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COUNTY OF ERIE

AGRICULTURAL AND FARMLAND PROTECTION BOARD

October 30, 2015

The Honorable John J. Mills,
Chairman, Erie County Legislature
Old County Hall
92 Franklin Street,
Fourth Floor,
Buffalo, NY 14202

Dear Legislator Mills,

Erie County Agricultural and Farmland Protection Board (AFPB) is pleased to transmit the attached 2015 annual request for additions to existing Agricultural Districts pursuant to Section 303b of the Agriculture and Markets Law. The AFPB respectfully requests that the Erie County Legislature review and provide a recommendation on the proposed additions.

Should you have any questions, please feel free to contact me at 759-6802 or by e-mail Brett@krehereggs.net.

Regards,

A handwritten signature in cursive script that reads "Brett Kreher".

Brett Kreher
CHAIRMAN,
ERIE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD



ERIE COUNTY AGRICULTURAL DISTRICTS INCLUSION OF VIABLE AGRICULTURAL LAND 2015 REPORT

PREPARED BY: ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING

FOR: ERIE COUNTY AGRICULTURAL & FARMLAND PROTECTION BOARD ERIE COUNTY LEGISLATURE
NEW YORK STATE DEPARTMENT OF AGRICULTURE & MARKETS

PURSUANT TO: SECTION 303-B OF THE AGRICULTURE AND MARKETS LAW

OVERVIEW

Per section 303-b of New York Agriculture and Markets Law, the Erie County Legislature set the month of September, 2015 as the annual 30-day period to consider property owner requests for predominately viable agricultural land to be added to an agricultural district.

Section 303-b also requires the Erie County Agricultural and Farmland Protection Board (AFPB) to report to the Erie County Legislature with its recommendations as to whether the land to requested to be included in an agricultural district:

- consists of viable agricultural land as defined in 301(7) of New York Agriculture and Markets Law; and
- would serve the public interest by assisting in maintaining a viable agricultural industry within the district.

PROPERTY OWNER REQUESTS

During the 2015 open enrollment period, the AFPB received forty-four applications for the inclusion of seventy-eight total parcels:

#	PARCEL(S)	ACRES (total)	ADDRESS	TOWN	APPLICANT	DISTRICT
1	335.11-1-1.112 335.11-1-10.1 335.11-1-11 332-1-43.1	56.088	4451 Route 78	Springville	Sean Fitzpatrick	Concord 15
2	229.00-2-18.2 229.00-2-19	48.5	8213 Center Street	Holland	Paul M. Cohn	Holland 11
3	188.00-3-23.1	145	1231 Olean Road	South Wales	John B. Hitchings	Wales 12
4	195.00-1-7.2	29.55	3134 Old Lakeview Road	Hamburg	Michael Jablonski	Eden 2

5	175.00-2-27.2	4.36	619 South Street	East Aurora	Aurora Community Gardeners Inc.	Wales 12
6	11.00-1-11 23.08-1-4.11	23.58	2487 Long Road	Grand Island	Thomas & Wendy Thompson	Amherst 17
7	50.17-1-3.121	40	1639 West River Road	Grand Island	Russell P. Colosi	Amherst 17
8	11.00-1-1	37.62	2801 Long Road	Grand Island	Ash Brooke Court Enterprises	Amherst 17
9	23.00-3-2.1	38.73	2630 Bedell Road	Grand Island	Peter L. Sparks	Amherst 17
10	36.00-3-13 36.00-3-21.1	34.29	2723 Staley Road	Grand Island	Robert C. Luthringer	Amherst 17
11	50.04-1-12.1	35.74	2655 Fix Road	Grand Island	Mary Beth & Jeffery A. Smith	Amherst 17
12	25.00-1-21 25.00-1-22	16.11	555 Ransom Road	Grand Island	Elizabeth L. Hopkins	Amherst 17
13	36.00-4-8.213	5.345	3013 Staley Road	Grand Island	Mary & Bryant Pfalzer	Amherst 17
14	12.00-1-4.11	48	5345 East River Road	Grand Island	Cyrus Ardan	Amherst 17
15	63.02-2-38.311	10.33	2230 Fix Road	Grand Island	Patricia Giordano-Birtz & Stephen Birtz	Amherst 17
16	50.18-1-23.1	3.1	2935 Fix Road	Grand Island	Robert & Audra Wynne	Amherst 17
17	64.05-1-37.1	0.56	2189 Fix Road	Grand Island	Tina Wynne	Amherst 17
18	64.05-3-13.111	2.9	2020 Fix Road	Grand Island	Bryce & Robin Shipman	Amherst 17
19	37.02-2-2 37.02-2-3	15.4	1175 Whitehaven Road	Grand Island	Suzanne L. Langenfeld	Amherst 17
20	36.00-2-4 36.00-2-5 24.03-1-4 24.03-1-11 24.03-1-39	41.94	2438 Whitehaven Road 2450 Whitehaven Road	Grand Island	Dianne Nassar	Amherst 17
21	36.00-2-34	9.5	2413 Staley Road	Grand Island	James Heitman	Amherst 17
22	36.00-3-34.12 36.00-3-35.1	20.24	2945 Staley Road	Grand Island	Raymond J. Fisher	Amherst 17

