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January 14, 2020

**VIA EMAIL and
HAND DELIVERY**

To: Town of Clinton Town Board
Town of Clinton
1215 Centre Road
Rhinebeck, NY 12572

RE: Town of Clinton Proposed "Agricultural Events Law" – Public Hearing Comments

Dear Members of the Town Board:

As you know, this firm represents Stephen Simcock, the owner of property in the Town of Clinton located on Rymph Road regarding the above-referenced matter. This letter is being sent on behalf of Mr. Simcock to convey his comments to the Town Board on the revised local law regulating Agricultural Events in the Town of Clinton. It is my understanding the proposed local law will be the subject of a public hearing scheduled to take place on January 14, 2020. Mr. Simcock is planning on attending the public hearing in person due to the importance of the matters under consideration. However, he has also asked me to provide this written summary of his comments in advance of the hearing for the Town Board's convenience.

To begin, I would like to refer the Town Board to my letter of October 7, 2019 which include comments on the prior version of the proposed local law¹. In these comments, I conveyed Mr. Simcock's appreciation for the tremendous effort that has gone into developing this local law and would like to reiterate that sentiment here. Mr. Simcock shares the Town Board's desire to ensure that commercial uses are adequately regulated in the Town of Clinton and recognizes the Town Board has the right and responsibility to enact reasonable zoning regulations to ensure such uses do not negatively impact the Town's residents and rural community character.

The proposed local law has been introduced to permit and regulate Agricultural Events in the Town of Clinton. There has been much discussion regarding the extent to which the Town

¹ I hereby request that this letter be included in the official record of proceedings for the revised local law.

may regulate these activities, however, the N.Y. Department of Agriculture and Markets guidelines clearly provide that a municipality has discretion to impose reasonable regulations and require a thorough review (with opportunity for public comment) before the use is permitted at a given location. The guidelines also specifically state that farms which market crop-based beverages or products through multiple, large-scale events on a regular basis can be required to obtain a special use permit. This is a reasonable approach to regulation that has been adopted by other communities in Dutchess County including the Town of Rhinebeck and the Town of Hyde Park². It is respectfully submitted that this is an appropriate level of regulation for the Town of Clinton that will ensure the goals and recommendations of the Comprehensive Plan are met, and the rural atmosphere of privacy, peace and quiet, that the plan strives to protect, is not adversely impacted.

In the latest version of the local law, the Town Board proposes a revision to Subsection (R) (p. 6) to state, “[w]henver any sections of the Town Code are inconsistent with the express provisions of this Section 250-45, the express provisions of Section 250-45 shall govern, unless explicitly stated otherwise and Agricultural Event Venues shall comply with all local laws and Uniform Code, as amended”. The prior version of the local law included an express reference to Sections 250.96 and 250.97 of the Town Code, which governs site plan and special permit review. By eliminating these specific references, the proposed revision creates an ambiguity as to whether the procedural and substantive requirements for site plan review and special use permits will be applicable to Agricultural Events. This includes a mandatory public hearing and notice to adjacent property owners. The local law includes several references to “Planning Board approval” and/or a “Special Use Permit”, which clearly evidence an intent to require a special use permit for Agricultural Events. However, it is respectfully suggested that the latest revision eliminating reference to Sections 250.96 and 250.97 should be rejected and that additional language added to Section 6 to confirm that review process must include a public hearing with written notice to neighboring property owners.

Additional comments and suggested revisions are offered below for the Town Board’s consideration. These comments reiterate issues that were raised in my prior letter of October 7, but which have not been addressed or discussed during the Town Board’s deliberations on the proposed local law. Comments aimed at the most recent round of revisions are also included. As noted previously, we believe the minor, suggested revisions set forth below are in keeping with the Town Board’s reasonable approach to regulation and are consistent with the guidelines that have been established by the N.Y. Department of Agriculture and Markets.

1. Subsection (F) on page 3 of the Events Law currently provides that “Agricultural Events shall in no case exceed 500” attendees. It is respectfully submitted that each event should be limited to 200 attendees, especially given that Subsection (B) provides that the minimum size of the Lot for an Agricultural Event Venue shall be 10 acres. It is my understanding based on comments made by members of the Board

² See Town of Rhinebeck’s Events Venue Law (Local Law No. 2 of 2013), and Town of Hyde Park (Local Law No. 10 of 2016), which both require site plan approval and special use permits for event venues; see also the Town of Rochester’s Commercial Events Facilities law (§140-35 of the Zoning Code), and Town of Coxsackie Commercial Event Venue law (Local Law No. 1 of 2015).

during the last public hearing that his change will be reflected in the final version of the local law.

