 38 MINUTES 00 SECONDS EAST, 140.60 FEET TO THE NORTHWEST CORNER OF OTHER LAND NOW OR FORMERLY OF JOSEPH TREGGOR, SAID POINT BEING IN THE PAVEMENT OF SAID MUSE ROAD;

THENCE RUNNING ALONG OTHER LAND NOW OR FORMERLY OF JOSEPH TREGGOR THE FOLLOWING THREE (3) COURSES AND DISTANCES:

1. SOUTH 13 DEGREES 30 MINUTES 00 SECONDS EAST, 40.00 FEET TO A POINT ON THE EASTERLY SIDE OF SAID MUSE ROAD;
2. SOUTH 87 DEGREES 41 MINUTES 00 SECONDS EAST, 31.50 FEET TO A 20" MAPLE TREE;
3. SOUTH 2 DEGREES 15 MINUTES 08 SECONDS EAST, 202.06 FEET AS PER SURVEY (201.83 FEET AS PER DEED) TO THE POINT OR PLACE OF BEGINNING.

CONTAINING 0.881 ACRES OF LAND MORE OR LESS.

It is the intention of this deed and the conveyance herein to combine and merge the two (2) contiguous parcels described above to a single parcel for all purposes, including but not limited to real property tax treatment and assessment, as well as listing and description on the real property tax rolls.

County of Ulster
Town of HURLEY

PARCEL INFORMATION

512800 38.1-2-46.110
39 Muse Rd
210 - 1 Family Res
1.90 Acres

2023 ASSESSMENT NOTIFICATION

OWNER INFORMATION

Marla Bures
Mary Anne Lukacs
3610 Durango St
Coral Gables, FL 33134

You are hereby notified in accordance with the requirements of Section 510 of the Real Property Tax Law of your tentative assessment. New York State law requires all properties in each municipality to be assessed at market value or at a uniform level of assessment each year.

Year	Assessed Value	Level of Assessment	Market Value
2022	\$0	76.40%	\$0
2023	\$458,100	64.40%	\$711,335
Net Change	+\$458,100		

A change in your property's assessment does not necessarily indicate that your taxes will change. Your tax liability will be affected by several factors, including: changes to school/county/municipal budgets, changes to assessments of other properties, changes to exemptions applicable to your property, and apportionment of school and/or county taxes among multiple municipal segments.

You should examine the tentative assessment roll regardless of this notice or have discussions with representatives of the assessor's office. If you disagree with your property's assessment, in order to protect your right to assessment review, you must file a formal written complaint on the officially prescribed form (RP-524), available from your assessor or online at www.tax.ny.gov, with your Board of Assessment Review (BAR) on or before **Grievance Day: 5/23/2023**.

A publication entitled "Contesting Your Assessment in New York State" is available at the assessor's office and online: www.tax.ny.gov.

Please note that your assessor and the BAR can only review your **assessed value**; they do not set and cannot adjust your taxes. If you feel that your assessment is fair but your taxes are too high, your comments should be addressed to the appropriate taxing jurisdiction.

This is notice of your Tentative Assessment. Reach out to the assessor with any questions at Assessor@townofhurley.org or call 845-331-7474 ext 4. Grievance Day is appointment only between the hours of 2-4pm & 6-8pm at the Town Hall located at 10 Wamsley Place Hurley, NY 12443. Grievance applications must be received by 5/22/2023.

Brittany Santarelli
Assessor