GENESEE COUNTY PLANNING BOARD
ZONING REFERRALS NOTICE OF FINAL ACTION

GCDP Referral ID	**T-01-ALEX-1-16**
Review Date	**1/14/2016**
Municipality	**ALEXANDER, T.**
Board Name	**TOWN BOARD**
Applicant's Name	**Town of Alexander**
Referral Type	**Zoning Text Amendments**
Variance(s)	
Description:	**Zoning Amendments to eliminate gravel and other mining as a specially permitted use and allow for stabling of farm animals in the Residential District with a special use permit.**
Location	**Entire Town of Alexander**
Zoning District	**Residential (R) and Agricultural-Residential (A-R) Districts**

PLANNING BOARD DECISION

APPROVAL

EXPLANATION:

The proposed zoning amendments are not inconsistent with the Town's Comprehensive Plan adopted in 2003 and therefore should pose no significant county-wide or inter-community impact.

Felix A. [illegible]

Director

January 14, 2016

Date

If the County Planning Board disapproved the proposal, or recommends modifications, the referring agency shall NOT act contrary to the recommendations except by a vote of a majority plus one of all the members and after the adoption of a resolution setting forth the reasons for such contrary action. Within 30 days after the final action the referring agency shall file a report of final action with the County Planning Board. An action taken form is provided for this purpose and may be obtained from the Genesee County Planning Department.

SEND OR DELIVER TO:
GENESEE COUNTY DEPARTMENT OF PLANNING
3837 West Main Street Road
Batavia, N.Y. 14020-9404
Phone: (585) 815-7901

DEPARTMENT USE ONLY:
G.C.D.P. Referral # T-01-ALEX-1-16
Date Received 12-18-15

RECEIVED
DEC 18 2015
GENESEE COUNTY DEPARTMENT OF PLANNING

* GENESEE COUNTY * PLANNING BOARD REFERRAL

Required According to:
GENERAL MUNICIPAL LAW ARTICLE 12B, SECTIONS 239 L,M,N
(Please answer ALL questions as fully as possible)

1. REFERRING BOARD AND ADDRESS
Town Board of the Town of Alexander

2. APPLICANT'S NAME, ADDRESS & PHONE #
Town Board of the Town of Alexander, 3350 Church St. Alexander, NY 14005 585-591-2455 x

MUNICIPALITY : CITY ☐ TOWN ☒ VILLAGE ☐ : of Alexander

3. TYPE OF REFERRAL: (Check all applicable items)

- ☐ Area Variance
- ☐ Use Variance
- ☒ Special Use Permit
- ☐ Site Plan Review
- ☐ Map Change
- ☒ Text Amendments
- ☐ New Zoning Ordinance
- ☐ Other: _____
- ☐ Subdivision Proposal
  - ☐ Preliminary
  - ☐ Final

4. LOCATION OF THE REAL PROPERTY PERTAINING TO THIS REFERRAL:

A. Road name _____

B. Nearest intersection _____

C. Tax Map Parcel # (T.M.P.) _____

D. Dimensions of the property _____ Area of the property _____

E. Present zoning district _____

5. REFERRAL CASE INFORMATION:

A. Has this referral been previously reviewed by the Genesee County Planning Board?

NO ☒ YES ☒ If Yes, give date and action taken Previously adopted Commercial Excavation Portion of law, however never codified

B. Special Use Permit and/or Variances refer to the following section(s) of the present zoning ordinance and/or law

C. Please describe the nature of this request

6. ENCLOSURES – Please enclose copy(s) of all appropriate items in regard to this referral

- ☐ Copy of local application
- ☐ Sketch of proposal
- ☐ Subdivision plot plans
- ☐ Maps
- ☒ Copy of text amendments
- ☒ Copy of new Ordinance/Law
- ☐ Site Plan
- ☐ Agricultural Data Statement
- ☐ Other: _____

Name, Address and Phone # of the person representing the community in filling out this form
David M. DiMatteo, 87 N. Main St. Warsaw (585) 786-2110 x

Law Office of David M. DiMatteo

David M. DiMatteo, Esq.

David M. Roach, Esq.*

*also admitted in Illinois

Molly L. Bayliss, Esq.

87 North Main Street, PO Box 190
Warsaw, New York 14569-0190
Telephone (585) 786-2110
Facsimile (585) 786-0126

December 16, 2015

Genesee County Planning Board
3837 West Main Street Road
Batavia, New York 14020

Re: **Town of Alexander- Proposed Adoption of a Local Law**
State Environmental Quality Review
Notice of Establishment of Lead Agency

Please be advised, the Town of Alexander is hereby notifying this agency of the following action listed below:

This notice is issued pursuant to 6 NYCRR part 617.6(b) and (c) of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law. The Town Board of the Town of Alexander wishes to seek lead agency with regards to the proposed action describe below pursuant to article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

NAME OF ACTION: **A proposed Local Law entitled "2016 Update to the Zoning Law incorporating a Special Use Permit for stabling of farm animals in certain residential districts and prohibiting commercial excavation activities in the Town of Alexander"**

SEQRA: **Type I**

DESCRIPTION OF ACTION: **The Town of Alexander has drafted a local law which would include a Special Use Permit for stabling of farm animals in certain residential areas of the Town as part of the Town's Zoning Law. This local law will also include the previously adopted commercial excavation law for prohibition of the same within the Town, so as to ensure that this section was properly codified.**

REASONS SUPPORTING THIS DETERMINATION: (See 617.6(e) for requirements)

(i) **This agency as the broadest governmental power for investigating the impact of the proposed action;**

(ii) **This agency has the greatest capability for providing the most thorough environmental assessment of the proposed action.**

PLEASE TAKE FURTHER NOTICE that this determination, subject to agreement of the agencies involved, shall become effective thirty (30) calendar days from the date hereof.

For further information of question, please contact the undersigned.

Very truly yours,

David M. DiMatteo
DMD/anh

Enclosure - Copy of the Long Form EAF & Proposed Law

PC to Joseph Higley, Supervisor
Karl Bender, CEO

COPY

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either "Yes" or "No". If the answer to the initial question is "Yes", complete the sub-questions that follow. If the answer to the initial question is "No", proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project: Local Law for a special use permit for stabling farm animals and prohibiting commercial excavation activities		
Project Location (describe, and attach a general location map): Town of Alexander, New York		
Brief Description of Proposed Action (include purpose or need): In order to better regulate the stabling of farm animals within the Town, the Town would create a Special Use Permit in certain areas of the Town. Additionally, the Town is including the prohibition of commercial mining operations within certain areas of the Town. The Town had previously amended the Zoning Law regarding Commercial Excavation, however the adoption and codification needs further implementation into the existing text of law.		
Name of Applicant/Sponsor: Town Board of the Town of Alexander	Telephone: 585-591-2455 E-Mail:	
Address: 3350 Church Street		
City/PO: Alexander	State: New York	Zip Code: 14005
Project Contact (if not same as sponsor; give name and title/role): Same as Above	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):	Telephone: E-Mail:	
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. ("Funding" includes grants, loans, tax relief, and any other forms of financial assistance.)		
Government Entity	**If Yes: Identify Agency and Approval(s) Required**	**Application Date (Actual or projected)**
a. City Council, Town Board, or Village Board of Trustees ☑Yes ☐No	Town Board	
b. City, Town or Village Planning Board or Commission ☑Yes ☐No	Town Planning Board	
c. City Council, Town or Village Zoning Board of Appeals ☑Yes ☐No	Town ZBA	
d. Other local agencies ☑Yes ☐No	Adjacent Towns	
e. County agencies ☑Yes ☐No	County Planning Board	
f. Regional agencies ☐Yes ☑No		
g. State agencies ☑Yes ☐No	NYS Ag& Markets, NYSDEC	
h. Federal agencies ☐Yes ☑No		

i. Coastal Resources.
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway? ☐Yes ☑No

ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program? ☐Yes ☑No

iii. Is the project site within a Coastal Erosion Hazard Area? ☐Yes ☑No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☑Yes ☐No

- **If Yes,** complete sections C, F and G.
- **If No,** proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☒Yes ☐No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☒Yes ☐No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐Yes ☐No

If Yes, identify the plan(s): Tonawanda Creek Watershed

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☒Yes ☐No

If Yes, identify the plan(s): Genesee Ag Dist

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☒Yes ☐No
If Yes, what is the zoning classification(s) including any applicable overlay district?
- Deals w/ Classificat

b. Is the use permitted or allowed by a special or conditional use permit? ☒Yes ☐No

c. Is a zoning change requested as part of the proposed action? ☐Yes ☐No
If Yes,
i. What is the proposed new zoning for the site? I/A

C.4. Existing community services.

a. In what school district is the project site located? Alexander / Pembroke, Attica

b. What police or other public protection forces serve the project site?
NYSP Genesee County Sheriff's Dept

c. Which fire protection and emergency medical services serve the project site?
Alexander Fire Dept Mercy EMS

d. What parks serve the project site?
Genesee County Park - ~~Rt~~ DEC Rm/Roads

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

b. a. Total acreage of the site of the proposed action? _____ acres
b. Total acreage to be physically disturbed? _____ acres
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ acres

c. Is the proposed action an expansion of an existing project or use? ☐Yes ☐No
i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐Yes ☐No
If Yes,
i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐Yes ☐No
iii. Number of lots proposed? _____
iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will proposed action be constructed in multiple phases? ☐Yes ☐No
i. If No, anticipated period of construction: _____ months
ii. If Yes:
- Total number of phases anticipated _____
- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year
- Anticipated completion date of final phase _____ month _____ year
- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases:

f. Does the project include new residential uses? ☐Yes ☐No
If Yes, show numbers of units proposed.

	One Family	Two Family	Three Family	Multiple Family (four or more)
Initial Phase				
At completion of all phases				

g. Does the proposed action include new non-residential construction (including expansions)? ☐Yes ☐No
If Yes,
i. Total number of structures _____
ii. Dimensions (in feet) of largest proposed structure: _____height; _____width; and _____ length
iii. Approximate extent of building space to be heated or cooled: _____ square feet

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐Yes ☐No
If Yes,
i. Purpose of the impoundment: _____
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐Other specify:
_____
iii. If other than water, identify the type of impounded/contained liquids and their source.
_____
iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):
_____

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐Yes ☐No
(Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite)
If Yes:
i.What is the purpose of the excavation or dredging? _____
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?
- Volume (specify tons or cubic yards): _____
- Over what duration of time? _____

iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.
_____
_____
iv. Will there be onsite dewatering or processing of excavated materials? ☐Yes ☐No
If yes, describe. _____
_____
v. What is the total area to be dredged or excavated? _____acres
vi. What is the maximum area to be worked at any one time? _____ acres
vii. What would be the maximum depth of excavation or dredging? _____ feet
viii. Will the excavation require blasting? ☐Yes ☐No
ix. Summarize site reclamation goals and plan: _____
_____
_____

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐Yes ☐No
If Yes:
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____
_____

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

_____

_____

_____

_____

iii. Will proposed action cause or result in disturbance to bottom sediments? ☐Yes☐No

If Yes, describe: _____

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? ☐Yes☐No

If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____

_____

- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

_____

c. Will the proposed action use, or create a new demand for water? ☐Yes☐No

If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐Yes☐No

If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? ☐Yes☐No
- Is the project site in the existing district? ☐Yes☐No
- Is expansion of the district needed? ☐Yes☐No
- Do existing lines serve the project site? ☐Yes☐No

iii. Will line extension within an existing district be necessary to supply the project? ☐Yes☐No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

_____

- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐Yes☐No

If, Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

_____

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☐Yes☐No

If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

_____

_____

iii. Will the proposed action use any existing public wastewater treatment facilities? ☐Yes☐No

If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐Yes☐No
- Is the project site in the existing district? ☐Yes☐No
- Is expansion of the district needed? ☐Yes☐No

- Do existing sewer lines serve the project site? ☐Yes ☐No
- Will line extension within an existing district be necessary to serve the project? ☐Yes ☐No

If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____

iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? ☐Yes ☐No

If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- What is the receiving water for the wastewater discharge? _____

v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans):

_____

vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____

e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? ☐Yes ☐No

If Yes:

i. How much impervious surface will the project create in relation to total size of project parcel?

_____ Square feet or _____ acres (impervious surface)

_____ Square feet or _____ acres (parcel size)

ii. Describe types of new point sources. _____

iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)?

_____

- If to surface waters, identify receiving water bodies or wetlands: _____
- Will stormwater runoff flow to adjacent properties? ☐Yes ☐No

iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? ☐Yes ☐No

f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? ☐Yes ☐No

If Yes, identify:

i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles)

_____

ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers)

_____

iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation)

_____

g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? ☐Yes ☐No

If Yes:

i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) ☐Yes ☐No

ii. In addition to emissions as calculated in the application, the project will generate:

- _____Tons/year (short tons) of Carbon Dioxide (CO_2)
- _____Tons/year (short tons) of Nitrous Oxide (N_2O)
- _____Tons/year (short tons) of Perfluorocarbons (PFCs)
- _____Tons/year (short tons) of Sulfur Hexafluoride (SF_6)
- _____Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs)
- _____Tons/year (short tons) of Hazardous Air Pollutants (HAPs)

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐Yes ☐No

If Yes:

i. Estimate methane generation in tons/year (metric): _____

ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____

_____

i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐Yes ☐No

If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust):

_____

_____

j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐Yes ☐No

If Yes:

i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐Weekend

☐ Randomly between hours of _____ to _____.

ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____

iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____

iv. Does the proposed action include any shared use parking? ☐Yes ☐No

v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe:

_____

_____

_____

vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐Yes ☐No

vii Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐Yes ☐No

viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐Yes ☐No

k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐Yes ☐No

If Yes:

i. Estimate annual electricity demand during operation of the proposed action: _____

_____

ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other):

_____

iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐Yes ☐No

l. Hours of operation. Answer all items which apply.

i. During Construction:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

ii. During Operations:

- Monday - Friday: _____
- Saturday: _____
- Sunday: _____
- Holidays: _____

m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐Yes ☐No

If yes:

i. Provide details including sources, time of day and duration:

_____

_____

ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐Yes ☐No

Describe: _____

_____

n.. Will the proposed action have outdoor lighting? ☐Yes ☐No

If yes:

i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures:

_____

_____

ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐Yes ☐No

Describe: _____

_____

o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐Yes ☐No

If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____

_____

_____

p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐Yes ☐No

If Yes:

i. Product(s) to be stored _____

ii. Volume(s) _____ per unit time _____ (e.g., month, year)

iii. Generally describe proposed storage facilities: _____

_____

q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☐No

If Yes:

i. Describe proposed treatment(s):

_____

_____

_____

_____

ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐No

r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☐No

If Yes:

i. Describe any solid waste(s) to be generated during construction or operation of the facility:

- Construction: _____ tons per _____ (unit of time)
- Operation : _____ tons per _____ (unit of time)

ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste:

- Construction: _____

_____

- Operation: _____

_____

iii. Proposed disposal methods/facilities for solid waste generated on-site:

- Construction: _____

_____

- Operation: _____

_____

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☐ No

If Yes:

i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____

ii. Anticipated rate of disposal/processing:

- _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
- _____ Tons/hour, if combustion or thermal treatment

iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☐ No

If Yes:

i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

iii. Specify amount to be handled or generated _____ tons/month

iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No

If Yes: provide name and location of facility: _____

If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site

a. Existing land uses.

i. Check all uses that occur on, adjoining and near the project site.

☐ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____

ii. If mix of uses, generally describe:

b. Land uses and covertypes on the project site.

Land use or Covertype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____			

c. Is the project site presently used by members of the community for public recreation? ☐Yes ☐No

i. If Yes: explain: _____

d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? ☐Yes ☐No

If Yes,

i. Identify Facilities:

_____

_____

e. Does the project site contain an existing dam? ☐Yes ☐No

If Yes:

i. Dimensions of the dam and impoundment:

- Dam height: _____ feet
- Dam length: _____ feet
- Surface area: _____ acres
- Volume impounded: _____ gallons OR acre-feet

ii. Dam's existing hazard classification: _____

iii. Provide date and summarize results of last inspection:

_____

_____

f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? ☐Yes ☐No

If Yes:

i. Has the facility been formally closed? ☐Yes ☐ No

- If yes, cite sources/documentation: _____

ii. Describe the location of the project site relative to the boundaries of the solid waste management facility:

_____

_____

iii. Describe any development constraints due to the prior solid waste activities: _____

_____

g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? ☐Yes ☐No

If Yes:

i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred:

_____

_____

h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? ☐Yes ☐ No

If Yes:

i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐Yes ☐No

☐ Yes – Spills Incidents database — Provide DEC ID number(s): _____

☐ Yes – Environmental Site Remediation database — Provide DEC ID number(s): _____

☐ Neither database

ii. If site has been subject of RCRA corrective activities, describe control measures: _____

_____

_____

iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? ☐Yes ☑No

If yes, provide DEC ID number(s): _____

iv. If yes to (i), (ii) or (iii) above, describe current status of site(s):

_____

_____

v. Is the project site subject to an institutional control limiting property uses? ☐Yes ☐No

- If yes, DEC site ID number: _____
- Describe the type of institutional control (e.g., deed restriction or easement): _____
- Describe any use limitations: _____
- Describe any engineering controls: _____
- Will the project affect the institutional or engineering controls in place? ☐Yes ☐No
- Explain: _____

E.2. Natural Resources On or Near Project Site

a. What is the average depth to bedrock on the project site? _____ feet

b. Are there bedrock outcroppings on the project site? ☐Yes ☐No
If Yes, what proportion of the site is comprised of bedrock outcroppings? _____%

c. Predominant soil type(s) present on project site: _____ _____%
_____ _____%
_____ _____%

d. What is the average depth to the water table on the project site? Average: _____ feet

e. Drainage status of project site soils: ☐ Well Drained: _____% of site
☐ Moderately Well Drained: _____% of site
☐ Poorly Drained _____% of site

f. Approximate proportion of proposed action site with slopes: ☐ 0-10%: _____% of site
☐ 10-15%: _____% of site
☐ 15% or greater: _____% of site

g. Are there any unique geologic features on the project site? ☐Yes ☑No
If Yes, describe: _____

h. Surface water features.

i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☑Yes ☐No

ii. Do any wetlands or other waterbodies adjoin the project site? ☑Yes ☐No

If Yes to either *i* or *ii*, continue. If No, skip to E.2.i.

iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☑Yes ☐No

iv. For each identified regulated wetland and waterbody on the project site, provide the following information:

- Streams: Name 837-84, 837-93, 837-22, 837-100, 837-101, 837-6... Classification C, A, B
- Lakes or Ponds: Name _____ Classification _____
- Wetlands: Name Federal Waters, Federal Waters, Federal Waters,... Approximate Size NYS Wetland (in a...
- Wetland No. (if regulated by DEC) AX-25, BS-16, AX-12, BS-32,...

v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☑Yes ☐No

If yes, name of impaired water body/bodies and basis for listing as impaired: _____
Name - Pollutants - Uses:Bowen Brook and tribs – Nutrients;D.O./Oxygen Demand – Recreation;Aquatic Life, Name - Pollutants - Us...

i. Is the project site in a designated Floodway? ☐Yes ☐No

j. Is the project site in the 100 year Floodplain? ☐Yes ☐No

k. Is the project site in the 500 year Floodplain? ☐Yes ☐No

l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☑Yes ☐No
If Yes:

i. Name of aquifer: Principal Aquifer, Primary Aquifer

m. Identify the predominant wildlife species that occupy or use the project site: _____

n. Does the project site contain a designated significant natural community? ☑ Yes ☐ No

If Yes:

i. Describe the habitat/community (composition, function, and basis for designation): Red Maple-Tamarack Peat Swamp, Rich Sloping Fen

ii. Source(s) of description or evaluation: _____

iii. Extent of community/habitat:

- Currently: 6.0, 1.38 acres
- Following completion of project as proposed: _____ acres
- Gain or loss (indicate + or -): _____ acres

o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☑ Yes ☐ No

p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☑ Yes ☐ No

q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐ Yes ☐ No

If yes, give a brief description of how the proposed action may affect that use: _____

E.3. Designated Public Resources On or Near Project Site

a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☑ Yes ☐ No

If Yes, provide county plus district name/number: WYOM005, GENE001

b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☐ No

i. If Yes: acreage(s) on project site? _____

ii. Source(s) of soil rating(s): _____

c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐ Yes ☑ No

If Yes:

i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature

ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____

d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐ Yes ☑ No

If Yes:

i. CEA name: _____

ii. Basis for designation: _____

iii. Designating agency and date: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places? ☑ Yes ☐ No

If Yes:

i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District

ii. Name: Alexander ~~Glassical~~ School

iii. Brief description of attributes on which listing is based:

f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☑ Yes ☐ No

g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☐ No

If Yes:

i. Describe possible resource(s): _____

ii. Basis for identification: _____

h. Is the project site within fives miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☐ No

If Yes:

i. Identify resource: _____

ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____

iii. Distance between project and resource: _____ miles.

