

Town of Hamilton
Planning Board Meeting
Tuesday, September 12, 2023, 7:00 PM
Hamilton Town Community Room
38 Milford Street, Hamilton

Present: Mike Welshko, Elaine Hughes, Bettyann Miller, Mary Galvez, Kathleen Palmer, Deputy Town Clerk Elisa Robertson, Codes Officer Chuck Ladd

Absent: Pam Salmon , Planning Board Alternate

Others Present: Jody and Keith Palmer, Delores Glazier, Deb Hotaling, Susan Getnick, Adam Schoonmaker, Ned Lamb, Kevin and Vicki Godfrey, Rebecca Dowsland, Dana Krueger, Jenny and Scott Hanmer, Peter Darby, Jerrilyn Terry, Chris Rossi, John Bailey, Darrell Griff, Shari Taylor, Eve Ann Schwartz, Ted Spencer

7:05 PM Chairperson Mike Welshko calls the meeting to order. He reminds the audience that there is a sign-up sheet if one wishes to speak at the public hearing that is later in the meeting.

New Business

William Getman/John and Jerrilyn Terry; MINOR SUBDIVISION APPLICATION, Preliminary Review, 2200 Bonney Road, Tax Map # 154.-1-34.1

The Board will conduct a PRELIMINARY REVIEW of an application for a Minor Subdivision proposed by John and Jerrilyn Terry. The applicant wishes to subdivide their property into two lots bordering along Bonney Road. One lot will be for their son for an inheritance. The parcel totals +/- 3.25 acres on Bonney Road, Hamilton, NY. This property is identified as tax map # 154.-1-34.1. The Board asks questions of the applicant about measurements of the two lots and informs them that they will need to provide mylars with a signature block for the next meeting. The property was all one piece when they bought it, and they were encouraged to join the pieces together because it "would be less paperwork". Both parcels meet the area requirement and the road frontage for the AG Res district. All application materials are complete, and the application has been paid for. The applicant was hoping to use the original survey. However, to approve the subdivision the Board will need mylars of the property to sign and send to the County. They should include a signature block. The map included in the packet is the original survey map from when the parcels were first purchased. The applicant comes to the front to answer some questions about the map. Chairman Welshko asks if the original surveyor is still in business. She believes so. The applicant will need to get two copies of the Mylars, one for the county and one for the Town to keep. The applicant is reminded that they can call the Deputy Clerk if she has questions. Chairman Welshko asks if the Board has any more discussion or questions for the applicant. Mrs. Terry confirms that the fees have been paid.

The Board reviews part one of the SEQRA short form. There is an error on Number 10 . The yes box is marked, and it should be marked no. The correction is made.

Resolution 2023-21 : Motion to accept part 1 of the SEQRA short form and declare the Town of Hamilton Planning Board lead agency.

Motion: Bettyann Miller

Second: Mary Galvez

Vote: YES – 5 NO - 0

ADOPTED

Resolution 2023-22 : Motion to Schedule the Public Hearing for this application for October 10, 2023

Motion: Elaine Hughes

Second: Kathleen Palmer

Vote: YES – 5 NO - 0

ADOPTED

That concludes the business for this application.

Old Business

Town of Hamilton; SPECIAL USE PERMIT APPLICATION, Public Hearing, Wickwire Road, Tax Map # 171.-1-8

The representative for the Town, Supervisor Eve Ann Shwartz gives a summary of what has taken place with this application until now. This has been a long ongoing process. The following are her talking points:

Nine Mile Park - PB Presentation- 9-12-23

Original Purpose- To maintain public access to the 9 Mile Swamp, a unique recreational asset of our community. The land had been privately owned and owner allowed access to public. Upon death of the owner, it looked like access would be lost.

The Town purchased the 7-acre parcel of land 3 years ago and began an extensive planning process with the community's input.

1st Meeting held at the site just over two years ago on 8/21/21. 30 people attended, all but three attendees lived in the Town of Hamilton, and most were from the nearby Hubbardsville community.

Overall response was very positive- three main goals were mentioned.

- *Make universal accessibility to the river for kayaks and canoes.*
- *Improve safety of vehicle access to site, get parked cars off Wickwire road and provide off road parking.*

- Offer additional recreational features- many mentioned.
 - Trails, rustic play areas, picnic tables or pavilion, playing fields, indigenous heritage.

