

Town of Junius

Agricultural & Farmland Protection Plan



November 2009

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Town of Junius

Agricultural & Farmland Protection Plan

November 2009

A. Introduction and Methodology

The benefits of an Agricultural and Farmland Protection Plan for the Town of Junius are twofold. Firstly, the township has been an agricultural community since its founding in 1803. Even though the NYS Thruway has traversed the southern part of the town since its opening in June 1954 and has maintained exits nearby, the town remained rural in nature with little outside pressure to change. In the 1970s New York State rebuilt the other state highway which crosses the southern part of the town, renumbered it to become State Route 318 and built its western terminus opposite NYS Thruway Exit #42. With no traffic lights, easy access and egress to the Thruway and little local traffic, travelers were able to crisscross Junius unimpeded, usually heading for points beyond the Junius borders.

Gradually, commercial businesses “found” the Route 318 corridor suitable for development. This became most apparent to local residents when a regional outlet mall was constructed in the mid 1990s. As other businesses have started to fill in, the Junius Planning Board recognizes a responsibility to initiate and encourage a planning process in the town.

Developing an Agricultural and Farmland Protection Plan is a start to planning for the future. The Plan is expected to be a guide for preserving the agricultural integrity of the Town. With the assistance of an advisory group composed of farmers, a farm-support businessman, and a representative of a farm-support federal agency, the Plan focuses on local issues. It suggests steps that will ensure continued support for agriculture and outlines procedures for dealing with “outside” pressures that could affect the local agrarian economy. Implementation of the Plan’s recommendations is expected to benefit all Town residents.

Secondly, and an important side benefit, it is evident to the Planning Board that a document focused on farming and agricultural support businesses in the town would become a central part of a Comprehensive Plan for the municipality.

In 2008, the Town of Junius was awarded an \$18,750 grant from the NYS Department of Agriculture and Markets to prepare an Agricultural and Farmland Protection Plan. The Town contributed \$1,250 in matching funds and the Seneca County Department of Planning and Community Development provided \$5,000 in in-kind services for a total cost of \$25,000. The Town retained the consulting firm of Stuart I. Brown Associates to assist in the preparation of the Plan. Senior Planner Barbara Johnston, AICP, served as the project’s professional Consultant.

1. Steering Committee

The Junius Planning Board served as a Steering Committee to guide the preparation of the Agricultural & Farmland Protection Plan. The following members of the Town Planning Board participated in the preparation of the Plan:

- Michael Brownell
- Edmund Fisk
- Doris Houghton, Project Manager
- Linda Mott
- Paul Rosenthal
- Susanne Smith
- Robert Stevens, Chairman
- Thomas Hicks
- Christopher Tarr (alternate)

2. Advisory Group

An Advisory Group was convened to provide additional guidance to the Planning Board and the Town's consultant. The following individuals served on the Advisory Group:

- John Jahna
- Jerome Marshall
- Jared Marshall
- Josh Martin
- Ronald Serven, Town Supervisor
- Stephen Smith
- Christopher Tarr
- Leon Weiler

The Planning Board sponsored four public workshops to discuss alternative approaches to agricultural and farmland protection.

Workshop #1

A public informational meeting was held on August 27, 2008 to “kick off” the planning process. Shawn Bossard of Cornell Cooperative Extension and Phil Griswold of Seneca County Soil and Water Conservation District described their agencies' involvement in supporting agriculture. Participants identified the Strengths, Weakness, Opportunities and Threats relating to farmland and agriculture in the Town. (See Section D for the results of this exercise.) Nineteen people attended this workshop.

Workshop #2

A regional meeting was held on September 24, 2008 to present information about specific land protection tools. Approximately 50 people attended this meeting. Guest speakers and topics included:

- Judy Wright, Central New York Field Representative for the American Farmland Trust, addressed the State's Purchase of Development Rights program.
- Rocci Aguirre, Land Preservation Specialist with the Finger Lakes Land Trust, discussed conservation easements.

- Shawn Bossard of Cornell Cooperative Extension presented information about the Agricultural District Program.
- Doug Freier, a Seneca County farmer who worked with the Town of Fayette to obtain a State grant for the purchase of development rights for some of his farmland, described his perspective as a farmer and landowner.
- Barbara Johnston, Stuart I. Brown Associates, noted how these “tools” could be incorporated into a farmland protection plan.

Workshop #3

At an Advisory Group meeting on October 29, 2008 members shared their concerns about agriculture, identified farmers to participate in one-on-one interviews with the Consultant, and identified topics for the next meeting. Chris Tarr supplied information about agricultural soils in Junius. The group also discussed the future of farming along the NYS Route 318 corridor and the availability of local markets and suppliers.

Workshop #4

A public informational meeting held on December 10, 2008 featured Keith Tidball, who shared insights regarding the recently enacted Town of Fayette Right-to-Farm Law, and Phil Griswold, Town Assessor, who provided information about tax relief programs. Barbara Johnston, Consultant, presented information about establishing drainage districts.

3. Farmer and Agency Interviews

Farmer Participation

Three farmers participated in in-person interviews with the Town’s consultant:

- Frank Seitz – Dairy and cash crops
- James Laird – Cash crops (corn and soybeans)
- Leon Weiler - Dairy

Several other farmers contributed their perspectives during Advisory Committee meetings. (See Section A.2 above.) Discussions with farmers focused on the advantages, challenges, and future prospects for farming in the Town of Junius.

Advantages

The advantages to farming in Junius that were identified by farmers include high quality soils, sufficient rainfall and ground water supply, location near the NYS Thruway, and a community that is primarily agricultural.

Introduction and Methodology

Challenges

The main issue identified by farmers was drainage. While drainage improvement projects have improved the productivity of land, projects that involve several landowners are difficult to finance and maintain.

Most farms in Junius are family-operated. Finding skilled and experienced labor who are not family members would be difficult.

Many of the challenges faced by farmers in Junius cannot be addressed by local government, such as commodity prices, environmental regulations. Keeping property taxes low is important to farmers.

Future prospects

The farmers who participated in the preparation of the Plan intend to keep farming in Junius, and most have family members who will continue to farm.

Agency Participation

In addition to participating in Advisory Committee meetings, representatives from Cornell Cooperative Extension of Seneca County (Shawn Bossard), Soil & Water Conservation District (SWCD) (Phil Griswald) and the USDA Natural Resources Conservation Service (NRCS) (Ron Vanacore) met with the Town's consultant to provide background information about agricultural resources in the Town. Information from these meetings has been incorporated into the discussion of issue and opportunities and analysis of potential strategies.

4. Plan Preparation and Approval

The Planning Board reviewed the first draft of the Plan at its meetings on February 11, 2009 and March 25, 2009. The Plan was presented to the Advisory Group and the public at a Planning Board meeting on April 22. Following informal reviews by staff at the NYS Department of Agriculture and Markets, the draft Plan was revised and presented to the Planning Board for final approval on September 23.

The following table summarizes the approval process:

Planning Board approves draft Plan and submits it to the Town Board	September 23, 2009
Town Board public hearing	November 18, 2009
Seneca County Agricultural Enhancement Board approves Plan	October 7, 2009
Town Board approves Plan	November 18, 2009
Plan submitted to NYS Department of Agriculture and Markets	January 2010

5. Contents of Plan

The Town of Junius Agricultural and Farmland Protection Plan consists of the following sections:

- The overview of Existing Conditions describes the community's natural resources, land use and infrastructure as well as agricultural soils and types of farms.
- A summary of the Relevant Plans, Current Programs and Regulations describes the regulatory and institutional context for the Town's Plan.
- The identification of Strengths, Weaknesses, Opportunities and Threats (SWOT) relating to agriculture in the Town helped to focus on the needs and issues of the local agricultural community.
- The section on Issues and Opportunities presents an overview of the major issues and opportunities facing farmers which are addressed in this Plan.
- An analysis is provided on the conversion pressure facing farmland and potential consequences of this conversion. Farmland suitable for protection is identified.
- A summary of Agricultural and Farmland Protection Tools and Techniques describes the programs, regulations and other tools that are available to local governments to support agriculture and preserve high quality farmland.
- A list of Recommended Actions identifies specific steps that the Town of Junius should take to support agriculture in the community.
- The Implementation Strategy identifies, for each of the recommended actions, the time frame for implementation, the entity responsible, the estimated cost and potential sources of funding.

B. Existing Conditions

1. Community Description

The Town of Junius is located in the northwestern corner of Seneca County, approximately midway between the cities of Rochester and Syracuse. (See Map 1: Regional Setting.) The NYS Thruway (I-90) and NYS Route 318 traverse the southern part of the Town. The Town is bordered on the south and east by the Seneca County Towns of Waterloo and Tyre, respectively. It is bordered on the north by the Town of Galen in Wayne County and on the west by the Town of Phelps in Ontario County.

The total population of the Town in 2007 was estimated at 1,364 by the U.S. Census Bureau. The population has remained virtually the same since the 2000 Census count of 1,362 and the 1990 Census count of 1,354.¹

2. Natural Resources

Topography

The topography in the Town of Junius is primarily level, punctuated with ridges and low-lying wetlands. (See Map 2: Topography.) The ridges, known as drumlins, are narrow, elongated hills, typically 30 to 70 feet high, and are oriented north-south with steeper slopes toward the north, east and west and more gradual slopes to the south. These hills are believed to have been formed when glaciers receded to the north.

The elevation of most of the Town is between 400 and 500 feet above sea level, with the highest point at 572 feet, at the top of the drumlin west of Stone Church Road and north of Donnelly Road. The lowest point is at 400 feet in the wetlands around Dublin Creek in the northwest corner of the Town.

Climate²

Seneca County has a climate of the humid continental type. The flow of air is mainly continental. Cold dry weather generally results when the flow is from the northwest or north, while warm, occasionally humid weather prevails when the flow is from the southwest or south. The Atlantic Ocean has a secondary influence when occasional wind flows are from easterly directions. This is usually associated with cool, cloudy and damp weather. Lake Ontario influences the climate of the Town with a moderating influence on temperature.

¹ Source: U.S. Census Bureau, 2007 Population Estimates, Census 2000, 1990 Census

² SOURCE: *Written History of Seneca County, New York*. Seneca County Historian's office, <http://www.co.seneca.ny.us/dpt-genserv-historian-seneca.php>

The mean annual temperature is 48 degrees with summer highs ranging from the 70's to the low 90's and winter lows ranging from 0 to 15 degrees. The last average date in spring when temperatures are 32° or colder is about May 5. The first freezing temperatures in fall occur on average near October 11. While freezing temperatures may occur as late as the first week in June or as early as September 20, in most years the last spring freeze occurs between April 25 and May 20 and the first freeze in fall occurs between October 1 and 20.

Annual precipitation is 32.3 inches, distributed relatively equally among the 12 months. Average snowfall is 60 to 65 inches per year. Precipitation is the main source of groundwater that supplies the needs of local agricultural operations. The kind and amount of precipitation, especially the occurrence of heavy snowfall in winter, is affected by Lake Ontario.

Streams and Watersheds

The major streams in the Town (Map 3: Streams and Tributaries) are:

- Pond Brook, which originates at Newton Pond, one of the Junius Ponds in the southwestern corner of the Town, and flows north into the Clyde River.
- Dublin Brook, which flows northwestward through the central part of the Town into Pond Brook from its origin in the Town of Waterloo.
- Black Brook, which originates in the southeastern part of the Town and flows southerly. Beyond the Junius border, it continues eastward through the Seneca Meadows Landfill, eventually turning northward toward the Montezuma National Wildlife Refuge and into the Seneca River.

The entire Town is within the Seneca/ Clyde River Watershed, which is part of the larger Oswego River/ Finger Lakes Watershed.

Junius Ponds

Junius Ponds consists of several interconnected ponds located in the southwestern part of the Town. Newton and Lowrey Ponds were once used by the Village of Lyons as a public water supply. In 2007, the NYS Department of Environmental Conservation purchased 77 acres of land, in three parcels, from the Village of Lyons. The acquisitions were recommended in the NYS 2006 Open Space Conservation Plan, which noted: "Junius Ponds complex is a unique assemblage of bogs, fens, meromictic ponds and other wetland types that support an endangered reptile population, rare plants, and unusual ecological communities." (Note: "Meromictic" means that the layers of water do not mix, creating a layer at the bottom where there is little or no oxygen. This rare condition creates a unique habitat.)

Wetlands

Several areas of wetlands are located in the Town. Wetlands provide unique habitat for wildlife and plants, and improve water quality by trapping stream sediments and absorbing, diluting and degrading many toxic pollutants. They also can minimize flood hazards by storing a large quantity of stormwater.

Existing Conditions

New York State's Freshwater Wetlands Act and regulations protect all delineated wetlands of 12.4 acres or more in size. State regulations also restrict development within the adjacent 100- foot buffer area that extends beyond the delineated limits of the wetland.

Wetlands smaller than 12.4 acres are regulated by the federal government through the U.S. Army Corps of Engineers. The locations of wetlands mapped by State and Federal agencies are depicted in Map 4: Regulated State and Federal Wetlands. The exact boundaries of regulated wetlands must be verified in the field by a qualified professional.

Approximately 1,490 acres of State-regulated wetlands are located in the Town³. The largest wetlands are located: in the northwest corner of the Town, along Pond Brook; between Whiskey Hill and Stone Church Roads, north and south of the NYS Thruway; in the eastern part of the Town; and in the Junius Ponds area.

Woodlands

The wooded areas located in the Town consist primarily of soft maple and are mostly associated with wetlands. The locations of wooded areas are depicted in the aerial images of the Town. (See Map 5: Aerial Photograph.) Woodlots are used by landowners as a source of fuel and, where the trees have matured, have value for timber harvesting.

3. Agricultural Soils

More than 57% of the land in the Town of Junius consists of prime farmland and other farmland of Statewide importance. (See Map 6: Agricultural Soils.)

Prime farmland soils have been identified by the USDA Natural Resource Conservation Service (NRCS) and defined as follows:

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, range-land, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

³ Measured from GIS maps by Stuart I. Brown Associates

Additional “farmland of statewide importance” is defined by NRCS as:

land, in addition to prime and unique farmland, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. ... Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable.

These soils, which are found on farms throughout the Town of Junius, are optimal for high production yields.

Table 1: Agricultural Soils – Town of Junius

	Acres	% of Total
Prime farmland	6,984	40.7%
Farmland of statewide importance	2,931	17.1%
Prime farmland if drained	3,450	20.1%
Other soils	3,799	22.1%
Total:	17,164	100.0%

SOURCE: Soils data provided by the USDA Natural Resources Conservation Service; Acreages calculated from GIS shapefiles.

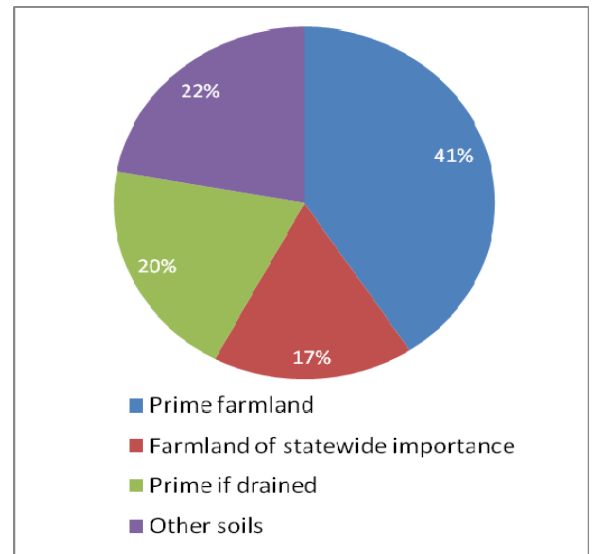


Table 2 on the following pages lists the soil types found in the Town, the number of acres in each soil type and whether the soil is classified as Prime Farmland, Prime Farmland if Drained, Farmland of Statewide Importance, or Other Soils.

Table 2
Soil Types - Town of Junius

	Soil Type		Acres
<i>Prime Farmland</i>	ArB	Arkport loamy fine sand, 1 to 6 percent slopes	966.8
	CeB	Cazenovia silt loam, 3 to 8 percent slopes	739.4
	CkA	Claverack loamy fine sand, 0 to 2 percent slopes	114.1
	CkB	Claverack loamy fine sand, 2 to 6 percent slopes	90.1
	CIA	Collamer silt loam, 0 to 2 percent slopes	703.5
	CIB	Collamer silt loam, 2 to 6 percent slopes	392.6
	DdB	Darien-Danley-Cazenovia silt loams, 3 to 8 percent slopes	10.0
	DuB	Dunkirk silt loam, 1 to 6 percent slopes	893.1
	Ee	Eel silt loam	37.9
	EIB	Elnora loamy fine sand, 2 to 6 percent slopes	2.3
	LtA	Lima silt loam, 0 to 3 percent slopes	110.3
	LtB	Lima silt loam, 3 to 8 percent slopes	103.6
	OfB	Ontario fine sandy loam, 2 to 8 percent slopes	559.2
	OnB	Ontario loam, 2 to 8 percent slopes	1,955.3
	PgA	Palmyra gravelly loam, 0 to 5 percent slopes	32.2
	SeB	Schoharie silt loam, 2 to 6 percent slopes	181.4
	ShA	Schoharie silty clay loam, 0 to 2 percent slopes	30.7
	ShB	Schoharie silty clay loam, 2 to 6 percent slopes	61.1
	Total Prime Farmland		6,983.5
<i>Prime Farmland if Drained</i>	ApA	Appleton silt loam, 0 to 3 percent slopes	48.9
	Cu	Cosad loamy fine sand	119.6
	Ng	Niagara silt loam	95.1
	OdA	Odessa silt loam, 0 to 2 percent slopes	1,128.9
	OdB	Odessa silt loam, 2 to 6 percent slopes	416.0
	OvA	Ovid silt loam, 0 to 3 percent slopes	547.4
	OvB	Ovid silt loam, 3 to 8 percent slopes	1,094.5
	Total Prime Farmland if Drained		3,450.3
<i>Farmland of Statewide Importance</i>	ArC	Arkport loamy fine sand, 6 to 12 percent slopes	642.2
	Ca	Canandaigua silt loam	20.4
	CeC	Cazenovia silt loam, 8 to 15 percent slopes	4.3
	CIC	Collamer silt loam, 6 to 12 percent slopes	1.6
	HwC	Howard gravelly loam, 5 to 15 percent slopes	3.8
	Is	Ilion silty clay loam	6.1
	LcA	Lakemont silty clay loam, 0 to 2 percent slopes	1,157.1
	LcB	Lakemont silty clay loam, 2 to 6 percent slopes	20.9
	Ma	Madalin and Odessa silty clay loams	287.4
	OnC	Ontario loam, 8 to 15 percent slopes	197.5
	OpB	Ontario silt loam, Moderately shallow variant, and Farmington soils, 2 to 8 percent slopes	32.3
	PgC	Palmyra gravelly loam, 5 to 15 percent slopes	88.3
	Ro	Romulus silty clay loam	25.0
	Sn	Sloan silt loam	435.2
	Sr	Stafford loamy fine sand	9.1
	Total Farmland of Statewide Importance		2,931.3

Table 2
Soil Types - Town of Junius

	Soil Type	Acres
Other Soils	Ac Alden mucky silt loam	27.6
	Al Alluvial land	105.6
	ArD Arkport loamy fine sand, 12 to 20 percent slopes	192.8
	AuD Arnot channery silt loam, 15 to 25 percent slopes	3.1
	CeC3 Cazenovia silt loam, 8 to 15 percent slopes, eroded	37.7
	ChD Cazenovia soils, 15 to 25 percent slopes	10.4
	DuC3 Dunkirk silt loam, 6 to 12 percent slopes, eroded	115.0
	DuD Dunkirk silt loam, 12 to 20 percent slopes	96.8
	Ed Edwards muck	8.4
	Fn Fonda mucky silty clay loam	603.7
	Fw Fresh water marsh	15.7
	GP Gravel pits	29.8
	HoE Honeoye, Ontario, and Lansing soils, 25 to 40 percent slopes	308.0
	Lf Lamson fine sandy loam and Mucky fine sandy loam	78.1
	Md Made land, tillable	20.3
	Mr Muck, deep	297.8
	Ms Muck, shallow	359.5
	OfC3 Ontario fine sandy loam, 8 to 15 percent slopes, eroded	103.2
	OnC3 Ontario loam, 8 to 15 percent slopes, eroded	574.9
	OnD3 Ontario loam, 15 to 25 percent slopes, eroded	568.3
	PhD Palmyra and Howard soils, 15 to 25 percent slopes	53.4
	PhE Palmyra and Howard soils, 25 to 35 percent slopes	89.9
	W Water	64.7
	Wk Walkkill soils	34.7
	Total Other Soils	3,799.4

Existing Conditions

4. Farm Operations

Farms and farm operations are defined in NYS Agriculture & Markets Law, Article 25AA Section 301. (See Circular 1150 in Appendix H.) “Land used in agricultural production” is defined as “not less than seven acres of land used as a single operation.....for the production.....of crops, livestock or livestock products.....” “Farm Operation” is defined as “the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.....”

Aerial photographs of the Town illustrate the extent of cropland and pasture in the Town. Based on measurements of the cropland and pasture that are visible from the aerial photographs (Map 7: Active Farmland), approximately 62% of the Town’s land area is actively farmed.

The types of farm operations in the Town of Junius include dairy, cash crops, livestock and vegetables. Dairy farms are decreasing in numbers while cash crop farms are increasing in size. Cash crops are primarily cultivated in a rotation of corn, soybeans and hay or wheat. Livestock farm operations include beef cattle, sheep and a few hogs and pigs. Vegetables are primarily grown to be sold fresh in season at farmer’s markets and roadside stands.

Per 2008 assessment data from the Seneca County Real Property Tax Office (see Table 3), about 10,973 acres of land in Junius are in parcels that are classified by the Town Assessor as Agricultural. (See Map 8: Agricultural Parcels.) This acreage represents 66% of the total land area of the Town. Based on 2009 assessment data provided by the Seneca County Office of Real Property Assessment, agricultural parcels represent 18% of the total taxable value of all property within the Town.

5. Markets

Milk and cash crops are typically brought to market through various brokers. A large milk and general hauling business (Earl T. Wadhams) is based in Junius.



Some vegetables and meats are sold directly to consumers at local and regional farm markets, including: the wholesale market in Penn Yan; Sauders on River Road in Seneca Falls; a Mennonite market in Tyre; Martin’s produce, plant, gift and furniture store on Route 318; and the Rochester and Syracuse regional markets. Dadson’s Farm Market on Route 318 is open seasonally.



Waterloo Premium Outlets, a regional shopping facility located on NYS Route 318, planned to establish a farmers market in the parking lot of the mall. This venue may provide additional opportunities for local farmers to market products directly to the public.

The number of roadside stands for direct sales is increasing. In addition, some informal sales occur at the farm, such as for chickens or beef. Fewer regulations apply for products that are minimally processed, such as one-quarter beef vs. steaks

6. Support Businesses

Many of the supplies and services needed by farmers are available within a reasonable distance of Junius. Farmer Boy Ag Systems, located on Route 318 in the Town, sells poultry and livestock equipment and offers design and construction services. Empire Tractor (Case/ New Holland and Kubota) is also located in the Town on NYS Route 318. Other suppliers in the region include three John Deere stores (Savannah, Auburn, Hall) and Case/ New Holland dealers in Auburn and Canandaigua.



7. Agricultural Trends

Countywide, the number of farms has increased during the past ten years, from 413 in 1997 to 513 in 2007. The increase has occurred in both large and small farms.

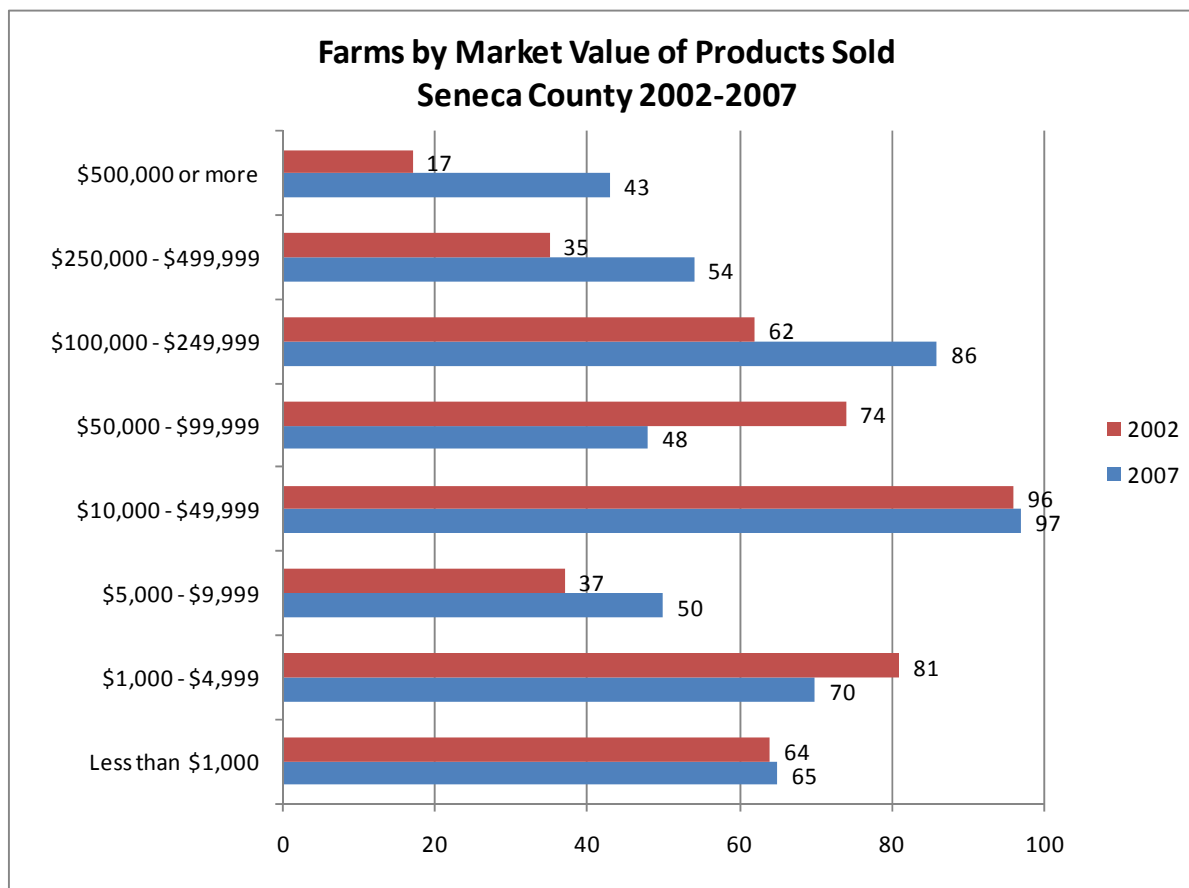
Sales of livestock and their products comprised 61% of the market value of production (\$84.075 million) in Seneca County. The proportion of market sales from livestock increased from 49% in 1997 to 59% in 2002. (Note: The increase in sales value from livestock can be attributed to exceptionally high milk prices in 2007. These prices have decreased significantly since 2007.)

From the chart below and the graphs on the following page, note that in 2002, 24% of all Seneca County farms had \$100,000 or more in sales whereas, in 2007, 69 more farms or nearly 36% of all farms had sales valued at \$100,000 or more. Farms in the mid-range of sales (\$50,000 - \$99,999) decreased by 26 farms or 35% which was the largest percent decrease in the County.

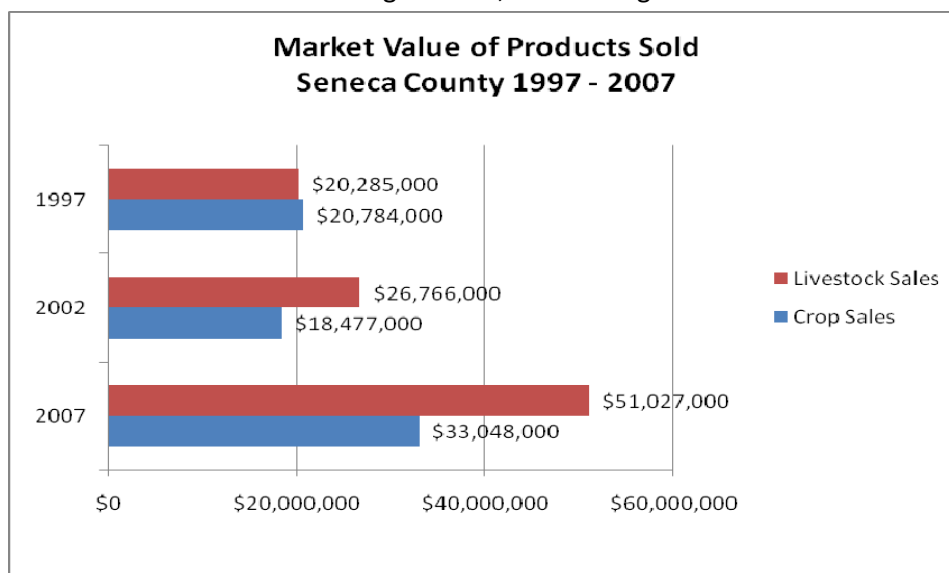
	2007	2002	1997
Number of Farms	513	466	413
Land in Farms (acres)	127,972	127,242	117,426
Average Size of Farm (acres)	249	273	284

Source: US Census of Agriculture - 2007
National Agricultural Statistics Service

Farms by Value of Sales		
	2007	2002
Less than \$1,000	65	64
\$1,000 - \$4,999	70	81
\$5,000 - \$9,999	50	37
\$10,000 - \$49,999	97	96
\$50,000 - \$99,999	48	74
\$100,000 - \$249,999	86	62
\$250,000 - \$499,999	54	35
\$500,000 or more	43	17
	513	466



Source: US Census of Agriculture, National Agricultural Statistics Service



Source: US Census of Agriculture, National Agricultural Statistics Service

Agricultural trends in Seneca County⁴ include greater interest among consumers in purchasing locally grown products, an increase in the number of Amish and Mennonite farmers, growing interest in organic farming and increasing numbers of small-scale non-commercial farms on which the landowner seeks to grow as much food as possible for their own use⁵.

The “buy local” movement presents opportunities for farmers to increase direct marketing, either with on-farm produce markets or direct sales of livestock products.

Certified organic products command higher prices. Some farms may utilize organic methods but have not obtained certification.

The trends in Junius have been toward larger crop farms, fewer dairy farms, more sheep farms and more small, non-commercial subsistence farms. Mennonite and Amish farm families have come to settle in Junius throughout the past 25 years. Some have moved into various trade occupations but nearly all continue the family farm tradition and lifestyle. These farmers have helped to maintain a high percentage of Junius farmland in active production.

8. Land Use and Development

Most of the land in the Town is in agricultural use. Based on 2008 Real Property Tax data, 66% of the land area of the Town is in parcels classified as agricultural, 17% residential, 8% vacant. Commercial, industrial, and other uses comprised the remaining 9%. (See Table 3: Tax Parcel Summary and Map 9: Land Use by Tax Parcel.)

Residential Development

At the time of the 2000 Census, there were approximately 532 housing units in the Town of Junius, including 335 single-family dwellings, 11 two-family dwellings, four 3-4 family dwellings and 182 manufactured (mobile) homes. Residences are located throughout the Town.

Between 2001 and 2008, 55 new residences were constructed.⁶ The locations of these residences are distributed fairly uniformly throughout the Town. (See Map 10: New Residential Construction.)

⁴ Interview with Shawn Bossard, Cornell Cooperative Extension of Seneca County,

⁵ This type of farming, formerly referred to by the USDA as “subsistence farming,” is called “homesteading.”

⁶ SOURCE: Seneca County Building Inspector

Types of Housing

	No.	%
Single-family Dwellings	335	63.0%
Two-family Dwellings	11	2.1%
3-4 family Dwelling	4	0.8%
Manufactured (mobile) Homes	182	34.2%
TOTAL HOUSING UNITS	532	100.0%

Source: U.S. Census (2000)

Year Residential Structures Built

	No.	Percentage
1999 to March 2000	5	0.9%
1995 to 1998	48	9.0%
1990 to 1994	49	9.2%
1980 to 1989	68	12.8%
1970 to 1979	131	24.6%
1960 to 1969	50	9.4%
1940 to 1959	20	3.8%
1939 or earlier	161	30.3%
TOTAL	532	100.0%

Commercial Development

Commercial uses are located primarily along NYS Route 318. The Waterloo Premium Outlets mall is a major regional retail attraction, located on NYS Route 318 adjacent to the NYS Thruway just east of Ninefoot Road. This facility draws customers from Canada, Rochester, Syracuse, Ithaca and elsewhere.

Other businesses along NYS Route 318 include: Dadson's Farm Market; Farmer Boy Ag Services; Empire Tractor; Tallmadge Tire; Martin's Country Market, a furniture and gift store; and other small retail and service businesses.

Industrial and storage businesses, including several agriculture-related businesses, are located at various locations in the Town.



Public and Community Services and Facilities

Recreational facilities located in the Town include:

- land recently purchased by the NYS Department of Environmental Conservation at Junius Ponds
- Seven Lakes Girl Scout Camp
- Junius Ponds Campground
- North Seneca Sportsmen's Club
- West Junius Methodist Church (known as the Newton Church; vacant at present)

Table 3
Town of Junius Agricultural and Farmland Protection Plan

Land Use by Tax Parcel

Assessor's Property Classification		# Parcels	Approximate Total Area (Acres)	% Total Land Area (Acres)	Total Assessed Value
105 Productive Agricultural Land (no buildings)		121	7,244	43.8%	4,717,685
112 Dairy		2	227	1.4%	502,800
113 Cattle, Calves, Hogs		3	284	1.7%	440,200
114 Sheep and Wool		2	164	1.0%	239,430
120 Field Crops		38	3,054	18.5%	3,267,180
Total Agricultural		166	10,973	66.3%	9,167,295
210 Single Family Residence		239	695	4.2%	16,072,138
220 Two Family Residence		3	11	0.1%	202,200
230 Three Family Residence		1	12	0.1%	84,000
240 Rural Residence (>10 acres)		46	1,402	8.5%	3,711,835
270 Manufactured Home		134	414	2.5%	5,286,330
271 Multiple Manufactured Homes		18	87	0.5%	864,400
280 Multi-Purpose / Multi-Structure		19	240	1.5%	1,813,570
281 Multiple Residences		1	2	0.0%	92,800
283 Residence with Incidental Commercial Use		3	9	0.1%	318,500
416 Mobile Home Park		1	3	0.0%	57,500
Total Residential		465	2,875	17.4%	28,503,273
300's Vacant		138	1,251	7.6%	964,827
Total Vacant		138	1,251	7.6%	964,827
400 Commercial		1	14	0.1%	201,500
423 Snack Bars, Drive-Ins, Ice Cream Bars		1	12	0.1%	179,000
430 Motor Vehicle Services		1	5	0.0%	45,100
431 Auto Dealer - Sales & Service		1	4	0.0%	71,100
433 Auto Body, Tire Shops, Other Related Sales		3	20	0.1%	685,050
450 Retail Services		1	14	0.1%	518,400
452 Area or Neighborhood Shopping Centers		1	48	0.3%	34,232,900
453 Large Retail Outlets		1	26	0.2%	424,600
483 Converted Residence		1	3	0.0%	158,000
515 Radio, T.V. and Motion Picture Studios		1	2	0.0%	295,900
557 Other Outdoor Sports		1	43	0.3%	112,800
582 Camping Facilities		1	48	0.3%	238,800
Total Commercial		14	239	1.4%	37,163,150

Table 3
Town of Junius Agricultural and Farmland Protection Plan

Land Use by Tax Parcel

Assessor's Property Classification		# Parcels	Approximate Total Area (Acres)	% Total Land Area (Acres)	Total Assessed Value
620	Religious Institution	3	5	0.0%	580,200
651	Highway Garage	1	2	0.0%	38,200
652	Government Office Building	1	0	0.0%	161,000
662	Police and Fire Protection	2	20	0.1%	158,500
682	Recreational Facilities	2	339	2.0%	871,600
692	Roads, Streets, Highways	7	220	1.3%	6,201,000
695	Cemetery	1	2	0.0%	16,000
Total Public & Community Service		17	588	3.6%	8,026,500
440	Storage, Warehouse and Distribution	1	3	0.0%	236,000
447	Trucking Terminals	2	16	0.1%	1,104,900
449	Other Storage, Warehouse, Distribution	2	2	0.0%	125,700
710	Manufacturing	2	109	0.7%	544,300
720	Mining and Quarrying	2	125	0.8%	319,200
Total Industrial, Storage and Mining		9	255	1.5%	2,330,100
822	Water Supply	1	1	0.0%	343,000
831	Telephone	2	2	0.0%	304,900
833	Radio	1	4	0.0%	34,800
842	Railroad	1	24	0.1%	108,456
853	Sewage Treatment, Water Pollution Control	1	3	0.0%	900,000
Total Utilities & Transportation		6	34	0.2%	1,691,156
910	Private Wild and Forest Lands	4	119	0.7%	62,900
920	Private Hunting and Fishing Clubs	1	108	0.7%	17,600
971	Wetlands, Subject to Specific Use Restrictions	3	105	0.6%	578,150
Total Conservation & Recreation		8	332	2.0%	658,650
TOTAL:		823	16,547	100.0%	88,504,951

SOURCE: 2008 Real Property Tax Records provided by the Seneca County Office of Real Property Tax Services.

Other community facilities include:

- Dublin Community Center, a former fire hall owned by the Town of Junius
- Junius Volunteer Fire Department
- NYS Thruway Authority Rest Area (Restricted Access)
- Junius Presbyterian Church
- Mennonite Church
- Amish School

The locations of public and community facilities are depicted on Map 13.

9. Open Space

Agricultural land in the town may be considered as Open Space as defined by the NYS Department of Environmental Conservation on its website: <http://www.dec.ny.gov/lands/317.html>.

Open space may be defined as an area of land or water that either remains in its natural state or is used for agriculture, free from intensive development for residential, commercial, industrial or institutional use. Open space can be publicly or privately owned. It includes agricultural and forest land, undeveloped coastal and estuarine lands, undeveloped scenic lands, public parks and preserves. It also includes water bodies..... The definition of open space depends on the context. historic resources..... are often protected along with open space.

Nonfarm Open Space is difficult to calculate. One method developed for this document is to look at the Property Classification System that the local assessor uses. 300 property classes represent various types of vacant land. The 240 property class represents a rural residence with more than 10 acres of land. 100 property classes are all active farms. By combining the acreage in these categories, total Open Space may be estimated. Based on 2009 data from the Seneca County Real Property Tax Office and the NYS Office of Real Property Services, there are 1,303 acres in all 300 property classes and 1,492 acres in the 240 property class for a total of 2,795 acres of open land, excluding land on active farms. This represents 16.7% of the land in Junius. This amount of non-farm Open Space land represents 9 - 10% of the Assessed Value of Junius parcels and contributes significantly to the tax base of the town. Protection of this type of Open Space may be a priority with some Junius residents.

Adding the non-farm Open Space to the 10,968 acres or 65.6% of land on farms, the total Open Space land in Junius is about 82% of the town acreage. This is a rough estimate but clearly indicates the rural nature of the town. The Agricultural and Farmland Protection Plan outlines possibilities for long-term protection of farmland. Some choices may apply to nonfarm Open Space land, as well.

10. Transportation and Infrastructure

The NYS Thruway (I-90) traverses the southern portion of the Town of Junius. Thruway interchanges are located east of the Town boundary at NYS Route 414 and west of the Town at NYS Route 14. NYS Route 318 runs parallel to the Thruway. A portion of NYS Route 414 is in the northeast corner of the Town. This system of highways and the proximity to Thruway interchanges provide excellent access to markets for Junius farmers.

Public water lines are located along NYS Route 318 and along portions of Gassner, Powderly, Burgess, Strong and Whiskey Hill Roads. (See Map 11: Public Water Lines.)

A small wastewater treatment plant, located near the Waterloo outlet mall and serving only the mall, is owned by the Town of Junius. There is additional capacity to serve additional users. However, the parcel where the treatment plant is located is small, making any substantial physical expansion on the current parcel unlikely.

C. Relevant Plans, Programs and Regulations

This section presents an overview of the existing regulations, plans and programs that relate to agriculture and land use in the Town of Junius.

1. Town Land Use Regulations

The Town of Junius requires Site Plan Review and approval by the Town Planning Board before a building permit may be issued for any new land development, except for the construction or renovation of a single family dwelling, agricultural use or a sign less than 10 sq. ft. per face. These Site Plan Review regulations have been in effect in the Town of Junius since 2005. (See Appendix F.) The Town does not have zoning regulations.

2. Seneca County Agricultural Enhancement Plan

Seneca County completed an Agricultural Enhancement Plan in 2000 which was adopted by the Seneca County Agricultural Enhancement Board and the Seneca County Board of Supervisors. The Plan includes an overview of agricultural resources and the agricultural industry in Seneca County, as well as goals and objectives for enhancing agriculture.

The goals and actions recommended in the Plan are:

- 1) Enhance the economic climate for agriculture
 - Include agriculture in economic development initiatives
 - Promote locally grown products
 - Facilitate small scale food processing
 - Develop agricultural workforce
 - Facilitate farm transfer
 - Encourage agri-tourism
- 2) Increase the awareness of the economic and social importance of agriculture
 - Provide training for town, planning and zoning boards and community leaders
 - Include the agriculture community in developing local land use plans
- 3) Provide an ongoing community education program for the non-farm public
 - Form an agriculture promotion council
 - Develop a Seneca County Agriculture web site
 - Produce a video about Seneca County agriculture
 - Encourage participation in "Agriculture in the Classroom"
 - Strengthen continued support of "Fun on the Farm" event
- 4) Acknowledge and enhance the environmental stewardship of agricultural businesses
 - Acknowledge the role agriculture plays in environmental stewardship
 - Implement the Agricultural Environmental Management Program on Seneca County farms

Relevant Plans, Programs and Regulations

- 5) Preserve prime agricultural land
 - Effectively implement and maintain the Agricultural District program
 - Initiate voluntary farmland preservation programs

3. Routes 96/ 318 Corridor Study

A study initiated in 2007 by Ontario and Seneca Counties included an overview of existing land use and an evaluation of the transportation functionality of the corridor as well as recommendations for future land use and transportation improvements. The Junius Planning Board participated in the preparation of the Plan.

The study characterized existing land use along the corridor as primarily rural and agricultural, with rural residential development concentrated in the hamlet of Junius Corners, at the intersection of NYS Route 318 with Stone Church and Gassner Roads.

The goals of the Corridor Study include: retaining the existing rural and agricultural character of the corridor, maintaining the safe and efficient flow of traffic; encouraging economic development in a manner that is consistent with rural character and the function of the transportation system; and promoting sustainable land use and high quality design of new development.

The area around the Waterloo Premium Outlet Mall is recommended for future development as a "Regional Destination." The remainder of the corridor is recommended for "Agriculture and Open Space." Land around the Junius Ponds complex is designated as the overlay "Sensitive Environmental Area" and recommended for additional protections.

The Corridor Study recommends that the Towns designate land within 1000 feet of the center line of NYS Route 318 as a "Corridor Overlay District." Properties within this district would need to comply with specific requirements relating to access management, driveway location and design, setbacks, signs and landscaping.

Excerpts from the draft report are included in Appendix G. The reports from the Study are available at the website: http://www.co.ontario.ny.us/planning/rt96_318_study.htm

4. Agricultural District Program

The New York State Agricultural District Program was created by State legislation in 1971. The program encourages owners of productive agricultural land to form districts within the County. Districts should consist of predominantly "viable farmland." The Districts in Seneca County are reviewed, and may be renewed, in 8-year cycles. Inclusion in an Agricultural District denotes a commitment on the part of the County and the landowner to retain the use of such land for agriculture.

Farmland in Junius is part of Seneca County's Agricultural District #6, which includes land in the Towns of Junius, Tyre, Waterloo and Seneca Falls. This district resulted from the merger of former Districts 11, 10, 9 and 3 into District #6 and was approved by the Seneca County Agriculture Enhancement Board on November 11, 2007 and by the Seneca County Board of Supervisors on

December 11, 2007. As depicted in Map 12, most of the land in the Town of Junius is within the Agricultural District.

The Agricultural District Program includes the following provisions to protect farmers:

- Agricultural use value assessments: Eligible farmland is assessed at its value for agricultural production, rather than at its full market value. If land that received the agricultural exemption is sold for non-farm purposes, the landowner must repay the amount of property taxes saved over the life of the District, up to 8 years.
- Protection from local regulations that would restrict farm practices.
- Protection from public acquisition of farmland through “*eminent domain*.” Before a local or county government may undertake a project that affects land within an Agricultural District, it must submit a “*Notice of Intent*” to the County Agricultural and Farmland Protection Board and the NYS Department of Agriculture and Markets for consideration of the impacts on agriculture.
- Protection from nuisance suits (right-to-farm provisions).
- A requirement that persons who buy property within an Agricultural District be notified about the possible presence of noise or odors associated with farm practices and acknowledge receipt of this notice in writing.

The NYS Agricultural District law also establishes a procedure to define “*sound agricultural practices*.” Upon request of a farmer or neighbor, a representative from the NYS Department of Agriculture and Markets will investigate the practice and determine whether it is “*sound*.” If a party brings a nuisance suit against a farmer for a practice which is determined to be “*sound*”, the person bringing the suit must pay all legal costs to the farmer.

The NYS Agricultural District Law also includes provisions to notify purchasers of property of potential farming impacts. When property located within a certified Agricultural District is purchased, the buyer must sign a statement acknowledging that:

"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances."

5. Agricultural Environmental Management (AEM) Programs

The New York State Agricultural Environmental Management (AEM) Program is administered by the County Soil & Water Conservation District. Farmers utilize AEM to address water quality concerns originating from agricultural activities by:

Relevant Plans, Programs and Regulations

- assessing environmental concerns associated with their farming operations
- documenting current stewardship
- developing environmental farm plans
- implementing environmentally sound practices to address identified concerns
- complying with state and federal environmental regulations

Local management of AEM program activities allows consideration of site specific agricultural practices, local environmental concerns, and individual business objectives.

The program consists of five "tiers":

Tier 1: The initial baseline survey of operation, including farm type, number and type of animals, identification of common farm management practices, and future plans for farm.

Tier 2: A detailed assessment of each farm management practice, including waste management, soil management, petroleum storage, barnyard management, and other categories.

Tier 3: In this planning phase, information that is collected in the Tier 2 phase is ranked according to environmental impact potential. Tier 3 includes **tract level** plans (Tier 3A); **nutrient management**, plans (Tier 3B); and **whole farm** plans (Tier 3C).

Tier 4: The implementation phase, where conservation practices are installed or constructed in order to address the areas of concern that have been identified.

Tier 5: The practices are evaluated for effectiveness in addressing problem.

The program was designed to implement provisions of the federal Clean Water Act. The local team is lead by the Seneca County Soil & Water Conservation District (SWCD) and includes USDA NRCS, FSA, and Cooperative Extension. It is overseen by a Statewide AEM Steering Committee and the Statewide Conservation Committee.

The AEM program provides cost-sharing for conservation measures. In addition, farmers and farmland owners who install approved practices reduce their liability for nutrients or other substances that may flow to surface or groundwater.

6. Other Environmental Protection and Land Conservation Programs

Several State and federally funded programs provide financial incentives and technical assistance to farmers and farmland owners to encourage the installation of "best management practices" (BMPs) that incorporate environmental protection into agricultural practices. These techniques are designed to protect the natural environment from contaminants that may be associated with agricultural activities. Environmental management goals include reducing the amount of stormwater that leaves a farm site, managing fertilizer inputs to match the amount taken up by crops, and providing safe storage and application of pesticides. Although such practices may be

expensive to install and maintain, they frequently result in lower costs for fertilizer, decreased soil erosion, and improved pest control.

Programs that support environmental management on farms include:

- Agricultural Nonpoint Source Abatement and Control
- Environmental Quality Incentives Program (EQIP)
- Conservation Reserve Program (CRP)
- Conservation Reserve Enhancement Program (CREP)
- Conservation Security Program (CSP) and
- Wildlife Habitat Incentives Program (WHIP).

7. Tax Relief Programs

Farming utilizes large amounts of land but does not demand proportionally large expenditures from local governments. In response to this situation, New York State has established programs to reduce property taxes on farmland that meets certain eligibility requirements.

Agricultural Use Assessments base property taxes on the value of the land as farmland, rather than its value for development. Eligible farms located within certified Agricultural Districts, as well as farms outside a District that meet certain requirements, may receive Agricultural Use Assessments. Agricultural Use Assessment is available to landowners who rent the property to an eligible farmer.

The NYS Department of Agriculture & Markets has established a formula to determine the Agricultural Use value of property based on soil types and projected crop yields. In areas where the land is valuable for development purposes, the agricultural use value will be much lower than the market value, resulting in significantly lower property taxes. However, in areas where farming is the “highest and best use” of the property – where a farmer is likely to pay as much for the land as anyone else - the agricultural use value is the same as the market value.

The most recent data on the NYS Office of Real Property Services’ website shows all types of exemptions given in NYS municipalities. For Junius, all agricultural exemptions were valued at \$3,517,000 in 2008. Much of this exempt value is reflective of the Agricultural Land Use Assessment program overseen by the NYS Department of Agriculture and Markets. It is implemented by the local assessor with guidance from the Seneca County Real Property Tax Office and the NYS Office of Real Property Services. The Town of Junius encourages all eligible parties to participate in this agricultural land assessment program.

New York State has established the Farmers School Property Tax Credit program for eligible farmers to receive refunds of up to 100% of School taxes on up to 350 acres of agricultural land, and 50% of School taxes on acreage in excess of 350 acres. To be eligible for this tax credit, farmers must earn at least 2/3 of their income in excess of \$30,000 from farming. The credit may be claimed in the farmer’s annual NYS tax return.

Farm worker housing is exempt from property taxes, provided that the facility meets all safety and health standards set by the State building code and the NYS Department of Labor. Renovation of a historic barn for continued agricultural use also qualifies for a property tax exemption.

Relevant Plans, Programs and Regulations

Certain property and services used in agricultural production is exempt from sales tax. Farmers need to complete Form ST-125 in order to receive the exemption.

8. Agricultural Economic Development Programs

Farmland can continue to be utilized for agricultural purposes only as long as the business of farming remains viable. Publicly funded programs aimed at encouraging investment in farming include loans, technical assistance, research and grants.

The **Grow NY Enterprise Program** is a joint initiative of the Governor's Office for Small Cities (GOSC), Empire State Development Corporation (ESDC) and the Department of Agriculture and Markets (NYSDAM), which dedicates \$3 million annually to increasing the demand for and expanding the use of New York's agriculture and forest products. The primary objective of the program is to provide funds to local governments who in turn use the dollars to assist qualifying businesses who undertake activities resulting in the creation of job opportunities for low- and moderate-income persons. (Source: <http://www.agmkt.state.ny.us/GNYRFP.html>)

The New York State Department of Agriculture and Markets operates several programs aimed at improving the economic viability of farming. These include:

- grants to provide promotional support for **farmers' markets** in New York State.
- a matching grant program for the development, implementation or expansion of programs, projects, activities or events which will promote New York State food and agriculture through **agri-tourism**. For the purposes of this program, agri-tourism is defined as any food or agriculture related program, project, activity or event taking place at a farm or other food or agriculture related location(s) that will attract visitors to promote and enhance the public's understanding and awareness of New York food, farms, and agriculture.
- a **Farm to School** program to encourage school districts to purchase fresh produce directly from local farmers. School districts must follow certain guidelines in order to participate in the program. (See http://www.prideofny.com/farm_to_school.html)
- A program to assist farm operators and agricultural cooperatives developing business plans or implementing part(s) of an existing business plan that will enhance the profitability and/or environmental compatibility of their farm operations.
- NYS Department of Agriculture & Markets will reimburse producers for up to \$750 toward the cost of obtaining organic certification (see <http://www.agmkt.state.ny.us/AP/Organic/reimbursement.html>) and for obtaining documentation of Good Agricultural Practices, which is required by many retailers (see <http://www.agmkt.state.ny.us/rfps/GAP/2009%20GAP%20application-FINAL%201.16.09.pdf>)

9. Energy Conservation/ Sustainable Energy Programs

The NYS Energy Development Agency (NYSERDA) administers programs to encourage energy conservation and the use of sustainable energy sources in agricultural operations. (See

<http://www.nysERDA.com/Programs/Agricultural/default.asp>) These include:

- financial assistance to farmers interested in installing alternative or sustainable energy facilities, such as a wind-powered or bio-fuel-based electricity generator.
- NYSERDA offers cash incentives to install wind-energy systems, solar electric systems, and energy-saving equipment. It provides technical assistance to farms and other facilities through energy audits to reduce energy consumption.
- NYSERDA's Agricultural Waste Management Program focuses on farms under pressure to control contaminants from manure. To meet these challenges, farms are partnering with NYSERDA to evaluate a variety of potential technological solutions, innovative business structure, and community waste management systems that could improve system economics and farm profitability. Technologies being evaluated include:
 - Anaerobic digestion of manure
 - On-site production of electricity from digester biogas
 - Composting of manure and digested solids

USDA Rural Development administers funds from the 2008 Farm Bill that provide grants and loans to agricultural producers and rural small businesses to assist with energy audits and the installation of renewable energy systems.

10. Promotion of Locally-Grown Products

New York State administers the “Pride of New York” program, which assists food producers and retailers by promoting the sale of New York produced food and food products. The program provides marketing materials and assistance and conducts promotional activities which highlight New York State’s many exceptional products. (See: <http://www.prideofny.com>)

New York State also provides funding support for local farmers markets.

Cornell Cooperative Extension of Seneca County is in the process of inventorying all agricultural direct sales outlets, including farmers markets, roadside stands and other direct sales outlets. It received a grant to prepare a guide that will direct potential customers to these outlets.

11. Organizations that Assist Farmers and Farmland Owners

Soil & Water Conservation District

(SOURCE: Interview with Philip Griswold, October 24, 2008; Service descriptions from <http://www.senecacountyswcd.org>)



The Seneca County Soil and Water Conservation District (SWCD) is a political subdivision of the State of New York that was created by the Seneca County Board of Supervisors in 1940. The SWCD is governed by a Board of Directors that includes representatives from the County Legislature, Farm Bureau, Grange and an at-large member. The District has four full-time staff: a District Manager (Philip Griswold), two District Technicians, and a Bookkeeper.

The primary purpose of the District is to improve and protect the land, water, and related resources both existing and potential; to discourage land use practices that are detrimental to the environment; and to develop and carry out preventive and creative programs aimed at conserving and enhancing the natural resource base of the County and the State. In 1978, the Seneca County Board of Supervisors designated the Seneca County SWCD as the local planning, management, and implementing agency to protect the State's water resources in Seneca County from non-point source water pollution.

The Seneca County SWCD provides the following services:

- Prepares Soil Group Worksheets and assists landowners in completing the "Application for an Agricultural Assessment" (Form RP-305).
- Administers the Agricultural Environmental Management (AEM) program, a voluntary, incentive-based program that helps farmers operate environmentally sound and economically viable businesses.
- Administers the GRAZE NY Program, which was developed in 1995 with the assistance of Congressman James Walsh. District staff provide technical assistance to interested livestock producers, including pasture training workshops, informational farm tours, on-site farm visits and personal contacts.
- Works with landowners and contractors to help ensure proper installation and management of subsurface tile drainage systems.
- Maintains drainage ditches. In Junius, the Black Brook drainage project was established in the 1960s using funds from Seneca County to improve drainage of muck soils for crops such as potatoes. SWCD obtained perpetual (permanent) easements for 34 miles of drainage ditches. In order for the SWCD to become involved in a drainage project, the ditch must be a minimum of one-mile long and involve at least three different property owners. However, funding and permitting for such projects has been difficult to obtain in recent years.
- Assists landowners with the design of ponds.

Relevant Plans, Programs and Regulations

- Provides technical assistance to landowners for proper installation of Best Management Practices (BMP's) to prevent nonpoint source water pollution.
- Reviews development proposals as requested by the County Health Department or developer to improve management of sediment and stormwater runoff.
- Maintains an inventory of drainage culverts installed under the 680.5 miles of State, County and Township roads, as well as railroads in Seneca County. The inventory includes information about location in relation to intersecting roads, size of the culvert in inches, type of pipe used, length of the culvert in feet and the elevation of both inverts (lowest parts) and the center line of the road based on USGS datum.
- Assists with the design of dry hydrants, usually located adjacent to a pond, lake, or stream, that can allow for easy access to water for the purpose of fighting fires.
- Lends a tree planter for a small fee to any landowner in Seneca County. It will attach to any small to mid-size tractor with a 3-point hitch.
- Uses mechanical harvesters to remove excessive aquatic plants from Cayuga and Seneca Lakes and the canal.

Cornell Cooperative Extension

The Cornell Cooperative Extension (CCE) system provides research-based information to farmers and community members. Current initiatives include:

- Agriculture and Food Systems Sustainability
- Children, Youth, and Families
- Nutrition, Health, and Safety
- Community and Economic Vitality
- Environmental and Natural Resource Enhancement

Agricultural programs currently include:

- Through the Tactical Agriculture (TAg) program, Seneca CCE agriculture staff works with small dairy farms in the county on Integrated Pest Management education related to field crop and animal pest management. A similar program is offered to address IPM for soybean farming.
- Field research on three Seneca County soybean farms seeks to evaluate the impact of fungicides applied to address Asian Soybean Rust on plant health. CCE participates in a nationwide alert network to monitor the spread of this disease.
- Data collected for a silage density study will help to validate or improve the silo management techniques currently used on area farms.
- Research into Ammonia Emissions from different manure application systems seeks to help farms to conserve as much ammonia from their animal manures as possible to reduce the

Relevant Plans, Programs and Regulations

need for other fertilizers, better manage odor and runoff, and collect information that may be needed to comply with future regulations.

USDA Natural Resources Conservation Service (NRCS)

The Natural Resources Conservation Service (NRCS) was established pursuant to Public Law 103-354, the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962.) The mission of NRCS is to provide national leadership in a partnership effort to help people conserve, improve, and sustain the Nation's natural resources and environment.

NRCS technical experts help land managers and communities take a comprehensive approach in planning the use and protection of soil, water, and related resources on private and non-Federal lands, in rural, suburban, urban, and developing areas. NRCS assistance to individual landowners is provided through soil and water conservation districts, which are units of local government created by state law. NRCS works in partnership with the State conservation agency and other State and local agencies to deliver a wide range of programs necessary to enhance our natural resources.

Financial Assistance Programs

- Conservation Security Program
- Environmental Quality Incentives Program (EQIP)
- Wildlife Habitat Incentives Program (WHIP)
- Forestry Incentives Program (FIP)

Easement Programs

- Farm and Ranch Lands Protection Program
- Wetlands Reserve Program
- Grassland Reserve Program
- Conservation Reserve Program

Other Programs

- Conservation Operation & Technical Assistance
- Watershed and Flood Prevention Operation
- Emergency Operations
- Resource Conservation & Development Program
- Grazing Lands Conservation Initiation
- Plant Materials Program
- Urban Resource Partnership Program

USDA Farm Service Agency (FSA)

The Farm Service Agency (FSA) administers and manages farm commodity, credit, conservation, disaster and loan programs as laid out by Congress through a network of federal, state and county offices. These programs are designed to improve the economic stability of the agricultural industry and to help farmers adjust production to meet demand. Economically, the desired result of these programs is a steady price range for agricultural commodities for both farmers and consumers.

