

**Cattaraugus County, New York
Agricultural Land Use Plan**

*~Prepared for the~
Cattaraugus County Agricultural and Farmland Protection Board*

February, 2007

ACKNOWLEDGEMENTS

This project was funded by the New York Department of Agriculture and Markets and the Cattaraugus County Legislature. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect those of the Cattaraugus County Government or the Cattaraugus County Agricultural and Farmland Protection Board. ACDS staff involved in the project include:

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The researchers and authors of the report owe a debt of gratitude to the many organizations and individuals that participated in interviews and focus groups for this project. A list of those that participated in the interviews and focus groups is presented in Appendix B of this document. Some names have been kept confidential at the request of the participants.

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AGRICULTURAL LAND USE PLAN

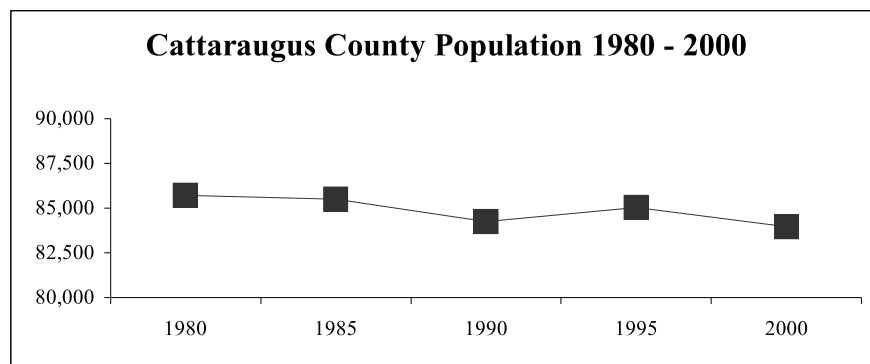
Cattaraugus County's agricultural industry is an economic stimulus and important employment base for the County. In 2002, agricultural sales totaled over \$58 million, and there were 817 self-employed farm operators plus 1500 farm workers in Cattaraugus County. Agriculture is also a significant land use in the County with 24% (201, 913 acres) of the land in farms.

This section analyzes land use trends for Cattaraugus County and their implications for the County's agricultural industry.

Population and Housing

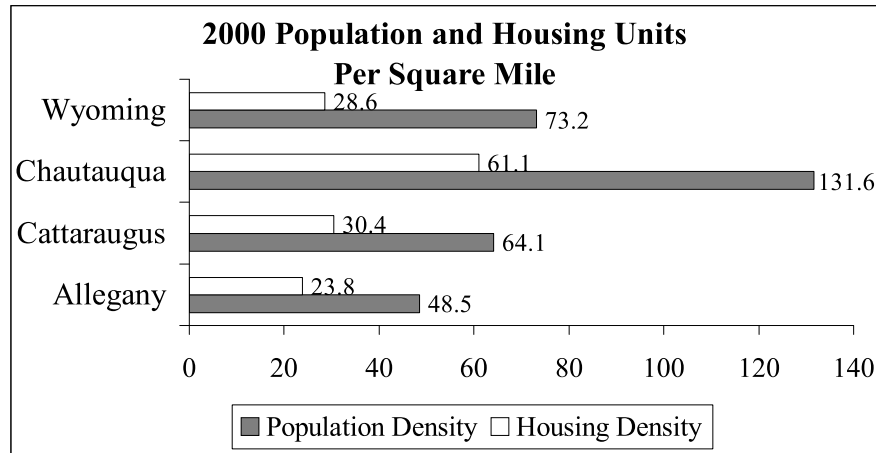
As noted in Figure 1, Cattaraugus County's population decreased slightly, by 2%, from 1980-2000. Of the four counties represented in Figure 2, Cattaraugus County's population per square mile is significantly less than neighboring Chautauqua County, somewhat less than Wyoming County, and greater than Allegany County. When comparing housing units per square mile Chautauqua County continues to rank first but Cattaraugus and Wyoming County are very similar with Allegany County having the least houses per square mile.

Figure 1: Population



Source: US Census

Figure 2: Population and Housing



Source: 2000 US Census

In Table 1, the number of housing units per person is similar for the three Southern Tier counties. Allegany County has 2.04 people per housing unit, Cattaraugus County has 2.1 people per housing unit, and Chautauqua County has 2.15 people per housing unit, while Wyoming County has the most efficient housing pattern of the four counties with 2.56 people per housing unit.