i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☑ No

If Yes:

i. Identify the name of the river and its designation: _____

ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

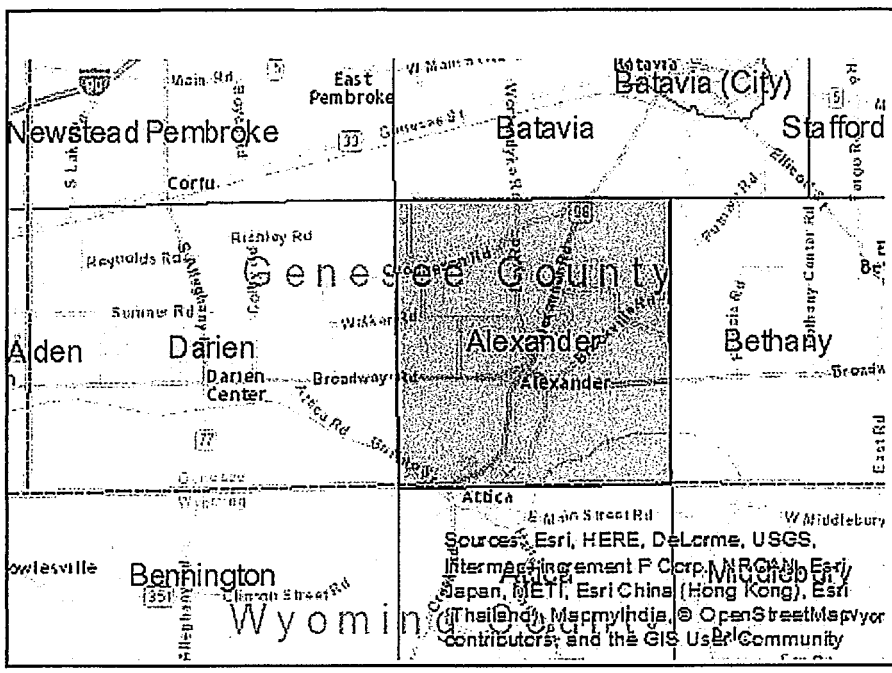
G. Verification

I certify that the information provided is true to the best of my knowledge.

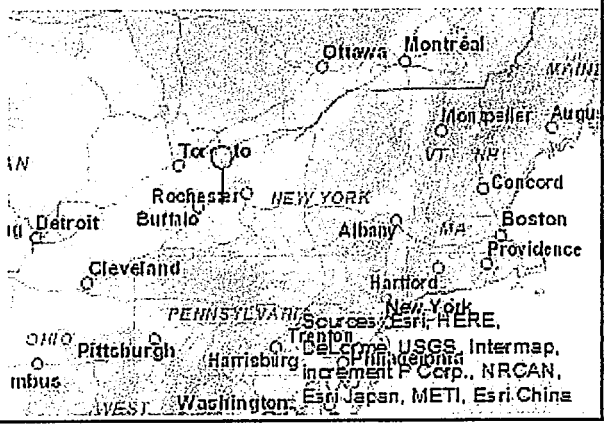
Applicant/Sponsor Name Joseph Higley, Supervisor Date 12-14-15

Signature _____ Title Supervisor

PRINT FORM



Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.



B.i.i [Coastal or Waterfront Area]	No
B.i.ii [Local Waterfront Revitalization Area]	No
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	Yes
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.iv [Surface Water Features - Stream Name]	837-84, 837-93, 837-22, 837-100, 837-101, 837-67, 837-86, 837-87, 837-88, 837-96, 837-68
E.2.h.iv [Surface Water Features - Stream Classification]	C, A, B
E.2.h.iv [Surface Water Features - Wetlands Name]	Federal Waters, NYS Wetland

E.2.h.iv [Surface Water Features - Wetlands Size]	(in acres):78.8, NYS Wetland (in acres):44.8, NYS Wetland (in acres):17.7, NYS Wetland (in acres):163.8, NYS Wetland (in acres):119.8, NYS Wetland (in acres):60.1, NYS Wetland (in acres):65.0, NYS Wetland (in acres):144.2, NYS Wetland (in acres):53.2, NYS Wetland (in acres):18.3, NYS Wetland (in acres):30.6, NYS Wetland (in acres):67.2, NYS Wetland (in acres):45.4, NYS Wetland (in acres):70.1, NYS Wetland (in acres):57.7, NYS Wetland (in acres):18.5, NYS Wetland (in acres):22.3, NYS Wetland (in acres):22.8, NYS Wetland (in acres):70.7, NYS Wetland (in acres):78.3, NYS Wetland (in acres):191.5, NYS Wetland (in acres):45.9, NYS Wetland (in acres):273.8, NYS Wetland (in acres):229.8, NYS Wetland (in acres):21.1, NYS Wetland (in acres):84.2, NYS Wetland (in acres):36.2, NYS Wetland (in acres):30.9
E.2.h.iv [Surface Water Features - DEC Wetlands Number]	AX-25, BS-16, AX-12, BS-32, AX-31, BS-36, AX-24, BS-35, AX-27, AX-22, AX-32, BS-37, AX-30, BS-29, AX-23, AX-28, BS-26, BS-38, BS-27, BS-34, BS-31, AX-39, BS-30, BS-33, BS-17, BS-28, AX-26, AX-38, AX-29, BS-39
E.2.h.v [Impaired Water Bodies]	Yes
E.2.h.v [Impaired Water Bodies - Name and Basis for Listing]	Name - Pollutants - Uses:Bowen Brook and tribs – Nutrients;D.O./Oxygen Demand – Recreation;Aquatic Life, Name - Pollutants - Uses:Tonawanda Creek, Upper, and minor tribs – Silt/Sediment – Water Supply, Name - Pollutants - Uses:Little Tonawanda Creek, Lower, and tribs – Silt/Sediment – Water Supply
E.2.i. [Floodway]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.j. [100 Year Floodplain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.k. [500 Year Floodplain]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer, Primary Aquifer
E.2.n. [Natural Communities]	Yes
E.2.n.i [Natural Communities - Name]	Red Maple-Tamarack Peat Swamp, Rich Sloping Fen
E.2.n.i [Natural Communities - Acres]	6.0, 1.38
E.2.o. [Endangered or Threatened Species]	Yes
E.2.p. [Rare Plants or Animals]	Yes
E.3.a. [Agricultural District]	Yes
E.3.a. [Agricultural District]	WYOM005, GENE001
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	Alexander Classical School
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

COPY

TOWN OF ALEXANDER

A PROPOSED LOCAL LAW ENTITLED, "2016 UPDATE TO THE ZONING LAW INCORPORATING A SPECIAL USE PERMIT FOR STABLING FOR FARM ANIMALS IN RESIDENTIAL AREAS AND PROHIBITING COMMERCIAL EXCAVATION ACTIVITIES IN THE TOWN OF ALEXANDER"

Be it enacted by the Town Board of the Town of Alexander as follows:

SECTION I. AUTHORITY

The Town Board of the Town of Alexander enacts this local law under the authority granted by New York Municipal Home Rule Law, §10; and New York Town Law, §64.