Town committee working with landscape planner came up with several optional versions and drawings which were presented at the Hubbardsville Firehouse on Feb 19,2022 to 25 residents.

Feedback was taken and consensus plan emerged including:

- *An internal one-way road from launch area to upper parking low.*
- *Universally accessible kayak launch, and parking spot*
- *Wood Pavilion next to parking area- clearly visible from road.*

The Town applied to DEC to get a permit to place kayak launch in the river, next to wetland. It also included an archaeological review by SHPO and evaluated all environmental issues under DEC authority.

May 8 ,2023-

After public notice and taking public comment DEC issued a permit, finding no adverse impacts on surface, groundwater, or wetlands.

6/13/23- initial presentation to PB (Planning Board) for Special Use Permit

7/11/23- presented supplemental material to address concerns of PB for signage, rules, details of pavilion construction and lighting, garbage, sanitary facilities. 8 No parking signs, Welcome sign, Handicapped parking sign, No Swimming (placement to be determined) Sign, Signage for temporary loading, directional sign for parking, and watch for pedestrians.

Use of the pavilion would state first come, first served. No reservations. No charge, not for money making. Everything is pack in, pack out. No garbage receptacles. The Town Highway Department is not far away, they will be checking on it regularly. Hopefully people will be respectful and keep it tidy. No vehicle entry at the north parking area. Park rules are:

- *Open dawn to Dusk*
- *Open year round*
- *No hunting or trapping*
- *No fires*
- *Dogs must be leashed.*
- *Clean up after your pet.*
- *No Swimming*
- *No artifacts or plants to be disturbed.*
- *No off-road vehicles*
- *Do not Park along Wickwire Road*
- *Area is tobacco free*

These were the points that the Planning Board wanted us to clarify.

Request from neighboring property owner that Town install a vegetative buffer 50 feet from the Southern boundary was discussed. The Town's legal counsel stated that the Town does not need to follow the Zoning Law and that they did not need to go before the Planning Board at all. It is completely voluntary on our part, we wanted to have public participation. In accordance with advice we received, the Town Board passed a resolution at our Aug 10 Town Board meeting clarifying that we are exempt from the Zoning regulation section 6.2.2

The PB was provided with a copy of that resolution prior to this meeting. Accordingly, the Town is not offering to install a vegetative buffer 50 feet from the boundary line, nor do we believe that the PB can require that as part of the special use permit.

"I will be happy to answer additional questions from the public about the plan."

Chairman Welshko makes the following statement regarding a document received by an attorney representing Rolling Hills of Madison County:

"Before the Planning Board opens the public hearing for the Town of Hamilton Special Use Permit, for Wickwire Road, 9-mile park. I will begin by acknowledging receipt of correspondence from Attorney Brad Hunt, dated September 8, 2023, submitted on behalf of his client Rolling Hills of Madison County, LLC. The letter was received by the Planning Board this past Friday, September 8th, well after the deadline for the submission of materials to the Planning Board. Therefore, because the Planning Board has not had a chance to thoroughly review the letter or the issues raised, the Board will not address the concerns or answer any questions pertaining to the concerns in the letter."

Chairman Welshko asks the audience to keep their comments to 3 minutes. He would like to ensure that everyone has an opportunity to speak.

Resolution 2023-23: Motion to OPEN the Public Hearing for the 9-mile park application.

Motion: Mary Galvez

Second: Bettyann Miller

Vote: YES – 5 NO - 0

ADOPTED

Speakers are as follows:

Attorney Tom Spencer: He is representing Rolling Hills of Madsison County. He asks if Ms. Hotaling can speak and then he will outline their problems with the application. Chairman Welshko states that Ms. Hotaling is scheduled to speak later. Mr. Spencer thanks the Board for listening to their comments. He understands that the Planning Board is put between a rock and a hard place because they need to uphold the Zoning Law and please the Town Board because that is who appoints them. The two issues that they have with the application are:

1. The way the Town Board has interpreted the code and short cuts the Town Board has made in the process.

- The Town Board should have gone to the Zoning Board to get an interpretation of whether the code applied to the Town Board.
- It should have gotten an interpretation of Section 6.2-2 as well.

The Town Board takes the position that it is exempt from its own Zoning rules and that Section 6.2-2 only applies when a subdivision is taking place next to an AG/Res property.

