



Onondaga County Planning Federation Annual Symposium

Part Three

Agricultural Districts Law and Local Zoning: What Agricultural Activities are Protected from Local Zoning and What Activities in Agricultural Districts Can Zoning Regulate?

Farm Wineries, Farm Breweries & Farm Distilleries

What Municipalities Need to Know – The Town's Perspective

March 5, 2015

Oncenter, Syracuse, New York

John R. Langey, Esq.

Costello, Cooney & Fearon, PLLC



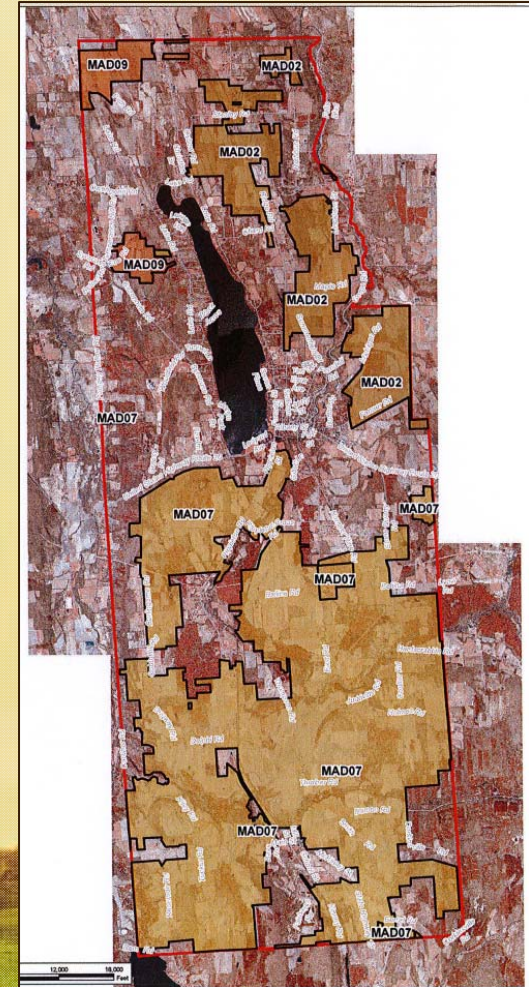
Case Study



🍷 Town of Cazenovia, Madison County

🍷 Cazenovia

- 🍷 Population - 6,787
- 🍷 Size - 33,460 acres
- 🍷 State Certified Ag Districts - 3
- 🍷 Total Ag Acreage - 8,423.48 (approx. 25% of town)



Since 2012

🍷 Major Farm Winery*



🍷 Proposed Farm Distillery (on Route 20)



🍷 Major Farm Brewery (Village)



🍷 3-4 Small Farm Breweries



Are You Ready?

- 🍷 Comprehensive Plan
- 🍷 Zoning Law/Site Plan Law
- 🍷 Local "Right to Farm" Legislation
- 🍷 Other Legislation
 - 🍷 Noise Ordinance
 - 🍷 Event Law

Motion by Councilor Schoch, seconded by Councilor Andersen to open the public hearing regarding proposed Local Law No. 7 of 2007, entitled:

RIGHT TO FARM

Supervisor Moran declared the public hearing opened at 7:51 PM and asked if anyone cared to speak regarding the proposed local law entitled: Right To Farm.

Troy Waffner, Pringle Symonds and William Danchy spoke in favor of the adoption of proposed Local Law No. 7-2007.

Motion by Councilor Andersen, seconded by Councilor Schoch to close the public hearing.

Supervisor Moran declared the public hearing closed at 7:55 PM.

Resolution No. 54 presented by Councilor Schoch, seconded by Councilor Race

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law entitled Local Law No. 7 of 2007, entitled "Right To Farm", was presented and introduced at a regular meeting of the Town Board of the Town of Cazenovia held on June 11, 2007; and

WHEREAS, a public hearing was held on such proposed local law on this 9th day of July, 2007 by the Town Board of the Town of Cazenovia and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Town Board of the Town of Cazenovia in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, the enactment of Proposed Local Law No. 7 of 2007 has been determined to be an Unlisted action for purposes of environmental review, thus concluding the SEQR review process; and

WHEREAS, it is in the public interest to enact said Proposed Local Law No. 7 of 2007, for the following reasons:

The Town Board hereby adopts the findings set forth in Section "1" of the proposed local law.

NOW, THEREFORE, it is RESOLVED, that the Town Board of the Town of Cazenovia, Madison County, New York, does hereby enact Local Law No. 7 of 2007 as follows:

LOCAL LAW NO. 7 2007 RIGHT TO FARM

Be it enacted by the Town Board of the Town of Cazenovia as follows:

Section 1. Legislative Intent and Purpose

The Town Board recognizes that farming is an essential enterprise and an important industry that enhances the economic base, natural environment and quality of life in the Town of Cazenovia. The Town Board further declares that it shall be the policy of the Town to encourage agriculture and foster understanding by all residents of the necessary day-to-day operations involved in farming so as to encourage cooperation with those practices.

It is the general purpose and intent of this law to maintain and preserve the rural traditions and

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Comprehensive Plan



- ❖ Many Comprehensive Plans pay lip service to supporting agriculture, farming, farm operations, farm marketing activities, etc.
- ❖ Zoning & land use decisions (Planning Board, Zoning Board of Appeals & even the Town Board) are required to be in conformance with the adopted Comprehensive Plan
- ❖ What does your Comprehensive Plan say?
 - ❖ Does it specify language about wineries, breweries & distilleries?
 - ❖ Marketing of farm products?



Comprehensive Plan (continued)



❖ Few excerpts from Caz Comp Plan re Ag:

❖ “Agriculture District: To encourage agricultural land uses and those land uses incidental to and supportive of agricultural land uses including supportive agribusiness, and home occupations.”

