

TOWN FARMLAND PROTECTION

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American Farmland Trust

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TOWN FARMLAND PROTECTION

A Citizen's Handbook
for
Saving Farmland

CONNECTICUT DEPARTMENT OF
AGRICULTURE

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CHAPTER ONE

ESTABLISHING A FARMLAND PROTECTION PROGRAM

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Saving farms preserves vistas such as this one at General Putnam Farm, Brooklyn.

I. How To Begin

Step 1. Assess the need to save farmland

To assess the need to save farmland, preservation volunteers or public officials such as the town selectmen, planning and zoning commission or conservation commission members, should gather the following information from the town assessor's office, and by contacting local farmland owners:

- The number of full and part-time farms in town.
- The value of farmland, farm machinery and farm buildings which contribute to the property tax base.
- The importance of agriculture to the town in terms of jobs and locally consumed produce.
- The number of farmers, or members of their family, that wish to continue farming.
- The ability of agricultural services in your area to continue to support farming.
- The issues farmers consider to have the most effect on their ability to stay in farming; such as property taxes, labor costs, regulations and development pressures.

Once you have this information, a public information meeting can be held so town residents can review the data and offer their opinions concerning farmland protection.

Case Study - The Planning and Zoning Commission of Suffield distributed a planning questionnaire to town residents which asked for opinions regarding the types of development, if any, the town should encourage. (See questionnaire on next page.) A majority of the residents supported preserving agricultural land and retaining the town's rural character. Because of the results of this survey, the Suffield Agricultural Land Evaluation and Site Assessment Committee was established to develop a blueprint that would aid the Town in farmland preservation. Farmers, former first selectmen, former tax assessors, members of the zoning and planning commission, an attorney, and a realtor comprised the committee.

Case Study Suffield, Connecticut Zoning and Planning Commission Planning Questionnaire

A. BASIC DATA (Needed to update the Town Plan - The last census was in 1980).

1. Where do you live? (Street name only) _____
2. How long have you lived in Suffield? _____
3. Are you: Married? _____ Single? _____ Divorced? _____ Widowed? _____
4. Give the ages of yourself and all household members (indicate the number in each bracket)
 Sex _____ Under 5 _____ 5 - 18 _____ 19 - 40 _____ 41 - 64 _____ 65 and over _____
5. How many members of your household are:
 Employed Full-time? _____ ; Part-time? _____ ; Retired? _____
6. For those employed, Where? Suffield _____ ; Other Towns (list) _____
7. How many are employed in: Agriculture? _____ Commercial? _____
 Industry? _____ Professional? _____ Service? _____ Other? _____
8. How many motor vehicles are operated from your household? _____
9. Do you live in an Apartment? _____ Single Family Residence? _____ Condo? _____
 Other? _____
10. What is the highest level of education obtained by adults in your household (circle the appropriate level): Elem? _____ High School _____ 2 3 4, Technical _____
 School 1 2 3 4, College 1 2 3 4, Graduate School _____
11. Would you rate the gross income of your household: Under \$10,000? _____
 Between \$10,000 - 20,000? _____ Between \$20,000 - 50,000? _____
 Over \$50,000 _____
12. In what town does your household shop for the following items?
 Groceries/daily needs _____ Furniture/appliances _____ Clothing _____ Hardware _____

B. OPINIONS ABOUT THE TOWN

13. What types of stores (if any) do you think are needed in Suffield? _____

Case Study - Suffield, CT14. What do you like MOST about Suffield?

Nearness to Employment? _____

Rural Atmosphere? _____

Quality of Public Service? _____

Taxes? _____

Quality of Life? _____

Other? _____

15. What do you like LEAST about Suffield? _____16. In 1984, 140 new homes were built in Suffield. Would you classify this annual rate of residential expansion as: Too fast? _____ Too slow? _____
About Right? _____

17. What types of new residential types would you like to see? None _____

Single Family Dwelling: 2 acres or larger _____; 1 - 2 acres _____

Less than 1 acre _____; Apartments _____

Two family Homes _____;

Condos or Townhouses _____; Elderly Housing _____

18. Please rate the following Town Services on the basis of 1 to 10 (10 = best)

Schools _____ Recreation _____ Medical Services _____ Police _____

Shopping _____ Cultural Activities _____ Fire _____ Utilities _____

Elderly Housing _____ Recreation Activities _____ Taxes _____

Public Works _____

19. Do you favor increased Retail Development in Town? Yes _____ No _____

If yes, where? _____

20. Do you favor increased Industrial Development in Town? Yes _____ No _____

21. Would you favor the Town purchase of land for, and development of an Industrial Park? Yes _____ No _____

22. Do you favor a town policy, the object of which would be the expansion of existing or additional Historic District? _____

23. Do you favor a Town Policy, the object of which would be preservation of agricultural land? _____

24. Do you feel Suffield should allow single-family and/or two-family homes to be converted into: Retail Shops? _____ Offices? _____ Other? _____

25. Should the Town purchase Open Space? _____ If so, for what purpose? _____

26. Any other comments regarding Planning, Zoning or updating of the Town Plan? _____

Step 2. Establish a farmland protection committee

To build upon the consensus within the town to protect agricultural land, town officials and concerned volunteers need to establish a committee that will study and advise the the town as to how this can be done. The committee need not be large but should have well known and respected citizens. Five or six people is plenty. Membership might include:

- Local Farmers
- Planning and Zoning Commission Members
- Economic Development Commission Members
- Conservation Commission Members
- Realtors
- Bankers
- Developers

Once this is accomplished, Community Resource Development agents with the UConn Cooperative Extension Service can assist you in establishing an organizational framework. Your group needs to determine its:

- Objectives: What are the long range goals of town growth? What is the importance of agriculture to the town? Do farms in adjacent towns depend upon services offered in your town, or vice-versa?
- Strategy: What techniques should be examined and adopted to protect farmland? Are efforts of your committee compatible with those in neighboring towns?
- Financing: What financial resources will the town need to accomplish its goals? For example, how would an increase of one mill in your municipal tax rate allow public acquisition of farmland?

Your committee should now have a better focus on what needs to be accomplished. Remember to talk with other towns in your area to see what problems they are experiencing and how they are working towards protecting farmland. Proper planning is best accomplished on a regional scale with landowners working together and sharing information.

Case Study - Citizens in East Windsor began planning to protect farmland by contacting the Hartford County Soil and Water Conservation District, which works in cooperation with the U.S. Soil Conservation Service (SCS). Residents asked that a Land Evaluation and Site Assessment Program (LESA) be conducted to evaluate the productivity of East Windsor farmland. (See page 18 for more information concerning LESA.)

SCS advised residents to form a committee to evaluate farmland and advise town commissions on issues involving agricultural land. A Land Use Management Commission was formed to complete the site assessment and identify areas worthy of preservation and those suitable for development.

With assistance from the Connecticut Department of Agriculture, Cooperative Extension, and the Hartford County Soil and Water Conservation District, East Windsor is working to preserve its farmland acreage.

Case Study - The Agricultural Site Assessment Committee of Suffield completed its Land Evaluation and Site Assessment and made these recommendations to their Zoning and Planning Commission:

- 1) The Town of Suffield recognizes the importance of farmland and its value to the Town and the need for its preservation.
- 2) A permanent Land Preservation Committee be established under the Suffield Conservation Commission as an advisory committee.
- 3) This committee would periodically evaluate various sites as requested by other town commissions, agencies and boards.
- 4) This committee could assist the Conservation Commission and Zoning and Planning Commission on land use decisions.
- 5) Provide a forum for an information exchange on farmland preservation and to disseminate this information to the public in the Town of Suffield.
- 6) Identify, inventory and evaluate land use data in the town to be used in the decision making process.
- 7) It is further recommended that the present members of the Agricultural Committee be considered for positions on this permanent committee. Suggested makeup of this permanent committee could include the following:
 - two or three ex-officio members from the Conservation Commission
 - one member from the Zoning and Planning Commission
 - three farmers
 - one realtor
 - one lawyer
 - one ex-officio member; either the First Selectmen or his designee
 - advisors to the committee: Hartford County SWCD; Cooperative Extension Service; CT Department of Agriculture; Hartford County SCS.

II. Getting Organized

Step 1. How to use an existing town plan to protect farmland

In Connecticut, Public Act 490 has been the single most important tool to prevent poorly planned development and retain farmland and open space.

The act encourages the preservation of lands classified as farm, forest, and open space by easing the property tax burden of these holdings. Some towns have modified existing plans of development to protect agricultural land while others have adopted an open space policy as part of their plan of development. More information concerning Public Act 490 can be found on Page 52.

Designating lands classified as "open space" for special use value taxation under Public Act 490 in your town plan can be a useful planning procedure. Citizens in Sharon and Goshen have modified town plans to protect farmlands. Here's how:

Case Study - The Town of Sharon has modified their town plan of development by adopting a natural resources plan called "Policies for the Future." The document makes these specific policies and recommendations:

Municipal Agricultural Preservation Program

(a) Adopt town policy stating that the preservation of Sharon's Agricultural Resources including both existing commercial agricultural areas and prime and important farmland soils, is important to the interest of Sharon and its residents.

(b) Notify the Connecticut Department of Agriculture and the Connecticut Office of Policy and Management of the findings of the Sharon Natural Resources Planning Task Force regarding Sharon's agricultural resources and of the town's policy on agricultural land preservation. Encourage both agencies to consult with the Planning and Zoning Commission when state monies may be used in any agricultural land preservation program or for projects that may impact agricultural areas.

(c) Planning and Zoning Commission to utilize the open space set aside provision maximum area requirement of 15% for subdivision proposals. Set aside requirement aimed at prime and important farmland soils.

(d) Incorporate Connecticut laws on the rights to farm in Sharon's Planning and Zoning regulations. Ensure local coverage if state laws are repealed or amended.

By adopting these policies, the Town Plan of Development now appears in two sections: a "Natural Resources Plan" and a plan for housing, commercial and industrial land use, roads, and zoning revisions.

Case Study - Goshen amended its Plan of Development by adopting an Open Space Plan. Its purpose is:

- (1) To identify by map and definition those areas within the town which could be adopted by the Goshen Planning Commission and the Town Meeting and thus become the legally defined "Open Space Plan" for Goshen.
- (2) To propose a series of specific actions for implementation by various town bodies to protect, enhance and conserve the identified natural and historic resources.

One element of this initiative is to establish an Agricultural Preservation Program to:

- (1) Promote private sector initiatives for preserving farmland. Tax deductions are available under federal income, gift and estate tax laws in areas where state or local governments have a clearly designated conservation or preservation policy. The Open Space Plan designating important farmland meets the requirements of the federal tax law.
- (2) Coordinate local goals with State Preservation Programs used within Goshen.



The state purchase of development rights of Ridgedale Farms will help Putnam and Pomfret attain open space goals.

How to adopt an open space plan if your town does not have one

Before proceeding with your farmland protection efforts the committee should review the existing open space plan or consider designing one to be adopted as part of the town plan of development. Besides protecting agricultural land, communities can use an open space plan to preserve aquifers, scenic vistas, and historic sites.

As mentioned previously, the state encourages the preservation of these resources with Public Act 490 which taxes farm, forest and open space at its use-value rather than full market value.

Often landowners are familiar with the farm and forest land use-value assessments but not with the protection the act offers to open space. Conversion of open space land to more intensive land uses increases the development pressure on agricultural landowners. Hence, a town open space plan is a vital tool.

**Besides protecting agricultural land, communities
can use an open space plan to preserve aquifers,
scenic vistas, and historic sites.**

Towns which have adopted such a plan rely on natural resource information such as soils and topography when reviewing methods to protect farmland. Towns which have not yet designated an open space plan need not do so before working to preserve farmland. Information for both projects is much the same; existing zoning, areas of development pressure, soils and cropland. Both projects then proceed simultaneously.

Section 12-107e(a) of the Connecticut General Statutes states: "The planning commission of any municipality in preparing a plan of development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space, provided such designation is approved by majority vote of the legislative body of such municipality."

Once the natural resource information for an open space plan has been mapped and defined, the data can be published and circulated among town residents. Next, the commission needs to hold a public hearing to solicit comment on the plan. After this, the planning commission votes to adopt it.

This is a brief explanation on adopting an open space plan. Its actual development, however, is a lengthy process. But it is one which can greatly advance farmland protection efforts. For more information contact your County Extension Agent, Soil and Water Conservation District, or Regional Planning Agency. Addresses and phone numbers are listed in Chapter Three.

Step 2. Making a base map

Information now needs to be gathered on what types of farms exist in your community and their location. It is important to be factual and credible and prevent decisions based upon misleading assumptions.

This information will be placed on a base map. The map will be used as a planning tool to protect farmland. The data you need is available from various government agencies. Your work will involve collecting and organizing this material.

(a) The best format for this project is a topographic map - You can purchase copies of topographic maps of your area from the:

Natural Resources Center
Department of Environmental Protection
Room 555
165 Capitol Avenue
Hartford, CT 06106
Telephone: (203) 566-7719

Topographic maps depict the various elevations in your area, roads, rivers, wetlands, and man-made structures. They are reproduced at a scale of 1:24,000, or 1" = 2000 ft., allowing small parcels of land to be clearly identified.

(b) Identifying land use - Next, the committee needs to gather information on the following.

- active and inactive farmland by crop type, including land rented by dairy farmers
- "prime" farmland soils
- farmland of "statewide importance"
- land use other than farmland
- existing zoning and proposed zoning changes
- existing and proposed water and sewer service areas
- future development patterns proposed in town and regional plans of development and the State's Conservation and Development Plan

"Prime" farmland is defined by the USDA as those soils best suited for producing food, feed, fiber and forage crops, and is also available for that use. Prime farmland may be idle now or used for crops, pasture, hay or forest. It has the soil quality, growing season, and moisture supply needed to produce sustained high yields of crops when treated and managed according to acceptable farming methods.

Farmland of "statewide importance" is land, in addition to prime farmland, that is significant for the production of food, feed, fiber, and forage crops. Generally, additional farmland of statewide importance includes land that is nearly prime farmland and that economically produces high yields of crops when treated and managed according to acceptable farming methods. These lands have steeper slopes or are wetter than prime farmland. Some may produce as high a yield as prime farmland if conditions are favorable.

Your local planning and/or assessor's office will have most of the information you will need for the base map. Other government agencies which can offer assistance in collecting data are described below.

Cooperative Extension Service - This is the off-campus educational arm of UConn. Extension provides assistance with agricultural and resource problems through county and regional specialists. Addresses and phone numbers are listed in Chapter Three.

Soil and Water Conservation Districts - Connecticut's eight Soil and Water Conservation Districts offer technical help in agriculture, construction, forestry, recreation, water conservation, erosion control, land development, land management, and conservation education. The Districts do not enforce or regulate. Addresses and phone numbers are listed in Chapter Three.

U.S.D.A. Soil Conservation Service (SCS) - This U.S. Department of Agriculture agency provides technical assistance to communities through the Soil and Water Conservation Districts, in evaluating soil, water, and related resources for conservation and development activities. Each county in Connecticut has a SCS District Conservationist. Addresses and phone numbers are listed in Chapter Three.

SCS has completed soil surveys and published maps which inventory the prime and important farmland in Connecticut's counties. Your SCS District Conservationist has copies of the "Important Farmlands" map of your town, and will assist you in preparing a "prime and important farmland" map from the appropriate soil surveys.

The SCS and the Department of Environmental Protection also have soils maps at the topographic scale, (1"=2000'), for some of the town's in Connecticut. These maps are for sale by either organization, and can help highlight the prime farmland soils in your area.

Department of Environmental Protection - The Natural Resources Center of the DEP is developing a computer mapping program so that natural resource information for Connecticut can be digitized. This digitized format is referred to as a Geographical Information System (GIS) and will enable state agencies to design specific maps for natural resource conditions.

For example, if a town wishes to protect its prime farmland but allow development on marginal farmland, the GIS could produce a map highlighting soil limitations of the marginal land. Depicting areas of soil limitations could help the developer overcome such problems.

The DEP also has aerial photographs for each town. Along with a site survey, these photos can be useful in determining current land uses of specific areas.

For more information contact:

Natural Resources Center
Department of Environmental Protection
Room 555
165 Capitol Avenue
Hartford, CT 06106
Telephone: (203) 566-7719

Regional Planning Organizations - Throughout most of the State, municipalities belong to either a Regional Planning Agency, a Regional Council of Elected Officials or a Regional Council of Governments. These regional planning organizations have compiled a base of information which include regional plans of development. Regional planning organizations can be an important resource by assisting municipalities in forging local preservation programs. Addresses and phone numbers are listed in Chapter Three.

Environmental Review Teams - Connecticut has two environmental review teams (ERT) which consist of professionals who are drawn together to provide resource inventories and assessment information for specific sites. For example, an ERT is available to towns that need to study a proposed development on locally important farmland. An ERT must be requested by the town's chief elected official or the chairman of a town commission. Addresses and telephone numbers are listed in Chapter Three.

(c) Make sure your data is current

Once the committee has gathered information on agriculture in your town, the data should be reviewed and made current to accurately reflect the existing conditions within the community. The assessor's office can assist.

(d) Organizing the base map data

The next step is transferring these data, so that they can be used with the base map. A good method is to design overlays for each category of information. An overlay is a sheet of clear plastic (acetate) which can be marked easily with permanent-ink markers, or colored pencils.

Several sheets of acetate can be placed over one another and over the base map, allowing all or just some of the information to be displayed. For example, an overlay which depicts the location of prime farmland soils can be placed over another showing future town expansion.

Where conflicts occur, public officials can work to promote compatible land use and protect endangered crop land. (See Chapter 2.)

Recording each category of information onto separate sheets of acetate prevents the base map from becoming cluttered and difficult to interpret. Your committee can be more efficient if its information is close at hand and easy to understand.

Case Study - Sharon's Natural Resources Planning Committee designed many overlays for their base map. These overlays reveal information vital to the town's efforts to protect farmland. The categories are:

- Active Prime Ag Lands
- Active Non-prime Ag Lands
- Inactive Prime Ag Lands
- Inactive Non-prime Ag Lands
- Prime Ag Land Lost to Compatible Land Uses (Rural Residential)
- Prime Ag Land Lost to Non-compatible Urbanized Land Use
- Compatible Active Land Uses

Step 3. Identifying farmland owners

The local assessor's office, your county Extension Service, and the Department of Agriculture can help assemble the most current list of full- and part-time farmers in your town.

Owners of farmland who do not farm should be identified too. Remember to identify producers from other towns who rent or own farmland in your town. This list should be checked by farmers on your committee for thoroughness and accuracy.

Step 4. Identifying types of farming activity

Once the owners of farmland have been identified, the type of their operation must be known. The local assessor's office, County Extension Service, or the Connecticut Department of Agriculture can give you this information.

This information should be recorded on an overlay, to keep the data organized and accessible. Remember to identify all parcels of a single farm unit and the location of the farm headquarters.

Step 5. Conducting a survey of area farmers

The success of your farmland protection program relies heavily on the participation and support of local farmers. A survey to determine the attitudes of local farmers toward private property and farmland protection should now be conducted by the committee.

The Cooperative Extension Service has developed a detailed questionnaire which the committee can distribute to farmers who use agricultural land in your town. A copy appears on the next page.

Step 6. Holding a public information meeting to show committee's progress

By now you have compiled a data base on the number and types of farms, prime farmland soils, land use pressures on existing farms, and opinions of farmland owners. A meeting should now be held to present this information including maps and overlays to the public. The purpose is to prompt local citizens to pose questions and voice opinions about the effort.