Table 1: 2000 Population and Housing

| | Allegany | Cattaraugus | Chautauqua | Wyoming |
|--------------------------|----------|-------------|------------|---------|
| Population | 49,927 | 83,955 | 139,750 | 43,424 |
| Housing Units | 24,505 | 39,839 | 64,900 | 16,940 |
| Land area (sq mi) | 1,030.2 | 1,309.9 | 1,062.1 | 592.91 |

Source: 2000 US Census

As Table 2 demonstrates, the number of housing units per town varies considerably in Cattaraugus County. All but 2 of the 32 towns have seen at least modest growth in the number of housing units in the ten year period from 1990 to 2000. Not surprisingly, the towns of Ellicottville, Mansfield, and Great Valley have housing unit increases over that ten year period of 17%, 17.5%, and 21% respectively. This is an outgrowth from the village of Ellicottville and is largely due to demands from tourists for seasonal and recreational homes. Housing unit growth was 37% in that time period in the town of Freedom and 21% in Yorkshire due to residential spread from the village of Arcade in Wyoming County. The towns of Humphrey, Ischua, Lyndon, Farmersville, and Hinsdale all saw growth over 20%. Route 16 either goes directly through those towns or nearby, and this increase is attributable to lower density rural residential development as

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people look for affordable land which is accessible to a major transportation route. The town of Otto has a 23% increase in housing units from 1990 to 2000 also due to scattered lot residential growth and outward migration from Erie County.

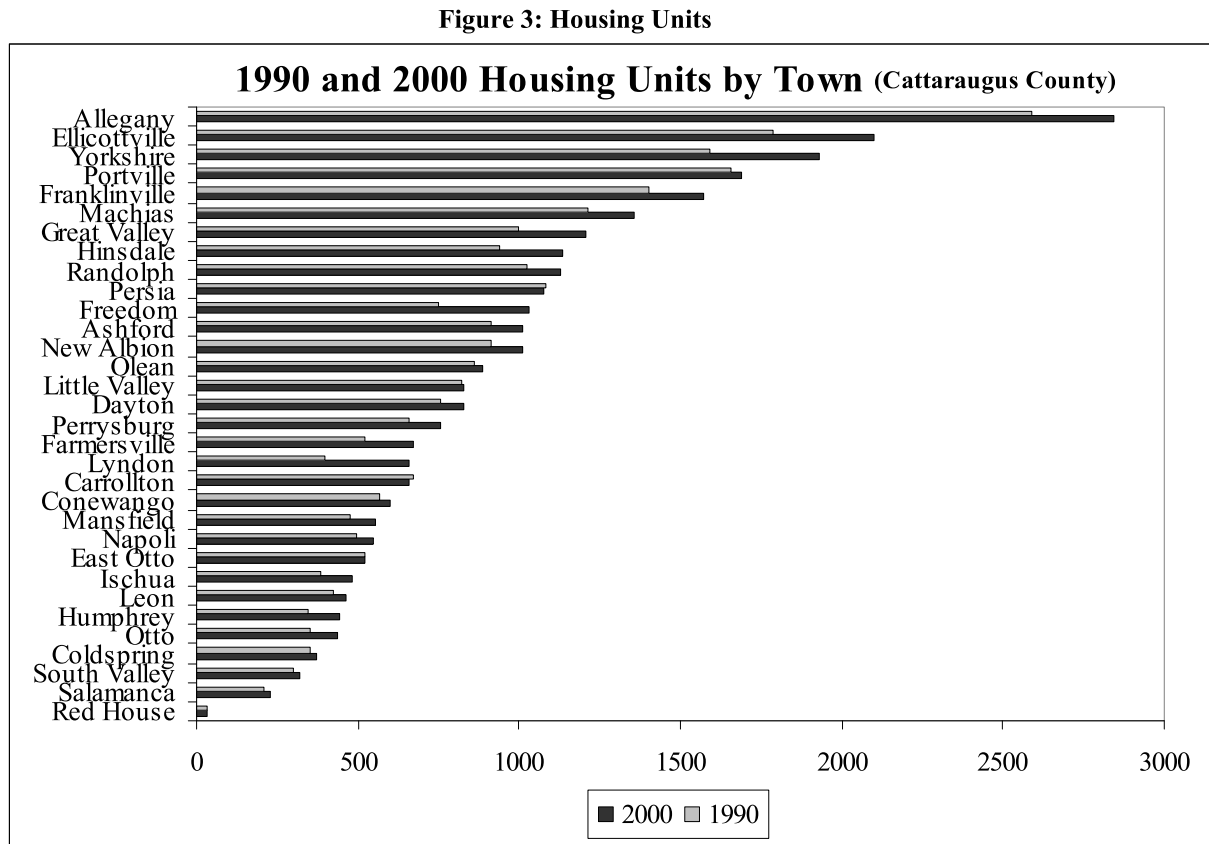
Table 2: Number of Housing Units in Cattaraugus County Towns

