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**A RESOLUTION TO BE SUBMITTED  
BY LEGISLATOR GRANT**

**RE: INCLUSION OF VIABLE AGRICULTURAL LANDS INTO AN  
AGRICULTURAL DISTRICT – 2011**

WHEREAS, pursuant to New York State Agriculture and Markets Law (“Agriculture and Markets Law”) Section 303-b(1) the Erie County Legislature adopted Intro 20-15 (2004) on September 23, 2004; and

WHEREAS, Intro 20-15 (2004) designated November 1 through 30 as the annual thirty-day open enrollment period for inclusion of predominantly viable agricultural land within a certified agricultural district outside of the established 8-year review period; and

WHEREAS, during the 2011 thirty-day open enrollment period two landowners requested that two parcels of land be included in existing agricultural districts; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board reviewed each request to determine if each includes “viable agricultural land” as defined in Agriculture and Markets Law Section 301(7); and

WHEREAS, the Erie County Agricultural and Farmland Protection Board reviewed each request to determine whether the inclusion of such land would serve the public interest and maintain a viable agricultural industry within the district; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board voted unanimously on December 5, 2011 to recommended that the County Legislature adopt the inclusion of one parcel listed below in an existing agricultural district; and

WHEREAS, the Erie County Agricultural and Farmland Protection Board voted unanimously on December 5, 2011 to recommended that the County Legislature reject the inclusion of one parcel listed below in an existing agricultural district; and

WHEREAS, pursuant to Agriculture and Markets Law Sections 303-b(2)(b) and 303-b(3) the Erie County Legislature gave the required public notice and set a public hearing and for January 18, 2012; and

WHEREAS, pursuant to Agriculture and Markets Law Section 303-b(3)(b) the Erie County Legislature published a public hearing notice in a newspaper having a general circulation within the County and notified in writing those municipalities whose territory encompasses the lands which are proposed to be included in an agricultural district; and

WHEREAS, a public hearing was held at 5:30 pm on January 18, 2011 at the Cornell Cooperative Extension Offices in East Aurora, New York to consider 2011 open enrollment period requests and recommendations of the Erie County Agricultural and Farmland Protection Board.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature adopts the inclusion of the following parcel into an adjacent existing agricultural district:

<b>Owner</b>	<b>SBL No.</b>	<b>Parcel Address</b>	<b>Town</b>	<b>Agricultural District</b>	<b>Acreage</b>
Joseph A. Duggan	196.00-3-24.12	6813 Taylor Road	Hamburg	Eden (No.2)	22.42

and be it further

RESOLVED, that the Erie County Legislature rejects the inclusion of the following parcel into an existing agricultural district:

<b>Owner</b>	<b>SBL No.</b>	<b>Parcel Address</b>	<b>Town</b>	<b>Agricultural District</b>	<b>Acreage</b>
Nellie Konst	116.00-2-44	3803 Bowen Road	Lancaster	Lancaster-Alden (No.16)	10.748

and be it further

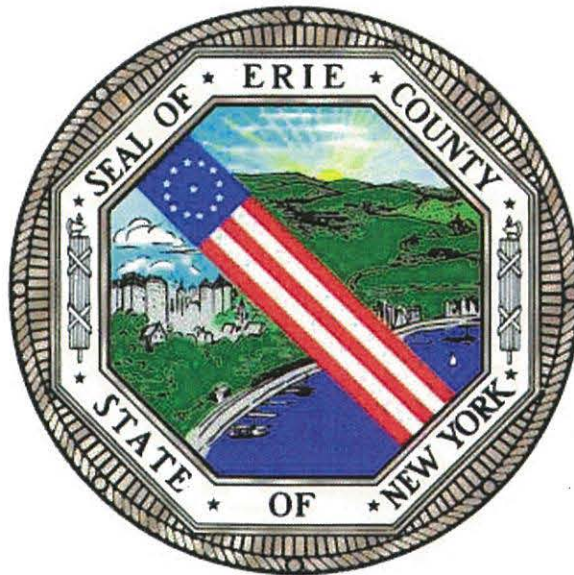
RESOLVED, that certified copies of this resolution be forwarded to the County Executive, the Commissioner of Environment and Planning, the Director of Real Property Tax Services and the Supervisors of the Towns of Hamburg and Lancaster; and be it further