Technical resource people from Cooperative Extension, SCS, or the Connecticut Department of Agriculture can be invited to comment on farmland protection activities in other towns. Local news reporters should be invited to attend, to publicize your farmland protection efforts.

Farmland Owner Questionnaire

1. Your Name _____
2. Address _____
3. Are you a: (check one)
 - a. _____ Full-time farmer earning total or primary income from farming.
 - b. _____ Part-time farmer, primary income from non-farm sources.
 - c. _____ Farmland owner renting land to farmers, only farm income is from rent.
4. How would you describe your farm? (i.e. Dairy, Nursery, etc.) _____
5. List the number of acres you own and farm yourself:

Town _____	Acres _____	Town _____	Acres _____
------------	-------------	------------	-------------
6. List the number of acres you own and rent to a farmer:

Town _____	Acres _____	Town _____	Acres _____
------------	-------------	------------	-------------
7. List the number of acres you farm and rent from others:

Town _____	Acres _____	Town _____	Acres _____
------------	-------------	------------	-------------
8. Please indicate your farmland transactions during the last 10 years:
 - a. Number of acres of farmland you bought in last 10 years. _____
 - b. Number of acres of farmland you sold in last 10 years. _____
 - c. If you sold farmland in last 10 years, indicate present use by acres:

Industrial _____	Residential _____	Commercial _____
Farming _____	Inactive _____	Wooded _____
9. Do you plan to buy any farmland in the next 5 years? Yes _____ No _____
If yes, how many acres? _____
10. Do you plan to sell any farmland in the next 5 years?
If yes, how many acres? _____
11. If you plan to sell or discontinue farming any of your land in the next 5 years please check the reason(s):

Retiring from farming due to age	_____
Money needed to meet financial obligations	_____
Attractive offers from developers	_____
Need more land to expand but can't afford it	_____
Other (explain)	_____
12. When you stop farming or sell your land, would you prefer to:

Retain land and rent to a farmer	_____
Retain land and let it become inactive	_____
Deed to heir	_____
Sell to a farmer	_____
Sell to developers	_____
Sell to state or town	_____
Donate land to public or a land trust	_____
13. How is your land presently zoned?

Rural Residential (more than 2 acres per home)	_____
Residential (2 acres or less per home)	_____
Commercial	_____
Industrial	_____
Agriculture	_____
Don't know	_____
14. How do you feel present zoning affects your ability to stay in farming?

Helps _____	Hinders _____	No effect _____
-------------	---------------	-----------------
15. Is your land assessed at its farm rather than market value?

Yes _____	No _____	Don't know _____
-----------	----------	------------------
16. Would you ever sell the development rights to your farm?

Yes _____	No _____	Undecided _____
-----------	----------	-----------------

Farmland Owner Questionnaire

17. Which of the following do you consider to have a major effect on your ability to stay in farming?

Need more land to buy
Need more land to rent
High taxes on land you own

High cost of buying land
Cost or lack of farm labor
Cost of feed, fertilizers
and sprays

Cost of equipment and farm
structures

Cost of borrowing money

Local regulations

Competition from other regions

Development pressures

Other (explain) _____

State Regulations
Federal Regulations
Lack of storage
facilities

Lack of processing
facilities

Lack of related
services

Lack of markets

Low prices for your
products

Trespass, vandalism

18. Considering your knowledge of the land and the economics of farming, do you feel agriculture has a future in your town? Yes _____ No _____

19. If you would like information on any of the following programs that affect farmland, indicate with a check:

Right To Farm Bill

Public Act 490

Purchase of Development Rights

Transfer of Development Rights

Your Local Plan Of Development

Your Local Subdivision And Zoning Ordinances

Fee Simple Purchase And Leaseback

Purchase And Resale With Covenants

20. Do you have any comments or suggestions relating to farmland protection?

III. METHODS TO INVENTORY AND RANK FARMLAND

Financially, it makes sense to determine what land your town should first preserve. It may not be possible, or even desirable, to save all the farmland in your town. These decisions should be based upon an impartial evaluation of farmland throughout the town. Public confidence in the farmland preservation decisions being made by your committee and town government is vitally important.

Step 1. Examine town's land use patterns

Before the committee begins ranking farmland, examine the town's land use patterns or trends. Look for local and regional areas of development pressure as seen by your regional planning organization. It can provide the committee with data from the State Plan of Conservation and Development or municipal and regional plans. Addresses and phone numbers are listed in Chapter Three.

By reviewing the tax assessor's maps and records, and its own observations, the committee can highlight areas of rapid growth and intense land speculation. Often parcels are purchased, held in an undeveloped state until demand for the land increases, and then sold for profit. Unfortunately, a town's most productive farmland is often purchased and held for future development.

Step 2. Select a method to evaluate and prioritize town farmland

The commission should establish an impartial system to denote the acreage requiring the most urgent action. You may choose a technical method designed by the Soil Conservation Service, or you can develop your own evaluation method. Examples of both such methods are described below.

Method 1. LESA - Land Evaluation and Site Assessment

The SCS has developed an evaluation system which can be used to determine which lands should be preserved first by rating specific sites to justify protection. Its Land Evaluation and Site Assessment (LESA) evaluates farmland for quality and assesses its economic and social viability.

The Land Evaluation (LE) portion assigns a quality rating to soils in your town. It rates each soil on its potential to produce crops without causing excessive erosion rates. The published county soil survey is the foundation of this phase.

The Site Assessment (SA) examines the social, economic and environmental factors that effect the viability of agriculture in the town. Site Assessment factors are tailor-made by each town's LESA committee.

These factors include: land use adjacent to site; distance to municipal water and sewer system; the compatibility of a proposed non-agricultural use with surrounding farms. Once the local committee decides on the relevant features, they assign a numerical rating to each.

Public confidence in the town farmland preservation decisions being made by your committee and the town government is very important.

The summed values of the LESA provide a relative numerical rating for each parcel of land under consideration. The higher the rating, the better the parcel's potential for being a long-term, high producing agricultural operation.

The system is not a method of preserving farmland, but provides towns with a evaluation process.

Contact the SCS District Conservationist in your county for more information concerning LESA. Phone numbers and addresses are listed in Chapter Three.

Case Study - The Towns of Suffield, East Windsor, Windsor and Bloomfield Connecticut worked with the Hartford County Soil and Water Conservation District and SCS in designing their Land Evaluation and Site Assessment. Both the Land Evaluation and Site Assessment phases are described on the next few pages.

Case Study Suffield, Connecticut

Development of the Land Evaluation (LE) for the Land Evaluation and Site Assessment (LESA)

1. A soil survey computer printout was obtained that gives information on the potential productivity of the soils in Hartford County for growing an indicator crop. Silage corn in tons per acre (T/Ac) was chosen as the indicator.

2. Soils (map units) were then grouped together according to their potential yields (for an indicator crop) and how they must be managed to remain productive. Eleven different groups were separated, those in Group I being the best agricultural soils and those in Group II being the poorest agricultural soils with the most limitations to overcome for good crop yields.

3. Conservation costs were related to yield reductions on various soils in Suffield. To sustain good crop yields, soils must be managed to maintain soil fertility levels, prevent excessive erosion, and preserve adequate rooting depth for crops. This can be achieved by using various conservation measures. For example, a well drained soil that is strongly sloping may give high sweet corn yields, but to prevent excessive erosion and maintain good yields it must be farmed across the slope, may need across slope ditches (diversions) or waterways to remove erosive surface water flows, and a rye cover crop every fall. These necessary conservation measures cost money, so with cost guidelines from SCS technical handbooks and the local know-how of the SCS staff, these conservation costs were converted to yield reductions.

4. In each agricultural group of soils, the potential yields are all adjusted by the reductions in yields that are the result of the costs of overcoming certain soil limitations. The final figure is an average group yield. Each group, 1 through 10, has an average adjusted group yield. Group 2 soils are not given a group yield because they have too many limitations for crops.

5. Each group, 1 through 11, is then given a relative value between 1 and 100. This is because the LE part of the system accounts for a total of 100 points out of a total 300. The best agricultural soils (lower group numbers) have values closer to 100 and the poorer soils have lower relative values. The relative value is derived by dividing the adjusted group yield by the highest adjusted yield (Group 1). Thus all the groups are compared to the best soils in Hartford County. The quotient of this is then multiplied by 100 to give a group relative yield. For example, Group 1 has a yield of 24.5 T/Ac and Group 3 has a yield of 21.4 T/Ac. $21.4 \text{ divided by } 24.5 \text{ equals } 0.87$. Eighty-seven (87), the relative value of all soils in Group 3, is equal to 0.87 times 100.

There are two final products of the LE (Land Evaluation) part of the LESA system. One is the 11 agricultural groups into which all the map units (soil types) in Suffield are categorized. The other product is a relative value (100 or less) for each agricultural group. This is the value that will be used in rating parcels in Suffield.

Case Study Suffield, Connecticut

Development of the Site Assessment (SA) in LESA

1. The committee, selected by the Board of Selectmen, was responsible for selecting, evaluating, and weighting the various site assessment factors. This important step made the factors appropriate to the conditions and situations in Suffield.
2. A list of possible site assessment factors was assembled by the SCS staff from other LESA projects from around the United States. The general list of factors proved useful as guidelines, but many adjustments were needed. The master list contained over 30 possible site assessment factors. The committee felt that some factors were more important than others, so each factor was given additional weight depending upon the committee's recommendation. A factor with a higher weight was judged to be more important. The additional weights were also important in achieving a total of 200 points for the SA part of the system.

A. Agricultural Land Use

Factor 1. Land in agriculture or a compatible land use within 0.5 miles of site boundary.

	<u>Point Value</u>	<u>Weight (1.3)</u>
75% or more	10	
50% to 74%	8	
25% to 49%	5	
Under 25%	3	

Explanation: This factor gives a higher value to agricultural parcels that are surrounded by other agricultural land or other compatible land uses. Farmland adjacent to agricultural land is less pressured than farmland surrounded by non-agricultural land uses. Compatible land uses include woodland, open land, certain types of wetlands and other land beneficial to agricultural land.

Factor 2. Percentage of land in agriculture or compatible land use adjacent to site.

	<u>Point Value</u>	<u>Weight (1.1)</u>
66% to 100%	10	
33% to 65%	8	
0% to 32%	2	

Explanation: This factor gives a higher point value to those parcels of land that have land in agriculture or a compatible land use adjacent to the site. "Adjacent to the site" means the percent of adjacent property boundary lines (in linear feet) that is shared by the site and another land use.

Case Study Suffield, Connecticut

Development of the Site Assessment (SA) in LESA continued

Factor 3. Percentage of site in agriculture.

	Point Value	Weight (0.7)
75% to 100%	10	
50% to 74%	7	
25% to 49%	4	
Under 25%	2	

Explanation: This factor gives a higher point value to those parcels cropped or with land that could easily be converted to cropland. If woodland on the parcel is being harvested and used as a viable part of the overall farm enterprise (i.e., lumber, cordwood, grazing area) then it is to be included in the agricultural acreage count.

Factor 4. Has a substantial percentage of the site been farmed during the last several years?

	Point Value	Weight (1.5)
Most of the site has been farmed during the last several years	10	
Some of the site has been farmed during the last several years	5	
Very little of the site has been farmed during the past several years	2	

Explanation: This factor gives a higher point value to those parcels that have been actively farmed during the past several years. "Most of the site" means 50% or more, "Some of the site" means 25% to 49% and "Very little" means less than 25%.

Factor 5. Availability of an irrigation source.

	Point Value	Weight (1.9)
On site	10	
Feasible within a distance (0.5 mile)	5	
Not feasible or no access	0	

Explanation: This factor gives a higher point value to those parcels with irrigation sources already existing on the parcel. These can be in the form of ponds, rivers, wells and related resources.

Case Study Suffield, Connecticut

Development of the Site Assessment (SA) in LESA continued.

B. Land Use Feasibility

Factor 6. Does the farm have sufficient land available to be expected to continue as a farm?

	<u>Point Value</u>	<u>Weight (1.5)</u>
More than sufficient	10	
Approximately sufficient	5	
Not sufficient	0	

Explanation: For Suffield farmers, having sufficient land often means having to locate and rent parcels. Land available for rental will become more difficult to find in the future. A parcel that is self-sufficient in area is given a higher point value. This factor also evaluates the total amount of farmable land on a parcel. A higher point value is given to parcels with more tillable land.

Factor 7. Soil suitability for on-site waste disposal.

	<u>Point Value</u>	<u>Weight (1.1)</u>
Restricted use of septic systems	10	
Special management required	5	
Few or no limitations	0	

Explanation: Many areas to be developed in Suffield will need on-site waste disposal systems. If soil conditions will not support a system at a reasonable cost, the suitability of the parcel for development is reduced. Sustaining agriculture on the parcel may then be a more desirable alternative. If the parcel has sewer onsite and its use is more cost efficient, the parcel should be rated a 0.

Factor 8. Does the farm have land available for rental?

	<u>Point Value</u>	<u>Weight (1.5)</u>
Readily available	10	
Some available but with some restrictions (i.e. ownership, costs of lease, distance)	5	
None available	0	

Case Study Suffield, Connecticut

Development of the Site Assessment (SA) of LEA continued.

Factor 8 continued.

Explanation: Many of Suffield's farmers rely on land rented for a portion of their acreage, and the use and availability of rental land will become more important in the future. If evaluating a parcel and not an entire farm, this factor may not be needed, and the parcel should be rated a 10.

Factor 9. Does the farm containing the site have a substantial number of on-farm investments, such as barns, other storage buildings, fruit trees, irrigation, tile drainage, waterways, or other soil and water conservation measures?

	Point Value	Weight (1.7)
High level of on-farm investments	10	
Average level of on-farm investments	5	
Low level of on-farm investments	3	

Explanation: This factor assumes that a parcel with agricultural operation investments will be easier to keep in agriculture than a parcel where substantial investments would be needed to start an agricultural operation.

Factor 10. Size of the site economically feasible for farming.

	Point Value	Weight (0.9)
20+ acres plus	10	
5 to 20 acres	5	
Under 5 acres	2	

Explanation: Agriculture in Suffield's future will generally be on smaller tracts, and will probably be high value specialty crops raised on parcels owned or rented by the operator. There will also be more part-time farmers who will not rely on farming as the major portion of their income. Thus 5 to 10 acre parcels will be important and are feasible and profitable to farm.

Method 2. Farmland Inventory and Rating System

Another, less technical, method for ranking farmland relies on all the information the committee has collected:

- active and inactive farmland parcels
- prime and important agriculture soils
- areas under development pressure
- land owner attitudes toward farmland protection
- number of farms in vicinity

Using this information the committee can develop a method to rank each farm, based upon the quality of the soil, surrounding land use, etc. The final rank given to a parcel will determine the land that should be preserved for agriculture and the land that is suitable for development.

It is important to design an evaluation system which reviews the farmland objectively and is easy to use. The Town of Sharon developed a farmland inventory and rating method as part of their Natural Resources Plan. Sharon's method is described below.

Case Study Sharon, Connecticut Agricultural Lands Inventory Sheet (example)

Parcel Number	1	
Size (Acres)	417	
Prime Farmland Soils (Acres)	324	
Adjacent Land Uses:	next to	within
Industrial	no	no
Residential	yes	no
Commercial	no	no
Agricultural	yes	yes
Other		
Land Use Indicators:	Town Recreation Area	
Public Facilities		
Increasing Residential Development	yes	no
Special Considerations:		
Agricultural Land Protection	no	no
Other	Audobon: 23 acres	no
Comments:		

To use the inventory, the commission divided the town into ten groups of "farm communities" or areas of farmland concentration. A parcel number was assigned to each farm, and the size of the farm as well as the number of acres of prime soil was recorded. Next, the land uses within each farm community (surrounding each parcel) and next to (outside) each farm community were evaluated.

Public facilities within and next to each community, such as sewer and water services, were checked to see if any were present. Each parcel of farmland was reviewed to see if any method of agricultural protection existed, such as the sale of development rights to the State or restrictive easements held by a conservation organization. The information from this checklist was then used by committee members to rate each farm parcel for protection.

Farmland Rating Sheet (example)

Parcel Number (1)	Low	Moderate	High		
Percentage of Prime Farmland Soils	1	2	3	4	(5)
Size (acres)	1	2	3	4	(5)
Contiguity of Soils in Tract	1	2	3	(4)	5
Existing and Potential Land Use Pressures	5	4	3	2	(1)
Present Farm Use	1	2	(3)	4	5
Accessibility	1	2	3	4	(5)

Each parcel of agricultural land was evaluated by committee members in Sharon, using the Agricultural Land Inventory Sheet (previous page). Information from this Inventory Sheet and the town's agricultural lands map were reviewed by each member before assigning a "low," "moderate," or "high" score to the parcel with the Farmland Rating Sheet (above).

Method 3. State of Connecticut's inventory under the Purchase of Development Rights Program

The following criteria are the basis for selecting farms for the state farmland preservation program:

1. The probability that the land will be sold for non-agricultural purposes.

The state rates applications by indicating those conditions which show how the farm is threatened by development. Are there active negotiations for sale? Is the farm in an estate settlement? Is it situated in a rapidly developing area? Does the farmer need to stop farming?

2. The current productivity of the land and the likelihood of continued productivity.

What is the farm income? How many acres of cropland are on the farm? What are the crop yields? Does the farm contain a high percentage of tillable land? Is there a demand for farmland in the area? How many other farms are in the area?

3. The suitability of the land as to soil classification and other criteria for agricultural use.

In this category, the state inventories the kind of farmland soils on the farm, and looks at the conservation and irrigation practices in use.

4. The degree to which the preservation of the farm would contribute to the preservation of agriculture in Connecticut.

A farm in production and located in a good agricultural area, or in an area with a high demand for locally grown fruits and vegetables, indicates the farm's contribution to Connecticut agriculture. The preservation of large farms, or neighboring farms is given priority.

5. The cost of the development rights.

Cost is a limiting factor in deciding which farms should be preserved.

A copy of Connecticut's Agricultural Land Preservation Application Evaluation form begins on the next page. It would be possible for the committee to use such a form after assigning scoring values to each section.

INFORMATION
OBTAINED BY:

(name)

(title)

(date)

SCORING
VALUES

AGRICULTURAL LAND PRESERVATION
APPLICATION EVALUATION

NAME

ADDRESS

FARM LOCATION

SECTION ONE: PROBABILITY OF NONAGRICULTURAL DEVELOPMENT

- | | |
|--|-----|
| 1. Active negotiations or settlement of estate | [] |
| 2. Existing discussion for sale or transfer | [] |
| 3. Low probability of operation continuing | [] |
| 4. Other | [] |

Comments:

SECTION TWO: CURRENT PRODUCTIVITY

5. Gross receipts from production on the unit or from its rental to other farmers.

Amount:

Comments:

Cropland offered, total acres by commodity (forage, vegetables, tobacco, etc.) and average yield per acre for each commodity.

Commodity

6. Acreage

7. Yields/acre

SECTION THREE: SUITABILITY OF LAND OFFERED FOR AGRICULTURESCORING
VALUES

	PRIME	CLASS III
8. CROPLAND ACRES	_____	_____

TOTAL ACRES	_____	_____
-------------	-------	-------

9. ACREAGE SUITABLE FOR VEGETABLE AND FRUIT PRODUCTION	_____	
---	-------	--

10. Soil and water conservation measures established on this unit (list):

Irrigation availability:	System present	[]
--------------------------	----------------	-----

	Water available to establish a system	[]
--	--	-----

SECTION FOUR: PRESERVATION OF AGRICULTURAL POTENTIAL OF STATE

11. Market system for commercial products from this unit: _____

12. Support services, supply availability: distance to and quality of:

13. Agricultural operation within two-mile radius, type of operations and
quality: _____

14. Nearest developed area _____

Does this unit interrupt linear development? _____

15. Aesthetic attributes and possible multiple use benefits _____

The three methods described above give examples of how towns can determine what land should be saved. Each town will have different criteria. The Town of Sharon (method number two) recognized dairying as the most important type of farming. Suffield (method number one) stressed the protection of farmland that has irrigation systems in place and adjacent land uses compatible with farming. Towns that have enough population may attempt to save farms that can successfully sell fresh produce directly to the market.