State and county offices directly administer FSA programs. These offices certify farmers for farm programs and pay out farm subsidies and disaster payments. (SOURCE: <http://www.fsa.usda.gov>)

Farm Bureau

The New York Farm Bureau is a private organization that advocates politically on a broad range of issues. Its structure encourages participation among members at the local level through County chapters. The website of the Seneca County Farm Bureau indicates that the organization works to “promote public policy that protects an owner's right to use land” and “believes that a strong, viable agricultural industry benefits the economy, local communities and consumers.” More information is available on the New York County Farm Bureau website: <http://www.nyfb.org/whatisfb.htm> .

USDA Rural Development

USDA Rural Development administers several grant programs that provide assistance to farmers, municipalities and institutions, including the following Rural Business-Cooperative Service programs:

- Grant funds to help independent agricultural producers enter into value-added activities. Awards may be made for planning activities or for working capital expenses.
- Rural Economic Development Loan and Grant (REDLG) program.

D. Strengths, Weaknesses, Opportunities and Threats

An analysis of Strengths, Weaknesses, Opportunities and Threats (SWOT) relating to agriculture in Junius was conducted by the Steering Committee and the Advisory Group. “Strengths” and “weaknesses” generally refer to attributes that currently exist in the community. “Opportunities” and “threats” come from outside the community. The following table summarizes the SWOT analysis.

Strengths <ul style="list-style-type: none">• High quality agricultural soils• Large blocks of open land• Limited residential development, few neighbors• Largest industry in Town and County• Accessible to transportation infrastructure (esp. Thruway)• Proximity to markets - Central location between Rochester and Syracuse• Farm support businesses• Farms have diversified in response to market conditions• Several established farmers have been in the area for generations• Amish and Mennonite communities keep land in farming	Weaknesses <ul style="list-style-type: none">• Some drainage infrastructure has deteriorated. Difficult to coordinate among several landowners• Heavy traffic along NYS Route 318 interferes with farm vehicles• Historical reluctance of Town to engage in planning• Minimal land use regulations/ lack of zoning• Lack of local processing plants (e.g., meat processing)• Poor economic conditions for start-up farms (high initial cost of land, equipment, etc.)
Opportunities <ul style="list-style-type: none">• Drainage improvements by SWCD• Increased interest in local farm products• Expand Farmers Markets• Additional farm support businesses• Capitalize on the economic benefit that the Outlet Mall brings to the Town• Locally sponsored Community Supported Agriculture (CSA) programs	Threats <ul style="list-style-type: none">• Development pressure, extension of water and sewer – Residential neighbors make it more difficult to farm• Commercial development along Route 318 – Competes for land; increases traffic• Lack of planning

E. Issues and Opportunities

This section presents an overview of the major issues and opportunities addressed in this Plan. Subsequent sections identify potential approaches that may be used to address these issues and recommend a course of action for the Town of Junius to address the issues.

1. Retain High Quality Agricultural Soils for Continued Farming Use

The extent of high quality agricultural soils in the Town of Junius helps to ensure the continued viability of the Town's agricultural industry. Nearly all of the best agricultural soils in the Town of Junius are actively farmed. (See Maps 6 and 7.) Efforts to retain farmland should focus on areas with the highest quality agricultural soils.

2. Poor Drainage Reduces Productivity of Farmland

Many areas of farmland in the Town of Junius, particularly those that drain into Dublin Brook, are affected by poor drainage. Map 6: Agricultural Soils identifies those lands that are considered "Prime if drained." In order for these soils to be most productive, drainage is needed.

Some drainage ditches have not been maintained by landowners and no longer function. In some areas, beavers have blocked the flow of the stream, causing stormwater to back up onto farmland.

Landowners often install subsurface drainage tiles on their property to lower the water table and improve crop yields. The tiles direct groundwater away from the active cropland.

However, poor drainage typically affects many properties and a collaborative solution is needed. When a stream is blocked by debris or other obstructions, including beaver dams, stormwater backs up onto adjacent farm fields. The obstruction is likely on a property that is located downstream from the affected property.

Some farmers have suggested that changes to natural drainage patterns due to construction of the NYS Thruway and NYS Route 318 may have adversely affected productivity of the land bordering these roads, as well as land upstream from these roads. Many poorly drained parts of the Town have been identified as protected wetlands by the NYS Department of Environmental Protection. (See Map 4.)

The Seneca County Soil and Water Conservation District (SWCD) has coordinated drainage improvement projects in some areas of Seneca County. In order for the SWCD to become involved, the project must affect three or more properties and the drainage ditch or stream must be at least one mile in length. For example, during the 1960s, the SWCD acquired perpetual easements to 34 miles of Black Brook in the Town of Junius and neighboring towns. The Seneca County Board of Supervisors provided funding for this project. The easements allow the SWCD to access private property and maintain the channel to ensure that stormwater flows properly. In recent years, however, no federal or state matching funds have been available to assist with the cost of similar drainage improvement projects.

While agricultural drainage systems help to reduce erosion and phosphorous runoff, they also tend to increase the runoff of nitrates into ground and surface water, as nitrates are highly soluble in water. Current best management practices suggest maintaining a high water table while crops are not growing in order to promote natural denitrification, which converts nitrates to harmless nitrogen gas as soon as the soil warms up in the spring. (Source: US Environmental Protection Agency, <http://www.epa.gov/oecaagct/ag101/cropdrainage.html>)

Public concerns about water quality have affected New York State policies. In the past several decades, funding for drainage improvements has become more difficult to obtain and environmental regulations make it more difficult to obtain the necessary permits to remove obstructions from streams.

Improvements to drainage along Dublin Brook would need to start downstream of the affected farmland. This could involve land in the Wayne County Town of Galen. Boring may be needed to channel the stream underneath the NYS Thruway. The cost to clear the brook of obstructions depends on the total length of the channel to be cleared, how many trees would need to be removed and whether wetlands would need to be protected or remediated.

Easements would be required from individual property owners to allow the district access to the land for maintenance purposes. The property owners would be compensated for the easement. If the easement is needed for the project and determined to be of benefit to the public, the Town may obtain the easement by eminent domain and convey it to the district.

Permits would be required from the NYS Department of Environmental Conservation and the U.S. Army Corps of Engineers for work in designated wetlands.

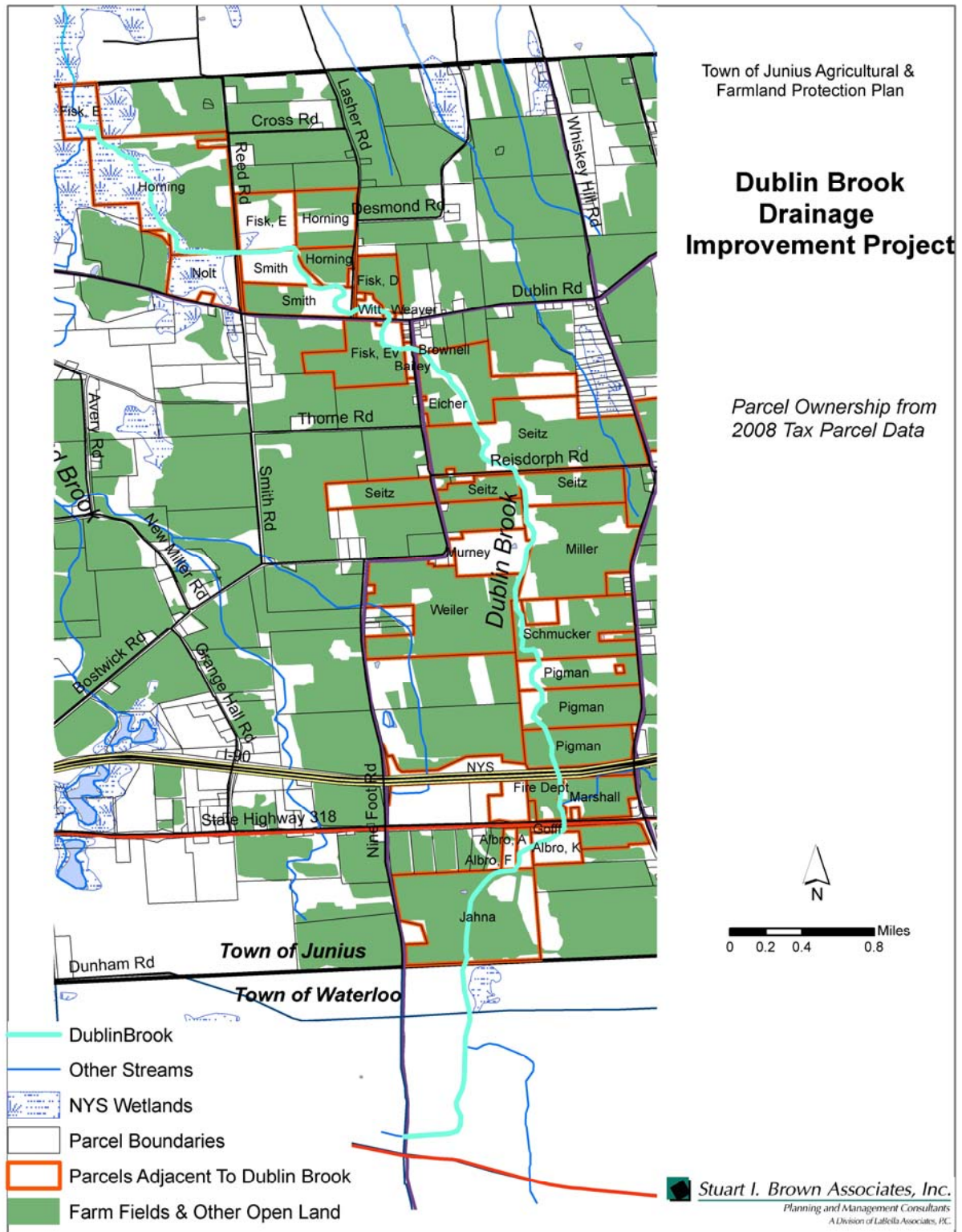
Priority Drainage Project

Improving drainage along Dublin Brook has been identified by the Seneca County SWCD as a priority project. The project would begin on the west side of Reed Road and end about a mile south of Rt. 318. This stream segment is approximately five miles in length and is estimated by SWCD to cost around \$350,000 (in 2009 dollars) to clean-out, install any necessary culvert crossings, seed, fertilize and mulch. As the headwaters of Dublin Brook are in the Town of Waterloo, the project could be coordinated with the Town of Waterloo and administered by Seneca County or only involve the Town of Junius. The map on the following page depicts the location of Dublin Brook and the Junius parcels that would be affected by the improvement project.

3. Residential Development Increases Demand for Services

While new residential development results in additional assessed value in the Town, County and school district, such development also requires expenditures to serve the new residents. Expenditures include costs for education, road maintenance, and other government services. Studies conducted in other rural communities in New York State have demonstrated that residential development requires between \$1.05 and \$1.51 for every \$1.00 in property taxes generated. Other studies have concluded that a new residence would need to be valued at \$250,000 or more to “pay its own way” in services. (Appendix A includes a Fact Sheet from American Farmland Trust that summarizes some of the recent studies.)

Potential Drainage Improvement Project



The fiscal impact of new development depends to a large extent on the excess capacity that may exist in the existing school facilities. Incremental increases in population may be absorbed with little need for new investment. However, once new residential development reaches the point where new facilities need to be constructed, the cost of the improvements will need to be covered at least partially by local property taxes.

4. Residential Neighbors Make Farming More Difficult

Although the Town of Junius consists predominantly of agricultural land, residents who are not farmers and are not familiar with standard farming practices may complain about odors, noise or other effects of farm operations. As more houses are constructed in close proximity to active farmland, such complaints are likely to increase.

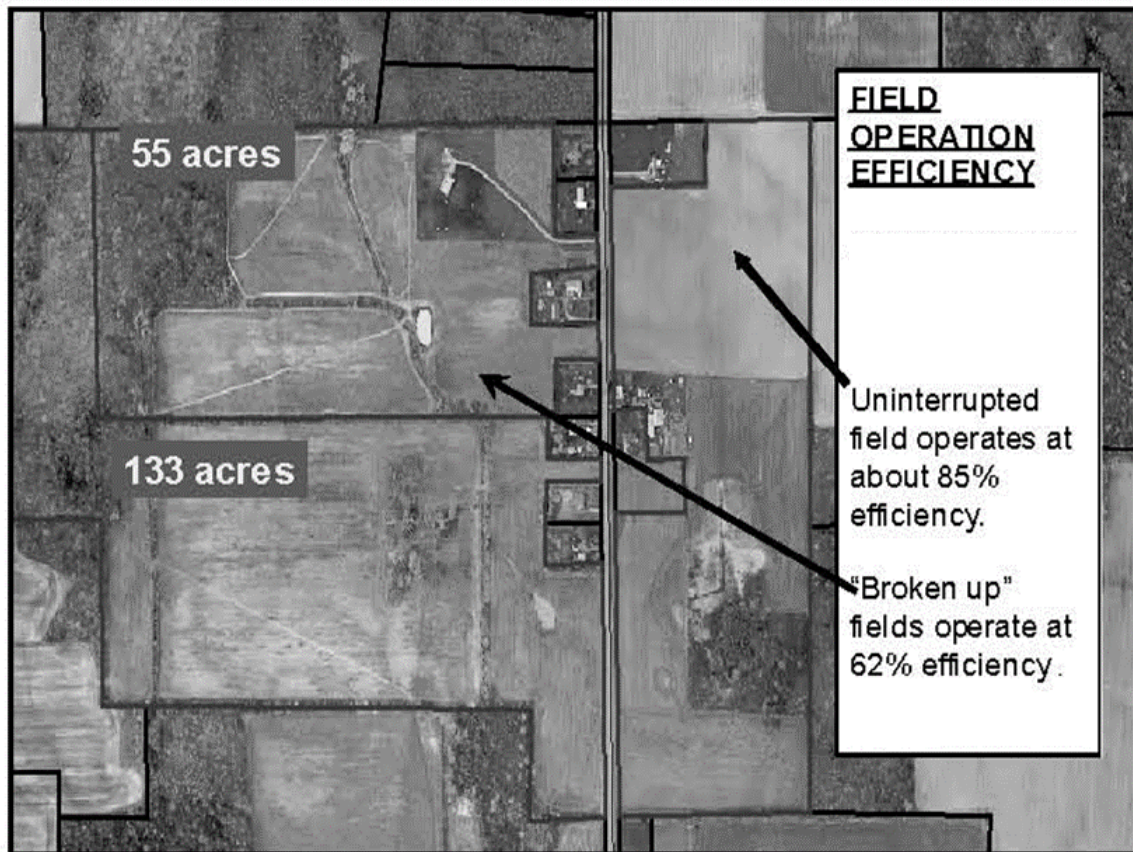
Neighbor complaints can make farming more difficult. Although the Agricultural District regulations provide protection to farmers from nuisance lawsuits, the threat of lawsuits can inhibit farming and defending against such suits can be very costly.

Nearby neighbors sometimes trespass on farmland with ATVs, damaging crops and drainage tiles. When residences adjoin active farmland, the likelihood of this type of conflict increases.

Neighbor relations can be improved through better communication among farmers and non-farm neighbors. Accurate information about agricultural practices can alleviate neighbors' concerns. Farmers may be able to adjust manure spreading schedules to accommodate neighbors' outdoor events. If conflicts cannot be resolved by talking together, mediators may be engaged to help. Additional information about this issue and resources available to assist are provided in the publication, "Farms, Communities, and Collaboration: A Guide to Resolving Farm-Neighbor Conflict." (See Appendix B.)

5. The Location and Design of Residential Lots Impact the Efficiency of Farming

When farmland is subdivided into residential lots along road frontages, farm equipment must maneuver around the houseslots, making farming less efficient.



SOURCE: Maria Rudzinski, Ontario County Planning Department

The design and layout of residential lots may be regulated by the Town through a subdivision review process. This process would enable the Town Planning Board to work with landowners to site new house lots in such a way that they have the least possible impact on agricultural productivity. Siting considerations would include retaining existing access roads and drainage tiles and utilizing natural buffers such as streams and trees to buffer house lots from farm fields.

6. A Viable Agricultural Industry is Enhanced by Diversity

Farming operations in the Town of Junius consist of large, medium and small farms. All sizes and types of farms contribute to the health of the agricultural industry by keeping land in agricultural use. Diversity of farm operations allows for farmers to provide services for each other and to purchase a variety of supplies from each other and from other agriculture-related businesses. Diversity allows for flexibility in the economy when new opportunities develop.

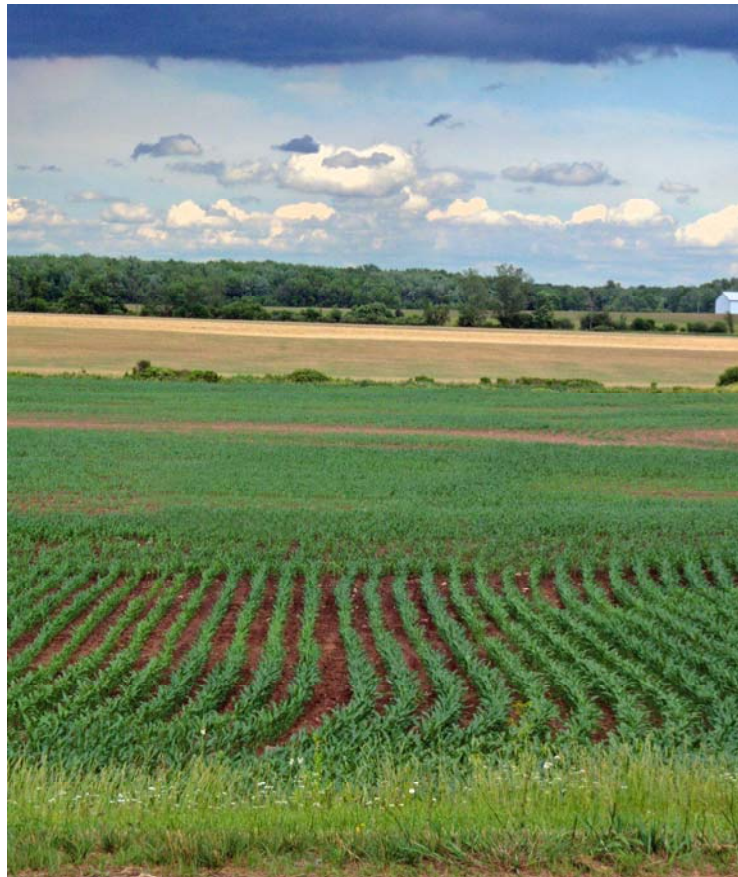
An opportunity which has developed in recent years is the chance to piggyback on the influx of consumers coming to the outlet mall. Some farmers have seized this opportunity to focus on the popular trend to “Buy Local” with convenient roadside stands to attract these consumers.

7. Local Agri-Businesses Support Agriculture in Junius

The large number of farms in Junius and the surrounding region creates opportunities for agriculture-related businesses to thrive in the Town. The ease of traffic flow along NYS Route 318 and the proximity to two NYS Thruway exits present an optimal location for additional agri-business development along NYS Route 318. However, an agri-business representative has suggested to the Advisory Group that more specific land use regulations would aid prospective businesses in making sound business decisions when they are considering relocating to the area.

8. Farmland Retains Open Character of Landscape

The use of land for agriculture not only contributes to the economy of the Town and the region, but provides open space for the health and enjoyment of residents and visitors. The agricultural and open character of the community is evident to the many thousands of travelers along the NYS Thruway and NYS Route 318.



F. Conversion Pressure, Consequences of Conversion, and Farmland to be Protected

1. Conversion Pressure

As noted in Section B.1 of this document, the population of Town of Junius has remained stable for the past 15 years and new residential development has been modest. Scattered residential development has taken some land out of farming. The Waterloo Premium Outlet facility, with more than 100 stores, was constructed on 48 acres of prime farmland. The images below illustrate the agricultural setting of the area surrounding the Outlet Mall.



Conversion Pressure, Consequences of Conversion, and Land to be Protected

Smaller scale commercial development has occurred along NYS Route 318 as a result of the traffic generated by the Waterloo Premium Outlets mall. So far, most of the farmland for sale has been purchased by farmers for agricultural use.



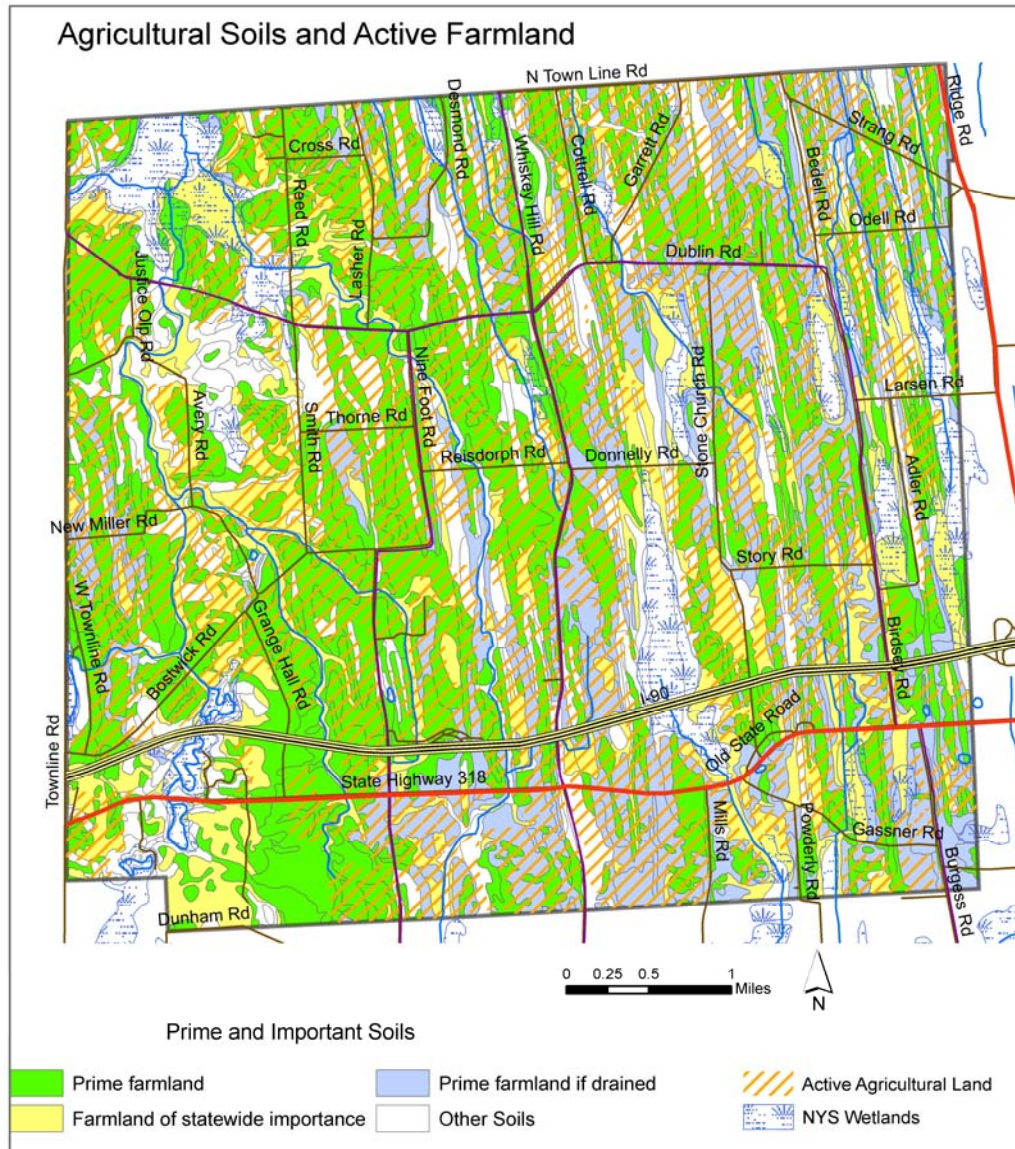
NYS Agriculture & Markets Law (Circular 1150 in Appendix H) defines “conversion” as: “an outward or affirmative act of changing the use of agricultural land and shall **not** mean the nonuse or idling of such land.” It is expected that the most intense conversion pressure in the Town in the near future will be located near the outlet mall and along the Route 318 Corridor.

2. Consequences of Possible Conversion

While new commercial and residential development has had a limited impact on the amount of farmland available for agricultural use, such development has the potential to make it more difficult for farmers. Increased traffic along NYS Route 318 will continue to make it more difficult for farmers to travel from field to field with their farm equipment and for the Amish to travel along the roadway. Scattered residential development creates non-farming neighbors in proximity to farms and is likely to increase the potential for neighbor conflicts.

3. Farmland Suitable for Protection

Most of the Town's land area consists of high quality agricultural soils that are currently used for agricultural production. (See figure below). All of these areas are suitable for long-term protection.



Areas where agriculture is not viable are limited to regulated wetlands and areas that are already developed with residential or other uses.

While continued agriculture is encouraged throughout the Town, this Plan (see Map 14) designates certain areas in the Town as more suitable for commercial development, agricultural uses, open space or environmental protection. Consistent with the recommendations of the Routes 318/96 Corridor Study, the area around the Waterloo Premium Outlets is designated for additional commercial

Conversion Pressure, Consequences of Conversion, and Land to be Protected

development and the remainder of the Route 318 corridor is proposed for primarily agricultural and open space uses, with limited residential and agricultural support businesses. Along NYS Route 318, commercial development should be concentrated in “nodes” with open land between. Land around Junius Ponds is recommended for environmental protection and should be managed to protect the water quality of this unique natural feature.

Map 14 identifies those lands in the Town of Junius that are most suitable for continued agricultural use and, thus, most desirable for long-term protection. Those farmlands are shown in green on this map. Priority farmlands are those with the highest quality soils, that are actively used in agricultural production and are most likely to remain in viable agricultural operations in the future. Except for the farmland in and near the Route 318 Corridor, conversion pressure on the remainder of the farmlands in the town **at this time** is primarily from scattered residential development. Conversion pressure in and near the Route 318 Corridor is more intense.

Within the areas designated “Farmland Suitable for Protection,” priority for long-term protection will be given to those areas that:

- Contain the highest proportion of prime soils
- Are most likely to continue over the long term as viable farm operations
- Buffer significant natural resources and
- Are subject to significant development pressure

This Agricultural & Farmland Protection Plan outlines the processes available to the Town and other entities to support agriculture and retain agricultural land as the conversion pressure intensifies on farmlands in the Town.

G. Agricultural & Farmland Protection Tools and Techniques

This section provides information about the tools and techniques available to local governments to support agricultural operations and encourage the retention of high quality farmland.

1. Subdivision Regulations

NYS Town Law enables Towns to authorize the Town Planning Board to review and approve proposed subdivisions. The Town must determine what constitutes a “subdivision.” Some towns define “subdivision” as any lot split from a parent parcel, while others do not regulate lot splits unless five or more lots are involved.

Subdivision regulations would enable the Planning Board to work with landowners to consider impacts on farming when new lots are created in an agricultural area. Provisions may include:

- Minimize the number of curb cuts from the road, especially if the road is a high-speed highway, by requiring a minimum distance between driveways. Encourage developers to construct an access road into the interior of the property rather than creating several lots along the road frontage.
- Locate the house lots on that portion of the lot that is least suitable for agricultural production
- Use natural features on the property, such as streams or woods, to separate the new houses from active agricultural land. Require effective buffers between residential lots and farmland.
- For residential subdivisions proposed on or near active farmland, require the subdivider to identify the locations of existing farm access drives and drainage facilities on the site and site house lots to avoid impacting these facilities.

2. Right to Farm Law

Local “right to farm” laws typically clearly state the town’s policy in support of farming, define “generally accepted agricultural practices,” and affirm a farmer’s right to employ such practices. The laws also include a statement that farm practices may include odors, noise and other activities.

Such a law often establishes a local mediation procedure to resolve complaints between farmers and non-farm neighbors. A local committee consisting of local farmers as well as non-farming residents, may be formed to hear and resolve complaints. Municipalities may appoint an existing committee, such as the Planning Board, to act as the Mediation Committee.

A good model of a “right to farm” law was recently adopted by the Town of Fayette. This law declares the Town’s support for agriculture, reinforces the provisions of NYS Agriculture District Law regarding notification of purchasers of land within Agricultural Districts, and establishes an Agricultural Advisory Committee to act as a mediation committee to resolve conflicts between farmers and non-farm neighbors. A copy of this local law is included in Appendix C.

3. Private, Voluntary Conservation Easements

Landowners may place farmland under a permanent conservation easement to be held and monitored either by the Town or by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning, as the value of the donated easement can be claimed as a tax deduction. Donation of easements provides permanent protection of farmland and open space at no cost to the town. The decision to donate an easement is made voluntarily by a private landowner.

The Finger Lakes Land Trust, based in Ithaca, is a private, non-profit land trust that accepts donations of property or development rights and works with individual landowners and community leaders to protect land resources. The Finger Lakes Land Trust is active in Seneca County and is willing to discuss the possibility of donating conservation easements with interested landowners. Contact information and additional information about the Finger Lakes Land Trust is provided in Appendix D.

4. Public Purchase of Development Rights

Purchase of Development Rights (PDR) is a public program which purchases the development rights from willing landowners and results in a conservation easement being placed on the land that prohibits future development. The value of development rights is calculated as the difference between the value of the land for agricultural purposes and its value for development. A permanent conservation easement typically restricts future development on the parcel to agricultural buildings only. Ownership of the parcel does not change. The easement holder -- either the Town, Seneca County or a private land trust -- is responsible for ensuring that the property is not developed. The owner may continue to farm the parcel, and/or sell it.

When development of a property is limited due to a permanent conservation easement, the assessment on the property must take into consideration the impact of the easement on the value of the property. This may result in reduced property taxes for the owner. However, in practice, properties that are receiving an agricultural use value assessment would continue to be assessed based on the agricultural value rather than the market value of the property.

PDR programs are regarded as fair to landowners, who receive fair market value for the development rights. The property remains privately owned and is assessed at a value that reflects its limited use. Such programs achieve permanent protection of farmland and open space.

Some municipalities have established Town purchase of development rights programs that are funded by bond issues. State and federal grant funding is also available to support the purchase of development rights to farmland.

State funding for PDR provides up to 75% of the cost of purchasing development rights. The remaining 25% may be obtained through a combination of Federal grant funds, private foundation funds, local government funds, or by the landowner. Some landowners agree to sell their development rights for less than the appraised amount (known as a “bargain sale”), thereby donating the difference and often claiming a tax deduction for the amount donated.

In order to allocate these funds in a manner that is fair to all interested landowners and focused on the priorities of the Town, the Town needs to establish a process to solicit, review and evaluate potential projects. Purchase of development rights should be pursued to permanently protect high quality agricultural land.

Appendix E includes additional information about the NYS program and copies of the forms used by Seneca County to select the most competitive farms to sponsor for a PDR application.

5. Infrastructure Management

Tools available to municipalities to minimize the impacts of sewer and water line extensions on agricultural land include the use of Agricultural Data Statements and lateral restrictions.

Notice of Intent Process

Section 305 of the Agricultural Districts law requires local governments, before extending a water or sewer line that would serve non-farm structures within an Agricultural District, to file a preliminary and a final Notice of Intent with the NYS Department of Agriculture and the County Agricultural & Farmland Protection Board. The law states:

Any ... local government ... which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, ... water or sewer facilities to serve non-farm structures, shall use all practicable means in undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district.

Tools and Techniques

The Notice of Intent (NOI) must set forth:

- A description of the proposed action and its agricultural setting
- The agricultural impact of the proposed action, including short-term and long-term effects
- Any adverse impacts on agriculture that cannot be avoided
- Alternatives to the proposed action
- Any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action
- Mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of farms within the district
- Any aspects of the proposed action which would encourage non-farm development

A preliminary notice must be filed before the municipality issues a determination of significance pursuant to the State Environmental Quality Review Act (SEQR). The final notice must be filed at least 65 days prior to the construction or advancement of public funds. The commissioner has 45 days from receipt of the final notice to determine whether the action may have an unreasonably adverse effect on farm viability, and may take an additional 60 days to review the proposed action and issue findings.

The commissioner of agriculture may propose reasonable or practical alternative actions that would minimize or avoid the adverse impact of the proposed action on agriculture. The municipality or funding agency may either accept the proposed alternative or certify that other actions have been taken to minimize impacts on agricultural operations.

Lateral (Hookup) Restrictions

Often, as an outcome of the Notice of Intent process, a municipality will adopt a resolution that restricts hookups for non-farm structures to a new water or sewer line that extends into an Agricultural District. Typical language for such a resolution is:

LATERAL RESTRICTIONS RESOLUTION

WHEREAS, the [municipality] has created the [name of water district] pursuant to Town Law for the express purpose of providing public water supply to residents [geographic extent of water district]; and

WHEREAS, as part of the land area within the [name of water district] is also within the [name of Agricultural District]; and

WHEREAS, the Town Board has filed a Notice of Intent to Undertake an Action Within an Agricultural District to evaluate the impact of providing a source of public water supply within this area on lands within the [name of Agricultural District]; and

WHEREAS, the New York State Department of Agriculture and Markets has expressed concern about the potential adverse impact that said public water supply is likely to have on agriculture within the Agricultural Districts,

NOW THEREFORE BE IT RESOLVED, that the Town Board, in recognition of the concerns that have been raised, hereby resolves to limit connections to the public water supply only to existing non-farm uses and to farm related uses within that portion of [name of water district] which is also within the limits of the [name of Agricultural District].

The restriction on hookups would apply to non-agricultural structures for as long as the property is located within an Agricultural District.

6. Drainage District

The Town or County may work with landowners to create a drainage district. The process for a Town to create a drainage district is outlined in NYS Town Law, Article 12, Section 190. This process involves:

- a. Property owners submit a petition to the Town Board requesting the creation of a drainage district. The petition must be signed by the owners of at least $\frac{1}{2}$ of the assessed valuation of the taxable real property in the proposed district, as well as by the owners of at least $\frac{1}{2}$ of the assessed valuation of any taxable real property owned by resident owners. The petition must describe the boundaries of the proposed district and state the maximum cost that the owners are willing to expend for the improvements.
- b. The Town Board contracts with a qualified engineering consultant to prepare a “map, plan and report” that describes the project and estimates the project cost.
- c. The Town Board holds a public hearing that describes the proposed project and the cost of the improvements to the typical property and the typical residence.
- d. The Town Board establishes the District

A similar process would be followed for a County drainage district.

7. Public Education

Public educational activities are typically designed to educate non-farming residents about agricultural practices, including environmental stewardship, the types of products that may be purchased locally and the importance of agriculture to the regional economy. Such educational

programs can help to promote local farm products, reduce the potential for conflicts between farmers and non-farming neighbors, and generate support for programs that help to sustain the agricultural industry.

Local governments may also want to inform residents about local, county and other programs and regulations, such as the Agricultural District Program, right-to-farm provisions of existing regulations, and land use regulations such as the Town's site plan review requirements. Decision-makers and the public would benefit from additional information to improve their understanding of the costs associated with new development.

Local governments may partner with other agencies to improve public awareness. For example, Cornell Cooperative Extension of Seneca County is in the process of preparing a guide to farm markets and direct sales opportunities which will help consumers who want to purchase products directly from local farmers to find willing sellers.

Agencies that already have public educational programs in place include Cornell Cooperative Extension, NYS Farm Bureau, NYS Department of Agriculture & Markets, and others. Activities may include farm tours, newspaper articles, newsletters, signs or advertisements.

8. Land Use Regulations

Local governments have the authority to regulate land uses and to designate areas of the Town in which certain land uses would be permitted. Such regulations can help businesses determine which areas of the Town are most suitable for business use and can reduce the potential for land uses to be sited in the Town that are inconsistent with the Town's community development goals.

Comprehensive land use regulations typically include a zoning map that divides the Town into districts. For each district, a list of permitted uses specifies those uses that may be located in the district. Certain uses may be subject to additional criteria to make sure that they are suitable in the location proposed. The regulations also typically specify how much land is required for specific uses (minimum lot size or maximum densities), setbacks between buildings and lot lines, height of buildings, and other development specifications.

9. Promotion of Local Farm Products

The NYS programs "Farm to School," "Pride of New York" and "Buy Local" help raise the public awareness of the value of local farm markets as retail outlets for agricultural products from area farms. In addition, the inventory of direct market outlets being prepared by Cornell Cooperative Extension will help match farmers with potential customers.

H. Strategies and Recommended Actions

1. Adopt a Local Right To Farm Law

- Include provisions that express the Town policy of support for farming and provide for locally-based mediation of neighbor disputes.

Time Frame:	Immediate (within one year)
Responsible Agency:	Town Board
Estimated Cost:	\$200-\$1,000 for attorney review, if needed
Potential Funding Sources:	Town Board budget

2. Establish a Process To Manage Land Subdivisions/ Residential Development

- Maintain safety and efficiency of Route 318 by setting standards for driveway spacing
- Assist landowners with subdivision layout to ensure that the remaining farm fields are efficient to work, do not disturb drainage, and maintain buffers between farms and new house lots

Time Frame:	Short term (1-2 years)
Responsible Agency:	Town Board, Planning Board
Estimated Cost:	Approximately \$8,000 if consulting services are needed to draft regulations
Potential Funding Sources:	Town budget; possible NYS grant

3. Provide Information to Residents about Standard Farming Practices

- Work with other agencies to publicize environmental management and other farm practices through farm tours, newspaper articles and other techniques.
- Install road signs at Town of Junius borders for Site Plan Review Ordinance; Right to Farm Law; and designation of local Agricultural District

Time Frame:	On-going
Responsible Agency:	Planning Board, in cooperation with Cooperative Extension, Farm Bureau and other agencies; Town Board
Estimated Cost:	\$100 - \$500 for signs; no cost for other actions if done by volunteer committee
Potential Funding Sources:	Town budget

4. Strengthen Current Town Regulations

- Periodic review and update of existing Site Plan Review Ordinance with focus to protect agriculture and farmlands
- Incorporate appropriate suggestions from Route 96/318 Corridor Study
- Investigate zoning which would protect farmers and offer suggestions to Town Board

Time Frame:	Short Term (1- 2 years) and on-going
Responsible Agency:	Planning Board; Town Board
Estimated Cost:	\$200 - \$1000 for attorney fees and legal notices
Potential Funding Sources:	Town Budget

5. Sponsor Applications to NYS for Purchase of Development Rights (PDR)

- Develop process for Town of Junius to sponsor applications
- Solicit applications from landowners to apply for PDR funding to permanently retire development rights for farmland; since NYS grant would provide only 75% of the cost, encourage landowners to consider a “bargain sale” due to acceptance of less than market value
- Work with Seneca County to identify appropriate candidates for PDR

Time Frame:	Short-Term (1-3 years) and ongoing
Responsible Agency:	Town Board; Planning Board
Estimated Cost:	None if volunteer committee performs outreach and coordination with Seneca County Agricultural Enhancement Board
Potential Funding Sources:	Not applicable

6. Encourage Landowners to Consider Private Land Preservation Through Conservation Easements

- Provide information to landowners regarding donating conservation easements to a land trust or other agency as part of estate planning

Time Frame:	Short-Term (1-3 years); Ongoing
Responsible Agency:	Town Board; Planning Board
Estimated Cost:	None if mailings are conducted by other agencies
Potential Funding Sources:	Not applicable

7. Encourage Landowners to Participate in Tax Relief Programs

- Continue to provide information to landowners to ensure that they take advantage of available tax relief programs (agricultural use assessments; capital improvement exemptions, etc.)

Time Frame:	Ongoing
Responsible Agency:	Town Assessor
Estimated Cost:	Included in current Assessor's duties
Potential Funding Sources:	Not applicable

8. Support Agricultural Businesses

- Accommodate farm-related businesses to locate in Town (e.g., Farmer Boy Ag Supply) by designating appropriate locations for commercial businesses
- Promote sales of local farm products; encourage direct marketing through promotions of farm markets and roadside stands, in collaboration with Cooperative Extension and other agencies.
- Work with Seneca County Planning and the Industrial Development Agency to identify funding opportunities such as grants and loans for expansion of agriculture-related businesses.

Time Frame:	On-going
Responsible Agency:	Town Board; Seneca County IDA
Estimated Cost:	\$8,000 - \$15,000 to establish new land use regulations None for volunteer committees to publicize existing programs
Potential Funding Sources:	State grants, if available, for regulations

9. Provide Information to the Public about the Significance of Agriculture to the Community and the Regional Economy

- Make written materials prepared by Cooperative Extension and other agencies available to the public at the Dublin Community Center.
- Submit press releases and offer newspaper articles pertaining to Junius meetings and events

Time Frame:	On-going
Responsible Agency:	Planning Board, in cooperation with Cooperative Extension and other agencies
Estimated Cost:	None to acquire materials from agencies.
Potential Funding Sources:	Not applicable

10. Support Programs and Initiatives of Other Agencies and Organizations

- Work with the Seneca County Soil & Water Conservation District to promote participation in Agricultural Environmental Management (AEM) and other programs that encourage conservation practices and the retention of land for agriculture
- Work with Cornell Cooperative Extension and other agencies to promote public education and other programs

Time Frame:	On-going
Responsible Agency:	Town Board; Planning Board
Estimated Cost:	To be determined
Potential Funding Sources:	To be determined

11. Improve Drainage along Dublin Brook

- Work with the Seneca County Soil & Water Conservation District to define the project.
- Establish a mechanism to administer the drainage improvement project.
- If a County or Town drainage district is to be created, commission a report that would detail the work needed and the total cost, subject to permissive referendum, as well as how the cost of improvements would be shared among landowners
- Identify potential funding sources and obtain funding to implement the improvement.

Time Frame:	Long-term (5-10 years)
Responsible Agency:	Town Board
Estimated Cost:	\$1,000 - \$8, 000 for engineering report Approximately \$350,000 to construct improvements (2009 dollars)
Potential Funding Sources:	Town Board or County Board of Supervisors; NYS or Federal grant

I. Next Steps

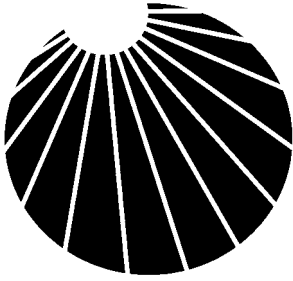
The Planning Board will take the lead in implementing the recommendations of this Agricultural & Farmland Protection Plan, under the guidance of the Town Board. The Advisory Committee will be called upon as needed to provide input.

Appendices

- A. Cost of Community Services Fact Sheet from American Farmland Trust
- B. Guide to Resolving Neighbor Conflicts
- C. Sample Right to Farm Law – Town of Fayette
- D. Finger Lakes Land Trust – brochure and contact information
- E. NYS Purchase of Development Rights Program Information
 - NYS application for funding – 2008-2009
 - Sample pre-application forms – Seneca County 2009
- F. Town of Junius Site Plan Review Ordinance
- G. Excerpts from Draft Routes 318/96 Corridor Study
- H. NYS Department of Agriculture & Markets – Circular 1150

APPENDIX A

Cost of Community Services Fact Sheet
American Farmland Trust



FARMLAND
INFORMATION
CENTER

FACT SHEET

COST OF COMMUNITY SERVICES STUDIES



FARMLAND INFORMATION CENTER
One Short Street, Suite 2
Northampton, MA 01060
(800) 370-4879
www.farmlandinfo.org

NATIONAL OFFICE
1200 18th Street, NW, Suite 800
Washington, DC 20036
(202) 331-7300
www.farmland.org

DESCRIPTION

Cost of Community Services (COCS) studies are a case study approach used to determine the fiscal contribution of existing local land uses. A subset of the much larger field of fiscal analysis, COCS studies have emerged as an inexpensive and reliable tool to measure direct fiscal relationships. Their particular niche is to evaluate working and open lands on equal ground with residential, commercial and industrial land uses.

COCS studies are a snapshot in time of costs versus revenues for each type of land use. They do not predict future costs or revenues or the impact of future growth. They do provide a baseline of current information to help local officials and citizens make informed land use and policy decisions.

METHODOLOGY

In a COCS study, researchers organize financial records to assign the cost of municipal services to working and open lands, as well as to residential, commercial and industrial development. Researchers meet with local sponsors to define the scope of the project and identify land use categories to study. For example, working lands may include farm, forest and/or ranch lands. Residential development includes all housing, including rentals, but if there is a migrant agricultural work force, temporary housing for these workers would be considered part of agricultural land use. Often in rural communities, commercial and industrial land uses are combined. COCS studies findings are displayed as a set of ratios that compare annual revenues to annual expenditures for a community's unique mix of land uses.

COCS studies involve three basic steps:

1. Collect data on local revenues and expenditures.
2. Group revenues and expenditures and allocate them to the community's major land use categories.
3. Analyze the data and calculate revenue-to-expenditure ratios for each land use category.

The process is straightforward, but ensuring reliable figures requires local oversight. The most complicated task is interpreting existing records to reflect COCS land use categories. Allocating revenues and expenses requires a significant amount of research, including extensive interviews with financial officers and public administrators.

HISTORY

Communities often evaluate the impact of growth on local budgets by conducting or commissioning fiscal impact analyses. Fiscal impact studies project public costs and revenues from different land development patterns. They generally show that residential development is a net fiscal loss for communities and recommend commercial and industrial development as a strategy to balance local budgets.

Rural towns and counties that would benefit from fiscal impact analysis may not have the expertise or resources to conduct a study. Also, fiscal impact analyses rarely consider the contribution of working and other open lands, which is very important to rural economies.

American Farmland Trust (AFT) developed COCS studies in the mid-1980s to provide communities with a straightforward and inexpensive way to measure the contribution of agricultural lands to the local tax base. Since then, COCS studies have been conducted in at least 128 communities in the United States.

FUNCTIONS & PURPOSES

Communities pay a high price for unplanned growth. Scattered development frequently causes traffic congestion, air and water pollution, loss of open space and increased demand for costly public services. This is why it is important for citizens and local leaders to understand the relationships between residential and commercial growth, agricultural land use, conservation and their community's bottom line.

COST OF COMMUNITY SERVICES STUDIES

For additional information on farmland protection and stewardship contact the Farmland Information Center. The FIC offers a staffed answer service, online library, program monitoring, fact sheets and other educational materials.

www.farmlandinfo.org

(800) 370-4879

COCS studies help address three claims that are commonly made in rural or suburban communities facing growth pressures:

1. Open lands—including productive farms and forests—are an interim land use that should be developed to their “highest and best use.”
2. Agricultural land gets an unfair tax break when it is assessed at its current use value for farming or ranching instead of at its potential use value for residential or commercial development.
3. Residential development will lower property taxes by increasing the tax base.

While it is true that an acre of land with a new house generates more total revenue than an acre of hay or corn, this tells us little about a community's bottom line. In areas where agriculture or forestry are major industries, it is especially important to consider the real property tax contribution of privately owned working lands. Working and other open lands may generate less revenue than residential, commercial or industrial properties, but they require little public infrastructure and few services.

COCS studies conducted over the last 20 years show working lands generate more public revenues than they receive back in public services. Their impact on community coffers is similar to that of other commercial and industrial land uses. On average, because residential land uses

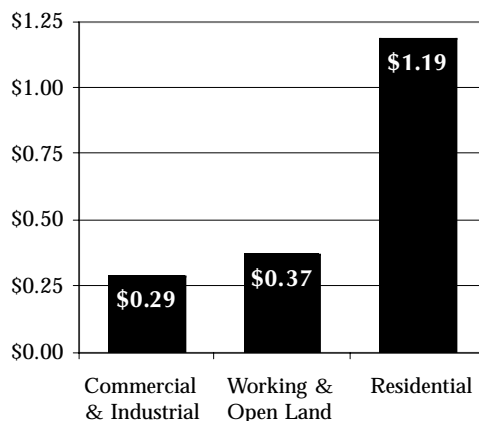
do not cover their costs, they must be subsidized by other community land uses. Converting agricultural land to residential land use should not be seen as a way to balance local budgets.

The findings of COCS studies are consistent with those of conventional fiscal impact analyses, which document the high cost of residential development and recommend commercial and industrial development to help balance local budgets. What is unique about COCS studies is that they show that agricultural land is similar to other commercial and industrial uses. In every community studied, farmland has generated a fiscal surplus to help offset the shortfall created by residential demand for public services. This is true even when the land is assessed at its current, agricultural use. However as more communities invest in agriculture this tendency may change. For example, if a community establishes a purchase of agricultural conservation easement program, working and open lands may generate a net negative.

Communities need reliable information to help them see the full picture of their land uses. COCS studies are an inexpensive way to evaluate the net contribution of working and open lands. They can help local leaders discard the notion that natural resources must be converted to other uses to ensure fiscal stability. They also dispel the myths that residential development leads to lower taxes, that differential assessment programs give landowners an “unfair” tax break and that farmland is an interim land use just waiting around for development.

One type of land use is not intrinsically better than another, and COCS studies are not meant to judge the overall public good or long-term merits of any land use or taxing structure. It is up to communities to balance goals such as maintaining affordable housing, creating jobs and conserving land. With good planning, these goals can complement rather than compete with each other. COCS studies give communities another tool to make decisions about their futures.

Median COCS Results



Median cost per dollar of revenue raised to provide public services to different land uses.

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Colorado				
Custer County	1 : 1.16	1 : 0.71	1 : 0.54	Haggerty, 2000
Sagauche County	1 : 1.17	1 : 0.53	1 : 0.35	Dirt, Inc., 2001
Connecticut				
Bolton	1 : 1.05	1 : 0.23	1 : 0.50	Geisler, 1998
Durham	1 : 1.07	1 : 0.27	1 : 0.23	Southern New England Forest Consortium, 1995
Farmington	1 : 1.33	1 : 0.32	1 : 0.31	Southern New England Forest Consortium, 1995
Hebron	1 : 1.06	1 : 0.47	1 : 0.43	American Farmland Trust, 1986
Litchfield	1 : 1.11	1 : 0.34	1 : 0.34	Southern New England Forest Consortium, 1995
Pomfret	1 : 1.06	1 : 0.27	1 : 0.86	Southern New England Forest Consortium, 1995
Florida				
Leon County	1 : 1.39	1 : 0.36	1 : 0.42	Dorfman, 2004
Georgia				
Appling County	1 : 2.27	1 : 0.17	1 : 0.35	Dorfman, 2004
Athens-Clarke County	1 : 1.39	1 : 0.41	1 : 2.04	Dorfman, 2004
Brooks County	1 : 1.56	1 : 0.42	1 : 0.39	Dorfman, 2004
Carroll County	1 : 1.29	1 : 0.37	1 : 0.55	Dorfman and Black, 2002
Cherokee County	1 : 1.59	1 : 0.12	1 : 0.20	Dorfman, 2004
Colquitt County	1 : 1.28	1 : 0.45	1 : 0.80	Dorfman, 2004
Dooly County	1 : 2.04	1 : 0.50	1 : 0.27	Dorfman, 2004
Grady County	1 : 1.72	1 : 0.10	1 : 0.38	Dorfman, 2003
Hall County	1 : 1.25	1 : 0.66	1 : 0.22	Dorfman, 2004
Jones County	1 : 1.23	1 : 0.65	1 : 0.35	Dorfman, 2004
Miller County	1 : 1.54	1 : 0.52	1 : 0.53	Dorfman, 2004
Mitchell County	1 : 1.39	1 : 0.46	1 : 0.60	Dorfman, 2004
Thomas County	1 : 1.64	1 : 0.38	1 : 0.67	Dorfman, 2003
Union County	1 : 1.13	1 : 0.43	1 : 0.72	Dorfman and Lavigno, 2006
Idaho				
Canyon County	1 : 1.08	1 : 0.79	1 : 0.54	Hartmans and Meyer, 1997
Cassia County	1 : 1.19	1 : 0.87	1 : 0.41	Hartmans and Meyer, 1997
Kentucky				
Campbell County	1 : 1.21	1 : 0.30	1 : 0.38	American Farmland Trust, 2005
Kenton County	1 : 1.19	1 : 0.19	1 : 0.51	American Farmland Trust, 2005
Lexington-Fayette County	1 : 1.64	1 : 0.22	1 : 0.93	American Farmland Trust, 1999
Oldham County	1 : 1.05	1 : 0.29	1 : 0.44	American Farmland Trust, 2003
Shelby County	1 : 1.21	1 : 0.24	1 : 0.41	American Farmland Trust, 2005
Maine				
Bethel	1 : 1.29	1 : 0.59	1 : 0.06	Good, 1994
Maryland				
Carroll County	1 : 1.15	1 : 0.48	1 : 0.45	Carroll County Dept. of Management & Budget, 1994
Cecil County	1 : 1.17	1 : 0.34	1 : 0.66	American Farmland Trust, 2001
Cecil County	1 : 1.12	1 : 0.28	1 : 0.37	Cecil County Office of Economic Development, 1994

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Frederick County	1 : 1.14	1 : 0.50	1 : 0.53	American Farmland Trust, 1997
Harford County	1 : 1.11	1 : 0.40	1 : 0.91	American Farmland Trust, 2003
Kent County	1 : 1.05	1 : 0.64	1 : 0.42	American Farmland Trust, 2002
Wicomico County	1 : 1.21	1 : 0.33	1 : 0.96	American Farmland Trust, 2001
Massachusetts				
Agawam	1 : 1.05	1 : 0.44	1 : 0.31	American Farmland Trust, 1992
Becket	1 : 1.02	1 : 0.83	1 : 0.72	Southern New England Forest Consortium, 1995
Deerfield	1 : 1.16	1 : 0.38	1 : 0.29	American Farmland Trust, 1992
Franklin	1 : 1.02	1 : 0.58	1 : 0.40	Southern New England Forest Consortium, 1995
Gill	1 : 1.15	1 : 0.43	1 : 0.38	American Farmland Trust, 1992
Leverett	1 : 1.15	1 : 0.29	1 : 0.25	Southern New England Forest Consortium, 1995
Middleboro	1 : 1.08	1 : 0.47	1 : 0.70	American Farmland Trust, 2001
Southborough	1 : 1.03	1 : 0.26	1 : 0.45	Adams and Hines, 1997
Westford	1 : 1.15	1 : 0.53	1 : 0.39	Southern New England Forest Consortium, 1995
Williamstown	1 : 1.11	1 : 0.34	1 : 0.40	Hazler et al., 1992
Michigan				
Marshall Twp., Calhoun County	1 : 1.47	1 : 0.20	1 : 0.27	American Farmland Trust, 2001
Newton Twp., Calhoun County	1 : 1.20	1 : 0.25	1 : 0.24	American Farmland Trust, 2001
Scio Twp., Washtenaw County	1 : 1.40	1 : 0.28	1 : 0.62	University of Michigan, 1994
Minnesota				
Farmington	1 : 1.02	1 : 0.79	1 : 0.77	American Farmland Trust, 1994
Lake Elmo	1 : 1.07	1 : 0.20	1 : 0.27	American Farmland Trust, 1994
Independence	1 : 1.03	1 : 0.19	1 : 0.47	American Farmland Trust, 1994
Montana				
Carbon County	1 : 1.60	1 : 0.21	1 : 0.34	Prinzing, 1997
Gallatin County	1 : 1.45	1 : 0.16	1 : 0.25	Haggerty, 1996
Flathead County	1 : 1.23	1 : 0.26	1 : 0.34	Citizens for a Better Flathead, 1999
New Hampshire				
Deerfield	1 : 1.15	1 : 0.22	1 : 0.35	Auger, 1994
Dover	1 : 1.15	1 : 0.63	1 : 0.94	Kingsley, et al., 1993
Exeter	1 : 1.07	1 : 0.40	1 : 0.82	Niebling, 1997
Fremont	1 : 1.04	1 : 0.94	1 : 0.36	Auger, 1994
Groton	1 : 1.01	1 : 0.12	1 : 0.88	New Hampshire Wildlife Federation, 2001
Stratham	1 : 1.15	1 : 0.19	1 : 0.40	Auger, 1994
Lyme	1 : 1.05	1 : 0.28	1 : 0.23	Pickard, 2000
New Jersey				
Freehold Township	1 : 1.51	1 : 0.17	1 : 0.33	American Farmland Trust, 1998
Holmdel Township	1 : 1.38	1 : 0.21	1 : 0.66	American Farmland Trust, 1998
Middletown Township	1 : 1.14	1 : 0.34	1 : 0.36	American Farmland Trust, 1998
Upper Freehold Township	1 : 1.18	1 : 0.20	1 : 0.35	American Farmland Trust, 1998
Wall Township	1 : 1.28	1 : 0.30	1 : 0.54	American Farmland Trust, 1998

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
New York				
Amenia	1 : 1.23	1 : 0.25	1 : 0.17	Bucknall, 1989
Beekman	1 : 1.12	1 : 0.18	1 : 0.48	American Farmland Trust, 1989
Dix	1 : 1.51	1 : 0.27	1 : 0.31	Schuyler County League of Women Voters, 1993
Farmington	1 : 1.22	1 : 0.27	1 : 0.72	Kinsman et al., 1991
Fishkill	1 : 1.23	1 : 0.31	1 : 0.74	Bucknall, 1989
Hector	1 : 1.30	1 : 0.15	1 : 0.28	Schuyler County League of Women Voters, 1993
Kinderhook	1 : 1.05	1 : 0.21	1 : 0.17	Concerned Citizens of Kinderhook, 1996
Montour	1 : 1.50	1 : 0.28	1 : 0.29	Schuyler County League of Women Voters, 1992
Northeast	1 : 1.36	1 : 0.29	1 : 0.21	American Farmland Trust, 1989
Reading	1 : 1.88	1 : 0.26	1 : 0.32	Schuyler County League of Women Voters, 1992
Red Hook	1 : 1.11	1 : 0.20	1 : 0.22	Bucknall, 1989
North Carolina				
Alamance County	1 : 1.46	1 : 0.23	1 : 0.59	Renkow, 2006
Chatham County	1 : 1.14	1 : 0.33	1 : 0.58	Renkow, 2007
Orange County	1 : 1.31	1 : 0.24	1 : 0.72	Renkow, 2006
Union County	1 : 1.30	1 : 0.41	1 : 0.24	Dorfman, 2004
Wake County	1 : 1.54	1 : 0.18	1 : 0.49	Renkow, 2001
Ohio				
Butler County	1 : 1.12	1 : 0.45	1 : 0.49	American Farmland Trust, 2003
Clark County	1 : 1.11	1 : 0.38	1 : 0.30	American Farmland Trust, 2003
Knox County	1 : 1.05	1 : 0.38	1 : 0.29	American Farmland Trust, 2003
Madison Village, Lake County	1 : 1.67	1 : 0.20	1 : 0.38	American Farmland Trust, 1993
Madison Twp., Lake County	1 : 1.40	1 : 0.25	1 : 0.30	American Farmland Trust, 1993
Shalersville Township	1 : 1.58	1 : 0.17	1 : 0.31	Portage County Regional Planning Commission, 1997
Pennsylvania				
Allegheny Twp., Westmoreland County	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Twp., Bucks County	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Twp., Lebanon County	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Twp., Potter County	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Twp., Bucks County	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996
Carroll Twp., Perry County	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992
Hopewell Twp., York County	1 : 1.27	1 : 0.32	1 : 0.59	The South Central Assembly for Effective Governance, 2002
Maiden Creek Twp., Berks County	1 : 1.28	1 : 0.11	1 : 0.06	Kelsey, 1998
Richmond Twp., Berks County	1 : 1.24	1 : 0.09	1 : 0.04	Kelsey, 1998
Shrewsbury Twp., York County	1 : 1.22	1 : 0.15	1 : 0.17	The South Central Assembly for Effective Governance, 2002
Stewardson Twp., Potter County	1 : 2.11	1 : 0.23	1 : 0.31	Kelsey, 1994
Straban Twp., Adams County	1 : 1.10	1 : 0.16	1 : 0.06	Kelsey, 1992
Sweden Twp., Potter County	1 : 1.38	1 : 0.07	1 : 0.08	Kelsey, 1994
Rhode Island				
Hopkinton	1 : 1.08	1 : 0.31	1 : 0.31	Southern New England Forest Consortium, 1995
Little Compton	1 : 1.05	1 : 0.56	1 : 0.37	Southern New England Forest Consortium, 1995
West Greenwich	1 : 1.46	1 : 0.40	1 : 0.46	Southern New England Forest Consortium, 1995

SUMMARY OF COST OF COMMUNITY SERVICES STUDIES, REVENUE-TO-EXPENDITURE RATIOS IN DOLLARS

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
Tennessee				
Blount County	1 : 1.23	1 : 0.25	1 : 0.41	American Farmland Trust, 2006
Robertson County	1 : 1.13	1 : 0.22	1 : 0.26	American Farmland Trust, 2006
Tipton County	1 : 1.07	1 : 0.32	1 : 0.57	American Farmland Trust, 2006
Texas				
Bandera County	1 : 1.10	1 : 0.26	1 : 0.26	American Farmland Trust, 2002
Bexar County	1 : 1.15	1 : 0.20	1 : 0.18	American Farmland Trust, 2004
Hays County	1 : 1.26	1 : 0.30	1 : 0.33	American Farmland Trust, 2000
Utah				
Cache County	1 : 1.27	1 : 0.25	1 : 0.57	Snyder and Ferguson, 1994
Sevier County	1 : 1.11	1 : 0.31	1 : 0.99	Snyder and Ferguson, 1994
Utah County	1 : 1.23	1 : 0.26	1 : 0.82	Snyder and Ferguson, 1994
Virginia				
Augusta County	1 : 1.22	1 : 0.20	1 : 0.80	Valley Conservation Council, 1997
Bedford County	1 : 1.07	1 : 0.40	1 : 0.25	American Farmland Trust, 2005
Clarke County	1 : 1.26	1 : 0.21	1 : 0.15	Piedmont Environmental Council, 1994
Culpepper County	1 : 1.22	1 : 0.41	1 : 0.32	American Farmland Trust, 2003
Frederick County	1 : 1.19	1 : 0.23	1 : 0.33	American Farmland Trust, 2003
Northampton County	1 : 1.13	1 : 0.97	1 : 0.23	American Farmland Trust, 1999
Washington				
Okanogan County	1 : 1.06	1 : 0.59	1 : 0.56	American Farmland Trust, 2007
Skagit County	1 : 1.25	1 : 0.30	1 : 0.51	American Farmland Trust, 1999
Wisconsin				
Dunn	1 : 1.06	1 : 0.29	1 : 0.18	Town of Dunn, 1994
Dunn	1 : 1.02	1 : 0.55	1 : 0.15	Wisconsin Land Use Research Program, 1999
Perry	1 : 1.20	1 : 1.04	1 : 0.41	Wisconsin Land Use Research Program, 1999
Westport	1 : 1.11	1 : 0.31	1 : 0.13	Wisconsin Land Use Research Program, 1999

Note: Some studies break out land uses into more than three distinct categories. For these studies, AFT requested data from the researcher and recalculated the final ratios for the land use categories listed in this table. The Okanogan County, Wash., study is unique in that it analyzed the fiscal contribution of tax-exempt state, federal and tribal lands.