23	36.00-3-34.111	8	2919 Staley Road	Grand Island	David Fisher	Amherst 17
24	36.00-3-34.112	7.88	2933 Staley Road	Grand Island	Bonnie Fisher	Amherst 17
25	36.00-1-6.11 36.00-1-7 36.00-1-11.2	78.55	2449 Whitehaven Road 2605 Whitehaven Road	Grand Island	George L. DeGlopper	Amherst 17
26	12.00-2-3.11	110	4943 East River Road	Grand Island	Christie Harper	Amherst 17
27	37.04-1-51.11	7.03	1839 Stony Point Road	Grand Island	Christopher Beyer	Amherst 17
28	50.04-2-10	6.18	2689 Fix Road	Grand Island	Christopher A. Russell	Amherst 17
29	64.06-3-25 50.00-2-2.2 51.13-4-2 51.13-4-3	9.31	828 East River Road 1270 Baseline Road	Grand Island	Richard & Jennifer Benz	Amherst 17
30	24.16-2-21	0.73	1101 Ransom Road	Grand Island	Mansard LLC	Amherst 17
31	36.00-1-8	33.4	2489 Whitehaven Road	Grand Island	Nicole Gerber	Amherst 17
32	63.02-2-38.111	14.6	2300 Fix Road	Grand Island	Nick Stuckert	Amherst 17
33	36.04-1-46.1	5.75	2175 Staley Road	Grand Island	David Williams	Amherst 17
34	37.03-3-15	3	2076 Stony Point Road	Grand Island	Kim Leys	Amherst 17
35	36.00-2-22.1	9.64	2303 Staley Road	Grand Island	Mark & Marci Lange	Amherst 17
36	36.00-3-32.2	14.55	2855 Staley Road	Grand Island	Kenneth Sandford	Amherst 17
37	24.11-1-4.1	3.87	3030 Stony Point Road	Grand Island	Patricia Burg	Amherst 17
38	36.00-3-23	6.1	2743 Staley Road	Grand Island	Susan Sondel	Amherst 17
39	50.00-3-2.2	4.8	2406 Love Road	Grand Island	Joseph & Susan Salamone	Amherst 17
40	36.00-3-37	9.5	2975 Staley Road	Grand Island	Holly's Horse Haven LLC	Amherst 17

41	37.01-2-3.1 37.01-2-4.2	2.11	1645 Whitehaven Road 1655 Whitehaven Road	Grand Island	John & Caroyln Tripi	Amherst 17
42	23.02-3-55	18.01	145 Morningside Drive	Grand Island	Elizabeth Szur- O'Connor & Kenneth K. O'Connor	Amherst 17
43	23.08-2-75 23.08-2-77 23.08-2-78	0.87	0 Morningside Drive	Grand Island	Alex Szur	Amherst 17
44	23.08-2-44 23.08-2-45 23.08-2-46 23.08-2-47 23.08-2-48 23.08-2-49 23.08-2-50 23.08-2-71 23.08-2-72 23.08-2-73 23.08-2-74 23.08-2-76 23.08-2-79.1 23.08-2-82	5.77	0 Morningside Drive	Grand Island	Szur Builders Inc.	Amherst 17

PUBLIC HEARING

A public hearing must also be held by the Erie County Legislature to consider the requests of property owners. The Erie County Legislature gave the required public notice and set a public hearing for November 19, 2015 at the Cornell Cooperative Extension building in East Aurora at 6:00 p.m. on the 2015 30-day open period.