**The scoring system that is devised should
be tailored to the goals established
by the farmland protection committee.**

Your town may set an acreage goal for how much land it wishes to protect. If agriculture is a major land use in the town, the acreage goal will be high. If agriculture has already diminished in importance to the town, the goal may be to save one or two farms that can supply a local source of fruits and vegetables.

Therefore, the scoring system that is devised should be tailored to the goals established by the farmland protection committee.

Step 3. Map and review the location of the best farmland

After the committee has ranked the importance of certain parcels of farm areas, this ranking should be marked on the base map. If a series of overlay maps are being drawn, then one overlay should show the best parcels that merit protection.

The committee has now completed the process of *inventorying* and ranking the important farmland parcels. The parcels have been identified and mapped according to criteria established by the committee.

Review the location of the important farmland with respect to current and proposed gas, sewer, and water lines. Also note how the land is zoned. Do land use conflicts exist which could hinder farmland protection efforts? For example, have sewer or water services been proposed within a parcel of prime farmland? Now is the time for the town to alter any existing land use ordinances or regulations which encourage the development of prime agricultural land. Methods for making such changes, while allowing development in other areas, are discussed in the next chapter.

CHAPTER TWO

PLANNING FOR FARMLAND PROTECTION AND TOWN GROWTH

CHAPTER TWO - PLANNING FOR FARMLAND PROTECTION AND TOWN GROWTHChapter Two Outline

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I. Planning And Regulation

Once a community recognizes the importance of protecting prime farmland and has identified the parcels for which preservation is a priority, it must develop a comprehensive strategy to protect the land. Here are the steps your committee can follow to plan for development while protecting prime farmland or open space.

Step 1. Define farming and the farmer's right to farm.

A first step towards successful farmland protection is the review of town regulations. Your efforts to protect the land and farming can only be successful if town ordinances or regulations support general farming practices such as manure-spreading and pesticide application. Civil nuisance suits or restrictive local ordinances have served to terminate farming operations in many Connecticut communities.

The Town of Sharon has incorporated both the Connecticut definitions of farming and Connecticut "Right To Farm" law into their Town Plan of Development.

Definition of Agriculture and Farming - State of Connecticut (Connecticut General Statute 1-1q.) "Except as otherwise specifically defined, the words 'agriculture' and 'farming' shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations, or, in the case of fruits or vegetables as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term 'farm' includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouse or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. Nothing therein shall restrict the power of a local zoning authority under Chapter 124."

The committee should examine ordinances or regulations, and clearly define the types of farming activities allowed. Connecticut's Right To Farm legislation is one response to the burden of nuisance complaints and restrictive regulations upon farmers. The act helps to protect producers from frivolous law suits filed by non-farm neighbors who are unable to adjust to the sights, sounds

or smells of Connecticut agriculture. Its language can be used by your committee to ward off the adaption of restrictive regulations within your town.

An Act Concerning The Right To Farm - Connecticut General Statutes
Section 19a-341

"(a) Notwithstanding any general statute or municipal ordinance or regulation pertaining to nuisances to the contrary, no agricultural or farming operation, place, establishment or facility, or any of its appurtenances, or the operation thereof, shall be deemed to constitute a nuisance, either public or private, due to alleged objectionable (1) odor from livestock, manure, fertilizer or feed, (2) noise from livestock or farm equipment used in normal, generally acceptable farming procedures, (3) dust created during plowing or cultivation operations, (4) use of chemicals, provided such chemicals and the method of their application conform to practices approved by the commissioner of health services, or (5) water pollution from livestock or crop production activities, except the pollution of public or private drinking water supplies, provided such activities conform to acceptable management practices for pollution control approved by the commissioner of environmental protection; provided such agricultural or farming operation, place, establishment or facility has been in operation for one year or more and has not been substantially changed and such operation follows generally accepted agricultural practices. Inspection and approval of the agricultural or farming operation, place, establishment or facility by the commissioner of agriculture or his designee shall be prima facie evidence that such operation follows generally accepted agricultural practices.

(b) The provisions of this section shall not apply whenever a nuisance results from negligence or willful or reckless misconduct in the operation of any such agricultural or farming operation, place, establishment or facility, or any of its appurtenances."

Step 2. Review the planning and zoning options for promoting the
development of non-agricultural lands.

The most important town regulations for farmland preservation are the planning and zoning regulations. Zones, lot sizes, uses of properties, and requirements for roads and subdivisions control how a town is developed and the degree to which farmland is protected.

Many town regulations carry the implicit assumption that farming is a residual or temporary land use, soon to be replaced by urban development. This philosophy does not reflect contemporary concerns for farmland and open space protection. If your town makes planning and policy decisions designed to promote the non-agricultural development of land, the zoning objectives of the town deserve another look.

Ultimately, the objective of zoning should be to promote land use which best suits the characteristics of a site's natural resources and the objectives of the community. This is not to say that development cannot occur on any agricultural land. However, your committee must work to protect prime producing land by promoting development on marginal agricultural or non-agricultural land.

Agricultural zoning is not recommended as a technique for farmland preservation. In other states, agricultural zones have been created to prevent farmers from selling land for development. However, this prevents owners from realizing a profit from the development potential of the land. This technique is tantamount to a taking without compensation and is therefore not recommended.

**Agricultural zoning is not recommended as
a technique for farmland
preservation.**

Other techniques, however, known as cluster and creative development, allow landowners to receive financial benefits by developing their least productive farmland. As a result, prime farmlands can remain in production and landowners can afford to protect land from future development.

Techniques such as cluster and creative development allow your planning and zoning commission to address the following public concerns:

1. Zoning for agriculture - Is it allowed in each zone? How many acres are required for animals? Minimum lot sizes of five acres or less prevent small farms and hinder 4-H programs.
2. Treatment of roadside stands - Are signs allowed? Do ordinances prevent customers from parking? Do not treat farm stands like supermarkets; create a climate which encourages roadside stands and the sale of local products at the farm or at a farmer's market in town.
3. Local housing needs - Creative development techniques can encourage the development of low income housing. See the case study on page 59.
4. Off-street development - Is it encouraged? What are the requirements for off-street development? Prime farmland often has a significant amount of road frontage, making it attractive for development.

Method 1. Cluster Zoning

The cluster principle, also known as planned residential development, arranges homes closer together in groups or clusters on smaller lots than those normally required by zoning regulations.

Clustering permits variation in lot size, shape and orientation without an increase in the overall density of population or development. In an effort to promote more efficient use of the land, clustering can protect the best agricultural and forest lands, scenic views, and water quality from poorly planned development. In addition, it provides an opportunity to expand and diversify the range of affordable housing within a community. Shorter roadways, shared water and septic systems, and common ownership of open space significantly reduce construction costs, which can result in lower purchase prices. Communities in a cluster zone also place fewer demands on town service, for example road maintenance, while simultaneously expanding the town's tax base.

NOTE: The Housatonic Valley Association (HVA), a non-profit corporation committed to protecting and preserving the natural environment of the Housatonic River valley, assists towns in that region in reviewing and improving existing land protecting strategies within their zoning, subdivision and other regulations. Many of the case studies described in the manual received planning assistance from the HVA.

Case Study - The 100-acre Grand View Farm in Northwestern Connecticut had been sold to a land developer who intended to subdivide the farm and sell building lots. The old farm was once the center of a dairy operation. It included a large dairy barn, a 20-acre ridgetop of prime farmland in corn fields and some partially overgrown pasture.

The developer's preliminary subdivision plan was designed to satisfy local land use regulations and market conditions. A conventional plan with fifteen rectangular lots was proposed along with a new subdivision street which bisected the property, connecting a state highway and an existing town road.

Although the plan complied with their subdivision regulations, the town planning commissioners preferred a dead end road with fewer lots. A new town plan and natural resources inventory showed that the site's prime farmland was in the center of the town's scenic corridor, and along the state highway entrance to the town's historic center.

At the commission's urging, the developer consulted with the HVA for planning help. The developer stipulated that any modification to his subdivision plan would be unacceptable unless it met his objective to double his purchase investment. HVA, with the Soil Conservation Service and the district conservationist, formulated a plan which saved the cropland and was acceptable to both the town and the developer.

The team's plan protected the prime farmland by placing a conservation restriction on the 20-acre lot. Instead of a through road, they proposed a dead end turn around off the town road. The new road, which was the largest single projected expense in developing the site, was approximately one-third shorter, saving the developer 33 per cent on the cost of its construction.

The new plan eliminated two lots and reduced the size of the others. It also took better advantage of the site's topography, offering better views and therefore more marketable homes.

The combination of the road construction savings and the tax break afforded by the donation of the farmland conservation easement resulted in a projected return that met the developer's goals while protecting a valuable and scenic parcel of farmland. The 20-acre farm lot is currently rented by the developer, and adjacent barns, which were saved under the plan, have served a farmer whose own barn had burnt down.

Case Study -- The Town of Roxbury has adopted a cluster subdivision ordinance in their efforts to protect farmland and open space from uncontrolled development:

Section 16 - Cluster Subdivision Roxbury, Connecticut

16.1 General. The Roxbury Planning Commission may grant a Special Permit simultaneously with the approval of a subdivision plan under the Subdivision Regulations Town of Roxbury, Connecticut, to permit establishment of a Cluster Subdivision. The Planning Commission shall follow the procedures herein specified, and before granting a Special Permit shall find that the Special Permit will accomplish the "open space," as defined and set forth in Section 16.2 and will be in harmony with the purpose and intent of the Zoning Regulations.

16.2 Purpose. The intent of this section is to provide alternatives to residential development permitted under other sections of these Regulations when such alternatives will more appropriately assure the conservation of land by taking advantage of the natural layout of the tract and to leave a substantial area free of building lots.

a. The Planning Commission, upon application in the manner prescribed herein, after a public hearing, may allow by Special Permit residential development conforming to the standards and requirements prescribed herein when two or more of the following purposes are accomplished.

- To conserve and preserve land to assure that its development will best maintain or enhance the appearance, character, and natural beauty of an area;
- To preserve land for park and passive recreation purposes;
- To preserve prime farmland and unique agricultural features such as orchards and vineyards;
- To protect streams, rivers, ponds, and their associated streambelts, and other wildlife habitats, wetlands as natural resources and environments and to avoid flooding, erosion and water pollution;
- To preserve natural features along roadways so as to maintain their existing rural character.

16.3 Size of Subdivision. The acreage for any cluster subdivision shall consist of no less than thirty (30) acres.

16.4 Use Regulations. The permitted principal uses shall be the same as the existing zone and the permitted accessory uses shall be the same as the existing zone.

16.5 Number of Dwelling Units. The number of dwelling units permitted in a cluster subdivision shall not exceed the number obtained by dividing the total acreage by the minimum lot size permitted in the existing zone.

16.6 Lot and Building Requirements. The lot size may be reduced by 25% maximum in Zones A, B and C. Except for the variation in lot size as permitted under this Section, cluster subdivision must conform to all other requirements of these Regulations.

16.7 Road Requirements. All roads including private roads in a cluster subdivision shall conform to Town Road Specifications.

16.8 Open Space Requirements. The open space land in any cluster subdivision shall be located entirely within the subdivision and shall be in one contiguous piece except that where the Commission finds that the purposes of Section 16.2 would be more effectively served by separated parcels. The open space land shall have suitable access from a street and shall have shape, dimension, character and location to promote the conservation purposes specified in Section 16.2.

a. The use of such conservation land shall be consistent with the purposes specified in Section 16.2.

b. The open space area in any cluster subdivision shall be not less than twenty-five percent (25%) of the total tract for Zones A and B, and thirty-three percent (33%) for Zone C.

c. The open space land shall be preserved and maintained solely for the purpose specified in Section 16.2 in such manner as shall be approved by the Commission.

d. Subject to the approval of the Commission, the method for carrying out such preservation and maintenance of the open space land shall be:

- The establishment of a neighborhood association made up of all owners in the cluster subdivision, each of whom, shall have an undivided interest in the open space land. Said association shall have the power to assess the members for all necessary costs, and membership in said association shall be mandatory.

- The conveyance of open space land to a local or national land trust, or to the Town of Roxbury when the Commission deems such conveyance appropriate. Conveyance of Land to the Town is subject to acceptance by Town Meeting."

Case Study - In 1982, the Southern Maine Regional Planning Commission designed a zoning regulation for South Berwick, Maine, to prevent development on the town's remaining farmland.

Previously, South Berwick had adopted a two acre minimum houselot size in the town's rural areas. "Planned Unit Development" (also known as "PUD" or "cluster housing") was also allowed. Under the 1982 regulation "PUD" is no longer an option for developers. If open farmland of 10 or more acres is to be developed, it must be laid out according to the principles of planned unit development.

For example, in the town's two acre minimum houselot district a 100 acre farm parcel would normally be subdivided into 50 two acre lots. Under the PUD these 50 houses would be located on 20,000 square feet houselots covering only 25 acres. This would leave 75 percent of the farm as permanent open space for area farmers to lease from the community association established under the ordinance (see ordinance below). If the minimum lot size were three acres rather than two acres, 83 percent of the farm would be preserved. Likewise, if houses were clustered on lots smaller than 20,000 sq. ft., connected to common sewage systems, even greater farmland savings could be achieved. The ratio of land per dwelling unit is a local decision, and the figures given above are only examples of alternatives which your planning and zoning commission could choose.

Article 4 - Performance Standards South Berwick, Maine

4.12 Agricultural Land Conservation and Development Standards.

4.12.1 The purpose of this section is to allow landowners a reasonable return on their holdings, in such a way that a majority of existing open field and pasture may remain unbuilt for use by future generations. Toward this end, all residential development proposals encompassing 10 or more acres of existing open fields or pasture shall be laid out according to the "cluster standards" in Section 4.9, and in a manner consistent with the South Berwick Subdivision Ordinance.

If the parcel which is proposed for development also contains land which is not either open field or pasture, new dwellings shall be clustered on such land to the most practical extent, so that the fields and pastures remain as undeveloped as possible.

4.12.2 In districts where the minimum lot size is one acre or two acres, dwelling units shall be clustered so that they consume no more than one acre of land for every three dwellings (including roads).

In districts where the required minimum lot size is one half acre, dwelling units shall be clustered so that they consume no more than one acre of land for every four dwellings (including roads).

4.12.3 The above building densities shall be based on the following table, which shows the percentage of land in various drainage categories which may be counted as 'suitable soil for development'.

	Poorly Drained Soil	Very Poorly Drained Soil	Other
on sewer	50%	10%	100%
not on sewer	25%	0%	100%

In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included (on the basis of the above table), less than needed for roads, is divided by the minimum lot size required in the district (two acres, one acre, or half acre). A high intensity soil survey by a Registered Soil Scientist shall be submitted to certify the extent and location of these soil types.

4.12.4 To the fullest extent practicable, all buildings and roads shall be located away from the soil types which are most suitable for agriculture (based on the 'Soil Suitability Guide or Land Use Planning in Maine'). This provision does not apply to the location of on-site septic disposal facilities, which must be placed on soil meeting the standards of the Maine Planning Code.

4.12.5 Applicants for subdivision review under this subsection shall provide the Planning Board with copies of deed covenants (with prospective purchasers) or conservation easements (with the Town of South Berwick) describing land management practices (to be followed by the developer and/or a community association of condominium owners) which will ensure that the existing fields or pastures will be plowed at least once every year."

The Southern Maine Regional Planning Commission lists the following "finer points" to deal with farmland preservation concerns:

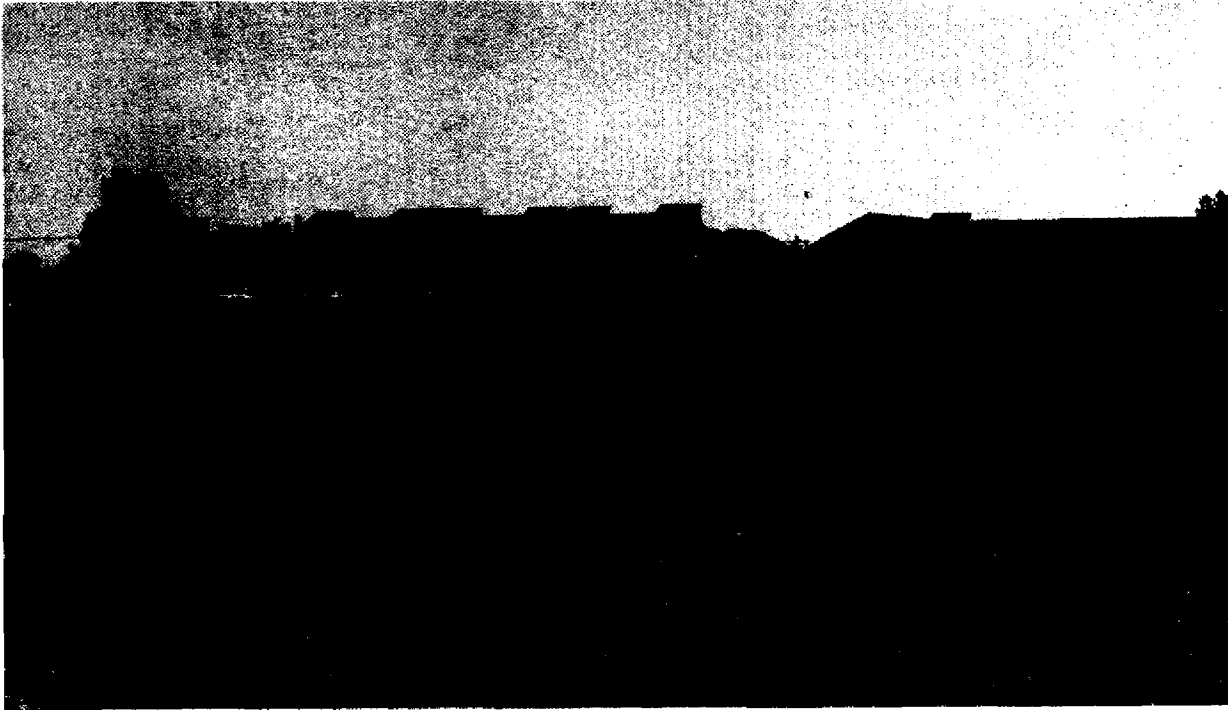
1. In order to preserve the greatest amount of farmland, new housing on farm parcels shall be located on wooded sections as much as possible.
2. In order to protect the most fertile or easily cropped soil, all development shall be on soils and slopes least valuable for agriculture. (The U.S. Soil Conservation Service office in your county can help you identify these soils). Naturally, however, septic systems must be located on soils meeting the State Plumbing Code's requirements, which means that it is usually impossible to avoid developing at least some of the good farming soil.
3. In order to guarantee permanent preservation of the agricultural open space, the subdivision process requires that the developer sign a conservation easement with the town, describing land management practices to be followed by the community association of subdivision homeowners, to ensure that the fields will be plowed or mowed at least once every year, forever.
4. In order to prevent speculators from abusing this system, building densities shall be regulated according to soil types. A 100-acre

farm containing 75 acres of hayfields underlain by marine clay should not be allowed to support 50 houses clustered on the 25 acres of deep well drained soils. In a conventional subdivision with two acre house-lots, these 25 acres of soil acceptable for septic systems would support only 12 house-lots. Without a special provision to avoid loopholes, 50 half-acre house-lots could be clustered onto 25 well drained acres. This loophole is closed by allowing only 25 percent of the 75 acres of poorly drained clay to be counted as "land suitable for development." This means that the 75 acres of clay would be counted as if it were 18 acres of well drained soil. The total number of house-lots allowed under this system would be 21; twelve for the 25 acres of well drained soil, and nine for the 75 acres of clay.