❖ “Implement alternative zoning regulations for the protection of farmland and open space.”

❖ “In addition to revising its zoning regulations to include farmland protection measures, it is recommended that the Town continue to proactively support its farming community. Supporting the local farmers includes ... encouraging the development of innovative agribusinesses.”

❖ “Continue to work closely with Madison County Farmland Protection Board and Cornell Cooperative Extension to address issues facing the agricultural community.”

❖ “Adopt new conservation subdivision regulations that encourage cluster development”

❖ “Facilitate the development of an agribusiness directory for other communities to reference.”



Comprehensive Plan (continued)



- ❗ Many communities adopt a Comprehensive Plan and never review it after its adoption
- ❗ The Comprehensive Plan should be reviewed on a periodic basis by the Town Board, Planning Board and Zoning Board as they address issues/applications associated with farming and farm practices including farm marketing



Zoning Law



🍷 **Reviewing Aspects of Your Zoning Law**

🍷 Definitions: “Farm,” “Farming,” “Brewery,” “Winery,” “Distillery,” “Commercial,” “Vineyard.”

🍷 Allowed Uses in Districts

🍷 As of Right

🍷 As of Right, but subject to Site Plan Review

🍷 By Special Permit

🍷 Prohibited Uses



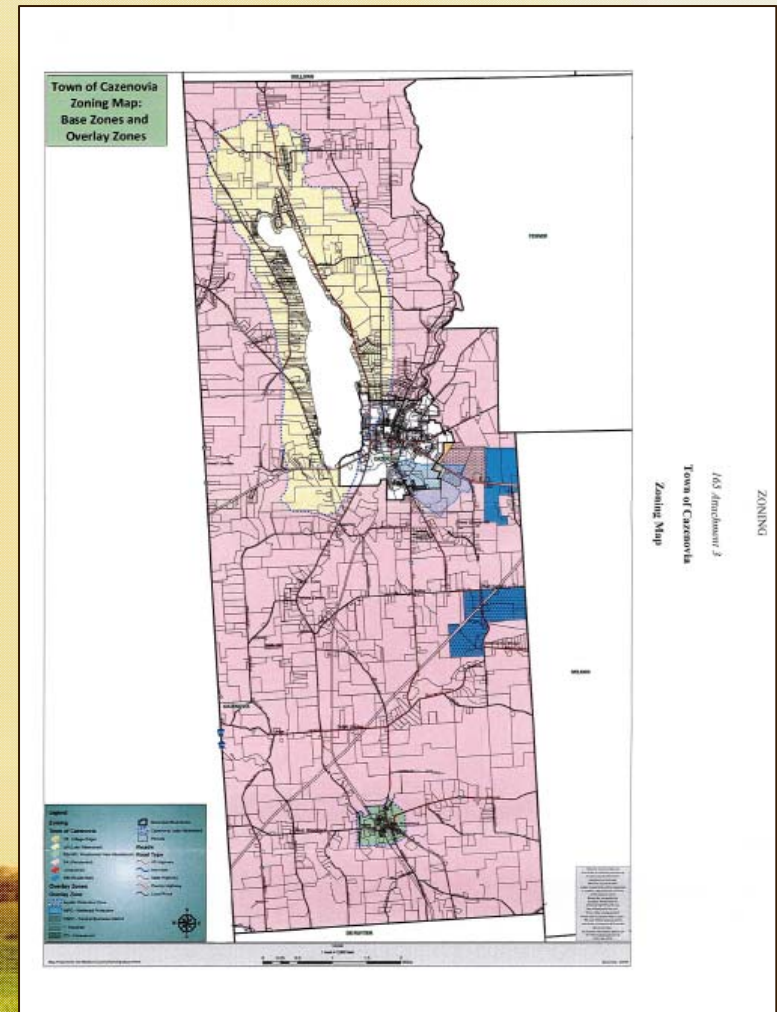
Zoning Law (continued)



🍷 Zoning District Sensitivities

🍷 Base Zoning

- 🍷 Rural Zones
- 🍷 Residential Zones
- 🍷 Industrial Zones
- 🍷 Special Overlay Zones
 - 🍷 Well-Head Protection Districts
 - 🍷 Lake Watershed Districts
 - 🍷 Agricultural Districts
(not the State certified kind)



Case Study - Cazenovia



🍷 **Farm Winery with Marketing Events**

🍷 Original Application – 2008

🍷 The site:

- 🍷 58 +/- acres
- 🍷 Farmland/open field
- 🍷 Within a Rural A (Residential/Agricultural) District
- 🍷 Also in a Lake Watershed District – triggers site plan
- 🍷 Application for a “gentlemen’s farm” – garden for vegetables, plant grapes
- 🍷 Site Plan approved (Lake Watershed District)



Case Study – Cazenovia (continued)

2010 Amendment (Spring)

- Add pond for irrigation
- Access road modification
- Approved

2010 Amendment (#2) (October)

- Expanded ponds
- Bridge over pond/waterway
- Re-align driveway
- 4,500 sq. ft. barn
- Approved