RECOMMENDATIONS TO THE ERIE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD

The Erie County Agricultural and Farmland Protection Board (AFPB) considered the above-mentioned requests for the inclusion of seventy-eight parcels into Erie County's Agricultural Districts. The Board's decisions are based upon Agricultural District Law, which states that parcels to be included in agricultural districts must be "land highly suitable for agricultural production" and which continue to be feasible for farming if conditions remain the same.

Each parcel requested for inclusion has been analyzed in detail by the active members of the AFPB. The Board has identified soil types and suitability for agriculture, type of operation, whether the parcel is owner-operated or rented, gross sales, surrounding land use, eligibility for agricultural assessment, consistency with zoning, local and regional planning documents, proximity to existing agricultural districts, and eligibility for inclusion pursuant to Article 25AA of Agriculture & Markets Law. This data is provided in the matrix included as Attachment 45.

Based upon the abovementioned criteria and data, the Board makes the following recommendations:

- **Recommend inclusion of:**
 - The Fitzpatrick parcels (1) in the Village of Springville and the Town of Concord into the Concord Agricultural District.
 - The Cohn parcel (2) in the Town of Holland into the Holland Agricultural District.
 - The Hitchings parcel (3) in the Hamlet of South Wales into the Wales Agricultural District.
 - The Jablonski parcel (4) in the Town of Hamburg into the Eden Agricultural District.
 - The Thompson parcels (6) in the Town of Grand Island into the Amherst Agricultural District.
 - The Colosi parcel (7) in the Town of Grand Island into the Amherst Agricultural District.
 - The Ash Brooke Court Enterprises parcel (8) in the Town of Grand Island into the Amherst Agricultural District.
 - The Sparks parcel (9) in the Town of Grand Island into the Amherst Agricultural District.
 - The Luthringer parcels (10) in the Town of Grand Island into the Amherst Agricultural District.
 - The Smith parcel (11) in the Town of Grand Island into the Amherst Agricultural District.
 - The Hopkins parcels (12) in the Town of Grand Island into the Amherst Agricultural District.
 - The Pfalzer parcel (13) in the Town of Grand Island into the Amherst Agricultural District.
 - The Ardalan parcel (14) in the Town of Grand Island into the Amherst Agricultural District.
 - The Birtz/Giordano-Birtz parcel (15) in the Town of Grand Island into the Amherst Agricultural District.
 - The R. & A. Wynne parcel (16) in the Town of Grand Island into the Amherst Agricultural District.
 - The Langenfeld parcel (19) in the Town of Grand Island into the Amherst Agricultural District.
 - The Nasser parcels (20) in the Town of Grand Island into the Amherst Agricultural District.

- The Heitman parcel (21) in the Town of Grand Island into the Amherst Agricultural District.
 - The R. Fisher parcels (22) in the Town of Grand Island into the Amherst Agricultural District.
 - The D. Fisher parcel (23) in the Town of Grand Island into the Amherst Agricultural District.
 - The B. Fisher parcel (24) in the Town of Grand Island into the Amherst Agricultural District.
 - The DeGlopper parcels (25) in the Town of Grand Island into the Amherst Agricultural District.
 - The Beyer parcel (27) in the Town of Grand Island into the Amherst Agricultural District.
 - The Russell parcel (28) in the Town of Grand Island into the Amherst Agricultural District.
 - The Benz parcels (SBLs: 50.00-2-2.2; 51.13-4-2; 51.13-4-3) (29) in the Town of Grand Island into the Amherst Agricultural District.
 - The Gerber parcel (31) in the Town of Grand Island into the Amherst Agricultural District.
 - The Stuckert parcel (32) in the Town of Grand Island into the Amherst Agricultural District.
 - The Williams parcel (33) in the Town of Grand Island into the Amherst Agricultural District.
 - The Lange parcel (35) in the Town of Grand Island into the Amherst Agricultural District.
 - The Sandford parcel (36) in the Town of Grand Island into the Amherst Agricultural District.
 - The Sondel parcel (38) in the Town of Grand Island into the Amherst Agricultural District.
 - The Salamone parcel (39) in the Town of Grand Island into the Amherst Agricultural District.
 - The Holly's Horse Haven parcel (40) in the Town of Grand Island into the Amherst Agricultural District.
 - The Szur-O'Connor parcel (42) in the Town of Grand Island into the Amherst Agricultural District.
- Regarding the Aurora Community Gardeners (5) parcel in the Town of Aurora, the Board **does not recommend inclusion** into the Wales Agricultural District. The decision was based upon Agricultural District Law, which states that parcels to be included in agricultural districts must be "viable agricultural land", which is highly suitable for a farm operation as defined in Section 301. It remains the view of the Board that community gardens are not classified as a "farming operation" in Section 301 of the Agricultural District Law. Echoing the decision from the 2013 Open Enrollment Period, the Board

does not feel that a community garden is intended for agricultural production, but rather, recreational gardening by non-farmers.