2. Subsection (D) on page 3 of the Agricultural Events Law currently provides that “No Parking for an Agricultural Event Venue shall be located less than 100 feet from a Road and 200 feet from any neighboring residences.” It is respectfully submitted that “neighboring residence” should be revised to “neighboring property line”.

The creation and subsequent use of parking areas to accommodate large numbers of guests, and the impacts of lights and noise that is naturally associated with this activity, has the potential to adversely impact neighboring properties. Creating an area of exclusion with a point of reference at the property line (instead of a residence) will mitigate this impact to the maximum extent practicable. A neighbor may make use of their property in areas contiguous to an Agricultural Event Space for recreation, usual cultivation, the keeping of animals, or any other activities that facilitate the peaceable use and enjoyment of their land. If a residence is located more than 200 feet from the property line, parking for large-scale Agricultural Events could take place right up to the property line³. The more practical and reasonable approach would be to measure the minimum setback from the neighboring property line which would ensure an adequate buffer between adjoining land uses. It would also allow for a more accurate site plan as it is unclear how the distance to a neighboring residence can be measured without the consent of a neighboring property. In sum, it is respectfully submitted that the local law should be revised so that that no parking shall be located within 200 feet from “neighboring properties” as measured from the property line. This revision was previously requested but has not been addressed by the Town Board in the latest round of revisions.

3. Subsection (V) on page 6 of the Events Law currently provides that “The boundaries of the Event areas shall be located at least 500 feet from any neighboring residence.” For the same reasons stated above, the local law should be revised to state the boundaries of event areas be located at least 500 feet from “neighboring properties” as measured from the property line (not “neighboring residences”). Again, if a neighboring residence is located 500 or more feet from the property line, there will be no buffer required between the Agricultural Event space and the neighboring property. This is unreasonable, considering the latest version of the local law does not place a limit on the number of events that can be held and allows events to continue for up to four (4) days, with hundreds of attendees.
4. Subsection (W) on page 6 of the Events Law currently provides that “in no case may outdoor activities extend beyond the hours of . . . 10:00 a.m. to 11:00 p.m. on Friday and Saturday . . .” It is respectfully submitted that this provision should be revised to make clear that all outdoor activities, should not be permitted to extend beyond 9:00pm on Fridays and Saturdays. It is reasonable to require that outdoor events end by 9:00pm considering the rural atmosphere of privacy, peace and quiet, that

³ The local law does not include reference to any other applicable setbacks.

characterizes the Town of Clinton⁴. This revision also takes into account the fact that guests will still need to leave the venue at the conclusion of the event. If the event can continue to 11:00pm (as proposed in the current draft), it can be assumed that the noise, light, and traffic that will naturally result from guests leaving the facility (i.e., flashing headlights into neighboring residences as cars leave the event) will extend well beyond that hour. The unlimited number of events that will be permitted under this local law must also be considered when thinking about the adverse impact this would bring to neighboring properties and the bucolic community character. Based on the foregoing, it is respectfully submitted that the proposed local law should be revised to state outdoor activities may not extend beyond the hour of 9:00pm on Fridays and Saturdays.

5. Subsection (Y) on page 7 of the Events Law currently provides that ‘No Event shall last longer than four (4) days.’ Aside from this subsection conflicting with the hours of operation noted in Point 1 above, it is unreasonable to allow for events to extend for up to (4) days long in all cases, which will inevitably lead to prolonged impacts on neighboring residents. As such, we proposed that this subsection be revised to make clear that the Planning Board may determine on a case by case basis if an Event Space shall be permitted to host events that last longer than one (1) day.
6. One of the most concerning revisions included in the latest version of the local law is the elimination of former Section U which provided that an Agricultural Event Venue shall not hold more than either” “[t]en (10) events per calendar year with over 50 attendees; with no more than two (2) events per calendar month with over fifty attendees, or thirty (30) events in total in any calendar year.” This provision has been deleted in its entirety leaving no outer limit on the number of large-scale agricultural events that can be permitted on a given site. This is unreasonable and should be revised. The N.Y. Department of Agriculture and Markets own guidelines state that local regulations that limit the number and size of events may be reasonable where multiple large-scale event are not needed to market crop-based beverages or products. Thus, the local law should be revised to provide, at the least, that the Planning Board shall place limits on the number of events that can be held each year, based upon the previous years’ production numbers which must be provided to the Planning Board on an annual basis as a condition of the special use permit. This revision will ensure Agricultural Events are undertaken for the purpose of promoting agritourism and the marketing of fam products which is the stated intent and purpose of the local law.