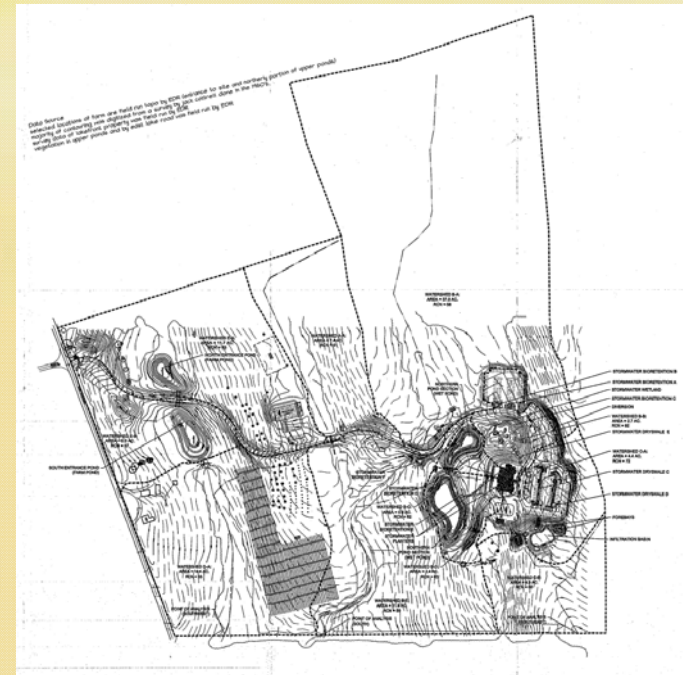


Case Study – Cazenovia (continued)



🍷 2011 Amendment

- 🍷 Establish Vineyard & Winery
 - 🍷 Small tasting area building
 - 🍷 Some associated parking
- 🍷 Property had been placed in a NYS Certified Agricultural District (Ag & Markets Law 25AA)
- 🍷 No objections by neighbors
- 🍷 Little to no discussion of marketing farm products
- 🍷 Planning Board consulted with Ag & Markets regarding what approval process could be utilized – site plan/special use permit/level of review
- 🍷 Application Approved
 - 🍷 Limited number of conditions placed on use through site plan process
 - 🍷 Hours of operation



Case Study – Cazenovia (continued)



🍷 2012 Amendment (January)

- 🍷 Eliminate bridge (was never built)
- 🍷 Relocate barn
- 🍷 Relocate wine making facility
- 🍷 Building elevation modifications
- 🍷 Approved – conditions restated

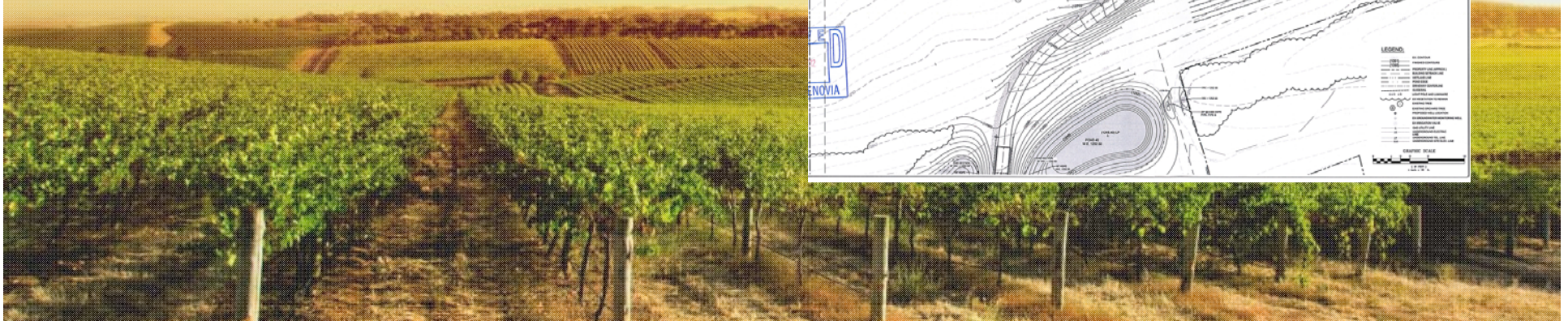
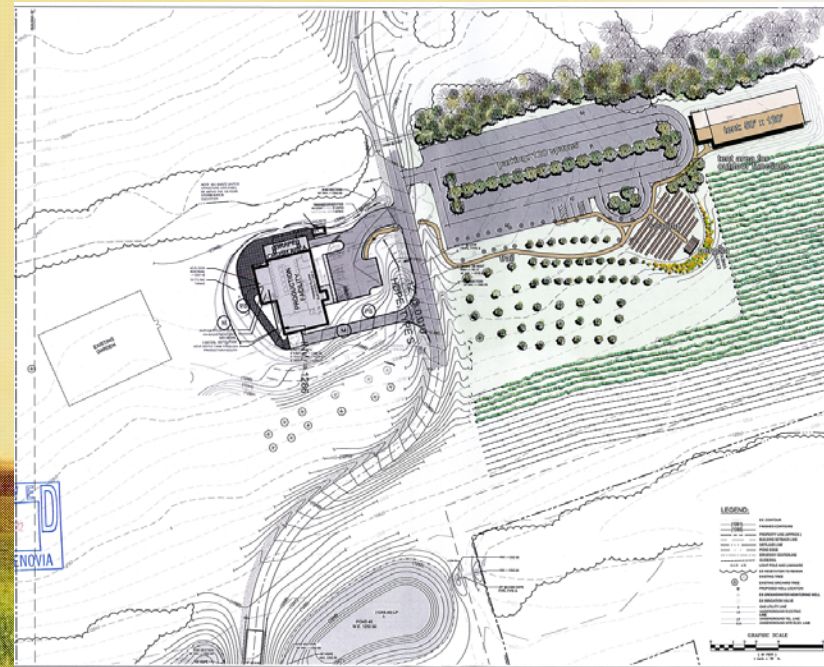


Case Study – Cazenovia (continued)



🍷 2012 Amendment (June)

- 🍷 Temporary (seasonal) tent – 40x100 for limited events
- 🍷 112 parking spaces
- 🍷 No discussion of amplified music, wedding receptions
- 🍷 Approved with conditions
 - 🍷 Hours of operation



Case Study – Cazenovia (continued)