- Regarding the Tina Wynne parcel (17) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the location of the parcel within one of the most densely populated areas of the Town. The parcel does not meet minimum lot size requirements for agricultural uses within a Medium-Density Single Family Residential zoned area per Town of Grand Island municipal zoning. Additionally, the Board does not feel that a personal garden is intended for agricultural production, but rather, recreational gardening by non-farmers.
- Regarding the Bryce & Robin Shipman parcel (18) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the location of the parcel within one of the most densely populated areas of the Town. The parcel does not meet minimum lot size requirements for agricultural uses within a Medium-Density Single Family Residential zoned area per Town of Grand Island municipal zoning.
- Regarding the Christie – Robert Harper parcel (26) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the location of the parcel within the area of the Town designated by Erie and Niagara Counties’ Framework for Regional Growth as a developed area. Additionally, the Board feels it would be more comfortable recommending this parcel for inclusion if more of the parcel was cleared for cropland.
- Regarding the Richard & Jennifer Benz parcel (SBL: 64.06-3-25) (29) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the location of the parcel in one of the most densely populated areas of the town. The parcel does not meet minimum lot size requirements for agricultural uses within a Medium-Density Single Family Residential zoned area per Town of Grand Island municipal zoning.
- Regarding the Mansard LLC parcel (30) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the location of the parcel in one of the most densely populated areas of the Town. The parcel does not meet minimum lot size requirements for agricultural uses within a Medium-Density Single Family Residential zoned area per Town of Grand Island municipal zoning.
- Regarding the Kim Leys parcel (34) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the Board’s determination that participation in a 4-H program does not qualify as an agricultural operation.
- Regarding the Patricia Burg parcel (37) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the location of the parcel within the area of the Town designated by Erie and Niagara Counties’ Framework for Regional Growth as a developed area. The parcel also does not meet minimum lot size requirements for agricultural uses within a Medium-Density Single Family Residential zoned area per Town of Grand Island municipal zoning.

Additionally, the Board feels that a personal horse use operation does not qualify as an agricultural operation as defined in Section 301 of the Agricultural District Law.

- Regarding the John & Carolyn Tripi parcel (41) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the location of the parcel within the area of the Town designated by Erie and Niagara Counties' Framework for Regional Growth as a developed area. The parcel also does not meet minimum lot size requirements for agricultural uses within a Medium-Density Single Family Residential zoned area per Town of Grand Island municipal zoning.
- Regarding the Alex Szur and Szur Builders Inc. parcels (43, 44) in the Town of Grand Island, the Board **does not recommend** inclusion into the Amherst Agricultural District. The decision was based upon the parcels involved having previously been subdivided for residential development. Additionally, the Board feels that if the applicant abandons the parcels divided for a subdivision, they could then join them as one parcel and apply again next year for inclusion into the Amherst Agricultural District.

NOTES:

- Regarding the parcels that were recommended for inclusion but do not meet the description of a "farm operation", it was determined through the State of New York Department of Agriculture and Markets while the land may be included within an Agricultural District, they are not subject to the protections of the Agriculture and Markets Law until they have become viable farm operations.
- Additionally, being included in an Agricultural District does not exempt landowners from municipal and town laws.

The following applications were submitted during the open enrollment process but, due to a clerical error, were not presented to the Agricultural and Farmland Protection Board for review. A review of these applications by the Agricultural and Farmland Protection Board is pending and an addendum to this report will be filed upon its completion.

