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December 21, 2015

Erie County Legislature
 92 Franklin Street, 4th Floor
 Buffalo, New York 14202

Dear Honorable Members:

Re: Proposed Inclusion Of Grand Island Properties In Erie County
 Agricultural District – Amherst 17.

This firm represents the Town of Grand Island, New York (the “Town”). I submit this letter to provide the Erie County Legislature (the “Legislature”) with the Town’s comments on the proposed inclusion of various properties within Erie County Agricultural District – Amherst 17 (“Amherst 17”).

The proposed applications to include approximately 45 Grand Island parcels into Amherst 17 represents an abuse of the open enrollment provisions set forth in Section 303-b of the New York Agriculture and Markets Law (“AML”). AML §303-b provides for an annual thirty-day period within which an owner of land may request for inclusion of viable agricultural land within an agricultural district outside of the established review period. This section is to allow the reasonable addition of qualifying parcels into an existing district on an annual basis. Without this section, owners seeking inclusion would be required to wait for the review period, which occurs approximately every eight years. *See* AML § 303-a. AML § 303-b does not permit the creation of a *de facto* new district; rather, it allows for the annual reasonable expansion of existing districts.

The creation of an agricultural district is governed by AML § 303. The statute sets forth the processes and minimum requirements for creation of a district. The annual open enrollment period set forth in AML § 303-b does not allow the circumvention of AML § 303. What the Grand Island applications are requesting is the creation of a new agricultural district in the Town. Amherst 17 is not located anywhere near the Town. Attached as **Exhibit A** is a map of the County agricultural districts. Amherst 17 is separated from the Town by Niagara County, the Town of Tonawanda, and the City of Tonawanda. It cannot reasonably be argued that inclusion of the Grand Island parcels represents a mere inclusion of land within an existing district. For example, as shown on Exhibit A, the agricultural districts in Erie County include properties that are located nearby or are contiguous. Approval of the Grand Island parcels into Amherst 17 will create essentially two districts. The owners of the Grand Island parcels seek to create another district. Doing so requires compliance with the procedural mandates set forth in AML § 303.

Moreover, several of the parcels that are proposed to be included do not include predominantly viable agricultural land and/or are scattered about the Town in residential, sewerred areas posed for future development. Attached as **Exhibit B** is a map of the Town showing the parcels proposed to be included. In the event the Legislature determines to consider the applicants' request for inclusion pursuant to AML § 303-b, the Town has included comments specific to each of the parcels proposed to be included. Those comments are attached hereto as **Exhibit C**.

It should be noted that Grand Island zoning already permits agricultural uses. In addition, a right-to-farm law was adopted by the Town Board in 2011. *See* Town of Grand Island Code Chapter 145. The Town Board believes that existing zoning allows agricultural goals to be achieved through existing means, rather than through the haphazard, scattered inclusion of parcels into Amherst 17.

In summary, the applications for inclusion of property into Amherst 17 should be denied in their entirety. If, however, the Legislature determines to consider the applications, the Town has set forth its specific comments as to individual parcels in Exhibit C.

Very truly yours,



Charles W. Malcomb

Enclosures
CWM/say

cc: John J. Mills, Chairman
Kevin R. Hardwick
Ted B. Morton
Karen M. McCarthy, Clerk of the Legislature
Thomas J. Dearing

EXHIBIT A

ERIE COUNTY AGRICULTURAL DISTRICTS

AMHERST
NO. 17

CLARENCE-NEWSTEAD
NO. 14

ALDEN-NEWSTEAD
NO. 1

LANCASTER-ALDEN
NO. 16

ELMA
NO. 13

MARILLA
NO. 5

WALES
NO. 12

EDEN
NO. 2

HOLLAND
NO. 11

BRANT-
EVANS
NO. 9

NORTH COLLINS
NO. 4

CONCORD
NO. 15

SARDINIA
NO. 6

COLLINS
NO. 8



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Miles



Map prepared by Erie County
Department of Environment & Planning
Office of Geographic Information Services
Data current as of 10/16/14
Page 4 of 9

EXHIBIT B



EXHIBIT C

Proposed Inclusion of Grand Island Properties
In Erie County Agricultural District – Amherst 17

Exhibit C

As a first matter, the Town Board agrees with the recommendation of the Erie County Agricultural and Farmland Protection Board that the following parcels should **not** be included within Amherst 17:

Tina Wynne parcel (17)

Kim Leys parcel (34)

Patricia Burg parcel (37)

John & Carolyn Tripi parcel (41)

Alex Szur parcel (43)

Szur Builders, Inc. parcel (44)

Regina Kernin parcel (48)

In addition, the Town Board opposes the inclusion of the following parcels for the reasons stated below:

Ash Brooke Court Enterprises parcel (8)

1. Zoned M-1 (manufacturing)
2. Sewer plant onsite
3. Operating business exists onsite
4. Development Proposal exists for parcel

Shipman parcel (18)

1. Zoned R1-D (residential)
2. In a sewer district
3. Surrounded by residential development

Langenfeld parcel (19)

1. Zoned R1-D (residential)
2. In a sewer district
3. Request to include adjoining parcel (Drexelius-49) withdrawn by applicant

Benz parcel (29)

1. Baseline Road parcels zoned B-1 (business)
2. East River Road parcel zoned R1-D (residential)
3. East River Road parcel in sewer district
4. East River Road parcel surrounded by residential development

Mansard LLC parcel (30)

1. Zoned R1-D (residential)
2. In a sewer district
3. Parcel size .56 acre, not .73 acre as listed on application
4. Completely surrounded by homes
5. Part of Ransom Estates subdivision
6. Repeated violations of Erie County sanitary code

Szur-O'Connor parcel (42)

1. Zoned R-1D (residential)
2. In a sewer district
3. Part of a proposed subdivision

Drexelius parcel (49)

1. Applicant notified Town Board and requested removal of parcel