Onondaga County Planning Federation Annual Symposium

Part Three
Agricultural Districts Law and Local Zoning: What Agricultural Activities are Protected from Local Zoning and What Activities in Agricultural Districts Can Zoning Regulate?

Farm Wineries, Farm Breweries & Farm Distilleries
What Municipalities Need to Know – The Town’s Perspective

March 5, 2015
Oncenter, Syracuse, New York

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Costello, Cooney & Fearon, PLLC
Case Study

Town of Cazenovia, Madison County

Cazenovia

- Population - 6,787
- Size - 33,460 acres
- State Certified Ag Districts - 3
- Total Ag Acreage - 8,423.48 (approx. 25% of town)
Since 2012

- Major Farm Winery*
- Proposed Farm Distillery (on Route 20)
- Major Farm Brewery (Village)
- 3-4 Small Farm Breweries
Are You Ready?

- Comprehensive Plan
- Zoning Law/Site Plan Law
- Local “Right to Farm” Legislation
- Other Legislation
  - Noise Ordinance
  - Event Law
Many Comprehensive Plans pay lip service to supporting agriculture, farming, farm operations, farm marketing activities, etc.

Zoning & land use decisions (Planning Board, Zoning Board of Appeals & even the Town Board) are required to be in conformance with the adopted Comprehensive Plan

What does your Comprehensive Plan say?
- Does it specify language about wineries, breweries & distilleries?
- Marketing of farm products?
Few excerpts from Caz Comp Plan re Ag:

- **Agriculture District**: To encourage agricultural land uses and those land uses incidental to and supportive of agricultural land uses including supportive agribusiness, and home occupations.”
- **Implement alternative zoning regulations for the protection of farmland and open space.”**
- “In addition to revising its zoning regulations to include farmland protection measures, it is recommended that the Town continue to proactively support its farming community. Supporting the local farmers includes … encouraging the development of innovative agribusinesses.”
- **Continue to work closely with Madison County Farmland Protection Board and Cornell Cooperative Extension to address issues facing the agricultural community.”**
- “Adopt new conservation subdivision regulations that encourage cluster development”
- “Facilitate the development of an agribusiness directory for other communities to reference.”
Many communities adopt a Comprehensive Plan and never review it after its adoption.

The Comprehensive Plan should be reviewed on a periodic basis by the Town Board, Planning Board and Zoning Board as they address issues/applications associated with farming and farm practices including farm marketing.
Reviewing Aspects of Your Zoning Law


Allowed Uses in Districts
- As of Right
- As of Right, but subject to Site Plan Review
- By Special Permit

Prohibited Uses
Zoning Law (continued)

- **Zoning District Sensitivities**
  - Base Zoning
    - Rural Zones
    - Residential Zones
    - Industrial Zones
  - Special Overlay Zones
    - Well-Head Protection Districts
    - Lake Watershed Districts
    - Agricultural Districts
      (not the State certified kind)
Case Study - Cazenovia

Farm Winery with Marketing Events

Original Application – 2008

The site:
- 58 +/- acres
- Farmland/open field
- Within a Rural A (Residential/Agricultural) District
- Also in a Lake Watershed District – triggers site plan
- Application for a “gentlemen’s farm” – garden for vegetables, plant grapes
- Site Plan approved (Lake Watershed District)
Case Study – Cazenovia (continued)

- **2010 Amendment** (Spring)
  - Add pond for irrigation
  - Access road modification
  - Approved

- **2010 Amendment (#2)** (October)
  - Expanded ponds
  - Bridge over pond/waterway
  - Re-align driveway
  - 4,500 sq. ft. barn
  - Approved
2011 Amendment

- Establish Vineyard & Winery
  - Small tasting area building
  - Some associated parking
- Property had been placed in a NYS Certified Agricultural District (Ag & Markets Law 25AA)
- No objections by neighbors
- Little to no discussion of marketing farm products
- Planning Board consulted with Ag & Markets regarding what approval process could be utilized – site plan/special use permit/level of review
- Application Approved
  - Limited number of conditions placed on use through site plan process
  - Hours of operation
Case Study – Cazenovia (continued)