RESOLVED, that the Commissioner of Environment and Planning send a certified copy of this resolution along with the Erie County Agricultural and Farmland Protection Board report and tax maps for each parcel of land to be included in an existing agricultural district to the Commissioner of New York State Department of Agriculture and Markets for certification and immediate inclusion into existing agricultural districts.

# 2011 REPORT

## ERIE COUNTY AGRICULTURAL DISTRICTS INCLUSION OF VIABLE AGRICULTURAL LAND

PURSUANT TO SECTION 303-B OF THE  
NEW YORK STATE  
AGRICULTURE AND MARKETS LAW



PREPARED BY  
ERIE COUNTY DEPARTMENT OF ENVIRONMENT & PLANNING  
FOR THE AGRICULTURAL & FARMLAND PROTECTION BOARD  
AND ERIE COUNTY LEGISLATURE

## Overview

Per section 303-b of New York Agriculture and Markets Law, the Erie County Legislature passed Intro 20-15 (2004) on September 23, 2004 which set the month of November 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

Two property owner requests for two parcels were received during the November 2011 open enrollment period.

Owner	SBL No.	Parcel Address	Town	Agricultural District	Acreage
Joseph A. Duggan	196.00-3-24.12	6813 Taylor Road	Hamburg	Eden (No.2)	22.42
Nellie Konst	116.00-2-44	3803 Bowen Road	Lancaster	Lancaster-Alden (No.16)	10.748

## 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 January 18, 2012 at the Cornell Cooperative Extension building in East Aurora at 5:00 p.m. on the 2011 30-day open period.

## Recommendation of the Erie County Agricultural and Farmland Protection Board

The AFPB met on December 5, 2011 to consider the inclusion of two property owner requests and a public hearing was held on January 18, 2012.

Regarding the Duggan parcel in the Town of Hamburg, the AFPB voted unanimously to recommend the inclusion of that parcel into the Eden Agricultural District.

Regarding the Konst parcel in the Town of Lancaster, the Board voted unanimously not to recommend inclusion into the Lancaster-Alden Agricultural District. The Board's decision was 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. The Board has determined that this parcel did not meet those criteria and also had concerns about the significant presence of federal wetlands on the site, as well as a lack of access to the portion of the parcel located to the east of Little Buffalo Creek.

**LIST OF ATTACHMENTS:**

- 30-Day Notice / Public Hearing Notice
- Summary of Public Hearing Proceedings – January 18, 2012
- Summary of Erie County AFPB Meeting – December 5, 2011
- Map – Request for Inclusion of 196.00-3-24.12
- Map – Request for Inclusion of 116.00-2-44

# PUBLIC HEARING NOTICE

PLEASE TAKE NOTICE, the Erie County Agricultural and Farmland Protection Board has received and researched one application for land to be enrolled in the existing Eden Agricultural District No. 2 during the 2011 period of open enrollment. This property (SBL 196.00-3-24.12) is located at 6813 Taylor Road in the Town of Hamburg.

PLEASE TAKE FURTHER NOTICE, the Erie County Agricultural and Farmland Protection Board has received and researched one application for land to be enrolled in the existing Lancaster-Alden Agricultural District No. 16 during the 2011 period of open enrollment. This property (SBL 116.00-2-44) is located at 3803 Bowen Road in the Town of Lancaster.

PLEASE TAKE FURTHER NOTICE, the Legislature of the County of Erie will hold a public hearing on January 18, 2012 at 5:30 p.m. in the Cornell Cooperative Extension building at 21 South Grove Street, in East Aurora, NY 14052 on the applications for addition to Agricultural Districts No. 2 and No. 16.