SECTION II. PURPOSE

The Town of Alexander Planning Board has been discussing the issue of farm animals since a case in the year 2012 involving farm animals in a Residential District within the Town of Alexander and recommends amending the Town's Zoning Law regarding same. To ensure proper codification of text of Law and implementation, the Town amended the Zoning Law regarding Commercial Excavation the adoption and codification needs further implementation into existing text of Law.

SECTION III. TITLE

This local law shall be known as "2015 update to the Zoning Law incorporating a special use permit for stabling of farm animals and prohibiting commercial excavation activities in the Town of Alexander"

SECTION IV. ENACTMENT

The Town Board of the Town of Alexander hereby adopts the following changes to the Town of Alexander Zoning Law as follows:

1. TABLE OF CONTENTS

Remove **Section 504- Earth Products District**

2. ARTICLE III ESTABLISHMENT OF ZONING DISTRICTS SECTION 301 ZONING DISTRICT CLASSIFICATION

Remove EP- Earth Products

3. ARTICLE V. ZONING DISTRICT REGULATIONS SECTION 501 AGRICULTURAL- RESIDENTIAL DISTRICT A-R

B. Uses Requiring a Special Use Permit

Remove 22. *Commercial Excavation –Minor excavation*

Remove ***4.*** **SECTION 504 EARTH PRODUCTS DISTRICT**

The Earth Products District is designed to allow the mining of valuable earth products

A. Permitted Uses

The following uses are permitted in the Earth Products District

1. None

B. Uses requiring Special Use Permit

The following uses are permitted in the Earth Products District:

1. Commercial Excavation –major excavation

Remove **5.** **SECTION 607** **COMMERCIAL EXCAVATION**

Except when incidental to the construction of a building on the same lot, the excavation, processing or sale of sand, gravel or clay or other natural mineral deposits, or the quarrying of any kind of rock formation, hereafter, shall require a special use permit from the Planning Board as provided for in Sections 501.B.22 and Section 504.

A. Major Excavation (per Section 504)

1. State Permit

In order to obtain said special use permit, the applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law when applicable.

2. Reclamation

The applicant shall further be required to comply with the reclamation standards established by the New York State Department of Environmental Conservation while carrying out such use.

B. Minor Excavation (per Section 501.B.22)

As part of the application process for a special use permit, the applicant's plan shall be presented to the Genesee County Soil and Water Conservation District for its review and comments. Also, before issuing a special use permit, the Planning Board must find that such excavation will not endanger the stability of adjacent land or structures or the quality or quantity of groundwater and that it does not constitute a detriment to public health, safety, or welfare by reason of excessive dust, noise, traffic, erosion, siltation or other condition.

In granting said special use permit, the Planning Board shall specify any reasonable requirement including the following:

1. Minimum Lot Area

The minimum lot area shall be ten acres.

2. Minimum Setback Requirements

All buildings shall be located not less than 100 feet from any street or property line. The top of the slope of all excavation operations shall be located or shall occur not less than 100 feet from any street or property line. The setback area shall not be used for any use in conjunction with the excavation and appurtenant activities except for one public notice sign identifying the use of the property, fencing, berms, buffers, access roads and parking.

3. Slope

During mining the banks of all excavations shall be maintained at a slope not to exceed the normal angle of repose of such material.

4. Drainage

All surface drainage and any waste matter shall be controlled to prevent any silt, waste products, process residues, etc. from flowing on to public roads, adjacent property or into any stream. Excavation areas shall be planned and graded to avoid spasmodic collection of stagnant water.

5. Dust

All storage areas, yards, service roads, or other untreated open areas within the boundaries of the excavation area shall be so maintained and improved as to minimize dust or other windblown air pollutants.

6. Roadside Landscape

Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented in the entire area of the roadside setback for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplement plan, the operation can, if properly landscaped with grass, trees and shrubs, grade back the over-burden around the perimeter of the excavation site to create a "berm" for the purpose of screening and noise reduction. No berm shall be constructed within 25 feet of any right-of-way line or other property boundaries.

7. Fencing

Fencing may be required depending upon the existence of an earthen berm, the nature of the operations, distance from developed area, distance from property lines, depth of pit water and slope of pit walls.

8. Topsoil

All topsoil and subsoil shall be stripped from the excavation areas and stockpiled and seeded for use in accordance with the reclamation plan. The location of topsoil to be stored shall be identified. Such stockpiles shall be treated to minimize the effects of erosion by wind or water upon public roads, streams, or adjacent property. This provision shall be applied to all operations except that of topsoil removal.

9. Erosion

The applicant shall include a plan for the control of soil erosion.

10. Hours of Operation

All operations shall be conducted between the hours of seven o'clock in the morning (7:00 a.m.) and six o'clock in the evening (6:00 p.m.) with no Sunday or holiday operations, except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.

11. Blasting and/or Processing

Operations involving blasting and on-site processing of mineral deposits shall not be allowed.

12. Reclamation Plan

The applicant shall submit a reclamation plan:

Reclamation Plan: Means the applicant's proposal for reclaiming the affected land, including a graphic and written description of the proposed use for all affected land, the method of reclamation and a schedule for performing reclamation.

Where feasible, reclamation shall be a continuing operation. Grading, topsoil replacement and replanting of the area designated for restoration shall continue during the permit period. All reclamation work shall be complete within one year after the termination of operations, at the expense of the operator.

13. Performance Bond

A performance bond or some other financial guarantee may be required to assure that the conditions stipulated in the approval of the special use permit are carried out.

14. Duration of Special Use Permit

The special use permit for a minor excavation shall be issued for a period of one year, subject to a subsequent annual review and recertification by the Planning Board based on a written request for such continuance, which request shall be submitted to the Town Zoning Enforcement Officer at least 60 days prior to the expiration of each such one year period. A public hearing shall not be required for such annual recertification, except upon motion of the Planning or Town Board.

The special use permit for a major excavation shall continue as long as its New York State Department of Environmental Conservation permit remains in effect, it complies with the terms therein, and it meets the reclamation standards established by the New York State Department of Environmental Conservation.

If on-site mining or processing operations are not carried out continuously for one year for a major or minor excavation, the site shall be considered abandoned, and, prior to any further excavation or processing, a new permit shall be required.

Existing trees and ground cover along public road frontage shall be preserved, maintained and supplemented in the entire area of the roadside setback for the purpose of screening and noise reduction. If, however, the existing topography and natural vegetation does not lend itself to an economically feasible supplement plan, the operation can, if properly landscaped with grass, trees and shrubs, grade back the over-burden around the perimeter of the excavation site to create a "berm" for the purpose of screening and noise reduction. No berm shall be constructed within 25 feet of any right-of-way line or other property boundaries.

ADD/ AMEND

1. TABLE OF CONTENTS

Amend ***Section 408 – Stabling Farm Animals / Bulk Storage of Manure***

2. ARTICLE II – DEFINITION AND WORD USAGE

Section 202 – Definitions

Add Commercial Excavation - A lot or part thereof used for the purpose of extracting stone, sand, gravel, or clay, and exclusive of the process of grading a lot

preparatory to the construction of a building for which application for a building permit has been made. Commercial excavation shall be divided into two categories based on the scale and type of operation as follows:

1. Major Excavation - All excavations requiring a New York State Mined Land Reclamation Permit shall be considered major excavations.