5. In order to implement this approach, the following steps are recommended:

- a) Using aerial photographs from the tax assessor's office, or from the U.S. Soil Conservation Service (or regional planning commission), trace the boundaries of all open fields and pastures exceeding 10 acres in area.
- b) Amend your zoning or land use ordinance (or lot size ordinance) to require that "residential subdivisions proposed to be located on open fields or pastures (whether or not they are actively used) shall be laid out according to the planned unit development approach."

The strength of this farmland protection technique is that it does not require either large public expenditure (to purchase development rights) or large private sacrifices. Farmers who view their property as their "pension" no longer have to sell their farms to secure income for the future. In fact, they can pass on their homes, barns, silos, and residual land to the next generation, which could continue to farm the majority of original fields on a lease back system from the community association which controls the farmland as permanent open space.



Cluster development regulations can allow for prime farmland to be set aside.

Towns are discovering that creative development offers alternatives to the suburban sprawl method of growth which is costly to maintain and often replaces farmland and open space.

Method 2. "Creative Development"

Throughout New England communities are working with state and local governments, non-profit and for-profit organizations, landowners and developers to preserve natural resources. Often the concerns of small groups of landowners initiate town-wide interest to plan for future development and natural resource protection.

These resources can take the form of prime agricultural soils, scenic views, or streambelts, but they all can be protected by using the innovative financial and administrative resources known as creative development. Towns are discovering that that creative development offers alternatives to the suburban sprawl method of growth which is costly to maintain and often replaces farmland and open space.

Towns are discovering that creative development offers alternatives to the suburban sprawl method of growth which is costly to maintain and often replaces farmland and open space.

Creative development refers to a variety of non-traditional methods which blend development with natural resource protection. Cluster zoning is a type of creative development but there are other methods which mix preservation with development. Local communities have begun using these methods, having discovered that zoning alone is not enough to save farms and farmland.

Each technique is unique to conditions within the town and the objectives of the landowners. Here are some examples. Note the many parties involved in each planning process, both financially and administratively.

Case Study - In 1983, a Cornwall landowner wanted to protect her unique 325 acre property while reserving some homesites, chiefly for family use. The property, considered to be one of the most scenic areas of the state, contains approximately 4500 feet of the Appalachian Trail, and soils that were designated as prime and important farmlands. The Hollenbeck River, an important tributary to the Housatonic River, flows through the property.

The Housatonic Valley Association met with the landowner, and designed a master plan (see sketch) to identify areas for continued protection for the farm, forest and wetlands.

A series of easements were designed which would prohibit development within the identified conservation areas. The Litchfield County Conservation District agreed to accept the easements, and with them the responsibility to monitor the land.

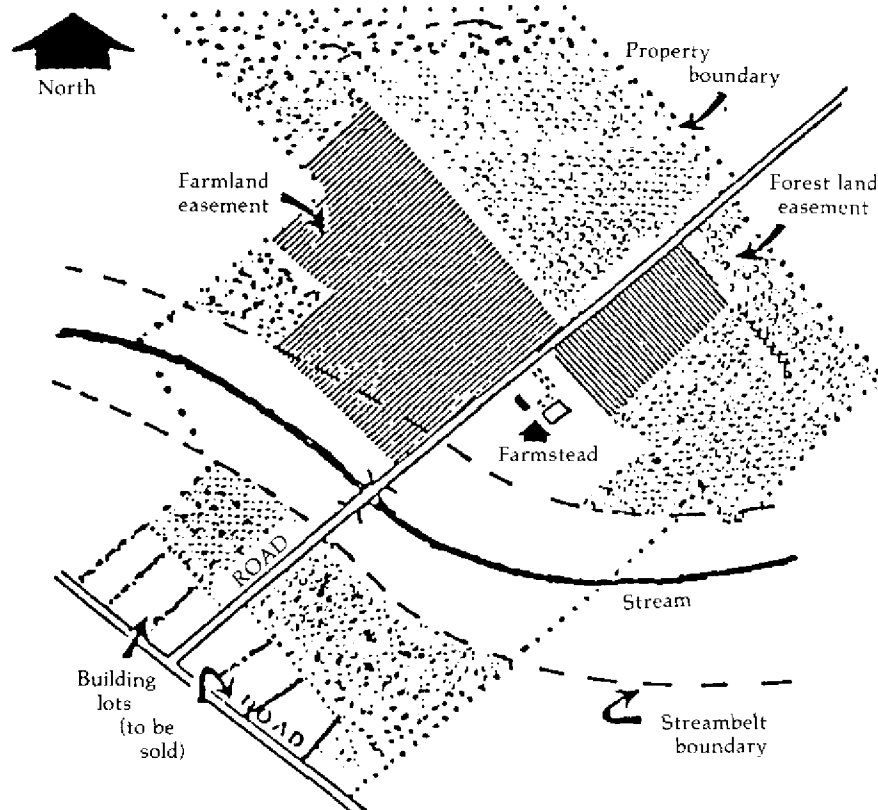
The Litchfield County Conservation District is a tax-exempt, non-profit organization dedicated to protecting land in order to conserve its environmental value. The District can accept easements which result in the preservation of land for its forest, plant, wildlife, water quality, agricultural, or scenic values.

The conservation easement master plan will be a boon to a nearby dairy farm which relies on the property for corn and hay land.

Some of the land protected under this plan lies within the corridor of the Hollenbeck River. The streambelt contains wetlands, steep slopes, and other fragile features. The easements are designed to discourage soil erosion and maintain water quality in the stream and a major groundwater aquifer underlying it, thus assuring future drinking water supplies.

The development plan for the property allows for six homesites to be sold. These homesites are located on an existing road, and are buffered from the stream by a forest land easement. Each site will be reviewed by the Conservation District as to its compatibility with surrounding terrain, vegetation and wildlife. A portion of the funds received from this limited development will go to a property management fund.

Through the technique of creative development, the landowner was able to protect 302 acres. Some of the less environmentally important land can be developed in the future, without hurting the integrity of the preserved land.



CASE STUDY
conservation easement master plan

Case Study - A landowner in the town of Washington planned to subdivide her 75 acre parcel into six 12.5-acre lots. House sites were planned for four of these which were close to the two town roads that front the property.

Most of this frontage consists of open fields that have been used for raising corn and hay. The proposed lots were considerably larger than the minimum three to five acre zoning requirements for this area. But the result would have created a suburb-like atmosphere, with houses and outbuildings aligned parallel to the town roads and principally in the open fields. The plan was deficient on several fronts and in great need of modification.

The first step was to sit down with the owner/developer to identify and clarify the many objectives in developing the property. Discussions touched upon personal, financial and aesthetic goals, neighborhood perceptions, possible tax considerations, conservation concerns, community attitudes and regulations, family inheritance questions, and the roles of HVA and the landowners. Agreement on a modified plan was reached and development of the site began.

Step two of the project was to review pertinent town ordinances which could apply to the property and its uses. During this process Washington's Conservation and Open Space Plan was scrutinized. This document places particular emphasis on preservation of streambelts, agricultural lands and scenic vistas.

A key statement called for the permanent retention of the town's rural and agricultural character. The plan urged landowners to protect these valuable attributes by use of private donations of land or conservation easements.

Fortunately, the landowners realized that their original plan would run counter to these basic principles.

Next the group prepared analysis maps of the property highlighting boundaries, soil types, and wetlands. Broadly speaking, this mapping process amounted to an environmental review of the property.

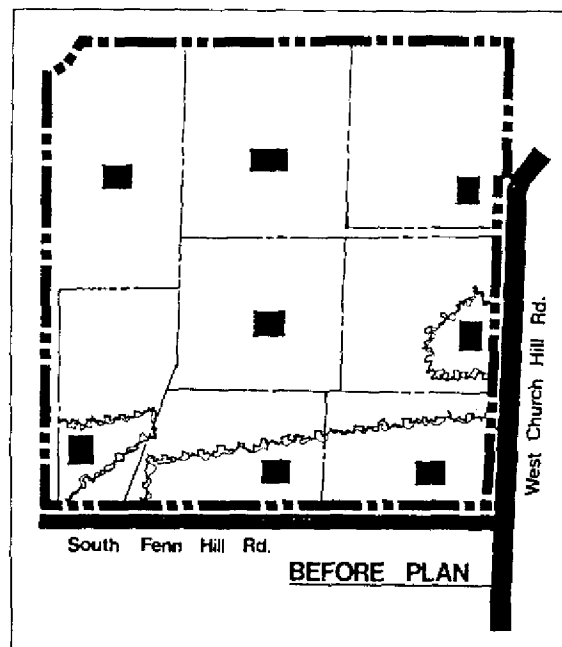
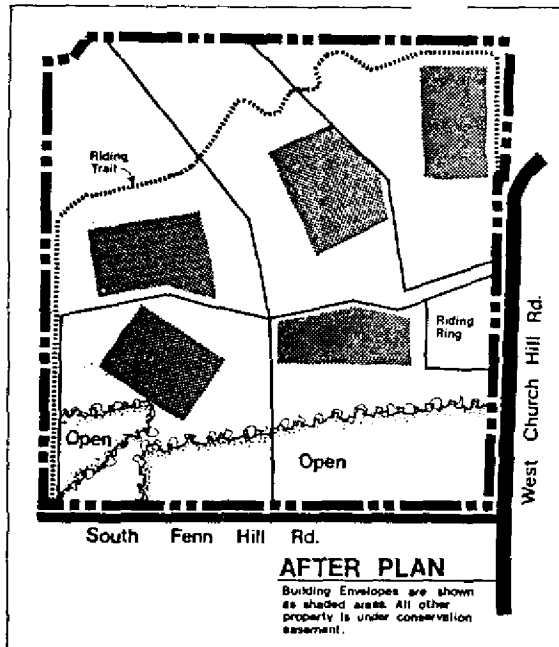
Lastly, the group consulted the town assessor, area realtors, appraisers and other developers to examine market trends and the demand and values for various types of lots in the vicinity of the property.

From this, a number of planning options were developed for the landowners, combining their objectives with conservation goals while being cognizant of market conditions. Maps were prepared showing the various options ranging from maximum to minimum density considerations. From careful analysis of these drawings, a Conservation/Development Master Plan emerged.

The resulting plan called for five lots, approximately 15 acres in size. Two were to be interior lots served by private driveways. Three were to have road frontage. In keeping with the Town Conservation and Open Space Plan, house sites for the three front lots were placed in the woods well back from the road. These were further restricted within their location by a building envelope, which indicates where houses and outbuildings can or may be constructed.

The building envelopes on each lot ranged from 2.5 to 3.3 acres and were in strict conformance with Washington's soil-based zoning criteria. The remaining acreage in each lot will be restricted by a permanent conservation easement to be held by the Steep Rock Association of Washington, a non-profit conservation organization.

The conservation easement will limit the use of the restricted areas to agricultural, forestry and passive recreational uses. Farmland must be retained in its current open nature and forestry operations must conform with practices to be overseen by the Steep Rock Association. No structures will be allowed within the conservation easement area. The five lots can never further sub-divided.



Case Study - In 1984, the Naromi Land Trust in Sherman began protecting agricultural land through fee simple purchases. The first acquisition was Babbling Brook Farm, a 133 acre dairy farm, at bargain sale. The Land Trust worked with a development plan for the farmland that would allow it to recover the \$222,500 investment from the bargain sale of the property.

The plan divided the 133 agricultural acres into four lots, each with restrictions to prevent further subdivision. Two of the four lots were protected as farmland, with conservation easements. The other two lots were designed with building envelopes, that delineated the boundaries within the lot in which development could occur.

The Land Trust retained the barns on four of the restricted acres, and gave them to the town of Sherman. The town was also given 22 acres of land adjoining a brook which runs alongside the restricted farmland. A farmer is leasing the farmland from the Naromi Land Trust, bringing the trust within \$6,000 of recouping its costs.

With this creative development success to their credit, the land trust began planning the sale and development of the 170 acre Osborne farm. It consisted of a hayfield, 50 acres of woodland, and a magnificent scenic vista of the Sherman valley.

The plan allowed the Naromi Land Trust to preserve the hayfield and woodlands and divide the remaining property into building lots. The nine lots ranged from eight to 18 acres. This plan prevented the eye sore of strip development from occurring.

The plan called for the seven lots to be served by one driveway and allowed the lots to be clustered together. This prevented construction of additional driveways, service and utility lines. A Sherman ordinance which prohibited more than two houses along one driveway was changed to permit six. The ordinance states:

"Section 3c.1 - The objective of this section is preserving open space while encouraging appropriate development. Significant open space, as determined by this Commission, and having a general public benefit, shall be set aside and placed under a perpetual easement or deeded to a recognized conservation trust.

When the number of houselots does not, on the average, exceed one (1) for every ten (10) acres of the subdivision, and when the minimum house lot size in the subdivision is five (5) acres, a private accessway (to the interior or rear lots) not constructed in accordance with Section 8 may serve up to and including six (6) lots provided that any such accessway meet the necessary criteria."

Though each creative development method is unique, there are basic procedures which your committee can follow. HVA, which designed many of the creative development techniques described in the case studies, suggests these steps to make a conservation and development plan for farmland:

- (1) Review landowner objectives for future use of the property, financial return expectations, possible tax benefits and consequences.
- (2) Assess real estate market and land use trends in the community, zoning regulations, Town Plan, community attitudes, and access questions.
- (3) *Compile a natural resource inventory:* topographic map, soils map, development constraints map, major vegetation types, unique natural features and man-made features.
- (4) Analyze problems and opportunities revealed in above steps, relating to landowner objectives, community concerns, real estate market, and land resources.
- (5) Design various development options, including projected costs, marketability and projected returns.
- (6) Select approved plan .
- (7) Design Development/Conservation Plan, showing lands to be protected by easement or gift and proposed development layout.
- (8) Draft restrictions to be imposed on conservation and development lands.
- (9) Develop marketing plan.
- (10) Analyze tax implications.
- (11) Coordinate conservation/development activities, consulting with town boards, civil engineers, appraisers and conservation or land management groups.
- (12) Coordinate subdivision application and approval process.

Step 3. Establish a farmland preservation fund.

In 1984, the Connecticut General Assembly passed Public Act 184 (Section 7-131q of the Connecticut General Statutes) authorizing towns to establish a farmland preservation fund.

The fund may accept gratuities, gifts or loans for agricultural land preservation purposes. The fund may also accept money appropriated by the municipality. All or part of the money received may be invested in securities. Any income derived from the fund must be retained in the fund and used by the town only for agricultural land preservation purposes.

Case Study - The Town of Goshen, Connecticut has established an agricultural land preservation fund as part of their farmland protection efforts.

AN ORDINANCE CONCERNING THE ESTABLISHMENT OF AN AGRICULTURAL LAND PRESERVATION FUND

Section 1. Establishment of Fund. There is hereby established the Goshen Agricultural Land Preservation Fund.

Section 2. Definitions. The following words shall have the following meaning for purposes of this Ordinance:

(a) "Agricultural land" means any land in the Town suitable by reference to soil types, existing and past use of such land for agricultural purposes and other relevant factors for the cultivation of plants for production of human food and fiber or production of other useful and valuable plant products and for production of animals, livestock and poultry useful to man and the environment, and land capable of providing economically profitable farm units, and may include adjacent pastures, wooded land, natural drainage areas and other adjacent open areas.

(b) "Development rights" mean the rights of the fee simple owner of agricultural land to develop, construct on, sell, lease or otherwise improve the agricultural land for uses that result in rendering such land no longer agricultural land, but shall not be construed to include: (1) the uses defined in subsection (g) of Section 1-1 of the Connecticut General Statutes, as amended by Section 1 of the Public Act 83-587, (2) the rights of the fee owner of agricultural land to develop, construct on, sell the property in its entirety, lease or otherwise improve the agricultural land to preserve, maintain, operate or continue such land as agricultural land, including but not limited to, construction thereon of residences for persons directly incidental to farm operation and buildings for animals, roadside stands and farm markets for sale to the consumer of food products and ornamental plants, facilities for the storing of equipment and products or processing thereof or such other improvements, activities and uses thereon as may be directly or incidentally related to the operation of the agricultural enterprise, as long as the acreage and productivity of arable land for crops is not materially decreased and due consideration is given to the impact of any decrease in acreage or productivity of such arable land upon the total farm operation, except that new construction or modification of an existing farm building necessary to the operation of a farm on prime farmland, as defined by the United States Department of Agriculture, of which the Town has purchased development rights shall be limited to not more than five percent of the total

of such prime farmland, (3) the rights of the fee owner to provide for the extraction of gravel or like natural elements for purposes directly or incidentally related to the operation of the agricultural enterprise or (4) the existing water and mineral rights, exclusive of gravel, of the fee owner.

(c) "Conservation Commission" means the Conservation Commission of the Town of Goshen.

(d) "Fund" means the fund established pursuant to this ordinance.

(e) "Town" means the Town of Goshen.

Section 3. Source of the Fund. There shall be deposited in and become part of the fund all monies received by the Town from whatever sources and by whatever means (a) as gifts for agricultural land preservation purposes, (b) as grants or loans for agricultural land preservation purposes, and (c) as appropriations by the Town.

Section 4. Use of the Fund. Upon recommendation by the Conservation Commission and approved by the Board of Finance, such amounts in the Fund as may be recommended by the Conservation Commission and approved by the Board of Finance may be used for the acquisition in the name of the Town of development rights of agricultural land and for any expenditure incurred in the preservation of agricultural land, provided that (1) the development rights have been voluntarily offered for sale to the Town of Goshen by the owner and (2) the land has been designated for preservation purposes as shown on the farm Land Priority Map of the Goshen Open Space Plan.

Section 5. Joint Acquisition Procedures. The Conservation Commission shall follow procedures for Joint Acquisition of the Development Rights to Agricultural land by the Town and the State of Connecticut in accordance with the regulations adopted by the commissioner of agriculture.

Section 6. Custody and Investment of the Funds. The fund shall be in the custody of the Town Treasurer or other officer in charge of funds for the Town. All or part of the Fund may from time to time be invested in any securities in which public funds may be lawfully invested. All income derived from such investments shall be paid into the fund and become a part thereof. All monies so invested shall at times be subject to withdrawal from such investment for use as provided in Section 4.

Section 7. Annual Reports. Annually, the Town Treasurer or other officer having custody of the Fund shall submit to the Town meeting a complete and detailed report of the condition of the Fund, which report shall be made a part of the annual Town report.

Step 4. Support "Connecticut Grown" products.

In 1984, the Connecticut Department of Agriculture began a campaign to encourage consumers to purchase "Connecticut Grown" products, and to encourage food wholesalers and retailers to feature home grown products. Supporting local food producers boosts farm income, supplies local consumers with fresh quality products, and has a moderating effect upon food costs.

One element of the Department's market development plan is to increase the number of farmers markets in communities throughout Connecticut.

Case Study - The members of the Olde Towne Tourism District Committee surveyed farmers in the towns of Wethersfield, Rocky Hill, Glastonbury and Newington to see if they were interested in establishing a centrally located farmer's market. With favorable response from the farmers, the committee has begun looking for a location for the market.