APPENDIX B

Guide to Resolving Neighbor Conflicts

Farms, Communities, and Collaboration



A **Guide**
to Resolving
Farm-Neighbor
Conflict

Sustainable Agriculture Research and Education
program of United States Department of Agriculture

Grant No. ENE-99-50 Manual published Summer 2003

Design: Julie Manners

Farms, Communities, and Collaboration:

A Guide to Resolving Farm-Neighbor Conflict

By

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Preface

This manual is a guide to resolving the kinds of conflicts that arise when farmers and non-farmers live together in rural communities:

conflicts over farming practices, life styles, land use, the environment. We designed the manual to help farmers and neighbors, regulators, local government officials, environmental advocates, and interested citizens become familiar with the process of *collaborative problem solving*. Collaborative problem solving draws on mediation and/or facilitation skills and involves an approach to conflict that engages participants in resolving differences constructively. Equally important, the process helps build socially strong and economically vital communities.

The manual that follows reflects the authors' varied professional expertise as well as our experience working with communities around the state as they grappled with farm-neighbor conflicts. We have divided the manual into four chapters that provide the context and the concepts that can help you reach accord on critical matters. An appendix of contact information with Web addresses (*The Resources*, p. 35) appears at the end. The chapters are:

- ➔ *The Issues*, page 4
- ➔ *The Rural Landscape*, page 7
- ➔ *The Laws and Regulations*, page 14
- ➔ *The Process*, page 26

We would like to thank the Sustainable Agriculture Research and Education program of the U.S. Department of Agriculture for funding this project (Grant No. ENE-99-50) and for patiently awaiting its conclusion. We would also like to thank Barbara Bellows, agriculture specialist at Appropriate Technology Transfer for Rural Areas, Larry Fisher, senior program manager at the U.S. Institute for Environmental Conflict Resolution, and Tahnee Robertson—who were at Cornell during the project's formative stages—for their leadership; Cathy Sheils, director of NY FarmNet, R. David Smith, CALS Professor of Agriculture and Food Systems Sustainability, and Bob Somers, chief of the Agriculture Protection Unit at the Department of Agriculture and Markets, for their high standards in reviewing this manual; the Cornell Center for the Environment for administrative support; and all the farmers, neighbors, Cornell Cooperative Extension educators, dispute resolution center mediators, and agency representatives who gave of their time and their knowledge to join us in this collaborative journey.

Finally, the authors acknowledge the contribution of an excellent earlier Cornell publication, *Cultivating Farm Neighbor and Community Relations* (see *The Resources*). The document is a useful companion to ours and offers a particularly helpful list of ways farmers might promote good neighbor relations.

The Issues

Nonfarming neighbors worry about...

- ▶ Odors and air pollution
- ▶ Dust and flies
- ▶ Well and ground water contamination
- ▶ Peace and quiet
- ▶ Property values
- ▶ Quality of life

Throughout the Northeast, suburban life is spilling over into rural communities. City dwellers and suburbanites seeking serenity, open space, and fresh air are moving to the country. Oftentimes they locate right next to a farm or within a farming community. For many, farming is only vaguely familiar:

Picturesque barns *Pleasant landscapes* *Fresh vegetables*

But suddenly, these new neighbors are face to face with the stark realities of farming:

→ manure spreading → pesticide spraying → equipment noise → odors & dust
→ housing for migrant labor → slow-moving tractors on roads

“What are you guys doing over there?”

“I’m protecting my crops against pests and diseases.”

“These are animals. Of course they smell.”

“I’m working my farm.”

“I can’t harvest my fruit without migrant and seasonal workers.”

“My fields need to be fertilized.”

And then farm-neighbor conflicts erupt. Some even grow to the point where the entire community is involved. Polarization may crowd out communication.

Of course, not all farm-neighbor conflicts involve newcomers. Sometimes concerned neighbors are farm families themselves. Sometimes the changing nature and scale of agriculture in a given place leads to conflict.

And when conflict erupts, many of us turn to the law. Laws and regulations are meant to impose order, to balance competing rights and claims. Laws and regulations are supposed to protect all parties. Farmers, for example, have certain legal rights to farm and an interest in preserving their livelihood. Neighbors, meanwhile, have certain legal rights to clean air and water and an interest in preserving their peace and quiet.

But laws and regulations are not always sufficient. Because rights often clash. And because rights don't wash away anger or worries. And angry, worried neighbors find ways to express their displeasure.

The
neighbor
asks:

"Can he get away with that?"

"I'll take him to court."

"I'll complain to the town supervisor."

"I'll start a protest movement."

Offended and exasperated, some farmers feel attacked.

The
farmer
asks:

"Can he get away with that?"

"This is my land and no one can tell me what to do."

"I'm just trying to make a living."

"I was here first."

Farmers

are concerned about...

- ▶ Making a living
- ▶ Keeping good land in production
- ▶ Planting and harvesting on time
- ▶ Growing high quality produce
- ▶ Providing nutrients for crop production
- ▶ Controlling plant diseases and pests
- ▶ Environmental regulations
- ▶ Adequate supply of labor

"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"
"I'll just make his life miserable,"

Conflicts over interests. Conflicts over concerns. Conflicts over the interpretation of laws and regulations. Each party believes its interests and concerns are paramount. Each party believes its facts are accurate, its take on the situation true and clear. Farmers and neighbors often do not talk to each other about the problem.

Or... One party is not satisfied with the response of the other.

Or... One party doesn't understand the other's point of view or the other's fears.

And sometimes both sides think about escalating, which in turn raises the specter of reprisal.

But farmers and neighbors have more constructive options besides ignoring each other, shouting, or threatening. They can build understanding and work on reconciling their differences in a way that leads to win-win outcomes. Because doing so...

- saves time
- saves money
- saves aggravation
- avoids hurt feelings
- builds trust
- builds relationships
- builds communities
- generates outcomes more likely to meet everyone's needs

So, when a conflict threatens to spin out of control, what can you do?

Try a different approach to resolving conflict. Empower yourself and your community. Reach out to people with collaborative problem-solving skills. People like mediators or facilitators who can help parties in conflict move beyond accusations, anger, and frustration to instead focus on issues, mutual interests, and problem-solving strategies.

Collaborative community problem solving

helps farmers and neighbors resolve conflicts in a manner that builds trust and enhances community understanding.

to
learn
more,
read
on...

The Rural Landscape

NEW YORK'S AGRICULTURAL SECTOR

Farming is a big deal in New York: a \$3.5 billion industry that accounts for thousands of jobs on farms, in processing plants, in supplier operations, and in retail stores and restaurants. We have about 37,000 dairy, fruit, vegetable, horticulture, hog, poultry, and other livestock farms, which cover 25% of the state's land mass. Our farms supply us with more than just food: in particular, lush landscapes of rolling green fields, carefully tended orchards, and serenely grazing cows.

Diversity reigns. Dairy farms with 1,000 cows and 20 employees and dairy farms with 40 cows and one part-time employee. Fresh market crops like apples and sweet corn, processed crops like cabbage and beans, and value added products like goat's milk cheese and table wine. Full-time and part-time operators. Farms that have been in the family for generations and farms operated by first generation farmers. Products sold directly to supermarkets, to commodity buyers, and to consumers on the roadside or in farmers' markets. Products for export and products for domestic consumption.

Although New York ranks in the middle range nationally for cash farm receipts, we're near the top in several key categories:

2nd in apples
3rd in milk production
3rd in wine & juice grapes
6th in vegetable harvest

Farmers must be doing really well. Right!?!

Well, not quite.

Farming is a tough and risky business. There are many factors farmers can't control:

Weather
Cost of supplies
Product prices
Global and domestic competition
Trade and foreign policy
Taxes

Other factors add stress to farmers' lives:

- ▶ Environmental concerns
- ▶ Community relations
- ▶ Complex financial arrangements
- ▶ Unstable and sometimes inadequate labor supply
- ▶ Changing technology
- ▶ Pests and disease
- ▶ Uncertainty over federal farm policy
- ▶ Interpersonal dynamics of a family business

Here's the bottom line. Some farmers run profitable operations and enjoy a comfortable standard of living. Others earn more modest returns and count on outside income from a spouse or a second job. Still others may have trouble paying farm expenses. Most farmers will tell you they love their work and way of life, even with the challenges and stresses. But regardless of size, profitability, or product, farming is a 24/7 commitment.

New York farms have become more productive over the years while the total amount of acreage farmed has declined. More than 225,000 farms were spread across an expanse of nearly 23 million acres in this state at the turn of the 20th century. By the end of the century, fewer than 40,000 farms were left covering about seven million acres of land. Most land released from farming has reverted to forest. The rest has been "urbanized."

What accounts for these trends?

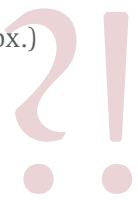
- Poor financial returns
- Marginal soils
- No heirs to take over
- High price offered for land (e.g., alternative use as housing or commercial development)
- Physical and mental exhaustion
- Technological change and globalization of markets

Meanwhile, the number of large farms has increased. Technology tends to favor expansion by letting farmers benefit from economies of scale. Farmers save on labor and time by making greater use of their machinery. Imagine a highly automated milking parlor. With the latest equipment and up-to-date design, one person can milk 120 cows an hour. But a milking parlor can cost close to \$1 million, which means the farmer needs a minimum of several hundred cows to justify the investment. Now consider a more traditional, lower-tech barn. Given the equipment and design limitations, one person may be able to milk 40 to 50 cows an hour. It's hard to keep a large herd with this kind of setup.

Bigger happens to be preferred by many food processors and retailers as well. In the fruit and vegetable sector, priority is often given to producers who can consistently deliver pre-determined quantities of product while meeting quality, size, and packaging specifications.

But guess what? (And this is a neat paradox.)

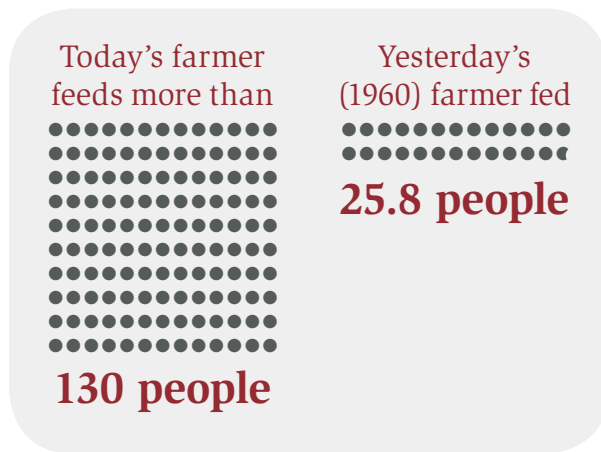
(The number of small farms in New York has also jumped in recent years.)



Think organic lettuce and eggplant, baby carrots and zucchinis, artisanal cheese from Belgian sheep. Small-scale operations, devoted to high value-added and niche products aimed at affluent urban and suburban markets, offer a fresh counterpoint to the standardization that is typical of large-scale enterprises.

FARMERS AND THE ENVIRONMENT

Farmers are part of America's heritage. They opened up vast tracks of land in New York State and on the American frontier. Agriculture was the bedrock of our early state and national economies. Today, American farmers feed a nation of 285 million people and a sizeable portion of the world population, as well.



Most farmers also try to be stewards of the land. As they fertilize and seed and harvest, they help our society preserve and protect the land for current and future generations.

And yet, they sometimes face a dilemma: how to balance concerns about conservation and the environment with concerns about economic viability. To farmers, these often seem like competing interests. Finding the right mix can weigh heavily.

"I need to make a profit off my land. I don't need the government or nosy neighbors telling me what to do."

"My farm abuts a stream and I certainly don't want to pollute my own drinking water."

"I'm mindful of the regulations and my neighbors' concerns. I spend a lot of time trying to follow the regulations without going broke."

"If I don't protect and care for my land, I'll lose my biggest investment."

The pressure is on. Since the mid-1980s, the environment and personal health have been linked in consumers' minds. That means closer attention to the impact of farming practices on the air we breathe, the water we drink, and the food we eat.

"I'm OK with a worm in an occasional ear of corn. But pesticide—no way!"

Most farmers are mindful of these concerns. Even as they use chemicals to help protect their crops, many also follow environmentally sound "best management practices" such as:

- strip cropping
 - grass buffers near streams
 - integrated pest management
 - secure manure handling systems

They work with Cornell Cooperative Extension educators, and with consultants, government agency representatives, farm suppliers, and bankers to find and implement cost effective methods that pass environmental muster.

"I follow a strict nutrient management plan that tells me the best time to spread manure on my fields. It's cheaper than buying fertilizer. It's also more natural."

But problems can arise because technology is not foolproof.

“Yuck. The odor from your fields is awful. And that lagoon really stinks even if you just installed the latest storage and handling equipment.”

Technology also keeps changing.

“How do I know the best time to invest in some new machine or process? Every time I turn around, there’s a newer and better idea.”

Moreover, new technology is expensive. Farmers in environmentally sensitive areas, such as watersheds that contain fish spawning streams or reservoirs filled with drinking water, may qualify for government assistance through matching funds or grants when they install new equipment or update their practices. But farmers outside these priority areas may be less likely to receive cost-share funds. Without some financial support, farmers may not have the resources to invest.

“If I have to buy that new sprayer, you know, the one with ‘eyes’ that see the trees and let me cut down on excess chemical use, I might as well chop down the whole orchard.”

Farmers, like the rest of us when faced with too much uncertainty and too many choices, may opt out for a while, watching and waiting until the technology is proven by others and becomes more affordable.

NEIGHBORS AND FARM LABOR

Another sort of environmental conflict sometimes arises in rural areas. That is, conflict over a changing community environment.

“What is happening to this town? Who are all these people?”

*“Apples don’t ripen at my convenience. They need to be picked *now*. Those workers help me harvest the crop.”*

“We just added another 200 head. These folks have a job to do; they milk and feed our cows.”

Foreign workers are increasingly common on New York farms. In some communities, conflict arises over their presence. Neighbors may resent the flood of new arrivals who come for jobs that last from several weeks to several months and others who settle in for what seems to be the long haul. They may have concerns about whether farmworkers are paid fair wages and provided adequate housing. Neighbors also worry about how these workers fit (or don’t) into the community.

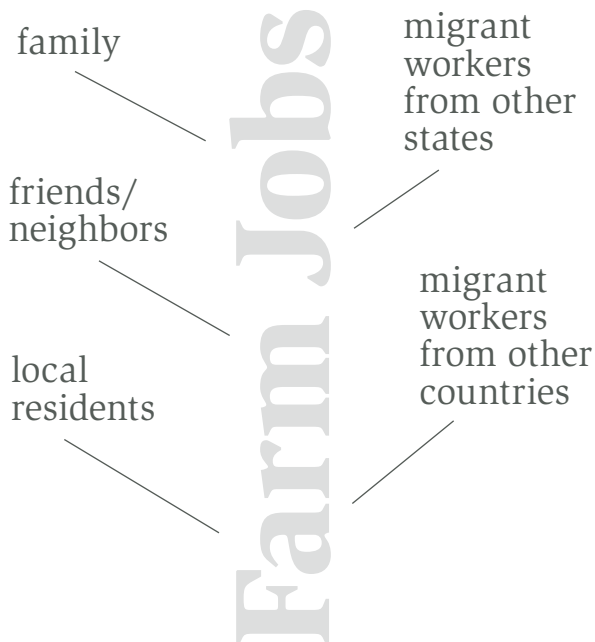
It used to be that farm families supplied almost all the labor needed on the farm. As farms grew larger, farm operators began hiring labor from the local community. During peak season, farmers turned to friends and neighbors for help. By the mid-20th century, some farmers in New York State were recruiting African-American workers who migrated from southern states to work the harvest.

But times have changed. Local residents aren't as eager to take farm jobs as they once were, and southern workers have found work back home. Still, farms are getting larger and farmers' demand for labor keeps growing.

"My dairy farm employs two full-time milkers. When I was a kid, my dad managed with my mom, my sister and me."

"Since we bought that vegetable farm down the road, we can't handle the work load ourselves. Every summer I have to bring in crews from out-of-state."

Mexican-Americans, Mexicans, Guatemalans, and others from Central America now supply an increasing amount of the labor to New York



farms. And they are changing the social environment in many rural communities. These immigrants, legal and illegal alike, work and usually live on local farms. They shop in town and send their children to local schools. Some stay in the state year round and others come for the harvest season only. They bring their language, their customs, and their own group cohesion.

Both new and long-time residents may have trouble adjusting. For some, the look and feel of the community are no longer familiar. They may be suspicious of "foreigners." They may worry about the impact on property values, on educational quality, on crime rates, on the demand for social services.

"All these Hispanics in the stores and wandering around town. They don't speak English; they look scruffy; their camps are an eyesore."

"Who's going to pay for that new migrant health clinic? I sure can't afford higher taxes."

Likewise, farmworkers may not feel welcome in local communities. They, too, may have trouble adjusting. The culture, the language, the laws, the surroundings. All new, all different.

"I just want to buy some food. Why is everyone staring at me?"

"I work hard for my money. And I save a lot, too. My family in Mexico depends on me."

New York agriculture needs workers to keep production going. And with local labor in short supply, farmers will continue to look beyond the state's borders for help.

THE RURAL-URBAN INTERFACE

The face of rural New York is changing. Here, as elsewhere in the U.S., the siren song of country living calls loudly to city dwellers and suburbanites. They come seeking open spaces, quiet, and a slower-paced lifestyle. This demographic shift is most noticeable in the Hudson Valley, the lower Catskills, and the greater Rochester area.

But when these newcomers arrive, they find themselves smack in the midst of rural reality that is not always trouble free.

Many are shocked. Many get angry. Many are unfamiliar with the customs of the community. They have no long-standing relationship with long-term residents. They lack knowledge of commonly accepted farming practices and relevant laws and regulations. What they do know is that their expectations about life in the country are being violated. So the neighbors voice their concerns. Loudly. They call the town board. They call state and county regulators. They call the Soil and Water Conservation District. They call Cornell Cooperative Extension. They write letters to the local newspaper. They circulate petitions. And sometimes they call a lawyer.

But are protests, court proceedings, and harassment the best way to resolve the problem? Probably not. All too often, the farmers get defensive. The neighbors feel frustrated. Communication stops. Community relations fray.

"Their cow broke my fence and wandered into my yard."

"Do you believe it? The farmer next door was running some giant piece of equipment at full throttle—and the flood lights were shining right in my window—at one in the morning!"

"I can't drive down the road without running into some tractor or running over some cow dung."

"The guy across the way is actually dropping weed killer from an airplane. It's not safe to breathe around here."

"That manure is polluting my well. I'm going to file a lawsuit."

"I can't even go outside. We're being assaulted by flies. That farmer is looking for trouble."

"I moved here for my kids. But all that's happened is we traded city traffic for noisy equipment. Now we worry about pesticide drift instead of exhaust fumes and wandering livestock instead of lost pets. And don't get me started on the illegal immigrants. This has got to stop!"



So what's the alternative?

Here are a few suggestions for productive farmer-neighbor interactions:

- ① Farmers provide neighbors with information about the farm (hold an open house; send newsletters) and how to contact the farm owner with questions and concerns.
- ② Neighbors contact the farmer immediately and directly when problems arise and treat the farmer with respect when sharing concerns or asking questions.
- ③ Farmers and neighbors openly and calmly discuss what constitutes normal and acceptable farming practices.
- ④ Farmers are mindful of neighbors' concerns and anxieties.
- ⑤ Neighbors understand the financial and technical constraints that may affect the farmer's ability to address their concerns.
- ⑥ Neighbors respect the economic and social context of farming.
- ⑦ All parties seek to compromise on a practice or intended outcome and allow for a reasonable transition period.
- ⑧ Farmers and neighbors call upon social and economic supports, including individuals and organizations, that can assist them through a potentially difficult conflict management process. This may involve facilitation and conflict resolution programs and resources that can assist farmers and neighbors in finding a mutually acceptable resolution of the problem.

This model can be turned into reality.

And you can make most of it happen on your own. The last two suggestions, which often require outside assistance, are discussed in Chapter 4, *The Process*. But first, we'll explore one other preliminary topic: the laws governing agriculture. The next chapter contains an introduction to the legal and regulatory framework within which so many conflicts unfold.

The Laws and Regulations

Note to readers of this manual: *The following is not a legal document. It provides brief summaries of several relevant laws and some hypothetical situations that are intended only as examples to liven up the text. If you have any questions or concerns about farming practices or neighbors' actions, please contact any of the resources noted on pages 35-36 or call an attorney.*

Farming is an art and a science. Ask any farmer how he or she decides which fields to work first, when a hay crop is ready to bale, or whether an animal needs some TLC. The farmer is likely to shrug and say something about soil drainage and which fields face south, the velocity of wind and intensity of sun, and the look in the eye and sound of the moo of a favorite cow. But the very same farmer is sure going to use exacting instrumentation to test the sweetness and crispness of the fall apple crop, to measure proportions for a pesticide application, to count bacteria in the milk tank.

Farming is also humanity's oldest economic activity. Like other human pursuits, farming generates its share of byproducts, some of great value and some we'd like to be rid of. The desirable offshoots include the food we eat and the country landscapes we enjoy. The undesirable but occasional side effects can range from noise, odor, and dust to polluted streams from manure and drift from pesticides whose chemical components many of us can't pronounce.

It is these unwanted effects that most often lead to complaints by neighbors and demand for regulatory controls.

"We shouldn't have to worry about noxious fumes in the air and unclean drinking water."

"The farmers think they own the roads around

here. They drive their equipment from field to field at five miles an hour and you can't get past them."

"These farmers just ignore us. It's time for the town to do something about these problems."

Not surprisingly, a host of laws and regulations governing agriculture have been adopted over the years. Most try to balance the art and the science of farming without undermining its economic viability. In other words, the laws recognize variance in conditions and practices within this diverse profession while respecting the precision that modern technology makes possible. In doing so, they also seek to balance the competing interests of farmers, neighbors, and society as a whole.

"This is my farm and you can't stop me from building a new barn."

"I want to enjoy my weekends and you're taking away my peace and quiet."

"I don't want to find blemishes on the apples or bugs in the lettuce."

The primary objective of state and federal laws governing farming is to protect the environment and the health and safety of communities. Other state laws, as well as local laws, mean to preserve farming as a preferred use of land resources and a viable sector for rural economies.

This second set of laws are commonly known as “right-to-farm” laws, and in New York State, at least, they limit most efforts on the part of local residents to “unreasonably restrict sound farming” activities in identified farming zones.

CATEGORIES OF LEGAL CLAIMS

Still, neighbors have their share of complaints. And sometimes their concerns and worries about farming practices turn into legal claims. These legal challenges generally fall into four categories:

- Negligence
- Trespass
- Violation of environmental laws
- Nuisance

NEGLIGENCE

“Haste makes waste” as the old adage goes, and it can certainly get a farmer into trouble. Neighbors affected by what they perceive to be lax farming practices may decide to file a claim of negligence in court. Negligence is a cause of action against a farm that can arise from careless actions or failures to act that result in injury to a person or damage to property.

“That farmer is so lazy. He didn’t bother to rebuild the broken fence in the pasture so the whole herd broke free and trampled my raspberry bushes. And that crop was coming in real good; it would have brought me hundreds of dollars down at the farmers’ market.”

If a court finds the farmer guilty of negligence, the judge will require financial payment to the injured neighbor for damages (losses sustained) and may levy an additional fine to punish and deter similar behavior in the future. Examples of negligence are inadequate supervision of employees, allowing cattle to stray, and failure to maintain equipment or facilities.

Betsy and her family own an apple orchard a few miles out of town. It’s harvest time and she tells Sergio to hitch a tractor to a wagon packed with full apple crates. This is Sergio’s first season with the farm and he has little experience hauling heavy loads. As he drives along the edge of the orchard, the wagon tips over and spills the crates and apples into the road. At that very moment, Steve drives by and swerves to avoid the obstruction. The car ends up in a ditch with damage to its front end, and Steve is transported by ambulance to the emergency room. The police cite Sergio for traffic violations and predict that Steve will file charges of negligence against Betsy for inadequately supervising her employee.

Every fall, Rick lowers the manure level in the storage facility on his dairy farm as he prepares for the coming winter. He applies several loads of manure to a harvested corn silage field upslope from his neighbor's property. But one day, the tractor and manure spreader get stuck in a wet spot. He unloads the spreader into what becomes a soupy pile in order to lighten the load and get the tractor moving again. He leaves the pile, intending to distribute it with a bucket loader the next day. But heavy rains hit the area that night and wash the manure pile across the fence and onto Joe's and Linda's property. A few days later, they talk to a lawyer about filing a trespassing charge against Rick.

TRESPASSING

The meaning of trespassing seems fairly straightforward: walking onto someone's property without his or her permission. This kind of trespass in farm country is most often a complaint by farmers about nonfarmers.

"Hey! Didn't you see the sign on that gate? It means 'keep out.' Now get out before I call the sheriff."

But trespassing in an agricultural setting can mean something more. Recent court rulings have declared that the movement of chemicals, soil, or animal waste across property lines also constitutes a trespass. Such a determination is almost certain if the incident deprives a person of the use or enjoyment of his or her property.

"The spring thaw hit pretty fast this year. Mud from Bill's field over there washed into my yard, killed my grass and went right into my pool."

Farmers beware. Herbicide drift, sedimentation from an eroding field, and liquefied manure washing across the property boundary can constitute a trespass. If a court finds the farmer guilty, the judge can award monetary damages, require actions to prevent future trespasses, impose a punitive fine, or even order jail time.

VIOLATION OF ENVIRONMENTAL LAWS

Concern about the environment has been a hot political, social, and economic issue for several decades. In response, federal, state, and local governments have enacted many kinds of environmental laws with a variety of environmental goals. The laws' most basic goal is to maintain or improve the quality of air, water, and wildlife habitats by reducing the flow of contaminants into the environment that results from human activity. And yet, cities and towns, real estate developers, residents and consumers, manufacturers, farmers, and naturalists all continue to be embroiled in tussles over the environment.

"The factory up the hill is belching smoke as black as tar. The smell is unbearable and everyone around here is coughing like crazy."

“The birds don’t come around any longer and the whole ecosystem seems out of whack. I don’t know anything about farming but I’ll bet it’s because of all the herbicide the farmers are using.”

Environmental laws are violated when the damage is noticeable or when the risk of damage to natural resources has increased. Convicted violators are charged for the value of damages sustained and for clean-up costs. They must also pay a penalty for breaking the law and sometimes an additional fine for the legal cost of prosecuting the case.

Farmers have often been the target of environmental suits. Livestock operations generate manure, which can run into a creek if it is not properly stored and applied to cropland. Orchards require pesticides, which may poison wildlife if handled carelessly and instructions on the label are not followed. Note to neighbors and farmers: Even where states and localities pass laws to protect farmers’ general right to farm, environmental scofflaws are made to pay.

NUISANCE—PRIVATE AND PUBLIC

Farming is not always neat and tidy. No matter how careful and particular a farmer may be, acceptable and sound farming practices sometimes generate odors, noise, and dust.

“Irritants, all! What are we going to do?”

Indeed, there is a long-standing relationship between nuisance claims and agriculture. From a legal perspective, a nuisance is an activity that causes unreasonable and substantial interference with another’s quiet use and enjoyment of his or her property. In rural areas, odors are the most common cause of nuisance claims. Noise, flies, and dust may also be problematic.

“I don’t own a clothes dryer and every spring I have to worry about hanging my laundry outside. The dust kicked up by the farmer’s plow always messes up my clean sheets.”

The doctrine of nuisance is a common law concept that evolved over the centuries as judges settled disputes between individuals. It cen-

Winters on George’s dairy farm

require some routine maintenance, including removing snow from his bunker silo and piling it alongside the structure. After the spring thaw, what remains of the snow pile is the corn silage that was scooped up while George cleared the snow. George normally cleans up the silage residue by moving it to his fields when he spreads manure. But this year, things were different. The winter was particularly snowy and he had no choice but to push the snow farther back toward the ditch running behind the bunker. When spring arrived, he left the old silage in place and as the temperatures warmed, the pile started to ferment. After a heavy spring shower, runoff from the silage entered the ditch and traveled to a nearby stream, causing several fish to be killed.

ters around two corresponding property ownership principles:

- property owners have the right to use and enjoy their property free of unreasonable interference by others
- property owners cannot use their property in a manner that may cause injury to others.

Nuisance law makes it possible to sue a neighbor whose actions adversely affect your property. The suit can ask that the neighbor stop

the activity and/or reimburse you for lost value (i.e., damages). Activities that a court finds to be “unreasonable” for the local area and cause “substantial interference” with neighboring land are considered nuisances.

➤ A private nuisance generally involves two parties.

“I don’t know what he’s burning down there, but he’s got a fire going every night and I can’t stand the smell.”

Story of William Aldred vs Thomas Benton

One of the first records of a court case involving a conflict between a farmer and a neighbor was heard in England in 1610. William Aldred sued his neighbor, Thomas Benton, for erecting a pigsty near Aldred’s house. The court ruled in favor of Aldred, but Benton appealed. He argued that “the building of the house for hogs was necessary for the sustenance of man and one ought not to have so delicate a nose that he cannot bear the smell of hogs.” The appeals court rejected Benton’s claim and found his pigsty to be a nuisance.

This early English court deemed society should protect four things in a home—habitation by man, the pleasure of the inhabitant, necessary light, and wholesome air. Society’s standards for the comforts of the home have changed little

since. The Aldred-Benton case defined the key issues still considered in farming nuisance disputes: is the use alleged to be a nuisance reasonable for the area and does it substantially interfere with neighboring property?

The problem exemplified by the pigsty story—conflicts between neighboring uses—is the basis for local zoning ordinances. Zoning is built on the idea that incompatible uses ought to be physically separate. Zoning laws adopted by rural local governments typically specify zones permitting agricultural uses. Few if any local zoning ordinances in New York State, however, have created zones exclusively for agricultural purposes. More common are agricultural districts, described on page 20.

› A public nuisance

is interference with the rights of a substantial portion of the community. Oftentimes, the nuisance is believed to threaten the health and/or safety of community residents. The plaintiff in a court action alleging a public nuisance must be a public entity, such as a town board or county or state prosecutor.

“Don’s and Carol’s farm may be the only one left around here, but we’re all up in arms about the workers they bring in every summer. The noise level at night is awful, especially on Saturday. That camp’s a nuisance; the neighbors want it closed down.”

The dilemma is obvious. Farmers trying to do their work and neighbors trying to protect their property and lifestyle. What’s to be done? They could talk it over. They could complain to the town supervisor. They might even take the conflict to court.

“No judge will let you get away with that! Your farm has caused me nothing but aggravation since I moved in here.”

“We’re not doing anything illegal. I have the right to plow my fields, hire workers, and keep animals. Get off my back.”

› In sum...Nuisance suits are often just that: angry and desperate attempts to change something you don’t like, even if it’s legal. But many states and localities have decided that farming is a land use that generates value and is worth protecting. To ward off nuisance suits that would otherwise interfere with farmers’ right to farm, many communities have passed legislation pro-

tecting farms from private nuisance suits so long as the farm’s practices fall within some norm or industry standard. Farmers are not similarly protected from public nuisance claims.

RIGHT-TO-FARM LAWS

Starting in the 1950s, the appeal of life in the urban fast lane began to wane. People moved from the city to the suburbs in large numbers. The suburbs soon filled to overflowing and spread into rural areas. Some people even skipped over the suburbs altogether and headed straight for the country. Others bought weekend and summer retreats in remote villages and towns.

“The scenery is stunning out here. And I just love waking up with the sun.”

“I feel really close to nature now. I can smell the grass, hear the birds, and watch the deer feed in my yard. And the best thing is, it’s safe!”

With more people came demand for more houses. Soon houses were eating up farmland.

› And then, conflicts arose.

“Do we put another strip mall here and housing development there?”

(think how much tax revenue we’ll get)

or

“Do we preserve open space and farmland?”

(and help sustain the viability of the local agricultural economy and the natural beauty of our landscape)

Trying to find the middle ground between these two positions, all 50 states have adopted right-to-farm laws. Right-to-farm laws recognize the unfairness that nuisance law can impose on farms when people unfamiliar with farming practices move into traditionally agricultural areas.

“The animals sure look peaceful, but boy do they smell. I have to hold my breath when I go outside. I’m going to demand the town do something about this.”

“Who does she think she is? My family’s been farming here for 60 years and she just waltzes in and thinks she’s going to impose her city ways on us. She’s got a lot of nerve!”

Right-to-farm laws generally override other laws on farm property usage. Here in New York, right-to-farm laws are very supportive of sound farming practice; more so, in fact, than in some other states. Parts of Iowa’s right-to-farm law, for example, recently were deemed “an unconstitutional taking of property rights.” The Iowa court was concerned about the law’s broad protections of farmers in the absence of clearly defined due process. By contrast, the New York law requires a case-by-case determination of sound agricultural practices. The New York State Supreme Court-Appellate Division ruled in 1998 that the right-to-farm law did not violate procedural due process. (*Pure Air & Water, Inc. v. Davidsen*, 246 A.D.2d 786; 668 N.Y.S.2d 248; 1998 N.Y. App. Div. LEXIS 294; appeal denied 91 N.Y.2d 955; 694 N.E.2d 885; 671 N.Y.S.2d 716; 1998 N.Y. LEXIS 975)

Article XIV of the New York State constitution declares:

“The policy of the state shall be to conserve and protect its natural resources and scenic beauty and encourage the development and improvement of its agricultural land for the production of food and other agricultural products.”

In other words, the legislature is obligated to provide for the protection of agricultural lands. Even so, farm practices that are unsound, unsafe, unreasonable, or illegal are not protected by right-to-farm laws.

NEW YORK STATE AGRICULTURAL DISTRICTS LAW

The Agricultural Districts Law, Article 25-AA of the Agriculture and Markets Law, is the centerpiece of state and county attempts to preserve, protect, and encourage agriculture. The agricultural districts program is based on a combination of landowner incentives and protections designed to discourage the conversion of farmland to non-agricultural uses. County legislatures can set up agricultural districts and landowners can enroll their farms in these districts. Eligible farmers make their own decisions about participating.

“Here we go again—another layer of government bureaucracy. Count me out.”

“You might want to reconsider. There are good reasons to sign up.”

Indeed there are. One way farmers benefit from the Agricultural Districts Law is through relief from property taxes. The law stipulates that

Good reasons
for enrolling in an
agricultural district:

**tax relief and
protection from
nuisance suits**

real property assessments for enrolled farms must be based on the land's value for agricultural production rather than on its development value. The law even has a special provision allowing farms outside of agricultural districts to apply for this

benefit. The New York State Department of Agriculture and Markets estimates that participating farmers collectively save more than \$70 million a year in tax payments to local governments.

Perhaps the primary motivation for registering a farm is the protection farmers get from nuisance suits. Section 308 of the Agricultural Districts Law is the right-to-farm provision, which states that sound agricultural practices undertaken in an agricultural district shall not constitute a private nuisance. Farms not enrolled in an agricultural district, however, do not qualify for this protection. So before calling a lawyer, neighbors should make sure the farmer is really doing something he or she shouldn't be doing. Otherwise, if the farm is registered in an agricultural district, there is no basis for a "nuisance" legal action. (See *The Resources* at the end of the manual for places to contact about agricultural districts and sound farming practices.)

"Think about all those chemicals floating in the air every time they spray the corn. It must be dangerous. I've told them to cut it out. Now I'm going to file a suit, and then they'll have to stop what they've been doing all these years."

"Not so fast. The farmer has the right to grow that corn, even if it means spraying the fields to keep out the bugs. If this is a nuisance claim, don't waste your time."

Well then, how do neighbors know if their complaints are valid?

For starters, they can talk to the farmer and ask for information. They can contact the local Agricultural Farmland Protection Board (AFPBs advise county government on agricultural issues and develop plans to preserve and protect agriculture) or the local Cornell Cooperative Extension office to learn more about the farming practice in question.

Agricultural Districts

New York State Statistics

(as of January 29, 2003)

→ Number of
Counties with AFBP

52

→ Number of
Agricultural Districts

225

→ Number of
Farms in Districts

21,425

→ Total Acres
in Districts

8,464,791

→ Total Acres
Farmed in Districts

6,140,157

If neighbors are still not satisfied, they can send a written request outlining their concerns to the Agriculture and Markets commissioner. With the permission and cooperation of the farmer involved, the commissioner will investigate the situation (and may solicit opinions from agricultural experts) before deciding whether the practice is sound. Each decision is made on a farm-by-farm, case-by-case basis. The commissioner follows four guidelines when making a determination:

- the practice must be legal
- the practice must not cause bodily harm or property damage off the farm
- the practice should achieve the results intended in a reasonable and supportable way
- the practice should be necessary for continued operation of the farm.

Public nuisance claims are another matter.

The Agricultural Districts Law does not explicitly protect farms from a claim of public nuisance. Farm practices that pose a safety or health hazard to the community may wind up in court if a government entity is willing to bring charges against the farmer. Local politics often affect the course of public nuisance complaints.

“Have you noticed the number of kids who get sick every spring? I’ll bet it has something to do with the farm outside of town.”

“We’ll just pass a law that says farmers can’t raise pigs. If that doesn’t work, we’ll go to the

local prosecutor. She’s usually sensitive to the farmers’ view, but this time we’ll apply a little pressure and maybe she’ll go to bat for us.”

Not so fast. Section 305-a of the Agricultural Districts Law, and Section 283-a of Town Law and Section 7-739 of Village Law, set limits on local government actions. These sections protect farming by prohibiting local governments from enacting and administering comprehensive plans and ordinances that would unreasonably restrict farm operations in an agricultural district. The Agriculture and Markets commissioner would have to make a clear determination that such ordinances would eliminate a threat to the public’s health or safety before any restrictive laws could take effect.

“What gives Albany the authority to tell us what to do?”

In recent years, application of Section 305-a has raised questions about the extent to which farm practices are protected in agricultural districts. “Home rule” is a strong governing principle in New York State. Counties, towns, and villages have broad powers to enact laws governing their own affairs. Home rule is exercised under the Agricultural District Law when a county legislature first votes to participate and then renews its agricultural district every 8, 12, or 20 years. Section 305-a, however, is one example in which state law restricts local government authority. Several times in the past few years, local efforts to address complaints about farms, particularly those concerning size, odor, and manure handling, have been overridden by this section of state law.

water, air, and land

WATER QUALITY LAWS AND REGULATIONS

The federal Clean Water Act is the primary piece of legislation regulating large livestock farms. It specifies livestock farms of certain sizes and meeting certain conditions as “concentrated animal feeding operations” (CAFOs). The act defines CAFOs as “point sources” of water pollution and requires them to operate under a state or federal discharge permit.

“The 250 cows in my herd couldn’t possibly cause enough pollution to concern anyone. I have new storage equipment and plenty of acreage for spreading the manure.”

“You may be doing a good job but what about the poultry farm down the road? He’s got thousands of birds in his flock and chicken manure is really raunchy.”

In New York State, the General Permit GP-99-01 for CAFOs became available in July 1999. The regulation requires all poultry and livestock farms with animals whose combined body-weight equals more than 300,000 pounds to operate under a permit. (Note: The rules will change in 2004.)

Say what? In everyday language, that’s about 200 milk cows, 750 finishing pigs, 15,000 egg layers or 37,500 broilers. Don’t forget horses, cattle, veal calves, heifers, and ducks. The Environmental Protection Agency (EPA) has a headcount equivalent for these animals as well. Any farm meeting these minimums must register with the state’s Department of Environmental Conservation (DEC) and operate under a CAFO permit.

The permit spells out several obligations. Covered farms must:

- maintain an ongoing professional relationship with a state-certified agricultural environmental planner
- develop a comprehensive nutrient management plan that meets specific standards
- maintain records demonstrating the operations are within the plan.

The plan must also address treatment of wastewater and contaminated runoff from the farmstead, erosion control of cropland, and application of manure and fertilizer to cropland. Compliance inspections of CAFOs occur on an ongoing basis.

Water quality is also a state concern. The New York State Environmental Conservation Law prohibits discharge into lakes, rivers, streams, and the like that degrades or damages natural resources. Conservation officers are required to investigate reports of slick, foaming, or discolored lakes, rivers, and streams; fish and wildlife kills; and other obvious signs of pollution. DEC has several enforcement options for dealing with illegal polluters.

“It’s really dark tonight. No one will ever know I dumped this stuff out here.”

“Oh, man. Someone must have emptied barrels of chemical goop into the lake. See the globules floating on the surface? We need DEC to check it out.”

water

Concentrated
Animal Feeding
Operations
(CAFOs)

point sources for

manure
contaminated
runoff

causing

slick, foaming
or discolored
lakes, rivers
and streams
fish kills
polluted wells

air

animal
excrement

emits

ammonia

combines with

atmospheric
sulfur dioxide
and
nitrous oxide

forms

fine particulates

resulting in

smog, haze, and
poor air quality

PESTICIDE LAWS AND REGULATIONS

The Federal Insecticide, Fungicide and Rodenticide Act establishes procedures for registering pesticides with the U.S. Department of Agriculture. It also requires the EPA to regulate the use and sale of pesticides to protect human health and the environment. In order to use certain restricted pesticides, farmers and professional applicators must be certified; they can earn this certification by attending courses, passing a certification test, and maintaining continuing education credits.

FEDERAL AIR QUALITY LAWS AND REGULATIONS

Many of us take the air we breathe for granted. If you can't see it, smell it, or taste it, it's probably OK. Or so you think. Tiny particles of dirt and toxins can waft through the air undetected by most folks. The Federal Clean Air Act is supposed to insure the outcome suggested by its name.

Farming has historically benefited from a broad exemption from the act. Odors have been the major air quality issue involving agriculture, and odors are not included in air quality standards. More recently, though, concerns about particulate matter have raised questions about the farming exemption. The recent renewal of the act set standards for fine particulate matter emanating from human activity. Common culprits: vehicle exhaust, coal-fired power plants, and municipal waste treatment facilities.

"See that haze? That's a lot of fine particulates floating through the air. Too many little particulates and some folks may have respiratory problems."

Agriculture is a human activity, so ammonia emissions may fall under the new air quality regulations. Ammonia, a compound released from animal (and human) excrement, combines in the atmosphere with sulfur dioxide and nitrous oxide to form fine particulates. Live-stock manure and fertilization of crops are the major sources of emitted ammonia. Recent court rulings in California may force stringent controls on these farm emissions in the future.

“Hurrrumph. Just one more thing for me to worry about, pay for, and argue about with my neighbors.”

AGRICULTURE AND ENVIRONMENTAL MANAGEMENT PROGRAM

Recall the discussion from the previous chapter. Most farmers try to be stewards of the land. Most try to protect and preserve their land and respect the surrounding environment. But sometimes, economic and other factors interfere with this goal.

“Prices are way down this year but my costs keep rising. How can I afford to focus on the environment when I can barely pay my bills?”

New York State has given farmers at least a partial answer to that question. The Agriculture and Environmental Management (AEM) program, up and running since 2000, is an incentive-based program that helps farmers operate environmentally sound and economically viable businesses. The program coordinates existing agricultural and environmental conservation consultants and public programs for one-stop shopping for services such as cost-sharing or technical advice about conservation practices on the farm.

“Now I can make just one call and get the answers I need.”

“Cost-share funds let us improve our barnyard and make it easier to properly handle our manure and keep runoff out of the creek.”

Farmers work with these professionals to identify and address environmental concerns around their farmsteads and in their fields.

“I know that farmer is trying to do the right thing. He’s been talking to all us neighbors about the consultant’s suggestions and how his new plan will protect the environment.”

The federal EPA has hailed AEM as “an innovative state program that has put NYS in the forefront of the national effort to help farmers identify and address agricultural nonpoint source pollution.” (FYI: Nonpoint source pollution occurs when water moves naturally across the landscape picking up pollutants, and its place and time of origin cannot be determined.)

CONCLUSION

“So this is what farmers must deal with 24/7. All these rules and regulations. I didn’t know. Maybe if we had just talked about this and shared some information, there wouldn’t be so much misunderstanding.”

“Well, the neighbors have their complaints and concerns but I have my rights. There’s got to be some way we can manage this.”

The next chapter will give you some pointers.

The Process

Conflict is no stranger in our personal or business lives or in the life of our communities.

It often has a way of catching us unaware. A series of seemingly harmless comments. A rush of annoying behaviors. A string of offensive actions. Suddenly everything explodes. Anger. Frustration. Resentment. Helplessness. Rage.

“I’m just fit to be tied. First she says the tour guide won’t answer her questions. Then she starts on the accommodations. Now she’s got the whole group riled about the food, the itinerary, you name it. And we’ve got another whole week of this trip.”

“Every night it’s the same thing. Loud, obnoxious, indecent music. If he doesn’t turn that thing down, I’ll throttle him the first chance I get!”

And then the outcome. Alienation. Bad feelings. Hostility. Sometimes even violence. But conflict doesn’t have to end this way. Indeed, there are other ways to handle differences, disagreements, and intense clashes that preserve rather than destroy relationships and strengthen rather than divide communities.

“We don’t have to be enemies. Let’s talk.”

“There must be a solution we can all agree to...”

Information helps. Knowledge. Facts. Data. Real stuff to grapple with instead of raw emotions. That’s why there’s so much information in earlier chapters about farming, the environment, and laws and regulations. Even so, questions, disagreements, and conflicts will occur as farmers and neighbors go about their daily lives.

When problems arise, there is a range of ways to respond. All involve problem solving and the search for win-win outcomes. The simplest is direct communication between two neighbors. The most complex involves planning and participating in a large-scale community problem-solving process. The way to proceed generally depends on the situation at hand. Whichever approach you use, remember that productive interactions and increased trust result from:

- ▶ sharing information
- ▶ building common knowledge
- ▶ strengthening relationships

“Sounds pretty vague to me. Help me understand the benefit of a problem-solving process.”

Think back to the first two chapters, where we briefly talked about building understanding and reconciling differences in a search for mutually beneficial outcomes. The potential pay-offs from doing this include:

- ▶ savings of time, money, aggravation
- ▶ stronger interpersonal relationships and community ties
- ▶ agreement about ways to resolve problems
- ▶ self-sufficiency in dealing with problems
- ▶ more acceptance of, and satisfaction with, outcomes
- ▶ greater knowledge about controversial issues and engagement in civic life

First steps

What can you do when things next door are not as you would like them to be?

"I see him out there on the tractor every day. Just what is he spreading on those fields?"

"That new neighbor knows nothing about farming. And now he's talking to the others about the noise from our tractor."

"If they build a new barn, that means still more cows and more stink."

"The town has no right to prevent me from expanding my farm."

Begin by talking. This first step may be obvious, but is often ignored. Attempt to get answers to your questions. Provide helpful information directly. Make contact person-to-person.

One reason talking is so useful is that it builds relationships. And relationships make it easier to work through differences. Another reason talking helps is that it can prevent misunderstandings. All too often, people jump to negative conclusions without bothering to check if those conclusions are correct. Sometimes talking can clear up the facts. Sometimes talking can help clarify why other people are doing something you don't like.

So when things are not as you would like them to be, reach out.

"Thanks for calling. I appreciate the information and reassuring answers."

Whether you're a farmer or a neighbor, your attitude and style are critical. Always approach the other person in a way that minimizes the chance of a defensive reaction. Here are some helpful hints:

→ **Don't attack.** Even if you think you know what's going on, your interaction is more likely to succeed if you approach your neighbor with respect and questions. **Try:** "I've heard that you're concerned about the spray we're using. Can I answer any questions or try to explain exactly what we're doing?"

→ **Use "I messages" as much as possible.** Avoid accusations couched in "you" language. **Avoid:** "You wake me up at 6 am every Saturday morning." Instead, state the problem in a way that clarifies and specifies the effect it has on you. **Try:** "I have trouble sleeping past 6 am on Saturdays because of the machinery noise." This may take practice at first, but using this technique furthers productive communication.

→ **Ask questions.** Try to make them open-ended rather than attacks masquerading as questions. **Try:** "I don't understand why you have to be out so early in the day. Can you please explain?" **Avoid:** "Didn't you realize all that noise would make me up?"

“I’ll stop by Betty’s house so we can exchange information and explore the issues.”

Sometimes talking, information sharing, respect and reason don’t resolve your concerns. Still more obstacles block the way.

“How do I have a conversation with someone who doesn’t seem to listen?”

“How will we preserve, rather than damage, relationships?”

“How do we get agreement on the facts, rules, and regulations?”

“How will we handle complex, scientific, or technical information?”

“How can we explore the available remedies?”

“How do we agree on next steps?”



So consider other cooperative options. Often this means turning to an “honest broker,” someone trusted who can help you and your neighbor have a more productive conversation. Many times, the person who can offer the most effective help will have some training in mediation skills. It can be useful to involve a trusted third person even if you have some of these skills yourself. When the issue is more complex and involves many people and interests, try a community-based problem-solving process. Both two-party mediation and community-based problem solving are described below.

Second steps

Mediation. Let’s start with the simpler process, mediation by an honest broker. Mediation is a good second step when you and your neighbor are unable or unwilling to talk directly.

Mediation is a voluntary process. It involves a small number of people agreeing to meet and trying to cooperatively resolve their differences. The mediator facilitates the conversation without taking sides, giving advice, or pushing people to agreement. Mediation allows each person to gain clarity about options and resources. It also provides an opportunity for listening and considering someone else’s perspective. Once people are helped to talk without shouting and jabbing and defending, they frequently come up with an agreement that satisfies all those involved. If the mediation fails, the parties can pursue whatever other options exist for dealing with their concerns.

In New York State, the Unified Court System funds a mediation center in every county; the centers offer mediation services at little or no cost. Mediations conducted through these centers are confidential. Some Agricultural Farmland Protection Boards (AFPB) recommend mediation to farmers and neighbors in conflict. (See *The Resources* at the end of this guide for a Web address that lists these centers and information about contacting your local AFPB.)

Why mediate? Because mediation:

- ▶ encourages communication and cooperation
- ▶ fosters relationships
- ▶ allows people to shape their own solutions

- can be scheduled at dates and times convenient to the people involved
- focuses participants' energies on looking for solutions
- is cost effective.

Community Problem Solving. Mediation is a great way to deal with issues between a few people. But sometimes a lot of people want to weigh in on an issue. Sometimes a dispute between two neighbors taps into deeper concerns.

The whole community may start taking sides. Old timers. Newcomers. Farmers. Nonfarmers. Citizens. Advocacy groups. Regulatory agencies. Local government. This is when it may make sense to think about a “collaborative community problem-solving process,” also known as multi-party mediation. Whichever name you prefer, the process varies based on the complexity of the issues and the number of people involved.

A community problem-solving process is usually organized in response to an existing problem or situation. People realize they're stuck. Their

example of mediation

Remember Betsy, whose employee, Sergio, spilled a wagon full of loaded apple crates? And Steve, who swerved and ended up in a ditch? Well, Sergio paid his traffic ticket and Betsy's insurance covered damages to the vehicle and related medical costs. When Steve sued Betsy for negligence, the court recommended mediation. After consulting with their respective attorneys and being told that mediation might help and couldn't hurt, Betsy and Steve agreed to meet with a mediator.

The session began with Steve accusing Betsy of hiring incompetent employees and demanding a large cash settlement for her negligence. Betsy responded defensively, telling Steve that he knew nothing about her orchard or the kinds of people she hired.

The mediator reflected back to Betsy and Steve, in nonjudgmental summary form, what each was saying. In so doing, she let both Betsy and Steve know she had been listening carefully and understood, without endorsing, their points

and concerns. Her nonconfrontational phrasing helped Betsy and Steve hear what each was trying to say.

Gradually the tone of the direct conversation between the two of them moved from anger and defensiveness to a more honest exchange of information. Steve learned that many of Betsy's employees were former migrant farm-workers who were learning useful skills. Betsy acknowledged her mistake in assuming Sergio could manage a full wagon without more training. She apologized for all that had happened to Steve and talked about what would happen to her insurance payments, not to mention the court-imposed fine, if she were found guilty of negligence. It wasn't clear to Betsy that the farm could survive that cost increase. After several hours, they agreed to a smaller cash settlement and five years of free produce from Betsy's farm. Steve and Betsy acknowledged that this resolution was fair and more satisfying than any court judgment would have been.

ability to act is blocked by others with opposing perspectives. Lots of people have opinions. No one can come up with an idea that satisfies enough people.

“We should put the new fire station on Cedar St.”

“What we really need is another fire truck.”

“Hey, we don’t even have enough firefighters.”

“I think the old fire house should be renovated.”

“Who’s paying for this?”

Elected officials or appointed boards are usually the ones who make decisions about public issues. But decisions that affect many in the community are often controversial. Zoning. Property values. Lifestyle. Local culture. All too often, leaders and citizens alike participate in processes that leave them feeling polarized, unsatisfied, and alienated. When this happens, the wrong lesson is learned: all you can do is hunker down, bear through it, and see who gets their way.

But in many cases, public outcry can be more constructively managed and mitigated through open airing of community interests and concerns. In other words, carefully structured approaches to obtaining broad public input in the decision-making process can lead to the holy grail of public policy: better decisions and wider community support.

“How will we ever solicit all the input we need?”

“The farmers are convinced all the newcomers want to put them out of business.”

“If we adopt Plan B, then everyone who supports plans A and C will be furious.”

A collaborative community problem-solving process can help officials and residents get to a satisfactory resolution—especially when people feel stuck.

› **Here’s a tip:** starting even before a crisis arises is a whole lot more efficient.

So the next time your town or village wants to change its comprehensive plan, invite public discussion that is inclusive. When your farmland protection board begins planning an agricultural district, make sure farm and nonfarm community members have a say. Or, when multiple factions have already staked out positions on, say, the utility of extending sewer lines into outlying areas, try a new strategy. Start by toning down the rhetoric. This simple step may be a necessary precondition for preserving community peace. And then consider a collaborative community problem-solving process.

Let’s now look at the key elements of this process and some comments on how to move it forward.

1 Convener

“Tell me, who’s going to lead this effort?”

No matter what the motivating cause, collaborative community problem solving generally begins when someone starts to systematically pull people together. This person is referred to as the convener. The convener needs to be someone (or some representative group) who is respected by, and has access to, people on all sides of the issue. The convener may be a local person, perhaps an elected official, a community elder, a well-known clergy or businessperson. Sometimes the convener is a mediator or

facilitator who will assist throughout the entire problem-solving process. Other times the convener works closely with a neutral third party from the start.

2 Facilitators & Mediators

“We need someone who will pay attention to the process but has no stake in the outcome.”

In most communities, there are people with facilitation skills. They run meetings. They keep the dialogue flowing. They enable a process. Sometimes there are people with mediation skills. They, too, keep the dialogue flowing. But they do so in the context of a conflict. They guide the search for mutually acceptable solutions. Facilitators and mediators can play important roles in community problem solving.

A few words of caution. It may be difficult to get such people involved in every issue. They have jobs. They have families. They have lives. They may be perceived as being close to one side or the other. Even more important than time, facilitators and mediators must have credibility.