If you have any questions or concerns, please contact Planner Rachel Chrostowski at (716)858-8002 during the hours of 9:30am to 5:30pm or write to Erie County Department of Environment and Planning, 95 Franklin Street, Buffalo, NY 14202.

ROBERT M. GRABER, Clerk  
Erie County Legislature

**2011 REQUESTS FOR INCLUSION OF AGRICULTURAL LAND  
WITHIN A CERTIFIED AGRICULTURAL DISTRICT**

**PUBLIC HEARING MINUTES**

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Cornell Cooperative Extension  
21 South Grove Street • East Aurora, NY 14052  
January 18, 2012 • 5:30 pm

AFPB Members Present:

Thomas Dearing, County Planning Director (Ex-Officio); Deputy Commissioner, Erie County Department of Environment & Planning  
Brett Kreher, Vice Chair, Kreher's Poultry Farms, Farmer  
Bryant Zilke, President, Erie County Farm Bureau, Agriculture Businessperson  
Earl Gingerich Jr. - Farmer  
Mark Gaston – District Field Manager, Erie County Soil & Water (Ex-Officio)  
Diane Held, Senior New York Field Manager, American Farmland Trust, Agricultural Land Preservation Agency Representative  
Deb Roberts, Cornell Cooperative Extension (Ex-Officio)  
Dan Henry, W.D. Henry and Sons, Inc., Farmer

Staff Present:

Mark Rountree, Planner, Erie County Department of Environment & Planning  
Rachel Chrostowski, Planner, Erie County Department of Environment & Planning

Guests Present:

Jason Engel, Cardinal Design & Shamel Milling Company, Inc.  
Martin Wendel, Wendel's Poultry Farm  
Leonard Pero, Town of Brant Supervisor

- A. Dearing opened the public hearing at 5:35 p.m.
- B. Chrostowski explained that NYS Agricultural District Law Section 303(b) created an annual 30-day open enrollment period that permits property owners to request the inclusion of land into a certified agricultural district prior to the 8-year review of the district. This hearing fulfills the public hearing requirement that must be held to consider these requests.
- C. Chrostowski stated that two landowners petitioned for the inclusion of two parcels into existing agricultural districts during 2011.
1. The Erie County AFPB considered a request for the inclusion of property located at 6813 Taylor Road (SBL 196.00-3-24.12) in the Town of Hamburg, and recommends that the parcel be included in the Eden Agricultural District No. 2.
  2. The Erie County AFPB also considered a request for the inclusion of property located at 3803 Bowen Road (SBL 116.00-2-44) in the Town of Lancaster, and does not recommend the parcel for inclusion in the Lancaster-Alden Agricultural District No. 16. According to Agricultural District Law, 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. The Board has determined that this parcel did not meet those criteria and also had concerns about the significant presence of federal wetlands on the site, as well as a lack of access to the portion of the parcel located to the east of Little Buffalo Creek.

D. Dearing opened the hearing to anyone wishing to comment on the 2011 Applications for Inclusion in Existing Agricultural Districts.

1. No comments were submitted.

E. Dearing announced that the 2011 Applications for Inclusion in existing Agricultural Districts hearing is now complete and declared the hearing closed at 5:45 pm.



**ERIE COUNTY AGRICULTURAL AND FARMLAND PROTECTION BOARD  
MEETING MINUTES**

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Clarence Town Hall  
1 Town Place • Clarence, NY 14031  
December 5, 2011 • 7:30 pm

**MEMBERS PRESENT:**

Darren Kempner, County Planning Director (Ex-Officio); Deputy Commissioner, Erie County Department of Environment & Planning  
Brett Kreher, Vice Chair, Kreher's Poultry Farms, Farmer  
Bryant Zilke, President, Erie County Farm Bureau, Agriculture Businessperson  
Diane Held, Senior New York Field Manager, American Farmland Trust, Agricultural Land Preservation Agency Representative  
Deb Roberts, Cornell Cooperative Extension (Ex-Officio)  
Dan Henry, W.D. Henry and Sons, Inc., Farmer

**STAFF PRESENT:**

Mark Rountree, Planner, Erie County Department of Environment & Planning  
Rachel Chrostowski, Planner, Erie County Department of Environment & Planning

**GUESTS PRESENT:**

Jason Engel, Cardinal Design & Shamel Milling Company, Inc.