2. Minor Excavation - All excavations not requiring a New York State Mined Land Reclamation Permit shall be considered minor excavations.

Add Farm Animal – Any fowl, ungulate, species of cattle, sheep, swine, goats, llamas, horse or fur-bearing animals, as defined in Section 11-1907 of the Environmental Conservation Law, which are raised for commercial or subsistence purposes. Fur-bearing animals shall not include domestic household pets (i.e., rabbits, ferrets, dogs or cats).

3. ARTICLE IV – GENERAL REGULATIONS

Section 408 – Stabling Farm Animals / Bulk Manure Storage

Amend A. There shall be no stabling of farm animals or storage of manure, bulk storage of fertilizer, or similar odor or dust producing substance within the R District **except by special use permit issued in accordance with Article V, Section 502**. Such stabling or storage shall be permitted in the A-R District provided the following restrictions are observed:

1. No such stabling or storage shall take place within five hundred (500) feet of an R District **except as provided in Article V, Section 502**.

2. No such stabling or storage shall take place within one hundred (100) feet of a lot line **except as provided in Article V, Section 502**.

~~3. Before receiving approval to stable farm animals, the applicant shall be required to develop an animal waste disposal plan acceptable to the Genesee County Soil and Water Conservation District.~~

4. ARTICLE V – ZONING DISTRICT REGULATIONS

Section 502 – Residential District – R

B. Uses Requiring Special Use Permit

Amend 1. Farms and all usual agricultural operations, ~~excluding stabling of farm animals.~~

Add 10. Stabling of Farm Animals

5. ARTICLE VI- SUPPLEMENTARY REGULATIONS

Add **SECTION 607 PROHIBITION OF COMMERCIAL EXCAVATION**

1. Commercial excavation within any zoning district of the Town of Alexander is strictly prohibited excepting only commercial excavation in existence on the effective date of this section and which is authorized by a valid permit issued by the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law and /or by a Special Use Permit previously issued by the Planning Board of the Town of Alexander.

2. The continuation of minor excavations pursuant to a Special Use Permit previously issued by the Planning Board is subject to subsequent annual review and re-certification by the Planning Board based on a written request for such continuance, which request shall be submitted to the Town Zoning Enforcement Officer at least sixty (60) days prior to the expiration of each one year period. A public hearing shall not be required doe such annual certification, except upon motion of the Planning or Town Board. Certification may be denied for any violation of the terms and/or conditions of a previously issued Special Use Permit. The Planning Board may impose additional reasonable terms and conditions on a Special Use Permit as any re-certification.

3. A Special Use Permit for a Major excavation shall only continue as long as its New York State Department of Environmental Conservation Permit remains in full force and effect, the permit holder complies with the terms therein and the permit holder meets reclamation the standards established by the New York State Department of Environmental Conservation.

4. If onsite commercial excavation is not carried on continuously for a period of one year for major or minor excavation, or if any permit or Special Use Permit allowing such commercial excavation shall expire, then the use of the site for commercial excavation shall be deemed abandoned and no further commercial excavation shall be allowed at this site.

Add **SECTION 620 STABLING OF FARM ANIMALS IN A RESIDENTIAL DISTRICT**

The purpose of this section is to recognize and address a practice occurring in Residential Districts within the Town of Alexander. Due to various agricultural practices now in existence, it is necessary to preserve public health and safety with the reduction of animal waste and limited agricultural practices on parcels of land that may be inferior in size to support such uses. The specific merits of a proposal to stable farm animals on parcels of land in a Residential District needs to be

addressed and properly managed with an efficient, economical and predicable process.

A. The stabling of farm animals in a Residential District is permitted upon the approval of a special use permit by the Planning Board.

B. The stabling of farm animals shall be a Aclosed system@ with the bringing in of animal feed and the removal of animal wastes from the property. No feed crops for animals shall be raised and no animal wastes shall be applied to the property.

C. Provide a description of the project and a narrative of the intended use of such proposed building, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes.

1. Include the name and address of the applicant and any professional advisors.

2. If the applicant is not the owner of the property, provide authorization from the owner.

3. If any new structures are going to be located adjacent to a stream or wetland, provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property and include the location of any new structures therein.

4. Proper nutrient and manure management plans. The applicant shall submit a plan for animal feeding and waste disposal, i.e.: agreement with a neighboring farm, compost plan, etc.

5. List of the type and number of animals to be harbored on the property with a narrative as to how animals will be pastured/grazed; exercised; and protected from the public.

6. Location of septic system and well situated on property relative to the stabling of farm animals.

7. Provisions to eliminate rodent and insect infestation of neighboring properties.

8. Provisions to ensure noise from stabling will not interfere with quiet enjoyment of neighboring properties.

D. No farm type structures shall be placed in front of the primary dwelling.

E. Prior to the issuance of a special use permit, the Zoning Enforcement Officer shall require site plan approval by the Planning Board pursuant to Article VIII.

F. The Planning Board is encouraged to impose any reasonable condition needed to ensure the special use permit criteria outlined above is adhered to.

6. ZONING SCHEDULE A

Zoning District R –

Amend Non Residential- ~~Site Plan Requirements (5)~~

Amend EARTH PRODUCTS DISTRICT (EP) shall be removed and all properties included within shall be zoned as AGRICULTURAL- RESIDENTIAL (AR).

SECTION V. SEVERABILITY/VALIDITY

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

SECTION VI. REPEAL

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

SECTION VII. EFFECTIVE DATE

This Local Law shall take effect upon filing with the New York State Secretary of State.

Law Office of David M. DiMatteo

David M. DiMatteo, Esq.

David M. Roach, Esq.*

*also admitted in Illinois

Molly L. Bayliss, Esq.

87 North Main Street, PO Box 190
Warsaw, New York 14569-0190
Telephone (585) 786-2110
Facsimile (585) 786-0126

December 23, 2015

RECEIVED
DEC 30 2015
GENESEE COUNTY
DEPARTMENT OF PLANNING

Genesee County Department of Planning
Attn: Felipe Oltramari
3837 West Main Street Road
Batavia, New York 14020

Re: Town of Alexander Planning Board Referral

Dear Mr. Oltramari:

I have received your correspondence containing a copy of your record from 2003 when the then Alexander Town Clerk advised your department that the Town had adopted zoning amendments banning mining in the Town. I have reviewed the record and it appears that on April 10, 2003 the Genesee County Planning Board disapproved these amendments stating that "Given the County Planning Board's previous recommendation on Referral 3 T-01-ALEX-3-03 which required the elimination of the proposed ban on future mining from the Town's Draft Comprehensive Plan, the proposed Zoning Ordinance Amendment to ban new Commercial Excavations would not be in keeping with the "Revised" Comprehensive Plan."

As you are aware, these previous amendments did not become part of the zoning code and the Town has now submitted to your Planning Board zoning referral # T-01-ALEX-1-16 for the adoption of new zoning amendments that would ban mining in the Town, and you have indicated that this will be reviewed on January 14, 2016.