🍷 Summer of 2013

- 🍷 Winery begins to hold large events (350+)
 - 🍷 Wedding receptions
 - 🍷 Fundraisers
 - 🍷 Charitable events
 - 🍷 Shows
 - 🍷 Wine tastings



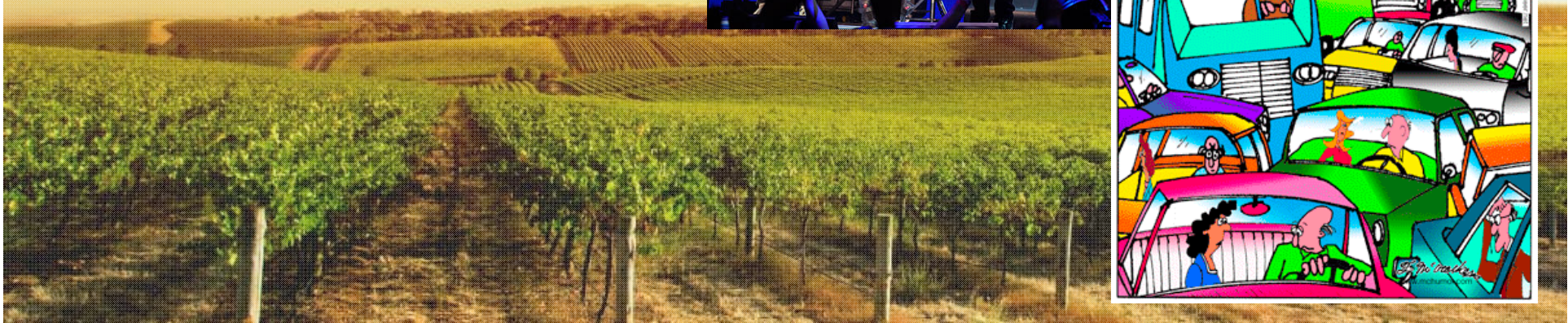
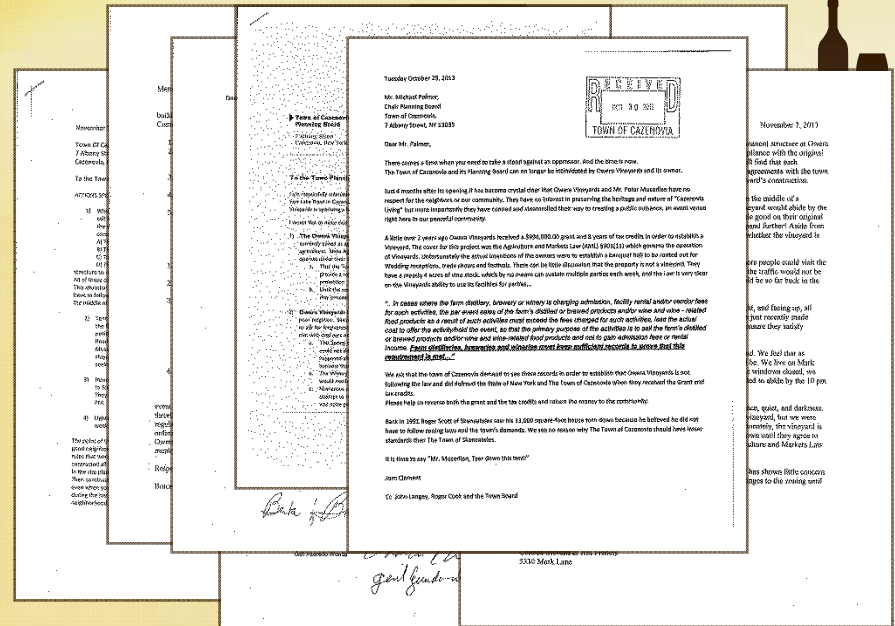
Courtesy of iheartvintagecouture.com

Case Study – Cazenovia (continued)

🍷 The Outfall

🍷 Dozens of Complaints from Neighbors:

- 🍷 Lights (from driveway & cars)
- 🍷 Noise from amplified music at wedding receptions
- 🍷 Traffic (cars leaving events)



Case Study – Cazenovia (continued)

Reaction

- 🍷 Town Consultations with Ag & Markets
- 🍷 Requests by neighbors for Event Law and Noise Ordinance
- 🍷 Town explores Event Law and Noise Ordinance

**PROPOSED LOCAL LAW NO. A-2014
TOWN OF CAZENOVIA**

A LOCAL LAW TO ENACT A NOISE ORDINANCE IN THE TOWN OF CAZENOVIA BY ADDING A NEW CHAPTER 112 TO THE CODE OF THE TOWN OF CAZENOVIA

Be it enacted by the Town of Cazenovia Town Board, as follows:

SECTION 1.
The Code of the Town of Cazenovia is hereby amended to add a new Chapter 112 titled "NOISE, PREVENTION OF" thereto, as follows:

**CHAPTER 112
NOISE, PREVENTION OF**

§112-1. Title.
This law shall be known as the "Prevention and Control of Excessive and Unreasonable Noise in the Town of Cazenovia."

§112-2. Policy statement.
It is hereby declared to be the policy of the Town Board to prevent unreasonably loud, disturbing and unnecessary noise and to reduce noise levels within the Town so as to preserve, protect and promote the public health, safety and welfare and to foster convenience, peace and quiet within the Town by the inhabitants and transients thereof. The Town Board finds that every person is entitled to have maintained noise levels which are not detrimental to life, health and the enjoyment of property and that excessive and unreasonable noise within the Town of Cazenovia affects and is detrimental to public health, safety, welfare and the comfort of the people of the Town.

§112-3. Statutory authorization.
This Chapter is enacted pursuant to §10 of the Municipal Home Rule Law to promote the public health, safety and general welfare of Town citizens through regulations intended to govern noise pollution within the entire Town.