On behalf of Mr. Simcock, I would like to again thank the Town Board for its thoughtful consideration of this matter. We believe the local law developed by the Town Board (within the minor revisions proposed herein) will strike an appropriate balance between permitting value-

⁴ It is noted that the revised local law maintains the restriction that amplified sound, including but not limited to music, performances, and spoken words, to enclosed structures and specifically provides that tents, pavilions, structures with open doors or windows, and other open or non-enclosed structures shall not be an acceptable location for the source of amplified sound. The Planning Board is also given discretion to specify further restrictions it deems appropriate relating to the use of amplified sound, and compliance with the performance standards in Section 220-28 (including noise limits) are made applicable. We reiterate that these provisions are critical to ensuring the use of amplified sound does not exacerbate impacts on neighboring property owners and the surrounding neighborhood.

added commercial enterprises on agricultural land and protecting the quiet enjoyment of neighboring properties and the community character.

Very truly yours,



Allyson M. Phillips

cc: Town Board:

Ray Oberly, *Town Supervisor* (townsupervisor@townofclinton.com)

Michael Whitton, *Councilperson* (whittontownboard@gmail.com)

Nancy Cunningham, *Councilperson* (nancyny33@yahoo.com)

Dean Michael, *Councilperson* (dmichael@getaction.net)

Eliot Werner, *Councilperson* (eliotwerner217@gmail.com)

Carol Mackin, *Town Clerk* – TownClerk@TownofClinton.com

----- Original Message -----

Subject: Re: LL re Agricultural Events - TB Agenda for January 14th]
From: Jeff Newman

Hi Dean,

Thank you so much for sending the revised version. I'd say that calling it a very watered down law is an understatement. It seems that this version really doesn't address most of the concerns that lead to creating a revision in the first place, especially considering there are no changes to the existing Conference Center/Dude Ranch components. I'll be very curious to see how people react to it.

After such a long process, I'm sure there's a great motivation to let this be the end of it, but I have to say that there are some significant issues with it that leave too many allowances for development and disturbance. For example, there's nothing protecting our neighbors from someone developing a property like the Dutchess into a wedding mill with regular and frequent events of up to 456 people.

Lastly, two of the most difficult and problematic sections still exist: the requirement that all amplified sound be within an enclosed structure and the annual renewal process. The first is, actually, impossible and the second limits a property's ability to be marketable once developed. I think these are easy fixes by simply leaving it that Section 250-28(A) must be followed and by using the word 'review' in place of 'renew'.

Sorry, I really don't mean to raise anything that might lead to more delays and I truly respect all the time and work you've put into this, especially in the midst of it being such a hot-button issue. But, I'm afraid this new version will bring more discontent and complaints, not less. I'd really love to know your thoughts.

In any case, I look forward to seeing you at the meeting tomorrow.

