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December 8, 2020

Supervisor Ray Oberly and
Members of the Town of Clinton Town Board
1215 Centre Road
Rhinebeck, NY 12572

Re: Proposed Local Law of 2020– “Agricultural Events Law”

Dear Supervisor Oberly and Members of the Town Board:

We thank the Town Board for its continued work on the “Agricultural Events Laws” and its consideration of our earlier comments, particularly the decision to revise the special use permit procedure to remove the requirement for annual application for renewal. [Section D(xiii)]. The law now requires the Zoning Administrator to submit an annual report to the Planning Board. The Planning Board “shall have the discretion to amend or revoke the Special Use Permit based upon the findings of its annual review and may, in its discretion, hold a public hearing prior to taking any action.” We submit additional comment in response to this quoted language.

A municipal board’s decision to revoke a special use permit cannot be arbitrary and capricious, must be supported by substantial evidence, and certain procedural formalities must be followed.¹ All parties in interest are to receive notice and be provided a public hearing prior to the revocation of the permit.² Revocation is not appropriate when it would be an unduly harsh penalty for the alleged violation and shocking to one’s sense of fairness.³

Therefore, it is respectfully submitted that the language quoted above should be revised to provide for a public hearing on notice to all interested parties only if the Planning Board finds the Zoning Administrator’s report raises grounds for the amendment or revocation of the special use permit. The review of the matter should be complete if the Zoning Administrator’s annual report does not raise any allegations that the permit holder has violated the terms and conditions of the special use permit.

¹ *Matter of Aprile v. LoGrande*, 89 A.D.2d 563 (2d Dept. 1983), *aff’d* 59 N.Y.2d 886 (1983) (due process requires that the permit holder be sufficiently informed so they are prepared to rebut evidence against them); *Northside Salvage Auto v. Bd. of Appeals*, 199 A.D.2d 1001 (4th Dept. 1993) (decision of Board to revoke a special use permit reversed).

² *Country Ridge Club v. Posillipo*, 178 N.Y.S.2d 468 (Sup. Ct., Westchester Co. 1958).

³ *See generally Gross v. Mariglio*, 149 A.D.2d 922 (4th Dept. 1989)



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Thank you for the continued opportunity to comment on the proposed local law.

Very truly yours,

A handwritten signature in blue ink that reads "Rebecca A. Valk". The signature is written in a cursive, flowing style.

Rebecca A. Valk