§112-4. Definitions.
As used in this Chapter, the following terms shall have their meanings indicated.
Amplified Sound: Sound which has its volume increased by electronic or other means.
Charitable Event: An event whose sole purpose is to raise money or provide services for a specific charity or nonprofit organization.
Commercial Service Equipment: All engine-powered or motor-powered equipment intended for infrequent service work in inhabited areas, typically requiring commercial or skilled operators. Examples of commercial service equipment are chain saws, log chippers, paving rollers, commercial lawn mowers, etc.
Construction Device: Any powered device or equipment designed and intended for use in construction. Examples of construction devices are air compressors, bulldozers, backhoes, trucks, shovels, derricks and cranes.

other machines or devices within the Town shall be

which when measured on a meter exceeds the following

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A. applicable dBA noise limits

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Code Enforcement Officer

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e Town Code ditions deemed it occur by the ver issued shall e that §240.20, or alarm, or ble noise." If a l all conditions Board shall be and Village of e waiver to the

ge of Cazenovia k State Police Legal Counsel.

ll be guilty of a conviction of a the violation is provision of this s, separate and distinct offenses.

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**PROPOSED LOCAL LAW NO. B-2014
TOWN OF CAZENOVIA**

A LOCAL LAW TO ENACT A SPECIAL EVENTS LAW IN THE TOWN OF CAZENOVIA

Be it enacted by the Town of Cazenovia Town Board, as follows:

SECTION 1. LEGISLATIVE FINDINGS AND PURPOSE.
The purpose and intent of this Local Law is to establish lawful and appropriate procedures and requirements for conducting special events in the Town of Cazenovia in order to preserve the health, safety and welfare of the Town, its residents and visitors alike, and to provide penalties for violations of the provisions herein.
The Town Board finds and determines that special events held at various times throughout the year and at various venues and locations within the Town of Cazenovia enrich and enhance the quality of life of the general public and provide a positive contribution to the cultural, historic, artistic and economic character of the Town. The Town Board also finds that without proper oversight, certain types of special events can be detrimental and negatively impact the peace, quiet, safety and well-being enjoyed by surrounding properties, Town residents and visitors and the general public. Such events, as contemplated herein, will provide and allow for the gathering of a large number of individuals in a concentrated time period and area and will entail the increase of traffic to a site in numbers that may have deleterious impacts if not properly managed. Such gatherings may also lead to the potential for impacts to existing septic and sewage disposal systems presenting consideration to the health of the individuals participating in such events and those surrounding property owners and water courses and resources. These impacts could include noise and light impacts, as well as solid waste handling. The Town Board further finds and determines that a system of organization and review of certain specified special events is a necessary and appropriate method of preserving and protecting the public's health, safety and general welfare, protecting property, maintaining compliance with applicable laws, regulations and codes and maintaining quality of life for all residents and visitors of the Town.

SECTION 2. AUTHORITY.
This Local Law is enacted pursuant to §10 of the Municipal Home Rule Law to promote the public health, safety and general welfare of Town residents through the regulation of special events throughout the Town.

SECTION 3. DEFINITIONS.
As used in this Local Law, the following terms shall have the meaning set forth herein:
Applicant: A person applying for a special event permit pursuant to this Local Law.

er of the Town of Cazenovia,

g capacity shall be the number of the plan approved by the Town of

y, trust, corporation, department, subject of rights and duties.

hibition or activity, including, but ws and concerts, art and cultural s, demonstrations, marches, and

nce at one time for such specific common purpose;

s of right on the property in the ea to accommodate all vehicles g parking capacity of the site; and following characteristics which, g to health, safety and/or welfare:

of Town property, roads or rights- defined in Chapter 112 ("NOISE," of the Town of Cazenovia; not ordinarily sold in the normal e public with the exception of the al production or a farm operation e sale or service of food products s produced at the farm operation; al production or a farm operation hat maintains a winery or farm York State Liquor Authority, the ch customarily complement farm narily consumed while standing or utensils; tion of the normal flow of traffic

Hivities not covered by the provisions of this Local Law shall with all other applicable laws, ordinances and regulations of the

ific to the special event to king or directional signs or could not be necessary in the ly involve the over taxing of d which would exceed the red capacity for the site's

oved pursuant to a site plan, or Zoning Board of Appeals

to this Local Law.

n County, New York.

th, safety and welfare of the s shall be prohibited in the from the Code Enforcement al Law.

gatherings, holidays, parties, ion parties and other similar nds of, a private residence, eration for hosting the event go or asked to contribute a

for-profit organization for its and has adequate parking, cilities to host such an event.

nt shall pay the Town a time by Town Board previously inspected or g Code.

Application for a special lication for a recurring

includes the following

ephone number(s) of the legal status, such as applicant is a partnership, ed if a corporation, the gher with a list of the ge of the special event.

umber(s) of the person(s) e contacted prior to and

the property where the used directly, indirectly any part thereof. Also the nature of the interest