In the meantime, farmers in the district have begun selling products at a local senior citizen center and other nearby restaurants and cafeterias.

The Olde Towne Tourism District also publishes a Tour Planner's Guide of the area. The guide lists historic sites, recreation spots and the locations of "pick-your-own" vegetable and fruit farms in the four towns. It is distributed to travel services and tour bus companies.

For more information on establishing a local farmer's market, farm stand, or other methods of promoting locally grown products, contact:

Connecticut Department of Agriculture
Marketing Division
Room 234
State Office Building
Hartford, Connecticut 06106
Telephone: (203) 566-4276



Supporting local pick-your-own farms, like this Somers farm, boosts farm income and supplies consumers with *fresh quality* products.

Step 5. Using Public Act 490

Public Act 490 is a state act (codified as Section 12-107 of the Connecticut General Statutes) which enables property classified as farm, forest or open space land to be assessed at its use-value rather than fair market value.

A use-value assessment reflects the economic value attributed to the present and actual use of the land such as farm, forest or open space, regardless of its potential value for development. By contrast, fair market value reflects a potential worth of the land based on its value for other uses such as residential, commercial or industrial development.

Connecticut Public Act 490 was established in 1963 for the purpose of preserving farm, forest or open space land by greatly modifying property tax levels which might otherwise force landowners to convert land to more intensive use.

The act has had great success in reducing property taxes on farm and forest land in the state. However many citizens are unaware that the act also provides for the protection of open space land. Section 12-107a states:

"It is hereby declared (a) that it is in the public interest to encourage the preservation of farm land, forest land and open space land in order to maintain a readily available source of food and farm products close to the metropolitan areas of the state, and conserve the state's natural resources and to provide for the welfare and happiness of the inhabitants of the state, (b) that it is in the public interest to prevent the forced conversion of farm land, forest land and open space land to more intensive use as the result of economic pressures caused by the assessment thereof for purposes of property taxation at values incompatible with their preservation of such farm land, forest land and open space land."

Section 12-107b defines:

"(a) The term 'farm land' means any tract or tracts of land, including woodland and wasteland, constituting a farm unit;

(b) The term 'forest land' means any tract or tracts of land aggregating twenty-five acres or more in area bearing tree growth in such quantity and so spaced as to constitute in the opinion of the state forester a state of proper forest condition and such land consists of (1) one tract of land of twenty-five or more contiguous acres, which may be in contiguous municipalities, (2) two or more tracts of land aggregating twenty-five acres or more in which no single component tract shall consist of less than ten acres or (3) any tract of land which is contiguous to a tract owned by the same owner which has been designated as forest land by the state forester.;

(c) The term 'open space land' means any area of land, including forest land, designated as wetland under section 22a-30 and

not excluding farm land, the preservation or restriction of the use of which would (1) maintain and enhance the conservation of natural or scenic resources, (2) protect natural streams or water supply, (3) promote conservation of soils, wetlands, beaches or tidal marshes, (4) enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open spaces, (5) enhance public recreation opportunities, (6) preserve historic sites or (7) promote orderly urban or suburban development."

To qualify for use-value assessment of open space land the town must approve and adopt an open space plan. Section 12-107e states:

- (a) The planning commission of any municipality in preparing a plan of development for such municipality may designate upon such plan areas which it recommends for preservation as areas of open space land, provided such designation is approved by a majority vote of the legislative body of such municipality. Land included in any area so designated upon such plan as finally adopted may be classified as open space land for purposes of property taxation if there has been no change in the use of such area which has adversely affected its essential character as an area of open space land between the date of the adoption of such plan and the date of such classification."

Case Study - In 1984, the Town of Goshen's Conservation Commission established an Open Space Steering Committee. Representatives from each Town commission worked with the Litchfield County Soil and Water Conservation District to inventory, evaluate and rank Goshen's natural resources.

With this information, the Committee developed an Open Space Plan, "to propose a series of specific actions for implementation by various town bodies to protect, enhance and conserve the identified natural and historic resources." The town approved the definition of open space as:

"Any area of undeveloped land equal to one acre or more. A minimum of 0.7 acre must be subtracted as developed land where there are houses or other buildings. For example, the smallest residential parcel that can qualify is 1.7 acres."

This definition allows much of Goshen's land to be classified as open space and eligible for Public Act 490 assessment.

The opportunity for Goshen landowners to qualify for use-value assessment of their open space land gives great support to the town's Agricultural Preservation Program. The program is one objective of the Open Space Plan, and its purpose is to "promote private sector initiatives for preserving farmland." The reduction of property taxes for a parcel of land that has been classified as open space helps to relieve the landowner from financial pressure to sell the land for more intensive development. This in turn relieves pressure on the farmer, whose property might be surrounded by developable open space land.

If your town has not adopted an open space plan, now is the time to start working on one. The reduced property taxes offered through Public Act 490 give open space landowners incentive to properly manage their land, lending strong support to your farmland protection efforts.

"490" Assessment In A Year Of Revaluation

"490" classified property owners should take special precautions during a year of revaluation to make sure that property data are completed and recorded by the local assessor and commercial revaluation firms.

Connecticut statute Sections 12-62(a) and (b) require all municipalities to conduct a revaluation of all real property "no later than ten years following the last preceding revaluation of all property and ten years after each such revaluation." The State of Connecticut's Office of Policy and Management makes recommendations for Public Act 490 use-values every five years.

In 1982, the state Office of Policy and Management developed recommended use-values per acre for the entire state. These values were assigned to land classes. For example, land class "Tillable A," which is defined as land of excellent quality suitable for shade tobacco, nursery or crop land, was assigned a use-value of \$910 per acre. "Tillable B" was assigned a value of \$490 per acre, and so on. Town committees should realize that these values are only suggested ones. If a town would like to reduce the use-values per acre, as a further incentive for landowners to keep their land open, they are free to do so.

Every property owner receives a notice of change in valuation usually determined by a commercial revaluation firm and distributed in the fall between October and December. Often included in the notification is a place and time at which landowners may schedule visits with the appraiser to discuss new valuation.

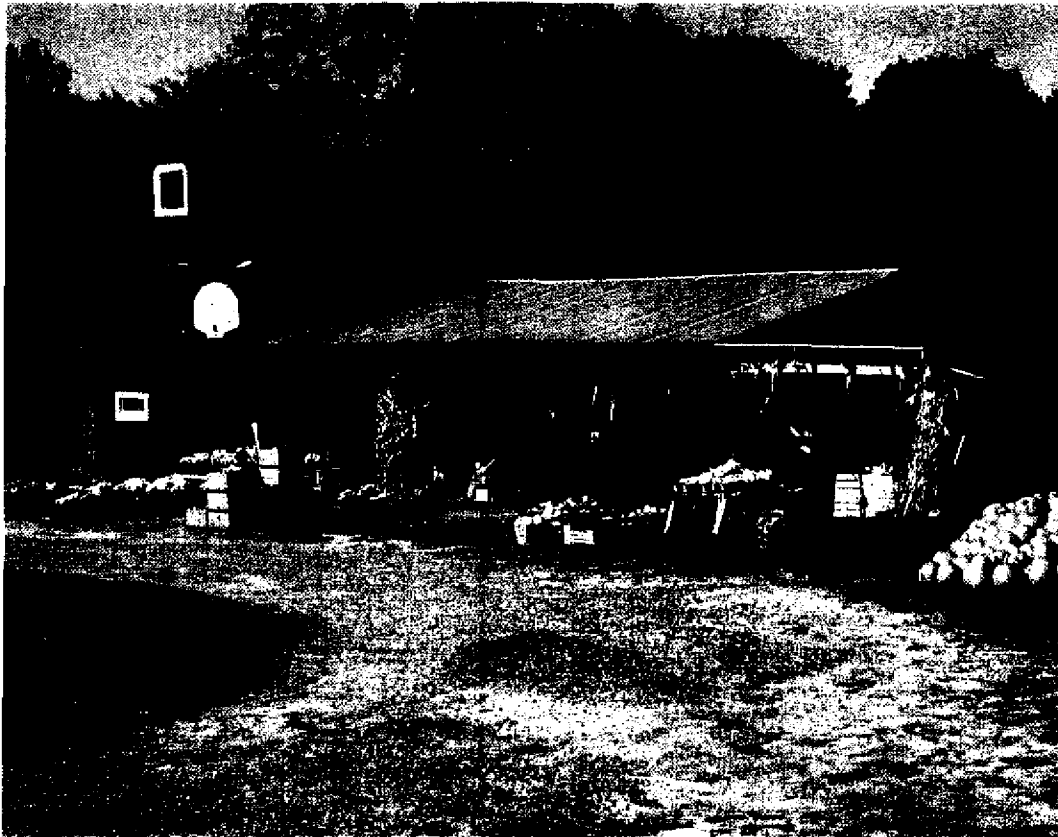
Generally, the "490" use-valuation figures for classified farm, forest or open space properties are not shown on the revaluation notice. State law requires owners of all real estate to be notified of the seventy percent full market value of their property regardless of its classification under Public Act 490.

With revaluation notice in hand, landowners should schedule a visit to the town hall and have the local assessor confirm that, despite the full market value figures cited on the revaluation notice, the farm, forest or open space land is still classified under Public Act 490. The landowner should also discuss this information with the revaluating assessor:

- review the methodology for determining the new valuation of non-farm property, such as dwellings, automobiles and personal property;

- verify that the listing of all items recorded on the property tax card is accurate, including the farm, forest or open space acreage breakdown;
- review the listing and methodology used in determining the valuation of farm buildings.

Finally, all landowners should double-check the information on the assessor's grand list when it is published January 31st.



A Soil Conservation Society of America photo by LaVerne Anderson tells why town regulations should not treat farm stands like supermarkets.

II. Permanently Protecting Farmland

With the creation of a planning environment which supports farmland protection, the town committee can now explore other permanent ways to protect this land.

The committee should review each option carefully, and select the method which best suits the town's financial resources and the landowner's objectives. For example, if your committee is interested in protecting the last farm in town, a fee simple purchase of that parcel could be the best alternative. However, if the town has many farms with hundreds of acres of prime agricultural land, the fee simple purchase becomes an expensive option. Other protection methods must be considered.

Method 1. Purchasing Farmland in Fee Simple

Most land in the U.S. is held in fee simple. The holder of title possesses all rights commonly associated with property or ownership. Possession is one of these rights. Subject to limitations by the state, the owner may sell the estate or give it away during his lifetime. The owner may direct the disposition of the estate by will. If the owner dies without a will, the fee will be disposed of according to the laws of the jurisdiction in which the fee is located.

Creditors may levy against the estate or the owner may use it as security. The holder of a fee may voluntarily limit uses of the property or carve out lesser estates from it. Use limitations will be recognized by the courts if they do not violate public policy.

The most common method of protecting farmland has been for an individual or corporation to purchase a farm and continue to operate it. While farmland can be lost to development in a fee simple purchase, it can also be used to start a new farm or expand an existing one.

Private land transactions place few direct financial burdens on town resources. However, unless the seller of the land places conditions in the deed, there is no assurance that farmland sold in the private market will remain undeveloped.

In an effort to guarantee continued agricultural use of farmland, quasi-public groups and agencies have conducted fee simple purchases. Land trusts, conservation groups, local, state and federal governments have purchased farmland in Connecticut.

The total costs associated with public fee simple purchase of farmland must be carefully analyzed by the committee. Land is often purchased at its market value based on its potential use as something other than a farm. Purchasing farmland at its full market value can be an expensive option for the town. The total cost of borrowing, including principal and interest must be carefully analyzed.

Land purchased for conservation purposes will generate no property taxes. However, farmland demands few public services such as police protection or public utility installation. A 1984 study by the American Farmland Trust (AFT) has shown that poorly planned residential development can cost rural communities more in additional services than these developments pay in taxes.

The study concluded that for every dollar paid in taxes by a farmer, 11¢ in services were received. A residential landowner, however, received \$1.28 in services for every tax dollar paid. (For more information concerning the AFT study, see Chapter Three.)

If the town decides to purchase farmland using the fee simple method, decisions must be made as to how the land will be managed and maintained. The costs of each administrative alternative should be considered. Two options your town can use to recover purchase costs are described below.

(1) Purchase and Leaseback - With this technique, purchased farmland is leased for continued agricultural use, allowing the town to recoup a small portion of the purchase price.

Lease agreements should protect the community and be sensitive to the farmer's needs. Lease provisions which the committee should address include:

- The duration of the lease? A period of five to eight years allows farmers to make improvements on the land and affords them the opportunity of more stable long-term planning.
- The type of farming is to be allowed. The type of crop the farmer is raising calls for specific methods of cultivation, control of odors, use of pesticides and herbicides, the length of a lease and the need to construct new buildings.

What often appear to be simple questions can often become serious problems, generating conflict with neighbors and other town members.

If the committee chooses the fee simple method to protect farmland, these management decisions will become important in ensuring the success of the farm operation.

Case Study - The Town of Farmington began purchasing land in fee simple in 1971. The town now owns over 1000 acres of land, 320 acres of which are active farmland. It has also purchased land located within the flood plain, and is preventing development in this area. The farmland is leased to local farmers.

(2) Purchase and Resale with Covenants - In this arrangement, the land is purchased by the town and then resold with a deed committing the buyer to maintain the parcel for agricultural use. This covenant would run with the land indefinitely.

In the future, purchase of farmland by local governments may become one of the most effective and most common land protection techniques.

Federal and state governments face shortages of money, making reliance on these sources of funds very unpredictable. If farmland is to be protected, local governments will have to play a key role. Fee simple purchase is an effective protection method.

The UConn Cooperative Extension Service and the Connecticut Department of Agriculture can offer technical advice in using the fee simple method.

Method 2. Purchasing Development Rights or Conservation Easements

This land protection method operates on the premise that the right to develop a parcel of land is separable from the ownership of that land. The town can purchase the development rights to a land parcel, and thus prevent its development.

The town pays the owner the difference between the agricultural value of the land and its appraised commercial value. For example, if a parcel is appraised to have a fair market value of \$4,000 per acre and an agricultural value of \$1,000 per acre, then the value of the development rights is \$3,000 per acre.

Once the development rights easement has been sold, the owner still retains the other rights of use and exchange inherent in ownership. Unless a right-of-way easement such as hunting, fishing or hiking easement is purchased, the owner retains the right to fence or otherwise prevent the public from entering this land.

The owner also retains the responsibility of paying taxes on the land, which must be assessed by giving consideration to the rights (or value) which have been removed.

Purchasing development rights allows the farmer to receive the land's development value without converting the land to other uses. The income derived from the development rights sale can be reinvested in the farming operation to increase efficiency and net borrowing power.

In addition, prospective farmers will require fewer financial resources to enter farming because land prices will be based upon agricultural earnings rather than potential development values.

Development rights are also referred to as scenic, conservation or development easements. Easements which allow the holder, for example the public, to use the land for hiking or fishing, are called positive or affirmative easements. If the easement prevents the landowner from doing something with his land, such as developing it, it is termed a negative easement.

Restrictions can be written into the easement to preclude any development, or to permit limited development. This limited development should be consistent with town goals to support farming, preserve scenic views, or protect environmentally sensitive areas.

There are four methods by which the town can acquire the development rights to a parcel of land:

(1) Direct Purchase of Development Rights - Development rights may be acquired directly by purchasing a development rights easement from the landowner.

The first step in purchasing the development rights is the appraisal of the property. (See the section entitled "Appraisal.") The appraiser can advise the committee as to the value of the development rights. If the landowner and the town farmland committee agree to this value, the town can then purchase development rights.

(2) Purchase of Fee and Subsequent Resale with Restrictions - This method is the same as a fee simple purchase of the land. The town first purchases the land, imposes development restrictions on it comparable to the restrictions of a development rights easement, and then sells the land back to the original owner or to another party. The resale price is established by the market, through competition among interested buyers. The result of this procedure is equivalent to that of purchasing the rights directly.

(3) Purchase of Fee and Subsequent Lease with Restrictions - This is the same method as described under the fee simple procedure. It is similar to purchase and resale with restrictions, except that the town retains title to the land and leases it to a private lessee. The lease prices may be set directly by the market through competitive bidding. In contrast, the price paid when purchasing a development rights easement directly must be determined through appraisals.

(4) Donation of Development Rights - The donation of development rights to the town can result in many financial benefits to the landowner:

- reduction in federal income tax,
- reduction in property tax,
- reduction in capital gains tax,
- reduction in estate tax.

With all these methods, the restrictions on development run with the land, and become part of the deed which is binding on future owners.

To receive the best financial return for farming the land, the town must choose to protect good, productive land. It will not receive adequate lease income or resale value unless the land invested in is productive and therefore profitable.

Method 3. Bargain Sale

A bargain sale is the sale of property for less than its full market value. This results in a sale and part charitable contribution. The amount deductible for income tax purposes is the difference between the fair market value of the property and the actual sale price.

For example, a landowner has a farm that is worth \$500,000. The value has been established by a real estate appraisal. She sells the farm to a town or a charitable trust for \$200,000. The difference of \$300,000 is value that the owner made a gift of to the donee. This value is considered a tax-deductible donation.

However, the tax code limits the deduction to 30% of the landowners adjusted gross income (AGI) in any given year. If our landowner has an AGI of \$50,000, the deduction in any one year would be \$15,000. But the landowner may carry forward any unused amount for 5 additional tax years.

Most tax benefits can only be obtained if the gift is made to a qualified organization, also referred to as proper beneficiaries. The law requires that the gift be made to a publicly supported charity, such as a land trust, or a governmental unit, such as a town or state.

If the donor has any doubts about the tax status of a potential charity or trust, he should obtain from the recipient a copy of the Internal Revenue Service's (IRS) determination letter recognizing the organization's tax deductible status.

If an organization has been given 501(c)(3) status, the gift will be tax deductible within certain limits and conditions. The IRS maintains a list of qualifying 501(c)(3) organizations in its local and district offices.

A bargain sale to a qualified organization provides the landowner with some attractive financial benefits:

- actual cash from the sale,
- capital gains tax reduction,
- avoidance of brokerage fees,
- a charitable contribution deduction.

The donated value in a bargain sale may also protect the landowner from being pushed into a higher tax bracket which could otherwise result from a full value sale.

Any transfer of property, either in fee-simple, developments rights, or a conservation easement, may be the subject of a bargain sale.

Method 4. Donation of Farmland

The outright donation of land or development rights is a very desirable *methods by which the town can acquire land*. However, it is important that the committee carefully review the gift before accepting it. The land should possess the criteria established by the committee to be of value to the community:

- prime farmland,
- in an actively farmed area,
- under development pressure.

If the land is deemed a priority for acquisition purposes, the committee can begin negotiations with the landowner.

A landowner can obtain many financial benefits from giving charitable gifts of land:

- reduction in federal income tax,
- reduction in property tax,
- reduction in capital gains tax,
- reduction in estate tax.

There are five methods of donation the committee should be aware of:

(1) Fee Simple - This is a gift of the entire interest in the property. With this form, full legal title passes by deed to the beneficiary organization. The landowner no longer possesses any control over the land, but may specify in the deed that the land is to be protected for agricultural or other conservation purposes.

(2) Less than Fee Simple - This is a gift of partial interest in the property. With this method, the landowner retains legal title to the property, but gives up some of the rights to its use. There are many kinds of partial interest in land: leases, easements, and rights to harvest timber. In the context of protecting farmland, partial interests in land mean development rights, scenic easements and conservation restrictions, all of which limit or prevent future development or alteration of the property.

For example, a farmer may deed the development rights from his property to the town. The town is entitled to enforce this agreement, both against the original landowner and against subsequent owners of the property.