*A. Call to Order*

1. Kreher called the meeting to order at 7:30 pm and determined that there was a quorum.

*B. Action on Clarence-Newstead Agricultural District No. 14*

1. The Public Hearing for the Clarence-Newstead Agricultural District, which was held at 7:00 pm on Monday, December 5, 2011, is closed. No modifications to the District have been proposed. **Zilke made a motion to recommend the continuation of the Clarence-Newstead Agricultural District with no modifications. Roberts seconded the motion. The motion passed.**

*C. Action on 2011 Applications for Inclusion in Existing Agricultural Districts*

1. Chrostowski described that NYS Agricultural District Law Section 303(b) created an annual 30-day open enrollment period that permits property owners to request the inclusion of land into a certified agricultural district prior to the 8-year review of the district.
2. Chrostowski explained that the AFPB must review the requests received during that period (November 1 to 30) within 30 days and make recommendations to the Erie County Legislature.
3. Chrostowski stated that two landowners petitioned for the inclusion of two parcels into existing agricultural districts during 2011.

- a. The first application is from landowner Joseph A. Duggan, who has requested the inclusion of his 22.42 acre parcel located at 6813 Taylor Road in the Town of Hamburg (SBL 196.00-3-24.12) into the Eden Agricultural District No. 2
  - i. **Roberts made a motion to recommend inclusion of the Duggan parcel in the Eden Agricultural District. Kreher seconded the motion. The motion passed.**
- b. The second application is from landowner Nellie Konst, for the addition of a 10.748-acre parcel at 3803 Bowen Road in the Town of Lancaster (SBL 116.00-2-44) into the Lancaster Alden Agricultural District No. 16.
  - i. According to Agricultural District Law, 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. The board has determined that the land could not be classified as highly suitable for agricultural production. The board was also concerned about the significant presence of federal wetlands on the site, as well as a lack of access to the portion of the parcel located to the east of Little Buffalo Creek.
    - ii. **Roberts made a motion not to recommend inclusion of the Konst parcel in the Lancaster Alden Agricultural District. Henry seconded the motion. The motion passed.**
- c. The AFPB’s recommendations will be submitted to the Erie County Legislature in a report. After the submission of the recommendations, a public hearing will be scheduled to receive public input on these requests.
- d. The landowners will be notified of the public hearing schedule and progress of their applications by mail.