In addition, community problem solving requires a major commitment of time, energy, and resources from all who participate. Assess the situation carefully to determine whether such a process makes sense at this moment in your community. If the issue is important, finding an honest broker is usually worthwhile; you may need to search outside the community for a facilitator or mediator. This person is generally compensated for his or her time. Sometimes local governments cover the cost. Other times everyone involved contributes. Local foundations may be willing to support efforts to bring people together to solve tough problems.

3 Decision Makers

“We’ll be putting in a lot of hard work. We want to be sure our efforts aren’t ignored.”

Good point. Solutions that result from collaborative community problem solving are advisory. This is where the convener comes in: he or she usually begins by talking with officials who have the authority to make formal decisions. These decision makers must be willing to seriously consider the input provided by residents during a community problem-solving process. To increase the chances this input will be acceptable, they should set clear parameters for any solution or plan. This assures folks who participate that their time and hard work will have the intended result.

4 Assessment

Assuming the decision makers support the idea, the convener and/or facilitator begin(s) by asking questions:

- ▶ What is the history of the situation and those involved?
- ▶ How do different members of the community view the issue?
- ▶ Who needs to be involved in whatever process is designed (i.e., who are the stakeholders)?
- ▶ What information about the issue(s) is available?

As the convener and facilitator gather answers to these questions, the convener explains the problem-solving process and assesses people’s willingness and ability to participate.

Remember George, the dairy farmer whose silage was washed into a nearby stream after a heavy rain, causing the death of a number of fish? A local fisherman found the dead fish and started talking to his neighbors about run-off from farms polluting local streams. Well contamination and cancer rates suddenly became the main topic of conversation around town. Soon, an environmental group met with the town supervisor and demanded something be done to control pollution caused by farms. Several groups that sprang up “out of nowhere” began insisting that farm chemicals should be banned or severely restricted. Local farmers responded angrily, noting they were farming responsibly and were protected by right-to-farm laws. Almost overnight, George’s mistake set one segment of the town against another. Local officials were caught in the middle.

⑤ Process design

Now it’s time for the design phase.

“Help me understand what people who design these processes are concerned about.”

There is no one perfect design for a collaborative community problem-solving process. Successful processes typically reflect the individuals, institutions, and issues involved, as well as the local culture. Successful processes also typically include these elements:

- ▶ **Feasibility.** The process must be feasible. Participants need to understand what they’re agreeing to and for how long.
- ▶ **Inclusiveness.** The process needs to be inclusive, with the diversity of perspectives represented.
- ▶ **Participation.** People must have different ways to participate. Only one mode of participation, speaking at a public hearing, for example, is not enough.
- ▶ **Information.** Information must be readily available to the wider public and technical information must be accessible to nonexperts.
- ▶ **Agreements.** Participants agree on rules for collecting information, choosing options, and making recommendations.

Designs differ based on local needs. Most include a carefully conceived, but flexible, sequence of large public meetings open to everyone and smaller group or task force meetings that accomplish specific tasks and report back at large meetings. A core group working with the conveners/facilitators will design the process.

⑥ Action

Individuals and groups who have signed on as the core organizing group now gather to review where things stand and to implement their design.

“We need to share what we’ve learned during the assessment and then figure out what else we should know.”

Participants may decide they need to do more base building and extend invitations to more stakeholders (people affected by, or with strong interests in, the issue). Or, they may decide to just get the process rolling.

Whenever that time comes, the core group reaches out to the community. These key participants typically set up meetings where neighbors who have not yet been involved can voice their concerns. When all sides have been heard, the facilitator helps the core group begin to develop and explore options for resolving the problem.

“We’ve got lots of potential solutions. Now let’s negotiate some agreements.”

Throughout this stage of the process, the facilitator and core group keep the wider public informed. They hold public meetings. They write articles for the local newspaper. They give interviews on local radio shows. They distribute flyers and do whatever else will help everyone stay informed about recommendations being made.

“I’m sold. When can we get started?”

But wait...community problem-solving processes are not a panacea. They don’t always work.

Conveners, decision makers, and citizens should consider the following variables before plunging ahead:

- **Time available before a decision must be made.** Emergencies or crises can’t be put on hold while citizens deliberate. However, stopgap measures that involve community problem solving sometimes can remove the pressure, giving citizens time to participate in decision making.

example of
starting a
community
process

A member of the local Agricultural Farmland Protection Board (AFPB) suggested that people needed a chance to come together and talk about the situation. The town supervisor agreed and arranged a meeting with a facilitator from the nearby mediation center. Together, all three brainstormed a list of folks already involved and the different issues that had surfaced. The facilitator agreed to begin interviews with a representative sample of “stakeholders” and to meet with local officials again in two weeks to report on her findings.

- ▶ **Level of interest.** It's hard to get a process going if there's little or no interest in an issue.
- ▶ **Degree of polarization.** Too many people on different sides of the issue may be unwilling to work together.
- ▶ **Need for legal clarification.** If a decision sets or challenges a legal precedent, people may prefer to have a court decision.
- ▶ **Acceptable options.** Community problem solving works best when citizens can consider a range of options. When legal, financial, or technical realities limit creativity, starting such a process may not be worthwhile and might even increase frustration levels.

community problem solving in action

Let's return now to George and his community. The facilitator reported back to the core group that she had spoken to lots of angry people but also found a lot of underlying good will and concern about preserving the mixed land use pattern that currently existed. The town supervisor appointed a steering committee that included himself, a farmer, a member of the local environmental group, and a representative of the AFPB.

This new group worked with the facilitator and planned a series of public meetings, which were followed by additional information gathering by small groups of residents about issues raised in the meetings. After three months, the groups displayed the information in a setting that allowed community members to walk around, read and ask

Getting started

If you think collaborative community problem solving makes sense, talk to others. Contact an elected official, a town or planning board member, someone in an influential local or state organization, and those working with—or against—you on the issue. Think about the leaders in your community who may be able to get others to participate. Some local mediation centers facilitate community problem solving or know others who do. Cornell Cooperative Extension educators may be another source of information about how to get started.

An annotated list of resources begins on the next page. Call one or two or three. Ask questions. Collect information. Give it a try.

questions about the information, and record their opinions. The small groups used this data to develop recommendations that were forwarded to the AFPB and the town board. What emerged from this process was renewed commitment to protecting local agriculture, a series of educational forums for farmers and nonfarming residents on relevant environmental regulations, and a communication system to keep folks informed about farming practices and community concerns.

Some tensions continued to exist, but most people involved felt that their perspectives on farm-related issues were now more likely to be taken seriously. All were confident that a foundation had been built for dealing with issues and that as future problems arose, they would be unlikely to escalate into a community crisis.

The Resources

■ **The New York State Unified Court System (UCS)** helps to maintain a network of community dispute resolution centers that serve all 62 counties in the state. The UCS Web site provides information about the court system's alternative dispute resolution programs and contact information for local dispute resolution centers. The centers provide trained mediators who can help community members resolve many types of conflicts.

Go to <http://www.courts.state.ny.us/adr/> or check your local telephone directory under "mediation" or "dispute resolution" for the center nearest you.

■ **The New York State Agricultural Mediation Program (NYSAMP)** offers mediation assistance to agricultural producers, their creditors, and other persons who are directly affected by the actions of the United States Department of Agriculture (USDA). NYSAMP mediators are provided by the statewide system of dispute resolution centers (see above).

For more information go to http://www.nysdra.org/adr/adr_nysamp.html or call (518)687-2240, (866)669-7267 (toll free).

Important note: NYSAMP also acts as a clearinghouse for people connected to agriculture who are involved in disputes. In situations where you need other conflict-related services, NYSAMP can help you find them.

■ **New York FarmNet** is an information and referral service for farmers. FarmNet consultants work confidentially with farmers who are expe-

riencing financial or family problems. FarmNet also maintains a resource library; offers workshops on topics such as reducing and managing stress, farm transitions, and rebuilding after a disaster; and helps to match potential farmers with existing farms.

Go to <http://www.nyfarmnet.org> or call 1-800-547-FARM or 607-255-1603 to speak with a FarmNet representative. The Web site is a great resource, providing useful information and links to publications, agriculture and social service agencies, trade associations, and the like.

■ **Cornell Cooperative Extension (CCE)** is a multi-pronged educational system that links experience and research, builds partnerships and coalitions, promotes youth and local leadership development, and provides resources to local community residents. CCE maintains offices throughout New York State and sponsors a wide variety of programs. Many CCE educators are committed to the practice of conflict resolution and community engagement in public issues.

Go to <http://www.cce.cornell.edu/> or check the telephone directory for the nearest office.

■ **New York Farm Bureau** represents the interests of its members (mostly farm families) on economic and public policy matters. Farm Bureau runs promotions and educational programs and sponsors contests and awards.

Go to <http://www.nyfb.org/> or contact Farm Bureau at (518) 436-8495.

continued on next page

The Resources *continued from previous page*

■ **New York State Department of Agriculture and Markets'** mission is to promote a competitive and financially sound agricultural industry, foster environmental stewardship by agricultural producers, and safeguard the food supply of New York residents.

Search the Web site at <http://www.agmkt.state.ny.us/TheDepartment.html> or contact the department at 518-457-3880 or 1-800-554-4501.

■ **Natural Resources Conservation Service**, a division of the U.S. Department of Agriculture, provides technical assistance and information, and sometimes financial incentives, to help farmers, ranchers, and other private landowners conserve their soil, water, and other natural resources. NRCS works with local conservation districts and local governments.

Check the Web site at <http://www.nrcs.usda.gov/> for more information and links to other programs.

■ Each county in the state (but for New York City) has a **Soil and Water Conservation District**, which is overseen by the New York State Soil and Water Conservation Committee. The districts implement soil and water conservation measures and agricultural nonpoint source water quality programs.

Go to the committee's Web site at <http://www.agmkt.state.ny.us/soilwater/home.html>, check the telephone directory for your county district, or call the state office at (518) 457-3738.

■ **The Agricultural and Farmland Protection Program** authorizes counties to create agriculture and farmland protection boards. These boards are responsible for planning and implementing policies that protect local farmland and encourage agricultural expansion. One key part of the program enables local governments to purchase development rights on farms, which permanently protects agricultural acreage from development pressures.

For more information, call your county clerk and ask if there is an AFPB. Also check out http://www.cals.cornell.edu/agfoodcommunity/afs_temp3.cfm?topicID=368, which is loaded with relevant information, resources, and links.

■ For additional reference material, see *Cultivating Farm, Neighbor, and Community Relations*, by Duncan Hilchey, Community Food and Agriculture Program, Cornell University, and Nathan Leonard, Area Extension Specialist PRO-DAIRY Program, Cornell Cooperative Extension.

Go to http://www.cardi.cornell.edu/cd_toolbox_2/tools/farmers_community.cfm for excerpts and an order form.

Let's
turn over
a new
leaf.



I'm all ears!



APPENDIX C

Sample Right to Farm Law

Town of Fayette

A local law to be known as:

THE RIGHT TO FARM IN THE TOWN OF FAYETTE

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

Section 1. Legislative Intent and Purpose

A. The Fayette Town Board finds, declares and determines that agriculture is vital to the Town of Fayette, New York, because it is a livelihood and provides employment for agriservice; provides locally produced, fresh commodities; agricultural diversity; promotes economic stability; agriculture maintains open space and promotes environmental quality; and agricultural land does not increase the demand for services provided by local governments. In order to maintain a viable farming economy in the Town of Fayette, farmers must be afforded protection allowing them the right to farm. When nonagricultural land uses extend into agricultural areas, agricultural operations may become the subject of nuisance suits. As a result, agricultural operations are sometimes forced to cease operation or are discouraged from making investments in, agricultural improvements.

B. It is the general purpose and intent of this law to maintain and preserve the rural traditions and character of the Town of Fayette, to permit the continuation of agricultural practices, to protect the existence and operation of farms, to encourage the initiation and expansion of farms and agribusinesses, and to promote new ways to resolve disputes concerning agricultural practices and farm operations. In order to maintain a viable farming economy in the Town of Fayette, it is necessary to limit the circumstances under which farming may be deemed to be nuisance and to allow agricultural practices inherent to and necessary for the business of farming to proceed and be undertaken free of unreasonable and unwarranted interference or restriction. *The Towns of Fayette and Varick Comprehensive Plan* clearly supports this view and recommends the adoption of this legislation as a primary goal of its implementation.

Section 2. Definitions

A. As used in this section, the following terms shall have the meanings indicated:

Agricultural Advisory Committee – shall mean a committee formally appointed by the Fayette Town Board for the purpose of resolving right to farm disputes as provided hereunder as well as other issues as the Fayette Town Board deems appropriate. Such a committee shall be appointed on an annual basis with five members. Those members shall be:

1. A resident of the Town of Fayette not associated with a farm operation,
2. A member of the Town of Fayette Planning Board, designated by the Town of Fayette Planning Board,
3. A member of the Town of Fayette Zoning Board of Appeals, designated by the Town of Fayette Zoning Board of Appeals,

4. A member of the Seneca County Agricultural Enhancement Board who resides in the Town of Fayette, designated by the Seneca County Agricultural Enhancement Board; if there is not a Town of Fayette resident on the Seneca County Agricultural Enhancement Board the Town of Fayette shall appoint a Town of Fayette resident actively participating in a farm operation,
5. Either the Seneca County Cooperative Extension Executive Director, the Seneca County Soil & Water Conservation District Manager, or their designee with approval of the Fayette Town Board.

Agricultural practices - shall mean those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of such practices include, but are not limited to, operation of farm equipment, proper use of agricultural chemicals and other crop production methods, and construction and use of farm structures.

Agricultural products - shall mean those products as defined in AML section 301(2).

Farm operation - as defined in Agriculture an Markets Law (AML) section 301 (11).

Farmer - shall mean any person, organization, entity, association, partnership, limited liability company, or corporation engaged in the production, preparation, and marketing of agricultural products as a commercial enterprise including but not limited to the cultivation of land, the raising of crops, or the raising of livestock.

Generally accepted agricultural practices - Those practices which are feasible, lawful, inherent, customary, necessary, reasonable, normal, safe and typical to the industry or unique to the commodity as they pertain to the practices listed in the definition of "agricultural practices."

Section 3. Right-to-Farm Declaration

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in agricultural practices within this Town at all times and all such locations as are reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place, and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge, research and improved technologies.

Agricultural practices conducted by farm operations shall not constitute a public or private nuisance if such agricultural practices are:

1. Reasonable and necessary to the particular farm or farm operation,
2. Conducted in a manner which is not negligent or reckless,
3. Conducted in conformity with generally accepted agricultural practices,

4. Conducted in conformity with all local state, and federal laws and regulations,
5. Conducted in a manner which does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
6. Conducted in a manner which does not reasonably obstruct the free passage or use of navigable waters or public roadways.

Nothing in this local law shall be construed to prohibit an aggrieved party from recovering from damages for bodily injury or wrongful death due to a failure to follow generally accepted agricultural practices, as outlined in this section.

Section 4. Notification of Real Estate Buyers

In order to promote harmony between farmers and their neighbors, the Town requires land holders and/or their agents and assigns to comply with Agriculture and Markets Law Section 310 and provide notice to prospective purchasers and occupants that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district.

Section 5. Consideration of Impact on Certain Applications

The legislative intent and purposes of this section shall be taken into consideration by each Town officer and/or board in processing any application requesting rezoning, subdivision approval, temporary conditional permit approval, site plan approval and/or special use permit approval when the property which is the subject of such application is located within one mile of an existing farm. Such, Town officer and/or board shall, as part of its review of such application, determine whether appropriate and reasonable conditions may be prescribed or required which would further the purposes and intent of this section as part of approval of the application. Such appropriate and reasonable conditions shall be determined on a case-by-case basis and may include, but not be limited to, requiring declaration, deed restrictions and/or covenants which run with the land, which would notify future purchasers and owners of the subject property that owning and occupying such property might expose them to certain discomforts or inconveniences resulting from the conditions associated with agricultural practices and operations in the Town.

Section 6. Resolution of Disputes

1. Should any controversy arise regarding any inconveniences or discomfort occasioned by agricultural operations which cannot be settled by direct negotiation between the parties involved, either party may submit the controversy to the Agricultural Advisory Committee as set forth below in an attempt to resolve the matter prior to the filing of any court action and prior to a request for a determination by the State Commissioner of Agriculture and Markets about whether the practice in question is sound pursuant to Agriculture and Markets Law Section 308.

2. Any controversy between the parties shall be submitted to the Agricultural Advisory Committee within thirty (30) days of the last date of occurrence of the particular activity giving rise to the controversy or the date the party became aware of the occurrence.

3. The effectiveness of the Agricultural Advisory Committee as a forum for the resolution of disputes is dependent upon full discussion and complete presentation of all pertinent facts concerning the dispute in order to eliminate any misunderstandings. The parties are encouraged to cooperate in the exchange of pertinent information concerning the controversy.

4. The controversy shall be presented to the Agricultural Advisory Committee by written request of one of the parties within the time limits specified. Therefore after, the committee may investigate the facts of the controversy but must, within twenty-five (25) days, hold a meeting at a mutually agreed place and time to consider the merits of the matter and within five (5) days of the meeting render a written decision to the parties. At the time of the meeting, both parties shall have an opportunity to present what each consider to be pertinent facts. No party bringing a complaint to the committee for settlement or resolution may be represented by counsel unless the opposing party is also represented by counsel. The time limits provided in this subsection for action by the committee may be extended upon the written stipulation of all parties in the dispute.

5. Any reasonable costs associated with the function of the Agricultural Advisory Committee process shall be borne by the participants.

Section 7. Severability Clause

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this Local Law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

Section 8. Precedence

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

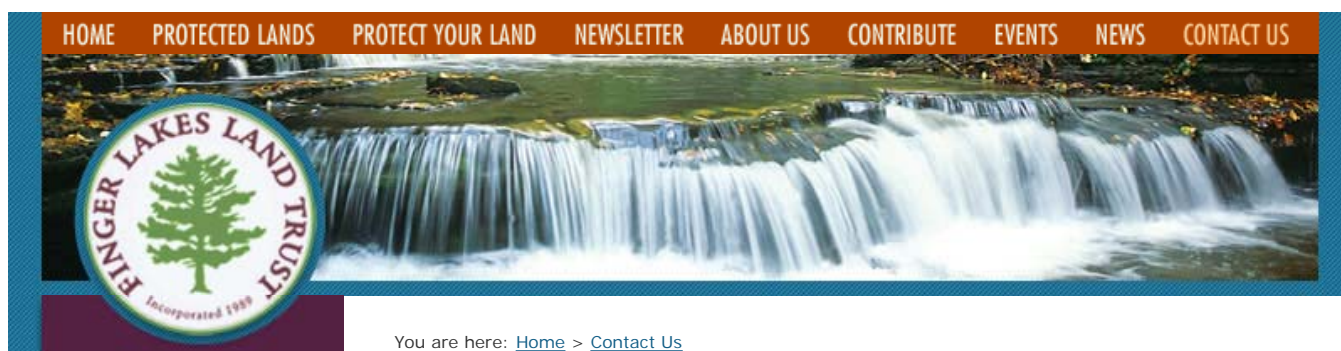
Section 9. Effective Date

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

APPENDIX D

Finger Lakes Land Trust

Brochure and Contact Information



You are here: [Home](#) > [Contact Us](#)

Contact Us

Finger Lakes Land Trust
202 East Court Street
Ithaca, NY 14850

607.275.9487 phone
607.275.0037 fax
info@flit.org

[Web Design by Lost Art Media](#)

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Finger Lakes Land Trust • 202 East Court St. • Ithaca, NY 14850 • P: 607-275-9487 F: 607-275-0037 • info@flit.org



Finger Lakes Land Trust Questions and Answers on Conservation Easements

What is a conservation easement?

Conservation easements are voluntary legal agreements between a landowner and a land trust (or other qualified organization) in which the land owner places restrictions on the use of his or her property, in order to protect the natural value of the land. They are flexible and tailored to meet a landowners needs. Donation of a conservation easement protects your land permanently while keeping it in private ownership. A conservation easement, held by the Land Trust, provides permanent protection of the natural values of the site. The landowner retains ownership of the property and all rights and privileges for its use, except for the uses restricted under the easement.

What restrictions can be included in a conservation easement?

As part of conservation easement donation process, the landowner, working with the Land Trust, identifies specific permitted uses of the property. These normally include agriculture, some types of forestry, recreation, and other open space uses. The easement limits or prohibits certain activities, including industrial, commercial, and residential development.

Conservation easements are designed to conserve forever the important resource values of each property. An easement may cover portions of the property or the entire parcel. It is legally binding on all future owners and will be monitored and enforced by the Land Trust.

What rights and responsibilities does the landowner retain?

The landowner retains all other rights over the property including the right to sell, lease, transfer or mortgage. The landowner can use the land in any way that is consistent with the easement. The easement does not give the public the right to enter the property, unless the landowner specifically requests that this be allowed.

What are the benefits to the landowner in donating a conservation easement?

- **New Tax Benefits!** In 2006, New York State implemented a Conservation Easement Tax Credit. Landowners whose land is restricted by a conservation easement would receive an annual, refundable state income tax credit equal to 25% of the combined town, county, and school taxes paid on the land during the previous tax year. The income tax credit is capped at \$5,000 per year for each qualifying landowner.

New Federal Tax Incentives for Conservation Easement Donations made in 2006-07

Section 1206 of the pensions bill (HR 4) recently passed by Congress will help family farmers, ranchers, and other moderate-income landowners get a significant tax benefit for making the extraordinarily valuable donation of a conservation easement. This proposal will:

- Raise the maximum deduction a donor can take for donating a conservation easement from 30% of their adjusted gross income (AGI) in any year to 50%;
- Allow qualifying farmers and ranchers to deduct up to 100% of their AGI; and
- Increase the number of years over which a donor can take deductions from 6 years to 16 years.

This provision would be effective for donations made from January 1, 2006 through December 31, 2007. After that, the law would revert back to previous provisions, unless Congress extends the provision prior to the deadline.

- Knowledge that your land will be protected: Because each conservation easement is written in accordance with the landowner's wishes for future use of the land, the greatest reward for most landowners is the knowledge that their land's special features will be protected-- forever.
- Benefits for your community: Preserving undeveloped lands helps to retain the character of our communities. Agricultural and forest lands, natural areas, and scenic vistas are vital to the economic and environmental well being of rural areas. Permanently protected land aids communities in planning for future service needs. Conservation easements provide these public benefits at a fraction of the costs of outright purchasing of lands by a community. While zoning and public ownership can accomplish some land use goals, the gift of a conservation easement enables the private landowner to make a contribution to the community that will last forever.
- Income Taxes: The donation of an easement to the Finger Lakes Land Trust, a tax-exempt nonprofit organization, is a charitable contribution. The difference in the fair market value of the property before and after the restrictions, determines the value of the gift. This charitable gift can be deducted from income for federal and state income tax purposes, as long as certain IRS conditions are met
- Estate Taxes: If a landowner dies, the estate taxes on the property will be lower, if -- as is usually the case -- the fair market value of the property has been lowered

- by a conservation easement. This may make the difference between an heir being able to keep the land and having to sell it in order to pay the estate taxes
- **Property Taxes:** If your real property assessor determines that the market value of your property is reduced because of the restrictions, the property taxes will be lower. The property may be protected from substantial tax increases resulting from subsequent neighboring developments.

How does the Finger Lakes Land Trust fulfill its obligations?

While the landowner is responsible for upholding the restrictions of a conservation easement, the Land Trust is responsible for enforcement, and monitors each property at least once a year. The gift of an easement should, if possible, be accompanied by a contribution to the Land Trust's stewardship endowment to fund the monitoring of the easement. This ensures our ability to meet our obligation to uphold the easement forever. The Land Trust, as holder of the easement, has a limited right of access for inspection.

How can I find out more information?

Call the main office at (607) 275-9487 or write or e-mail the Finger Lakes Land Trust to talk with a staff member about your conservation goals.



Finger Lakes Land Trust Questions and Answers on Bargain Purchase

How can I sell part of the value of my land while receiving some tax benefits?

Another approach with advantages to both the landowner and the Land Trust is a bargain-purchase. The landowner sells a conservation property to the Land Trust at less than full market value and donates the remaining value.

What are the benefits to the landowner?

For the landowner, a bargain-purchase combines the income-producing aspects of a land sale with the tax benefits of a donation. The difference between the fair market value (as determined by an appraisal) and the sale price is treated as a charitable contribution and can significantly reduce any capital gains taxes payable on the sale.

How can I find out more information?

Call the main office at (607) 275-9487 or write or e-mail the Finger Lakes Land Trust to talk with a staff member about your conservation goals.

APPENDIX E

NYS Purchase of Development Rights Program Information

- NYS application for funding – 2008-2009
- Sample pre-application forms – Seneca County 2009

DEPARTMENT OF AGRICULTURE AND MARKETS 2008-2009 (Round 12) REQUEST FOR PROPOSALS

for State Assistance Payments for

FARMLAND PROTECTION IMPLEMENTATION PROJECTS

INTRODUCTION

The New York State Department of Agriculture and Markets invites proposals for funding to implement certain farmland protection implementation activities described in agricultural and farmland protection plans that have been developed by counties and municipalities. Proposals should conform with the format and content specified in this Request For Proposals (RFP), which is posted in the "Funding Opportunities" section of the Department's website (www.agmkt.state.ny.us).

Funding for this program is from the appropriation for these purposes in the State Fiscal Year 2008-2009 Budget.

Proposals for Fiscal Year 2008-2009 (Round 12) funding ***MUST BE RECEIVED*** by the Department's Division of Fiscal Management by 4:30 p.m. EDT on September 15, 2008. Applicants, not delivery services or other intermediaries, are responsible for the timely submission of proposals.

Faxed and e-mailed proposals will not be accepted. Proposals delivered after the scheduled date and time will not be accepted. Envelopes should be clearly marked "RFP-Farmland Protection Implementation Grants."

Five (5) copies of each proposal should be submitted to:

Lucy Roberson, Director
Division of Fiscal Management
NYS Dept. of Agriculture and Markets
10B Airline Drive
Albany, New York 12235

QUESTIONS CONCERNING THE RFP

Applicants with questions about requirements contained in this RFP should contact:

David Behm
Farmland Protection Program Manager
NYS Dept. of Agriculture and Markets
Fax: (518) 457-2716
E-mail: david.behm@agmkt.state.ny.us

All questions to the Department must be submitted in writing (by mail, fax or e-mail) and must be received by the Department by 4:00 p.m., July 18, 2008. A list of questions about the program, which are received from potential applicants, and answers to those questions, as well as any changes, additions or deletions to the RFP, will be posted in the “Funding Opportunities” section of the Department's website, www.agmkt.state.ny.us by July 25, 2008. If you are unable to access the website, please contact David Behm to arrange for alternate delivery. The final list of Questions & Answers will be a formal addendum to this RFP. **Applicants are urged to check the Department’s website frequently for notices of any changes, additions, or deletions to the RFP.**

BACKGROUND AND PURPOSE

Article 25-AAA of the Agriculture and Markets Law authorizes the Commissioner to maintain a state agricultural and farmland protection program to provide financial and technical assistance, within funds available, to assist counties and municipalities in developing agricultural and farmland protection plans and to assist both in the implementation of such plans. The purpose of these programs is to fund local initiatives that are intended to maintain the economic viability of the State's agricultural industry and its supporting land base and to protect the environmental and landscape preservation values associated with agriculture.

ELIGIBILITY

Applicant Eligibility

Proposals for funding will be accepted from only: (1) county agricultural and farmland protection boards in counties with an approved county plan developed pursuant to Section 324 of Article 25-AAA of the Agriculture and Markets Law; or (2) any municipality which has in place a local farmland protection plan, provided the proposed project is endorsed for funding by the agricultural and farmland protection board for the county in which the municipality is located. For purposes of this section, a “local farmland protection plan” may include a town, village or city comprehensive plan as defined in the Town Law, the Village Law, or General City Law, if such plan includes an element which considers agricultural uses and needs; an open space plan adopted by the municipality which presents strategies for the preservation of viable agricultural land; or any other formal agricultural and farmland protection planning document provided that if the plan was developed on or after January 1, 2006, it must comply with section 324-a of Article 25-AAA of the Agriculture and Markets Law. **Any municipality intending to submit an application for the first time is urged to contact the Department regarding the applicant’s eligibility prior to submitting its application.**

While local land trusts and other non-profit organizations concerned with protecting agricultural land are not eligible by law to apply directly for farmland protection implementation funds, they may work cooperatively with county or municipal governments in support of a project for which funding is requested. Such organizations may also participate in a project's implementation at the discretion of the involved county or municipality and they may, for example, hold and/or monitor conservation easements under conditions acceptable to the Department.

Applicants should avoid any actual or potential conflicts of interest in the selection or approval of properties included in their proposal (e.g., ownership or other interest in a subject

property by an individual having a role in selecting and/or approving property to be submitted for funding consideration). Individuals who own or otherwise have some interest in property which may be considered are not automatically barred from funding. If the potential for a conflict exists, applicants should consult their municipal attorney or the Department in advance of submitting a proposal.

Project Eligibility

Agricultural and farmland protection projects eligible for funding under this RFP must, at a minimum, be consistent with the activities, programs and strategies found in the applicant's agricultural and farmland protection plan. Each conservation easement-based proposal submitted to the Department for funding consideration shall involve only one farm; any proposal involving more than one farm will not be considered for funding. Any eligible county may submit no more than five proposals and any eligible town may submit no more than two proposals. **Applicants submitting more than the maximum number of proposals shall not receive any consideration for funding from the Department for all proposals it submitted.**

Match Requirements

Funds to support the implementation of agricultural and farmland protection projects by municipalities are available from the State Environmental Protection Fund (EPF). State funds to a municipality shall not exceed seventy-five percent (75%) of the total project cost. Other State funds may NOT be used to match EPF funds. Applicants will be required to provide a local match, utilizing other public or any private sources, equal to at least twenty-five percent (25%) of the total project cost. **Each contributor of cash comprising the local match contribution must provide a letter acknowledging the amount of its contribution.**

NOTE: Due to recent changes in the 2008 Farm Bill, the Department may allow Federal Farmland Protection Program (FPP) funds as a local match. The Department will not make a final decision regarding the use of FPP funds as a local match until the program details are finalized through the Federal administrative rulemaking process. In the event the new FPP rules are not compatible with this program, successful applicants who planned on using FPP funds as a local match will be obligated to provide the requisite local match from an alternate funding source. Applicants who intend to apply for and use FPP funds as a local match should they be available, must list a local funding source other than FPP funds on their budget forms and supply the required commitments in the application. Applicants should indicate their intent to use FPP funds as a local match, should this option become available, on the budget form(s) submitted with their proposal.

In-kind administrative costs may account for up to \$25,000 per project budget or up to eighty percent (80%) of the local match per proposal, whichever is less. In-kind costs may include, but are not limited to, grant management and legal and planning services provided by the applicant (or its contractor(s)) that are necessary for project implementation after a project is awarded.

A landowner may help satisfy all or part of the required local match through a full or partial donation of the value of development rights for his or her property. A bargain sale of development rights occurs when the landowner accepts a purchase price of less than the full appraised value of a conservation easement. A landowner may also choose to cover the

expense of any of the direct cost items (e.g., appraisal, title report, legal survey, etc.) of the conservation easement transaction. Those landowner costs would be considered as part of the total donation made by the landowner since they would not be reimbursed by the State funds awarded to that project. **A landowner making a donation toward the local match requirement must acknowledge a willingness to do so in the Form A portion of the proposal** submitted to the Department for funding consideration. A commitment letter from each participating landowner must also be included as an attachment to the Form A portion of the proposal.

If a full donation of development rights occurs on one or more properties comprising the farm operation, each could be considered a “match” property such that the value of the fully donated development rights could serve as the local match requirement for the request for state funds for that particular proposal. The closing date for each donated conservation easement transaction must occur within the timeframe of the contract period and each must occur before the closing date of all other conservation easement transactions associated with the farm described in the proposal. If not, the value of the fully donated development rights will not be eligible as local match.

Eligible Costs

This program is intended to implement activities identified in or consistent with approved county agricultural and farmland protection plans or in municipal farmland protection plans where the proposed activity has been approved by the county agricultural and farmland protection board.

Eligible costs include the value of the development rights being purchased (if any) and transactional costs acceptable to the Department such as title insurance, property surveys, appraisals, outside legal fees, outside easement consulting fees, and easement recording fees. However, the **State shall not contribute toward that portion of the purchase price of development rights that exceeds \$29,000/acre for any conservation easement-based farmland protection implementation project.** A stewardship fee of up to \$10,000 per conservation easement may also be included in the transactional costs of each project receiving an award. No state funds will be made available for state or local real estate transfer taxes or for personal services of the applicant’s existing staff. The Department will allow in-kind services as part of the 25% local match (see Match Requirements).

PROPOSAL FORMAT

All proposals involving conservation easements should utilize Forms A and B described below. Proposals that do not involve conservation easements must contain a project summary, plan of work, budget and list of key personnel.

Please provide only the materials requested within this RFP. Photographs (or copies of photographs) of any agricultural lands proposed for protection may be provided, but are not required.

Form A- Application Information

Use Form A to provide the information requested about the subject properties comprising the farm described in each proposal submitted for funding consideration. **Please be sure to provide all the information requested.** Failure to do so may result in disqualification of a particular property and/or a lower overall score for the proposal. Department staff will conduct visual surveys of each property comprising the farm that has not been disqualified from funding consideration to verify that the information in the application is accurate. Discrepancies between the facts discerned during the visual survey and those contained in the application may result in disqualification from funding consideration of that proposal.

Form B- Budget Information

You MUST submit one Form B.1-Budget Summary to represent the budgetary information for the entire proposal being submitted for funding consideration. In addition, **you MUST also submit one Component Budget for each property comprising the farm described in your proposal.**

For properties whose value of development rights are less than or equal to \$29,000 per acre, you MUST submit one Form B.2-Component Budget for each such property comprising the subject farm contained in the proposal.

For property whose value of development rights exceed \$29,000 per acre, you MUST submit one Form B.3-Component Budget for each such property comprising the subject farm contained in the proposal.

Please use the attached “Application Checklist” to ensure that all required forms and supporting information is contained in the proposal that is submitted for funding consideration.

FUNDING PRIORITIES

The Commissioner shall give priority to proposals that:

- a) will preserve viable agricultural land (defined as “land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of non-agricultural development”);
- b) are located in areas facing significant development pressure; and
- c) serve as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics.

Consideration will also be given to:

- a) long-term potential for the agricultural land described in the proposal to remain in viable agricultural production (i.e., factors beyond the scope of the subject property(ies) – e.g., extent to which property is bordered by or proximate to other

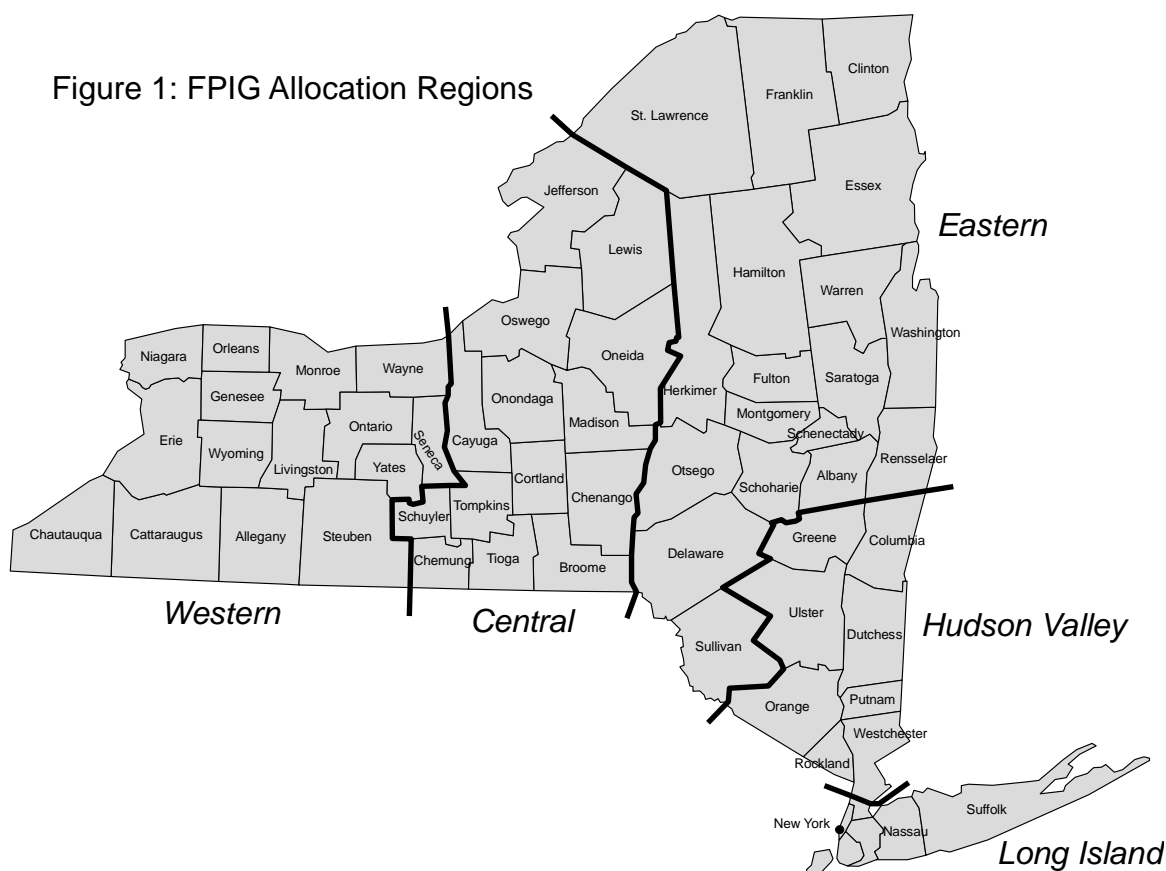
protected farms or farms which may likely be protected in future, proximity to markets and processors, proximity to vendors providing supplies and services to the subject farm);

- b) the cost of the proposal in relation to the acreage to be protected; and
- c) the level of commitment for farmland protection demonstrated by the local project partners identified in the proposal.

The Technical Rating Form that will be used to score eligible proposals, which includes the rating criteria and relative weights, is posted in the “Funding Opportunities” section of the Department’s website (www.agmkt.state.ny.us).

REGIONAL ALLOCATIONS

Five regions (see Figure 1 below) shall each be allocated an equal share of the available funds designated by the Department for farmland protection implementation activities. Eligible proposals shall have a competitive opportunity to be awarded funding within each designated region. Any portion of any regional allocation that is not awarded shall be awarded to other eligible proposals as described below.



AWARDS

All eligible proposals will be scored according to the stated criteria and funding priorities, and ranked in order of overall score from highest to lowest. For each region, awards will be made to those proposals receiving the highest numerical scores above the threshold score and continuing until available funds for that region are exhausted, or until all such proposals for that region are funded, whichever occurs first. However, no single county (except Suffolk County) as a geographic portion of any region (i.e., any county plus all towns within said county) shall receive more than 10% of the total statewide amount of funding available for awards. A list of all remaining unfunded eligible proposals from all regions that have scored above the threshold score shall then be compiled, except for all of those proposals within any county where 10% of the total statewide amount of available funding has already been awarded. Any portion of any regional allocation that has not been awarded shall then be used to award each successive eligible proposal from the compiled list beginning with the highest numerical score and continuing until remaining available funds are exhausted or until all such proposals are funded, whichever occurs first. In the event that two or more proposals have the same score and there are not enough available funds remaining to fully fund all of those proposals, the remaining funds shall be divided equally among the proposals provided that the amount awarded shall not exceed the amount requested in any given proposal. If any of those awardees decline to accept the award amount offered, those funds shall be allocated to the contingency fund described on page 9 of this RFP.

CONTRACT TERMS

A contract defining all terms and conditions and responsibilities of the municipality will be developed by the Department subsequent to the awarding of funds. The contract duration will be approximately two years. The contract will incorporate portions of the municipality's final proposal among its provisions. Upon agreement by the municipality and the Department to the provisions of the contract, it will be submitted for approval to the Attorney General of the State of New York and the Comptroller of the State of New York.

APPENDIX A (Standard Clauses for All State Contracts)

Appendix A, which is posted on the Department's website at www.agmkt.state.ny.us, contains standard clauses that are required in all State contracts. Appendix A will be a part of any contract awarded under the Agricultural and Farmland Protection Program, and successful applicants will be responsible for complying with the terms and conditions contained therein.

APPENDIX D (General Conditions)

Appendix D, which is included in the Contract Template posted on the Department's website at www.agmkt.state.ny.us, contains general conditions for all contracts awarded under this grant program. Appendix D will be a part of any contract awarded under the Agricultural and Farmland Protection Program, and successful applicants will be responsible for complying with the terms and conditions contained therein.

Partial Payments

Advance Payment. Upon approval of a contract associated with an award for projects involving conservation easements, the municipality may request an advance payment on each project funded under that contract. Such request may equal up to twenty-five percent (25%) of

the total amount of the following transactional costs, as set forth in a project budget for each such project:

- title search (*i.e.* title report);
- legal survey;
- appraisal;
- environmental assessment of the subject property(ies), if deemed necessary;
- outside easement expertise; and/or
- outside legal expertise.

Partial Disbursement. In lieu of receiving an advance payment as set forth above, the municipality may request a partial disbursement of any or all of the transactional costs identified above that have been incurred by any project partner, other than the participating landowner(s), during the course of completion of the project(s) funded under such a contract.

Any partial disbursement request must be accompanied by the following supporting documents:

1. a Standard Voucher requesting payment for up to 75% of the allowable costs incurred;
2. a project budget identifying the transactional costs identified above that have been incurred; and
3. invoice(s) or paid receipt(s) for services that have been received.

No municipality shall receive an advance payment as well as a partial disbursement of costs incurred for the same project. The Department will only allow one partial payment per project.

Documents Required Prior to Final Disbursement of Funds

For projects involving conservation easements, the contract also will specify information acceptable to the Department which must be provided by the municipality in order to obtain final payment, including but not necessarily limited to:

1. a fully executed purchase agreement (even if development rights will be fully donated);
2. a project budget to represent the actual total costs of the farmland protection implementation project as well as the local matching contribution and the state funding requested;
3. a title insurance commitment for a policy to insure the conservation easement interest indicating an amount of coverage at least equal to the State's financial contribution toward the total project costs of the conservation easement transaction for the subject farm – provided that all title curatives required by the Department have been previously approved by the Department prior to disbursement of the State's financial contribution;
4. an appraisal by a New York State Certified General Real Estate Appraiser;
5. a legal survey and corresponding legal description, which have been prepared by a licensed surveyor, of the proposed conservation easement area for the subject farm and which delineates each farmstead area;
6. an approved conservation easement or deed of development rights;
7. a draft baseline documentation report of the proposed conservation easement area for the subject farm, which describes the condition of the property at the time when the conservation easement is conveyed;

8. a monitoring plan;
9. any agreement between the municipality and another to hold or maintain the interest in the real property, if applicable; and
10. a signed waiver, if applicable, pursuant to Section 305(4)* of the Agriculture and Markets Law.

**Section 305(4) of the Agriculture and Markets Law requires any state agency, public benefit corporation or local government which intends to acquire land or any interest therein within a state certified agricultural district in excess of one acre on an actively operated farm or in excess of ten acres within an agricultural district to file a Preliminary and Final Notice of Intent with the Commissioner of Agriculture and Markets and with the County Agricultural and Farmland Protection Board. However, Section 305(4)(d) of the Law allows a project sponsor to file an executed waiver in lieu of a Preliminary and Final Notice of Intent.*

Contingency Fund

In addition to the funds that are initially awarded under this RFP, the Department will set aside five percent (5%) of the state appropriation for a contingency fund to allow up to twenty percent (20%) in additional funding for unanticipated project cost increases. Subject to the 20% cap on additional funding, the applicant must provide a match for the total unanticipated project cost increases that is at least equal to the same percentage of match that was committed in the contract budget. Contingency funds will be made available to successful applicants on a first come, first served basis based on the following criteria: justification of need for supplemental funding; likely adverse consequences to project if supplemental funding is not provided; documentation of additional costs supporting a request for funding; and likelihood that the project will be successfully completed if funding is provided. There will be no additional state monies available for cost increases once the contingency funds are exhausted. *Requests for contingency funds should not be included in the initial proposal; successful applicants may only apply for these funds after a contract is in place.*

Closing Requirements

Final payment of grant funds will be disbursed only after all necessary documentation is provided to and approved by the Department and the Comptroller. **Consequently, the award recipient should make sure that all documentation is submitted to and accepted by the Department prior to scheduling a closing.** Further, award recipients should be aware that the contract stipulates the following regarding "Payment" –

"Payment to the **Contractor** under this Agreement shall not be made unless the Contractor shall have submitted to the **Department** a written payment request together with such information as required by the Agreement. Payment shall not be due until the 60th calendar day after receipt of the payment request, where contract funds have been appropriated and made available to the **Department**."

Under no circumstances, without the Department's prior written approval, shall any applicant request a disbursement for a project whose associated conservation easement has already been conveyed (i.e., the easement document has been fully executed, whether or not it has been recorded).

Any award recipient whose proposal includes (as part of its local match contribution) the full donation of the value of development rights on one or more properties comprising the farm operation must close on each such donated conservation

easement transaction *BEFORE* submitting any request for final disbursement to the Department.

Reporting Requirements

The Department of Agriculture and Markets will monitor contract performance. The Department reserves the right to determine the extent of reporting requirements.

A final report (i.e., a **post-closing project file**) will be required within ninety (90) days following completion of the project.

The award recipient shall provide to the Department a copy of each of the following documents:

1. closing statement for each conservation easement transaction;
2. all closing checks associated with each conservation easement transaction;
3. final title insurance policy issued for each conservation easement;
4. any subordination agreements and any mortgage discharge statements that were required by the Department for each conservation easement;
5. fully executed stewardship agreement and any other agreement between applicant and easement holder if not the same entity (if applicable);
6. recorded conservation easement (or deed of development rights, or equivalent document);
7. final baseline documentation report (including all attachments thereto and as signed by landowner) for each conservation easement;
8. Combined Real Estate Transfer Tax Return (form TP-584) as filed for each conservation easement;
9. easement holder's letter as submitted to the NYS Department of Environmental Conservation so as to file each conservation easement pursuant to Section 49-0305(4) of the Environmental Conservation Law;
10. statement of any problems encountered during the contract period which may have affected the completion of the plan of work; and
11. letter from easement holder to the Department indicating the approximate date(s) of the first monitoring site visit for each conservation easement.

For the duration of the term of each conservation easement receiving State funding under this RFP, the applicant shall provide a copy of the easement holder's annual monitoring report.

The Department and State Comptroller's Office reserve the right to audit the applicant's books and records relating to the performance of the project during and up to six years after the completion of the project.

LIABILITY

The Department shall not be held liable for any costs incurred by any entity for work performed in the preparation of and production of a proposal or for any work performed prior to the formal execution of a contract.

OTHER CONSIDERATIONS

The Department reserves the right to:

- reject any or all proposals received with respect to this RFP;
- waive or modify minor irregularities in proposals received after prior notification and concurrence of the applicant;
- request from an applicant additional information as deemed necessary to more fully evaluate its proposal;
- amend the program's specifications after their release, with appropriate written notice posted on the Department's website;
- select only certain portions of proposals for State funding;
- negotiate the terms of any easement proposed by the applicant so as to ensure that each easement contains key provisions that are consistent with and relevant to the agricultural and farmland protection policies of the State; and
- make all final decisions with respect to the amount of State funding and the timing of payments to be provided to an applicant.

All proposals submitted in response to this RFP will become the property of the New York State Department of Agriculture and Markets.

FREEDOM OF INFORMATION

All proposals submitted and all related contracts and reports may be subject to disclosure under the Freedom of Information Law.

2008-2009 Farmland Protection Implementation Projects

TECHNICAL RATING FORM

Reviewer's Name: _____

Applicant: _____

Property/Landowner Name: _____

Funds Requested: _____ Total Match: _____

1. Proposal involves conservation easements. _____
(80 points- yes/50 points- no)
 2. The degree to which the proposed activity addresses the three funding priorities contained in Section 325(2)(c) of the enabling statute for the Agricultural and Farmland Protection Program:
 - a. likelihood that the project will preserve "viable agricultural land" (*i.e.*, factors principally about the subject property(ies) – *e.g.*, quality of soil resources, % of total farm available for agricultural production, number of acres to be protected, level of demonstrated farm management) _____
(65 points max.)
 - b. projects located in areas facing significant development pressure _____
(25 points max.)
 - c. projects serving as a buffer for a significant natural public resource containing important ecosystem or habitat characteristics _____
(25 points max.)
 3. The long-term potential for the agricultural land described in the proposal to remain in viable agricultural production (*i.e.*, factors beyond the scope of the subject property(ies) – *e.g.*, extent to which property is bordered by or proximate to other protected farms or farms that will likely be protected in the future, proximity to markets and processors, proximity to vendors providing supplies and services to the subject farm). _____
(55 points max.)
 4. Cost of the proposal in relation to acreage protected. _____
(20 points max.)
 5. The degree to which the proposal demonstrates the local partners' (both public and private) commitment to farmland protection (*e.g.*, these and other activities would be relevant: implementation of actions contained in local farmland protection plans; total local public and private expenditures on Purchase of Development Rights projects; number and acreage of permanent conservation easements on local viable agricultural land; all agricultural districts have been reviewed on or before their respective anniversary date, etc.). _____
(30 points max.)
- TOTAL POINTS:** _____
(300 points max.)

Reviewer Signature

Date

New York State Department of Agriculture and Markets**GUIDANCE DOCUMENT SERIES
FARMLAND PROTECTION IMPLEMENTATION GRANT PROGRAM****Developing a Land Plan for an Agricultural Conservation Easement GD # 3**

Overview

A land plan (or site plan) is a map and physical description of the Property being protected by a conservation easement. Specific “use areas” are defined in the land plan and integrated with provisions of the conservation easement. The map should be drawn on an aerial photograph of the property showing boundary lines and may be surveyed as part of the project.¹ Beginning with awards made in 2007, the land plan is one of the required documents to close a farmland protection project.

Background

The land plan is a tool to help facilitate clear communication between the landowner and project partners about the project. These conversations should occur early in the life of a project, if not at the time of application. The New York State Department of Agriculture & Markets (NYSDAM) will do a preliminary review of land plans and the associated conservation easements at the beginning of a farmland protection project to ensure that the proposed project meets NYSDAM standards. The following objectives should guide project managers during the land planning process. The land plan and conservation easement should:

- Provide opportunities for active, economically viable Farm Operations on protected farmland now and in the future.
- Establish adequate flexibility for farmers operating on protected farms to grow, adapt and change to new market conditions.
- Create opportunities for farmers to own protected farms with the ability to develop housing for farm families and farm labor, agricultural buildings and structures that support rural businesses compatible with agriculture.
- Reduce the likelihood of conflicts between farmers operating on protected farms and their non-farm neighbors.
- Facilitate the protection of natural resources in a manner compatible with commercial Farm Operations, consistent with the provisions of the Agricultural Districts Law and reasonably within the stewardship capacity of the conservation easement holder.

Ultimately, the right to farm protections of Article 25-AA of the Agricultural Districts Law (including Sections 303, 305 and 308) will guide NYSDAM in its review of various aspects of farmland protection projects including land planning and conservation easement drafting (See Guidance Document #1, “Farmland Protection and Agricultural Districts”). Consequently, NYSDAM will review all proposed language to determine that proposed projects are not *unreasonably restrictive* of Farm Operations in contravention of the Agricultural Districts Law.

¹ For Farmland Protection Implementation Program Grants made on or after May 2006, a legal boundary survey is required for project closure. See Guidance Document on Surveys for more details on surveys.

This guidance document identifies possible “use areas” that can be included on a land plan and provides insight into how NYSDAM will determine if the land plan is consistent with the purpose of the conservation easement and the Agricultural Districts Law. It also identifies, when appropriate, the related clauses in the NYSDAM Model Agricultural Conservation Easement (hereinafter “Model Easement”) that land planning introduces, demonstrating the close connection between the land plan and the conservation easement language. NYSDAM will review proposed land plans and associated draft conservation easements for all projects funded by the Farmland Protection Implementation Grants program and will provide its preliminary approval of those documents for each project on a case-by-case basis.

Use Areas

1. “The Property” – Total Area Under Conservation Easement

The entire property to be included under conservation easement is often referred to in conservation easement language as the “Property”. During the land planning stage in a project, it is important to discuss how the conservation easement will be structured. The Property can be protected with one conservation easement or in some cases multiple conservation easements. Multiple conservation easements are preferred for projects with multiple parcels that are owned by different parties – one conservation easement per ownership. Multiple conservation easements are also possible for projects consisting of large acreage or when one Property consists of multiple tax parcels owned by the same landowner especially when tax parcels are not contiguous or may become stand-alone Farm Operations. In this case, the Property may be divided into multiple conservation easements depending upon the predicted future use of the Property. The appropriate size of each resulting parcel under conservation easement will vary based on location, soil type, commodity grown and potential economic viability of the divided agricultural property.

2. The “Farm Area”

The working farmland (and forest land) is often referred to as the “Farm Area”. The Farm Area will comprise the largest percentage of the land area under conservation easement. This area includes most of the active crop, pasture and forest land on the Property and should be identified on the land plan with the guidance of the landowner.

Construction of agricultural buildings will be allowed in the Farm Area. The Model Easement allows up to 5% of this area to be used for agricultural buildings and other impervious agricultural improvements without permission of the conservation easement holder. Permission is required by the conservation easement holder for up to an additional 5% of the Farm Area to be used for further impervious surface coverage for agricultural purposes.

**See Clause: #4 “Definitions”
#8 “Construction of Buildings and Other Improvements”**

3. The “Farmstead Area”

The “Farmstead Area” is the term used in the conservation easement to describe one or more designated areas where a majority of the buildings or structures are or will be built on the farm including, but not limited to, the operator’s residence(s), retail markets, Farm Labor Housing and

farm buildings. This area is typically where the majority of existing and/or future buildings, expansions and improvements to the Farm Operation are planned.

The Farmstead Area is often defined as a “use” area in the conservation easement. Within this area, the landowner has the right to construct new agricultural buildings and related improvements without limit and without needing permission from the holder of the conservation easement. In addition, certain activities, such as on-farm processing facilities and other rural enterprises are only allowed in the Farmstead Area under the conservation easement. These rights give farmers assurance that their farm businesses will be able to grow and adapt to changing market and production conditions in the future.

Questions sometimes arise when identifying Farmstead Area(s), whether to include or exclude existing farm buildings and when delineation of new Farmstead Areas is appropriate. In all cases, delineations of a Farmstead Area(s) should be as simple as possible to ease stewardship and compliance with the conservation easement. NYSDAM suggests considering the following elements when identifying and delineating Farmstead Area(s) in the land plan.

- a) **Size of the Farmstead Area** – In some cases, the existing farm buildings provide the outline of Farmstead Area in the conservation easement. In others, there is a clear need for an expansion of the area covered by the existing farm buildings to meet the anticipated agricultural needs of the current and future Farm Operation. There are several factors to consider in determining the appropriate size of the Farmstead Area.
 - i. Business or Expansion Plan – Link the size of the Farmstead Area to a farm business or expansion plan. Does the farm intend to expand their operation, requiring new facilities in the next 5, 10, 20 years? Does the business plan identify new construction improvements like manure storage or a shift in the nature of the farm enterprise that would necessitate new structures? It would be most appropriate to locate these improvements in the Farmstead Area and therefore, it is advisable to ensure that the Farmstead Area is large enough to accommodate them.
 - ii. Topography – Natural features sometimes dictate the size of the Farmstead Area. For example, if the existing structures are bordered by a steep slope it may make sense to include this area in a Farmstead Area. While the hill slope itself may limit construction of new farm buildings, it may provide opportunities for rural enterprises, alternative energy and communications structures or approved recreational uses.
 - iii. Manmade Features and other Site Conditions – Manmade features may also help delineate the Farmstead Area. Roads or tax parcel boundaries may provide easy guide points for mapping the Farmstead Area in the land plan. Other site conditions may also play a role including proximity to residential or industrial areas, or soil type boundaries.
 - iv. Other Considerations – Other considerations about the project will help determine the appropriate size of the Farmstead Area. They include: whether there is more than one Farmstead Area identified for the Property, whether there are any exclusions from the project and the likelihood that the land could be used as support land for an existing operation in the future.

b) New/Multiple Farmstead Area(s) -

- i. Designation of Farmstead Area(s) – Many projects will delineate the Farmstead Area as the area covered by existing farm buildings on the land plan. However, delineation of new a Farmstead Area(s) may be appropriate in specific cases, in locations where no farm buildings currently exist or where relocation of the current Farmstead Area is warranted by environmental or economic conditions. In some cases, this determination will be based upon a farm business or expansion plan. NYSDAM will consider the following to determine whether designation of a new Farmstead Area(s) is allowed:
 1. Does the Property under conservation easement consist of multiple parcels of land or large acreage that could sustain multiple smaller Farm Operations in the future, each of which would require a Farmstead Area?
 2. Do the environmental conditions of the farm warrant a new Farmstead Area? For example, is there a great distance between current farm structures and the bulk of the Farm Area? Do new pressures exist on the current Farmstead Area that may impact the viability of the farm at its existing location (e.g., new non-farm neighbors)?
 3. What is the likelihood of the new Farmstead Area becoming an estate home?
- ii. Siting – New Farmstead Area(s) should be located in close proximity to the bulk of the Farm Area with easy access to existing roads. When possible, the Farmstead Area should be sited to minimize the impact of future building construction on productive farm soils. Additionally, the Farmstead Area(s) should be sited to minimize non-farm neighbor conflicts, now and in the future (i.e., away from current residences or potential buildable lots). As described above, they should be appropriately sized to serve the intended purpose. Current land use regulations may also affect where a Farmstead Area may be located.

c) To Include or Exclude Existing Farm Buildings from the Conservation Easement –

Including or excluding the existing farm buildings from the conservation easement is an important consideration. The decision must balance whether doing so will enhance or undermine farm viability both in the short and long term. NYSDAM will not require inclusion of the existing farm buildings, but will consider several elements when determining whether the inclusion or exclusion is appropriate for a specific land plan.

- i. Condition/Utility of the Facilities – If the buildings are in good condition, have an adaptable use and are structurally sound, they will likely serve a purpose to the current and any future landowners (favors inclusion). However, if the structures are in poor condition, are of limited functionality or are very old, they may be a liability to a landowner as they will need to be rehabilitated or reconstructed in order to be used (favors exclusion).
- ii. Likelihood of Land Being Used Solely for Crop Production – In some cases, farm properties are more likely to be used as support land for crop production by a farmer who already has a Farmstead Area on another property. In such a case, the farmer using the Property will likely have farm buildings on his or her own farm and may not have any use for the existing farm buildings on the protected

Property (favors exclusion). The Property's soil quality, proximity to other Farm Operations and the size of the Property are factors that will be considered in this assessment.