(3) Donation with a Reserved Life Estate - With this method, an individual may donate property to a donee organization but retain possession and use of the property for his own lifetime and/or the lifetime of other members of his family. This is known as a gift of land with a reserved life estate; the contribution is known as a gift of the "remainder interest."

Generally, in a life estate transaction the individual makes a present donation of his property but retains the right of use and ownership for the remainder of his life. This results in a legally binding transaction with the incidence of ownership actually passing to the remainderman organization upon expiration of the life tenant's estate.

Where such a gift is made with respect to a farm, residence, or for conservation purposes, the donor is entitled to a present income tax deduction for his charitable contribution. The value of the deduction arising from the gift is the fair market value of the property reduced by the value of the remainder interest, as determined by the IRS.

Generally, for a relatively young donor, or for the reservation of more than one life estate, the value of the gift will be very small relative to the full present fair market value of the property.

(4) Donation of an Undivided Interest in Land - A donation of undivided interest in land is a gift of a percentage interest in the land and not any specific physical portion. As a result, the land, as a unit, will be owned as tenants in common by those parties who have interest in the property.

When an undivided interest in property is contributed to a charitable organization, the donor is entitled to a current deduction for the fair market value of the interest contributed.

There may be a number of reasons why a landowner may wish to make a donation of an undivided interest. For example, he may wish to make gifts through a series of donations or may wish to continue for a period of time as a common owner of the land.

If it is the donor's intent to make further gifts of undivided interest, the donor should include any uncompleted gift in a will so that the intentions will be carried out even if the donor is not able to complete the transfer during his or her lifetime.

If your town accepts an undivided interest donation, it is important to secure a lease for the remaining interest in the property so that it can be managed as one unit. Gifts of undivided interest are not as desirable as gifts of the donor's entire estate since intention and wills can be changed.

(5) Donation by Bequest - An individual can donate land in a will to an organization. The bequest may or may not be restricted as to the use of the property. Thus the committee should review the property before the donor's death to ensure that it is the kind and quality of land the town wishes to acquire. If there is something wrong with the proposed bequest, it is easier to work out the problem with the donor than with a decedent's estate representative.

Land willed to a nonprofit organization or governmental agency is not subject to estate or inheritance taxes. A deduction from the gross estate is allowed for bequests of property for public or charitable purposes.

Discussion: The Tax Reform Act of 1986. Because of the new tax reform act, the effects of which are not fully clear, there is not included a case study detailing the benefits of a charitable donation.

However, the qualified charitable contribution of land remains in fact.

It is important that commission members not advise landowners on their tax consequences. They should instead be directed to tax attorneys or accountants who are familiar with the tax code.

Some general information can be given to landowners which will interest them in investigating the benefits of donating easements or land to a town or land trust farmland protection program.

Here are the criteria for making a gift and for substantiating its value.

The gift must be of a qualified property interest, either:

- the donor's entire interest in the property
- a remainder interest in the property, or
- a perpetual restriction on the use which may be made of the property.

The gift must be for a conservation purpose, protected in perpetuity:

- preservation of land for outdoor recreation by the general public
- protection of a natural ecosystem
- preservation of open space pursuant to a clearly delineated governmental policy, such as farmland preservation, or
- preservation of historically important land or structures.

The donor or donee must inventory the baseline data to substantiate the conservation purpose of the gift, and delineate what property characteristics make the gift a public benefit. This is why it is important for a town to clearly delineate a town policy for farmland preservation. A simple resolution, passed by the town, can provide a policy statement strong enough to qualify a gift to the town. Statements supporting farmland or open space protection should also be incorporated into the town's plan of development.

The gift must be made to a qualified organization. This is a publicly supported organization, such as a land trust, a local government, or the state government.

For more information on qualifying a gift for tax incentives, please contact your local land trust, or:

The American Farmland Trust
Northeast Regional Office
No. 1 Short Street
Northampton, MA 01060
(413) 586-9330

Connecticut Land Trust
Service Bureau
55 High Street
Middletown, CT 06547
(203) 344-9867

III. Transfer of Development Rights

This technique is similar to the Purchase of Development Rights in the sense that development rights for a given parcel are separated from ownership. Transfer of Development Rights (TDR) protects farmland by shifting development potential from one part of town to another.

Once the development rights to property have been sold, that land cannot be developed and is therefore preserved for agriculture or open space.

Landowners would sell development rights directly to a developer or indirectly through a public agency who would then transfer them to areas designated by the town as more suitable for development. Deed restrictions preventing future development would then be attached to the property.

There are no TDR programs in Connecticut, and it is not known if enabling legislation is needed before a town can implement TDR. Therefore a town must examine this question with their attorney before embarking on the implementation of TDR.

Under this program, a town's zoning regulations would be amended to allow more intensive development than is normally permitted in certain areas, provided that development rights from the protected lands were transferred to these areas. The committee would need to work with the zoning commission to change the town's zoning map to designate both a protection district, where owners would be able to sell development rights, and a reception district, where more intensive development would be allowed and where development rights could be transferred.

The state of Maryland has enacted a TDR program. Planners there suggest these conditions need to exist for a TDR program to be successful:

- A strong demand for town growth.
- An active housing market.
- A program that is simple to administer and understand.
- A willingness of the town government to re-zone agricultural land so that a protection district can be established.
- Assurance to the neighbors of the receiving zone that a service/utility overload will not result from the TDR program.
- A strict adherence to zones by discouraging variances for increased development.
- A protection zone that has a strong farmland base, large enough to maintain the area necessary for farm related services, and strong farmer commitment to continuing their operations.

The success of a TDR program depends on a vigorous real estate market. Without strong market demand for development rights, just compensation for the farmer/seller appears impossible.

If landowners in the restricted protection zone cannot sell development rights, the legal issue of "unfair taking without just compensation" arises. Low prices for development rights will similarly shake confidence in the program.

Developers will purchase development rights if they perceive a demand for the type of high density development allowed under a town's TDR program. Good prices will only emerge if the increased density provides a good return on development rights purchase. Conceivably, the local government could serve as an intermediary in the marketplace.

A town could buy and sell development rights, serving as a "bank" for the rights. While this provides a guaranteed market for the seller, it creates an administrative burden and financial risk for the town.

The mechanics of administration are an important consideration in any proposed TDR program. Towns must decide how to issue development rights certificates, tax development rights, maintain records, assure a fair and active market, and assess transaction costs. Recent studies have indicated that public purchase of development rights for agricultural land is better suited for rural communities, while transfer is more appropriate in suburban areas where growth pressures and the market for development rights is stronger.

In the northeastern U.S. neither towns nor counties have widely adopted TDR programs. Hence, it is difficult to document the concept in terms of success or failure. For more information concerning the transfer of development rights, contact:

Connecticut Department of Agriculture
Room 273
165 Capitol Avenue
Hartford, CT 06106
Telephone: (203) 566-4667

Case Study - In 1971, the small town of Lincoln, Massachusetts altered its zoning bylaws to protect farmland and open space. Experiencing development pressure due to the town's close proximity to Boston, the Planning and Zoning Board designed zoning incentives to encourage owners of large tracts of open space land to carefully develop their land.

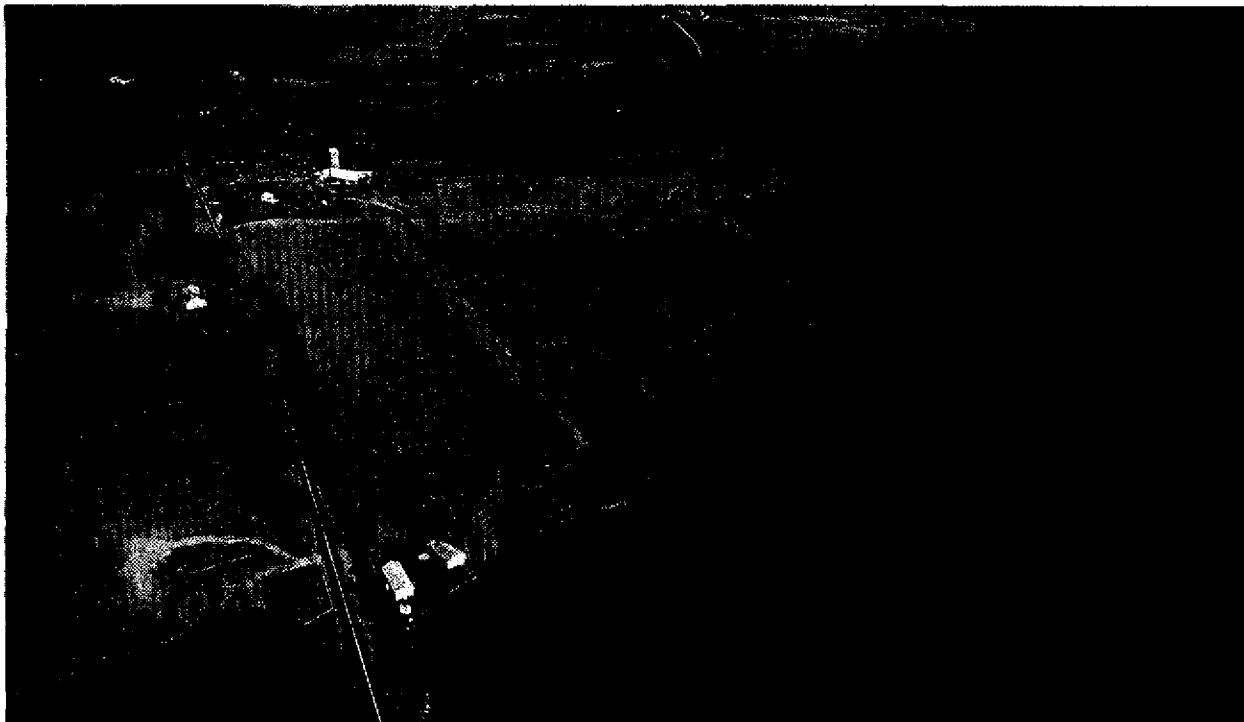
The first alteration was called an Open Space Residential District. This district allowed owners of parcels of 25 or more acres to subdivide their land into twice the number of units that could be built under the town's two-acre bylaw. However, the landowner was required to protect 70% of the land, to be left as open space or for agricultural use. The subdivision plan for the remaining 30% was subject to environmental impact review, and a two-thirds majority vote at a Town Meeting.

The second zoning incentive permitted an even greater building density on 30% of the land. This district would require that 50% of the dwelling units qualify as low and moderate income housing. Development plans for this district also required a two-thirds majority vote by the town.

In 1972, Lincoln residents voted again to alter their two-acre zoning to allow apartments to be built in 10 per cent of Lincoln's existing homes. Homeowners that wished to convert a home to an apartment were required to petition the Zoning Board of Appeals. Residents of Lincoln held that this alteration to the zoning bylaws allowed more people to live in the town and thus reduced the development pressure on existing open space land.

Also, the creation of apartments helped existing residents to maintain homes which had become costly to support, and created less costly homes for new residents.

For more information concerning Lincoln's innovative planning methods consult: Creative Land Development - Bridge to the Future, by Robert Lemire. Copyright 1979, Houghton Mifflin Company, Boston, Massachusetts.



The preservation of the Dill and Cone family farms has stabilized an entire farming district of East Haddam.

IV. Understanding The Appraisal Process - Appraisal Methodology and Procedure Utilized For Preservation of Agricultural Lands

It is important for your committee to understand the appraisal process. Committee members or town selectmen will have to choose and explain a valuation process in order to successfully negotiate a purchase or gift of land. Your knowledge of land appraising will lend confidence to land owners participating in town farmland preservation efforts.

The appraisal process estimates the value of real property based on its relationship to other properties which constitute the potential market. Through the appraisal process your committee can obtain the full market value, agricultural value and development rights value of a parcel of land.

The valuation process provides the market value for the property being appraised. The valuation of conservation easements does not differ from the valuation of real property in general. However, since there is no established market for conservation easements, or development rights, such interests in land must be valued indirectly through the Before and After Method of appraisal.

Before and After Method

The Before and After Method can determine to what degree an easement changes a property's use and value. Under the Before and After Method, the value of the property after the application of the easement or purchase of development rights is subtracted from the value of the property before application of the easement. This results in the value of the easement or development rights.

The first step in the Before and After valuation process is the determination of the property's highest and best use in its current condition, unrestricted by the easement.

The highest and best use is that reasonable and probable use that will support the highest present value for the property at the time of appraisal. In this step the appraiser considers the suitability of the property's current use under existing zoning and market conditions, then estimates the likelihood of a change in use of the land without the easement.

Highest and Best Use: Stages of Analysis - Because market value is always the highest price that an informed and prudent purchaser would pay, the use is regarded to be the highest and best.

In estimating highest and best use, the appraiser goes through four stages of analysis:

1. Possible use: What uses are physically possible on the subject site or in the subject's improvements, given the physical characteristics revealed by property analysis?

2. Permissible use (legal): What uses are permitted under existing zoning and other land use regulations and controls, and under existing deed restrictions, for the subject property?

3. Feasible use (appropriate use): Among legally permitted and physically possible uses for the subject property, which are appropriate, given the characteristics revealed by the market, neighborhood, and property analysis? Which uses produce any net return to the owner, or a positive net present value?

4. Highest and best use: Among appropriate or feasible uses for the subject property which will produce the highest present value?

The next step in the estimation of the "Before" value of the property is the application of the Comparables Sales Approach, also known as the Market Data approach.

Comparable Sales Approach - This approach involves direct comparisons of similar properties, that have recently sold in the same or in a similar market, with the subject property. The appraiser's objective is to determine the market value of the property by carefully identifying the market in which the property being appraised is located.

A sufficient number of comparable sales are needed to ensure the validity of the appraised value. Adjustments must be applied to comparable properties to account for differences between such land and the subject parcel. These adjustments should reflect differences in size and location, property condition, topography and recent appreciation or depreciation. Thus, the appraiser must analyze each property used as comparable rather than average their sale prices.

Once the Before value of the property has been determined, the valuation of the After value can begin. The first step in the After valuation is the determination of the property's highest and best use after the application of the easement. The appraiser must analyze the easement terms and compare them to existing zoning regulations and other controls to determine the extent to which the easement will affect current and future uses of the property, and hence the dollar value of the property. As with the Before valuation, the appraiser can apply the Comparable Sales approach to estimate the value of the property with the easement.

When estimating the agricultural use value of the property, an appraiser separates the various land types found within the parcel. Values are first determined for woods and wetlands. The remaining figure represents the value for tillable acreage. The appraiser considers the following factors when valuating the agricultural land:

Soil - evaluated by any objective means, including an official soil survey. The types of soil conservation techniques that are practiced.

Topography and shape of the property.

Carrying capacity - of the land, in the case of livestock operations.

Continuity - whether or not the property, as whole, is unified or segmented. If the parcel is segmented, the availability for movement among the different segments.

The Appraisal Report

An appraisal is an objective dispassionate report of market facts. The appraiser's personal opinions or prejudices should never appear, and conclusions are based upon professional judgement only. The professional appraiser's estimate is significant and useful because the appraiser works with facts and data from the pertinent market, and then applies a logical analysis to these data in a systematic framework to derive the value estimate.

The form, length and content of an appraisal report may vary in different appraisals, depending upon the type of property involved, the nature of the property rights being appraised and the reporting requirements of the appraiser's client. Under the State of Connecticut's Purchase of Development Rights Program each appraisal report must contain the following information:

1. Title Page
2. Letter of Transmittal - The "cover letter" of the report. This briefly describes the location of the property being appraised, its market value and other conclusions.
3. Table of Contents
4. Summary of Salient Facts and Conclusions
5. Photographs of Subject Property
6. Identification of Property
7. Legal References and Description of Property
8. Tax Information
9. Statement of Value to be Estimated - The definition of the market value of the property.
10. Type of Title on which Market Value is Estimated
11. Present Use of Property
12. Zoning of Property

Before Value:

13. Highest and Best Use of Property

14. Neighborhood Data
15. Plot Plan Sketch
16. Soils Map
17. Statement of Soil Types
18. Site Improvements on Property
19. Description of Property
20. Justification of Land Value
21. Comparable Sales Data
22. Analysis of Comparable Sales and Conclusions

After Value:

23. Highest and Best Use
24. Neighborhood Data, Site Improvements, Description of Property
25. Justification of Land Value
26. Comparable Sales Data
27. Analysis of Comparable Sales
28. Market Value Conclusions - Before and After Taking of Development Rights
29. Conclusions as to Damages Due to Taking of Development Rights
30. Limiting Conditions
31. Certificate of Appraiser
32. Underlying Assumptions and Conclusions

The appraiser's conclusions estimate the value of the landowner's property. For this reason, it is important that committee members and farm landowners understand what is expected from an appraisal report.

Your efforts to protect prime farmland will be successful if property owners feel they are receiving a fair return from the sale or gift of their land. Likewise entities purchasing easements or restrictions such as municipalities or conservation groups must perceive they are obtaining sound value for their investment.

There are many choices which a town can make when planning to develop its land. If it is decided that farmland protection is important to the future of the town, action can be taken to bolster agriculture and save farmland.

The extent to which the town carries out these action will depend upon the importance of agriculture to the town. Remember that even simple actions, such as a statement in support of farming in the town, will assist those landowners who wish to donate a conservation easement for farmland preservation purposes. Publicizing a farmer's "right to farm" will help foster a better business environment for agriculture.

The job of revising town regulations is a major effort, but will be very effective in determining future land use in the town. Finally, a local farmland preservation purchase of development rights program makes the strongest commitment to the future of agriculture by insuring the permanent protection of land whose best future is for farming.

There is help available to towns that want to retain their farm resources. Chapter Three details where to get this assistance.



Publicizing a farmer's right to farm will foster a better business environment for agriculture.

CHAPTER THREE

WHERE TO GET ASSISTANCE

CHAPTER THREE - WHERE TO GET ASSISTANCEChapter Three Outline

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I. HELP FROM THE PUBLIC SECTORCOUNTY AGRICULTURAL EXTENSION SERVICE OFFICES

The off-campus educational arm of the University of Connecticut. The Extension Service provides assistance with agricultural and resource problems through county agents and university-based specialists.

Fairfield County

P.O. Box 165A
Route 6
Bethel, CT 06801
Telephone: (203) 797-4176

New Haven County

670 Wintergreen Avenue
Hamden, CT 06514
Telephone: (203) 789-7865

Hartford County

1800 Asylum Avenue
West Hartford, CT 06117
Telephone: (203) 241-4941

New London County

562 New London Turnpike
Norwich, CT 06360
Telephone: (203) 887-1608

Litchfield County

Agricultural Center
Box 607
Litchfield, CT 06759
Telephone: (203) 567-9447

Tolland County

24 Hyde Avenue
Route 30
Vernon, CT 06066
Telephone: (203) 875-3331

Middlesex County

Extension Center
Haddam, CT 06438
Telephone: (203) 345-4511

Windham County

Extension Center
Brooklyn, CT 06234
Telephone: (203) 774-9600

USDA AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE OFFICES

The Agricultural Stabilization and Conservation Service (ASCS) USDA is associated with Commodity Credit Corporation and deals primarily with commodity price support programs and soil conservation. There is an ASCS office in each county that maintains records on crop acreage and yields for every farm located in the county. Information may be released to farmers at their request.