*D. Discussion on Agricultural District Consolidation*

1. The board discussed the consolidation of the county’s 14 agricultural districts into four larger districts.

*E. Discussion on Agricultural & Farmland Protection Plan*

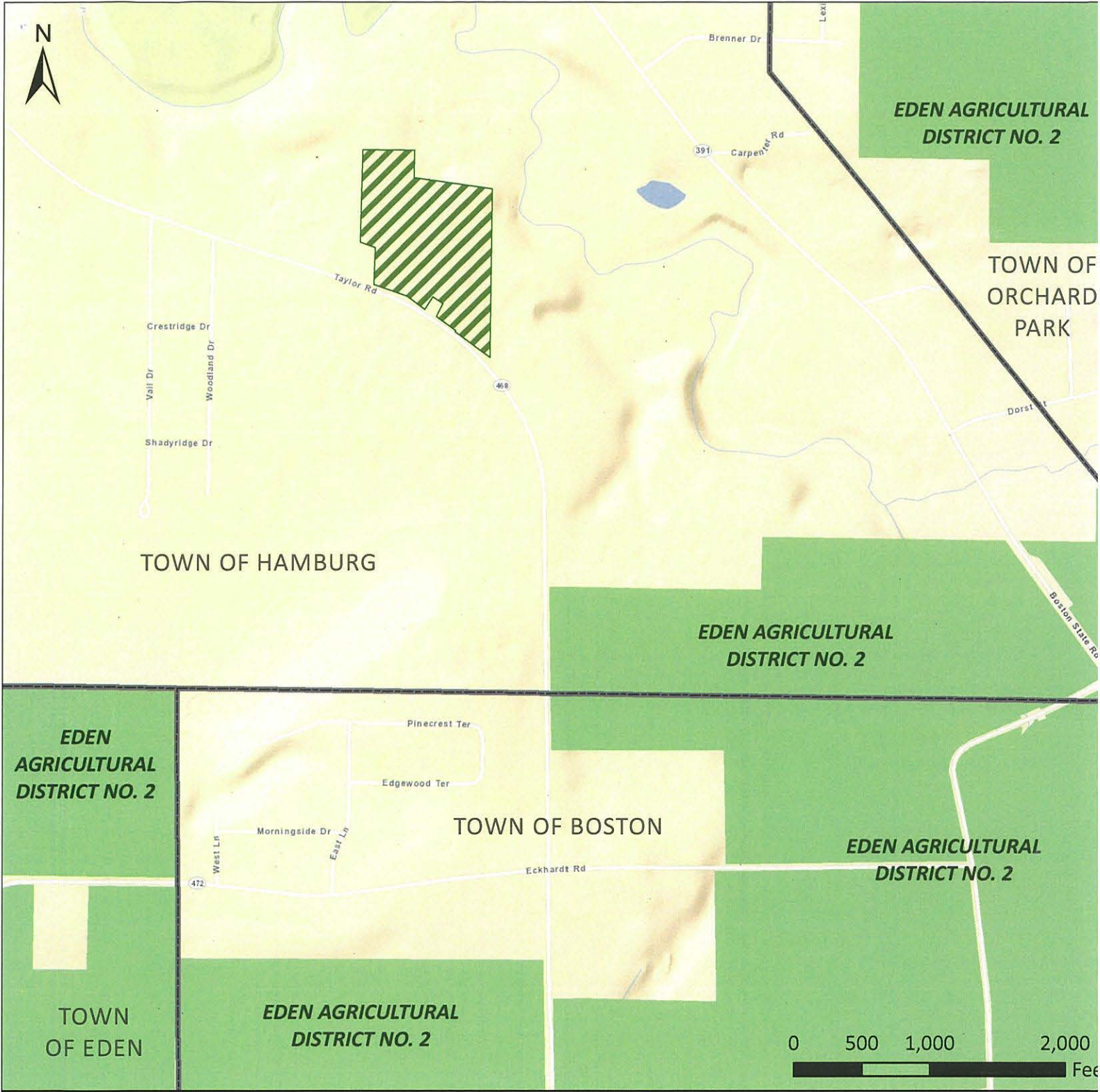
1. The board discussed possible recommendations and desired outcomes for the Farmland Protection Plan that is currently being prepared.

*F. Set Next Board Meeting Date*

1. The next AFPB meeting will be held on January 18, 2012 at the Cornell Cooperative Extension Offices at 6:00 pm to further discuss the Agricultural and Farmland Protection Plan recommendations. The Board may also hold the public hearing for the 2011 open period inclusions following the plan discussion.

*G. Adjournment*

1. **Zilke made a motion to adjourn the meeting. The motion was seconded by Henry. The meeting was adjourned at 8:40 pm.**