2012 Amendment (January)

- Eliminate bridge (was never built)
- Relocate barn
- Relocate wine making facility
- Building elevation modifications
- Approved – conditions restated
Case Study – Cazenovia (continued)

2012 Amendment (June)
- Temporary (seasonal) tent – 40x100 for limited events
- 112 parking spaces
- No discussion of amplified music, wedding receptions
- Approved with conditions
  - Hours of operation
Case Study – Cazenovia (continued)

Summer of 2013

- Winery begins to hold large events (350+)
  - Wedding receptions
  - Fundraisers
  - Charitable events
  - Shows
  - Wine tastings
Case Study – Cazenovia (continued)

† The Outfall

† Dozens of Complaints from Neighbors:

† Lights (from driveway & cars)

† Noise from amplified music at wedding receptions

† Traffic (cars leaving events)
Case Study – Cazenovia (continued)

- The Outfall (continued)

- Citations/Notice of Violations

- 911 calls to Sheriff’s Department
Case Study – Cazenovia (continued)

Reaction

Town Consultations with Ag & Markets

Requests by neighbors for Event Law and Noise Ordinance

Town explores Event Law and Noise Ordinance
Case Study – Cazenovia (continued)

- **Winery’s Reaction to Complaints**
  - Challenge by way of interpretation as to approved hours of operation
  - Appeal to Town Zoning Board of Appeals
  - Obtain certification from Ag & Markets that winery is a “start up” farm winery
  - Propose a new building to house farm marketing events (2013-2014)
    - 148x48 stick built construction
    - Unique sound attenuation construction
    - Revised lighting (ongoing)
    - Replace tent
Winery’s Reaction to Complaints

Special protocols for events

SCHEDULE "A"
MANAGEMENT PROCEDURES AND PROTOCOLS FOR ALL EVENTS

The following additional mitigations have been offered by the Applicant and considered by the Planning Board in the form of a written management procedure for the use of the facility and the immediate grounds and are hereby adopted as specific conditions to this approval, to wit:

- A standard event contract form shall be created and used by the Applicant and shall identify the regulations and mandatory amplified music connections to in-house system for both the facility and its outdoor spaces, as set forth in this Resolution (a copy of the standard contract will be provided to the Planning Board and the Code Enforcement Officer);
- Event contracts shall further advise the facility’s hours of operation as set forth in this Resolution;
- The Applicant shall ensure, at all times, administrative control of in-house audio system, with digital mixers set by a professional installer not to exceed the specified/approved maximum interior sound limit (i.e. 110 dBA);
- The Applicant shall ensure use of staff on site to monitor system/music throughout entire event which is not to exceed the specified/approved maximum sound limit;
- During events with amplified sound, the Applicant shall implement the utilization of handheld device(s) at the road and property lines as a random check on noise levels which is not to exceed the specified/approved maximum sound limit;
- The use of fixed windows and limitation and prohibition against the propping or extended opening of exterior doors and windows (i.e. doors and windows will remain closed and not propped open) shall be maintained to be less than the specified/approved maximum sound limit;
- All guests of the Property will exit the Premises promptly (no later than sixty (60) minutes) at the end of the function under the direction of the staff and the driveway and parking lot lighting will be low level and will be extinguished at the end of the event to allow the immediate exit of such guests. No lights will be left on after staff has left the facility.