Fairfield County

P.O. Box 165A
Route 6
Bethel, CT 06801
Telephone: (203) 743-6120

New Haven County

332 North Main Street
Wallingford, CT 06492
Telephone: (203) 269-6665

USDA Agricultural Stabilization and Conservation Service Offices continued

Hartford County
1101 Kennedy Road
Windsor, CT 06095
Telephone: (203) 688-3559

Litchfield County
West Street
Box 276
Litchfield, CT 06759
Telephone: (203) 567-8457

Middlesex County
Agricultural Center
Route 9A
Haddam, CT 06438
Telephone: (203) 345-4511

State Executive Director
William R. Cotter Federal Building
135 High Street, Room 270
Hartford, CT 06103
Telephone: (203) 722-3310

New London County
562 New London Turnpike
Norwich, CT 06360
Telephone: (203) 887-9941

Tolland County
24 Hyde Avenue
Route 30
Vernon, CT 06234
Telephone: (203) 875-9770

Windham County
Box 399
Wolf Den Road
Brooklyn, CT 09234
Telephone: (203) 774-8397

COUNTY SOIL AND WATER CONSERVATION DISTRICTS (S&WCD)

The Districts, established by state law in 1946, plan, coordinate, and provide advice on soil and water conservation matters. Districts provide technical service and do not enforce or regulate. Conservation work in the Districts is accomplished chiefly with the USDA Soil Conservation Service.

USDA Soil Conservation Service - State Office
16 Professional Park Road
Route 44
Storrs, CT 06268
Telephone: (203) 429-9361

Fairfield County
RD #2, Box 165A
Route 6
Bethel, Ct 06801
Telephone: (203) 743-5453

New Haven County
Agricultural Center
422 North Main Street
Wallingford, CT 06492
Telephone: (203) 269-7509

Hartford County
Room 1058
1101 Kennedy Road
Windsor, CT 06095
Telephone: (203) 688-7725

New London County
562 New London Turnpike
Norwich, CT 06360
Telephone: (203) 887-4163

Soil and Water Conservation Districts continued

Litchfield County
 Agricultural Center
 Litchfield, CT 06759
 Telephone: (203) 567-8288

Middlesex County
 Extension Center
 Haddam, CT 06438
 Telephone: (203) 345-4511

Tolland County
 Agricultural Center
 24 Hyde Avenue
 Vernon, CT 06238
 Telephone: (203) 875-3881

Windham County
 P.O. Box 112
 Wolf Den Road
 Brooklyn, CT 06234
 Telephone: (203) 774-0224

CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION

The Department, in coordination with federal and local governments, and other concerned public and private organizations, works for the preservation and protection of the air, water and other natural resources of the state.

Department of Environmental Protection
 Room 117
 State Office Building
 Hartford, CT 06106
 Telephone: (203) 566-2110

REGIONAL PLANNING ORGANIZATIONS

Throughout most of the State, municipalities belong to either a Regional Planning Agency, a Regional Council of Elected Officials or a Regional Council of Governments. These regional planning organizations are charged with a variety of responsibilities under their enabling laws. These responsibilities include preparation and updating a regional plan of development, technical assistance for local, state and federal governments, and review of proposed actions with regional or intermunicipal impact.

Capitol Region Council of Governments
 214 Main Street
 Hartford, CT 06106
 Telephone: (203) 522-2217

Central Connecticut Regional Planning Agency
 225 North Main Street
 P.O. Box 1880
 Bristol, CT 06010
 Telephone: (203) 589-7820

Council of Governments of the Central Naugatuck Valley
 20 East Main Street
 Waterbury, CT 06702
 Telephone: (203) 757-0535

Connecticut River Estuary Regional Planning Agency
 60 Sheffield Road
 P.O. Box 778
 Old Saybrook, CT 06475
 Telephone: (203) 388-3497

Regional Planning Organizations continuedGreater Bridgeport Regional Planning Agency

Transportation Center
525 Water Street
Bridgeport, CT 06604
Telephone: (203) 366-5405

South Central Regional Council of Governments

23 Peck Street
North Haven, CT 06754
Telephone: (203) 234-7555

Housatonic Valley Council of Elected Officials

Old Town Hall
Route 25
Brookfield Center, CT 06805
Telephone: (203) 06805

Southeastern Connecticut Council of Governments

139 Boswell Avenue
Norwich, CT 06360
Telephone: (203) 889-2324

Midstate Regional Planning Agency

199 Dekoven Drive
P.O. Box 139
Middletown, CT 06475
Telephone: (203) 347-7214

Southwestern Regional Planning Agency

213 Liberty Street
East Norwalk, CT 06855
Telephone: (203) 866-5453

Northeastern Connecticut Regional Planning Agency

Regional Building
P.O. Box 198
Brooklyn, CT 06234
Telephone: (203) 774-1253

Valley Regional Planning Agency

Derby Train Station
Main Street
Derby, CT 06418
Telephone: (203) 735-8688

Northwestern Connecticut Council of Governments

Sacket Hill Road
Warren, CT 06754
Telephone: (203) 868-7341

Windham Regional Planning Agency

968 Main Street
Willimantic, CT 06226
Telephone: (203) 456-2221

ENVIRONMENTAL REVIEW TEAMS (ERT)

The ERT is available to assist towns in reviewing sites for development or land management. Requests for environmental reviews may come from the chief elected official of a town or the chairman of an administrative agency such as planning and zoning, inland wetlands, or conservation. ERT's do not do town-wide reviews.

Environmental Review Coordinator

King's Mark RC&D Area
322 North Main Street
Wallingford, CT 06492
Telephone: (203) 265-6695

Environmental Review Coordinator

Eastern Connecticut RC&D Area
Route 205, Box 198
Brooklyn, CT 06234
Telephone: (203) 774-1253

II. HELP FROM THE PRIVATE SECTOR

American Farmland Trust

The American Farmland Trust (AFT) is a nonprofit organization committed to the protection of farmland and farming opportunities. It seeks to accomplish this objective by relying on both private sector initiative and conscientious public policies. AFT works for an appropriate balance between conservation of prime agricultural soils and responsible development of less productive lands.

AFT supports measures designed to maintain a healthy and diversified agriculture industry, recognizing that it is the farmer who makes the land produce. AFT represents common ground upon which agriculturists and conservationists, businessmen and scholars, public officials and private citizens work together to protect the land that feeds America. For more information, contact:

American Farmland Trust
Northeast Regional Office
No. 1 Short Street
Northampton, MA 01060
Telephone: (413) 586-9330

Connecticut Land Trust Service Bureau

The Land Trust Service Bureau (LTSB), established in 1980, is a project sponsored by the The Nature Conservancy and the Conservation Law Foundation of New England (CLF).

Its central purpose is to provide legal, technical, and operational advice to Connecticut land trusts. The eighty-seven independent trusts are nonprofit organizations that hold and manage over 16,000 acres of natural areas and open space in the State. To assist the trusts, the LTSB offers an operational handbook, periodically sponsors workshops and conferences, networks trusts on key issues, and works with individual trusts requesting help.

The LTSB also educates the public about the role they play in protecting open space in municipalities. In addition, the Service Bureau encourages the formation of trusts in communities where none exist.

The Land Trust Service Bureau is located in the headquarters of the Connecticut Chapter of The Nature Conservancy. Contact the Bureau at:

55 High Street
Middletown, CT 06547
Telephone: (203) 344-9867

CONNECTICUT LAND CONSERVATION TRUSTS

Aspetuck Land Trust, Inc.
P.O. Box 44
Westport, CT 06881

Connecticut River Watershed Council
103 Constitution Plaza
Hartford, CT 06103

Avon Land Trust
P.O. Box 267
Avon, CT 06001

Constance B Ripley Land Trust
50 Union Street
Thomaston, CT 06787

Bethany Conservation Trust, Inc.
Luke Hill Road
Bethany, CT 06525

Land Trust of Darien, Inc.
P.O. Box 1074
Darien, CT 06820

Bethel Land Trust, Inc.
P.O. Box 332
Bethel, CT 06801

Deep River Conservation Trust
Long Hill Road
Essex, CT 06426

Bethlehem Land Trust
Main Street
Bethlehem, CT 06751

East Granby Land Trust, Inc.
P.O. Box 39
East Granby, CT 06026

Branford Land Conservation Trust, Inc.
P.O. Box 254
Branford, CT 06405

East Haddam Land Trust
Haywardville Road
Colchester, CT 06415

Brookfield Open Space Legacy
P.O. Box 63
Brookfield Center, CT 06805

East Lyme Conservation Trust, Inc.
P.O. Box 645
Niantic, CT 06357

Canton Land Conservation Trust, Inc.
P.O. Box 41
Canton Center, CT 06020

Eastern CT Forest Landowners
P.O. Box 404
Brooklyn, CT 06234

Cheshire Land Trust, Inc.
P.O. Box 781
Cheshire, CT 06410

Essex Land Conservation Trust, Inc.
P.O. Box 373
Essex, CT 06426

Clinton Land Conservation Trust, Inc.
P.O. Box B
Clinton, CT 06413

Farmington Land Trust, Inc.
P.O. Box 1
Farmington, CT 06032

CONNECTICUT LAND CONSERVATION TRUSTS

Flanders Nature Center Land Trust
106 Quonnipaug Trail
Woodbury, CT 06798

Killingworth Land Conservation Trust
P.O. Box 825
Killingworth, CT 06417

Goshen Land Trust, Inc.
P.O. Box 111
Goshen, CT 06756

Kongscut Land Trust, Inc.
D. B. Waring
Highmead
Glastonbury, CT 06033

Granby Land Trust, Inc.
P.O. Box 23
Granby, CT 06035

Litchfield Land Conservation Trust
P.O. Box 712
Litchfield, CT 06759

Great Meadows Conservation Trust, Inc.
400 Hartford Avenue
Wethersfield, CT 06109

Lyme Land Conservation Trust, Inc.
Box 1002
Lyme, CT 06371

Greenwich Land Trust, Inc.
P.O. Box 1152
Greenwich, CT 06830

Madison Land Conservation Trust, Inc.
P.O. Box 561
Madison, CT 06443

Guilford Land Conservation Trust, Inc.
P.O. Box 22
Guilford, CT 06437

Manchester Land Conservation Trust
55 Bruce Road
Manchester, CT 06040

Haddam Land Trust, Inc.
Saybrook Road
Haddam, CT 06438

Mashantucket Land Trust, Inc.
P.O. Box 49
Old Mystic, CT 06372

Hamden Land Conservation Trust, Inc.
524 Brookvale Avenue
Hamden, CT 06518

Middlebury Land Trust, Inc.
P.O. Box 193
Middlebury, CT 06762

Harwinton Land Conservation Trust
Mrs. Betsey Prudden
Harwinton, CT 06791

Middlefield Land Trust
78 West Street
Middlefield, CT 06455

Heritage Land Preservation Trust, Inc.
P.O. Box 596
Torrington, CT 06790

Milford Land Conservation Trust, Inc.
P.O. Box 265 MC
Milford, CT 06460

CONNECTICUT LAND CONSERVATION TRUSTS

Monroe Fields and Woods Association, Inc.
19190 Hammertown Road
Monroe, CT 06468

Old Saybrook Land Conservancy, Inc.
49 Woodland Drive
Old Saybrook, CT 06475

Naromi Land Trust, Inc.
Leach Hollow Road
Sherman, CT 06784

Orange Land Trust, Inc.
P.O. Box 785
Orange, CT 06477

New Canaan Land Conservation Trust, Inc.
c/o Cummings and Lockwood
10 Stamford Forum
Stamford, CT 06904

Peace Sanctuary Trust, Inc.
233 River Road
Mystic, CT 06355

New Hartford Land Conservation Trust
P.O. Box 272
New Hartford, CT 06057

Plymouth Land Trust Conservancy
Todd Hollow Road
Plymouth, CT 06782

New Haven Land Trust, Inc.
P.O. Box 9335
New Haven, CT 06533

Pond Mountain Trust, Inc.
Fuller Mountain Road
Kent, CT 06757

Newtown Forest Association, Inc.
P.O. Box 213
Newtown, CT 06470

Pootatuck Land Trust
66 Jefferson Street
Stratford, CT 06497

Norfolk Land Trust, Inc.
Sunset Ridge
Norfolk, CT 06058

Redding Land Trust, Inc.
P.O. Box 76
Redding, CT 06875

No. Branford Land Conservtion Trust, Inc.
Notch Hill Road
North Branford, CT 06471

Land Conservancy of Ridgefield
P.O. Box 566
Ridgefield, CT 06877

North Haven Land Trust, Inc.
P.O. Box 262
North Haven, CT 06473

Trustees of Roseland Park
P.O. Box 163
Mansfield, CT 06250

Norwalk Land Conservation Trust
P.O. Box 34
Rowayton, CT 06853

Roxbury Land Trust, Inc.
c/o Madsen, Davenport Road
Roxbury, CT 06783

CONNECTICUT LAND CONSERVATION TRUSTS

Old Lyme Conservation Trust
P.O. Box 163
Old Lyme, CT 06371

Suffield Land Conservancy, Inc.
P.O. Box 421
Suffield, CT 06078

Seymour Land Trust
24 Silvermine Road
Seymour, CT 06483

Swampfield Land Trust, Inc.
P.O. Box 32
Danbury, CT 06810

Sharon Land Trust
P.O. Box 124
Sharon, CT 06069

Tolland Land Trust, Inc.
289 Goose Lane
Tolland, CT 06054

Shelton Land Conservation Trust, Inc.
Huntington Station, Box 2276
Shelton, CT 06484

Wallingford Land Trust, Inc.
P.O. Box 611
Wallingford, CT 06492

Simsbury Land Conservation Trust, Inc.
P.O. Box 634
Simsbury, CT 06070

Watertown Land Trust, Inc.
P.O. Box 493
Watertown, CT 06795

Sleeping Giant Park Association
120 Hartley Street
North Haven, CT 06473

Weantinoge Heritage, Inc.
P.O. Box 242
New Milford, CT 06776

Southbury Land Trust, Inc.
P.O. Box 600
Southbury, CT 06488

West Farms Land Trust, Inc.
P.O. Box 113
Quaker Hill, CT 06375

Southington Land Conservation Trust
P.O. Box 406
Southington, CT 06489

Westbrook Land Conservation Trust
P.O. Box 360
Westbrook, CT 06498

So. Windsor Land Conservation Trust
819 Clark
South Windsor, CT 06074

Wilton Land Conservation Trust, Inc.
P.O. Box 77
Wilton, CT 06897

Stamford Land Conservation Trust, Inc.
307
Ingleside Road
Stamford, CT 06903

Windsor Land Trust, Inc.
12 Orchard
Windsor, CT 06095

Steep Rock Association, Inc.
P.O. Box 133
Washington, CT 06793

Wintonbury Land Trust, Inc.
635 Bloomfield Avenue
Bloomfield, CT 06002

CONNECTICUT LAND CONSERVATION TRUSTS

Joshua's Tract Conservation Trust
c/o Independent Bank and Trust
Main Street
Willimantic, CT 06226

Wolcott Land Conservation Trust, Inc.
122 East Street
Wolcott, CT 06716

Woodbridge Conservation Trust, Inc.
41 Spokes Drive
Woodbridge, CT 06525

Woodstock Land Use & Preservation Society, Inc.
P.O. Box 204
Woodstock, CT 06278

Wyndham Land Trust
P.O. Box 33
Pomfret Center, CT 06259

III. THE CONNECTICUT DEPARTMENT OF AGRICULTURE

The mission of the Connecticut Department of Agriculture is to pursue the state policies which will enhance the development and expansion of farm industry in Connecticut. Thus, its central philosophy is that preservation and profitability must go hand-in-hand.

These state policies form the existing framework of Connecticut's farmland protection plan: (1) the promotion of "Connecticut Grown" products; (2) the state purchase of development rights program; and (3) the state and town joint purchase of development rights program, which is in the formative stage.

The department's hope is that town governments will adopt policies consistent with these programs for agriculture, and build new programs such as a joint town/state purchase of development rights.

The Promotion Of Connecticut Grown Products

The aim of this program is to increase the demand for native-grown farm products and thus bolster farm income. Consumer awareness of a local, fresh, wholesome food supply, developed through an array of marketing strategies will contribute to the growth and health of Connecticut's family farm economy.

As part of this program, the Department is: (1) working to increase the number of farmers marketing; (2) publishing a series of attractive pick-your-own brochures; (3) encouraging small farmers to market their products cooperatively; and (4) boosting the exports of Connecticut Grown farm products at trade shows throughout the U.S. and overseas.

Connecticut consumers may want to consciously patronize Connecticut Grown farm products. The "Connecticut Grown" logo is thus offered to farmers to promote native farm products. The Connecticut Department of Agriculture will acquaint farmers with the "Connecticut Grown" logo and show them how to use it effectively.

For more information on promoting Connecticut farm products, contact:

Marketing Division
Connecticut Department of Agriculture
State Office Building
Hartford, CT 06106
Telephone: (203) 566-3671

The State Purchase Of Development Rights Program

The goal of this program is to maintain a food production capability through conservation and preservation of prime agricultural lands. The program was established under the Connecticut General Statutes, Section 22-26aa, et seq.

To stave off non-farm development from prime agricultural lands, the state purchases the development rights to farmland when development rights are voluntarily offered for sale by the farm owner.

The purchase of development rights program is explained in detail on page 58. The criteria which the state uses to choose farms for preservation are listed on page 27.

Purchasing development rights is less costly than purchasing the land in fee simple. The responsible management of the farmland rests with the owner who retains every traditional right of ownership, except the right to develop or subdivide his farm. The land continues to contribute to the local property tax base.

Under this program, the Department accepts applications from individuals who own prime farmland. Here's how the process works from the times an application is received:

A notice of the receipt of the application is filed with the Town Clerk of the town in which the farm is located.

Farmland is evaluated according to the state criteria, with the help of the USDA Soil Conservation Service and a UConn county agricultural extension agent.

The Commissioner consults with the Farmland Preservation Advisory Committee. If the Committee recommends that the farm be protected, the farm is appraised. See page 61 for a description of the appraisal process, which determines the value of the development rights to be purchased.

Negotiations are conducted between the landowner and the Commissioner of the Connecticut Department of Agriculture. When a price is agreed upon, a detailed report is submitted to the State Properties Review Board for its review and approval.

Funds are then requested from the State Bond Commission to carry out the purchase.

The state obtains a land survey and a title search of the property. Upon their completion, a closing is held, and the deed for the sale of development rights is recorded in the local land records. An example of this deed appears on page 99.

The main objective of the farmland preservation program is to secure a land resource base for the future of agriculture in Connecticut. Purchasing development rights to farmland has allowed the state to:

1. Retain the best and most productive agricultural land;
2. Provide an opportunity for farmers to purchase land at affordable prices;
3. Help farmland owners overcome estate planning problems which often result in farmland loss;
4. Provide working capital to enable farm operations to become more financially stable;
5. Address other personal ownership problems, such as age and health, which contribute to the likelihood of the land being converted to non-farm uses.

The state is trying to preserve farms that are clustered with other farms which therefore stabilize a farming region. Priority is being given to the protection of prime farmland in towns which are part of a viable agricultural area.

The State and Town Joint Purchase Of Development Rights Program

Many towns are making planning decisions based upon their decision to preserve natural resources and protect farmland.

As outlined in this manual, the process involves identifying prime and important farmland sites and establishing policies which direct the development away from these areas.

Once your town has designated key agricultural areas, efforts should be directed toward permanently preserving this land for future agricultural use.

Public Act 84-184

In order to assist town efforts to preserve and protect farmland, the Connecticut General Assembly has enacted two important pieces of legislation. Section 7-131q of the Connecticut General Statutes authorizes towns to create a farmland preservation fund by accepting gratuities, gifts or loans for preservation purposes.

The fund may also accept money appropriated by the municipality some or all of which may be invested in securities.

Income derived from such funds must be used exclusively by the town for preserving farmland. A copy of this Public Act appears on page 91. See also Town of Easton Case Study on page 49.