**EDEN AGRICULTURAL DISTRICT NO. 2**

TOWN OF ORCHARD PARK

TOWN OF HAMBURG

**EDEN AGRICULTURAL DISTRICT NO. 2**

**EDEN AGRICULTURAL DISTRICT NO. 2**

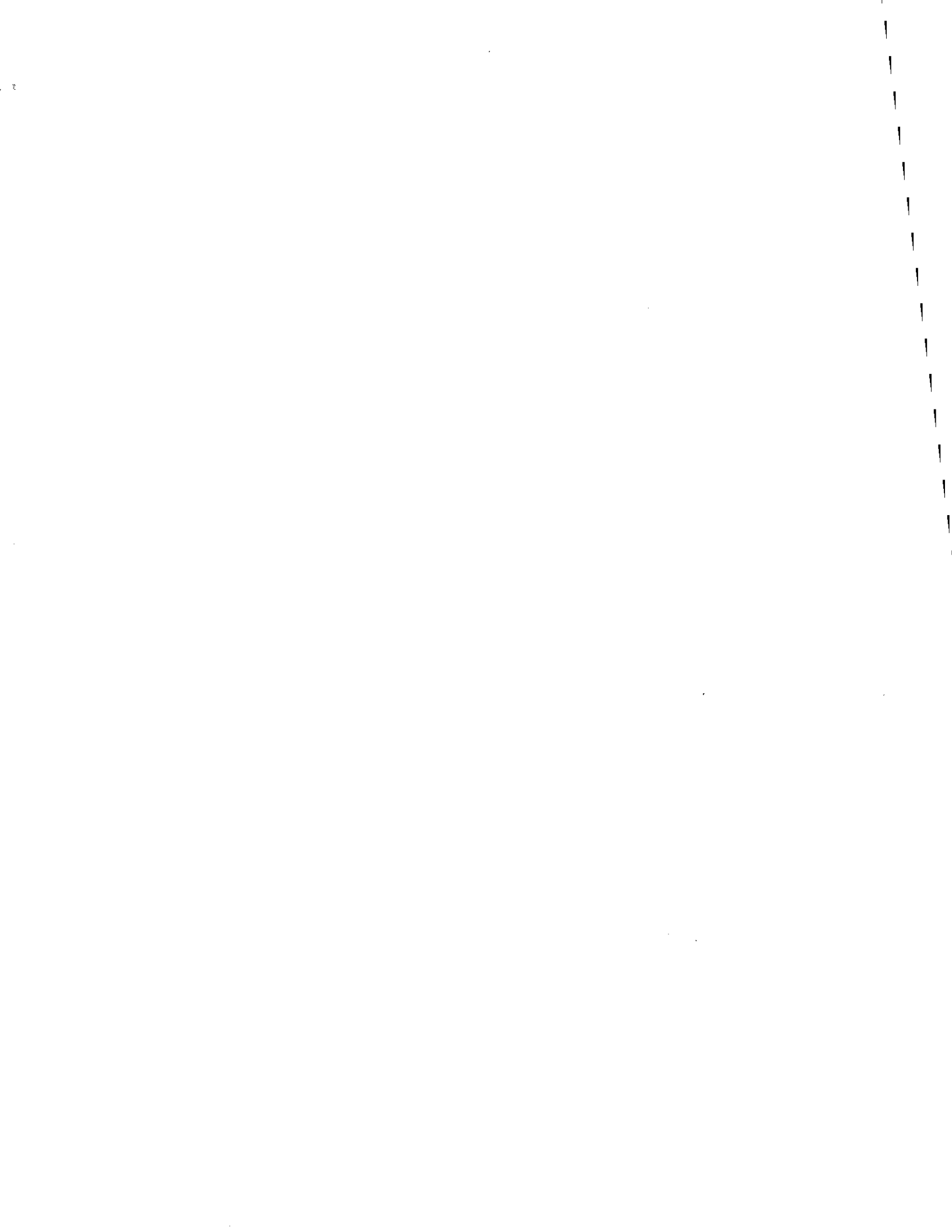
TOWN OF BOSTON

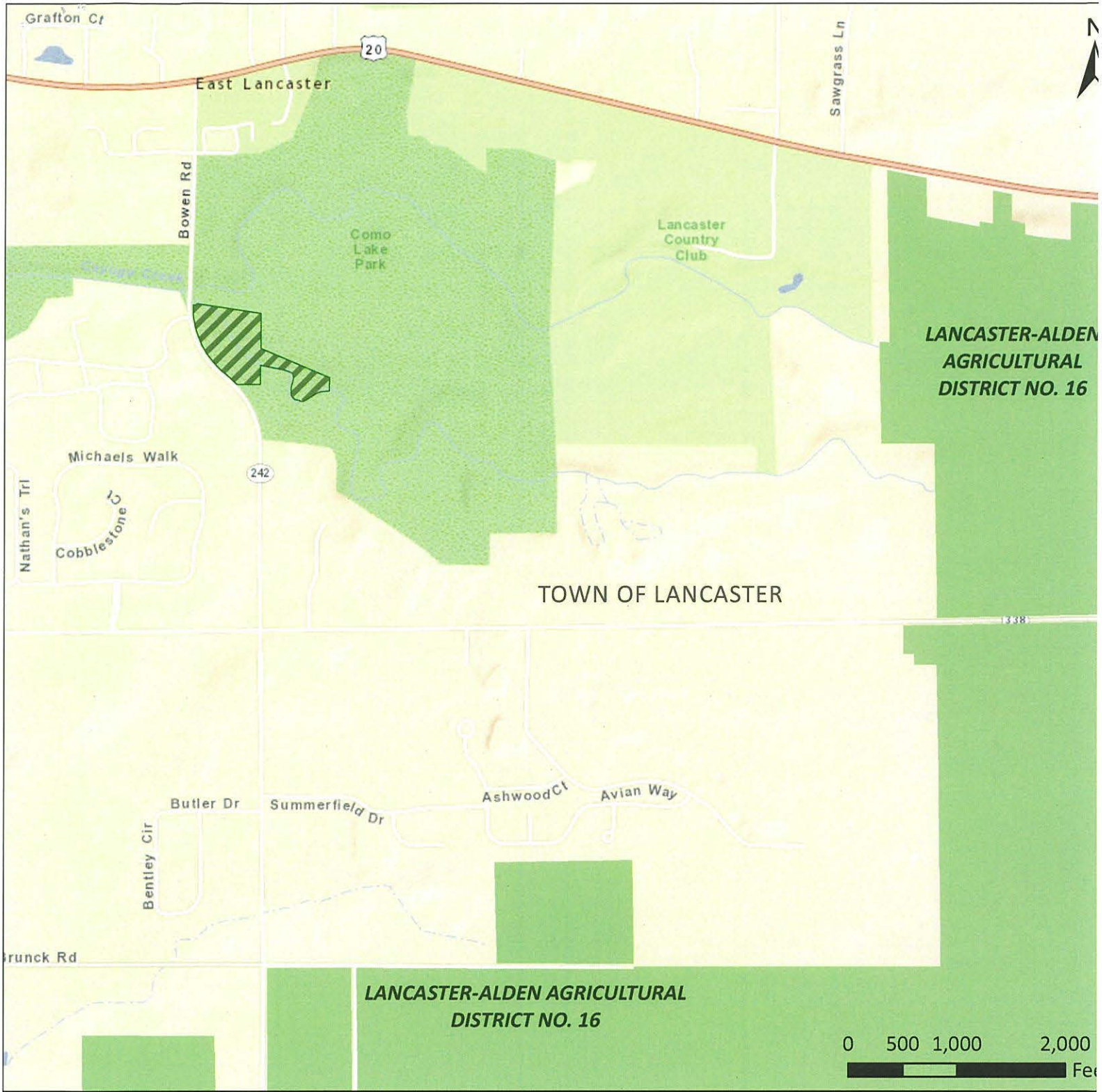
**EDEN AGRICULTURAL DISTRICT NO. 2**

TOWN OF EDEN

**EDEN AGRICULTURAL DISTRICT NO. 2**







Grafton Ct

20

East Lancaster

Sawgrass Ln

Bowen Rd

Como Lake Park

Lancaster Country Club

**LANCASTER-ALDEN AGRICULTURAL DISTRICT NO. 16**

Michaels Walk

242

Nathan's Trl

Cobblestone

TOWN OF LANCASTER

1338

Butler Dr

Summerfield Dr

Ashwood Ct

Avian Way

Bentley Cir

Brunck Rd

**LANCASTER-ALDEN AGRICULTURAL DISTRICT NO. 16**

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