Take care,
Jeff

Comments regarding proposed local Law No. ___ of 2020

from Scott Hues, 160 Schutz Hill Road

- 1) Is it the intent of this proposed law to be equally applicable to an Agricultural Event Venue (page 1), an Event (page 2) and Dude Ranch (page 5 letter P)? It appears as though the document does not treat each with the same weight with respect to number of attendees and enforcement.
- 2) Why aren't the standards for an "event" and "dude ranch" held to a higher standard as they are strictly a commercial venue that wish to reside in residential neighborhoods? Why are they even being allowed in residential areas?
- 3) This document clearly puts limits on "Agricultural Event Venue" (page 3 item F). If we are to allow "events & dude ranches" why aren't there specific regulations regarding number of events, length of events, and maximum number of attendees contained in this document?
- 4) Page 2 subsection 250-45.1, item B – the lot size of 75 acres should be reinstated as 10 acres is really too small to hold an event that may have 100's of attendees. By time you remove the structures, driveways, parking, minimum offsets for these improvements along with proposed offsets defined in this document and it is clear that 10 acres is totally unsuitable for events with 100's of attendees.
- 5) Page 2 subsection 250-45.1, item D – the proposed parking restrictions as defined in this document of 200 feet from and adjoining residence should be revised to 200 feet from the property line as often times these locations are in open space areas and end up having parking lots that directly abut a neighbor's property line. Who wants 100 plus cars parked along their property line?
- 6) Page 2 subsection 250-45.1, item D – driveway access should be set at 200 feet from property lines so as to minimize impact on adjoining neighbors thereby reducing noise, dust, lights from vehicles headlights that cast onto houses when cars enter property and minimize the disturbance from vehicle traffic volumes on the adjoiner.
- 7) Page 2 subsection 250-45.1, item E – this item should be revisited especially the part defined in the last sentence with regards to internal roadways with respect to emergency vehicles, delivery trucks and traffic volumes. Any proposed roadway should be able to accommodate vehicular traffic in each direction for safety purposes.
- 8) Page 2 subsection 250-45.1, item F – if the 10 acres is to be used then the number of attendees should be reduced to 50. This proposed 10-acre minimum takes in no consideration for long narrow lots or flag lots with long driveways which could end up taking several acres of land. This law also does not take in the amount of land that is needed for the infrastructure of a Agricultural Event Venue, an Event or a Dude Ranch. Driveways which should be wide enough for two cars to bypass one another for safety reasons, exceptionally long driveway, parking lots, screening and offsets for all improvements associated with these will require a significant amount of area.
- 9) Page 2 subsection 250-45.1, item H – how is this even possible? These "events & dude ranches" will definitely have an adverse effect on the neighboring residential properties? If you think that having 50 to 100 plus cars using driveways that may be 200 feet from your house has no effect you are sorely off base. If you think that having parking lots that maybe 200 feet from your house has no effect you are sorely off base. If you think that an event that has 100 plus attendees along with the professional staffing has no effect you are sorely off base once again. The only way that you could possibly prove to me that this will have no adverse effect on neighboring residential properties is if you have a signed affidavit from ALL neighbors that they have no objections.
- 10) Page 2 subsection 250-45.1, item L – how will you possibly be able to enforce this regulation? If the facilities listed in this section exist who is to stop them from using them during the event? Will they have to be removed as this is the only real way to have them not being utilized at an event.

- 11) Page 2 subsection 250-45.1, item M – should be reinstated for the safety of the public.
- 12) Page 2 subsection 250-45.1, item N – Why was the last sentenced removed? How can this proposed law be enforced if no access can be obtained to verify compliance?
- 13) Page 2 subsection 250-45.1, item P – How is this compliance going to be done? We have a part-time zoning-administrator who only works several hours a week during normal working hours. Most if not all of these events occur on weekends and nights. Are they going to come out at 10 PM to investigate complaints? All complaints must be verified by zoning-administrator – how will this be done if they aren't able to physically come out and investigate complaints at the time they occur? This will turn into a he said she said situation without the zoning-administrator being able to observe violations in person as they occur. I have ready complained about noise to the zoning-administrator about the illegal operation next door and he did not come out to verify my complaint so nothing was done. We don't need a ton more laws. What we need is the town to enforce the laws that currently exist. We need the town to stop passing the buck between the board and the zoning-administrator and stop throwing us under the bus.
- 14) Page 2 subsection 250-45.1, item V – please describe in **DETAIL** exactly what the “boundaries of the event” includes so we can ascertain where the 500 feet begins.
- 15) Page 2 subsection 250-45.1, item W – cleanup after 11 PM who wants truck traffic, and staff leaving the property 2 hours or more after the event is over? There is noise and traffic associated with this function. This needs to be revisited.
- 16) Page 2 subsection 250-45.1, item Y – a four-day events surely puts an undue burden on an adjoining neighbor this needs to be eliminated. Some farms in Red Hook hold musical events which generate a large volume of traffic and noise what is to stop this from happening in our town.
- 17) Page 2 subsection 250-45.1, item Z – The limits of liability seem substantially under what they shoulder especially given that sheer size of the number of attendees that is being proposed. Most contractors are required to have higher limits than these.

In conclusion while I understand what you are attempting to do with this proposed new law, I feel that you don't really have a grasp on the impact of having these proposed events has on you as an adjoining owner. I work all work and the weekends are my time to relax and enjoy some quite time with my family and friends. These events negatively affect the enjoyment and solitude that existed prior to theme deciding to run businesses in a residential neighborhood along with having a negative effect on the value of my property.

Sincerely,



Scott F. Hues
160 Schultz Hill Road
Staatsburg, NY 12580