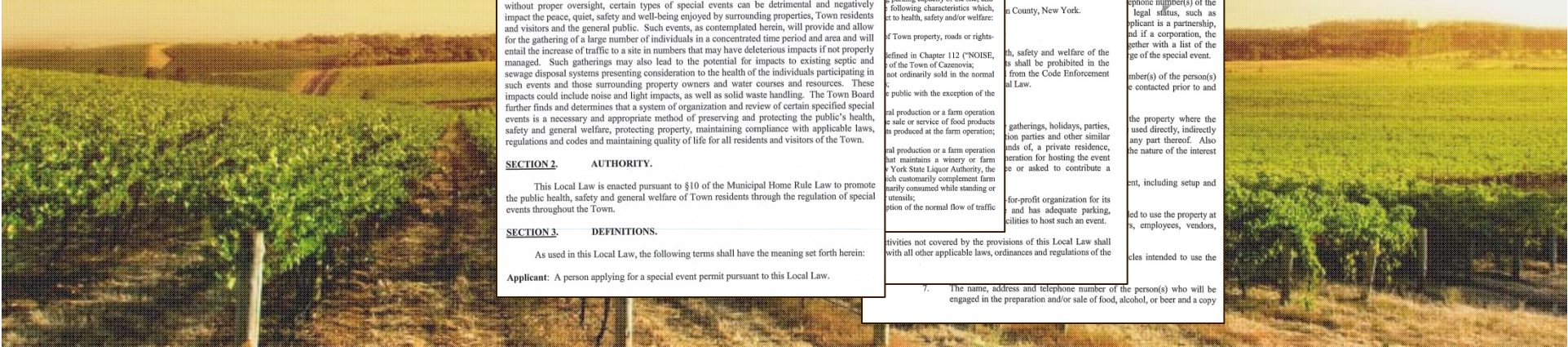
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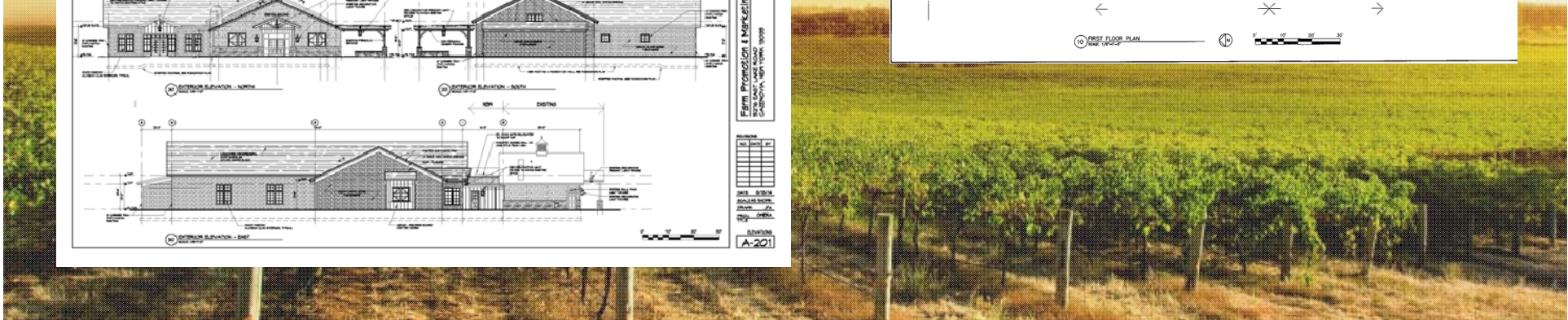
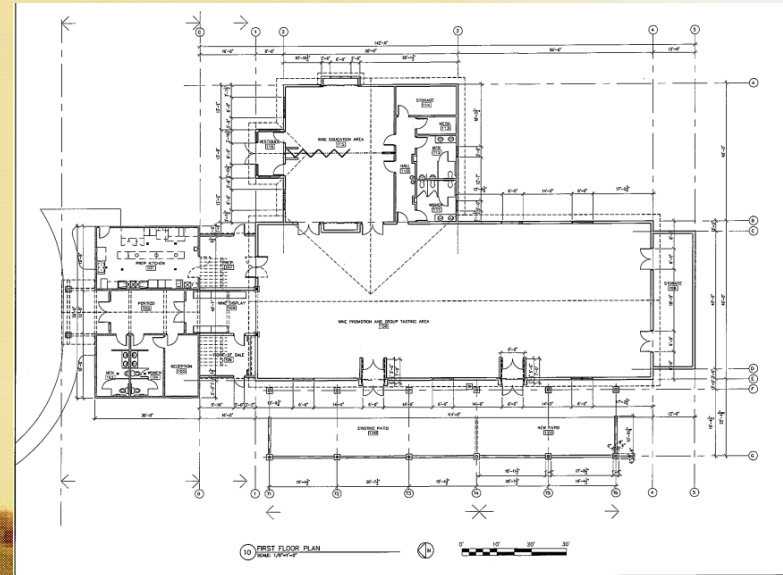
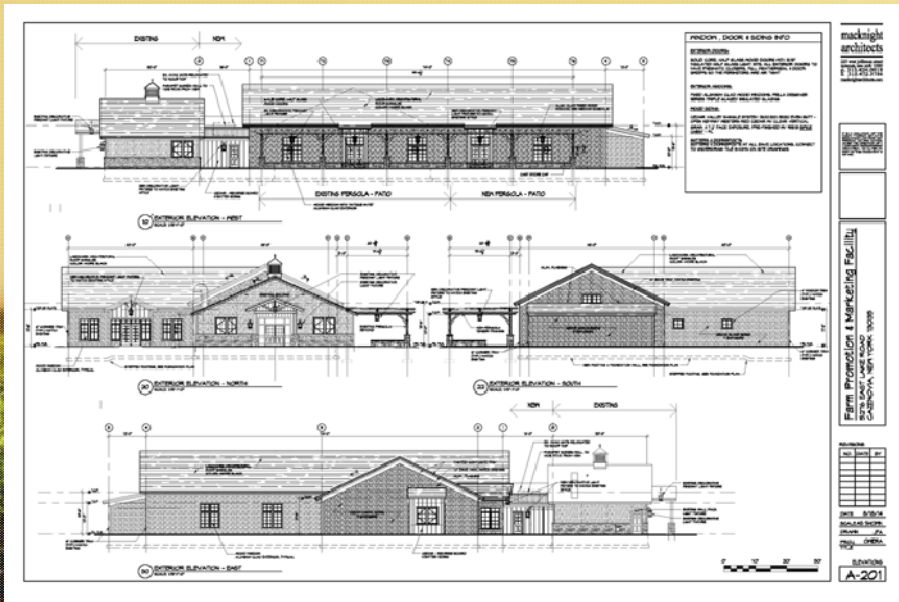