The Applicant will be required to terminate exterior lighting on the Premises as part of the conditions to approval of its requests, such that, all lights (other than low-lying security lighting, will be extinguished on the Premises at the end of any given event subject to the hours of operation referenced elsewhere in this Resolution). The low-lying security lights will allow for event employees to safely finalize event cleanup, safely exit the Premises and shall then be extinguished.
Case Study – Cazenovia (continued)

Some Numbers:

- 10 lawyers
  - 2 lawyers for applicant
  - 4 lawyers for the neighbors
  - 2 lawyers for the Town
  - 2 lawyers (consulting) from Ag & Markets
Case Study – Cazenovia (continued)

Experts Employed:
- 2 Traffic Engineers (Applicant/Town)
- 2 Sound Engineers (Applicant/Town)
- 2 Site Engineers (Applicant/Town)
  - Drainage/storm water
  - Public water
  - Sewage disposal
Case Study – Cazenovia (continued)

- Considerations of Approvals:
  - SEQR
  - Conditions
  - Public health, safety & welfare
    - Lights
    - Noise
  - Hours of operation
  - Status as a “farm operation” (farm winery under S.L.A.)
    - Economic proofs
  - Parking
  - Size of Structures for farm marketing events
    - # of guests
    - # of events/day? /month? /year?

Are they proportionate to the farm operation?
Checklist of Considerations:

- # of Events/Day
- Sunday Hours
- Dark Sky Compliance – Confirm Compliance: Shut lights off at ___ p.m.
- Lights from cars leaving (close operations by ____ p.m.)
- Noise from cars & outdoor patrons (clear the site by ____ p.m.)
- Hours for events
- Noise from AC Units
- Enforcement of Noise Limits (penalties/violations)
Case Study – Cazenovia (continued)

Checklist of Considerations (continued):

- Traffic Safety – biking, walking, running, etc.
- Trips Generated and Parking Area Sufficient?
- Require Records from Events Under Ag & Markets Guidance? (CPA confirmation?)
- Require Proof of Wine Sales vs. Fees Collected?
- Health, Safety and Welfare
AMENDED SITE PLAN APPROVAL FOR DEVELOPMENT IN THE TOWN OF CAZINONIA
LAKE WATERSHED & RIPARIAN CORRIDOR DISTRICT
(Final Revised and Amended Site Plan (2015))

RESOLUTION OF THE
TOWN OF CAZINONIA PLANNING BOARD

No. 16-352 — Amended Site Plan Approval for the
Construction of a Permanent 40’ x 128’ TVP Produce and Marketing Facility Structures, Improved Parking, Modified Lighting
and Altered New Work Hinging in a Proposed Adjacent Max
Ski Area, Including the Development (hereinafter referred to (most commonly known as Napa Resort) in the Lake Watershed and Riparian Corridor Districts of Cazinonia with Conditions

February 3, 2016

M. Fehrer moved and H. Rice seconded the following Resolution, which was carried unanimously.

HISTORIC BACKGROUND

WHEREAS, the Applicant is the current titled owner ("Applicant") of property located in

the Town of

Cazinonia, County of Madison, New York, more particularly described as Tax Map No.

the "Property" or "Premises"), previously applied 1) (not above) 2008 for site plan approval to operate a processor/retail farm with ponds, with associated improvements consisting of a small ferrying operation, expanding two existing ponds and a new 200 and stone road enlargement, including a five structure group (hereinafter the "2008 approval)", and 2) 2009 for the construction of the new pond/pavilion. 3) Addition of a bridge across the west pond, 4) enlargement of a portion of the entrance driveway and fill the addition of a berm (approximately 4,200 square feet) (hereinafter the "2009 approval") of which is located in the Lake Watershed and Riparian Corridor Districts of pursuant to Chapter 397 of the Town of

Cazinonia Code, as amended (the "Code") which applications were granted on or about August

3, 2008 (and October 7, 2009), and

WHEREAS, the Applicant is requesting approval for the construction of a new four-story, 50’ x 128’ concrete building with a six-foot-thick insulated concrete foundation on a 1 acre lot (hereinafter the "Improvement") on the Premises; and

WHEREAS, a public hearing to solicit public comment with respect to this application was held on October 2, 2015.
Questions or Comments?

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