- iii. Impacts on Farmland Affordability – Exclusion of the existing house and farm buildings could help keep the land more affordable for purchase by another farmer in the future.
 - iv. Proximity to the Farm Area – If the existing farm buildings are separated from the bulk of the Farm Area or if it is geographically isolated from the rest of the Farm Area, it may make sense to consider exclusion. In this instance, a future Farmstead Area could be identified on the land plan closer to the bulk of the operation, where no buildings currently exist.
 - v. Impact on Farm Viability – Exclusion of existing farm buildings can have at different times, a positive and negative effect on farm viability. It can have a positive effect on farm viability for all the reasons listed above that favor exclusion. When determining whether exclusion of farm buildings will negatively impact farm viability, NYSDAM will consider the following factors:
 - 1. Whether exclusion will adversely affect the farm operator's ability to manage the Farm Operation
 - 2. Whether exclusion would significantly restrict agricultural production options which could affect the economic viability of the farm
 - 3. Whether exclusion would negatively inhibit construction of new farm buildings on the protected Property
 - 4. Whether exclusion is allowable by current subdivision and zoning standards in the community
 - 5. Whether exclusion will introduce a new non-farm neighbor in close proximity to the Farmstead Area (if the area under the existing farm buildings is sold)
 - 6. Whether exclusion will remove prime agricultural soils from the protected property
- d) **To Include or Exclude Existing Farm Buildings from the Farmstead Area** – Similarly, including or excluding existing farm buildings in a Farmstead Area use area is an important consideration. NYSDAM will not require inclusion of existing farm buildings in a Farmstead Area, but the landowner should bear in mind that farm buildings outside the Farmstead Area will count towards the maximum impervious surface limitation imposed by the conservation easement. In addition, these buildings will have less flexibility for adaptive reuse in the future if excluded from a Farmstead Area.
- e) **Special Case: No Farmstead Area** – Under some conditions, it may be appropriate not to delineate any Farmstead Area on a Property. These are most likely special circumstances where a small parcel has high quality soils and will most likely be used by a neighboring farm as support land solely for crop production. This special case will be evaluated by NYSDAM on a case-by-case basis.

See Clause: #8(c) "Agricultural Structures and Improvements"
#8(e) "Rural Enterprises"

#8(f) “Recreational Structures and Improvements”**#8(h) “Alternative Energy and Communications Structures and Improvements”****4. Residential and Other Building Areas**

Residential areas can include existing homes or reserved building rights for farm owner/operator housing, farm family housing and Farm Labor Housing. In each case, residential areas should be delineated in the land plan. NYSDAM has specific standards or suggestions for each case.

- a) **Farm Labor Housing** – Inside the Farmstead Area, residential buildings may be constructed for owner/operators, family members and farm employees. Outside the Farmstead Area, residences may only be constructed for seasonal or full-time employees on the Farm Operation that are not partners or owners of the Farm Operation, defined as “Farm Labor Housing” in the Model Easement. Housing for farm owners is not allowed outside the Farmstead Area.

Generally, NYSDAM requires that landowners be allowed to construct and maintain Farm Labor Housing in the Farm Area without permission, provided that the housing and other impervious surfaces do not cover more than 5% of the Farm Area. Farm Labor Housing cannot be subdivided as a residential lot. Existing Farm Labor Housing should be identified on the land plan. Future Farm Labor Housing sites can be identified on the land plan, if known at the time of drafting. Farm Labor Housing should meet New York State Department of Labor standards for housing and local laws regarding workforce housing (See Guidance Document #1 “Farmland Protection and Agricultural Districts”).

See Clause: #4 “Definitions”
#8(d) “Residential Dwellings”

- b) **Existing Homes** – On the land plan, all existing homes on the Property should be identified and determined whether they will be included within or excluded from the conservation easement. Similar to the discussion about farm buildings, the decision to include or exclude existing homes must balance the positive or negative effect on farm viability. If excluded, existing home sites do not have to be subdivided from the farm property. However, NYSDAM strongly recommends subdividing excluded home sites before closing on the conservation easement as land use regulations change over time and may limit the ability to subdivide later. At the least, excluded home sites should be surveyed. If included, existing homes must be included in a Farmstead Area. NYSDAM will consider several elements when determining whether the inclusion or exclusion of an existing home site from the conservation easement is appropriate for the specific project.
 - i. Proximity to Existing Farm Buildings – If an existing home is adjacent to actively used farm buildings, retail markets or Farm Labor Housing, it likely should be included in the conservation easement. Activities in this area, such as animal housing, equipment operation and truck deliveries, have the potential to cause conflicts with new non-farm neighbors that may purchase the house if it was excluded. On the opposite spectrum, the exclusion of houses may make sense if

- they are located a considerable distance from the Farmstead Area and would likely have a limited impact on the viability of the Farm Operation.
- ii. Condition/Utility of Existing Home – Just like in the discussion regarding inclusion or exclusion of farm buildings, some residences may serve limited use to future landowners due to their condition. If an existing home is in poor condition and has limited adaptability to other uses (i.e., rural enterprises), it may be a liability to the landowner, rather than an asset and exclusion may be justified.
 - iii. Topography/Site Conditions – When the home is buffered from agricultural operations by topography or natural features such as forested areas or steep slopes, and does not contribute toward sustaining the Farm Operation (e.g., housing for farm labor or the site for a rural enterprise), exclusion of an existing home may be appropriate.
 - iv. Impact on Farmland Affordability – Exclusion of a home often lowers the value of the protected Property, thereby helping ensure the affordability of the land for future farmers. Ideally, the exclusion of an existing house should be done in concert with other steps to insure the continued affordability of the property for farmers.
 - v. Impact on Farm Viability – When determining whether exclusion of a home site will impact farm viability NYSDAM will consider the same factors as listed above under the Farmstead Area section.
 - vi. Lot Size Requirements – The size of the excluded house lot should be adequate to meet the standards of current local land use regulations and health requirements for septic and water infrastructure, but limited in a way that minimizes the impact on productive soils.
- c) **Future Building Rights** – There are two distinct types of future building rights that can be identified in the land planning process (if appropriate); “lots” to be subdivided from the farm and excluded from the conservation easement and agricultural parcels with a reserved Farmstead Area.
- i. Subdividable Lot – If the landowner wishes to subdivide any portion of the property for any non-agricultural use (i.e., build a home for their children or to sell for non-farm development), this land must be identified on the land plan. These lots must be excluded from the conservation easement, should be surveyed and will likely be subdivided from the Property. NYSDAM will look at the following considerations to determine whether the exclusion of the lot will be acceptable.
 1. Proximity to Existing Farm Buildings – The lot should be located on the Property so as to provide the fewest opportunities for farm-neighbor conflicts that would negatively impact farm viability. The lot should be geographically distant from any Farmstead Area(s) on the Property, main access roads to fields on the Farm Area or other areas of the Property actively used in agricultural production, processing or retail.
 2. Topography/Site Conditions – Alternatively, the lot could be separated from agricultural activities, not by distance, but by topography or specific site conditions. These features could include forested areas, water bodies, roads, steep slopes or other land uses.

3. Impact on Farmland Affordability – Exclusion of a lot often lowers the value of the protected Property, thereby helping ensure the affordability of the land for future farmers.
 4. Impact on Farm Viability – When determining whether exclusion of a lot will impact farm viability NYSDAM will consider the same factors as listed above under the Farmstead Area section (3.c.v).
 5. Lot Size Requirements – The size of the excluded lot should be adequate to meet the standards of current local land use regulations and health requirements for septic and water infrastructure, but limited in a way that minimizes the impact on productive soils.
- ii. Separate Farm Units – In this case, the conservation easement will allow for subdivision to create viable farm units that may be farmed independently at some time in the future. These stand alone agricultural parcels, or farm units, formerly a part of a larger operation, may require a home site for the new owner/operator and farm buildings associated with a Farmstead Area. In this case, the land plan may depict “reserved” Farmstead Area(s) that may be executed in the future if the Property is subdivided in accordance with the conservation easement. In most cases, the specific location of a reserved Farmstead Area will be identified on the land plan. However, there may be situations when additional flexibility is needed for the designation of reserved Farmstead Area(s), for example, when future residential development around the Property could dictate where the Farmstead Area would be best located. In these special cases, the land plan may identify multiple possible locations for one future Farmstead Area, or a larger area in which a specified acreage could be used for a Farmstead Area.

Similar to the discussion in section 3(b) “New/Multiple Farmstead Area(s)”, NYSDAM will review reserved Farmstead Area(s) on a case-by-case basis to determine their potential impact on farm viability. In this analysis, NYSDAM will consider the same factors listed in Section 3(b).

**See Clause: #8 “Construction of Buildings and Other Improvements”
#11 “Subdivision”**

5. Resource Protection Areas

Agricultural conservation easements may include specific Resource Protection Areas, in an attempt to integrate other resource conservation purposes with the primary purpose of keeping land available for agricultural and forestry use. Any resource protection areas, such as those that protect wetlands, waterways or other natural or scenic features, must be identified and delineated on the land plan. NYSDAM will consider the following when determining if a resource protection area is appropriate for the land plan of a specific Property.

- a) Compatibility of Resource Protection with Agricultural Purpose – Can the resource in question be adequately protected without unreasonably restricting farm operations? For

example, NYSDAM would not allow a blanket prohibition on the construction of new buildings in the entire farm area to protect a view from a roadway.

- b) Permitted Uses in the Resource Protection Area - Any restrictions on agricultural practices or building construction within these areas must be consistent with the primary agricultural purpose of the conservation easement. The rationale for restrictions on agricultural practices within these areas should be clearly articulated and related to the stated resource protection objective in the Whereas Clauses of the conservation easement.
- c) Size and Extent of Resource Protection Area – Is the resource protection area geographically located such that restrictions on farm operations will be minimized – for instance on the edge of a forested area or along a waterway? Alternatively, does the resource protection area cover a large portion of the farm area or a critical piece of the farm area necessary for successful farm viability? Boundaries of Resource Protection Areas should be clearly identified on the land plan and should be defined in such a way as to be easily monitored by the easement holder and complied with by the landowner.
- d) Excluding the Resource Protection Area – When the Resource Protection Area is incompatible with the farm use or covers a large area of the farm or when the restrictions imposed in it inhibit farm viability, it may be most appropriate to simply exclude the Resource Protection Area from the conservation easement or seek alternative programs or approaches to protect that portion of the Property. In this case, the Resource Protection Area should be surveyed as a part of the project to facilitate stewardship of the conservation easement.

In some situations, project partners may wish to identify future specific targeted areas in the Farm Area where construction of agricultural buildings can or should occur in order to protect the resources defined in a Resource Protection Area. NYSDAM will allow project partners to define “Can’t Build” areas in a land plan, so long as the restrictions do not unreasonably restrict Farm Operations in contravention to Agriculture and Markets Law. A “Can’t Build” area dictates that construction of agricultural buildings is allowed anywhere in the Farm Area except for the region identified in the land plan. These areas should be defined in concert with the goals of the landowner.

See Clause: #8 “Construction of Buildings and Other Improvements”

Conclusion

The land plan is an essential tool for landowners and project partners to better understand the scope and specifics of the conservation easement. It should be completed early in the project, if not at the time of application, and should also be reviewed during the project lifetime to ensure that all partners are still in agreement on the project. Clear communication on the land plan can result in a more efficient project closing.

Land Planning Checklist

- ☐ A legal survey of the boundary of the Property is required for grants made on or after May 2006.
- ☐ The land plan is accurate and comprehensive with the total acreage to be included under the conservation easement clearly identified (this acreage must correspond to acreage listed in the appraisal, baseline documentation report and budget).

- The land plan is drawn on a tax parcel map, aerial photograph or survey of the Property.
 - The land plan delineates the Farmstead Area or any other “use” areas described in the conservation easement, including any areas to be excluded from the conservation easement. These areas may be surveyed.
 - The land plan is signed by the landowners, the project manager and the municipal grantee (if not the project manager).
-

For more information contact: Dave Behm, Farmland Protection Program Manager
518-457-2713 david.behm@agmkt.state.ny.us

Seneca County Pre-Application for New York State's

Farmland Protection Implementation

Grants Program

2009

Issued 1/7/2009

PURPOSE

In response to growing interest among local farmers in the State's Farmland Protection Implementation Grants (FPIG) Program, the **Seneca County Agriculture Enhancement Board** has adopted a pre-application review process in order to identify which proposed PDR projects are most likely to be competitive for State grant funds.

PROCESS

The Seneca County Ag Enhancement Board will review and rank pre-applications, and will select those proposals that may advance to the next stage. Applicants of pre-applications chosen by the Board will have authorization to proceed with development of a full application, to be submitted by the Board to the State. Seneca County Ag Enhancement Board review criteria reflect the State's FPIG Program priorities.

PRE-APPLICATION DEADLINE Pre-applications **must be received** by the Seneca County Agriculture Enhancement Board on or before **Friday, May 15, 2009**. Mail or hand-deliver (1) original to:

Seneca County Cornell Cooperative Extension

308 Main St. Shop Centre
Waterloo, NY 13165
Att. Shawn Bossard

REVIEW & SELECTION

Seneca County Ag Enhancement Board members will undergo a preliminary review and ranking of FPIG applications based on quantifiable information. The top ranking applications will be presented to the full Board for final review, ranking and selection. The Ag Enhancement Board will meet to review and rank FPIG pre-applications. A meeting date has not yet been established, but will be announced publicly through the press. The Board will select proposals to advance to the next stage at this meeting. The Ag Enhancement Board will consider all criteria in its evaluation including farm viability, development pressure and environmental benefit indicators.

STATE DEADLINE

At this time, New York State has not issued a Request for Proposals (RFP) for the Farmland Protection Program. Although there is no guarantee that funding will be made available this year, we are initiating the pre-application review process now so that approved applicants may have maximum amount of time to prepare full proposals once the RFP is issued.

Please contact Shawn Bossard, Executive Director, Seneca County Cornell Cooperative Extension, (315-539-9251) with any questions or concerns about the Pre-Application. Please contact Judy Wright, American Farmland Trust consultant (315-255-2508) with any questions or concerns about the State or Federal Farmland Protection Program.

SENECA COUNTY FARMLAND PROTECTION PROGRAM PRE-APPLICATION

1) Owner Name(s)_____

2) Name of Farm_____

3) Mailing Address_____

4) Phone_____ 5) Email_____

6) Nature of farm operation _____

7a) No. of Acres Owned _____

7b) No. of Acres Tillable _____

7c) No. of Acres Protected for Crop and/or Livestock Production _____

7d) Estimated value of development rights (cost per acre) _____

7e) Do you anticipate excluding any future building lots? If so, how many and total number of acres?

_____.

8) Please list tax map ID numbers for all parcels included in your FPIG proposal, as well as all individuals/ entities with ownership interest in those parcels. **ALL OWNERS MUST SIGN THIS PRE-APPLICATION FOR CONSIDERATION BY THE AFPB.**

TAX MAP ID NUMBERS	OWNERS
Attach additional pages if necessary.	

9) Is your farm located within an agricultural district? _____ Yes _____ No
9a) If yes, please list the district number _____.

10) Describe the nature of land use adjacent to your farm, including a description of the level of farm and non-farm activity occurring within a 1-mile radius of your farm.

11) List the public roads your farm fronts, and the number of feet of frontage for each:

12)What is the proximity of your farm to public water? _____

13)What is the proximity of your farm to public sewer? _____

14) Does your farm provide access to, or is it part of, a scenic vista? If yes, please describe:

15) Is your farm located within a public water source area (includes watersheds, reservoirs, aquifers and other water recharge areas)? If yes, please describe:

16) Does your farm front a stream, river, lake, or other surface water body? If yes, please describe, and provide the number of feet of frontage for each water body:

17) Is your farm located within a floodplain or does it contain wetlands? If yes, please describe. Please provide the number of acres of wetland if applicable.

18) Please describe your level of farm management. Do you have a nutrient management plan? Have you participated in Seneca County Soil & Water Conservation District programs? What other activities have you undertaken that demonstrate best practices in farm management?

19) Have you completed Tier 1 and Tier 2 of the State's Agricultural Environmental Management Program (required)? _____ Yes _____ No If yes please list the dates of completion for Tiers 1 and 2 _____.

If no, you are not eligible to apply to the County's Farmland Protection Program. The Seneca County Soil and Water Conservation District provides Tier 1 and Tier 2 AEM services at no cost to the landowner. Please contact the District at 568-4366 to go through this process prior to submission of the pre-application or supplement. In extenuating circumstances, exceptions *may* be made. Please contact Shawn Bossard at Seneca County Cornell Cooperative Extension, 539-9251, to discuss further. The County will not submit any farms to the State that have not completed Tiers 1-3 of the AEM Program.

20) Please describe major investments you have made in your farm to date, such as barns, irrigation, fruit trees, drainage tile, manure storage, etc. Include dates of investment.

21) Does your farm buffer a significant public resource such as parkland or protected farmland? If yes, please describe.

22) Please explain briefly why you would like to include your farm in the State's PDR Program.

23) Please describe the development pressure around your farm. Quantify if possible with number of subdivisions, building permits, new home construction in your area over the past several years.

24) Have you initiated conversation with a land trust (e.g. NY Agricultural Land Trust, Finger Lakes Land Trust) to discuss holding the conservation easement on your property? _____yes _____no

24a) Name of person you've been working with_____

24b) Name of land trust organization_____

25) Please describe your plans for farm succession_____

26) Local Match: NYS Farmland Protection Program will fund up to 75% of the value of development rights on farmland. Typically, farmers will commit to a "bargain sale" of their development rights, meaning that they will accept 75% of the value from the state, and assume the remaining 25% as an in-kind contribution. Please indicate your willingness to assume 25% of the value of development rights on your farm by initialing one of the lines below.

I will provide the required 25% local match through bargain sale of my development rights _____.

I will not provide the required 25% local match through bargain sale of my development rights _____.

Certification: I (we) certify that all information presented in this pre-application is, to the best of my (our) knowledge, accurate and true.

Signature/Date_____

Signature/Date_____

Signature/Date_____

Pre-applications must be received by Friday April 10, 2009.

APPENDIX F

Town of Junius Site Plan Review Ordinance

**TOWN OF JUNIUS
SITE DEVELOPMENT PLAN REVIEW ORDINANCE**

Printed January 2005

**ARTICLE I
Introductory Provisions**

Section 1. Enactment. The Town Board of the Town of Junius, Seneca County, New York, does hereby ordain and enact the Town of Junius Site Development Plan Review Ordinance pursuant to the authority and provisions of Section 10 of the Municipal Home Rule Law.

Section 2. Short Title. This ordinance shall be known as the "Town of Junius Site Development Plan Review Ordinance". The Town of Junius is hereinafter referred to as the "Town".

Section 3. Intent and Purpose. Through site development plan review it is the intent of this ordinance to maintain the rural setting of the Town, enable public hearings for new land development activities not excluded herein and insure compliance with NY State regulations for environmental and storm water control.

It is further the intent of this ordinance to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town by controlling land development activity within the Town through review and approval of site plans. General objectives of site plan review include, but are not limited to, the following:

- Minimize the impact to the Town from development within the Rt. 318 corridor, defined by Seneca County as all land parcels adjacent to or within one thousand (1000) feet of Rt. 318.
- Consider regional needs and official plans of other government units within the region.
- Protect the quality of life of existing residential property.
- Protect agricultural use as an economic activity.
- Protect and expand the revenue base of the Town.
- Protect historical sites, unique natural resources and sensitive environmental areas.
- Consider present and future recreational areas and parkland.
- Alleviate vehicular traffic congestion.
- Enable Town control of development.
- Enable Town control of environmental issues including air, sound and lighting pollution in order to provide a harmonious blend between the Rt. 318 corridor and remainder of the Town.
- Retain Town control of all utilities and public services.

It is not the intent of this ordinance to prohibit, per se, any land use activity but to allow all land use activities which meet the standards set forth in this ordinance, and which can not be shown to be a threat to public health and safety.

Section 4. Authorization of Planning Board to review site plans. The Town Planning Board is hereby authorized to review and approve or disapprove site plans for land development within the Town as hereinafter designated pursuant to and in accordance with the standards and procedures set forth in this ordinance.

ARTICLE II

Applicability and Definitions

Section 5. Applicability of review requirements. All new land development activities within the Town shall require site plan review and approval before being undertaken, except the following.

- Construction of one family dwelling and accessory structures, and related land use activities.
- Construction of agricultural operation buildings and accessory structures within the agricultural district on agricultural property of seven acres or more in a single operation.
- Ordinary repair or maintenance or interior alterations that do not change the use of existing structures.
- Exterior alterations or additions to existing one family dwellings or agricultural operation buildings which will not change the use of the building.
- Landscaping or grading an area less than one acre in size which is not intended for use in connection with land development subject to review under the provision of this ordinance.
- Non-structural agricultural or garden uses not involving storm water regulation by New York State Department of Environmental Conservation.
- Non-lighted, non-motorized signs not exceeding 10 square feet per face, or 35 square feet total all faces.

New land development activities within the Town that will require a Seneca County building permit will require a Town of Junius site plan approval or certificate of exemption prior to obtaining the building permit.

Application forms and certificates of exemption are available from the Town Clerk during scheduled business hours.

Any person uncertain of the applicability of this ordinance may apply in writing to the Town of Junius Planning Board for a written jurisdictional determination.

Section 6. Effect on existing uses. This ordinance does not apply to existing uses and structures that are lawfully in existence as of the date that this ordinance becomes effective. Any use that would otherwise be subject to this ordinance that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this ordinance before such use is resumed. Any use or structure shall be considered to be in existence provided the same has been substantially commenced as of the effective date of this ordinance and fully constructed and completed within one year from the effective date of this ordinance.

Section 7. Relationship of this ordinance to other laws and regulations. This ordinance in no way affects the provisions or requirements of any other federal, state, or ordinance or regulations. Where this ordinance is in conflict with any other such law or regulation, the more restrictive shall apply.

Section 8. Definitions.

“Family” means a person or persons living together as a single housekeeping unit.

“Agricultural operation” means the land and on-farm buildings, equipment and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise.

“Land Development Activity” means any constructions or other activity that changes the use or appearance of land or a structure, or the intensity of use of land or a structure. Land development activity shall explicitly include, but not be limited to, the following: new structures, expansion of existing structures, new uses, changes in or expansion of existing uses, new driveways connected to public roads except when such driveway is accessory to a one family dwelling or agricultural building listed in Section 5, and excavations for the purpose of extracting soil, minerals, or organic deposits.

“Structure” means any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks, silos, lagoons, towers, and any fixtures, additions and alterations thereto.

“Accessory structure” means any structure designed to accommodate accessory use but detached from the principal structure, such as, a free standing garage for vehicles accessory to the principal use, a storage shed, garden house or similar facility.

Any term used in this ordinance which is not defined hereinafter shall carry its customary meaning unless the context otherwise dictates.

**Article III
Site Plan Review**

Section 9. Procedures. Prior to undertaking any new land development activity except for land use and structures specifically excepted in Section 5 of this ordinance, a site plan approval by the planning board is required. Applicants for site plan approval should follow the recommended procedures related to the sketch plan conference as hereinafter set forth. Applicants must comply with all other procedures and requirements of this ordinance.

Section 10. Sketch Plan. A sketch plan conference may be held between the planning board and the applicant and/or his/her authorized agent prior to the preparation and submission of a formal site plan. The intent of such conference is to enable the applicant to inform the planning board of his proposal prior to the preparation of a detailed site plan; and for the planning board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan. In order to accomplish these objectives, the applicant shall provide the following:

- A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed trees, shrubbery and other planned features; anticipated changes in the existing topography and natural features and, where applicable, measures and features to comply with storm water control, flood hazard and flood insurance regulations.
- The name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed.
- An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of way, easements and other pertinent features; and location of farm operations defined in preceding paragraph.
- A topographic or contour map of sufficient scale and detail to show existing site topography.

When the size and scope of site development is appropriate, the planning board may, by a majority vote of the members, accept copies of a sketch plan with the application for approval. Said sketch plan shall incorporate any and all modifications and requirements determined at the sketch plan conference.

Section 11. Application requirements. At least two (2) weeks prior to the planning board meeting at which a site plan is to be considered, at least six (6) copies of the site plan at a scale on not less than one (1) inch equals twenty (20) feet for land development of five (5) acres or less and one (1) inch equals forty (40) feet for all other developments, and three (3) copies of the application for site plan approval shall be submitted to the planning board and shall be accompanied by information contained on the following check list. Where a sketch plan conference was held, the accompanying information shall be drawn from the following checklist as determined necessary by the planning board at said conference.

Site Plan Checklist:

- (1) Title of drawing including name and address of applicant and person responsible for preparation of such drawing.
- (2) North arrow, scale and date.
- (3) Boundaries of the property plotted to scale.
- (4) Existing buildings.
- (5) Grading and drainage plan showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics, and watercourses.
- (6) Location, design, type of construction, proposed use and exterior dimensions of all structures.
- (7) Location, design and type of construction of all parking and vehicle loading areas, showing access and egress.
- (8) Provision for pedestrian access.
- (9) Location of outdoor storage, if any.
- (10) Location, design and construction materials of all existing and proposed site improvements including drains, culverts, retaining walls and fences.
- (11) Description of the method of sewage disposal and location, design and construction materials of such facilities.
- (12) Description of the method of storm water control.
- (13) Description of the method of obtaining potable water and location, design and construction materials of such facilities.
- (14) Location of fire and other emergency zone, including the location of fire hydrants.
- (15) Location, design and construction materials of all energy sources, including electrical, gas, solar energy or wind power.
- (16) Location, size, design and type of construction of all proposed signs.
- (17) Location and proposed development of all buffer zones, including existing vegetative cover.
- (18) Location and design of exterior lighting facilities including lighting installed on the exterior of structures.
- (19) Identification of the location and amount of building area proposed for retail sales or other commercial activity.
- (20) General landscaping plan and planting schedule.
- (21) Appropriate State Environmental Quality Review (SEQRA) documentation.
- (22) Estimated project construction schedule.
- (23) Identification of all permits required by other government bodies and application dates and status of all such permits. Where required by NYS DEC regulations, six (6) copies of appropriate State Pollutant Discharge Elimination System (SPDES) permit.
- (24) Other elements integral to the proposed development as may be considered necessary by the planning board for the particular project.

Section 12. Required fee. An application for site plan review shall be accompanied by the current fee as determined periodically by the Town Board.

Section 13. Reimbursable costs. Cost incurred by the planning board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant.

Article IV Review Standards

Section 14. General standards and considerations. The planning board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

- Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
- Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
- Location, arrangement, appearance and sufficiency of off-street parking and loading.
- Adequacy and arrangement of pedestrian traffic access and circulation, including walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- Adequacy of storm-water and drainage facilities.
- Adequacy of water supply and sewage disposal facilities.
- Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or sound buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
- Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- Overall impact on the neighborhood for compatibility of design consideration including, but not limited to, distances of structures from public roads and adjacent properties, noise pollution, artificial lighting pollution, noxious fumes or odor pollution, or any features that would create a drastic change in the immediate surroundings.

Article V Public Hearing and Planning Board Decision

Section 15. Public Hearing. The planning board shall conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be conducted within sixty-two (62) days of the receipt of application for site plan review and shall be advertised in the town's official newspaper at least five (5) days before the public hearing.

Where required by General Municipal Law Section 239, site plans will be submitted to the Seneca County Planning Board for comment regarding county wide or inter- municipality impact.

Section 16. Planning board decision. The planning board shall act on the site plan no later than the second regular meeting after submission, or if a public meeting is held, within sixty-two (62) days of the public hearing the planning board shall render a decision. In its decision the planning board may approve, approve with modifications, or disapprove, the site plan. The time period during which the planning board must render its decision can be extended by mutual consent of the applicant and the planning board.

- **1. Approval.** Upon approval of the site plan, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the town clerk and the town enforcement officer.
- Two copies of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- **2. Approval with modifications.** The planning board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the planning board that all conditions have been met, and payment by the applicant of all fees and reimbursable costs due the town, the planning board shall endorse its approval on a copy of the site plan and shall immediately file it and a written statement of approval with the town clerk and the town enforcement officer.
- Two copies of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.

- **3. Disapproval.** Upon disapproval of the site plan, the decision of the planning board shall immediately be filed with the town clerk, the town enforcement officer, and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the planning board's reasons for disapproval.
- **4. No action.** Absence of a reply within the time frame herein specified shall constitute approval and local and county enforcement officer may proceed on that basis.

Article VI
Appeal of Planning Board Decision

Section 17. Appeal Procedure. Any person aggrieved by any decision of the planning board or any officer, department, board or bureau of the town, may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within thirty (30) days after filing of a decision in the office of the town clerk.

Article VII
Miscellaneous Provisions

Section 18. Enforcement officer. The town board may appoint an enforcement officer to carry out the duties assigned by this ordinance or by any additional regulations adopted pursuant to Section 19 thereof. If appointed, the enforcement officer shall be responsible for the overall inspection of site improvements including coordination with the planning board and other officials and agencies, as appropriate.

The enforcement officer shall report violations of this ordinance in writing to the chairperson of planning board and to the town supervisor.

Upon completion of all improvements shown on the approved site plan the enforcement officer shall issue a Notice of Site Development Completion to the applicant, the town clerk and the Seneca County code enforcement officer for consideration in the issuing of a certificate of occupancy.

Section 19. Further regulations by the planning board. The planning board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this ordinance.

Section 20. Amendments. All proposed amendments to this ordinance shall be referred to the planning board for a report and recommendation thereon. The planning board shall submit its report to the town board within sixty-two (62) days after receiving such referral. Failure of the planning board to report within the required time shall be deemed to constitute a recommendation for approval of the proposed amendment.

Section 21. Integration of Procedures. Whenever the circumstances of proposed development require compliance with this Site Development Review Ordinance and with any other ordinance, local law or requirement of the town, the planning board shall attempt to integrate, as appropriate, site plan review as required by this ordinance with the procedural and submission requirements for such other compliance.

Section 22. Enforcement. Any person, private or governmental corporation, partnership, association or other legal entity who shall violate any provisions of this ordinance, or any conditions imposed by a permit pursuant hereto shall be guilty of a civil offense. Each violation shall be enforced by a civil penalty not exceeding five hundred dollars (\$500) for the first offense; for a second offense, both of which were committed within a period of five (5) years, a civil penalty of not less than five hundred dollars (\$500) and not more than one thousand dollars (\$1,000); and upon a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a civil penalty of not less than one thousand dollars (\$1,000) nor more than fifteen hundred dollars (\$1,500).

Each week's continued violation shall constitute a separate additional violation, for which separate and additional civil penalties may be imposed and recovered.

In the event the penalty sought is within the monetary jurisdiction of the justice court as established in Article 18 of the Uniform Justice Court Act, such action to recover such penalty may, as determined by the attorney representing the town, be commenced as a small claim pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

Section 23. Severability. The provisions of this ordinance are severable. If any provisions of this ordinance are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of this ordinance shall remain in effect.

Article VIII
Expiration

Section 24. Site plan approval shall expire after one (1) year of the date of the approval if actual construction has not begun by the applicant.

Article IX
Effective Date

Section 25. This ordinance shall take effect 10 business days following publication of a summary thereof in the official newspaper of the Town.

End of Ordinance

(Note: Following a public hearing October 20, 2004, this ordinance was adopted by the Junius Town Board at their regular meeting November 17, 2004. A summary of the ordinance was published in the "Finger Lakes Times" December 8, 2004)

APPENDIX G

Excerpts from Draft

Routes 318/96 Corridor Study

Routes 96 & 318 Rural Corridor Study

Ontario & Seneca Counties, New York

**WORKING
DRAFT**



WORKING DRAFT REPORT

September 2008

Prepared by:



Corridor-Wide Planning Framework

CORRIDOR VISION STATEMENT

The Towns and Villages of the Routes 96 & 318 Rural Corridor Study will incorporate policies of “smart growth,” preserving rural and farmland areas while promoting economic development near existing population and commercial centers. These policies will include a progressive planning approach to a variety of issues, including community character, natural and historic resources, sustainable land use and design, transportation systems, and regional context and cooperation.

CORRIDOR GOAL AREA 1: MAINTAIN COMMUNITY CHARACTER AREAS

The Routes 96 and 318 Rural Corridor Study reflects the quality of life residents and visitors enjoy. The variety of character areas, including open space and farmlands, villages, neighborhoods, and commercial centers should be maintained and enhanced in the future.

CORRIDOR GOAL AREA 2: SAFE AND EFFICIENT TRANSPORTATION AND ACCESS

Routes 96 and 318 are important corridors for commercial, residential, agricultural, industrial and tourism uses. For this reason, it must provide for the safe and efficient movement of through and local traffic as well as access to businesses and services. It must also accommodate public transportation that serves the needs of residents and visitors alike.

CORRIDOR GOAL AREA 3: BICYCLE AND PEDESTRIAN ACCOMMODATIONS

The provision of safe and accessible bicycle and pedestrian networks should be considered throughout the Study Area. Recreational and non-recreational systems should be interconnected, providing linkages between neighborhoods, business districts, and natural areas.

CORRIDOR GOAL AREA 4: ECONOMIC DEVELOPMENT

Future economic development should be encouraged within the Routes 96 and 318 corridor in a manner that minimizes impacts to rural character and the function of the transportation system. Communities in the corridor will also strive to maximize redevelopment opportunities for underutilized or vacant properties, consistent with the corridor’s Future Land Use Plan.

CORRIDOR GOAL AREA 5: REGIONAL COOPERATION

The Routes 96 and 318 Rural Corridor Study should be utilized as a tool for encouraging cooperation and consideration for projects that may influence the function of the corridor. As the corridor is a collection of small towns, the communities should leverage their collective assets and continue the intermunicipal approach to managed growth established by this Study.

CORRIDOR GOAL AREA 6: SUSTAINABLE LAND USE AND DESIGN

Future development in the Routes 96 and 318 corridor should strive for sustainable land use and design practices that maximize the use of existing infrastructure, minimize the practice of over-zoning and reduce impacts to the natural environment. Together, the towns and villages must approach future development in a manner that recognizes the relationship between land use and traffic.

Goal Area 1: Maintain Community Character Areas

The Routes 96 and 318 Rural Corridor Study reflects the quality of life residents and visitors enjoy. The variety of character areas, including open space and farmlands, villages, neighborhoods, and commercial centers should be maintained and enhanced in the future.

EXISTING CHARACTER OF THE CORRIDOR

The community character areas described in this section denote the overall visual, cultural, or social traits or characteristics that distinguish particular segments of the corridor from each another, and are summarized on a broad level. Different character areas within the corridor are presented below in order to give a general sense of the existing variety of settings in the Study Area. Future land use categories, found in later in the Study, outline a vision for development patterns in specific locations.

The Study Area begins in Ontario County, traveling through the Towns of Manchester and Phelps and the Villages of Manchester, Clifton Springs, and Phelps, continuing into the Towns of Junius, Tyre, and Seneca Falls in Seneca County. The corridor's community character can generally be separated into four categories: agricultural; rural residential; village; and highway interchange.

Agricultural

Over 41 percent of the corridor Study Area consists of agricultural lands as determined by the New York State Office of Real Property Service. The agricultural areas are found in large groupings, with tracts west of the Village of Clifton Springs, east of the Village of Phelps, west of Junius Corners in the Town of Junius, and around Nichols Corners in the Town of Tyre. The character of these agricultural areas is typified by tilled crop land, expanses of mown grassy field, fallow and abandoned farm land, and successional old fields. Forested lands have encroached on the periphery in many areas, taking hold as lands cease their agricultural productivity. Throughout the corridor, hedgerows visually break up expansive views. They take form as a rural agricultural heritage element that crosses the corridor perpendicularly, along sinuous stream corridors that cross the roadway, or as intentionally planted windbreaks.

Farm culture is strong in the corridor, as it is throughout the surrounding region. The agricultural presence is a part of the classic town and country model that defined American settlement patterns up until World War II. While farming as a lifestyle faces a myriad of challenges in the 21st Century, many small family farms still exist throughout the corridor. Such homesteads often espouse the values of hard work, simplicity, close-knit families, and strong community ties.

Rural Residential

The agricultural character of the 96 and 318 corridor is closely intermingled and enhanced by rural residential areas. These areas include old farmsteads with multiple buildings on large tracts, single-family homes on small parcels or with woodlots, multi-family conversions, and mobile home parks. While rural residential character areas are found along the entire length of the Study corridor, the largest concentration is along Route 96 between the Villages of Manchester and Clifton Springs and in the Junius Corners hamlet. The rural residential areas within the Ontario County portion consist primarily of single-family homes on subdivided lots and mobile home parks with a denser pattern of development. The Seneca County portion is home to many single-family residences and farmsteads on large tracts of land, with a greater separation between units.

These portions of the corridor share similarities with the surrounding farming culture, valuing peace and quiet, country living, and community pride. Many of these residents commute to nearby towns in the Finger Lakes, while some work as far away as Rochester and Syracuse, taking advantage of easy access to the NYS Thruway.

Villages

The Study Area contains three primary villages, including Manchester, Clifton Springs and Phelps. The Villages of Shortsville, Waterloo, and Seneca Falls are just outside the Study Area to the south. As a group, villages within the corridor consist of an urbanized commercial core with single and multi-family housing radiating outward. The commercial core areas largely contain two- to four-story buildings placed at or near the right-of-way line, with large sidewalk areas that abut on-street parking. The commercial areas within the villages are somewhat intact at the center, while urban renewal and newer suburban-style development has occurred as a transition zone between the historic village centers and the residential areas. The residential components closest to the core are the densest, with large homes on small lots fronting directly on the street. Residential areas extend to the edge of the village boundaries, becoming less dense and spaced further apart as the development spreads into the rural residential character areas of the corridor.

Village living is another important element that defines the character of communities in the corridor. Residents take pride in their villages, working hard to revitalize them as economic struggles threaten their once-proud standing. Walking distance to shops and services, close neighbors, and historic architecture are among the many benefits of living in one of the corridor's villages.

Highway Interchange

The highway interchange areas include those intersections that are connecting points to the NYS Thruway as well as primary state and county roads that intersect the corridor. The character of the highway interchange areas is suburban/automobile-oriented, with larger commercial buildings and deep setbacks from the street. Typically, these areas lack the vernacular architecture found elsewhere throughout the corridor, with simple buildings spaced far apart on large lots. Large expanses of paved parking areas predominate the landscape, with little vegetation utilized as a buffer to soften the visual impact.

Although these areas are somewhat incongruous with the historic and small town character found in the rest of the corridor, they are important areas that help define the 96 and 318 corridor. The region is an important gateway to the Finger Lakes, with close ties to Canandaigua, Geneva, Montezuma National Wildlife Refuge, and historic Waterloo and Seneca Falls. The interchange areas are the first impression for travelers exiting the NYS Thruway. Retail and service establishments in these nodes attract important through traffic onto the corridor.

GENERAL RECOMMENDATIONS AND BEST PRACTICES

How a community or region is perceived by visitors and residents has an impact on a range of issues, including the economy, government, and general quality of life. Desires to preserve, enhance, or maintain community character often stir great passion among community members. As a result, planning and policy efforts that will impact community character are often 'hot-button' topics for both government officials and residents. Within the Routes 96 and 318 corridor, many communities exhibit a rural and agricultural character. A primary goal of this Study is to retain and enhance this character while encouraging sustainable growth practices through land use and transportation policies.

Areas of existing development can be enhanced in multiple ways, through strategies that strive to increase the density of development, improve the relationships of adjacent development areas, or provide enhanced buffers and aesthetic treatments. As well, efforts to improve the identity and sense of place within existing areas will maintain and strengthen community character throughout the corridor.

Rural and Farmland Areas

The preservation of rural and farmland character areas requires the identification of elements and characteristics that make areas special and worthy of preservation. Characteristics within the Routes 96 and 318 corridor include the following:

- expansive viewsheds;
- active and fallow farm fields;
- hedgerows;
- stream corridors;
- vernacular rural farmhouse architecture;
- building setbacks of approximately at least 70 feet from the roadway; and
- the slight undulation, broad curvature, and relatively narrow width of the roadway.

After identifying the elements to be preserved, recommended design and policy guidelines will promote and encourage the preservation of these characteristics. As well, specific recommendations can also be implemented within a community's zoning ordinance, such as minimum lot sizes, building setbacks and the distance between structures.

The preservation of key characteristics via the promotion and encouraged utilization of guidelines can also enhance a community's sense of place. While this Study is focused on the 25-mile corridor of Routes 96 and 318, it is recognized that there are distinct communities along its length, each with their own sense of identity. The utilization of gateway elements and streetscape treatments along the roadway will provide defined points of entry to a particular community or character area. It is recognized that the existing suburban character of corridor interchanges, primary intersections, and commercial transition zones conflicts somewhat with the rural and village character found throughout the Study Area. These commercial areas are primary gateway locations within corridor communities and the first point of contact for both residents and visitors. To enhance their gateway status, efforts should be made to improve the quality of site design and architecture within these areas.

Commercial and Industrial Areas

Commercial areas at the edge of the villages are largely out of scale with the surrounding community. Pedestrian scaled lighting, landscaping, and contextual architecture styles should be promoted to make these places more inviting. Design guidelines for building massing, form, style, site design, landscaping, parking, and pedestrian accommodations will strive to bring these areas into harmony with adjacent development. The enhancement of these locations should also include appropriate infill development that is complimentary to existing land uses, yet not competitive with central business districts in the villages.

Industrial and manufacturing areas are the second largest employment generators within the Study Area, and as such, play a primary role in the life and economy of corridor communities. While these areas play important roles within the community, they need not detract from the physical environment. Industrial and light manufacturing facilities are not anticipated to meet vernacular architectural guidelines, yet their location, site design, landscaping, and parking facilities should be complementary to their surroundings. In addition, façade materials and substantial landscape buffers should be considerate of the building's adjacent land uses.

Mixed-Use Areas

Mixed-use areas within the corridor's villages are relatively dense nodes of activity and culture. They should be retained and enhanced to strengthen the community from an economic and social standpoint. Corridor-wide, new development areas should be more cognizant of a pedestrian presence, as most conventional development is designed exclusively around the automobile. A higher quality approach would include the provision of sidewalks and crosswalks as well as smaller scale signage and lighting. Infill development within villages should be promoted, with an emphasis on providing upper story residential alternatives and office space that will increase the population density and add foot-traffic and vibrancy.

Villages

Within villages, the historic architectural character should be retained and promoted via design guidelines. Improving the sense of place within mixed-use areas includes the provision of gateway elements such as signs, landscaping, and streetscape enhancements unique to each community, yet somewhat consistent throughout the corridor. The creation of defined community character boundaries is important to building a strong community identity for each of the corridor's municipalities, ultimately improving the quality of life for residents and visitors.

OBJECTIVES

Objective 1.1

Preserve rural and farmland character areas.

Objective 1.2

Enhance mixed-use, commercial, and industrial areas.

Objective 1.3

Objective 1.4

Goal Area 2: Safe and Efficient Transportation

The Route 96 and 318 corridor should provide safe and efficient operating conditions for the traveling public. In order to accomplish this, the communities, along with the NYS DOT, will strive to manage the highway system in a manner that emphasizes the movement of vehicles through the corridor while providing reasonable access to businesses along the roadway.

EXISTING CHARACTER OF THE CORRIDOR

Routes 96 and 318 are predominately two lane facilities that accommodate east-west travel across northern Ontario and Seneca Counties. Motorists traveling along the corridor generally experience good operating conditions although travel speeds are often above the posted limit. A review of the accident history determined that, with the exception of the short segment of Route 14 included in the Study Area, the corridor has a lower accident rate than the statewide average for similar roadways.

Motor vehicle volumes within the Study Area range from about 6,300 vehicles per day at the eastern end to about 12,000 vehicles per day near west of the Village of Phelps. These volumes consist of local and regional traffic due, in part, to the close proximity of the NYS Thruway and the presence of three Thruway exits. These exits collect and distribute traffic throughout the corridor. In addition, there are several major traffic generators within or immediately adjacent to the Study Area, including:

- Clifton Springs Plaza;
- Midlakes Schools;
- Hanson Aggregates;
- Sugar Creek Travel Plaza;
- Waterloo Premium Outlets;
- Petro Truck Stop; and
- Seneca Meadows Landfill.

By comparison, minor volume traffic generators include commercial operations that are smaller in scale or that do not depend on pass-by traffic such as a local restaurant or veterinary clinic. Three of the major traffic generators are located at the Thruway interchanges. The remaining major and minor traffic generators are currently spread out in various locations along the corridor.

Route 96 is classified as a rural minor arterial roadway and Route 318 is classified as a rural major collector. According to the Federal Highway Administration, the role of a rural minor arterial (Route 96) is to accommodate longer trips between counties with relatively high overall travel speeds and minimal interference to through movement. The role of a rural major collector (Route 318) is to accommodate shorter trips within a county with moderate travel speeds and to provide a higher degree of property access than a rural minor arterial.

As development continues to occur along the corridor, the role of Routes 96 and 318 to safely and efficiently move vehicles could be negatively impacted. Figure 1 illustrates how this can occur over time. The towns and villages within the Study Area are currently experiencing moderate changes in land

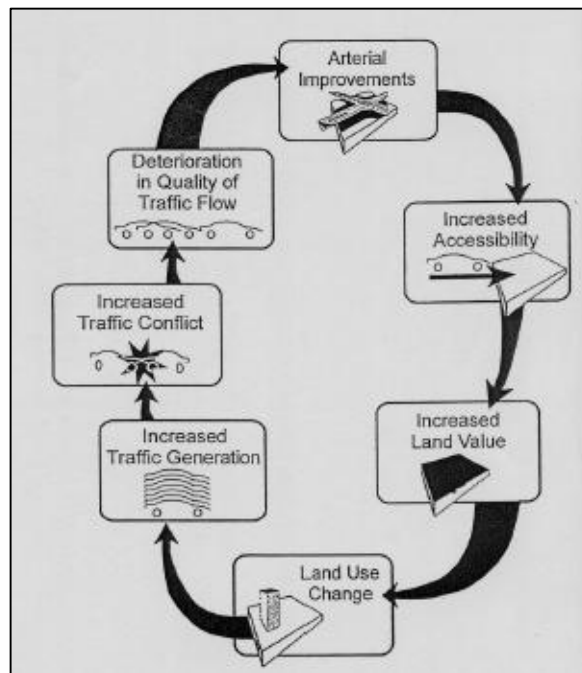


Figure 1: The Transportation and Land Use Cycle

use along Routes 96 and 318 (shown at the bottom of the cycle). As time passes, these land use changes will result in increased traffic generation and vehicle conflicts. These conflicts serve to deteriorate the existing traffic flow and require roadway improvements (additional travel lanes, turning lanes, etc) to maintain acceptable operating conditions. Once these improvements are in place, accessibility is restored and land values increase.

In order to slow this cycle and preserve the existing public investment in the corridor, the communities must develop land use policies that manage access while accommodating commercial and industrial growth. Granted, this cycle is occurring at a slower pace in this region relative to other parts of the country. However, it is often this slow pace that impedes communities from a pro-active planning approach — one that is necessary to ensure future impacts are mitigated.

GENERAL RECOMMENDATIONS AND BEST PRACTICES

Each driveway or intersection along a roadway creates a set of potential conflict points between vehicles. For example, nine conflict points occur at every three-way or ‘T’ intersection (or driveway) and 24 conflict points occur at every four-way intersection. As traffic volumes and the number of driveways increase, the number of conflict point exposures also increases. As a result, traffic flows become turbulent and unpredictable. This is especially problematic for this corridor, as the majority of the roadway has a 55 MPH posted speed.

The transportation impacts are verifiable and can be dramatic: accidents increase, travel times increase, and capacity decreases. In addition, the degradation of traffic conditions negatively affects the sustainability of existing businesses and the potential for new businesses. The communities in the Study Area should implement access management principles to limit the number of conflict points that can be created along the Route 96 and 318 corridor.

Access management is a comprehensive approach designed to improve corridor safety by integrating transportation and land use solutions. Some of the key elements to any good access management strategy include:

- Driveway spacing — establishing minimum separation distance between driveways reduces the number of conflict points and promotes the sharing of access.
- Cross or joint access — utilizing shared driveways to serve adjacent properties reduces the number of conflict points and allows traffic to circulate between properties without re-entering the public roadway.
- Corner clearances — separating the nearest access point from an existing roadway intersection helps to provide adequate site distance and avoid conflicts between driveway traffic and queuing or turning vehicles.
- Access roads — providing an access road to consolidate multiple access points can reduce strip development by opening up interior development sites.
- Throat length — establishing minimum length of driveways to provide adequate on-site storage of entering and exiting vehicles can serve to avoid congestion on the main roadway.

An individual municipality can incorporate some or all of these elements into its zoning or subdivision regulations to help manage access. These elements can also be packaged into a single Corridor Overlay District (COD) for one or more communities that share the same roadway. A review of the land development regulations within the Study Area indicates a range of land use tools are currently in place. For example, the Town of Junius has no zoning code and relies on its subdivision regulations to manage development. Other towns and villages have zoning and subdivision requirements. As a result, it is recommended that a COD for the entire Study Area be developed to manage access and create a consistent experience for motorists traveling the corridor. This COD can also address other issues including landscaping, parking and signage.

OBJECTIVES

Objective 2.1

Improve vehicular safety throughout the corridor.

Objective 2.2

Ensure existing and future commercial developments utilize best practices for access management.

Objective 2.3

Objective 2.4

Goal Area 3: Bicycle and Pedestrian Accommodations

The provision of safe and accessible bicycle and pedestrian networks should be considered throughout the Study Area. Recreational and non-recreational systems should be interconnected, providing linkages between neighborhoods, business districts and natural areas.

EXISTING CHARACTER OF THE CORRIDOR

Within the Routes 96 and 318 Rural Corridor Study area there are few safe alternatives for pedestrians and bicyclists. The only area of dedicated sidewalks within the corridor exists within the Village of Phelps, which has a nearly continuous network of sidewalks on both sides of Route 96 (Main Street). These sidewalks connect Main Street to adjacent neighborhoods, providing convenient access for residents to shops and services within the core of the Village. Striped crosswalks are utilized at most intersections, with few exceptions such as the intersections of Pearl and Flint Streets that allow a crossing of Main Street.

Outside of the Village of Phelps, pedestrians and cyclists are accommodated by large paved shoulders along the roadway. However, with a posted speed limit of 55 MPH for most of the corridor, and with typically higher measured speeds, the roadway is far from pedestrian and cyclist friendly. The Five Points interchange of Routes 96 and 14 is perhaps the least accessible and most inhospitable area within the corridor for non-vehicular travel. It is uncommon for people to venture into this area on foot or bike. Portions of the corridor on the edge of villages, such as west of Phelps and at Routes 96 and 21, are of primary concern as there are ample residences within close proximity to businesses and schools, yet no sidewalks available.

From a recreational perspective, the Study Area has one multi-use rail trail owned and operated by Ontario Pathways, which connects Phelps south to Stanley and west to Canandaigua. An additional trail along the Canandaigua Outlet in the Village of Manchester is in the design phase.

GENERAL RECOMMENDATIONS AND BEST PRACTICES

The ability to safely and efficiently walk or bike throughout a neighborhood or community has a large impact on resident and visitor quality of life. Walking and bike riding are recreational activities as well as modes of transportation, providing a cost-free means of movement throughout a community. Additionally, the physical features that make bicyclists and pedestrians feel welcome are often the same features that make a community feel quaint, attractive, and human-scaled. Walking or biking to and from destinations encourages a slower pace, consistent with the small town values found in the corridor. It is a healthy choice and can help increase the amount of interaction among neighbors within the community.

As an alternative to vehicular transportation, the demand for safe and efficient bicycle and walking alternatives will increase as rising fuel costs strain family budgets and push people to look for other options. As more people choose to walk or bike to destinations within a reasonable distance, the need for infrastructure to safely accommodate them will become an important issue. Bicycle and pedestrian infrastructure has been largely overlooked in developing areas throughout the nation, and is of particular importance within the rural and less affluent areas of New York's Finger Lakes Region, where residents are more likely to feel increasing fuel costs compete with discretionary and necessity spending.

Corridor-wide recommendations for enhanced pedestrian and bicycle access and safety include promoting increased connectivity within and between established development areas. Areas of high conflict between vehicles and non-motorized traffic should be addressed with highly visible crosswalks, signal timing adjustments, and pedestrian signal poles. Logical connection points between obvious origins and destinations, such as residential areas with commercial districts or school/community buildings, should be considered a high priority as these are routes likely already utilized without safe and appropriate infrastructure. In many instances where existing pathways do not have adequate infrastructure, “cattle paths” (where foot/bike traffic has paved its own way) can be a tell-tale sign of a need for pedestrian or bicyclist accommodations.

Within urbanized areas such as villages and interchange nodes, safe and efficient access to services provided in these locations should also be a high priority. In many instances throughout the corridor, this equates to the filling of gaps and the elimination of conflict or pinch-points within the sidewalk network. The provision of amenities within nodal areas and at primary destinations should also include bike-racks, benches, directional signage, and pedestrian scale lighting. Opportunities for communities to create designated recreational loops and trails along existing or new infrastructure may allow walkers and bikers to access unique vistas and natural features. As roadways become associated with pedestrian and bicycle traffic, the use of signage and traffic calming measures that cue motorists to areas of shared roadway should be encouraged throughout the corridor.

OBJECTIVES

Objective 3.1

Expand opportunities for recreational biking and hiking.

Objective 3.2

Improve pedestrian and bicycle safety in the corridor.

Objective 3.3

Encourage bicycling and walking to and between commercial uses.

Objective 3.4

Goal Area 4: Economic Development

Future economic development should be encouraged within the Routes 96 and 318 corridor in a manner that minimizes impacts to rural character and the function of the transportation system. Communities in the corridor will also strive to maximize redevelopment opportunities for underutilized or vacant properties, consistent with the corridor's Future Land Use Plan.

EXISTING CHARACTER OF THE CORRIDOR

The character of the Routes 96 and 318 Rural Corridor Study area is defined by a range of land uses that translate into a diversified economic base. In addition to single-family, multi-family, and mobile home residential development, the following businesses and industries are present along the corridor:

- Gas stations;
- Convenience stores;
- Light industrial;
- Farmland;
- Agricultural services;
- Retail/services;
- Restaurants; and
- Quarries.

These businesses have emerged along the corridor over an extended period of time and share limited physical connectivity other than by car. Sporadic and absent land use regulations, together with a lack of consistent regional planning, has resulted in a development pattern which separates uses rather than unifies them. Development has historically been slow and haphazard, resulting in the irregular and disconnected land use patterns found today.

The economic development concerns facing the towns and villages along the corridor are not specific to the Study Area. Upstate New York as a whole has struggled economically for several decades, though the continued loss of population and major employers in the region has exacerbated the problem on a more localized level. The difficulties facing the corridor can be seen directly from the roadway in the form of closed businesses and abandoned buildings. When comparing economic conditions along the corridor with the nation, it becomes more evident that there are issues that need to be addressed. Each of the Study Area communities has an average household income between six and 28 percent lower than the national average.

A bright note for the communities along the corridor is their location as a gateway to the Finger Lakes Region. While some aspects of the regional economy continue to struggle, the corridor benefits from the wine trails and recreational opportunities, as well as proximity to Rochester and Syracuse markets. The influx of tourists and visitors to the Finger Lakes has provided a much needed economic catalyst for many of the small, rural communities in the region.

The corridor itself is also home to one of the more significant retail establishments in the region, Waterloo Premium Outlets. The outlet center provides a unique shopping opportunity to corridor residents and also serves as a destination for people from throughout Upstate New York, Canada, and beyond. While it is an asset for the corridor, the mall, in conjunction with suburban shopping centers in surrounding communities, have also made it more difficult for the small villages along the corridor to remain viable. Corridor Central Business Districts continue to struggle to maintain a concentration of retail, service, and restaurant uses.

GENERAL RECOMMENDATIONS AND BEST PRACTICES

There are specific areas that the corridor may look to target in order to improve upon existing economic conditions. Capitalizing on the corridor's location as a gateway to the Finger Lakes, as well as the presence of the Waterloo Premium Outlets, will be critical in establishing and creating an economically viable corridor. Identifying ways to assist local small business owners, and attract potential new owners in targeted industries, such as light industrial or agricultural support, may provide additional spin-off opportunities for economic growth.

In rural areas, economic development should be approached at the regional level, creating efficiencies and opportunities that may not be realized by individual communities. Economic development initiatives should not be constrained by municipal boundaries; the sharing of limited resources, ideas, and marketing would benefit each of the towns and villages along the corridor.

The economic development goal for the corridor encourages the use of Routes 96 and 318 to further the economic health and well-being of residents, business owners, and employers within the Study Area. Economic development can occur in small steps and be gradual in nature as to ensure it does not interfere with the rural character and transportation system already in place. For example, the efficient use of existing infrastructure such as roads, water, and sewer can enhance property values without the increased burden of additional infrastructure investment. Economic development planning should be a proactive exercise rather than reactive. Haphazard and free form development that has occurred in the past is likely to continue without a specific series of goals and a vision for economic development in place.

Sustainable economic development can be achieved through a proactive planning effort initiated at the County level, although solid partnerships with towns and villages are key. Small business assistance programs, business marketing, the marketing of available land, incentives for development, and reasonable land development regulations are immediate steps that could be undertaken to try to improve the local business environment, economic development opportunities, and general economic health of the Study Area. Coordinating with other Finger Lakes communities and identifying opportunities associated with a growing interest in the wine and recreational sectors are also an important consideration for Ontario and Seneca Counties. The rising popularity of day trips or "stay-cations" should be carefully examined so as to adjust marketing efforts and target audiences.

OBJECTIVES

Objective 4.1

Capitalize on the presence of historic and cultural assets adjacent to the corridor.

Objective 4.2

Objective 4.3

Goal Area 5: Regional Cooperation

The Routes 96 and 318 Rural Corridor Study should be utilized as a tool for encouraging cooperation and consideration for projects that may influence the function of the corridor. As the corridor is a collection of small towns, the communities should leverage their collective assets and continue the intermunicipal approach to managed growth established by this Study.

EXISTING CHARACTER OF THE CORRIDOR

Regional cooperation, from governance to economic development, is an important consideration for small, rural communities. The towns and villages along the Routes 96 and 318 corridor have not fully taken advantage of the opportunities which are linked to greater inter-municipal cooperation. Although Ontario and Seneca Counties have worked jointly on specific County initiatives, there has been less collaboration at the individual municipal level. To date, the majority of joint community projects have been transportation oriented, with organizations such as the Genesee Transportation Council providing funds for projects that cross municipal boundaries and plan at a regional level. As another example, the Villages of Manchester and Shortsville are currently working on Design Standards for important gateway areas.

One of the major obstacles to inter-municipal or regional coordination is the desire to maintain local control and identity. Towns and villages take pride in their unique qualities, which are typically associated with either their historic villages, rural character, or agricultural past. This sense of local pride is an important asset, but it can sometimes evolve into a level of competition with neighboring communities that hinders all involved. New York State's Home Rule laws further reinforce local government autonomy, giving the authority to pass local laws associated with property, governance, and land use.

Despite their small size and close proximity, towns and villages in the corridor have limited examples of resource-sharing. Such agreements, either formal or informal, would include sharing of staff, equipment, knowledge and marketing efforts. Dissolution of local municipalities is not necessary to pursue regional planning initiatives. Rather, a healthy mix of cooperation, coordination, and leveraging of assets can yield tremendous results.