Public Act 86-135

The second important piece of legislation is PA86-135, entitled "An Act Authorizing Purchase of Agricultural Development Rights Jointly by the State and Towns." A copy of this public act appears on page 93.

The purpose of this public act is to encourage towns to set up a municipal plan for farmland preservation, and to allow the state and towns to cost share on purchases of development rights for farms which meet their mutual preservation goals.

This legislation states that whenever the Commissioner of Agriculture acquires the development rights to any agricultural land, and the town in which such land is situated has paid a part of the purchase price from a town fund, as described above, the town and the state may jointly own those development rights.

Previous to the passage of this bill, if the town and the state collaborated to protect a farm by buying development rights, only the state could own these development rights. Under the new legislation, a town will receive part ownership of these rights, and share the responsibility for enforcing the restrictions against developing the preserved farmland.

On the basis of the state purchase of development rights program and PA86-135, the Department of Agriculture is drafting regulations establishing procedures for the joint acquisition of development rights to agricultural lands.

It is recommended that a town take the following steps toward becoming eligible to jointly purchase development rights with the state:

1. Establish a farmland preservation fund. Only municipalities which have established an agricultural land preservation fund pursuant to PA84-184 may jointly purchase development rights in cooperation with the state.
2. Identify and prioritize the farmlands in town which are worthy of protection. Methods for doing this are recommended in Chapter One.
3. Amend the town plan of development, perhaps by adopting a town farmland preservation or open space plan (see page 9), so that it speaks to the protection of farmland and designates areas that are recommended for protection. To qualify for joint purchase of development rights, the town must show that the farmland selected has been designated for preservation in an open space plan, a town plan of development, or a town farmland preservation plan.
4. Establish a selection process for allocating funds and evaluating applications from interested farmland owners. The process must be fair and based upon the planning work done to identify important farms.

As stated previously, the purpose of this public act is to encourage towns to set up a municipal plan for farmland preservation, and to allow the state and town to cost share on purchases of development rights for farms which meet their mutual preservation goals. The Department of

Agriculture will determine which applications from town programs are eligible for joint purchase of development rights, and the level of contribution to be received from the state.

For more information concerning the State of Connecticut's Purchase of Development Rights Program, contact:

Farmland Preservation Program
Connecticut Department of Agriculture
State Office Building
Hartford, CT 06106
Telephone: (203) 566-3227



Willow Marsh Star Margaux is a star milk producer for Ben and Byron Gallop, of Voluntown.

Substitute House Bill No. 5587

PUBLIC ACT NO. 84-184

AN ACT AUTHORIZING MUNICIPALITIES TO ESTABLISH AN AGRICULTURAL LAND PRESERVATION FUND.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

(NEW) (a) As used in this act, "municipality" means any city, town, borough, district or association with municipal powers; "agricultural land" means any land in the state suitable by reference to soil types, existing and past use of such land for agricultural purposes and other relevant factors for the cultivation of plants for production of human food and fiber or production of other useful and valuable plant products and for the production of animals, livestock and poultry useful to man and the environment, and land capable of providing economically profitable farm units, and may include adjacent pastures, wooded land, natural drainage areas and other adjacent open areas; "development rights" means the rights of the fee simple owner of agricultural land to develop, construct on, sell, lease or otherwise improve the agricultural land for uses that result in rendering such land no longer agricultural land, but shall not be construed to include: (1) The uses defined in subsection (q) of section 1-1 of the general statutes, as amended by section 1 of public act 83-587, (2) the rights of the fee owner of agricultural land to develop, construct on, sell the property in its entirety, lease or otherwise improve the agricultural land to preserve, maintain, operate or continue such land as agricultural land, including, but not limited to, construction thereon of residences for persons directly incidental to farm operation and buildings for animals, roadside stands and farm markets for sale to the consumer of food products and ornamental plants, facilities for the storing of equipment and products or processing thereof or such other improvements, activities and uses thereon as may be directly or incidentally related to the operation of the agricultural enterprise, as long as the acreage and productivity of arable land for crops is not materially decreased and due consideration is given to the impact of any decrease in acreage or productivity of such arable land upon the total farm operation, except that new construction or modification of an existing farm building necessary to the operation of a farm on prime farmland, as defined by the United States

Substitute House Bill No. 5587

Department of Agriculture, of which the state has purchased development rights shall be limited to not more than five per cent of the total of such prime farmland, (3) the rights of the fee owner to provide for the extraction of gravel or like natural elements for purposes directly or incidentally related to the operation of the agricultural enterprise or (4) the existing water and mineral rights, exclusive of gravel, of the fee owner.

(b) Any municipality, by vote of its legislative body, may establish a special fund, which shall be known as the Agricultural Land Preservation Fund. There shall be deposited in said fund (1) all moneys received by the municipality, from whatever source and by whatever means, as gifts for agricultural land preservation purposes; (2) all moneys received by the municipality, from whatever source and by whatever means, as grants or loans for agricultural land preservation purposes, and (3) all moneys appropriated to said fund by the municipality.

(c) Said fund shall be in the custody of the treasurer or other officer in charge of funds of the municipality. All or any part of the moneys in said fund may, from time to time, be invested in any securities in which public funds may lawfully be invested. All income derived from such investments shall be paid into the fund and become a part thereof. The moneys so invested shall at all times be subject to withdrawal from such investment for use as provided in subsection (e).

(d) Annually, the treasurer or other officer having custody of said fund shall submit to the legislative body of the municipality a complete and detailed report of the condition of said fund, which report shall be made a part of the annual municipal report.

(e) Upon authorization of the body in such municipality having the power of appropriation, the moneys in said fund may be used by the municipality for the acquisition in its name of the development rights of agricultural land and for any expenditure incurred for the preservation of agricultural land.

Substitute Senate Bill No. 203

PUBLIC ACT NO. 86-135

AN ACT AUTHORIZING PURCHASE OF AGRICULTURAL DEVELOPMENT RIGHTS JOINTLY BY THE STATE AND TOWNS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 22-26cc of the general statutes is repealed and the following is substituted in lieu thereof:

(a) There is established within the department of agriculture a program to solicit, from owners of agricultural land, offers to sell the development rights to such land and to inform the public of the purposes, goals and provisions of this chapter. The commissioner, with the approval of the state properties review board, shall have the power to acquire or accept as a gift, on behalf of the state, the development rights of any agricultural land, if offered by the owner. Notice of the offer shall be filed in the land records wherein the agricultural land is situated. If ownership of any land for which development rights have been offered is transferred, the offer shall be effective until the subsequent owner revokes the offer in writing. The state conservation and development plan established pursuant to section 16a-24 shall be applied as an advisory document to the acquisition of development rights of any agricultural lands. The major factor to be considered by the commissioner in deciding whether or not to acquire such rights shall be the probability that the land will be sold for nonagricultural purposes. Other factors to be considered shall include, but not be limited to, the following: (1) The current productivity of such land and the likelihood of continued productivity; (2) the suitability of the land as to soil classification and other criteria for agricultural use; (3) the degree to which such acquisition would contribute to the preservation of the agricultural potential of the state; (4) any encumbrances on such land and (5) the cost of acquiring such rights. Ownership by a nonprofit organization authorized to hold land for conservation and preservation purposes of land which prior to such ownership qualified for the program established pursuant to this section shall not be deemed to diminish the probability that the land will be sold for nonagricultural purposes. After a preliminary evaluation of such factors by the commissioner of agriculture, the department of

Substitute Senate Bill No. 203

environmental protection, upon request of said commissioner, shall obtain and review one or more fee appraisals of the property selected by said commissioner, in order to determine the value of the development rights of such property. The commissioner shall notify the department of transportation, the department of economic development and the office of policy and management that such property is being appraised. Any appraisal of the value of such land obtained by the owner and performed in a manner approved by the department of environmental protection shall be considered by the commissioner in making such determination. The value of development rights for all purposes of this section shall be the difference between the value of the property for its highest and best use and its value for agricultural purposes as provided by section 12-63. The commissioner may purchase development rights for a lesser amount provided he complies with all factors for acquisition specified in this subsection and in any implementing regulations. In determining the value of the property for its highest and best use, consideration shall be given but not limited to sales of comparable properties in the general area, use of which was unrestricted at the time of sale.

(b) Upon the acquisition by the commissioner of the development rights of agricultural land, said commissioner shall cause to be filed in the appropriate land records and in the office of the secretary of the state a notice of such acquisition which shall set forth a description of the agricultural land as will be sufficient to give any prospective purchaser of such agricultural land or creditor of the owner thereof notice of such restriction. Upon the filing as aforesaid of the notice, the owner of such agricultural land shall not be permitted to exercise development rights with respect to such land, and such development rights shall be considered and deemed dedicated to the state in perpetuity except as hereinafter provided.

(c) The commissioner shall have no power to release such land from its agricultural restriction, except as set forth in this subsection. If the commissioner, in consultation with the commissioner of environmental protection and such advisory groups as the commissioner of agriculture may appoint, approves (1) a petition by the owner of the restricted agricultural land

Substitute Senate Bill No. 203

approved by resolution of the governing body of the town or (2) a petition by the town in which such land is situated, approved in writing by the owner, the governing body of the town shall submit to the qualified voters of such town the question of removing the agricultural restriction from such land or a part thereof, at a referendum held at a regular election or a special election warned and called for that purpose. In the event a majority of those voting at such referendum are in favor of such removal, the restriction shall be removed from the agricultural land upon filing of the certified results of such referendum in the land records and the office of the secretary of the state, and the then owner of the development rights shall be entitled to exercise all such rights including the sale thereof. Such petition shall set forth the facts and circumstances upon which the commissioner shall consider approval, and said commissioner shall deny such approval unless he determines that the public interest is such that there is an overriding necessity to relinquish control of the development rights. The commissioner shall hold at least one public hearing prior to the initiation of any proceedings hereunder. The expenses, if any, of the hearing and the referendum shall be borne by the petitioner. In the event that the state sells any development rights under the procedure provided in this subsection, it shall receive the reasonable value thereof at the time of such sale.

(d) Whenever the commissioner acquires the development rights of any agricultural land and the purchase price of such development rights is ten thousand dollars or more, said commissioner and the owner of such land may enter into a written agreement which provides for the payment of the purchase price in two or three annual instalments, but no interest shall be paid on any unpaid balance of such purchase price.

(e) WHENEVER THE COMMISSIONER ACQUIRES THE DEVELOPMENT RIGHTS TO ANY AGRICULTURAL LAND, AND ANY MUNICIPALITY IN WHICH ALL OR PART OF THE LAND IS SITUATED PAID A PART OF THE PURCHASE PRICE FROM A FUND ESTABLISHED PURSUANT TO SECTION 7-131g, SUCH MUNICIPALITY AND THE STATE MAY JOINTLY OWN THE DEVELOPMENT RIGHTS, PROVIDED JOINT OWNERSHIP BY SUCH MUNICIPALITY SHALL BE LIMITED TO LAND WITHIN ITS BOUNDARIES. THE LAND MAY BE RELEASED FROM ITS AGRICULTURAL RESTRICTION IN ACCORDANCE WITH THE PROVISIONS OF SUBSECTION (c) OF THIS

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SECTION. THE COMMISSIONER SHALL ADOPT REGULATIONS IN ACCORDANCE WITH THE PROVISIONS OF CHAPTER 54 ESTABLISHING PROCEDURES FOR THE JOINT ACQUISITION OF DEVELOPMENT RIGHTS TO AGRICULTURAL LAND.

Sec. 2. Section 7-131q of the general statutes is repealed and the following is substituted in lieu thereof:

(a) As used in this section, "municipality" means any city, town, borough, district or association with municipal powers; "agricultural land" means any land in the state suitable by reference to soil types, existing and past use of such land for agricultural purposes and other relevant factors for the cultivation of plants for production of human food and fiber or production of other useful and valuable plant products and for the production of animals, livestock and poultry useful to man and the environment, and land capable of providing economically profitable farm units, and may include adjacent pastures, wooded land, natural drainage areas and other adjacent open areas; "development rights" means the rights of the fee simple owner of agricultural land to develop, construct on, sell, lease or otherwise improve the agricultural land for uses that result in rendering such land no longer agricultural land, but shall not be construed to include: (1) The uses defined in subsection (g) of section 1-1, (2) the rights of the fee owner of agricultural land to develop, construct on, sell the property in its entirety, lease or otherwise improve the agricultural land to preserve, maintain, operate or continue such land as agricultural land, including, but not limited to, construction thereon of residences for persons directly incidental to farm operation and buildings for animals, roadside stands and farm markets for sale to the consumer of food products and ornamental plants, facilities for the storing of equipment and products or processing thereof or such other improvements, activities and uses thereon as may be directly or incidentally related to the operation of the agricultural enterprise, as long as the acreage and productivity of arable land for crops is not materially decreased and due consideration is given to the impact of any decrease in acreage or productivity of such arable land upon the total farm operation, except that new construction or modification of an existing farm building necessary to the operation of a farm on prime farmland, as defined by the United States

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Department of Agriculture, of which the state has purchased development rights shall be limited to not more than five per cent of the total of such prime farmland, (3) the rights of the fee owner to provide for the extraction of gravel or like natural elements for purposes directly or incidentally related to the operation of the agricultural enterprise or (4) the existing water and mineral rights, exclusive of gravel, of the fee owner.

(b) Any municipality, by vote of its legislative body, may establish a special fund, which shall be known as the Agricultural Land Preservation Fund. There shall be deposited in said fund (1) all moneys received by the municipality, from whatever source and by whatever means, as gifts for agricultural land preservation purposes; (2) all moneys received by the municipality, from whatever source and by whatever means, as grants or loans for agricultural land preservation purposes, and (3) all moneys appropriated to said fund by the municipality.

(c) Said fund shall be in the custody of the treasurer or other officer in charge of funds of the municipality. All or any part of the moneys in said fund may, from time to time, be invested in any securities in which public funds may lawfully be invested. All income derived from such investments shall be paid into the fund and become a part thereof. The moneys so invested shall at all times be subject to withdrawal from such investment for use as provided in subsection (e).

(d) Annually, the treasurer or other officer having custody of said fund shall submit to the legislative body of the municipality a complete and detailed report of the condition of said fund, which report shall be made a part of the annual municipal report.

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(e) Upon authorization of the body in such municipality having the power of appropriation, the moneys in said fund may be used by the municipality for the acquisition in its name of the development rights of agricultural land and for any expenditure incurred for the preservation of agricultural land, PROVIDED (1) THE DEVELOPMENT RIGHTS HAVE BEEN VOLUNTARILY OFFERED FOR SALE TO THE MUNICIPALITY BY THE OWNER AND (2) THE LAND HAS BEEN DESIGNATED FOR PRESERVATION PURPOSES BY THE MUNICIPALITY IN AN OPEN SPACE PLAN, MUNICIPAL PLAN OF DEVELOPMENT OR FARMLAND PRESERVATION PLAN.

Certified as correct by

Legislative Commissioner.

Clerk of the Senate.

Clerk of the House.

Approved _____, 1986

Governor, State of Connecticut.

CONVEYANCE OF DEVELOPMENT RIGHTS

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development of the Premises for residential, commercial and/or industrial purposes on the Premises. This conveyance is made in accordance with the following terms and conditions:

A. The Grantor covenants for itself, its legal representatives, successors and assigns, that the Premises will, at all times, be held, used, and conveyed in their entirety and subject to, and not used in violations of, the following restrictions as said restrictions may be limited or affected by the provisions of Paragraph B below:

(1) The fee simple owner of the above described land shall not subdivide, develop, construct on, sell, lease or otherwise improve the Premises for uses that result in rendering the Premises no longer agricultural land;

(2) No use shall be made of the Premises, and no activity shall be permitted or conducted thereon which is or may be inconsistent with the perpetual protection and preservation of the land as agricultural land. No activity shall be carried on which is detrimental to the actual or potential agricultural use of the Premises, or detrimental to soil conservation, or to good agricultural management practices;

(3) Said development rights are considered and deemed dedicated to the State of Connecticut in perpetuity in accordance with Chapter 422a of the Connecticut General Statutes.

B. Notwithstanding any provision of this instrument to the contrary, the Grantor for itself, its legal representative, successors and assigns, hereby reserves all other customary rights and privileges of ownership including:

(1) the right to privacy;

(2) the right to carry out regular agricultural practices;

(3) the right to conduct the uses defined in Subsection (q) of Section 1-1 of the Connecticut General Statutes;

(4) the right of the fee owner of the premises to develop, construct on, sell the Premises in its entirety, lease or otherwise improve the Premises to preserve, maintain, operate or continue the Premises as agricultural land, including but not limited to construction thereon of (a) residences for persons directly incidental to farm operation

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and buildings for animals, (b) roadside stands and farm markets for sale to the consumer of food products and ornamental plants, (c) facilities for the storage of equipment and products or processing thereof, or (d) such other improvements, activities and uses thereon as many be directly or incidentally related to the operation of the agricultural enterprise, as long as the acreage and productivity of arable land for crops is not materially decreased and due consideration is given to the impact of any decrease in acreage or productivity of such arable land upon the total farm operation, provided, however, that new construction of or modification of an existing farm building necessary to the operation of a farm on prime farmland, as such term is defined by the United States Department of Agriculture, on the Premises, shall be limited to not more than five percent of the total of such prime farmland;

(5) the rights of the fee owner of the Premises to provide for the extraction of gravel or live natural elements for purposes directly or incidentally related to the operation of the agricultural enterprise or;

(6) the rights of the fee owner of the Premises to the existing water and mineral rights, exclusive of gravel, except that no extraction or removal of minerals by any surface mining method shall be permitted. Furthermore, retention of such mineral rights is made subject to the purposes and provisions of Paragraph A(2), above.

Grantor, its successors and assigns, shall notify the Commissioner of Agriculture of any proposed sub-surface extraction or removal of minerals, or construction on the Premises. Such notification shall be made on a form provided by the Commissioner.

The Commissioner of Agriculture may enter upon the Premises, at all reasonable times, for the purpose of determining compliance with the provisions of this conveyance and of Chapter 422a.

Grantee, its successors and assigns, shall have the right to enforce the restrictions contained in this conveyance by appropriate legal proceedings, including but not limited to, the right to require the restoration of the property to its condition at the time of the conveyance, as modified by any uses and alterations permitted under this conveyance.

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TO HAVE AND TO HOLD the above granted DEVELOPMENT RIGHTS, unto it, the said Grantee, its successors and assigns forever, to its and their own proper use and behoof.

AND ALSO, the said Grantor does for itself, its heirs, executors, successors, assigns and administrators, covenant with the said Grantee, its successors and assigns, that at and until the ensealing of these presents, it is well seized of the Premises, as a good indefeasible estate in FEE SIMPLE: and has good right to bargain and sell said DEVELOPMENT RIGHTS in manner and form as above written; and that the same is free from all encumbrances whatsoever, except as hereinbefore mentioned.

AND FURTHERMORE, the said Grantor, does by these presents bind itself and its heirs, successors, assigns, executors and administrators forever to WARRANT AND DEFEND the above granted and bargained DEVELOPMENT RIGHTS in said Premises to the said Grantee, its successors and assigns, against all claims and demands whatsoever, except as hereinbefore mentioned.

IN WITNESS WHEREOF, it, the said Grantor, has hereunto caused its hand and seal to be set this day of 198 .

Signed, Sealed and Delivered
in the PResence of:

State of Connecticut)
) ss.
County of)

Personally appeared, signer(s) and sealer(s) of the foregoing instrument and acknowledge the same to be their free act and deed, before me.

Commissioner of the Superior Court
Notary Public
My commission expires:

Approved as to Form

Date