I have reviewed the Town's Comprehensive plan that was adopted in June 2003, after the previous proposed amendments were disapproved. It is clear that the Comprehensive Plan envisioned zoning amendments that would eliminate future mining in the Town of Alexander, but would recognize the rights of existing mining operations. The amendments that have been submitted to the Planning Board support this section of the Comprehensive Plan. I have attached copies of pages 30 to 35 that specifically address the prohibition of mining and the reasoning behind it for your review.

If you have any further questions please feel free to contact me.

Very truly yours,

David M. DiMatteo
DMD/mlb

PC to Joseph Higley, Supervisor

Sand and Gravel

Deposits of sand and gravel are located within the Town as a result of the receding glaciers. Sand and gravel are used in construction of highways. Mined land may be reclaimed for agriculture, or as a pond.

Four mines in the Town currently have permits from New York State Department of Environmental Conservation (DEC):

- Frey Concrete operates the largest mine in the Town. The company is currently permitted to mine material from a 150.8 acre area on Dry Bridge Road, within a 810.6 acre "life of mine" area. Frey's permit expired in December 2001, but the mine can continue under existing permit until it receives approval for a requested modification. The proposed modification will add new acreage for stockpiling. Public comment will be welcomed once the application is complete.

- Lafarge Corp. has a permit to mine material from a 30-acre site on Brookville Road, within an 80 acre "life of mine" area. Approved operations include washing, screening and crushing. This pit was formerly operated by the Town of Alexander. The permit expires in August 2006.

- Western NY Concrete Corp. has a permit to mine material from an 8.5 acre site on Route 20; 8.5 acres is also the "life of mine" area. This permit is currently up for renewal. Public comments will be accepted until June 24.

- Keeler Construction's permit to mine a 2.0 acre site, within a 5.0 acre "life of mine" area, has expired. The mine is not currently operating, although Keeler will be responsible for reclamation. Keeler may apply for a new permit.

Since the adoption of the Town's Zoning Ordinance, mining has been a special permitted use within the AR and EP Districts subject to Town Planning Board's approval pursuant to § 607 of the Zoning Ordinance and permitting by DEC. A combination of events has occurred over time so as to merit reconsideration of the Town's regulations with respect to mining.

First, the number and magnitude of mines and proposed mines has increased. Were the Town to maintain the status quo, the trend may result in the mining of significant portions of the Town.

Second, a lack of controls on mining will cause the continued conversion of agricultural land (much of it gravelly prime soils) into non-agricultural reclaimed uses. This will impact the traditional economy and community character of the Town.

Third, large-scale mining operations cause noise, dust, traffic, and result in water quality and visual and aesthetic degradation. Such operations in many locations in the Town would adversely affect existing residences and discourage future residential development.

For these reasons and based upon comments from the public, this Comprehensive Plan recommends that Town zoning regulations be amended to prohibit the establishment of new mining operations. The proposed zoning changes would not eliminate existing mining operations within the Town. Existing mining operations would enjoy "grandfathered" status and will be capable of satisfying local aggregate needs, as well as contributing significantly to meeting regional aggregate needs, for a period of years.

The zoning ordinance, when amended as proposed, will recognize the right of existing mining operations to continue subject to the continuing requirement that such mining operations comply with the terms of their DEC mining permits and that smaller mines not regulated by DEC comply with the Town requirements for annual re-certification. Such requirements will help to mitigate the continuing adverse impacts of existing mining operations.

Existing Plans, Programs, and Regulations

State and Federal Wetlands Regulations

NYS DEC regulations restrict development on designated wetlands. Both State and Federal laws and regulations are in effect to protect and preserve wetlands. New York State's Freshwater Wetlands Act directed the Department of Environmental Conservation (DEC) to map significant wetlands and prepare regulations restricting activities that would destroy or disturb the wetlands. The State delineates wetlands with an area of 12.4 acres (5 hectares) or larger, plus smaller wetlands of unusual importance. Areas within 100 feet of delineated wetlands are also regulated in order to protect a sufficient buffer area.

The U.S. Army Corps of Engineers issues permits for activities in those wetlands subject to regulations under Section 404 of the Federal Clean Water Act. Maps of hydric soils and maps prepared by the U.S. Fish and Wildlife Service for the National Wetlands Inventory can be used in the preliminary identification of Federally regulated wetlands. Field investigation, based on criteria established by Federal regulations, is required to delineate the boundaries of these wetlands.

Flood Hazard Prevention

Areas subject to periodic flooding have been mapped by the Federal Emergency Management Agency (FEMA). Construction within flood hazard zones is restricted in order to prevent property damage due to flooding, and to maintain open pathways for flood waters. The Town of Alexander participates in the Federal Flood Insurance program and has adopted a local law which restricts development in flood-prone areas.

Provisions for Mining in Town Zoning

The Town of Alexander Zoning Ordinance currently requires a Special Use Permit for any "major" or "minor" Commercial Excavation. Major excavations are only permitted in areas zoned Earth Products. The requirements for a "Major Excavation" are limited to complying with the provisions of the DEC permit. State law does not permit Towns to regulate the operation of mines that require a DEC permit, although Towns do have the opportunity to comment on new and renewed mining permits issued by DEC. Requirements for "Minor Excavations" apply to mines that do not require a DEC permit, and address setbacks, drainage, fencing, hours of operation, blasting, and reclamation.

Stormwater Management and Erosion Control

State regulations administered by the Department of Environmental Conservation require that any development that disturbs more than one acre of land must have an approved plan for the management of stormwater runoff and the control of erosion. Plans must be filed with the Genesee County Soil and Water Conservation District prior to disturbing the land.

These regulations also apply to road maintenance activities conducted by local Highway Departments.

Issues and Opportunities

Preserve natural areas

The many undisturbed natural areas in the Town, including wetlands, woodlands and streams, provide habitat for wildlife and opportunities for hunting and fishing, as well as aesthetic beauty. These areas contribute to the rural character valued by residents. Wetlands and the floodplain along Tonawanda Creek are protected from development by State and Federal regulations. Woodlands in the Town are privately owned, and are used privately for hunting.

Areas that are in or adjacent to woodlands may be attractive for residential development. However, residential development can have a negative effect on natural areas as a result of land disturbance, and the effect of domestic animals on wildlife.

Protect the quality of Tonawanda Creek

As Tonawanda Creek is used as a public drinking water supply by the City of Batavia, located approximately five miles north of the Town of Alexander, it is important to protect the quality of its water. Potential contaminants include fertilizers and pesticides used on farms and lawns, nutrients from animal waste, as well as eroded sediments from streambanks or construction sites. Contaminants may enter Tonawanda Creek from the surface of adjoining land, or may be carried into the Creek from its tributaries.

Eroded soils from construction sites or road maintenance activities may carry contaminants into tributaries to Tonawanda Creek. Management of stormwater runoff helps to prevent erosion and sedimentation of streams.

NYS Mined Land Reclamation Law

New York State's Mined Land Reclamation laws require a permit from the NYS Department of Environmental Conservation (DEC) for the operation of mines that remove more than 1,000 tons of minerals (roughly equivalent to 750 cubic yards or 40 to 50 truck loads). The permit conditions address operations and require provisions for the reclamation of mined land. Permits must be renewed every five years, or else they expire. The permit identifies a "life of mine" area as well as areas that may be mined during the permit period.