2. The process of the Town's Right to Farm Law that has a dispute resolution process for issues where properties being developed adjacent to agricultural properties. In this case the Town Board knows about the 50-foot buffer issue; it never implemented the process under the Towns Right to Farm Law to put together a dispute resolution due process. So, they think that this was another shortcut. Ultimately, if that didn't work the Town Board could have taken the matter to the Department of Ag and Markets and got an opinion from the commissioner.

They looked at the Town Code the Comp Plan and the Right to Farm Law and NYS Ag and Markets Law in each one of those documents the emphasis is to protect and preserve farm properties from other developments.

As far as the Board being exempt from the Code, Section 1.3 of the code says all land uses are subject to the code; there is a section that lists the exceptions (Section 1.4) the Town Board is not excepted out of that. The general rule is that municipalities are subject to their own Zoning unless there are special circumstances.

What isn't in the Town Board's resolution is why it thinks it is exempt, under the case law that provides exemptions, the Town Board is required to go through an analysis and weigh certain factors. There was just no explanation as to how they got to the position of being exempt. As mentioned before the Town should have gone to the ZBA about section 6.22.

Chairman Welshko Informs the speaker of the time. Mr. Spencer summarizes his points. He states that this Board should do its duty pursuant to the code and if this development is going to occur; do it in compliance with the code.

Adam Schoonmaker: He is on the Board of Directors at the Rogers Center in Sherburne and volunteers a lot for them. He takes people on canoe trips to 9-mile Swamp once or twice a year. When he does, he takes his truck with a boat trailer holding 8 or more canoes and kayaks. It is a rather large trailer. When he must manoeuvre to get in there, he must straddle the road for a few minutes because it is tight down there. He usually sends someone to the top of the hill because of his concern for someone driving north on Wickwire (Road) at a high speed may encounter his trailer across the road. For his sense of peace, he sees this (the park) as a significant increase the safety factor. The plan that Eve Ann (Supervisor Shwartz) has laid out will work well for them. Rogers's Center has been going there for many years; Mr Schoonmaker himself has been taking people for nearly a decade. There are about 10 people each trip and they include talks about nature, history, and the ecology of the area. These are very family friendly events. This plan would really improve the situation for people going there. He is in favor of it.

Rebecca Dowsland: She lives on WickWire Road. She has a question about it; she went to the early two meetings about the park. They are going to call it a Town Park but a park to her is a playground and there is nothing for kids to go to. She is not for or against this plan she just wants to make sure that if there is not going to be a play structure; she would like it to be revisited in the future to possibly include a playground. Kids need to be safe, and they need to have something to do that can keep them out of trouble. She wants it for all the kids of Hubbardsville, they do not have anything there.

Peter Darby: Declines to speak.

Deb Hotaling: Please see attached letter. Appendix A. She mentions a concern about the organic status of the land bordering the park.

Chairman Welshko asks about her specific concerns about the organic status. Car fluid leakage, exhaust and Port-a-potties were mentioned, is that the main concern? She is the property owner. She refers the Chairman to her lessees who are the organic farmers. Mr. Welshko has not encountered this concern before. He has heard concerns about the property that is being farmed but not about what neighbors are doing.

Mr Keith Palmer states that they need to have a 50-foot buffer, if they take it on the Hotaling's side they lose 50 feet of land to farm. Chairman Welshko asks what specifically do organic standards say about a 50-foot buffer? Do you have to have a 50-foot buffer between you and an adjacent non-organic use? Mr. Palmer states that is why they wanted the Town to do the 50 foot buffer. They would like the Town to assume the 50-foot buffer, so they do not lose farmland on their side. Considering the Town took it out of agricultural use because they used to rent that parcel as well. They are trying to keep as much of the land agricultural as possible.

Jody Palmer: Please see attached letter. Appendix B.

