



**Parks, Recreation,
and Historic Preservation**

KATHY HOCHUL
Governor

ERIK KULLESEID
Commissioner

November 18, 2021

Mike McGuigan
The Krog Group
4 Centre Drive
Orchard Park, NY 14127

Re: DEC
Krog Corporation 37-acre Development
Amherst, Erie County, NY
15PR04703

Dear Mike McGuigan:

Thank you for requesting the comments of the Division for Historic Preservation of the Office of Parks, Recreation, and Historic Preservation (OPRHP). This project is being reviewed in accordance with the New York State Historic Preservation Act of 1980 (section 14.09 of the New York Parks, Recreation, and Historic Preservation Law). These comments are those of the Division for Historic Preservation and relate only to Archaeological Historic/Cultural resources. Such impacts must be considered as part of the environmental review of the project pursuant to the State Environmental Quality Review Act (New York Environmental Conservation Law Article 8) and its implementing regulations (5NYCRR Part 617)

OPRHP has reviewed the Phase II Archaeological Site Examination report for the Precontact Young Roads Site (USN 02902.000025) and the Meyer & Meyer War of 1812 Site (USN 02902.001552) (formerly considered a component of the Youngs Road Site under USN 02902.000025) prepared by Panamerican Consultants, Inc. (Button et al. August 2021; 21SR00557). Based upon the results of this investigation, OPRHP has determined that the Youngs Road Precontact Site is not eligible for the State or National Registers of Historic Places (S/NRHP). Our office previously determined that the G. Wilkens Historic Site (USN 02902.001333), located within the project's Area of Potential Effects (APE) was not eligible for the (S/NRHP). The Archaeology Unit, therefore, has no further concerns for impacts to the Precontact Young Roads Site (USN 02902.000025) or the G. Wilkens Historic Site (USN 02902.001333), and no further archaeological investigations at these sites are warranted.

As per Panamerican's October 26, 2021 letter, OPRHP understands that the project's APE has been reduced in size, and thus the Meyer & Meyer War of 1812 Site (USN 02902.001552) is no longer located within the current project's APE. The eligibility of the Meyer and Meyer War of 1812 Site for the S/NRHP remains undetermined. While the site is outside of the project APE, OPRHP still has concerns for potential inadvertent impacts to the site during construction. OPRHP thus recommends that a fifty-foot (50-foot) buffer be placed around the Meyer and Meyer War of 1812 Site, and the following Site Preservation and Protection Measures be implemented during construction:

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- The site(s) boundary (including a 50-foot buffer) will be clearly delineated on the final construction plans and identified as “Environmentally Sensitive Area—No Access.”
- Temporary fencing shall be installed around the boundaries of the avoidance area prior to any clearing or construction activities within the APE and shall be maintained until all construction has ceased.
- A preconstruction meeting with the construction contractor(s) is to be required to notify those in charge of the requirements to protect and avoid the archaeological site(s).
- Inadvertent construction impacts are to be reported to the SHPO immediately. Activity shall cease in the vicinity of the site, so the damage can be assessed, and a recommendation provided to remediate the situation.
- In the event that human remains are encountered during construction, all work must stop in the vicinity of the find and be reported to the SHPO.
- After construction is fully completed, protective fences may be removed.

In the event that potential or confirmed human remains are inadvertently encountered during construction, OPRHP recommends that OPRHP/SHPO’s Human Remains Discovery Protocols be implemented (see attached).

It is, therefore, the opinion of OPRHP that this project will have No Adverse Impact on cultural resources, including archaeological and/or historic resources, listed in or eligible for inclusion in the State and National Registers of Historic Places, *with the condition* that the Project implements the above-noted Site Protection and Preservation Measures for the Meyer and Meyer War of 1812 Site during construction, and that in the event that potential human remains are inadvertently encountered during construction, the attached Human Remains Discovery Protocols are applied. This recommendation pertains only to the Area of Potential Effects (APE) examined during the above-referenced investigation. Should the project design change, OPRHP recommends further consultation with this office.

If you have any questions, I can be reached via e-mail at Josalyn.Ferguson@parks.ny.gov.

Sincerely,



Josalyn Ferguson, Ph.D.
Scientist Archaeology

via email only

c.c. Charles Vandrei & David Witt, DEC
c.c. Dan Ulatowski, Town of Amherst
c.c. Edwin Button & Mark Steinback, Panamerican

Attch.

**State Historic Preservation Office/
New York State Office of Parks, Recreation and Historic Preservation
Human Remains Discovery Protocol
(January 2021)**

If human remains are encountered during construction or archaeological investigations, the New York State Historic Preservation Office (SHPO) recommends that the following protocol is implemented.

- Human remains shall be treated with dignity and respect. Should human remains or suspected human remains be encountered, work in the general area of the discovery shall stop immediately and the location shall be secured and protected from damage and disturbance.
- If skeletal remains are identified and the archaeologist is not able to conclusively determine if they are human, the remains and any associated materials shall be left in place. A qualified forensic anthropologist, bioarchaeologist, or physical anthropologist shall assess the remains in situ to help determine if they are human.
- If the remains are determined to be human, law enforcement, the SHPO, the appropriate Indian Nations, and the involved state and federal agencies shall be notified immediately. If law enforcement determines that the burial site is not a criminal matter, no skeletal remains or associated materials shall be removed until appropriate consultation takes place.
- If human remains are determined to be Native American, they shall be left in place and protected from further disturbance until a plan for their avoidance or removal is developed. Please note that avoidance is the preferred option of the SHPO and the Indian Nations. The involved agency shall consult SHPO and the appropriate Indian Nations to develop a plan of action. Photographs of Native American human remains and associated materials should not be taken without consulting with the involved Indian Nations.
- If human remains are determined to be non-Native American, the remains shall be left in place and protected from further disturbance until a plan for their avoidance or removal is developed. Please note that avoidance is the preferred option of the SHPO. The involved agency shall consult SHPO and other appropriate parties to develop a plan of action.
- The SHPO recommends that burial information is not released to the public to protect burial sites from possible looting.