Case Study – Cazenovia (continued)



Winery's Reaction to Complaints

- Challenge by way of interpretation as to approved hours of operation
- Appeal to Town Zoning Board of Appeals
- Obtain certification from Ag & Markets that winery is a “start up” farm winery
- Propose a new building to house farm marketing events (2013-2014)
 - 148x48 stick built construction
 - Unique sound attenuation construction
 - Revised lighting (ongoing)
 - Replace tent



Case Study – Cazenovia (continued)



Winery’s Reaction to Complaints (continued)

Special protocols for events



SCHEDULE “A”

MANAGEMENT PROCEDURES AND PROTOCOLS FOR ALL EVENTS

The following additional mitigations have been offered by the Applicant and considered by the Planning Board in the form of a written management procedure for the use of the facility and the immediate grounds and are hereby adopted as specific conditions to this approval, to wit:

- A standard event contract form shall be created and used by the Applicant and shall identify the regulations and mandatory amplified music connections to in-house system for both the facility and its outdoor spaces, as set forth in this Resolution (a copy of the standard contract will be provided to the Planning Board and the Code Enforcement Officer);
- Event contracts shall further advise of the facility’s hours of operation as set forth in this Resolution;
- The Applicant shall maintain, at all times, administrative control of in-house audio system, with digital mixers set by a professional installer not to exceed the specified/approved maximum interior sound limit (*i.e.* 110 dBA);
- The Applicant shall ensure use of [REDACTED] staff on site to monitor system/music throughout entire event which is not to exceed the specified/approved maximum sound limit;
- During events with amplified sound, the Applicant shall implement the utilization of handheld device(s) at the road and property lines as a random check on noise levels which is not to exceed the specified/approved maximum sound limit;
- The use of fixed windows and limitation and prohibition against the propping or extended opening of exterior doors and windows (*i.e.* doors and windows will remain closed and not propped open) shall be maintained to be less than the specified/approved maximum sound limit;
- All guests of the Property will exit the Premises promptly (no later than sixty (60) minutes) at the end of the function under the direction of the [REDACTED] staff; and
- The driveway and parking lot lighting will be low level and will be extinguished at the end of the event to allow the immediate exit of such guests. No lights will be left on after staff has left the facility.

The Applicant will be required to terminate exterior lighting on the Premises as part of the conditions to approval of its requests, such that, all lights (other than low lying security lighting, will be extinguished on the Premises at the end of any given event subject to the hours of operation referenced elsewhere in this Resolution). The low lying security lights will allow for event employees to safely finalize event cleanup, safely exit the Premises and shall then be extinguished.

Case Study – Cazenovia (continued)



🍷 Some Numbers:

- 🍷 10 lawyers
 - 🍷 2 lawyers for applicant
 - 🍷 4 lawyers for the neighbors
 - 🍷 2 lawyers for the Town
 - 🍷 2 lawyers (consulting) from Ag & Markets



Case Study – Cazenovia (continued)



👉 Experts Employed:

- 👉 2 Traffic Engineers (Applicant/Town)
- 👉 2 Sound Engineers (Applicant/Town)
- 👉 2 Site Engineers (Applicant/Town)
 - 👉 Drainage/storm water
 - 👉 Public water
 - 👉 Sewage disposal



Case Study – Cazenovia (continued)



🍷 Considerations of Approvals:

- 🍷 SEQR
- 🍷 Conditions
- 🍷 Public health, safety & welfare
 - 🍷 Lights
 - 🍷 Noise
 - 🍷 Hours of operation
 - 🍷 Status as a “farm operation” (farm winery under S.L.A.)
 - 🍷 Economic proofs
 - 🍷 Parking
 - 🍷 Size of Structures for farm marketing events
 - 🍷 # of guests
 - 🍷 # of events/day? /month? /year?

Are they proportionate
to the farm operation?



Case Study – Cazenovia (continued)



Checklist of Considerations:

- 🍷 # of Events/Day
- 🍷 Sunday Hours
- 🍷 Dark Sky Compliance – Confirm Compliance: Shut lights off at ____ p.m.
- 🍷 Lights from cars leaving (close operations by ____ p.m.)
- 🍷 Noise from cars & outdoor patrons (clear the site by ____ p.m.)
- 🍷 Hours for events
- 🍷 Noise from AC Units
- 🍷 Enforcement of Noise Limits (penalties/violations)



Case Study – Cazenovia (continued)