The coordination of land development is of particular importance on Routes 96 and 318. Currently, there is limited coordination of land development regulations between the communities along the corridor, and one town (Junius) has no zoning in place at all. In other communities, such as Manchester and Phelps, there may be an oversupply of land in commercial districts, which has the potential to negatively impact and hinder future commercial development in adjacent villages. A lack of regional coordination with respect to land use can have spin-off effects, impacting overall economic development efforts and the long term economic health of the corridor Study Area.

GENERAL RECOMMENDATIONS AND BEST PRACTICES

Small, rural communities often find it difficult to capitalize on some of the opportunities available to them due to limited resources and funding. For this reason, regional cooperation and joint programming can be critical to the viability and long-term sustainability of these municipalities. Today, limited funding opportunities and stretched local, county, and state budgets make the required expenditures of local government particularly significant, resulting in increased costs for taxpayers. When looking for assistance and outside funding, it is often harder for small communities to justify the need for help when compared to larger areas serving a greater number of people. However, many funding resources do look

favorably on collaborative projects, as funding agencies recognize the efficiencies and cost-effectiveness of these types of relationships. By working together, instead of competing against (or at best independent of) one another, the corridor communities could better leverage the assets and resources they currently have. The results could be a substantial amount of additional assistance, whether in the form of improved services, better planning, or increased money for local administration of programs.

This principle applies to lobbying for improvements with the NYS DOT as well. The state looks favorably on inter-municipal efforts, recognizing that transportation and economic challenges know no municipal boundaries. As is demonstrated in this Study, a collaborative effort among eight towns and villages has resulted in a strategic set of action items that are consistent with a corridor-wide vision.

Local governments have the responsibility of providing amenities and services to their residents, even when facing challenging economic times. This provides an ideal opportunity for inter-municipal cooperation. The consolidation of services, such as road maintenance and plowing, in addition to others, would create a more efficient regional service distribution system, ultimately decreasing the costs for each of the municipalities. Costs associated with the purchase of materials, vehicles, equipment and facilities, as well as the maintenance of facilities and vehicles could be shared. This would alleviate some of the financial burdens facing each of the Study Area communities today. The New York State Department of State (NYS DOS) has a variety of programs that encourage these agreements, as well as resources available for studying their feasibility.

The first step in moving towards a more regional approach to planning is to create a framework and vision from which to grow. Defining a vision that each of the communities is comfortable with, and which was developed collectively, will allow economic development and growth to be managed in a way that is consistent with future goals. As a result of this kind of grass-roots process, this Study contains an overall vision for the corridor, as well as more specific guidance under goal areas, that form a regional approach to policy and implementation.

Regional cooperation can be achieved through proactive planning efforts and can build on the regional planning efforts currently being completed at the County level, including regional planning studies such as the corridor plan. Identifying opportunities for the consolidation of services and spending, working together to leverage additional funding for municipal projects and studies, and sharing resources are important actions which will result in the development of strong inter-municipal relationships. In cooperation with Ontario and Seneca Counties, meetings between individual community leaders should be held to provide decision-makers with an open forum in which they can discuss cooperative efforts.

OBJECTIVES

Objective 5.1

Ensure this Study is utilized by developers, municipal officials, and residents alike.

Objective 5.2

Continue the regional and collaborative approach to planning established by this Study.

Objective 5.3

Leverage the corridor's status as a significant gateway to the Finger Lakes Region.

Objective 5.4

Goal Area 6: Sustainable Land Use and Design

Future development in the Routes 96 and 318 corridor should strive for sustainable land use and design practices that maximize the use of existing infrastructure, minimize the practice of over-zoning and reduce impacts to the natural environment. Together, the towns and villages must approach future development in a manner that recognizes the relationship between land use and traffic.

EXISTING CHARACTER OF THE CORRIDOR

With the exception of the Town of Junius, all municipalities within the Study Area maintain a zoning ordinance that dictates the location of development according to land use categories such as agricultural, residential, commercial, and industrial. The placement and extent of the zoning districts are largely governed by historical development patterns and the existing transportation network. Within the corridor's villages, much of the development predates the inception of zoning ordinances. Therefore, zoning districts primarily conform to the locations of commercial and residential areas. Primary transportation nodes such as intersections and interchanges typically result in commercial and industrial land uses due to their inherent access, location, and visibility advantages, and thus are zoned for these heavy/intensive uses. The remaining lands outside of village centers and primary intersections are predominantly zoned as agricultural.

Low population densities in the corridor, and the resulting lack of economies of scale, reduces the viability of investment in public infrastructure on a broad level. Public infrastructure investments are primarily located within corridor villages, with a significant service extension along Route 318 for the Waterloo Premium Outlets and Route 414 in Tyre the most notable exceptions. A general lack of water and sewer infrastructure drives development within the Study Area to be very low in density due to the land requirements generated by NYS Health Code regulations pertaining to wells and septic fields. Combined with the region's sluggish economy, the lack of coordinated land use controls and limited density zoning regulations have perpetuated sporadic development, further reducing the viability of investing in sustainable public infrastructure to service residents and businesses.

GENERAL RECOMMENDATIONS AND BEST PRACTICES

The ability to create and enact local land use controls is one of the most far-reaching powers New York State has passed down to individual municipalities. The manner in which municipalities regulate the use of land has a profound impact upon all aspects of a community, including the economy, taxes, and general quality of life for residents. The decisions regarding 'what, where, and how' development takes place within a community have serious legal, economic, and environmental implications, and will shape its future many years into the future.

Sustainable actions are those that can be maintained with minimal effort or that retain a level of equilibrium or balance. With respect to land use, sustainable practices can be achieved by planning around existing available resources or services. Development that occurs outside the serviceable area of existing infrastructure may require the extension of services to meet its needs. Also, development that exceeds the capacity of existing infrastructure may require additional investment to increase capacity. In both instances, if the costs of these extensions and expansions are not entirely paid for by the new development (either taxes or fees) then the actions can be considered unsustainable or at least unadvisable.

With respect to design, sustainable practices are those that reduce the use of non-renewable resources, including energy and materials, while minimizing negative impacts related to air and water quality, noise levels, and light pollution, among others. Sustainable design practices within the Study Area will involve both architecture and site engineering.

The Study Area has an abundant supply of vacant and/or underutilized land. Yet, a property's current development status is not an appropriate single measure of its suitability for particular uses.

Determining the appropriate land use scenario within a community requires additional information, such as soil and geologic suitability, hydrologic status, proximity to existing population centers, relationship with the transportation system, infrastructure availability, and many more. An appropriate land use scenario will take the myriad of factors into consideration and will develop appropriate alternatives that provide viable opportunities for economic growth while enhancing and preserving existing man-made and natural resources. A sustainable land use pattern will be cognizant of both community character and economic viability, while also considering the environmental impacts of choosing where particular types of development should be located.

Due to the significant agricultural presence within the Study Area, prime agricultural soils should be preserved wherever possible. In instances where prime agricultural lands are to be converted to uses other than agricultural, corridor communities should consider establishing limits on the exportation of topsoil outside of the community, with any excess topsoil to be utilized within the existing agricultural network. Establishing such a system will help prevent precious resources from being lost to outside communities, while potentially enhancing the productivity of remaining agricultural operations.

The Routes 96 and 318 corridor is fortunate to have multiple viable village centers either along or adjacent to the Study Area. These centers of activity have the size and density needed to support public utility infrastructure such as water and sewer. Future land use patterns within the corridor should take advantage of these benefits by locating development districts adjacent to or within the reach of infrastructure. Development in these districts should include mixed-use buildings that are complementary to the architectural vernacular, including upper story residential units where viable. Leveraging existing resources such as roadways, sidewalk networks, public utilities, and population centers will increase the likelihood of economic success of future development, while also providing a sustainable approach to land use and resource investment. Additionally, from a municipal operations perspective, development/redevelopment within existing activity nodes is less expensive to maintain and easier to manage logistically. Collectively, this approach is commonly known as "Smart Growth."

Inappropriate development patterns, such as highway commercial and larger scale service and retail establishments, should be kept within limited boundaries of primary intersections and Thruway interchanges and outside of village centers. Interchange commercial areas should include appropriate infrastructure and amenities to support safe and convenient pedestrian access throughout and between developments, such as sidewalks, crosswalks, and lighting, while striving to retain the rural and agricultural character of their surroundings. Areas around the interchanges are encouraged to be designed as sustainable land uses through the preservation of natural resources where possible. As well, these districts are prime opportunities for creative and sustainable storm water management practices, the protection of wetlands, and the reuse and preservation of on-site agricultural soils. Development within these areas should be models for rural interchange development and provide a character appropriate with their status as gateways to corridor communities and the Finger Lakes Region.

OBJECTIVES

Objective 6.1

Enhance access to and preservation of important natural features.

Objective 6.2

Target growth to areas where sufficient transportation and water/sewer infrastructure is already present.

Objective 6.3

Objective 6.4

Corridor-wide Land Use and Transportation Recommendations

THE LAND USE AND TRANSPORTATION CONNECTION

Land use patterns and transportation networks are directly connected to one another, each providing broad levels of influence. Figure 1 on page 12 demonstrates the land use - transportation connection. The example below provides an additional example that relates well to the context of the Routes 96 and 318 corridor.

A road is constructed between two villages to increase trade between the communities. As regular traffic between the two villages increases, developers realize the potential to capture some economic benefit by locating along the roadway. Soon the entire roadway is lined with development, catering to travelers from village to village as well as travelers passing through the region. When traffic reaches the capacity of the existing roadway, it is widened to handle more cars. This expansion allows more traffic to flow between villages which in turn supports more development along the roadway.

At about this time in the scenario a role reversal begins to take shape regarding the direction of influence. Until this point the roadway and the traffic it carries has been influencing the land use pattern. However, when development along the corridor becomes a primary destination rather than a pass-by trip the land uses along the corridor begin to place a heavy influence on the transportation system.

After the roadway expansion, a major retail shopping complex is constructed removing several smaller development parcels. This shopping complex becomes a destination within the area, and the roadway is no longer utilized only for trips from village to village. The increased traffic is noticed by adjacent land owners, who, looking to benefit from an increased customer base, expand their operations as well. A regular cycle of land use expansions and resulting traffic increases places a heavy burden on the roadway. It is time again for the roadway to be expanded. And the cycle continues...

In addition to the impacts on land and infrastructure, the patterns in which we inhabit the land and travel from place to place have profound impacts on community character and human interaction. For example, if all commercial development were designed exclusively around the automobile, people would have little reason to be outside walking in their community, which reduces opportunities for interaction with neighbors. This approach also has clear impacts on the physical health of citizens. Designing development with pedestrians in mind allows people to operate at a slower pace, amidst more human-scaled buildings and spaces, which then allows for a finer appreciation of one's community. In contrast, development with large buildings set far back from the roadway, accompanied by signs meant to be read at high speeds and parking lots meant to be large enough for holiday crowds, are not conducive to human interaction let alone lasting community pride.

The land use - transportation connection is at the center of the Routes 96 and 318 Rural Corridor Study. The recommendations made within this document are to prevent locations along the corridor from getting out of balance, while attempting to provide guidance to those areas most susceptible to the cycle of development and traffic described above. At the same time, this Study recognizes that the land use - transportation connection can lead to winners and losers. As in the example scenario, the communities historically connected by the roadway have much of the economic activity at their core siphoned off by the roadway development, whereby the nodes that were once the destinations for travel become the origins for trips to stores and shopping along the corridor itself. The land use and transportation recommendations made within this Study are geared towards the revitalization of the existing villages by placing them again at the center of growth within the region, alongside development opportunities near the interchanges.

Corridor-Wide Future Land Use Plan

PURPOSE

Future land use planning involves identifying how lands within a region would ideally look and function in the future, if redevelopment or new development were to occur. For the purposes of this Study, it also allows municipalities to identify specific areas and resources in the corridor which should be preserved and protected as they currently exist. While land use planning does help to guide and direct development, it will also help to create a common vision for the corridor. The character of these municipalities and their sense of place are directly tied to their land uses and the relationships between land uses.

The Future Land Use Plan developed for the Routes 96 and 318 Rural Corridor Study is intended to be a visual representation of the community's desired land use pattern. It was developed from a regional perspective, considering the impacts that each specific area or node has on the remainder of the corridor. It is intended to identify where specific development types and patterns are most appropriate and it supports the goals and objectives identified in the rest of the Study. Coordinating land use policy from a regional perspective, especially at or near municipal boundaries, is critical to avoiding undesired impacts to traffic, safety, community character, and the environment.

Ultimately, corridor communities should consider revising or adopting a zoning code that is consistent with the spirit of this Future Land Use Plan. While zoning regulations are tied to specific parcels, the edges of the future land use categories are intentionally drawn irrespective of property lines. The refinement of the land use edges, as well as identifying specific land use categories and permitted uses, is a more detailed exercise that is a function of future zoning code updates.

The Future Land Use Plan on the next page, along with the land use category descriptions that follow, are generalized somewhat for the corridor-wide perspective. Section 3 of the Study contains Future Land Use Plans for each of the three Sub Regional Plans. These are focused on smaller areas and contain a greater level of detail for recommendations related to permitted uses and dimensional requirements.

FUTURE LAND USE CATEGORIES

Five future land use categories have been established for the Corridor Management Plan. Each land use category is described in more detail following the Future Land Use Map. Accompanying each description are photos [to be added in Final Draft], which exemplify the character of these areas and demonstrate desirable design techniques. Future Land Use categories include:

- Agriculture and Open Space (AO)
- Gateway Transitional (GT)
- Village Core (VC)
- Interchange Commercial (IC)
- Regional Destination (RD)

In addition to these five categories, the Future Land Use Plan identifies a Sensitive Environmental Area (SEA) around the Junius Ponds complex. Shown in green on the map, this designation should be considered an overlay district to the underlying AO designation in this part of the corridor. An additional level of site plan review is recommended above and beyond the regulations of the AO designation in order to preserve and protect the important environmental features found in this area.

Agriculture & Open Space (AO)

Lands devoted to agriculture and open space comprise a significant portion of the Study Area, directly contributing to the rural and scenic character of the corridor. Within the Future Land Use Plan, approximately 70 percent of the corridor falls under the Agriculture and Open Space category. The protection and continuation of agricultural practices within these areas is a recommended priority over all other forms of development. However, this does not preclude future residential growth from occurring in these areas. Rather, it seeks to promote residential growth in a manner that is sensitive and considerate to the rural character, natural features, and agricultural lands which currently exist.

Agriculture and Open Space areas are currently characterized by sporadic, low density residential development on roadside frontage scattered throughout the corridor. The remaining active farms, prime agricultural lands, and open spaces are important features for Study Area communities to preserve. These areas are encouraged to remain available for farming, open space conservation, and limited residential development that is respectful of the surrounding environment.

The retention of the rural ambiance and community character has been an identified priority of residents; prudent monitoring of development within these areas should be an on-going effort undertaken by local municipalities. It is equally important to promote the continuing operation of existing farms and the creation of new farms on prime agricultural lands not under active cultivation. The over-development of rural road frontages in these areas is discouraged due to potential negative impacts on environmental and economic resources, community character, and the transportation network.

Types of uses recommended for the Agriculture and Open Space future land use category include: agriculture; single- and multi-family residential; mobile home parks; public and community services; limited commercial such as agriculture support services.

[REPRESENTATIVE PHOTOS TO BE ADDED]

Regional Destination (RD)

The Regional Destination (RD) future land use category recognizes the unique qualities and challenges posed by the location of the Waterloo Premium Outlets within the corridor. The regional impact and draw of visitors to this location cannot be ignored, and potential future development in surrounding areas may likely occur with continued success of this commercial development. Additionally, there is ample water and sewer capacity available in this node, minimizing the infrastructure costs necessary to attract new development.

The character of this future land use designation differs slightly from that of the Interchange Commercial designation, yet recognizes that the scale and intensity of uses in this location will likely be increased as a result of its status as a regional destination. The primary difference between the two categories is that visitors to the outlet center are typically stopping for extended portions of a day, whereas interchange areas attract shorter visits from Thruway travelers. In this light, pedestrian accommodations between destinations and greater architectural detailing are of utmost importance.

One of the goals for this area is to respect the surrounding agricultural and rural residential character. Design standards for development within this area should include recommendations for building form, site design, parking placement, and pedestrian connectivity. Such standards should reflect the existing design of the outlet center. Further character recommendations include the potential for a district-wide thematic approach that complements the rural and agricultural surroundings with architecture, signage, landscaping, and treatments that mimic the rural vernacular. Developments within this area should provide an enhanced sense of place and a unique character that complements their identity as a destination. Uncoordinated and widely varied levels of site design and architecture are discouraged as this may diminish the regional draw potential for the entire district. The RD area's impacts upon the corridor should be minimized through cross access, shared driveways, and parking facilities located behind or to the side of buildings.

Recommended uses for the Regional Destination category include: medium- to large-scale commercial/retail; restaurants; entertainment; and hotel/motel.

[REPRESENTATIVE PHOTOS TO BE ADDED]

Corridor-Wide Transportation Plan

PURPOSE

The Corridor-Wide Transportation Plan is meant to complement and support the Future Land Use Plan, as well as other goals and objectives in this Study. Having a consistent set of transportation-related policies in the corridor will improve safety and predictability while ensuring the impacts of future development on the roadway are reduced.

OVERVIEW

The Transportation Plan includes general recommendations for operational and safety improvements of the highway itself. These should be coordinated with the New York State Department of Transportation (NYS DOT) as well as county/town/village highway departments when applicable. The NYS DOT has jurisdiction over Routes 96 and 318. As a result, they are responsible for all permitting and maintenance of the roadway. The towns and villages should actively engage NYS DOT in all planning and regulatory activities within the corridor. This will ensure that the communities are aware of NYS DOT's roles and responsibilities as well as to make NYS DOT aware of the local economic and land use vision.

In addition to the general transportation recommendations, this section includes a Corridor Overlay District (COD). The COD is presented in a code-ready format that can be customized by localities to suit their needs. It is recommended that each municipality in the corridor adopt the COD with at least the fundamental principles remaining in place across the corridor. A review of the land development regulations within the Study Area indicates a range of land use tools are currently in place. As a result, it is recommended that a COD for the entire Study Area be developed to manage access and create a consistent experience for motorists traveling the corridor. This COD can also address other issues including landscaping, parking and signage.

GENERAL RECOMMENDATIONS

The following recommendations are the result of public input, accident screening, planning-level operations analysis, and field observations. More detailed and location-specific recommendations can be found in the Sub Regional Plan section of the Study. Recommendations at this point in the planning process are intentionally generalized, as actual improvements will only result from detailed engineering studies that may follow this Study.

Access management and site access observations:

- Access points (driveways and intersections) should be more defined. This involves reducing unnecessary widths where an access point connects to the highway, forming perpendicular intersections whenever possible, and maintaining consistent shoulder widths.
- Access points should be limited and consolidated whenever possible. This is addressed in detail in the COD.
- Access points should be kept out of intersections. The COD addresses recommended intersection clearance distances.
- Access points should not be larger than necessary to accommodate driveway traffic.
- Parking for commercial businesses should be accommodated on site and not on roadway shoulders.
- Limit parking on roadway edges, enforce property setbacks.
- Consider designation of shoulders as multi-purpose spaces (bike lanes with bike symbols, emergency pull-offs and snow storage).
- Maintain striping to ensure clarity for drivers.
- Review intersection sight distances. Add “intersection ahead” or “signal ahead” warning signs as necessary.
- Maintain appropriate corner clearances within village settings.

Corridor Overlay District

INTENT AND PURPOSE

The purpose of the Route 96 and 318 Corridor Overlay District (COD) is to manage access to property along Routes 96 and 318 in a manner that preserves the safety, efficiency, development potential, and character of the highway corridor and the individual communities along it. Specific purposes are as follows:

- To protect the safety of motorists traveling Routes 96 and 318 and its crossroad intersections and preserve the efficiency of traffic flow along the corridor;
- To protect the safety of pedestrians and bicyclists and provide for pedestrian facilities in appropriate locations;
- To encourage development on the corridor that is compatible with or does not detract from the traditional character of the villages and the rural character of the towns along the corridor;
- To preserve and enhance development options along the corridor and to promote development of unified access and circulation systems that serve more than one property;
- To assure that driveways and street connections along Routes 96 and 318 are designed according to standards for safe entry and exit and are adequately spaced; and
- To promote cooperative planning and coordination between area property owners and the many agencies that have an interest in the Route 96/318 corridor, including but not limited to Ontario and Seneca Counties, the various towns and villages, and the New York State Department of Transportation (NYS DOT).

APPLICABILITY

The COD shall apply to a distance of **1,000** feet from the center line on both sides of the following roadways:

- Route 96 beginning at the western boundary of the Town of Manchester and terminating at its intersection with Route 14;
- Route 14 between Routes 96 and 318, and
- Route 318 beginning at Route 14 and terminating at its intersection with Routes 5 and 20.

These regulations shall be in addition to all other existing regulations of the villages and towns. Persons with property divided by the COD or that do not have frontage but request an access connection in the affected area must comply with the district standards. This district does not change the zoned use of property. Permitted, conditional, or specially permitted uses in the overlay district shall be as provided for in the existing underlying zoning districts.

Connections permitted prior to the adoption of the COD shall be allowed to remain and will be considered legal and conforming until such time as there is a significant change in the use of the property (including the development of land, structures or facilities) that results in any increase in the trip generation of the property. If the principal activity on a parcel with access connections that do not meet the regulations herein is discontinued or out of service for a period of one year or more, then that parcel must comply with all applicable access requirements of this overlay district.

SUBMISSION REQUIREMENTS

All site plans shall include the location and dimensions of streets, driveways, turn lanes, access drives, inter-parcel connections, bicycle and pedestrian access, parking areas, landscaped areas and other relevant information.

ACCESS PROVISIONS

Access to Routes 96 and 318 shall be provided by direct or indirect means, consistent with the following requirements:

Number of Access Points

Each tract of land recorded prior to effective date shall be permitted one point of direct or indirect access to the public roadway system, provided that such access conforms to the minimum driveway spacing and corner clearance requirements the COD. Where the roadway frontage of a tract of land is greater than 500 feet, an additional access point may be permitted, if it is determined in consultation with NYS DOT that such access will not be detrimental to highway safety, capacity, or function. Any such additional access shall comply with all applicable sections of this ordinance. Individual property access shall not be provided to NYS Highway System where alternative access is available. Where multiple parcels are developed as a single project, such as a shopping center or similar use, they shall be treated as a single parcel for the purposes of determining the permitted number of access points. Within village settings, driveway access to the roadway may not always be possible, appropriate, or permissible. In these areas, the community and NYS DOT shall review requests for access based on the potential for shared access, the need for parking, desired corner clearance, and driveway spacing.

Minimum Driveway Spacing

Minimum driveway spacing is to be measured from the closest edge of the driveway to the closest edge of the nearest driveway. All direct access connections to Routes 96 and 318 shall meet or exceed the minimum connection spacing requirements, excluding single-family residences, listed below: *

- 125 feet for a posted speed limit of 35 mph or less;
- 245 feet for a posted speed limit of 36 to 44 mph; and
- 440 feet for a posted speed limit greater than 45 mph.

** There are no minimum driveway spacing requirements for the development of four or fewer single-family dwelling within the COD. However, the access drive or local street that serves a development of more than five single-family residences must meet these standards.*

Where the existing configuration of properties and driveways in the vicinity of a parcel or site precludes spacing of an access point in accordance with those listed above, the Planning Board, in consultation with NYS DOT, may waive the spacing requirement if all of the following conditions have been met:

- A joint use driveway will be established to serve two or more abutting building sites;
- The building site is designed to provide cross access and unified circulation with abutting sites with cross access easements; and
- The property owner signs an agreement to close any pre-existing curb-cuts that do not meet the requirements of the COD after the construction of both sides of the joint use driveway, and agrees to enter a joint maintenance agreement defining maintenance responsibilities of property owners that share the joint use driveway and cross access system.

In the event that the characteristics or layout of abutting properties would make development of a unified or shared access and circulation system impractical, the Planning Board may modify or waive these requirements.

Joint & Cross Access

Adjacent commercial or office properties and compatible major traffic generators (i.e. shopping plazas, office parks, apartments, etc.) shall provide a cross access drive and pedestrian access way to allow circulation between sites. This requirement shall also apply to a new building site that abuts an existing developed property unless the Planning Board finds that this would be clearly impractical. Property owners shall record a cross access easement and a joint maintenance agreement with the public records office.

Property owners that provide for joint and cross access may be granted a temporary driveway connection permit, where necessary, to provide reasonable access until such time as the joint use driveway and cross access drives are provided with adjacent properties. All necessary easements and agreements shall be recorded with the deed to the property, including:

- An easement allowing cross access to and from the adjacent properties;
- An agreement to close and eliminate any pre-existing driveways provided for access in the interim after construction of the joint-use driveway; and
- A joint maintenance agreement defining maintenance responsibilities of property owners that share the joint use driveway and cross access system.

Minimum Corner Clearance

Minimum corner clearance is to be measured along the road from the closest edge of the right-of-way of the intersecting road to the closest edge of the proposed driveway. Driveway connections to state highways for corner properties shall not be allowed within 220 feet an intersection. For side street approaches to a designated highway, the minimum corner clearance shall be 110 feet from the intersecting State road. At signalized intersections, corner clearances in excess of these minimum dimensions may be required, in consultation with NYS DOT. These standards may not be possible or desirable in village settings. In these areas, corner clearance may be reduced based upon a traffic study that shows peak hour queue lengths will not extend past the proposed driveway location.

Outparcels

An outparcel can be described as a parcel of land, generally located on the perimeter of a larger parcel of commercial land that is subordinate to the larger parcel for access, parking and drainage purposes. All access to outparcels shall be internalized utilizing the main access drive of the principal commercial center. Access to the outparcel shall be as direct as possible, avoiding excessive movement across the parking aisles and queuing across surrounding parking and driving aisles. In no instance shall the circulation and access of the principal commercial facility and its parking and service be impaired.

New Residential Subdivisions

New residential subdivisions consisting of more than five units, shall include an internal street layout that shall connect to the streets of surrounding developments to accommodate travel demand between adjacent neighborhoods without the necessity of using the highway.

Shared Access and Reverse Frontage

Inter-parcel connections shall be provided to facilitate the local movement of traffic and minimize demand for local trips on the highway. Based on consultation with the NYS DOT, inter-parcel access may take the form of direct driveway connections or reverse frontage roads.

Pedestrian Access

On site pedestrian walkways shall be incorporated into each project and shall be coordinated with on-site landscaping so as to minimize conflicts with vehicular traffic. Pedestrian circulation systems shall be provided to connect multiple uses within individual projects, and shall be extended to adjacent parcels where inter-parcel vehicular access is required. Where pedestrian access crosses an access drive (such as crossing from a parking aisle to a building entrance), crosswalk improvements shall be required. In the event that a public sidewalk is adjacent to the property, the pedestrian circulation system shall connect to the existing sidewalk system.

DRIVEWAY LOCATION & DESIGN

- 1) Driveway connections shall be located and designed to provide adequate sight distance. NYS DOT standards for sight distance shall apply.
- 2) The NYS DOT, in coordination with the municipality, may require turn lanes where deemed necessary due to traffic volumes or where a safety or operational problem exists. The design of left-turn and right-turn lanes shall conform to NYS DOT design standards.
- 3) Construction of driveways along turn lanes and tapers is prohibited unless no other access to the property is available.
- 4) Driveways with more than one entry and one exit lane shall incorporate channelization features to separate the entry and exit sides of the driveway. Double yellow lines may be considered instead of medians, where truck off-tracking is a problem.
- 5) Driveways shall be designed with adequate on-site storage for entering and exiting vehicles to reduce unsafe conflicts with through traffic or on-site traffic and to avoid congestion at the entrance. Guidelines for driveway throat length are provided below:

- 125 feet for a shopping centers or mixed use developments over 200,000 sq ft;
- 75 - 95 feet for a development less than 200,000 sq ft with a signalized access drive;
- 40 - 60 feet for smaller developments with an unsignalized access drive; and
- 40 - 60 feet for residential subdivisions of five units or more.

SETBACKS

In order to preserve highway safety and efficiency and to readily accommodate future arterial improvements, a front yard setback shall be provided for all developments subject to the COD. The front yard setback shall be measured 100 feet from the centerline of the roadway. This setback shall remain free from all development, including buildings, gas pumps, canopies, and similar structures and facilities. Signs, parking, and landscaped areas shall be permitted within the setback, consistent with the regulations outlined herein. Where necessary to accommodate an approved circulation plan, access driveways are permitted within setbacks.

For village areas, where traditional shallow setbacks contribute to local character, new development and redevelopment shall conform to the traditional setbacks. In these areas, existing building frontages shall constitute a “build-to” line, with moderate variations permitted based on the existing pattern. Side and rear setbacks shall also follow traditional patterns.

SIGNS

To manage roadway signs in a manner consistent with traffic safety and corridor appearance, the following standards shall apply. Site plans shall identify the number, location, size, and height of signs, consistent with the following:

Number of Signs

- Residential subdivisions and multi-family complexes: These residential uses shall be permitted one freestanding sign per main entrance, not to exceed 2 signs per development.
- Commercial and industrial uses: Each parcel shall be permitted one freestanding sign, provided all other standards are met. In addition, each structure shall be permitted one on-structure sign. For the purposes of this section, a shopping center or similar use shall be permitted one main freestanding sign; no freestanding signs shall be permitted for individual establishments in shopping centers or for outparcels.

Size of Signs

Sign area shall include the entire face of the sign (one side only). Where the sign consists of individual raised letters or a sign face of irregular shape, the sign area shall include the smallest rectangle that can encompass the letters or the sign face. Space for changeable copy (including fuel prices or similar displays) shall be included in the area of the sign. The size for a freestanding sign shall be one square foot per five linear feet of lot frontage, up to a maximum of 32 square feet, provided that shopping centers or similar uses with five or more establishments shall be permitted up to 40 square feet of sign area. The square footage for on-structure signs shall be as follows:

- For wall signs mounted flat on the building: One square foot per linear foot of building frontage, up to a maximum of 100 square feet.
- For projecting or perpendicular signs: One square foot per linear foot of frontage up to a maximum of 12 square feet.

Location

No freestanding sign shall be located closer than 15 feet to the right-of-way of a designated COD route. Signs shall not obstruct sight distances as required herein.

Height

The maximum height for freestanding signs shall be seven feet above grade. Signs may be placed on landscaped berms or structural bases no higher than three feet tall, provided that these support methods contain no wording, logos, or other advertising material. When constructed in this manner, sign height shall be measured from the top of such berm or base. On-structure signs shall not project above the eaves line for buildings with pitched roofs, and not above the roofline for buildings with flat roofs. In addition, the top of wall signs shall be placed no higher than 20 feet above ground, and wall signs shall not extend from the wall more than 12 inches. The top of projecting signs shall not be higher than 15 feet and the base shall not be lower than eight feet. Projecting signs shall not project more than four feet from the wall on which they are mounted.

Construction

Freestanding signs shall be ground mounted, monument type structures. No pole or pylon signs shall be permitted. Signs shall be designed and constructed to complement the architecture of the building to which the sign refers. [sample images to be added]

Sign Landscaping

Landscaping shall be integrated into the installation of freestanding signs. This landscaping shall count towards the perimeter landscaping requirements contained in the COD. The landscaped area around the base of freestanding signs shall not be less than 100 square feet.

LANDSCAPING

The intent of this section is to ensure that the placement and maintenance of landscaping within the COD serves to:

- Preserve and enhance the visibility of traffic on major highways;
- Preserve and enhance the visual quality of designated corridors;
- Reduce the volume and improve the quality of stormwater runoff; and
- Shade parking lots, reducing heat generation.

Submission Requirements

Site plans shall include a landscaping plan, drawn to the same scale as the site plan, and showing the location, size, and description of all landscaping materials in relation to structures, parking areas, and driveways.

Minimum Size Standards

Trees shall have minimum caliper of 2½ inches at the time of planting. Shrubs shall have a minimum height of two feet at the time of planting.

Tree Preservation

Preservation of existing trees shall be maximized except when necessary to provide access, or in accordance with accepted landscape practice. Stand alone trees of six inches or greater diameter at breast height, located within any required setback, shall be preserved. Where any such tree is unhealthy, or needs to be removed in accordance with accepted landscape practice, its removal shall be indicated on the landscaping plan. Existing wooded areas shall be left in an undisturbed in their natural state, unless modifications are approved or required during site plan review.

Perimeter Landscaping

Landscaping shall be required at the outer boundaries of projects, or within the required setbacks, and shall be provided except where driveways or other openings may be required. For large development projects such as shopping centers, perimeter landscaping shall apply to the full perimeter of the project, and not to internal property lines. The linear feet guidelines below are to be used to calculate the number of required plantings; they do not require that plantings be uniformly spaced. Rather, grouping of plants consistent with accepted landscape practice is encouraged. Specific requirements are as follows:

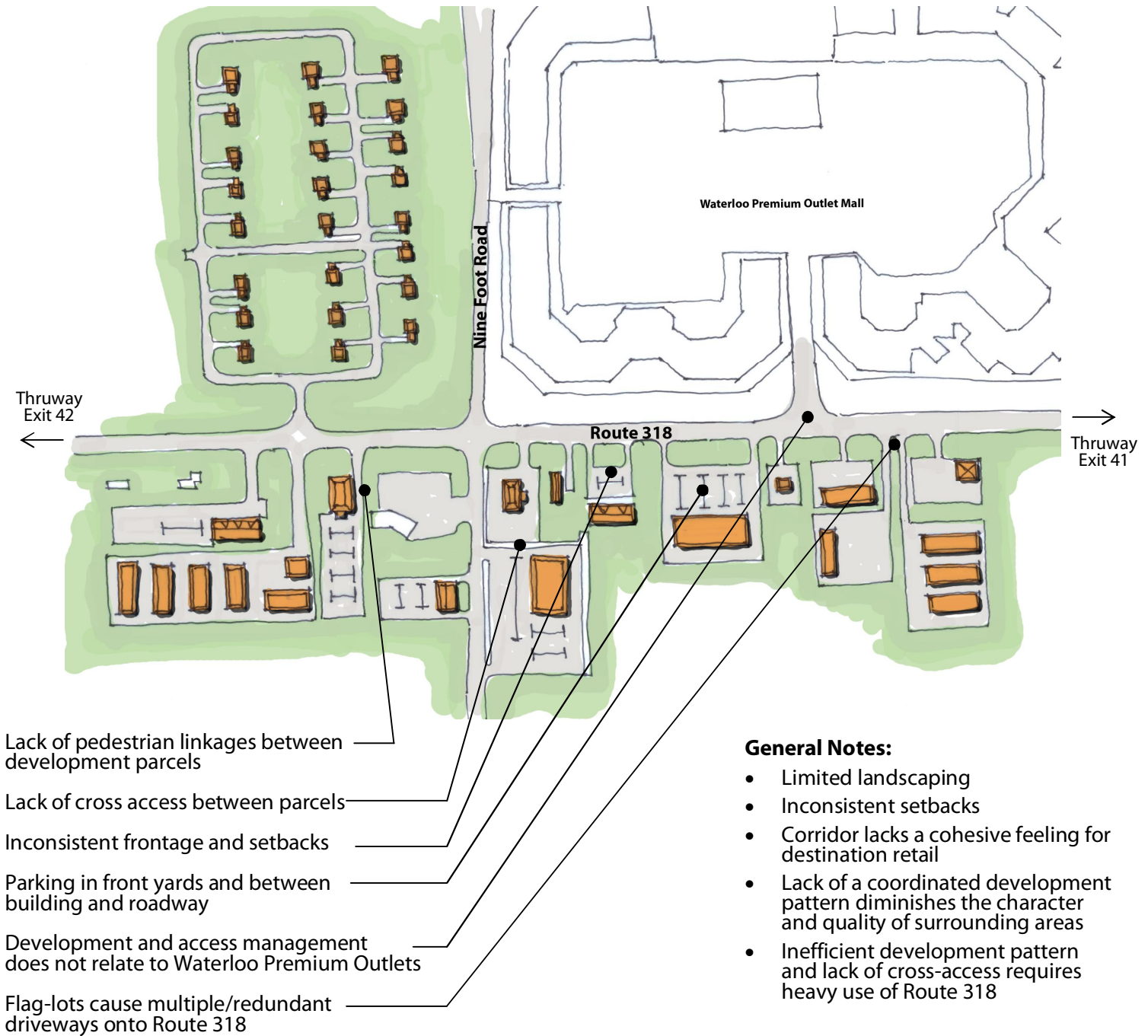
- At least one tree for each 50 linear feet of the perimeter of the lot and
- At least one shrub for each 10 linear feet of the perimeter of the lot.

Parking Lot Landscaping

Parking lots containing ten or more spaces shall be internally landscaped, so as to provide shade and screening, and in order to facilitate the safe and efficient movement of traffic. The area designated as required setbacks shall not be included as part of the required landscaping. Plantings shall be spaced and grouped consistent with accepted nursery standards, and shall not be located in a manner that impedes driver visibility. Specific requirements are as follows:

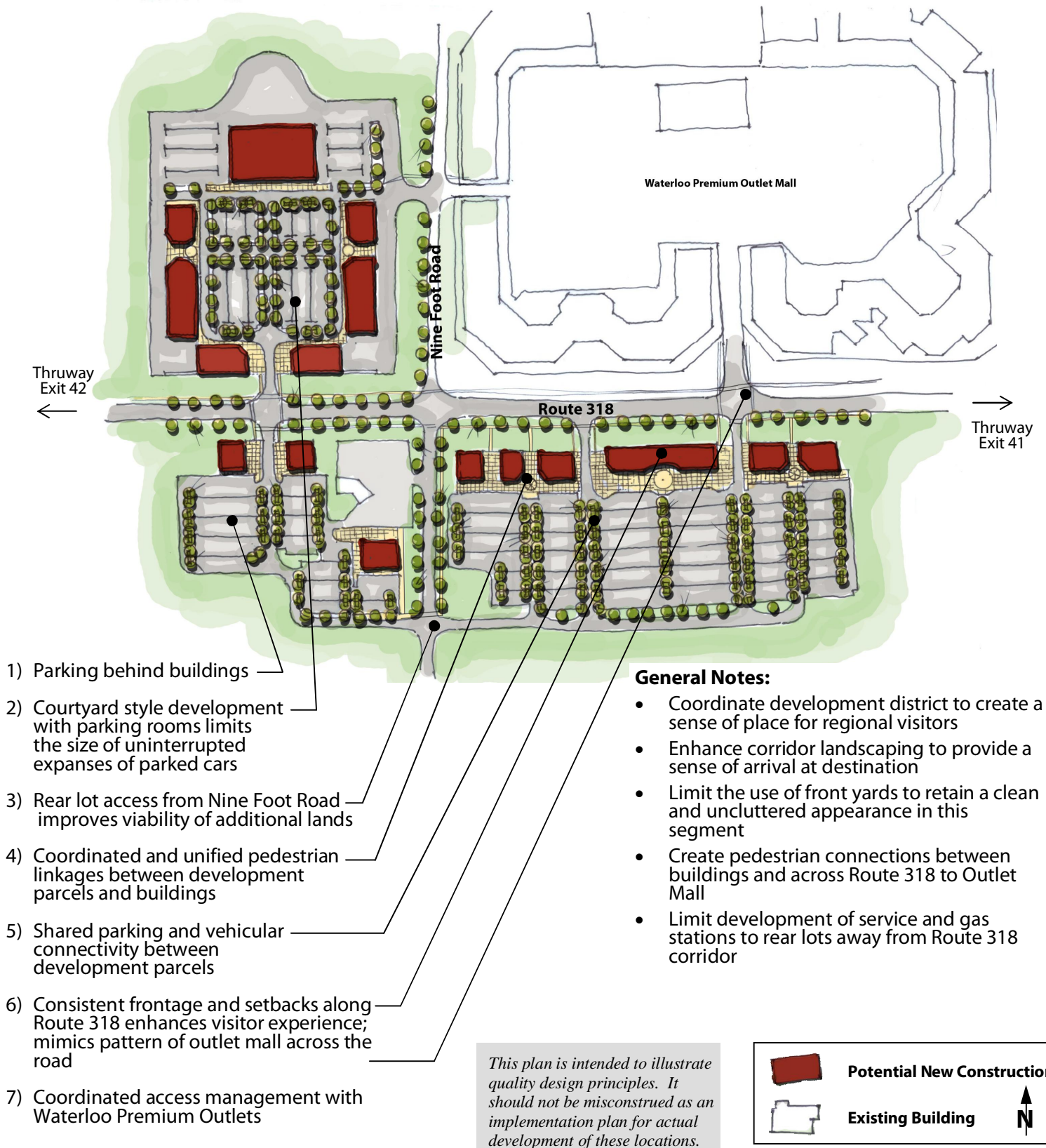
- A landscaped buffer at least 20 feet in width must be provided between a parking lot and the State Highway System. In traditional village settings, this distance may be reduced to be consistent with existing setbacks;
- Shade trees shall be planted along the frontage, parallel to the frontage road with a spacing not to exceed 50 feet or consistent with existing tree spacing on neighboring lots when present;
- A minimum of one landscaped island, at least 200 square feet in size, shall be provided for every eleven parking spaces contained within each single row of parking. Islands shall be planted with trees and shrubs with a minimum of two trees per eleven parking spaces;
- End islands shall be required for all parking configurations entirely surrounded by drive aisles, provided such configurations contain more than five spaces in a single row and ten spaces in a double row;
- Landscaped parking lot medians, a minimum of 10 feet in width, shall be used to separate driveway entrance aisles from parking areas;
- Landscaped areas shall contain no less than eight feet in average width;
- Trees and shrubs located within or adjacent to paved areas shall be salt tolerant; and
- All landscaped areas shall be planted with vegetative groundcover or shall be mulched, so that no bare ground exists.

Regional Shopping Destination: *Conventional Design*



This plan is intended to illustrate typical or conventional design principles. It is not intended to suggest actual development pressures in the corridor.



Regional Shopping Destination: *Best Practices Design*

Legend

Study Area

Municipal Boundaries

Tax Parcels

Route 96

Railroads

Streams & Creeks

Trails

Trails (proposed)

Snowmobile Trails

High risk of accidents

Focus Group Notes

Key Intersections

N

W

E

S

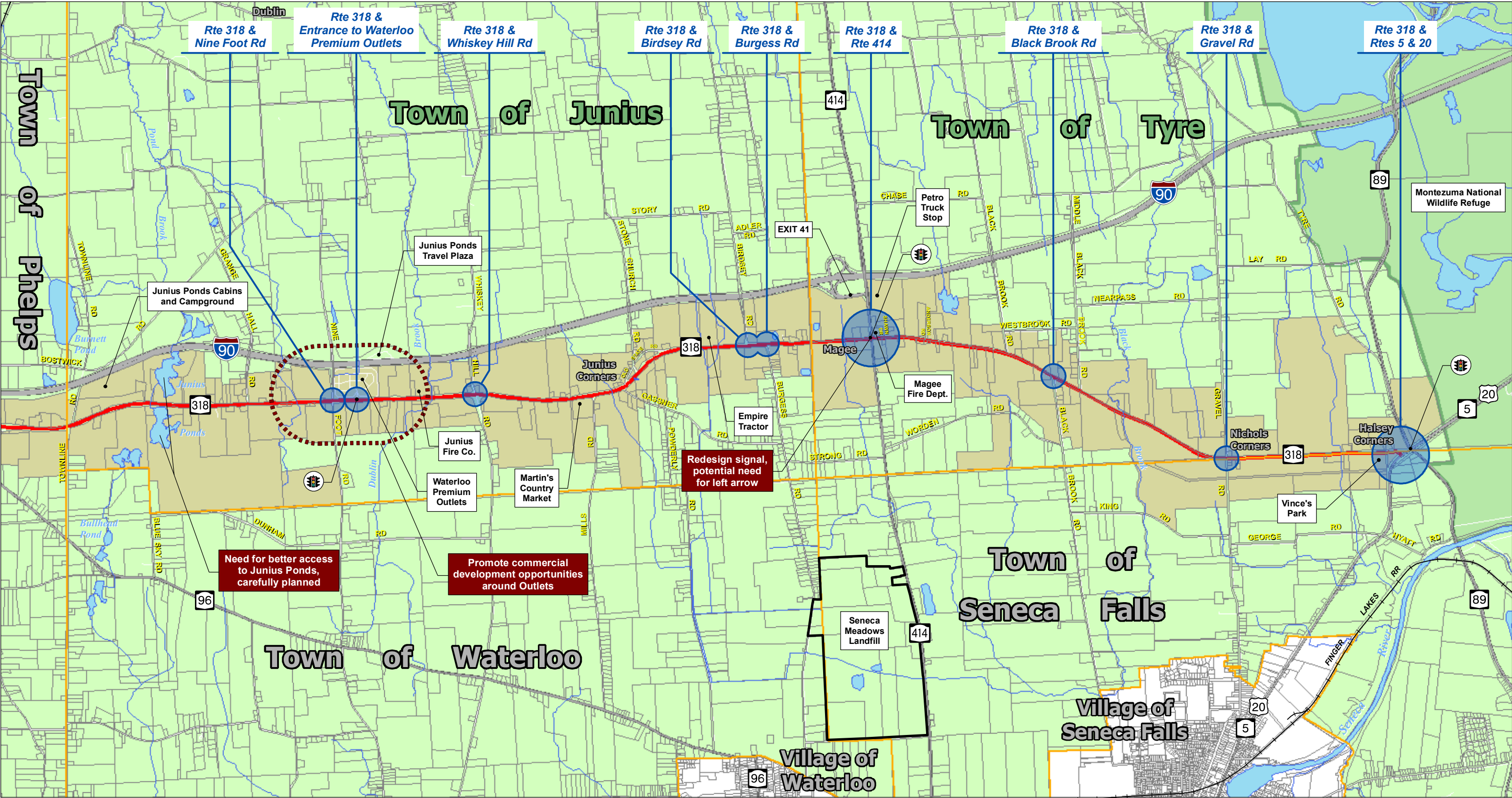
Bergmann

associates

GENESEE TRANSPORTATION COUNCIL

The Metropolitan Planning Organization for the Genesee-Finger Lakes Region

0 0.25 0.5 1 Miles




Routes 96 & 318
Rural Corridor Study

ONTARIO COUNTY &
SENECA COUNTY, NY

Map
14

11 x 17 Sheet
1 inch = 4,000 feet
1 inch = .75 miles

36 x 56 Plot
1 inch = 1,223 feet
1 inch = .23 miles



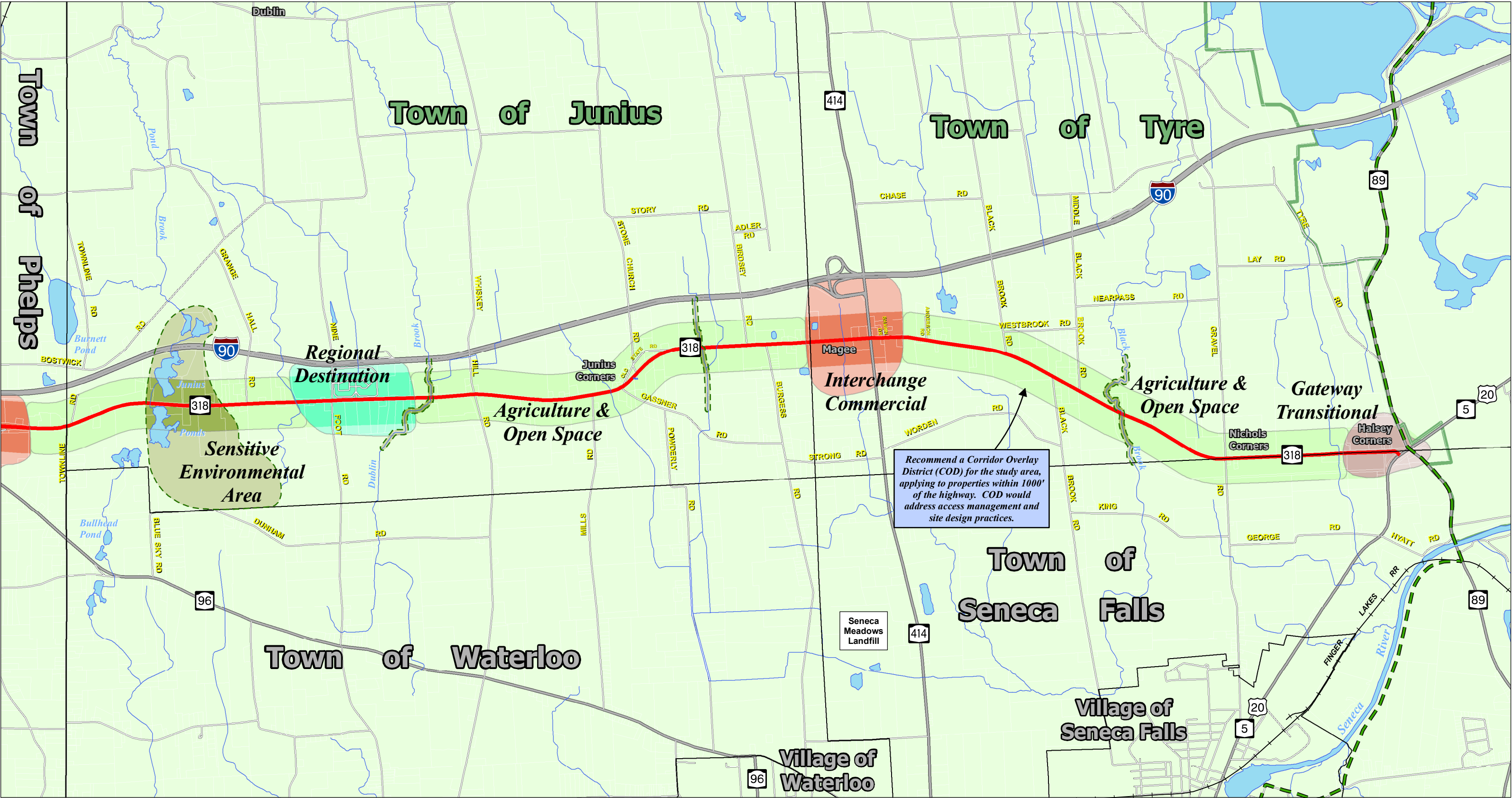
Bergmann
associates

GENESSEE TRANSPORTATION COUNCIL
The Metropolitan Planning Organization for the Genesee-Finger Lakes Region

Future Land Use Categories*

- Agriculture & Open Space (AO)
- Gateway Transitional (GT)
- Village Core (VC)
- Interchange Commercial (IC)
- Regional Destination (RD)
- Sensitive Environmental Area (SEA)
- Multi-use Trails (Planned)

* Only categories that intersect the Study Area are shown



APPENDIX H

NYS Department of Agriculture & Markets –
Circular 1150


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**New York State  
Department of Agriculture and Markets  
10B Airline Drive  
Albany, New York 12235**  
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CIRCULAR 1150

ARTICLE 25AA -- AGRICULTURAL DISTRICTS

**AGRICULTURE AND MARKETS LAW
(AS AMENDED THROUGH January 1, 2009)
AGRICULTURAL DISTRICTS LAW**

Summary of **1999 Amendments** to the Agricultural Districts Law

Section Amended:§301(4)(e) and §301(9)(e)

Description: Provides that land set aside through participation in a federal conservation program, regardless of the income derived from the land, shall be eligible for an agricultural assessment.

Effective Date: 9/7/99

Section Amended:§301(9)(e)

Description: Adds a new paragraph (e) to allow payments received for land set aside under a federal conservation reserve program to be included in calculating the average gross sales value of products produced in determining whether land used as a single farm operation qualifies as "land used in agricultural production."

Effective Date: 9/7/99

Section Amended:§303-a(4)

Description: Renumbers subdivision (4) to subdivision (5)

Effective Date: 7/20/99

Section Amended:§303-a(4)

Description: Adds a new subdivision (4) that states that if the county legislative body does not review a district upon its anniversary date, the agricultural district remains as originally constituted or until such time that the agricultural district is modified or terminated.

Effective Date: 7/20/99

Section Amended:§305(7)

Description: Provides that the real property tax exemption for agricultural land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard may be greater than 20% of the total acreage of such orchard or vineyard when such orchard or vineyard is located within an area declared by the Governor to be a disaster emergency.

Effective Date: 9/7/99 and shall apply to assessment rolls prepared on the basis of taxable status dates occurring on or after 9/7/99.

Section Amended:§308(3)

Description: Renumbers subdivision (3), which was added by Chapter 362 of the Laws of 1998, to subdivision (4)

Effective Date: 4/6/99

Section Repealed: §309(8) & (9)

Description: Repeals the two subdivisions

Effective Date: 7/20/99

Section Amended:§309(10)

Description: Renumbers subdivision (10) to subdivision (8)

Effective Date: 7/20/99

Section Amended §310(1)

Description: Adds language to the agricultural district disclosure statement to notify a prospective buyer of land within an agricultural district that under certain circumstances, the availability of water and sewer services may be limited.

Effective Date: 7/1/00

Summary of **2000 Amendments** to the Agricultural Districts Law

Section Amended: §305(1)(d)(v) and §306(2)(b)(iii)

Description: Revises reporting requirement of assessors to the State Board of Real Property Services when land receiving an agricultural assessment is converted to non-agricultural uses.

Effective Date: 7/11/00

Section Amended: §308(1)(b)

Description: Requires the Commissioner to give consideration to a practice conducted under the Agricultural Environmental Management (AEM) Program when making a sound agricultural practice determination.

Effective Date: 11/8/00

Summary of **2001 Amendments** to the Agricultural Districts Law

Section Amended: §301(11)

Description: Includes manure processing and handling facilities as part of a “farm operation” for purposes of administering the Agricultural Districts Law.

Effective Date: 10/23/01

Section Amended: §301(11)

Description: Includes “commercial horse boarding operations” as part of a “farm operation” for purposes of administering the Agricultural Districts Law.

Effective Date: 10/31/01

Summary of **2002 Amendments** to the Agricultural Districts Law

Section Amended: §301(4)

Description: Eliminates county legislative body approval for the designation of eligible horse boarding operations as land used in agricultural production.

Effective Date: 1/30/03

Sections Amended: §301(4), §301(4)(b), and §301(4)(f)

Description: Reduces the number of acres needed to qualify for agricultural real property assessment from ten acres to 7 or more acres as long as the value of crops produced exceeds \$10,000 on average in the preceding two years. The size of rented land eligible for an agricultural assessment is reduced from 10 acres to 7 acres as long as the smaller parcel yields at least \$10,000 in average annual gross sales independently or in conjunction with land owned by the farmer renting the parcel. The amendment also reduces the number of acres needed to qualify as land used in agricultural production from not less than ten acres to seven or more acres and average gross sales of \$10,000 or

more in the preceding two years or less than seven acres and average gross sales \$50,000 or more in the preceding two years.

Effective Date: 1/1/03

Section Added: §301(9)(f)
 Description: Allows payments received by thoroughbred breeders pursuant to Section 247 of the racing pari-mutuel wagering and breeding law to be included in the definition of "gross sales value" for agricultural assessment purposes.

Effective Date: 9/17/02

Section Amended: §301(11)
 Description: Amends the definition of farm operation to indicate that such operation may consist of one or more parcels of owned or rented land and such parcels may or may not be contiguous to each other.

Effective Date: 1/1/03

Section Amended: §301(13)
 Description: Reduces the minimum acreage required for a commercial horse boarding operation from ten to seven acres.

Effective Date: 1/1/03

Sections Amended: §303(2)(a)(1), §303(4), §303(5)(a) and (b), §303(6)(a) and (b), §303(7) and §303(8)
 Description: Amends various sections of the law to allow a landowner to include viable agricultural land within a certified agricultural district prior to its eight, twelve or twenty year review period.

Effective Date: 12/20/02

Summary of **2003 Amendments** to the Agricultural Districts Law

Section Added: §301(4)(h)
 Description: Adds a new paragraph (h) to allow first year farmers to receive an agricultural assessment if they meet the gross sales value requirements during their first year of operation.

Effective Date: 9/9/03

Sections Amended: §301(5), §305(1)(d)(iv), and §306(2)(c)
 Description: Amends various sections of the law so that conversion penalties are not assessed on farmland that is being used in agricultural production and receives an agricultural assessment when such land is converted to wind energy generation facilities.

Effective Date: 9/22/03

Sections Amended: §303-b, §303(2)(a)(1) and §303(4)

Description: Adds a new section 303-b to establish an annual 30-day period during which a farmer can submit proposals to include viable land within a certified agricultural district.

Effective Date: 9/17/03

Sections Amended: §303(5)(b), §303(6)(b) and §303(8)

Description: Repeals various sections of the law to conform with the provisions of a new section 303-b.

Effective Date: 9/17/03

Summary of **2004 Amendment** to the Agricultural Districts Law

Section Amended: §301(4)(h)

Description: Amends paragraph (h) to allow a farm operation to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production.

Effective Date: 2/24/04

Section Amended: §301(4)(i)

Description: Adds a new paragraph (i) to allow start-up farm operations that plant orchard or vineyard crops to immediately become eligible to receive an agricultural assessment in its first, second, third or fourth year of production.

Effective Date: 1/1/05

Summary of **2005 Amendments** to the Agricultural Districts Law

Section Amended: §301(2)(e)

Description: Amends paragraph (e) by adding wool bearing animals, such as alpacas and llamas, to the definition of "livestock and livestock products."

Effective Date: 7/12/05

Section Amended: §301(4)(h) and §301(13)

Description: Amends paragraph (h) to allow a "commercial horse boarding operation" to receive an agricultural assessment if it meets the acreage and gross sales value requirements during its first or second year of agricultural production. The definition of "commercial horse boarding operation" is amended by stating that such operations may qualify as a "farm operation" in its first or second year of operation if it meets the acreage and number of horse requirements.

Effective Date: 8/23/05

Section Amended: §301(11) and §301(14)

Description: Includes "timber processing" as part of a "farm operation" for purposes of administering the Agricultural Districts Law and adds a new section by defining the term "timber processing."

Effective Date: 8/23/05

Section Amended:§305-b

Description: Adds a new section that authorizes the Commissioner to review and comment upon the proposed rules and regulations of other State agencies which may have an adverse impact on agriculture and farming operations in the State.

Effective Date: 10/4/05 (Shall apply to proposed rules and regulations publicly noticed 60 or more days following the effective date.)

Summary of **2006 Amendments** to the Agricultural Districts Law

Section Amended:§301(4)

Description: Adds a new section (j) to allow newly planted Christmas tree farms to be eligible for agricultural assessment in their first through fifth years of agricultural production.

Effective Date: 1/1/07 and applies to assessment rolls prepared on the basis of taxable status dates occurring on or after such date.

Section Amended:§§301 and 308(1)

Description: Adds a new subdivision (15) to §301 to define “agricultural tourism” and amends §308(1) to add “agricultural tourism” to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.

Effective Date: 8/16/06

Section Amended:§305(1)(a)

Description: Amends paragraph (1)(a) to allow filing of an application after taxable status date where failure to timely file resulted from a death of applicant’s spouse, child, parent, brother or sister or illness of the applicant or applicant’s spouse, child, parent, brother or sister which prevents timely filing, as certified by a licensed physician.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after such date.