PARCEL(S)	ACRES (TOTAL)	ADDRESS	TOWN	APPLICANT	DISTRICT
50.00-1-3.11	6.21	3050 Staley Road	Grand Island	Lynn Kahn	Amherst 17
63.02-2-37	5	2326 Fix Road	Grand Island	Dennis & Adele Upton	Amherst 17
63.02-2-35.1	16.5	2350 Fix Road	Grand Island	Peter & Linda A. Gottler	Amherst 17
23.08-1-16	0.96	2432 Long Road	Grand Island	Regina Kernin	Amherst 17
37.02-2-5.12 37.02-2-5.11 37.02-2-4	32.6	1149 Whitehaven Road	Grand Island	Krista & Daniel Drexelius	Amherst 17
25.00-2-39	5.01	394 Ransom Road	Grand Island	Jayne Schaber	Amherst 17

LIST OF ATTACHMENTS:

- 1) Fitzpatrick Application & Map (335.11-1-112; 335.11-1-10.1; 335.11-1-11; 322.00-1-43.1)
- 2) Cohn Application & Map (229.00-2-19; 229.00-2-18.2)
- 3) Hitchings Application & Map (188.00-3-23.1)
- 4) Jablonski Application & Map (195.00-1-7.2)
- 5) Aurora Community Gardeners Application & Map (175.00-2-27.2)
- 6) Thompson Application & Map (11.00-1-11; 23.08-1-4.11)
- 7) Colosi Application & Map (50.17-1-3.121)
- 8) Ash Brooke Court Enterprises Application & Map (11.00-1-1)
- 9) Sparks Application & Map (23.00-3-2.1)
- 10) Luthringer Application & Map (36.00-3-13; 36.00-3-21.1)
- 11) Smith Application & Map (50.04-1-12.1)
- 12) Hopkins Application & Map (25.00-1-21; 25.00-1-22)
- 13) Pfalzer Application & Map (36.00-4-8.213)
- 14) Ardalan Application & Map (12.00-1-4.11)
- 15) Giordano-Birtz Application & Map (63.02-2-38.311)
- 16) R.&A. Wynne Application & Map (50.18-1-23.1)
- 17) T. Wynne Application & Map (64.05-1-37.1)
- 18) Shipman Application & Map (64.05-3-13.111)
- 19) Langenfeld Application & Map (37.02-2-2; 37.02-2-3)
- 20) Nassar Application & Map (36.00-2-4; 36.00-2-5; 24.03-1-4; 24.03-1-11; 24.03-1-39)
- 21) Heitman Application & Map (36.00-2-34)
- 22) R. Fisher Application & Map (36.00-3-34.12; 36.00-3-35.1)
- 23) D. Fisher Application & Map (36.00-3-34.111)
- 24) B. Fisher Application & Map (36.00-3-34.112)
- 25) DeGlopper Application & Map (36.00-1-6.11; 36.00-1-7; 36.00-1-11.2)
- 26) Harper Application & Map (12.00-2-3.11)
- 27) Beyer Application & Map (37.04-1-51.11)
- 28) Russell Application & Map (50.04-2-10)

- 29) Benz Application & Map (50.00-2-2.2; 51.13-4-2; 51.13-4-3; 64.06-3-25)
- 30) Mansard LLC Application & Map (24.16-2-21)
- 31) Gerber Application & Map (36.00-1-8)
- 32) Stuckert Application & Map (63.02-2-38.111)
- 33) Williams Application & Map (36.04-1-46.1)
- 34) Leys Application & Map (37.03-3-15)
- 35) Lange Application & Map (36.00-2-22.1)
- 36) Sandford Application & Map (36.00-3-32.2)
- 37) Burg Application & Map (24.11-1-4.1)
- 38) Sondel Application & Map (36.00-3-23)
- 39) Salamone Application & Map (50.00-3-2.2)
- 40) Holly's Horse Haven LLC Application & Map (36.00-3-37)
- 41) Tripi Application & Map (37.01-2-3.1; 37.01-2-4.2)
- 42) Szur-O'Connor Application & Map (23.02-3-55)
- 43) Szur Application & Map (23.08-2-75; 23.08-2-77; 23.08-2-78)
- 44) Szur Builders Inc. Application & Map (23.08-2-44; 23.08-2-45; 23.08-2-46; 23.08-2-47;
23.08-2-48; 23.08-2-49; 23.08-2-50; 23.08-2-71; 23.08-2-72; 23.08-2-73; 23.08-2-74;
23.08-2-76; 23.08-2-79.1; 23.08-2-82)
- 45) Inclusion Analysis Matrix
- 46) 303-B Recommendations – Grand Island Map
- 47) Notice of Public Hearing

Because of personal information contained in the document, the full 180-page document is available at the Office of the Clerk of the Legislature.

Erie County Legislature
Karen M. McCarthy
92 Franklin St
4th Floor
Buffalo, NY 14202