🍷 **Checklist of Considerations (continued):**

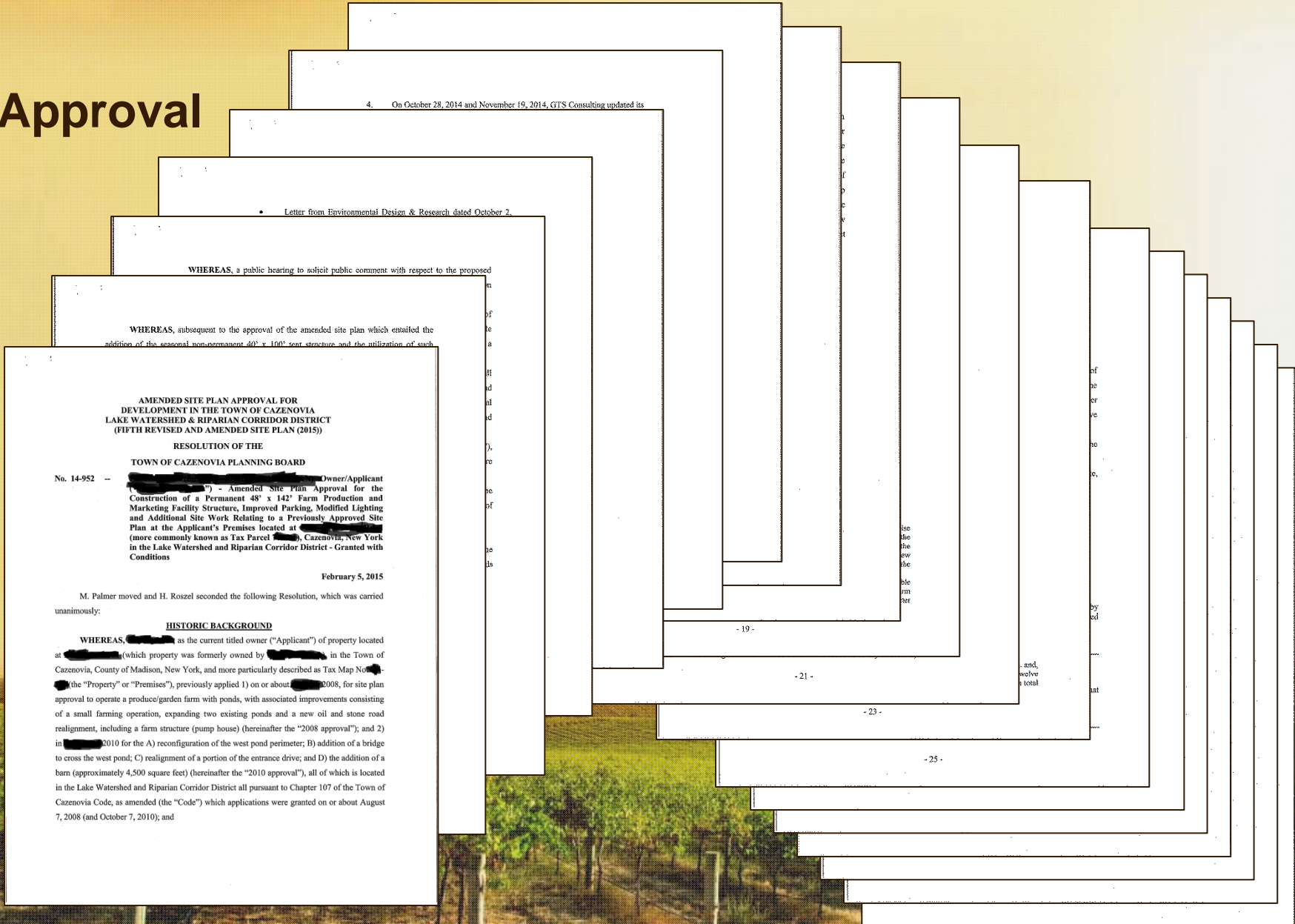
- 🍷 Traffic Safety – biking, walking, running, etc.
- 🍷 Trips Generated and Parking Area Sufficient?
- 🍷 Require Records from Events Under Ag & Markets Guidance? (CPA confirmation?)
- 🍷 Require Proof of Wine Sales vs. Fees Collected?
- 🍷 Health, Safety and Welfare



Post Script – February 2015



Approval



4. On October 28, 2014 and November 19, 2014, GTS Consulting updated its

Letter from Environmental Design & Research dated October 2,

WHEREAS, a public hearing to solicit public comment with respect to the proposed

WHEREAS, subsequent to the approval of the amended site plan which entailed the addition of the seasonal non-permanent 40' x 100' tent structure and the utilization of such

AMENDED SITE PLAN APPROVAL FOR DEVELOPMENT IN THE TOWN OF CAZENOVIA LAKE WATERSHED & RIPARIAN CORRIDOR DISTRICT (FIFTH REVISED AND AMENDED SITE PLAN (2015))

RESOLUTION OF THE TOWN OF CAZENOVIA PLANNING BOARD

No. 14-952 -- [Redacted] Owner/Applicant [Redacted] - Amended Site Plan Approval for the Construction of a Permanent 48' x 142' Farm Production and Marketing Facility Structure, Improved Parking, Modified Lighting and Additional Site Work Relating to a Previously Approved Site Plan at the Applicant's Premises located at [Redacted] (more commonly known as Tax Parcel [Redacted], Cazenovia, New York in the Lake Watershed and Riparian Corridor District - Granted with Conditions

February 5, 2015

M. Palmer moved and H. Roszel seconded the following Resolution, which was carried unanimously:

HISTORIC BACKGROUND

WHEREAS, [Redacted] as the current titled owner ("Applicant") of property located at [Redacted] (which property was formerly owned by [Redacted] in the Town of Cazenovia, County of Madison, New York, and more particularly described as Tax Map No. [Redacted] the "Property" or "Premises"), previously applied 1) on or about [Redacted] 2008, for site plan approval to operate a produce/garden farm with ponds, with associated improvements consisting of a small farming operation, expanding two existing ponds and a new oil and stone road realignment, including a farm structure (pump house) (hereinafter the "2008 approval"); and 2) in [Redacted] 2010 for the A) reconfiguration of the west pond perimeter; B) addition of a bridge to cross the west pond; C) realignment of a portion of the entrance drive; and D) the addition of a barn (approximately 4,500 square feet) (hereinafter the "2010 approval"), all of which is located in the Lake Watershed and Riparian Corridor District all pursuant to Chapter 107 of the Town of Cazenovia Code, as amended (the "Code") which applications were granted on or about August 7, 2008 (and October 7, 2010); and

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Questions or Comments?

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