Section Amended:§305(7)

Description: Amends paragraph (7) to extend the 100% exemption for newly planted orchards and vineyards from 4 to 6 years.

Effective Date: 9/13/06 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 1/1/06.

Section Amended:§310(1), §308(5)

Description: Amends AML §§310(1), 308(5) and RPL §333-c(1) relative to the disclosure notice required for prospective purchasers of property within an agricultural district.

Effective Date: 7/26/06

Summary of **2007 Amendments** to the Agricultural Districts Law

Section Amended: §§303, 303-a & 304-b, repeals §303-a(2)(b) and (c)

Description: Amends AML §§303, 303-a and 304-b concerning the review of agricultural districts and the reporting of agricultural district data and repeals certain provisions of such law relating thereto.

Effective Date: 7/3/07

Section Amended: §304-a

Description: Amends AML §304-a to limit an increase in the base agricultural assessment values for any given year to 10 percent or less of the assessment value of the preceding year.

Effective Date: 6/4/07

Section Amended: §305(1)(a)

Description: Amends AML §305(1)(a) in relation to authorizing the filing of an application for an agricultural assessment after the taxable status date in the event of a natural disaster or destruction of farm structures.

Effective Date: 8/15/07

Summary of **2008 Amendments** to the Agricultural Districts Law

Section Amended: §§301(2)(j), 301(4)(k) and 301(16)

Description: Adds a new paragraph (j) to §301(2) to add “apiary products” to the definition of “crops, livestock and livestock products,” adds a new paragraph (k) to §301(4) to independently qualify apiaries for an agricultural assessment and adds a new subdivision (16) to define “apiary products operation.”

Effective Date: 7/21/08 and applies to assessment rolls prepared on the basis of a taxable status date occurring on or after 7/21/08 .

Section Amended: §§301(11) and 308(1)(b)

Description: Amends subdivision (11) of §301 to add the “production, management and harvesting of ‘farm woodland’” to the definition of “farm operation” and amends §308(1)(b) to add the “production, management and harvesting of ‘farm woodland’” to the list of examples of activities which entail practices the Commissioner may consider for sound agricultural practice opinions.

Effective Date: 9/4/08

Section Amended: §§301(9), 301(11), and 301(16)

Description: Adds a new paragraph (g) to §301(9) to allow up to \$5,000 from the sale of “compost, mulch or other organic biomass crops” to help meet the eligibility requirements for an agricultural assessment; amends subdivision (11) of §301 to add “compost, mulch or other biomass crops” to the definition of “farm operation” and adds a new subdivision (16) to define “compost, mulch or other organic biomass crops.”

Effective Date: 9/4/08

ARTICLE 25AA - AGRICULTURAL DISTRICTS

Sec.

- 300. Declaration of legislative findings and intent.
- 301. Definitions.
- 302. County agricultural and farmland protection board.
- 303. Agricultural districts; creation.
- 303-a. Agricultural districts; review.
- 303-b. Agricultural districts; inclusion of viable agricultural land.
- 304. Unique and irreplaceable agricultural land; creation of districts.
- 304-a. Agricultural assessment values.
- 304-b. Agricultural district data collection.
- 305. Agricultural districts; effects.
- 305-a. Coordination of local planning and land use decision-making with the agricultural districts program.
- 305-b. Review of proposed rules and regulations of state agencies affecting the agricultural industry.
- 306. Agricultural lands outside of districts; agricultural assessments.
- 307. Promulgation of rules and regulations.
- 308. Right to farm.
- 308-a. Fees and expenses in certain private nuisance actions.
- 309. Advisory council on agriculture.
- 310. Disclosure.

300. Declaration of legislative findings and intent

It is hereby found and declared that many of the agricultural lands in New York state are in jeopardy of being lost for any agricultural purposes. When nonagricultural development extends into farm areas, competition for limited land resources results. Ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements, often leading to the idling or conversion of potentially productive agricultural land.

The socio-economic vitality of agriculture in this state is essential to the economic stability and growth of many local communities and the state as a whole. It is, therefore, the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes.

The constitution of the state of New York directs the legislature to provide for the protection of agricultural lands. It is the purpose of this article to provide a locally-initiated mechanism for the protection and enhancement of New York state's agricultural land as a viable segment of the local and state economies and as an economic and environmental resource of major importance.

301. Definitions

When used in this article:

1. "Agricultural assessment value" means the value per acre assigned to land for assessment purposes determined pursuant to the capitalized value of production procedure prescribed by section three hundred four-a of this article.
2. "Crops, livestock and livestock products" shall include but not be limited to the following:
 - a. Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
 - b. Fruits, including apples, peaches, grapes, cherries and berries.
 - c. Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
 - d. Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
 - e. Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, wool bearing animals, such as alpacas and llamas, milk, eggs and furs.
 - f. Maple sap.
 - g. Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
 - h. Aquaculture products, including fish, fish products, water plants and shellfish.
 - i. Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.
 - j. Apiary products, including honey, beeswax, royal jelly, bee pollen, propolis, package bees, nucs and queens. For the purposes of this paragraph, "nucs" shall mean small honey bee colonies created from larger colonies including the nuc box, which is a smaller version of a beehive, designed to hold up to five frames from an existing colony.
3. "Farm woodland" means land used for the production for sale of woodland products, including but not limited to logs, lumber, posts and firewood. Farm woodland shall not include land used to produce Christmas trees or land used for the processing or retail merchandising of woodland products.
4. "Land used in agricultural production" means not less than seven acres of land used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more; or, not less than seven acres of land used in the preceding two years to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more. Land used in agricultural production shall not include land or portions thereof used for processing or retail merchandising of such crops, livestock or livestock products. Land used in agricultural production shall also include:
 - a. Rented land which otherwise satisfies the requirements for eligibility for an agricultural assessment.
 - b. Land of not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products, exclusive of woodland products, which does not independently satisfy the gross sales value requirement, where such land was used in such production for the preceding two years and currently is being so used under a written rental arrangement of five or more years in conjunction with land which is eligible for an agricultural assessment.
 - c. Land used in support of a farm operation or land used in agricultural production, constituting a portion of a parcel, as identified on the assessment roll, which also contains land qualified for an agricultural assessment.

- d. Farm woodland which is part of land which is qualified for an agricultural assessment, provided, however, that such farm woodland attributable to any separately described and assessed parcel shall not exceed fifty acres.
- e. Land set aside through participation in a federal conservation program pursuant to title one of the federal food security act of nineteen hundred eighty-five or any subsequent federal programs established for the purposes of replenishing highly erodible land which has been depleted by continuous tilling or reducing national surpluses of agricultural commodities and such land shall qualify for agricultural assessment upon application made pursuant to paragraph a of subdivision one of section three hundred five of this article, except that no minimum gross sales value shall be required.
- f. Land of not less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more, or land of less than seven acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more.
- g. Land under a structure within which crops, livestock or livestock products are produced, provided that the sales of such crops, livestock or livestock products meet the gross sales requirements of paragraph f of this subdivision.
- h. Land that is owned or rented by a farm operation in its first or second year of agricultural production, or, in the case of a commercial horse boarding operation in its first or second year of operation, that consists of (1) not less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more; or (2) less than seven acres used as a single operation for the production for sale of crops, livestock or livestock products of an annual gross sales value of fifty thousand dollars or more; or (3) land situated under a structure within which crops, livestock or livestock products are produced, provided that such crops, livestock or livestock products have an annual gross sales value of (i) ten thousand dollars or more, if the farm operation uses seven or more acres in agricultural production, or (ii) fifty thousand dollars or more, if the farm operation uses less than seven acres in agricultural production; or (4) not less than seven acres used as a single operation to support a commercial horse boarding operation with annual gross receipts of ten thousand dollars or more.
- i. Land of not less than seven acres used as a single operation for the production for sale of orchard or vineyard crops when such land is used solely for the purpose of planting a new orchard or vineyard and when such land is also owned or rented by a newly established farm operation in its first, second, third or fourth year of agricultural production.
- j. Land of not less than seven acres used as a single operation for the production and sale of Christmas trees when such land is used solely for the purpose of planting Christmas trees that will be made available for sale, whether dug for transplanting or cut from the stump and when such land is owned or rented by a newly established farm operation in its first, second, third, fourth or fifth year of agricultural production.
- k. Land used to support an apiary products operation which is owned by the operation and consists of (i) not less than seven acres nor more than ten acres used as a single operation in the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of ten thousand dollars or more or (ii) less than seven acres used as a single operation in

the preceding two years for the production for sale of crops, livestock or livestock products of an average gross sales value of fifty thousand dollars or more. The land used to support an apiary products operation shall include, but not be limited to, the land under a structure within which apiary products are produced, harvested and stored for sale; and a buffer area maintained by the operation between the operation and adjacent landowners. Notwithstanding any other provision of this subdivision, rented land associated with an apiary products operation is not eligible for an agricultural assessment based on this paragraph.

5. "Oil , gas or wind exploration, development or extraction activities" means the installation and use of fixtures and equipment which are necessary for the exploration, development or extraction of oil, natural gas or wind energy, including access roads, drilling apparatus, pumping facilities, pipelines, and wind turbines.
6. "Unique and irreplaceable agricultural land" means land which is uniquely suited for the production of high value crops, including, but not limited to fruits, vegetables and horticultural specialties.
7. "Viable agricultural land" means land highly suitable for agricultural production and which will continue to be economically feasible for such use if real property taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of non-agricultural development.
8. "Conversion" means an outward or affirmative act changing the use of agricultural land and shall not mean the nonuse or idling of such land.
9. "Gross sales value" means the proceeds from the sale of:
 - a. Crops, livestock and livestock products produced on land used in agricultural production provided, however, that whenever a crop is processed before sale, the proceeds shall be based upon the market value of such crop in its unprocessed state;
 - b. Woodland products from farm woodland eligible to receive an agricultural assessment, not to exceed two thousand dollars annually;
 - c. Honey and beeswax produced by bees in hives located on an otherwise qualified farm operation but which does not independently satisfy the gross sales requirement; and
 - d. Maple syrup processed from maple sap produced on land used in agricultural production in conjunction with the same or an otherwise qualified farm operation.
 - e. Or payments received by reason of land set aside pursuant to paragraph e of subdivision four of this section.
 - f. Or payments received by thoroughbred breeders pursuant to section two hundred forty-seven of the racing, pari-mutuel wagering and breeding law.
 - g. Compost, mulch or other organic biomass crops as defined in subdivision sixteen of this section produced on land used in agricultural production, not to exceed five thousand dollars annually.
11. "Farm operation" means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of this section and "timber processing" as defined in subdivision fourteen of this section and "compost, mulch or other biomass crops" as defined in subdivision sixteen of this section. For the purposes of this section, such farm operation shall also include the production, management and harvesting of "farm woodland", as defined in subdivision

- three of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.¹
12. "Agricultural data statement" means an identification of farm operations within an agricultural district located within five hundred feet of the boundary of property upon which an action requiring municipal review and approval by the planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law is proposed, as provided in section three hundred five-a of this article.
 13. "Commercial horse boarding operation" means an agricultural enterprise, consisting of at least seven acres and boarding at least ten horses, regardless of ownership, that receives ten thousand dollars or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this subdivision be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this subdivision, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven acres, and boarding at least ten horses, regardless of ownership, by the end of the first year of operation.
 14. "Timber processing" means the on-farm processing of timber grown on a farm operation into woodland products, including but not limited to logs, lumber, posts and firewood, through the use of a readily moveable, nonpermanent saw mill, provided that such farm operation consists of at least seven acres and produces for sale crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products.
 15. "Agricultural tourism" means activities conducted by a farmer on-farm for the enjoyment or education of the public, which primarily promote the sale, marketing, production, harvesting or use of the products of the farm and enhance the public's understanding and awareness of farming and farm life.
 16. "Apiary products operation" means an agricultural enterprise, consisting of land owned by the operation, upon which bee hives are located and maintained for the purpose of producing, harvesting and storing apiary products for sale.
 16. "Compost, mulch or other organic biomass crops" means the on-farm processing, mixing, handling or marketing of organic matter that is grown or produced by such farm operation to rid such farm operation of its excess agricultural waste; and the on-farm processing, mixing or handling of off-farm generated organic matter that is transported to such farm operation and is necessary to facilitate the composting of such farm operation's agricultural waste. This shall also include the on-farm processing, mixing or handling of off-farm generated organic matter for use only on that farm operation. Such organic matter shall include, but not be limited to, manure, hay, leaves, yard waste, silage, organic farm waste, vegetation, wood biomass or by-products of agricultural products that have been processed on such farm operation. The resulting products shall be converted into compost, mulch or other organic biomass crops that can be used as fertilizers, soil enhancers or supplements, or bedding materials. For purposes of this section, "compost" shall be processed by the aerobic, thermophilic decomposition of solid organic constituents of solid waste to produce a stable, humus-like material.

¹ The definition of "farm operation" was separately amended by Chapters 374 and 388 of the Laws of 2001 to add "manure processing and handling facilities" (Chapter 374) and "commercial horse boarding operations" (Chapter 388) and in 2005, "timber processing" (Chapter 573).

302. County agricultural and farmland protection board

1. (a) A county legislative body may establish a county agricultural and farmland protection board which shall consist of eleven members, at least four of whom shall be active farmers. At least one member of such board shall represent agribusiness and one member may represent an organization dedicated to agricultural land preservation. These six members of the board shall reside within the county which the respective board serves. The members of the board shall also include the chairperson of the county soil and water conservation district's board of directors, a member of the county legislative body, a county cooperative extension agent, the county planning director and the county director of real property tax services. The chairperson shall be chosen by majority vote. Such board shall be established in the event no such board exists at the time of receipt by the county legislative body of a petition for the creation or review of an agricultural district pursuant to section three hundred three of this article, or at the time of receipt by the county of a notice of intent filing pursuant to subdivision four of section three hundred five of this article. The members of such board shall be appointed by the chairperson of the county legislative body, who shall solicit nominations from farm membership organizations except for the chairperson of the county soil and water conservation district's board of directors, the county planning director and director of real property tax services, who shall serve ex officio. The members shall serve without salary, but the county legislative body may entitle each such member to reimbursement for actual and necessary expenses incurred in the performance of official duties.
- (b) After the board has been established, the chairperson of the county legislative body shall appoint to it two qualified persons for terms of two years each, two qualified persons for terms of three years each and two qualified persons for a term of four years. Thereafter, the appointment of each member shall be for a term of four years. Appointment of a member of the county legislative body shall be for a term coterminous with the member's term of office. Appointment of the county planning director and county director of real property tax services shall be coterminous with their tenure in such office. The appointment of the chairperson of the county soil and water conservation district's board of directors shall be for a term coterminous with his or her designation as chairperson of the county soil and water conservation district's board of directors. Any member of the board may be reappointed for a succeeding term on such board without limitations as to the number of terms the member may serve.
- (c) The county agricultural and farmland protection board shall advise the county legislative body and work with the county planning board in relation to the proposed establishment, modification, continuation or termination of any agricultural district. The board shall render expert advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area and the relation of farming in such area to the county as a whole. The board may review notice of intent filings pursuant to subdivision four of section three hundred five of this article and make findings and recommendations pursuant to that section as to the effect and reasonableness of proposed actions involving the advance of public funds or acquisitions of farmland in agricultural districts by governmental entities. The board shall also assess and approve county agricultural and farmland protection plans.

- (d) A county agricultural and farmland protection board may request the commissioner of agriculture and markets to review any state agency rules and regulations which the board identifies as affecting the agricultural activities within an existing or proposed agricultural district. Upon receipt of any such request, the commissioner of agriculture and markets shall, if the necessary funds are available, submit in writing to the board (i) notice of changes in such rules and regulations which he or she deems necessary, (ii) a copy of correspondence with another agency if such rules and regulations are outside his or her jurisdiction, including such rules and regulations being reviewed, and his or her recommendations for modification, or (iii) his or her reasons for determining that existing rules and regulations be continued without modification.
 - (e) The county agricultural and farmland protection board shall notify the commissioner and the commissioner of the department of environmental conservation of any attempts to propose the siting of solid waste management facilities upon farmland within an agricultural district.
2. Upon the request of one or more owners of land used in agricultural production the board may review the land classification for such land established by the department of agriculture and markets, consulting with the district soil and water conservation office, and the county cooperative extension service office. After such review, the board may recommend revisions to the classification of specific land areas based on local soil, land and climatic conditions to the department of agriculture and markets.

303. Agricultural districts; creation

- 1. Any owner or owners of land may submit a proposal to the county legislative body for the creation of an agricultural district within such county, provided that such owner or owners own at least five hundred acres or at least ten per cent of the land proposed to be included in the district, whichever is greater. Such proposal shall be submitted in such manner and form as may be prescribed by the commissioner, shall include a description of the proposed district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries, and the tax map identification numbers for every parcel in the proposed district. The proposal may recommend an appropriate review period of either eight, twelve or twenty years.
- 2. Upon the receipt of such a proposal, the county legislative body:
 - a. shall thereupon provide notice of such proposal by publishing a notice in a newspaper having general circulation within the proposed district and by posting such notice in five conspicuous places within the proposed district. The notice shall contain the following information:
 - (1) a statement that a proposal for an agricultural district has been filed with the county legislative body pursuant to this article;
 - (2) a statement that the proposal will be on file open to public inspection in the county clerk's office;
 - (3) a statement that any municipality whose territory encompasses the proposed district or any landowner who owns at least ten per cent of the land proposed to be included within the proposed modification of the proposed district may propose a modification of the proposed district in such form and manner as may be prescribed by the commissioner of agriculture and markets;
 - (4) a statement that the proposed modification must be filed with the county clerk and the clerk of the county legislature within thirty days after the publication of such notice;

- (5) a statement that at the termination of the thirty day period, the proposal and proposed modifications will be submitted to the county planning board and county agricultural and farmland protection board and that thereafter a public hearing will be held on the proposal, proposed modifications and recommendations of the planning board and county agricultural and farmland protection board;
 - b. shall receive any proposals for modifications of such proposal which may be submitted by such landowners or municipalities within thirty days after the publication of such notice;
 - c. shall, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county planning board, which shall, within forty-five days, report to the county legislative body the potential effect of such proposal and proposed modifications upon the county's planning policies and objectives;
 - d. shall simultaneously, upon the termination of such thirty day period, refer such proposal and proposed modifications to the county agricultural and farmland protection board, which shall, within forty-five days report to the county legislative body its recommendations concerning the proposal and proposed modifications, and;
 - e. shall hold a public hearing in the following manner:
 - (1) The hearing shall be held at a place within the proposed district or otherwise readily accessible to the proposed district;
 - (2) The notice shall contain the following information:
 - (a) a statement of the time, date and place of the public hearing;
 - (b) a description of the proposed district, any proposed additions and any recommendations of the county planning board or county agricultural and farmland protection board;
 - (c) a statement that the public hearing will be held concerning:
 - (i) the original proposal;
 - (ii) any written amendments proposed during the thirty day review period;
 - (iii) any recommendations proposed by the county agricultural and farmland protection board and/or the county planning board.
 - (3) The notice shall be published in a newspaper having a general circulation within the proposed district and shall be given in writing to those municipalities whose territory encompasses the proposed district and any proposed modifications, owners of real property within such a proposed district or any proposed modifications who are listed on the most recent assessment roll, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture.
3. The following factors shall be considered by the county planning board, the county agricultural and farmland protection board, and at any public hearing:
 - (i) the viability of active farming within the proposed district and in areas adjacent thereto;
 - (ii) the presence of any viable farm lands within the proposed district and adjacent thereto that are not now in active farming;
 - (iii) the nature and extent of land uses other than active farming within the proposed district and adjacent thereto;
 - (iv) county developmental patterns and needs; and
 - (v) any other matters which may be relevant.

In judging viability, any relevant agricultural viability maps prepared by the commissioner of agriculture and markets shall be considered, as well as soil, climate, topography,

other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated trends in agricultural economic conditions and technology, and such other factors as may be relevant.

4. The county legislative body, after receiving the reports of the county planning board and the county agricultural and farmland protection board and after such public hearing, may adopt as a plan the proposal or any modification of the proposal it deems appropriate, and shall adopt as part of the plan an appropriate review period of either eight, twelve or twenty years. The plan as adopted shall, to the extent feasible, include adjacent viable farm lands, and exclude, to the extent feasible, nonviable farm land and non-farm land. The plan shall include only whole tax parcels in the proposed district. The county legislative body shall act to adopt or reject the proposal, or any modification of it, no later than one hundred eighty days from the date the proposal was submitted to this body. Upon the adoption of a plan, the county legislative body shall submit it to the commissioner. The commissioner may, upon application by the county legislative body and for good cause shown, extend the period for adoption and submission once for an additional thirty days. Where he or she does so, the county legislative body may extend the period for the report from the county planning board and/or the period for the report from the county agricultural and farmland protection board.
5. a. The commissioner shall have sixty days after receipt of the plan within which to certify to the county legislative body whether the proposal, or a modification of the proposal, is eligible for districting, whether the area to be districted consists predominantly of viable agricultural land, and whether the plan of the proposed district is feasible, and will serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state. The commissioner shall submit a copy of such plan to the commissioner of environmental conservation, who shall have thirty days within which to report his or her determination to the commissioner. A copy of such plan shall also be provided to the advisory council on agriculture. The commissioner shall not certify the plan as eligible for districting unless the commissioner of environmental conservation has determined that the area to be districted is consistent with state environmental plans, policies and objectives.
b. [repealed]
6. a. Within sixty days after the certification by the commissioner that the proposed area is eligible for districting, and that districting would be consistent with state environmental plans, policies and objectives, the county legislative body may hold a public hearing on the plan, except that it shall hold a public hearing if the plan was modified by the commissioner or was modified by the county legislative body after they held the public hearing required by paragraph e of subdivision two of this section and such modification was not considered at the original hearing. Notice of any such hearing shall be in a newspaper having general circulation in the area of the proposed district and individual notice, in writing, to those municipalities whose territories encompass the proposed district modifications, the persons owning land directly affected by the proposed district modifications, the commissioner, the commissioner of environmental conservation and the advisory council on agriculture. The proposed district, if certified without modification by the commissioner, shall become effective thirty days after the termination of such public hearing or, if there is no public hearing, ninety days after such certification unless its creation is disapproved by the county legislative body within such period. Provided, however, that if, on a date within the thirty days after the termination of such public hearing or, if there is no public hearing, within the ninety days after such certification, the county legislative body approves creation of the district, such district shall become effective

on such date. Provided further, that notwithstanding any other provision of this subdivision, if the commissioner modified the proposal, the district shall not become effective unless the county legislative body approves the modified district; such approval must be given on a date within the thirty days after termination of the public hearing; and the district, if approved, shall become effective on such date. Before approving or disapproving any proposal modified by the commissioner, the county legislative body may request reports on such modified proposal, from the county planning board and the county agricultural and farmland protection board.

b. [repealed]

7. Upon the creation of an agricultural district, the description thereof, which shall include tax map identification numbers for all parcels within the district, plus a map delineating the exterior boundaries of the district in relation to tax parcel boundaries, shall be filed by the county legislative body with the county clerk, the county director of real property tax services, and the commissioner. For all existing agricultural districts, the county clerk shall also file with the commissioner upon request the tax map identification numbers for tax parcels within those districts. The commissioner, on petition of the county legislative body, may, for good cause shown, approve the correction of any errors in materials filed pursuant to a district creation at any time subsequent to the creation of any agricultural district.
8. [repealed]

303-a. Agricultural districts; review.

1. The county legislative body shall review any district created under this section eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district and at the end of every eight, twelve or twenty year period thereafter, whichever may apply. In counties with multiple districts with review dates in any twelve month period, the commissioner, on petition of the county legislative body, may, for good cause shown, approve an extension of up to four years for a district review. Thereafter, the extended review date shall be deemed the creation date for purposes of subsequent reviews by the county legislative body in accordance with this section. The review date of a district may not be extended more than four years. The petition of the county legislative body for an extension shall be submitted to the commissioner at least six months prior to the review date.
2. In conducting a district review the county legislative body shall;
 - a. Provide notice of such district review by publishing a notice in a newspaper having general circulation within the district and by posting such notice in at least five conspicuous places within the district. The notice shall identify the municipalities in which the district is found and the district's total area; indicate that a map of the district will be on file and open to public inspection in the office of the county clerk and such other places as the legislative body deems appropriate; and notify municipalities and land owners within the district that they may propose a modification of the district by filing such proposal with the county clerk of the county legislature within thirty days after the publication of such notice;
 - b. Direct the county agricultural and farmland protection board to prepare a report concerning the following:
 - (1) The nature and status of farming and farm resources within such district, including the total number of acres of land and the total number of acres of land in farm operations in the district;
 - (2) The extent to which the district has achieved its original objectives;

- (3) The extent to which county and local comprehensive plans, policies and objectives are consistent with and support the district;
 - (4) The degree of coordination between local laws, ordinances, rules and regulations that apply to farm operations in such district and their influence on farming; and;
 - (5) Recommendations to continue terminate or modify such district.
- c. Hold a public hearing at least one hundred twenty days prior to the district review date and not more than one hundred eighty days prior to such date, in the following manner:
 - (1) The hearing shall be held at a place within the district or other-wise readily accessible to the proposed district;
 - (2) A notice of public hearing shall be published in a newspaper having a general circulation within the district and shall be given in writing to those municipalities whose territories encompass the district and any proposed modifications to the district; to persons, as listed on the most recent assessment roll, whose land is the subject of a proposed modification; and to the commissioner;
 - (3) The notice of hearing shall contain the following information:
 - (a) a statement of the time, date and place of the public hearing; and
 - (b) a description of the district, any proposed modifications and any recommendations of the county agricultural and farmland protection board.
3. The county legislative body, after receiving the report and recommendation of the county agricultural and farmland protection board, and after public hearing, shall make a finding whether the district should be continued, terminated or modified. If the county legislative body finds that the district should be terminated, it may do so at the end of such eight, twelve or twenty year period, whichever may be applicable, by filing a notice of termination with the county clerk and the commissioner. If the county legislative body finds that the district should be continued or modified, it shall submit a district review plan to the commissioner. The district review plan shall include a description of the district, including a map delineating the exterior boundaries of the district which shall conform to tax parcel boundaries; the tax map identification numbers for every parcel in the district; a copy of the report of the county agricultural and farmland protection board required by paragraph b of subdivision two of this section; and a copy of the testimony given at the public hearing required by subdivision two of this section or a copy of the minutes of such hearing.
4. If the county legislative body does not act, or if a modification of a district is rejected by the county legislative body, the district shall continue as originally constituted, unless the commissioner, after consultation with the advisory council on agriculture, terminates such district, by filing a notice thereof with the county clerk, because:
 - a. The area in the district is no longer predominantly viable agricultural land; or
 - b. The commissioner or environmental conservation has determined that the continuation of the district would not be consistent with state environmental plans, policies and objectives; provided, however, that if the commissioner certifies to the county legislative body that he or she will not approve the continuance of the district unless modified, the commissioner shall grant the county an extension as provided in subdivision one of this section to allow the county to prepare a modification of the district in the manner provided in this section.
5. Plan review, certification and filing shall be conducted in the same manner prescribed for district creation in subdivisions five, six and seven of section three hundred three of this article.

303-b. Agricultural districts; inclusion of viable agricultural land

1. The legislative body of any county containing a certified agricultural district shall designate an annual thirty-day period within which a land owner may submit to such body a request for inclusion of land which is predominantly viable agricultural land within a certified agricultural district prior to the county established review period. Such request shall identify the agricultural district into which the land is proposed to be included, describe such land, and include the tax map identification number and relevant portion of the tax map for each parcel of land to be included.
2. Upon the termination of such thirty-day period, if any requests are submitted, the county legislative body shall:
 - a. refer such request or requests to the county agricultural and farmland protection board, which shall, within thirty days report to the county legislative body its recommendations as to whether the land to be included in the agricultural district consists predominantly of “viable agricultural land” as defined in subdivision seven of section three hundred one of this article and the inclusion of such land would serve the public interest by assisting in maintaining a viable agricultural industry within the district; and
 - b. publish a notice of public hearing in accordance with subdivision three of this section.
3. The county legislative body shall hold a public hearing upon giving notice in the following manner:
 - a. The notice of public hearing shall contain a statement that one or more requests for inclusion of predominantly viable agricultural land within a certified agricultural district have been filed with the county legislative body pursuant to this section; identify the land, generally, proposed to be included; indicate the time, date and place of the public hearing, which shall occur after receipt of the report of the county agricultural and farmland protection board; and include a statement that the hearing shall be held to consider the request or requests and recommendations of the county agricultural and farmland protection board.
 - b. The notice shall be published in a newspaper having a general circulation within the county and shall be given in writing directly to those municipalities whose territory encompasses the lands which are proposed to be included in an agricultural district and to the commissioner.
4. After the public hearing, the county legislative body shall adopt or reject the inclusion of the land requested to be included within an existing certified agricultural district. Such action shall be taken no later than one hundred twenty days from the termination of the thirty day period described in subdivision one of this section. Any land to be added shall consist of whole tax parcels only. Upon the adoption of a resolution to include predominantly viable agricultural land, in whole or in part, within an existing certified agricultural district, the county legislative body shall submit the resolution, together with the report of the county agricultural and farmland protection board and the tax map identification numbers and tax maps for each parcel of land to be included in an agricultural district to the commissioner.
5. Within thirty days after receipt of a resolution to include land within a district, the commissioner shall certify to the county legislative body whether the inclusion of predominantly viable agricultural land as proposed is feasible and shall serve the public interest by assisting in maintaining a viable agricultural industry within the district or districts.

6. If the commissioner certifies that the proposed inclusion of predominantly viable agricultural land within a district is feasible and in the public interest, the land shall become part of the district immediately upon such certification.

304. Unique and irreplaceable agricultural lands; creation of districts

1. The commissioner, after consulting with the advisory council on agriculture, may create agricultural districts covering any land in units of two thousand or more acres not already districted under section three hundred three of this article, if (a) the land encompassed in a proposed district is predominantly unique and irreplaceable agricultural land; (b) the commissioner of environmental conservation has determined that such district would further state environmental plans, policies and objectives; and (c) the director of the division of the budget has given approval of the establishment of such area.
2. Prior to creating an agricultural district under this section, the commissioner of agriculture and markets shall work closely, consult and cooperate with local elected officials, planning bodies, agriculture and agribusiness interests, community leaders, and other interested groups. The commissioner shall give primary consideration to local needs and desires, including local zoning and planning regulations as well as regional and local comprehensive land use plans. The commissioner shall file a map of the proposed district in the office of the clerk of any municipality in which the proposed district is to be located, and shall provide a copy thereof to the chief executive officer of any such municipality and the presiding officer of the local governing body, and, upon request, to any other person. The commissioner shall publish a notice of the filing of such proposed map and the availability of copies thereof in a newspaper of general circulation within the area of the proposed district, which notice shall also state that a public hearing will be held to consider the proposed district at a specified time and at a specified place either within the proposed district or easily accessible to the proposed district on a date not less than thirty days after such publication. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land within the proposed district. The commissioner shall conduct a public hearing pursuant to such notice, and, in addition, any person shall have the opportunity to present written comments on the proposed district within thirty days after the public hearing. After due consideration of such local needs and desires, including such testimony and comments, if any, the commissioner may affirm, modify or withdraw the proposed district. Provided, however, that if the commissioner modifies the proposal to include any land not included in the proposal as it read when the public hearing was held, the commissioner shall hold another public hearing, on the same type of published and written notice, and with the same opportunity for presentation of written comments after the hearing. Then the commissioner may affirm, modify or withdraw the proposed district, but may not modify it to include land not included in the proposal upon which the second hearing was held.
3. Upon such affirmation or modification, a map of the district shall be filed by the commissioner of agriculture and markets with the county clerk of each county in which the district or a portion thereof is located, and publication of such filing shall be made in a newspaper of general circulation within the district to be created. The creation of the district shall become effective thirty days after such filing and publication.
4. The commissioner shall review any district created under this section, in consultation with the advisory council on agriculture, the commissioner of environmental conservation and the director of the division of the budget, eight, twelve or twenty years after the date of its creation, consistent with the review period set forth in the plan creating such district or every eight years if the district was adopted prior to August first, nineteen hundred eighty-three, and every eight, twelve or twenty year period thereafter, whichever may be

applicable. Each such review shall include consultations with local elected officials, planning bodies, agricultural and agribusiness interests, community leaders, county agricultural and farmland protection boards, and other interested groups, and shall also include a public hearing at a specified time and at a specified place either within the district or easily accessible to the proposed district, notice of such hearing to be published in a newspaper having general circulation within the district. In addition, the commissioner shall give notice, in writing, of such public hearing to persons owning land in the district. After any such review, the commissioner may modify such district so as to exclude land which is no longer predominantly unique and irreplaceable agricultural land or to include additional such land, provided: (a) such modification would serve the public interest by assisting in maintaining a viable agricultural industry within the district and the state; (b) the commissioner of environmental conservation has determined that such modification would further state environmental plans, policies and objectives; and (c) such modification has been approved by the director of the division of the budget; provided, further that if the commissioner modifies the district to include additional land, he or she shall hold another public hearing, on the same type of published and written notice. Then the commissioner may again modify or dissolve the district, but may not modify it to include land not included in the proposed modifications upon which the second hearing was held. After any such review the commissioner, after consultation with the advisory council on agriculture, shall dissolve any such district if (a) the land within the district is no longer predominantly unique and irreplaceable agricultural land, or (b) the commissioner of environmental conservation has determined that the continuation of the district would not further state environmental plans, policies and objectives. A modification or dissolution of a district shall become effective in the same manner as is provided for in subdivision three of this section, except that in the case of dissolution, a notice of dissolution shall be filed instead of a map.

304-a. Agricultural assessment values

1. Agricultural assessment values shall be calculated and certified annually in accordance with the provisions of this section.
2.
 - a. The commissioner of agriculture and markets shall establish and maintain an agricultural land classification system based upon soil productivity and capability. The agricultural land classification system shall distinguish between mineral and organic soils. There shall be ten primary groups of mineral soils and such other subgroups as the commissioner determines necessary to represent high-lime and low-lime content. There shall be four groups of organic soils.
 - b. The land classification system shall be promulgated by rule by the commissioner following a review of comments and recommendations of the advisory council on agriculture and after a public hearing. In making any revisions to the land classification system the commissioner may, in his or her discretion, conduct a public hearing. The commissioner shall foster participation by county agricultural and farmland protection boards, district soil and water conservation committees, and the cooperative extension service and consult with other state agencies, appropriate federal agencies, municipalities, the New York state college of agriculture and life sciences at Cornell university and farm organizations.
 - c. The commissioner shall certify to the state board of real property services the soil list developed in accordance with the land classification system and any revisions thereto.

- d. The commissioner shall prepare such materials as may be needed for the utilization of the land classification system and provide assistance to landowners and local officials in its use.
3. a. The state board of real property services shall annually calculate a single agricultural assessment value for each of the mineral and organic soil groups which shall be applied uniformly throughout the state. A base agricultural assessment value shall be separately calculated for mineral and organic soil groups in accordance with the procedure set forth in subdivision four of this section and shall be assigned as the agricultural assessment value of the highest grade mineral and organic soil group.
- b. The agricultural assessment values for the remaining mineral soil groups shall be the product of the base agricultural assessment value and a percentage, derived from the productivity measurements determined for each soil and related soil group in conjunction with the land classification system, as follows:

Mineral Soil Group	Percentage of Base Agricultural Assessment Value
1A	
1B	
2A	89
2B	79
3A	79
3B	68
4A	68
4B	58
5A	58
5B	47
6A	47
6B	37
7	37
8	26
9	16
10	5

- c. The agricultural assessment values for the remaining organic soil groups shall be the products of the base agricultural assessment value and a percentage, as follows:

Organic Soil Group	Percentage of Base Agricultural Assessment Value
A	100
B	65
C	55
D	35

- d. The agricultural assessment value for organic soil group A shall be two times the base agricultural assessment value calculated for mineral soil group 1A.
- e. The agricultural assessment value for farm woodland shall be the same as that calculated for mineral soil group seven.

- f. Where trees or vines used for the production of fruit are located on land used in agricultural production, the value of such trees and vines, and the value of all posts, wires and trellises used for the production of fruit, shall be considered to be part of the agricultural assessment value of such land.
- g. The agricultural assessment value for land and waters used in aquacultural enterprises shall be the same as that calculated for mineral soil group 1A.
- 4. a. The base agricultural assessment value shall be the average capitalized value of production per acre for the eight year period ending in the second year preceding the year for which the agricultural assessment values are certified. The capitalized value of production per acre shall be calculated by dividing the product of the value of production per acre and the percentage of net profit by a capitalization rate of ten percent, representing an assumed investment return rate of eight percent and an assumed real property tax rate of two percent.
- b. The value of production per acre shall be the value of production divided by the number of acres harvested in New York state.
- c. The percentage of net profit shall be adjusted net farm income divided by realized gross farm income.
 - (i) Adjusted net farm income shall be the sum of net farm income, taxes on farm real estate and the amount of mortgage interest debt attributable to farmland, less a management charge of one percent of realized gross farm income plus seven percent of adjusted production expenses.
 - (ii) The amount of mortgage interest debt attributable to farmland shall be the product of the interest on mortgage debt and the percentage of farm real estate value attributable to land.
 - (iii) The percentage of farm real estate value attributable to land shall be the difference between farm real estate value and farm structure value divided by farm real estate value.
 - (iv) Adjusted production expenses shall be production expenses, less the sum of the taxes on farm real estate and the interest on mortgage debt.
- d. The following data, required for calculations pursuant to this subdivision, shall be as published by the United States department of agriculture for all farming in New York state:
 - (i) Farm real estate value shall be the total value of farmland and buildings, including improvements.
 - (ii) Farm structure value shall be the total value of farm buildings, including improvements.
 - (iii) Interest on mortgage debt shall be the total interest paid on farm real estate debt.
 - (iv) Net farm income shall be realized gross income less production expenses, as adjusted for change in inventory.
 - (v) Production expenses shall be the total cost of production.
 - (vi) Realized gross income shall be the total of cash receipts from farm marketings, government payments, nonmoney income and other farm income.
 - (vii) Taxes on farm real estate shall be the total real property taxes on farmland and buildings, including improvements.
 - (viii) Number of acres harvested including all reported crops.
 - (ix) Value of production shall be the total estimated value of all reported crops.
- e. In the event that the data required for calculation pursuant to this subdivision is not published by the United States department of agriculture or is incomplete, such

required data shall be obtained from the New York state department of agriculture and markets.

- f. Upon completion of the calculation of agricultural assessment values, the state board of real property services shall publish an annual report, which shall include a schedule of values, citations to data sources and presentation of all calculations. The state board of real property services shall transmit copies of the annual report to the governor and legislature, the advisory council on agriculture and other appropriate state agencies and interested parties. The state board of real property services shall thereupon certify the schedule of agricultural assessment values and the state board of real property services shall transmit a schedule of such certified values to each assessor.
 - g. Notwithstanding any other provision of this section to the contrary, in no event shall the change in the base agricultural assessment value for any given year exceed ten percent of the base agricultural assessment value of the preceding year.
5.
 - a. In carrying out their responsibilities under this section, the state board of real property services and the commissioner shall keep the advisory council on agriculture fully apprised on matters relating to its duties and responsibilities.
 - b. In doing so, the state board of real property services and the commissioner shall provide, in a timely manner, any materials needed by the advisory council on agriculture to carry out its responsibilities under this section.

304-b. Agricultural district data reporting

1. The commissioner shall file a written report with the governor and the legislature on January first, two thousand eight and biennially thereafter, covering each prior period of two years, concerning the status of the agricultural districts program. Such report shall include, but not be limited to, the total number of agricultural districts, the total number of acres in agricultural districts, a list of the counties that have established county agricultural and farmland protection plans, and a summary of the agricultural protection planning grants program.
2. Between report due dates, the commissioner shall maintain the necessary records and data required to satisfy such report requirements and to satisfy information requests received from the governor and the legislature between such report due dates.

305. Agricultural districts; effects

1. Agricultural assessments.
 - a. Any owner of land used in agricultural production within an agricultural district shall be eligible for an agricultural assessment pursuant to this section. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products produced on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant. Such assessment shall be granted only upon an annual application by the owner of such land on a form prescribed by the state board of real property services. The applicant shall furnish to the assessor such information as the state board of real property services shall require, including classification information prepared for the applicant's land or water bodies used in agricultural production by the soil and water conservation district office within the county, and information demonstrating the eligibility for agricultural assessment of any land used in conjunction with

rented land as specified in paragraph b of subdivision four of section three hundred one of this article. Such application shall be filed with the assessor of the assessing unit on or before the appropriate taxable status date; provided, however, that (i) in the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law; or (ii) an application for such an assessment may be filed with the assessor of the assessing unit after the appropriate taxable status date but not later than the last date on which a petition with respect to complaints of assessment may be filed, where failure to file a timely application resulted from: (a) a death of the applicant's spouse, child, parent, brother or sister, (b) an illness of the applicant or of the applicant's spouse, child, parent, brother or sister, which actually prevents the applicant from filing on a timely basis, as certified by a licensed physician, or (c) the occurrence of a natural disaster, including, but not limited to, a flood, or the destruction of such applicant's residence, barn or other farm building by wind, fire or flood. If the assessor is satisfied that the applicant is entitled to an agricultural assessment, the assessor shall approve the application and the land shall be assessed pursuant to this section. Not less than ten days prior to the date for hearing complaints in relation to assessments, the assessor shall mail to each applicant, who has included with the application at least one self-addressed, pre-paid envelope, a notice of the approval or denial of the application. Such notice shall be on a form prescribed by the state board of real property services which shall indicate the manner in which the total assessed value is apportioned among the various portions of the property subject to agricultural assessment and those other portions of the property not eligible for agricultural assessment as determined for the tentative assessment roll and the latest final assessment roll. Failure to mail any such notice or failure of the owner to receive the same shall not prevent the levy, collection and enforcement of the payment of the taxes on such real property.

- b. That portion of the value of land utilized for agricultural production within an agricultural district which represents an excess above the agricultural assessment as determined in accordance with this subdivision shall not be subject to real property taxation. Such excess amount if any shall be entered on the assessment roll in the manner prescribed by the state board of real property services.
- c.
 - (i) The assessor shall utilize the agricultural assessment values per acre certified pursuant to section three hundred four-a of this article in determining the amount of the assessment of lands eligible for agricultural assessments by multiplying those values by the number of acres of land utilized for agricultural production and adjusting such result by application of the latest state equalization rate or a special equalization rate as may be established and certified by the state board of real property services for the purpose of computing the agricultural assessment pursuant to this paragraph. This resulting amount shall be the agricultural assessment for such lands.
 - (ii) Where the latest state equalization rate exceeds one hundred, or where a special equalization rate which would otherwise be established for the purposes of this section would exceed one hundred, a special equalization rate of one hundred shall be established and certified by the state board for the purpose of this section.
 - (iii) Where a special equalization rate has been established and certified by the state board for the purposes of this paragraph, the assessor is directed and authorized to recompute the agricultural assessment on the assessment roll

by applying such special equalization rate instead of the latest state equalization rate, and to make the appropriate corrections on the assessment roll, subject to the provisions of title two of article twelve of the real property tax law.

- d. (i) If land within an agricultural district which received an agricultural assessment is converted parcels, as described on the assessment roll which include land so converted shall be subject to payments equaling five times the taxes saved in the last year in which the land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years. The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the excess amount of assessed valuation of such land over its agricultural assessment as set forth on the last assessment roll which indicates such an excess. If only a portion of a parcel as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll for which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be added by or on behalf of each taxing jurisdiction to the taxes levied on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than five years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.
- (ii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.
- (iii) (a) An assessor who determines that there is liability for payments and any penalties assessed pursuant to subparagraph (ii) of this paragraph shall notify the landowner by mail of such liability at least ten days prior to the date for hearing complaints in relation to assessments. Such notice shall indicate the property to which payments apply and describe how the payments shall be determined. Failure to provide such notice shall not affect the levy, collection or enforcement or payment of payments.
(b) Liability for payments shall be subject to administrative and judicial review as provided by law for review of assessments.
- (iv) If such land or any portion thereof is converted to a use other than for agricultural production by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If the land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall

apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land within an agricultural district and eligible for an agricultural assessment shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.

- (v) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the state board of real property services on a form prescribed by the state board.
 - (vi) The assessing unit, by majority vote of the governing body, may impose a minimum payment amount, not to exceed one hundred dollars.
 - (vii) The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural purposes shall not be a conversion of parcels and no payment shall be due under this section.
- e. In connection with any district created under section three hundred four of this article, the state shall provide assistance to each taxing jurisdiction in an amount equal to one-half of the tax loss that results from requests for agricultural assessments in the district. The amount of such tax loss shall be computed annually by applying the applicable tax rate to an amount computed by subtracting the agricultural assessment from the assessed value of the property on the assessment roll completed and filed prior to July first, nineteen hundred seventy-one, taking into consideration any change in the level of assessment. The chief fiscal officer of a taxing jurisdiction entitled to state assistance under this article shall make application for such assistance to the state board of real property services on a form approved by such board and containing such information as the board shall require. Upon approval of the application by such board, such assistance shall be apportioned and paid to such taxing jurisdiction on the audit and warrant of the state comptroller out of moneys appropriated by the legislature for the purpose of this article; provided, however, that any such assistance payment shall be reduced by one-half the amount of any payments levied under subparagraph (i) of paragraph d of this subdivision, for land in any district created under section three hundred four of this article, unless one-half the amount of such payments has already been used to reduce a previous assistance payment under this paragraph.
- f. Notwithstanding any inconsistent general, special or local law to the contrary, if a natural disaster, act of God, or continued adverse weather conditions shall destroy the agricultural production and such fact is certified by the cooperative extension service and, as a result, such production does not produce an average gross sales value of ten thousand dollars or more, the owner may nevertheless qualify for an agricultural assessment provided the owner shall substantiate in such manner as prescribed by the state board of real property services that the agricultural production initiated on such land would have produced an average gross sales value of ten thousand dollars or more but for the natural disaster, act of God or continued adverse weather conditions.
2. [repealed]
3. Policy of state agencies. It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural districts and their administrative regulations

and procedures shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans, or other funding.

4. Limitation on the exercise of eminent domain and other public acquisitions, and on the advance of public funds.
 - a. Any agency of the state, any public benefit corporation or any local government which intends to acquire land or any interest therein, provided that the acquisition from any one actively operated farm within the district would be in excess of one acre or that the total acquisition within the district would be in excess of ten acres, or which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, dwellings, commercial or industrial facilities, water or sewer facilities to serve non-farm structures, shall use all practicable means in undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable, minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district. The adverse agricultural impacts to be minimized or avoided shall include impacts revealed in the notice of intent process described in this subdivision.
 - b. As early as possible in the development of a proposal of an action described in paragraph a of this subdivision, but in no event later than the date of any determination as to whether an environmental impact statement need be prepared pursuant to article eight of the environmental conservation law, the agency, corporation or government proposing an action described in paragraph a of this subdivision shall file a preliminary notice of its intent with the commissioner and the county agricultural and farmland protection board in such manner and form as the commissioner may require. Such preliminary notice shall include the following:
 - (i) a brief description of the proposed action and its agricultural setting;
 - (ii) a summary of any anticipated adverse impacts on farm operations and agricultural resources within the district; and
 - (iii) such other information as the commissioner may require.
 - c. The agency, corporation or government proposing the action shall also, at least sixty-five days prior to such acquisition, construction or advance of public funds, file a final notice of intent with the commissioner and the county agricultural and farmland protection board. Such final notice shall include a detailed agricultural impact statement setting forth the following:
 - (i) a detailed description of the proposed action and its agricultural setting;
 - (ii) the agricultural impact of the proposed action including short-term and long-term effects;
 - (iii) any adverse agricultural effects which cannot be avoided should the proposed action be implemented;
 - (iv) alternatives to the proposed action;
 - (v) any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action should it be implemented;
 - (vi) mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of a farm enterprise or enterprises within the district;
 - (vii) any aspects of the proposed action which would encourage non-farm development, where applicable and appropriate; and
 - (viii) such other information as the commissioner may require.

The commissioner shall promptly determine whether the final notice is complete or incomplete. If the commissioner does not issue such determination within thirty days, the final notice shall be deemed complete. If the final notice is determined to be incomplete, the commissioner shall notify the party proposing the action in writing of the reasons for that determination. Any new submission shall commence a new period for department review for purposes of determining completeness.

- d. The provisions of paragraphs b and c of this subdivision shall not apply and shall be deemed waived by the owner of the land to be acquired where such owner signs a document to such effect and provides a copy to the commissioner.
- e. Upon notice from the commissioner that he or she has accepted a final notice as complete, the county agricultural and farmland protection board may, within thirty days, review the proposed action and its effects on farm operations and agricultural resources within the district, and report its findings and recommendations to the commissioner and to the party proposing the action in the case of actions proposed by a state agency or public benefit corporation, and additionally to the county legislature in the case of actions proposed by local government agencies.
- f. Upon receipt and acceptance of a final notice, the commissioner shall thereupon forward a copy of such notice to the commissioner of environmental conservation and the advisory council on agriculture. The commissioner, in consultation with the commissioner of environmental conservation and the advisory council on agriculture, within forty-five days of the acceptance of a final notice, shall review the proposed action and make an initial determination whether such action would have an unreasonably adverse effect on the continuing viability of a farm enterprise or enterprises within the district, or state environmental plans, policies and objectives.

If the commissioner so determines, he or she may (i) issue an order within the forty-five day period directing the state agency, public benefit corporation or local government not to take such action for an additional period of sixty days immediately following such forty-five day period; and (ii) review the proposed action to determine whether any reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact on agriculture in order to sustain a viable farm enterprise or enterprises within the district.

The commissioner may hold a public hearing concerning such proposed action at a place within the district or otherwise easily accessible to the district upon notice in a newspaper having a general circulation within the district, and individual notice, in writing, to the municipalities whose territories encompass the district, the commissioner of environmental conservation, the advisory council on agriculture and the state agency, public benefit corporation or local government proposing to take such action. On or before the conclusion of such additional sixty day period, the commissioner shall report his or her findings to the agency, corporation or government proposing to take such action, to any public agency having the power of review of or approval of such action, and, in a manner conducive to the wide dissemination of such findings, to the public. If the commissioner concludes that a reasonable and practicable alternative or alternatives exist which would minimize or avoid the adverse impact of the proposed action, he or she shall propose that such alternative or alternatives be accepted. If the agency, corporation or government proposing the action accepts the commissioner's proposal, then the requirements of the notice of intent filing shall be deemed fulfilled. If the agency,

corporation or government rejects the commissioner's proposal, then it shall provide the commissioner with reasons for rejecting such proposal and a detailed comparison between its proposed action and the commissioner's alternative or alternatives.

- g. At least ten days before commencing an action which has been the subject of a notice of intent filing, the agency, corporation or government shall certify to the commissioner that it has made an explicit finding that the requirements of this subdivision have been met, and that consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse agricultural impacts revealed in the notice of intent process will be minimized or avoided. Such certification shall set forth the reasons in support of the finding.
 - h. The commissioner may request the attorney general to bring an action to enjoin any such agency, corporation or government from violating any of the provisions of this subdivision.
 - h-1. Notwithstanding any other provision of law to the contrary, no solid waste management facility shall be sited on land in agricultural production which is located within an agricultural district, or land in agricultural production that qualifies for and is receiving an agricultural assessment pursuant to section three hundred six of this article. Nothing contained herein, however, shall be deemed to prohibit siting when:
 - (i) The owner of such land has entered into a written agreement which shall indicate his consent for site consideration; or
 - (ii) The applicant for a permit has made a commitment in the permit application to fund a farm land protection conservation easement within a reasonable proximity to the proposed project in an amount not less than the dollar value of any such farm land purchased for the project; or
 - (iii) The commissioner in concurrence with the commissioner of environmental conservation has determined that any such agricultural land to be taken, constitutes less than five percent of the project site.
- For purposes of this paragraph, "solid waste management facility" shall have the same meaning as provided in title seven of article twenty-seven of the environmental conservation law, but shall not include solid waste transfer stations or land upon which sewage sludge is applied, and determinations regarding agricultural district boundaries and agricultural assessments will be based on those in effect as of the date an initial determination is made, pursuant to article eight of the environmental conservation law, as to whether an environmental impact statement needs to be prepared for the proposed project.
- i. This subdivision shall not apply to any emergency project which is immediately necessary for the protection of life or property or to any project or proceeding to which the department is or has been a statutory party.
 - j. The commissioner may bring an action to enforce any mitigation measures proposed by a public benefit corporation or a local government, and accepted by the commissioner, pursuant to a notice of intent filing, to minimize or avoid adverse agricultural impacts from the proposed action.
5. Limitation on power to impose benefit assessments, special ad valorem levies or other rates or fees in certain improvement districts or benefit areas. Within improvement districts or areas deemed benefited by municipal improvements including, but not limited to, improvements for sewer, water, lighting, non-farm drainage, solid waste disposal, including those solid waste management facilities established pursuant to section two hundred twenty-six-b of the county law, or other landfill operations, no benefit assessments, special ad valorem levies or other rates of fees charged for such

improvements may be imposed on land used primarily for agricultural production within an agricultural district on any basis, except a lot not exceeding one-half acre surrounding any dwelling or non-farm structure located on said land nor on any farm structure located in an agricultural district unless such structure benefits directly from the service of such improvement district or benefited area; provided, however, that if such benefit assessments, ad valorem levies or other rates of fees were imposed prior to the formation of the agricultural district, then such benefit assessments, ad valorem levies or other rates or fees shall continue to be imposed on such land or farm structure.

6. Use of assessment for certain purposes. The governing body of a fire, fire protection, or ambulance district for which a benefit assessment or a special ad valorem levy is made, may adopt a resolution to provide that the assessment determined pursuant to subdivision one of this section for such property shall be used for the benefit assessment or special ad valorem levy of such fire, fire protection, or ambulance district.
7. Notwithstanding any provision of law to the contrary, that portion of the value of land which is used solely for the purpose of replanting or crop expansion as part of an orchard or vineyard shall be exempt from real property taxation for a period of six successive years following the date of such replanting or crop expansion beginning on the first eligible taxable status date following such replanting or expansion provided the following conditions are met:
 - a. The land used for crop expansion or replanting must be a part of an existing orchard or vineyard which is located on land used in agricultural production within an agricultural district or such land must be part of an existing orchard or vineyard which is eligible for an agricultural assessment pursuant to this section or section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;
 - b. The land eligible for such real property tax exemption shall not in any one year exceed twenty percent of the total acreage of such orchard or vineyard which is located on land used in agricultural production within an agricultural district or twenty percent of the total acreage of such orchard or vineyard eligible for an agricultural assessment pursuant to this section and section three hundred six of this chapter where the owner of such land has filed an annual application for an agricultural assessment;
 - c. The land eligible for such real property tax exemption must be maintained as land used in agricultural production as part of such orchard or vineyard for each year such exemption is granted; and
 - d. When the land used for the purpose of replanting or crop expansion as part of an orchard or vineyard is located within an area which has been declared by the governor to be a disaster emergency in a year in which such tax exemption is sought and in a year in which such land meets all other eligibility requirements for such tax exemption set forth in this subdivision, the maximum twenty percent total acreage restriction set forth in paragraph b of this subdivision may be exceeded for such year and for any remaining successive years, provided, however, that the land eligible for such real property tax exemption shall not exceed the total acreage damaged or destroyed by such disaster in such year or the total acreage which remains damaged or destroyed in any remaining successive year. The total acreage for which such exemption is sought pursuant to this paragraph shall be subject to verification by the commissioner or his designee.

305-a. Coordination of local planning and land use decision-making with the agricultural districts program

1. Policy of local governments.
 - a. Local governments, when exercising their powers to enact and administer comprehensive plans and local laws, ordinances, rules or regulations, shall exercise these powers in such manner as may realize the policy and goals set forth in this article, and shall not unreasonably restrict or regulate farm operations within agricultural districts in contravention of the purposes of this article unless it can be shown that the public health or safety is threatened.
 - b. The commissioner, upon his or her own initiative or upon the receipt of a complaint from a person within an agricultural district, may bring an action to enforce the provisions of this subdivision.
2. Agricultural data statement; submission, evaluation. Any application for a special use permit, site plan approval, use variance, or subdivision approval requiring municipal review and approval by a planning board, zoning board of appeals, town board, or village board of trustees pursuant to article sixteen of the town law or article seven of the village law, that would occur on property within an agricultural district containing a farm operation or on property with boundaries within five hundred feet of a farm operation located in an agricultural district, shall include an agricultural data statement. The planning board, zoning board of appeals, town board, or village board of trustees shall evaluate and consider the agricultural data statement in its review of the possible impacts of the proposed project upon the functioning of farm operations within such agricultural district. The information required by an agricultural data statement may be included as part of any other application form required by local law, ordinance or regulation.
3. Agricultural data statement; notice provision. Upon the receipt of such application by the planning board, zoning board of appeals, town board or village board of trustees, the clerk of such board shall mail written notice of such application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice shall be borne by the applicant.
4. Agricultural data statement; content. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within five hundred feet of the boundary of the property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

305-b. Review of proposed rules and regulations of state agencies affecting the agricultural industry

1. Upon request of the state advisory council on agriculture, or upon his or her own initiative, the commissioner may review and comment upon a proposed rule or regulation by another state agency which may have an adverse impact on agriculture and farm operations in this state, and file such comment with the proposing agency and the administrative regulations review commission. Each comment shall be in sufficient detail to advise the proposing agency of the adverse impact on agriculture and farm operations and the recommended modifications. The commissioner shall prepare a status report of any actions taken in accordance with this section and include it in the department's annual report.

306. Agricultural lands outside of districts; agricultural assessments

1. Any owner of land used in agricultural production outside of an agricultural district shall be eligible for an agricultural assessment as provided herein. If an applicant rents land from another for use in conjunction with the applicant's land for the production for sale of crops, livestock or livestock products, the gross sales value of such products produced on such rented land shall be added to the gross sales value of such products produced on the land of the applicant for purposes of determining eligibility for an agricultural assessment on the land of the applicant.

Such assessment shall be granted pursuant to paragraphs a, b and f of subdivision one of section three hundred five of this article as if such land were in an agricultural district, provided the landowner annually submits to the assessor an application for an agricultural assessment on or before the taxable status date. In the year of a revaluation or update of assessments, as those terms are defined in section one hundred two of the real property tax law, the application may be filed with the assessor no later than the thirtieth day prior to the day by which the tentative assessment roll is required to be filed by law. Nothing therein shall be construed to limit an applicant's discretion to withhold from such application any land, or portion thereof, contained within a single operation.