Delores Glazier: She lives next door to the property. She has concerns about the lights and their effect on her property. Another concern is the speed in which cars go past the property and down the hill. She also has concerns as to who will be accessing the park, especially from other towns. She feels that it is a total disaster down there and that the Town is asking for more trouble. When they fixed up the river right on Green Road a child was killed. She drowned back in 1979. Even though there will be no swimming signs she is convinced that people will still do it anyway. Who will be responsible for that? Who will be responsible for the trees that are going to be taken down? The site is not very visible and that also concerns her. She states that even though there are "No Parking" signs that people were still parked along the road. No one came and did anything about it. She does not feel that it will make any difference. People have been doing it for at least the last 20 years, they are not going to change. The people who go there are good people; they just come and go; they do not have any issues. They park on the side of the road, pay no attention to the no parking signs. A week or two ago the whole thing (road) was lined again. She is just saying that they need to look at it a little bit better. "If you're going to put all of this out there and use our tax money. You're going to have to have some control of

this area. There really is going to need to be some control and if you're going to have lights shining in the winter, you're going to be lighting up my place. I don't want my place lit up if I did, I would have a light out there. That's the thing. No one bothers with our place because you don't see it when you go by at night. So, there you go." Parking is a major issue. She wants to be able to enjoy her property.

Keith Palmer: His concerns are mainly concerning the buffer. He also feels like there should be trash cans or something there. He has picked up 15-20 beer cans out of there, he lost a couple of cows to hardware last year. Chairman Welshko states that it is a problem everywhere he picks up two bags of trash every year along his hay field. He also states that the trash cans can be a catch 22.

Ned Lamb: He thinks that it is a great idea to keep this area open as it has been used by many people for many years. It is a great place to go fishing, especially after dark; so, this signage that tells us that it is open from dawn to dark is a slap in the face to bullhead fishing (chuckles). As far as it being tobacco free, that's a slap in the face to guys carrying Copenhagen in their pocket or a guy with a cigar just coming back from going up to the river and had a great time. So, lets throw that idea out, shall we? As far as the pavilion goes, were sitting in an office here that cost what? 1.5 million dollars? Can we just cool our jets on the spending please and just keep it access to canoes and kayaks. Keep it simple. Have a good parking area; get the vehicles off the road, I agree with that. No ones been hurt but it is just a matter of time. Our leaderships priorities should be more on fiscal responsibility. I am more concerned about keeping the transfer station in this town than having a pavilion for people to party at. As far as playgrounds for children, I don't give a damn. People can take care of their own kids; they don't need to farm them out to Hubbardsville to a playground.

John Bailey: He wants to compliment the Town on this plan. It is a fantastic plan. He frequently uses the launch site pretty frequently in the summer. He does really wish that it had a dock as he is getting older it is getting more difficult getting in and out of the kayak. He also agrees that it is dangerous backing out of the launch site. He feels that the Town has addressed the safety concerns very well. He is on the Board of Trustees for the Chenango Canal Association, and he knows how important parks and recreation is. He feels that they have done a fine job keeping that trail open. He views this as a resource for the whole community.

Vicki Godfrey: Reading letter on behalf of Karen Hotaling. Please see attached letter. Appendix C.

Scott Hanmer: He is not fully on board with the pavilion. They go and access it occasionally, it is a beautiful place to go. He is looking at the plans and has noticed that the dock is an expensive dock, he is curious if there has been any research as to the flow of water that goes through there? If we were to get a good storm...

Chairman Welshko states that this question is better answered by the Superintendent; it is out of this Board's purview. The stream disturbance permit was issued by the DEC.

His concern is that the Town put a lot of money into a dock and that it may get washed away.

Chairman Welshko explains that the Boards concern is not whether an applicant is going to lose money but to base the application on our Zoning Law.

There is concern about people taking john boats down there as well as the Amish. Are there provisions for horses?

Chairman Welshko states that he doesn't see how john boats would be restricted.

Superintendent Shwartz explains that there is access to the water without Docks and the also that the money for the Dock is being paid for by a grant. The launch will be removed in the winter, it is a very rugged dock. It may go down the creek we don't know, water is very powerful, we will just have to find out. It is designed to float.

Chris Rossi: She is in favor of the project. She lives in Hubbardsville and has a grown daughter. She would have loved to have had a park right in Hubbardsville to take her to instead of shuttling her into Hamilton all the time. She feels that this is a great community resource and if they can make it safe and doable for everyone it would be a great treasure and certainly worth supporting.

Chairman Welshko asks if anyone else would like to speak, no one volunteers. He thanks everyone for their comments.

Chairman Welshko makes the following statement:

"The Board has received a number of comments this evening and new issues have been raised. At this time, I would like to entertain a motion to keep the public hearing open for the limited purpose of receiving written comment until October 3rd. There will be no further opportunity for oral comment, but anyone who would like to submit written comments or materials can do so until October 3rd. After which time, no further materials will be accepted. This will allow the Planning Board one week to review all materials and be in a position to render a decision at the October 10th meeting."