The MLRL supercedes all other laws relating to mining operations, with the following exceptions:

- *Local governments may, through zoning regulations, designate areas where mining is and is not permitted.*
- *Special permit conditions may regulate access onto local roads, transport of product on local roads, setbacks from property lines, and enforcement of DEC permit requirements. Other aspects of the operation of gravel mines may not be regulated by local government.*
- *Local governments may regulate the operation of mines that are exempt from state law jurisdiction (those that remove less than 1,000 tons or 750 cubic yards.)*

Flooding along Tonawanda Creek

The soils in the Tonawanda Creek valley are highly productive as a result of past flooding. However, The periodic flooding of Tonawanda Creek erodes farmland and damages crops. Log jams within the Creek have affected the amount of water that can be carried by the Creek. [Efforts to remove log jams; jurisdiction]

Some trees that were cut by the NYS Department of Transportation along Route 98 were not properly removed. This may contribute to reduced capacity within Tonawanda Creek.

As development within the floodplain is limited by regulation, farmers can continue to farm this land without pressure to develop.

Impacts from gravel mining

Gravel mining produces materials that are necessary for highway and other construction, Gravel mining is also a viable business that contributes to the tax base and economic benefit of the Town. However, the impacts from mining can affect the quality of life of neighboring residents. Impacts may include: noise, dust, water quality degradation, visual and aesthetic degradation, and truck traffic. Residents along Spring Road, for example, have complained in the past about dust and noise associated with the Frey mine.

Proper reclamation of mined land is also a concern. Land that has been mined is rarely as productive for agriculture as it was prior to mining. Mined land can also be an eyesore and a detriment to the Town if not properly restored.

Groundwater Quality

As most residents of the Town of Alexander obtain their drinking water from private, on-site wells, protecting the quality of the groundwater is extremely important. Potential sources of contamination include chemicals used in agriculture and lawn care, and nitrates and nutrients from animal waste.

Residents Survey Results

- *A large majority of respondents (78%) state that the Town should take measures to protect open spaces and views.*
- *Residents use natural areas for recreation, including walking, hunting and fishing*
- *Nearly half of all respondents (48%) have problems with their water supply. Of these, 48% have problems with both quality and quantity, 45% have quality problems only, and 7% have quantity problems only. Among respondents who live along Route 20 and along Route 98 north of the Village of Alexander, nearly 75% reported problems with their water supply. Among respondents who live in the southwest and northeast quadrants of the Town, less than 40% reported problems with their water supply.*

Tools and Techniques

Zoning Regulations

Towns have the authority to regulate the use of land through local zoning regulations, except where State or Federal regulations supercede this authority. For example, development within designated wetlands is restricted by State and Federal regulation, regardless of any uses that may be permitted by local zoning.

The NYS Mined Land Reclamation Law limits the authority of local governments to regulate the operation of sand and gravel mines. The Town may use zoning to limit the areas within the Town that could be mined, and may limit entrances and exits onto Town roads, and it may monitor conditions of the DEC permit as part of a special permit process. In addition, the Town is given the opportunity to comment on NYS DEC permit applications.

Agricultural Environmental Management

Voluntary Agricultural Environmental Management techniques could reduce the amounts of agricultural runoff into Tonawanda Creek and groundwater. The Genesee County Soil and Water Conservation District and the USDA Natural Resource Conservation Service offer technical assistance to farmers to install measures that lower the amount of nutrients and chemicals that run off into streams or seep into the groundwater. Financial assistance is available on a matching basis.

Stormwater Management and Erosion Control

Erosion of disturbed land during construction can be managed by local regulation and oversight. The Town Planning Board generally requires erosion control and stormwater management plans to be incorporated into the site plan.

Town Highway Department is responsible for minimizing erosion and runoff during routine maintenance of road side ditches and during road improvement processes.

Voluntary cleanup and education of landowners

A volunteer committee was formed in the late 1980's to protect the water quality of Tonawanda Creek. Activities included organizing clean-up days to remove debris from the banks. Cooperative activities could help in raising awareness of about water quality and reducing potential sources of contamination. In addition, information may be distributed to owners of land adjoining Tonawanda Creek and other streams in the Town to increase awareness of the need to avoid activities that could erode soils along the stream bank.

Stream Corridor Protection

Zoning regulations

Towns may help to protect stream corridors through zoning regulations. Typically, zoning regulations to protect stream corridors restrict development within a certain distance of the streambank. A typical distance for a major stream is 50 feet. Such a restriction would be appropriate for waterways such as Cattaraugus Creek, where erosion hazards exist along the bank, and Hosmer Brook and other trout streams. Regulations would limit building and prohibit the removal of natural vegetation.

Physical improvements

In areas along Cattaraugus Creek that are subject to erosion, physical improvements may be installed, such as stone rip rap. Such measures can be very expensive for landowners.

Groundwater protection

Towns may help protect groundwater through zoning regulations, public education, preparing wellhead protection plans, and participating in the monitoring of businesses in the town.

Zoning regulations

Zoning regulations designed to protect groundwater typically prohibit certain businesses from locating in areas where they could contaminate groundwater. Such businesses typically include dry cleaning establishments and motor vehicle repair shops. Sample regulations are included in the Appendix.

Public education

Residents can be educated to help protect groundwater. Many common household and automotive products have the potential to contaminate groundwater. These include lawn care chemicals, motor oil and gasoline, septic system additives, and others. Sample brochures are included in the Appendices.

Wellhead protection plan

A wellhead protection plan identifies ways to protect water quality around a community well. The Town of Holland, for example, has prepared a wellhead protection plan to protect its public water supply. Some land in the Town of Sardinia has the potential to impact the Town of Holland's water supply.

Gravel Mining

Zoning regulations

The primary tool available to the Town to control gravel mining is local zoning regulations. As the New York State Mined Land Reclamation Law does not allow towns to regulate mining operations, it does allow towns to use zoning to determine where mining may be permitted. One of the recommended actions contained in this Comprehensive Plan calls for the amendment of the Town's zoning regulations to prohibit commercial gravel mining anywhere in the Town. Existing mines will be allowed to continue as pre-existing, non-conforming uses, but will not be permitted to expand.

Participate in DEC Mined Land Reclamation regulations

The Town may also participate in the NYS Department of Environmental Conservation's permitting process. As gravel mines are required to indicate the future use of reclaimed mines, the Town should attempt to participate in the discussion to ensure that future uses are appropriate for the town. For example, the Town could encourage DEC to require that reclaimed land have adequate drainage so that it is usable for farming.

Recommended Actions

1. Revise Town zoning regulations to prohibit the establishment of new commercial gravel mines and the expansion of existing gravel mines.

2. Distribute information to landowners along Tonawanda Creek to encourage maintenance of streambanks and reductions in erosion.

3. Work with Genesee County Cooperative Extension and the Soil and Water Conservation District to encourage conservation practices among farmers.

4. Provide training to Town Highway Department personnel in practices that minimize erosion and sedimentation from roadside ditches.

5. Work with Genesee County agencies and neighboring Towns to remove snags and log jams in Tonawanda Creek.

6. Work with NYS DEC to open drainage ditches through existing railroad beds (such as along Peaviner Road)