1-a [repealed]

2. a. (i) If land which received an agricultural assessment pursuant to this section is converted at any time within eight years from the time an agricultural assessment was last received, such conversion shall subject the land so converted to payments in compensation for the prior benefits of agricultural assessments. The amount of the payments shall be equal to five times the taxes saved in the last year in which land benefited from an agricultural assessment, plus interest of six percent per year compounded annually for each year in which an agricultural assessment was granted, not exceeding five years.
- (ii) The amount of taxes saved for the last year in which the land benefited from an agricultural assessment shall be determined by applying the applicable tax rates to the amount of assessed valuation of such land in excess of the agricultural assessment of such land as set forth on the last assessment roll which indicates such an excess. If only a portion of such land as described on the assessment roll is converted, the assessor shall apportion the assessment and agricultural assessment attributable to the converted portion, as determined for the last assessment roll on which the assessment of such portion exceeded its agricultural assessment. The difference between the apportioned assessment and the apportioned agricultural assessment shall be the amount upon which payments shall be determined. Payments shall be levied in the same manner as other taxes, by or on behalf of each taxing jurisdiction on the assessment roll prepared on the basis of the first taxable status date on which the assessor considers the land to have been converted; provided, however, that no payments shall be imposed if the last assessment roll upon which the property benefited from an agricultural assessment, was more than eight years prior to the year for which the assessment roll upon which payments would otherwise be levied is prepared.
- (iii) Whenever a conversion occurs, the owner shall notify the assessor within ninety days of the date such conversion is commenced. If the landowner fails to make such notification within the ninety day period, the assessing unit, by majority vote of the governing body, may impose a penalty on behalf of the assessing

- unit of up to two times the total payments owed, but not to exceed a maximum total penalty of five hundred dollars in addition to any payments owed.
- b. (i) An assessor who determines that there is liability for payments and any penalties pursuant to subparagraph (ii) of this paragraph shall notify the landowner of such liability at least ten days prior to the day for hearing of complaints in relation to assessments. Such notice shall specify the area subject to payments and shall describe how such payments shall be determined. Failure to provide such notice shall not affect the levy, collection, or enforcement of payments.
 - (ii) Liability for payments shall be subject to administrative and judicial review as provided by law for the review of assessments.
 - (iii) An assessor who imposes any such payments shall annually, and within forty-five days following the date on which the final assessment roll is required to be filed, report such payments to the state board of real property services on a form prescribed by the state board.
 - (iv) The assessing unit, by majority vote of the government body, may impose a minimum payment amount, not to exceed one hundred dollars.
 - c. If such land or any portion thereof is converted by virtue of oil, gas or wind exploration, development, or extraction activity or by virtue of a taking by eminent domain or other involuntary proceeding other than a tax sale, the land or portion so converted shall not be subject to payments. If land so converted constitutes only a portion of a parcel described on the assessment roll, the assessor shall apportion the assessment, and adjust the agricultural assessment attributable to the portion of the parcel not subject to such conversion by subtracting the proportionate part of the agricultural assessment attributable to the portion so converted. Provided further that land outside an agricultural district and eligible for an agricultural assessment pursuant to this section shall not be considered to have been converted to a use other than for agricultural production solely due to the conveyance of oil, gas or wind rights associated with that land.
 - d. The purchase of land in fee by the city of New York for watershed protection purposes or the conveyance of a conservation easement by the city of New York to the department of environmental conservation which prohibits future use of the land for agricultural purposes shall not be a conversion of parcels and no payment for the prior benefits of agricultural assessments shall be due under this section.
 3. Upon the inclusion of such agricultural lands in an agricultural district formed pursuant to section three hundred three, the provisions of section three hundred five shall be controlling.
 4. A payment levied pursuant to subparagraph (i) of paragraph a of subdivision two of this section shall be a lien on the entire parcel containing the converted land, notwithstanding that less than the entire parcel was converted.
 5. Use of assessment for certain purposes. The governing body of a water, lighting, sewer, sanitation, fire, fire protection, or ambulance district for whose benefit a special assessment or a special ad valorem levy is imposed, may adopt a resolution to provide that the assessments determined pursuant to subdivision one of this section for property within the district shall be used for the special assessment or special ad valorem levy of such special district.

307. Promulgation of rules and regulations

The state board of real property services and the commissioner are each empowered to promulgate such rules and regulations and to prescribe such forms as each shall deem

necessary to effectuate the purposes of this article, and the commissioner is further empowered to promulgate such rules and regulations as are necessary to provide for the reasonable consolidation of existing agricultural districts with new agricultural districts or with other existing districts undergoing modification pursuant to section three hundred three of this article. Where a document or any other paper or information is required, by such rules and regulations, or by any provision of this article, to be filed with, or by, a county clerk or any other local official, such clerk or other local official may file such document, paper, or information as he deems proper, but he shall also file or record it in any manner directed by the state board of real property services, by rule or regulation. In promulgating such a rule or regulation, such board shall consider, among any other relevant factors, the need for security of land titles, the requirement that purchasers of land know of all potential tax and penalty liabilities, and the desirability that the searching of titles not be further complicated by the establishment of new sets of record books.

308. Right to farm

1. a. The commissioner shall, in consultation with the state advisory council on agriculture, issue opinions upon request from any person as to whether particular agricultural practices are sound.
b. Sound agricultural practices refer to those practices necessary for the on-farm production, preparation and marketing of agricultural commodities. Examples of activities which entail practices the commissioner may consider include, but are not limited to, operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; agricultural tourism; production, management and harvesting of "farm woodland," as defined in subdivision three of section three hundred one of this article and construction and use of farm structures. The commissioner shall consult appropriate state agencies and any guidelines recommended by the advisory council on agriculture. The commissioner may consult as appropriate, the New York state college of agriculture and life sciences and the U.S.D.A. natural resources conservation service. The commissioner shall also consider whether the agricultural practices are conducted by a farm owner or operator as part of his or her participation in the AEM program as set forth in article eleven-A of this chapter. Such practices shall be evaluated on a case-by-case basis.
2. Upon the issuance of an opinion pursuant to this section, the commissioner shall publish a notice in a newspaper having a general circulation in the area surrounding the practice and notice shall be given in writing to the owner of the property on which the practice is conducted and any adjoining property owners. The opinion of the commissioner shall be final, unless within thirty days after publication of the notice a person affected thereby institutes a proceeding to review the opinion in the manner provided by article seventy-eight of the civil practice law and rules.
3. Notwithstanding any other provisions of law, on any land in an agricultural district created pursuant to section three hundred three or land used in agricultural production subject to an agricultural assessment pursuant to section three hundred six of this article, an agricultural practice shall not constitute a private nuisance, when an action is brought by a person, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the commissioner. Nothing in this section shall be construed to prohibit an aggrieved party from recovering damages for personal injury or wrongful death.

4. The commissioner, in consultation with the state advisory council on agriculture, shall issue an opinion within thirty days upon request from any person as to whether particular land uses are agricultural in nature. Such land use decisions shall be evaluated on a case-by-case basis.
5. The commissioner shall develop and make available to prospective grantors and purchasers of real property located partially or wholly within any agricultural district in this state and to the general public, practical information related to the right to farm as set forth in this article including, but not limited to right to farm disclosure requirements established pursuant to section three hundred ten of this article and section three hundred thirty-three-c of the real property law.

308-a. Fees and expenses in certain private nuisance actions.

1. Definitions. For purposes of this section:
 - a. "Action" means any civil action brought by a person in which a private nuisance is alleged to be due to an agricultural practice on any land in an agricultural district or subject to agricultural assessments pursuant to section three hundred three or three hundred six of this article, respectively.
 - b. "Fees and other expenses" means the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, consultation with experts, and like expenses, and reasonable attorney fees, including fees for work performed by law students or paralegals under the supervision of an attorney, incurred in connection with the defense of any cause of action for private nuisance which is alleged as part of a civil action brought by a person.
 - c. "Final judgment" means a judgment that is final and not appealable, and settlement.
 - d. "Prevailing party" means a defendant in a civil action brought by a person, in which a private nuisance is alleged to be due to an agricultural practice, where the defendant prevails in whole or in substantial part on the private nuisance cause of action.
2. Fees and other expenses in certain private nuisance actions.
 - a. When awarded. In addition to costs, disbursements and additional allowances awarded pursuant to sections eight thousand two hundred one through eight thousand two hundred four and eight thousand three hundred one through eight thousand three hundred three-a of the civil practice law and rules, and except as otherwise specifically provided by statute, a court shall award to a prevailing party, other than the plaintiff, fees and other expenses incurred by such party in connection with the defense of any cause of action for private nuisance alleged to be due to an agricultural practice, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued by the commissioner under section three hundred eight of this article, prior to the start of any trial of the action or settlement of such action, unless the court finds that the position of the plaintiff was substantially justified or that special circumstances make an award unjust. Fees shall be determined pursuant to prevailing market rates for the kind and quality of the services furnished, except that fees and expenses may not be awarded to a party for any portion of the litigation in which the party has unreasonably protracted the proceedings.
 - b. Application for fees. A party seeking an award of fees and other expenses shall, within thirty days of final judgment in the action, submit to the court an application which sets forth
 - (i) the facts supporting the claim that the party is a prevailing party and is eligible to receive an award under this section,
 - (ii) the amount sought, and

- (iii) an itemized statement from every attorney or expert witness for which fees or expenses are sought stating the actual time expended and the rate at which such fees and other expenses are claimed.
- 3. Interest. If the plaintiff appeals an award made pursuant to this section and the award is affirmed in whole or in part, interest shall be paid on the amount of the award. Such interest shall run from the date of the award through the day before the date of the affirmance.
- 4. Applicability.
 - a. Nothing contained in this section shall be construed to alter or modify the provisions of the civil practice law and rules where applicable to actions other than actions as defined by this section.
 - b. Nothing contained in this section shall affect or preclude the right of any party to recover fees or other expenses authorized by common law or by any other statute, law or rule.

309. Advisory council on agriculture

- 1. There shall be established within the department the advisory council on agriculture, to advise and make recommendations to the state agencies on state government plans, policies and programs affecting agriculture, as outlined below, and in such areas as its experience and studies may indicate to be appropriate. The department of agriculture and markets shall provide necessary secretariat and support services to the council.
- 2. The advisory council on agriculture shall consist of eleven members appointed by the governor with the advice and consent of the senate, selected for their experience and expertise related to areas of council responsibility. At least five members of the council shall be operators of a commercial farm enterprise and at least two members shall be representatives of local governments. The balance of the council shall be comprised of representatives of business or institutions related to agriculture. Members shall be appointed for a term of three years and may serve until their successors are chosen provided, however, that of the members first appointed, three shall serve for a term of one year, three shall serve for a term of two years, and three shall serve for a term of three years. Members shall serve without salary but shall be entitled to reimbursement of their ordinary and necessary travel expenses. The members of the council shall elect a chairman.
- 3. The duties and responsibilities of the advisory council on agriculture as they pertain to agricultural districts shall include, but not be limited to, providing timely advice, comments and recommendations to the commissioner in regard to:
 - a. the establishment of agricultural districts;
 - b. the eight year review of agricultural districts; and
 - c. the establishment of and any revision to the land classification system used in connection with the determination of agricultural assessment values.The commissioner may delegate to the council such additional duties and responsibilities as he deems necessary.
- 4. The duties and responsibilities of the advisory council on agriculture shall include, but not be limited to, providing timely advice, comments and recommendations to the state board of real property services in regard to the establishment of agricultural assessment values.
- 5. The advisory council on agriculture shall advise the commissioner and other state agency heads on state government plans, policies and programs affecting farming and the agricultural industry of this state. Concerned state agencies shall be encouraged to

establish a working relationship with the council and shall fully cooperate with the council in any requests it shall make.

6. The advisory council on agriculture may ask other individuals to attend its meetings or work with it on an occasional or regular basis provided, however, that it shall invite participation by the chairman of the state soil and water conservation committee and the dean of the New York state college of agriculture and life sciences at Cornell university. The advisory council on agriculture shall set the time and place of its meetings, and shall hold at least four meetings per year.
7. The advisory council on agriculture shall file a written report to the governor and the legislature by April first each year concerning its activities during the previous year and its program expectations for the succeeding year.
8. The advisory council on agriculture shall advise the commissioner in regards to whether particular land uses are agricultural in nature.

310. Disclosure

1. When any purchase and sale contract is presented for the sale, purchase, or exchange of real property located partially or wholly within an agricultural district established pursuant to the provisions of this article, the prospective grantor shall present to the prospective grantee a disclosure notice which states the following:
"It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and markets Law."
- 1-a. Such disclosure notice shall be signed by the prospective grantor and grantee prior to the sale, purchase or exchange of such real property.
2. Receipt of such disclosure notice shall be recorded on a property transfer report form prescribed by the state board of real property services as provided for in section three hundred thirty-three of the real property law.

Town of Junius
Agricultural & Farmland Protection Plan

November 2009

List of Maps

1. Regional Setting
2. Topography
3. Streams and Watersheds in the Seneca/ Clyde River Watershed
4. Regulated State and Federal Wetlands
5. Aerial View
6. Agricultural Soils
7. Active Agricultural Land
8. Agricultural Parcels
9. Land Use by Tax Parcel
10. New Residential Construction
11. Public Water Lines
12. Land in Agricultural District
13. Public and Community Facilities
14. Farmland Suitable for Protection/ Development and Conservation Areas

Town of Junius Agricultural & Farmland Protection Plan

Regional Setting

Legend

- Limited Access
- Highway
- Major Road
- Local Road
- Minor Road
- Other Road
- Ramp
- Ferry
- Pedestrian Way
- Towns
- County

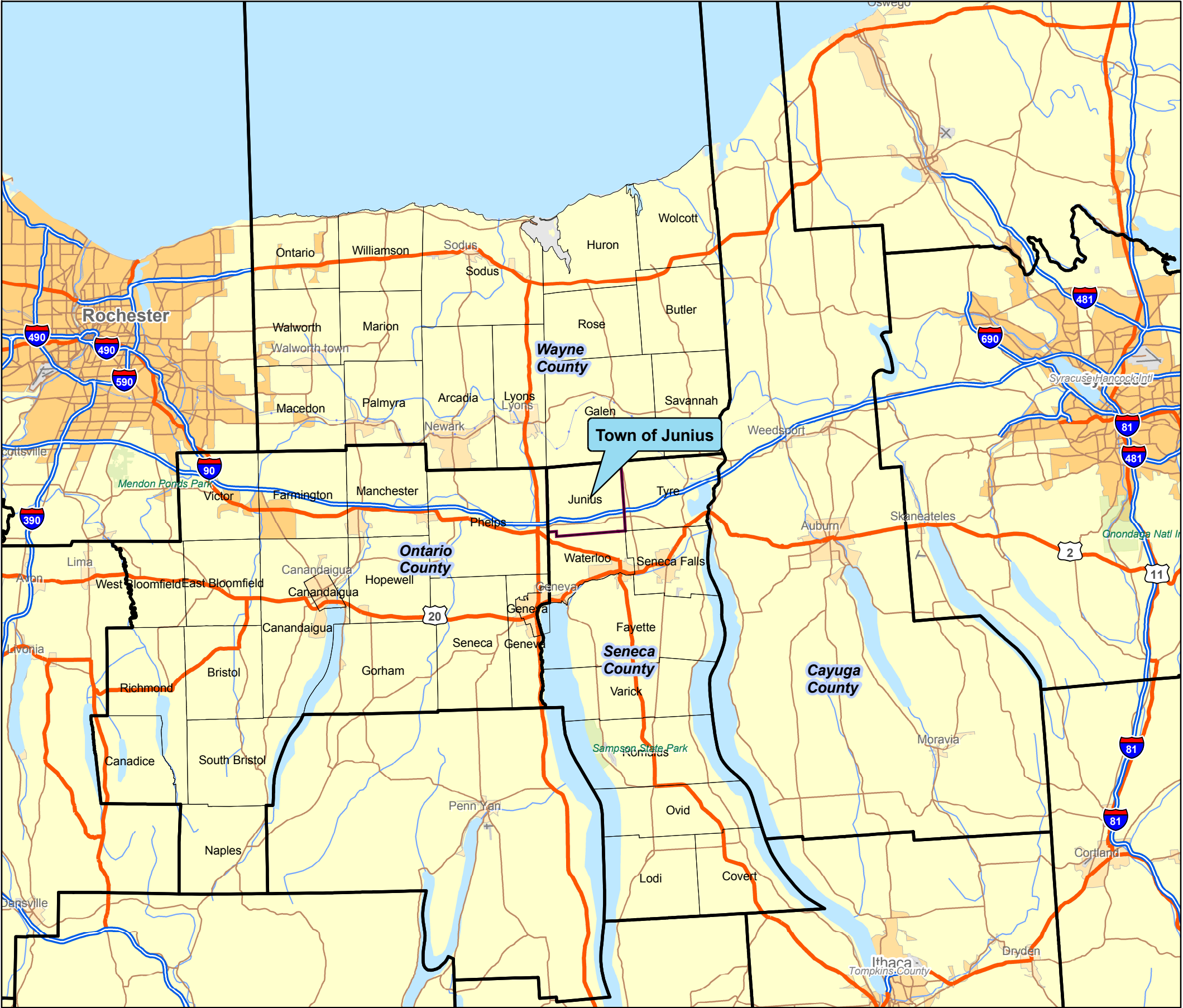
November 2009

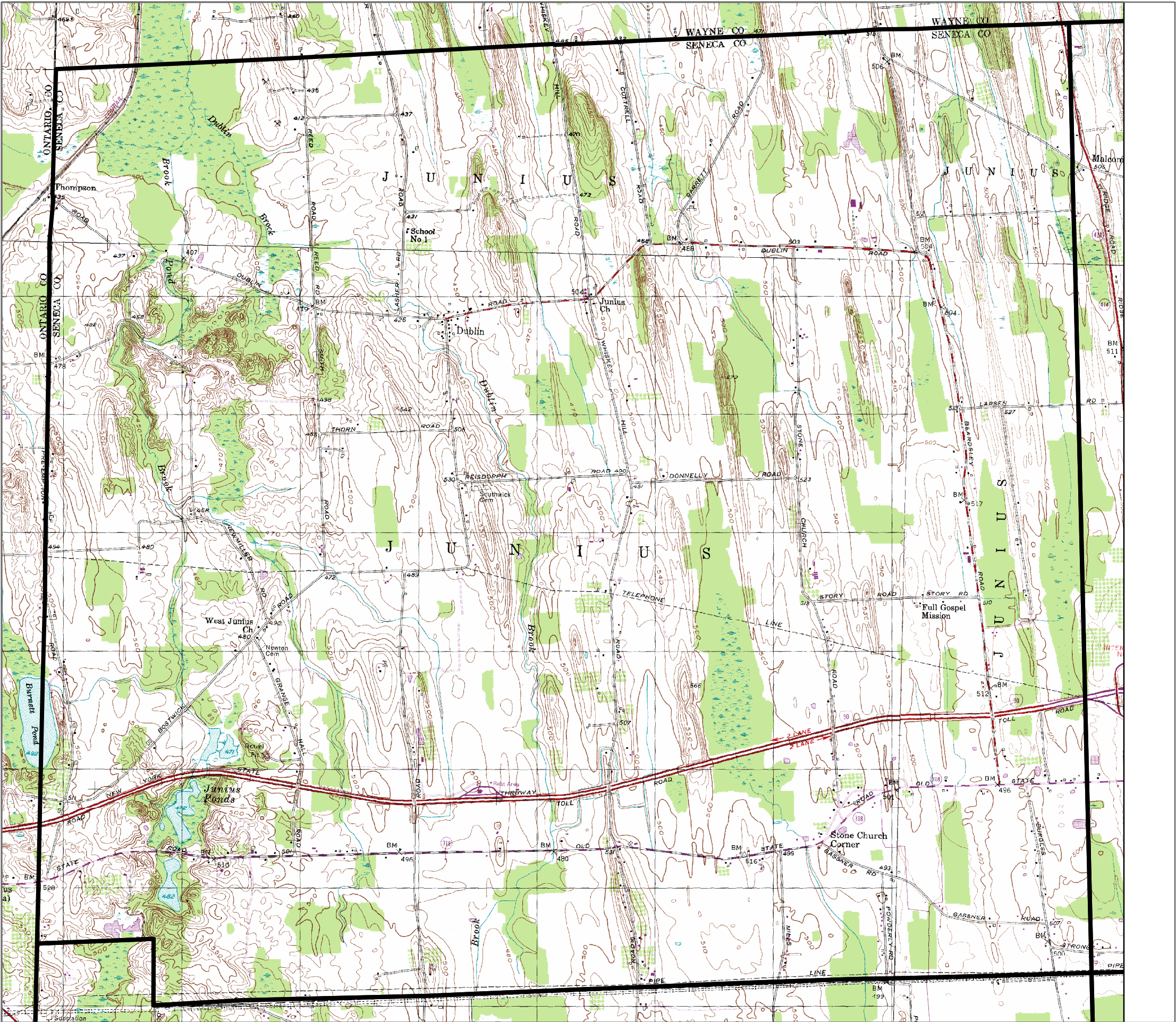


0 2.5 5 10 Miles



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Town of Junius Agricultural &
Farmland Protection Plan

USGS Topographic
Map

November 2009

 Town Boundary

SOURCE: Excerpts from USGS Topographic Maps,
Quadrangles Geneva North (1978), Savannah (1978),
Seneca Falls (1978) and Lyons

0 0.25 0.5 1 Miles



Town of Junius Agricultural & Farmland Protection Plan

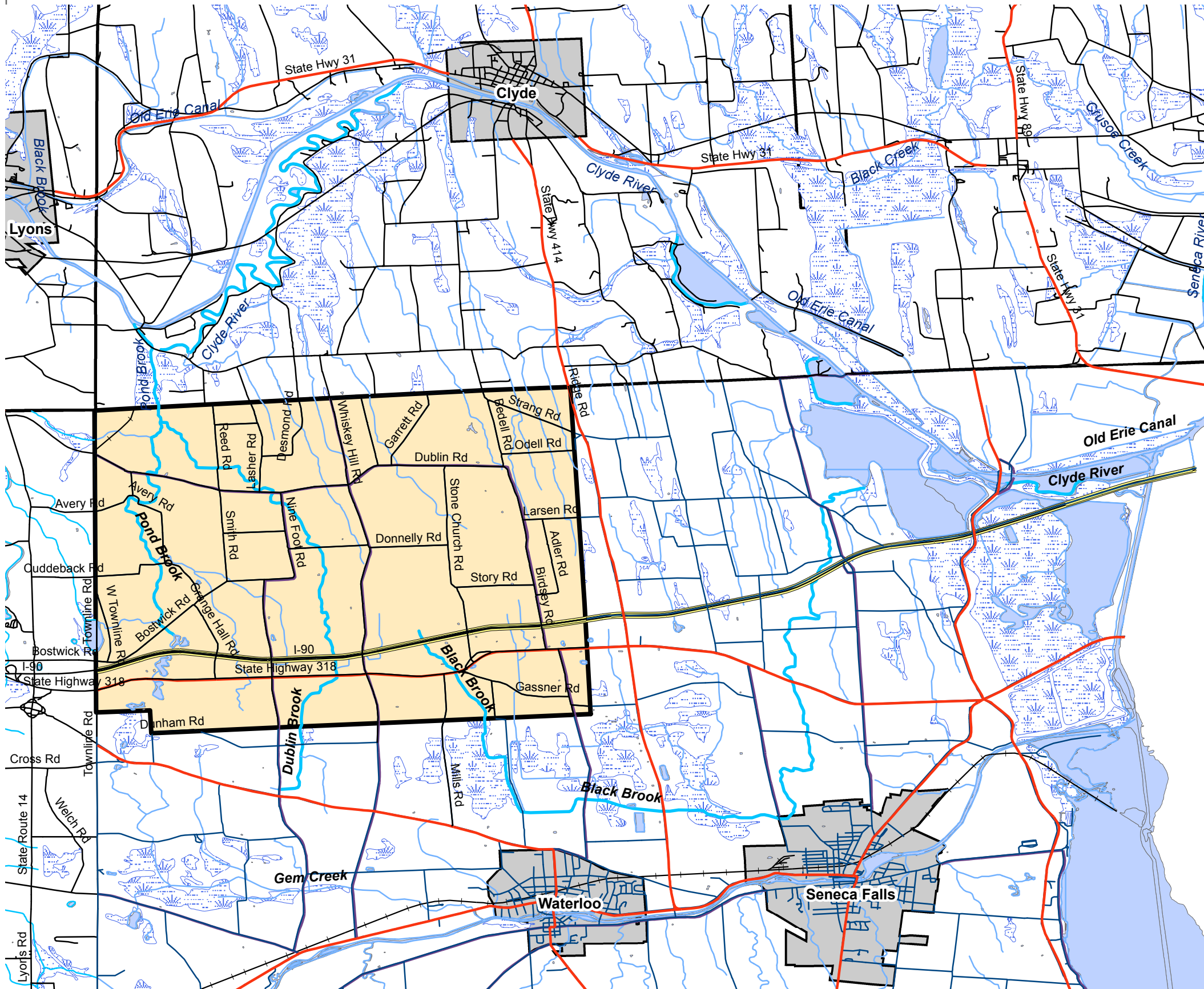
Streams & Tributaries in the Seneca/ Clyde River Watershed

Streams and Tributaries

-  Unnamed Tributaries
-  Major Streams
-  Town of Junius
-  Lakes and Ponds
-  NYS Wetlands
-  State Highways
-  Other Roads

November 2009



0 0.5 1 2 Miles



Town of Junius Agricultural & Farmland Protection Plan

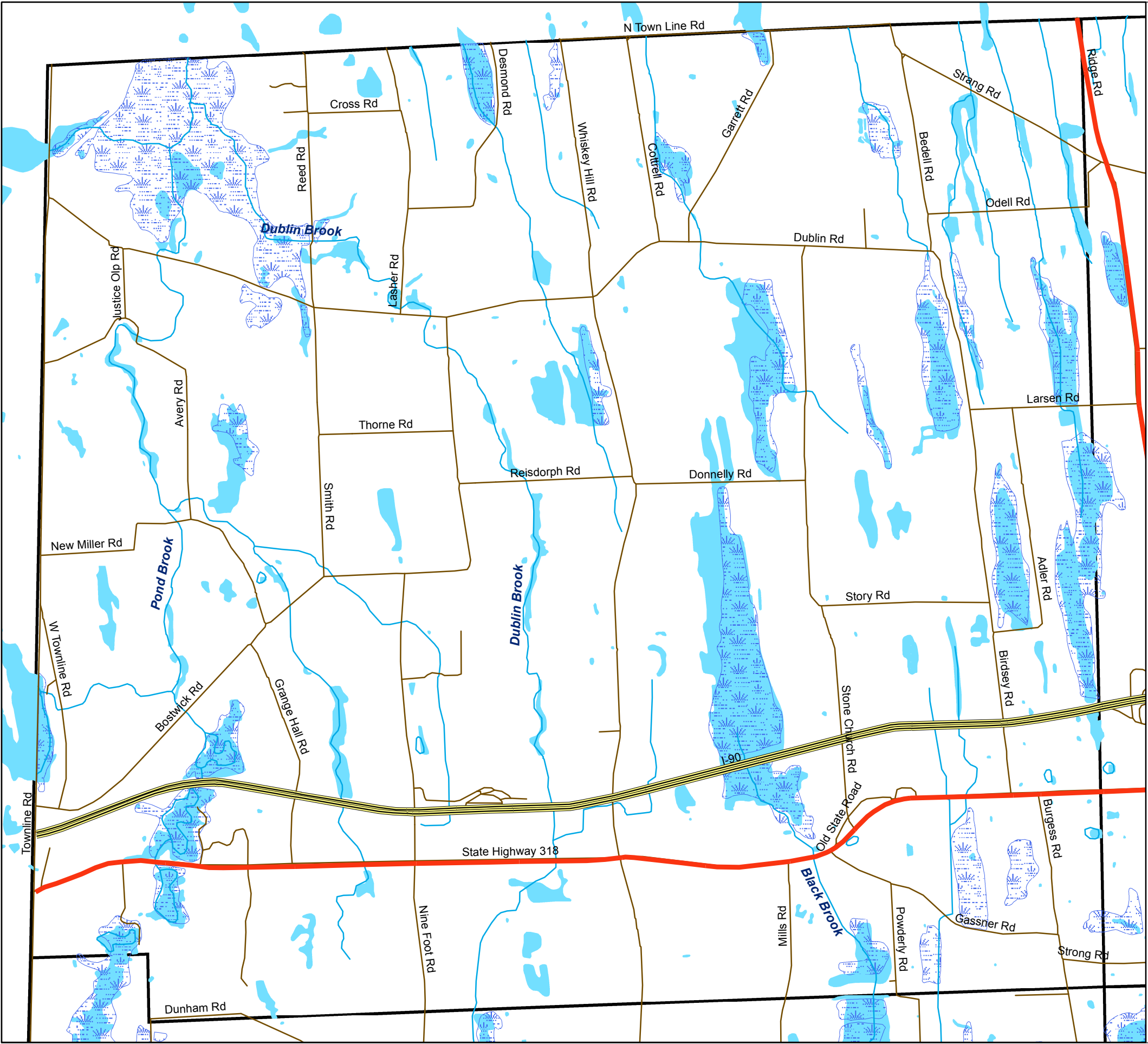
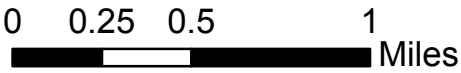
Regulated State & Federal Wetlands

Jurisdiction of Regulated Wetlands

-  New York State DEC
-  US Army Corps of Engineers

SOURCE: NYS Department of Environmental Conservation; National Wetlands Inventory

November 2009





Town of Junius Agricultural &
Farmland Protection Plan

Aerial View

- Roads
- Town Boundary

SOURCE: NYS Geographic Information
Systems Clearinghouse, 2007

November 2009



Town of Junius Agricultural & Farmland Protection Plan

Agricultural Soils

November 2009

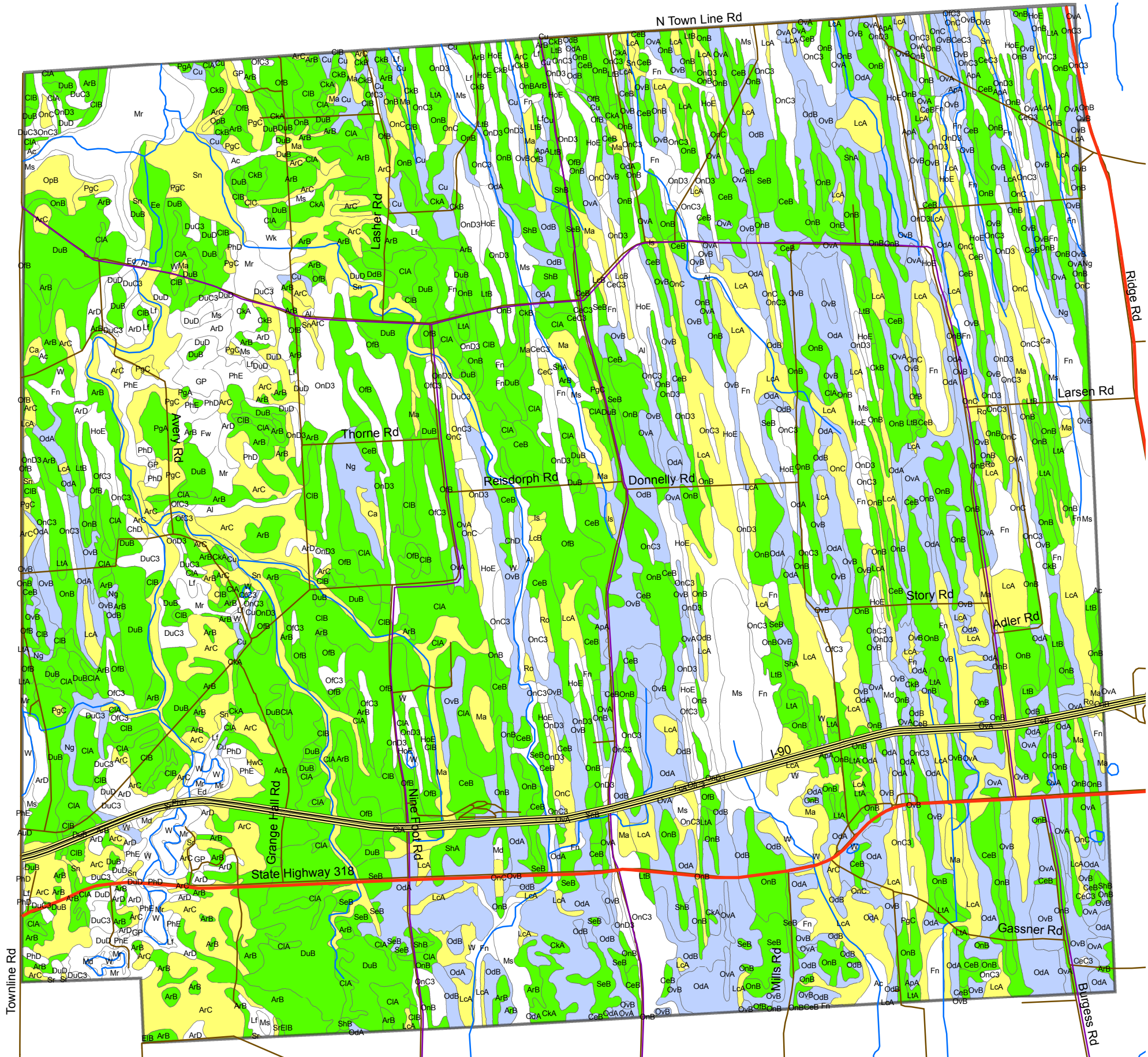
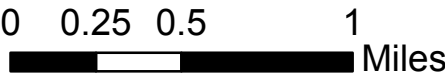
Prime and Important Soils

- Prime farmland
- Farmland of statewide importance
- Prime farmland if drained
- Other Soils

SOURCE: USDA Natural Resources Conservation Service (NRCS)

- Interstate Highway
- State Highways
- County Highways
- Local Roads
- Streams and Ponds
- Town Boundary

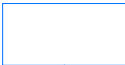

NOTE: Soil types are identified in the text.



Town of Junius Agricultural &
Farmland Protection Plan

Active Agricultural Land

November 2009

-  Tax Parcels
-  Active Agricultural Land
and other open land
that may be suitable
for agricultural production

SOURCE: Aerial photos from NYS Geographic
Information Systems Clearinghouse; Tax Parcel
data from Seneca County Real Property Tax Services

0 0.25 0.5 1 Miles



Town of Junius Farmland & Agricultural Protection Plan

Agricultural Parcels

November 2009

Land Use Classification

-  Non-Agricultural Parcels
-  Field Crops/Other Productive Land
-  Sheep
-  Dairy
-  Cattle, Calves, Hogs
-  Other (Residential, Vacant)

 Farm Fields and Pasture

SOURCE: 2008 tax parcel data provided by Seneca County

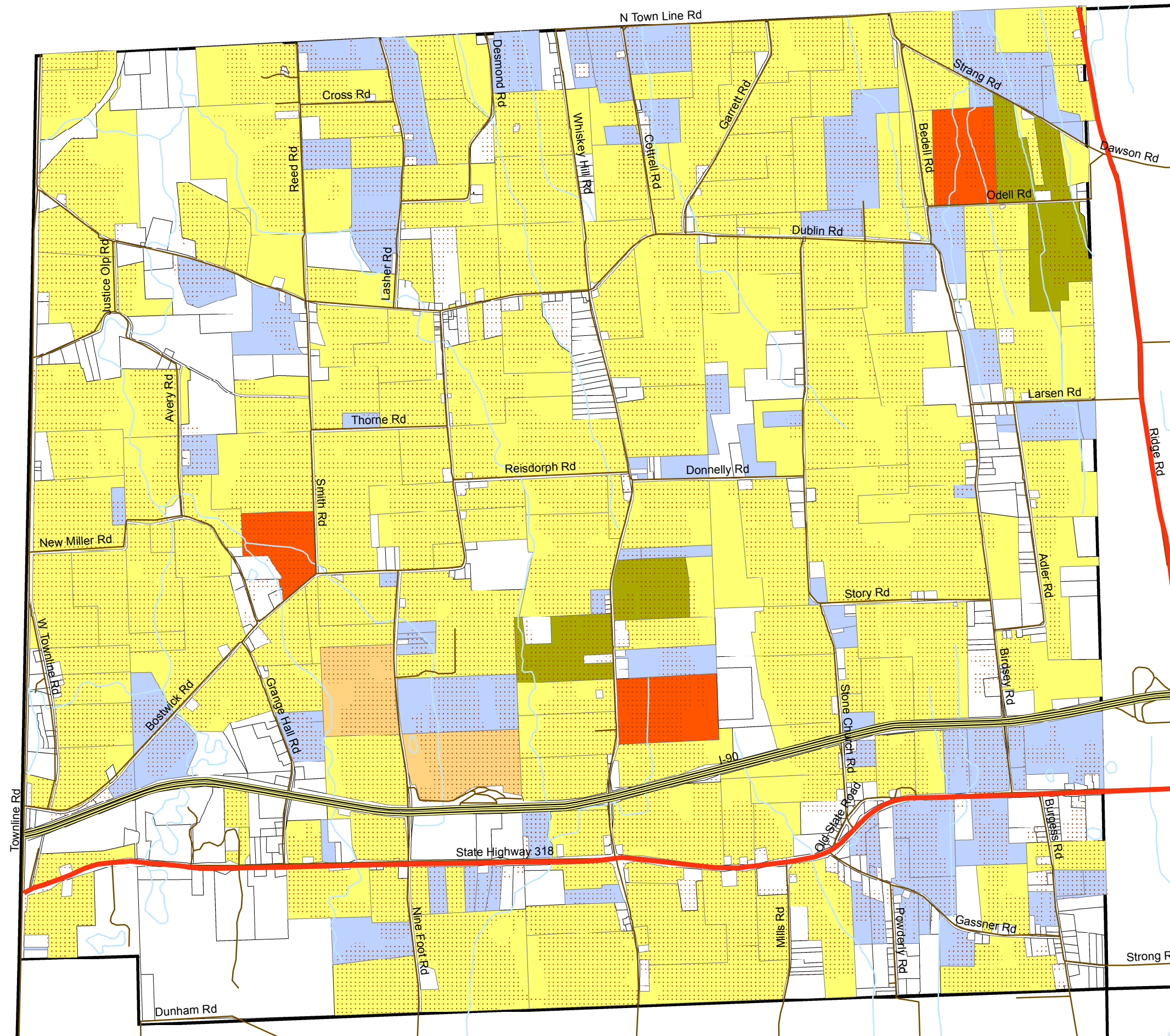
Farm fields and pasture traced from 2007 aerial photograph.

0 0.25 0.5 1 Miles



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Town of Junius Agricultural & Farmland Protection Plan

Land Use by Tax Parcel

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Land Use Classification

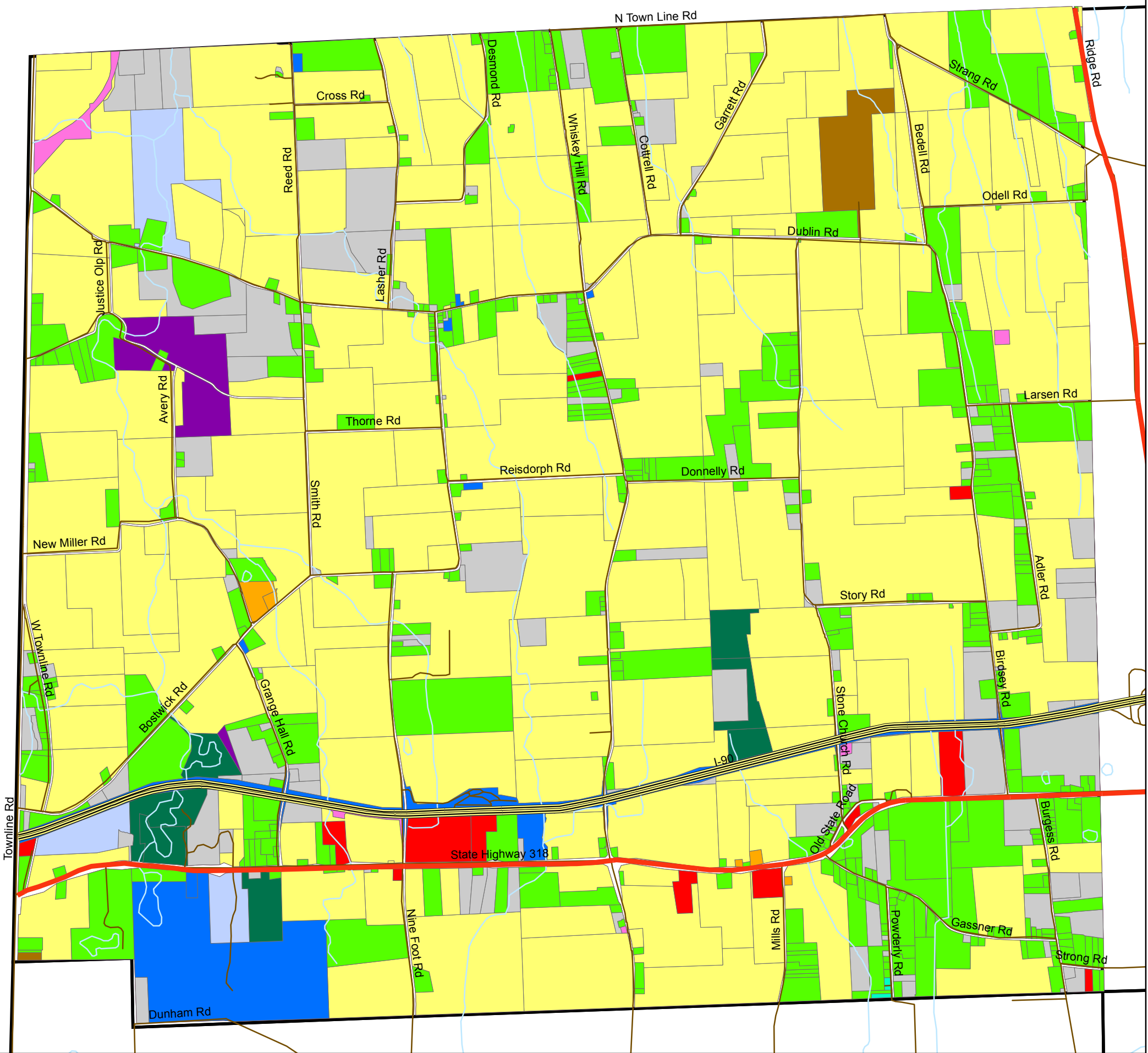
- Agriculture
- Residential
- Vacant
- Commercial
- Manufactured Home Park
- Storage/ Distribution
- Recreation
- Government/ Community Service
- Manufacturing
- Mining
- Utilities/ Transportation
- Conservation

SOURCE: 2008 property classifications and parcel boundaries provided by the Seneca County Office of Real Property Tax Services

0 0.25 0.5 1 Miles



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Town of Junius Agricultural & Farmland Protection Plan

New Residential Construction

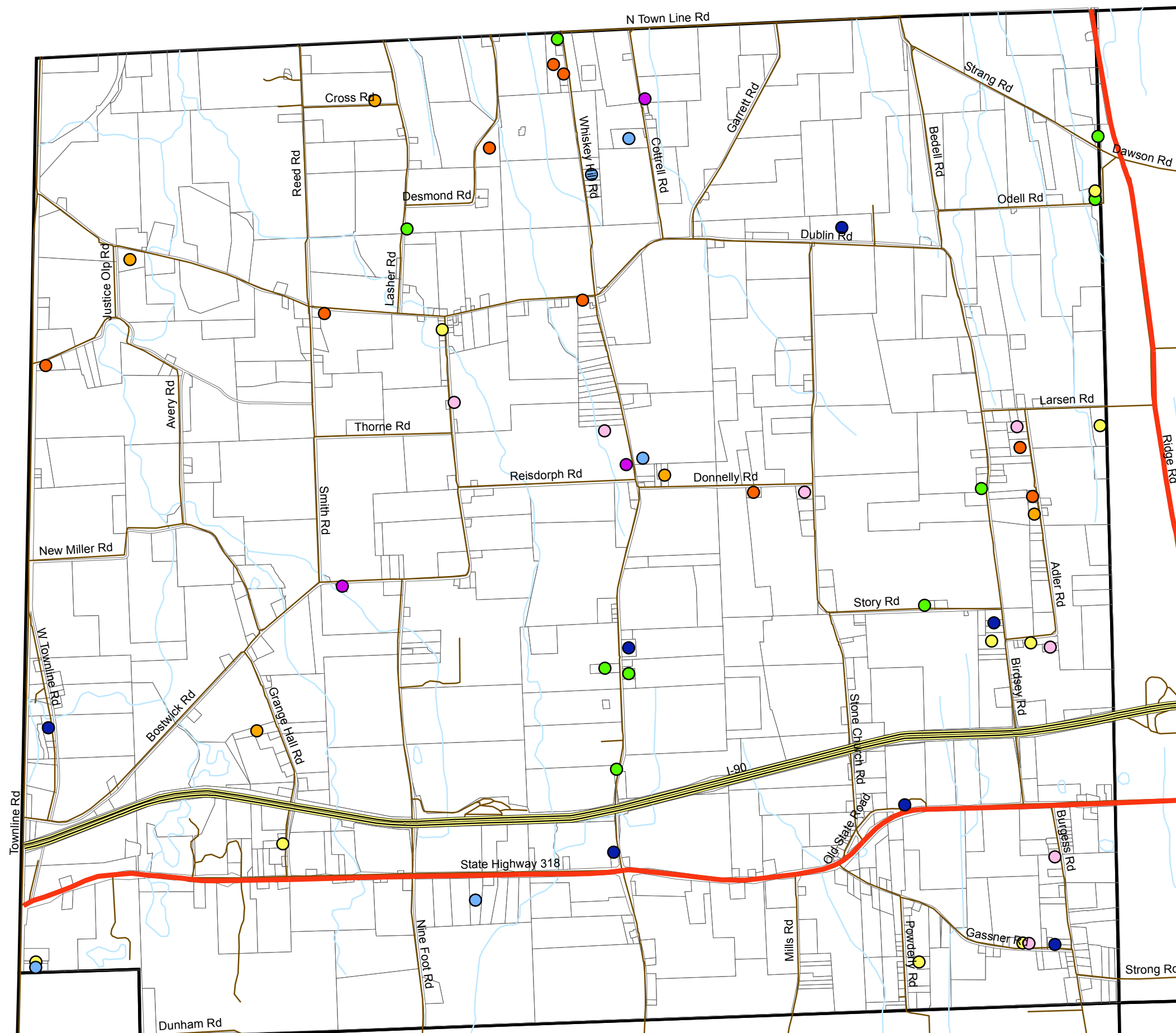
November 2009

New Dwellings - 2001-2008 Year Permit Issued

- 2001
- 2002
- 2003
- 2004
- 2005
- 2006
- 2007
- 2008

SOURCE: Building Permit data provided by the Seneca County Code Enforcement Office

0 0.25 0.5 1 Miles



Town of Junius Agricultural &
Farmland Protection Plan

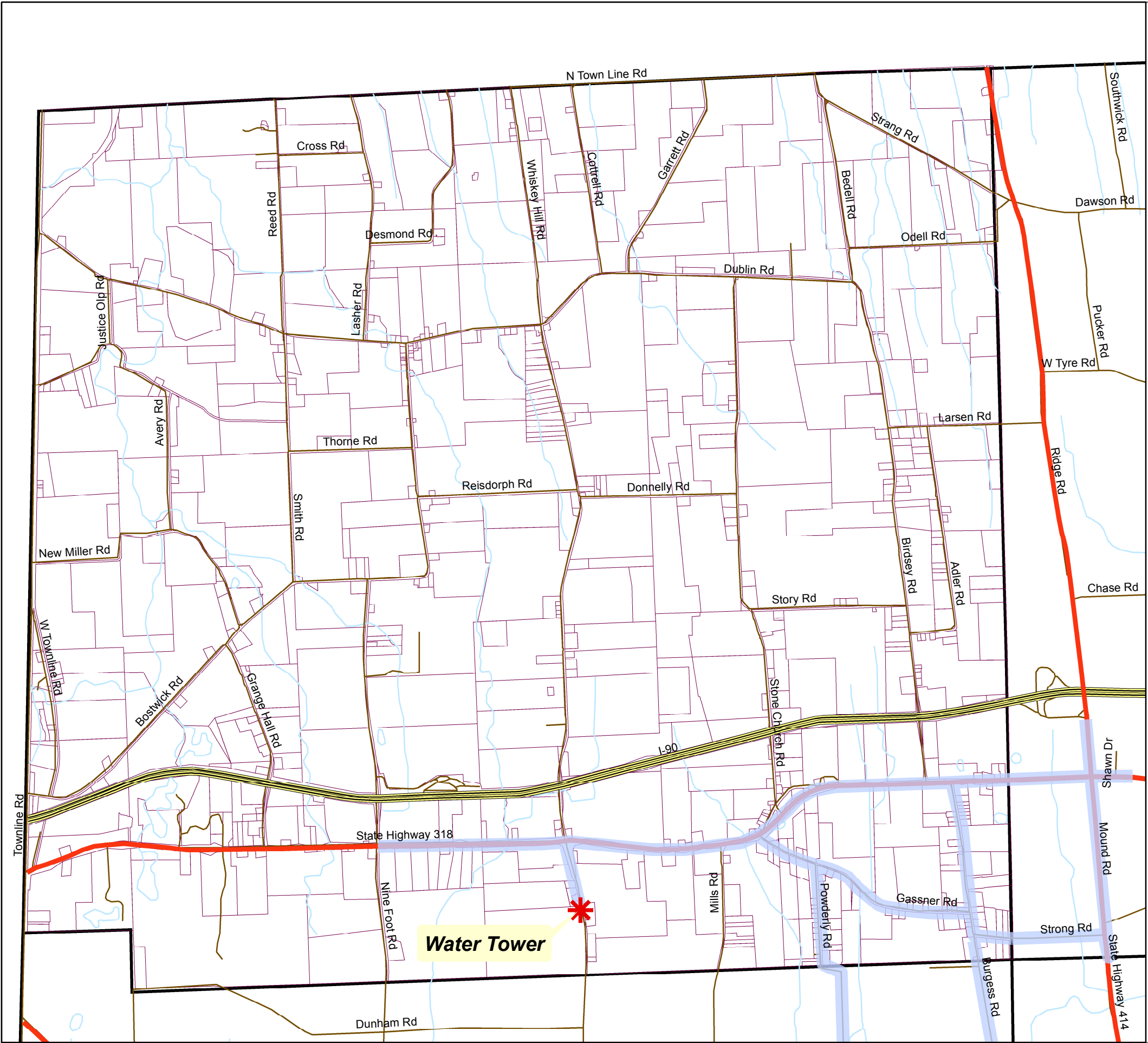
Public Water Lines

November 2009

Water Lines

SOURCE: Seneca County Planning Department

0 0.25 0.5 1 Miles









**Junius Agricultural &
Farmland Protection Plan**

**Land in Agricultural
Districts**

November 2009

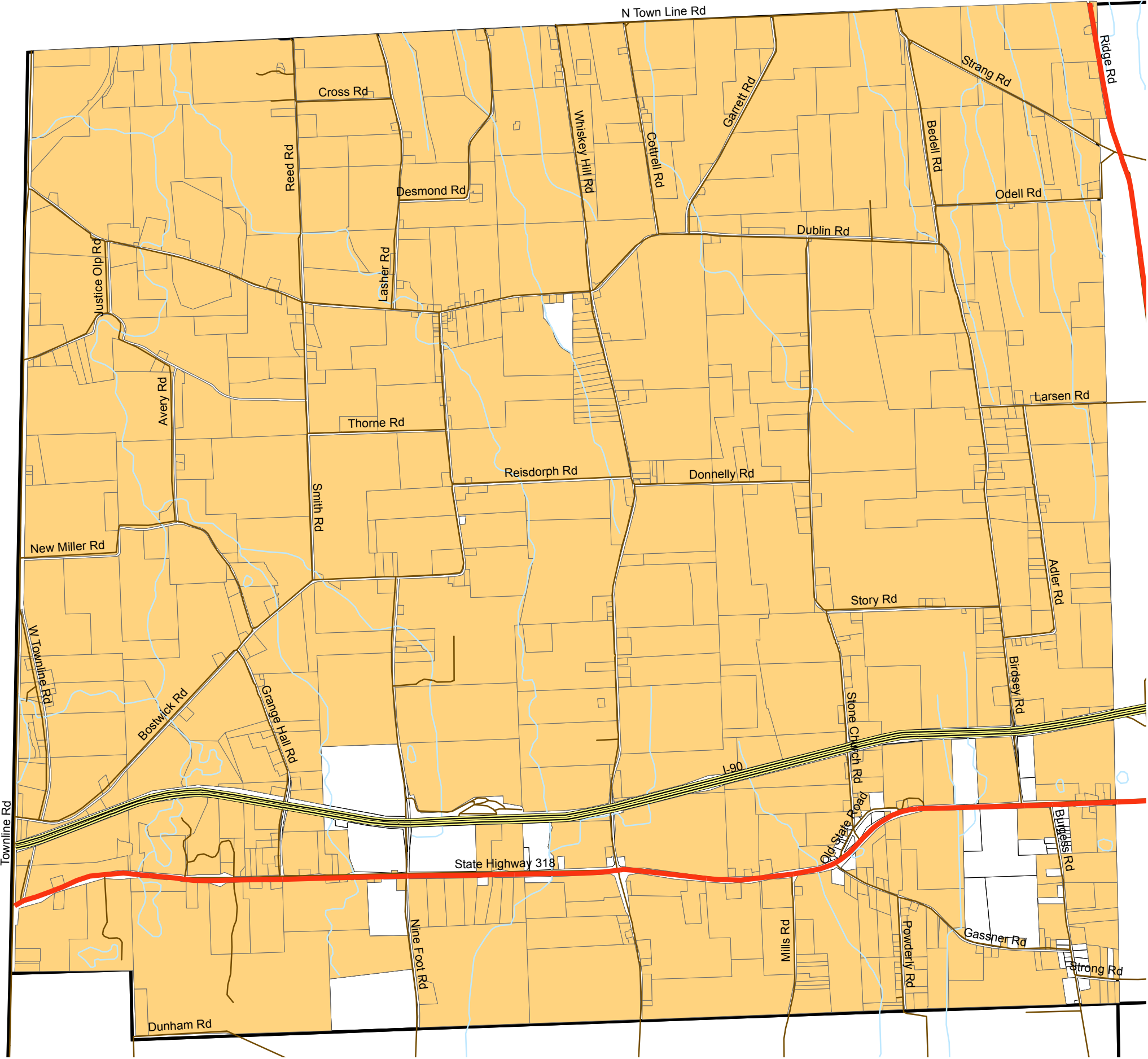
Legend

-  Interstate Highway
-  State Highway
-  Local Road
-  Streams
-  Land in Ag. District
-  2008 Parcel Boundaries

SOURCE: Seneca County Planning Department;
Cornell Cooperative Extension

Portion of Seneca County Agricultural
District #6, Certified June 2008

0 0.25 0.5 1
Miles



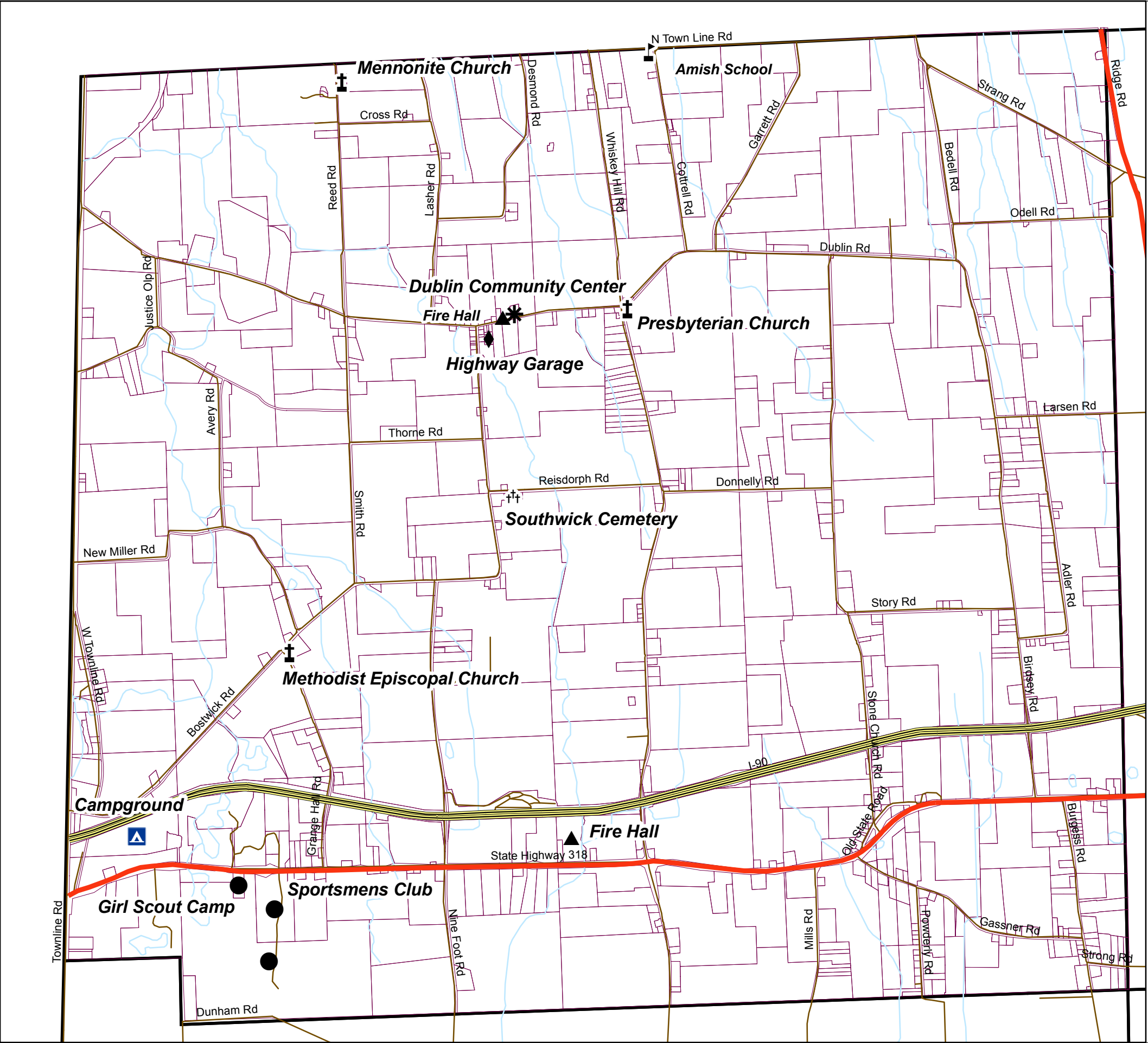
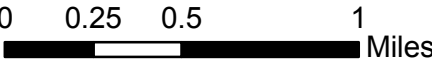
Public and Community Facilities

Community Facilities

- * Dublin Community Center
- ◆ Town Highway Garage
- ▲ Fire Hall
- ⚓ School
- ▲ Campground
- Recreational Facility
- ⚓ Religious Institution
- †† Cemetery

SOURCE: Assessment Records provided by the Seneca County Planning Department; Junius Planning Board

November 2009



Farmland Suitable for Protection/ Development and Conservation Areas

November 2009

Farmland Suitable for Protection

Development Areas

- Commercial Development
- Rt. 318 Corridor

Conservation Areas

- Junius Ponds/ Recreation
- NYS Wetlands
- Waterways

0 0.25 0.5 1 Miles