Resolution 2023-24 : Motion to keep the public hearing open for the limited purpose of receiving written comments until October 3rd .

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES – 5 NO - 0

ADOPTED

Chairman Welshko makes the following statement.

"Because new information relating to environmental concerns may be received as part of the written materials that may be submitted up until October 3rd, the Planning Board will not complete Part 2 and 3 of the EAF this evening. SEQR will be completed at the next Planning Board meeting on October 10, 2023.

The Board reviews the GML response from Madison County. Which has been returned for local determination.

Chairman Welshko asks the Board if they have any other questions or comments. There are none. He reminds the Board to sign their vouchers.

Resolution 2023-25: Motion to Approve the minutes from the August 8, 2023 Meeting.

Motion: Bettyann Miller

Second: Elaine Hughes

Vote: YES – 5 NO - 0

ADOPTED

Resolution 2023-26: Motion to adjourn at 8:10 PM

Motion: Kathleen Palmer

Second: Bettyann Miller

Vote: YES – 5 NO - 0

ADOPTED

Next meeting: October 10, 2023

Materials cut off: September 28, 2023

Correspondence for 9-mile: October 3, 2023

Respectfully submitted by
Elisa Robertson
Deputy Clerk

TOWN OF HAMILTON PLANNING BOARD MEETING – 9/12/2023

SPECIAL USE PERMIT – TOWN OF HAMILTON

Planning Board Members,

My name is Deb Hotaling. Thank you for letting me make a few comments.

We have a vested interest in our community and want what is best for the area.

By now you are aware of some of my concerns with the park site. I have submitted these concerns to the Town board in the past and a couple have been addressed by the park committee. I truly do not believe the location is the best place for a public park due to its remote location, past usage and lack of oversight. The area is wooded, hidden from view and is called Nine Mile Swamp for a reason.

I also feel the neighboring property owners are more familiar with the area than the general public. Speaking for myself, we have had several issues with people using that property in the past to park, trespass, poach and party. It is unclear if these issues will be more or less likely with the site open to the public and many more users. I hope that as the park is developed, it is done so with the local community in mind.

Second, I will speak as an owner of Rolling Hills of Madison County, LLC. Rolling Hills owns 3 parcels surrounding the park site. The land is currently leased for crop production and is an agricultural district. Rolling Hills has the right to use all its land for production up to the property line and the right to use that land for any other agricultural use now and in the future. The current lessee of parcel adjacent to the upper parking area holds certified organic status.

Rolling Hills has several concerns with the proposed park design and lack of an appropriate buffer zone along the property boundary line.

Property delineation: Currently there is a split rail fence along the parking area with about a 6 ft space for highway department to mow along the property line. The Town has proposed a dense hedge along this area. The remainder of the property line, which is substantial, has no delineation.

Liability and safety: I would like to submit a few pictures of the equipment that is used to work the fields around and up to the property line. Previous use of the parcel was a ¼ acre launch site adjacent to the river. Current plans will bring park visitors, kids, animals and vehicles in almost direct contact with our agricultural land. Rolling

Hills is concerned with the safety issue this presents and has been advised that liability is a much greater issue for an agricultural operation adjacent to public land vs. private land. (A proposed lease by the Town of Hamilton with the Palmers for a small section of the park site is proof of this).

Parking lot: The parking lot is located very close to upper the property line. This brings the potential for vehicle leaks such as oil, gas and antifreeze as well as trash and other debris. The adjacent parcel is certified organic. These issues pose a threat to that status.

Porta Potty: A porta potty, coincidentally, will also be placed near the property line. There should be a better place than on the border of the adjacent property far from the launch site. If this is a chemical toilet and happens to leak it will also pose a threat to the organic field.

Organic Requirements: As the park is currently proposed with a lack of any significant buffer zone along the property boundary, Rolling Hills lessee may be forced to take agricultural land out of production to meet organic standards. This would have direct impact on both Rolling Hills and the lessee. This is unacceptable in my opinion.

Please note that the Town site is 7+ acres and not limited for space in its design.

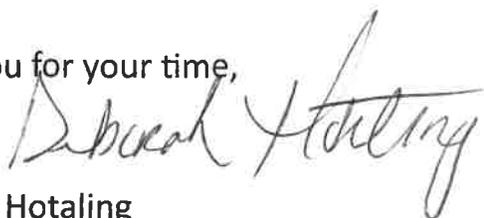
Also, note that almost any other purchaser or use of that parcel would be required to provide a minimum 50ft buffer from agricultural land under current Town law.

As you know, The Town Board has presented a resolution that a Rolling Hills request of a minimum 50ft buffer in this matter should not be considered. I will allow my attorney to address the legal issues of this request although I wish that was not necessary.

I believe that the Towns development of a public park adjacent to my property should not negatively impact my business or land use in the future. I hope that the park will be developed in the best possible way for the surrounding community - including Rolling Hills.

I am asking the Planning Board to please consider these concerns when reviewing the special use permit.

Thank you for your time,



Deborah Hotaling

I debated over whether to read a letter to you or not as it is apparent that it will make no difference. As we have been told by the Supervisor/applicant many, many times. "They don't have to follow their own rules" I have read two letters to the Town Board expressing my concerns - the first of which was not shared with you. I was absolutely disgusted with what happened last month beginning with the Public meeting being postponed and then the Town Board, two days later going into executive session and coming out with a resolution resolving that the board is not "seeking review or comment" on the request of the town's zoning law for a 50' buffer. So it really doesn't matter what you decide, if it is not to their liking they will just make a resolution to disregard you. Apparently, they don't trust the people they have appointed to follow the laws in place.

In the August meeting, Mr. Welshko stated that the zoning laws allowed for them to come to an agreement and postpone the meeting. I would like to hear what that law is.

Planning Board
or Chair? ←
When?

In my first letter to the Town Board I shared how I did not feel their plans of a pavilant playground/ballfield coincided with what attracts people there. The peace and tranquility of the river and wildlife.

potential of band/DJ's as there will be electricity in Pavilion - Will there be a noise study done to preserve the peace and tranquility of the river + wildlife and also for the quality of life for the residents that live near by.

6. Will there be events held in back field?
Wedding tents/Craft fairs/fundraisers?
Access? Part of application?

7. Did you afford previous applicants a "wait and see how it goes" attitude?
After reading many months/years of minutes, I could not find where you did. Every eventuality had to be addressed.

If you do not consider putting conditions on the use of the pavilion or park in general you run the risk of being arbitrary and capricious in your actions when considered against past history of applicants. Fair consideration is all that is being asked.

Thank you,

Jody Palmer

Keith & Jody Palmer
2251 Wickwire Rd.
Hubbardsville, NY 13355

9/12/2023 - Town of Hamilton Planning Board Hearing

Special Use Permit – Town of Hamilton

Planning Board Members,

Due to previously scheduled plans, I am unable to attend this public hearing. However, as a lifelong resident of Hubbardsville, Town of Hamilton resident and an owner of Rolling Hills of Madison County, I would like to briefly express, again, my concerns with the proposed park.

First of all, based on the location of the parcel, I believe it is too remote of an area in our rural community to create a public park with access to water. Safety and security, especially for children, is a concern around any body of water. For the most part the location is hidden from view and heavily wooded. Past use of the site has been problematic with trespassers and poachers. As a public site, these issues could potentially increase with no real method to control park usage.

Secondly, I feel the initial and ongoing costs to purchase, design, build, insure, light, maintain and possibly secure the park will be substantial to the Town taxpayer. These costs, except for the two grants secured for the kayak launch and pavilion, have not been projected and presented to the taxpayers of Hamilton.

Thirdly, and more personal to me, is the parks close proximity to 3 Rolling Hills parcels, especially the adjoining organic field. This area is in an agricultural district. As currently designed, there is little or no space between park development and our agricultural property. This is a necessity in my opinion. Rolling Hills should be afforded all protections for agricultural operations and land use as the Park is being designed.

Without public knowledge of these issues and only a handful of surrounding landowners impacted, the park will be developed at this location. I do understand public support for this project and hope it benefits the local community.

At this point, I respectfully request that the protections provided for farmers and farmland by our agricultural status designation be honored.

It is my hope that the Town of Hamilton Board and Planning Board will consider my concerns as a Town of Hamilton resident and resident and landowner in Hubbardsville and work, in good faith, to address these and others concerns as they move forward with the plans.

Sincerely,



Karen Hotaling