| | 2000 | 1990 | Change from 1990 to 2000 |
|---------------|-------------|-------------|---------------------------------|
| Red House | 32 | 35 | -9% |
| Salamanca | 231 | 211 | 9% |
| South Valley | 317 | 298 | 6% |
| Coldspring | 373 | 354 | 5% |
| Otto | 438 | 355 | 23% |
| Humphrey | 446 | 347 | 28.5% |
| Leon | 466 | 425 | 10% |
| Ischua | 481 | 385 | 25% |
| East Otto | 523 | 520 | 1% |
| Napoli | 548 | 495 | 11 |
| Mansfield | 557 | 474 | 17.5% |
| Conewango | 600 | 566 | 6% |
| Carrollton | 656 | 671 | 2% |
| Lyndon | 657 | 399 | 65% |
| Farmersville | 671 | 522 | 28.5% |
| Perrysburg | 754 | 657 | 15% |
| Dayton | 828 | 757 | 9% |
| Little Valley | 828 | 821 | 1% |
| Olean | 884 | 864 | 2% |
| New Albion | 1008 | 915 | 10% |
| Ashford | 1012 | 915 | 11% |
| Freedom | 1029 | 753 | 37% |
| Persia | 1076 | 1082 | -1% |
| Randolph | 1125 | 1023 | 10% |
| Hinsdale | 1136 | 937 | 21% |
| Great Valley | 1207 | 997 | 21% |
| Machias | 1359 | 1215 | 12% |
| Franklinville | 1570 | 1400 | 12% |
| Portville | 1690 | 1658 | 2% |
| Yorkshire | 1932 | 1591 | 21% |
| Ellicottville | 2098 | 1786 | 17% |
| Allegany | 2843 | 2591 | 10% |

Source: US Census

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Figure 3 visually documents housing unit changes for each Cattaraugus County town over the 10 year period.



Source: US Census

Sprawl Without Growth: The Upstate Paradox

Cornell University's Dr. Rolf Pendall and the Brookings Institution recently completed a study titled "Sprawl Without Growth: The Upstate Paradox" that analyzed development and population trends in Upstate New York during the 1980s and 1990s. The study found that despite very slow population growth between 1982 and 1997 in Upstate New York (2.6% increase for the period), 425,000 acres of farm and forestland in the region were developed. While Western New York "sprawled less" than other parts of Upstate during the period, 33,000 acres of farm and forestland were developed during the period despite a loss of 64,500 people. The study reinforced findings from other research that population spread – not population growth – is driving the loss of farmland in Upstate New York.

Banker/Realtor Interviews

Three bankers and three realtors were interviewed to provide anecdotal evidence of land use trends in the county. Interviewees represented the following businesses: Community

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Bank, Farm Credit of Western New York, Farm Service Agency, Concord Land Realty, Holiday Valley Realty Company, and Buncy Real Estate.

Cattaraugus County agricultural businesses proliferate on the northwest side of the county with significantly less agricultural land on the southeast side of the county. The best farmland lies in the valleys, which is also the best and most accessible land for homes and other development. Farmland sales occur, some between farmers, some for home building, and some for hunting but sales have been fairly stable in the last few years. The strength of the timber industry in the county has led farmers to occasionally sell woodlots. Farm foreclosures have been on a downward trend for the last few years which is indicative of the relatively stable state of agriculture in the county. Much of the agriculture is low input, sustainable agriculture which is reflected in the current slow agricultural lending trend in Cattaraugus County. The Amish community is actively buying land and expanding toward the village of Cattaraugus. There are some farm renters in the county who would like to become farm owners and are seeking farms and farmland to purchase. Development pressure is spotty and found in the Salamanca area, Great Valley/Mansfield area, and Ellicottville area. Much of Ellicottville development is driven by homeowners from outside of the state: primarily Ohio, Pennsylvania, and to some extent Canadians. Although Ellicottville has thrived as a ski resort, in recent years it has attracted buyers looking for year-round outdoor recreational activities including hiking and biking. The extension of Route 219 will boost the tourism industry in the county which may lead to some additional development but should also create opportunities for agritourism.

Infrastructure Assessment

Infrastructure such as roads, water, sewer, electric, gas and telecommunication services are critical to the success of the agricultural sector but can also play a role in accelerating non-farm development. The availability and price of electricity and other resources can significantly influence farm profitability. Additionally, farms depend upon safe and well-maintained roadways to move equipment, receive goods and services and ship farm products.

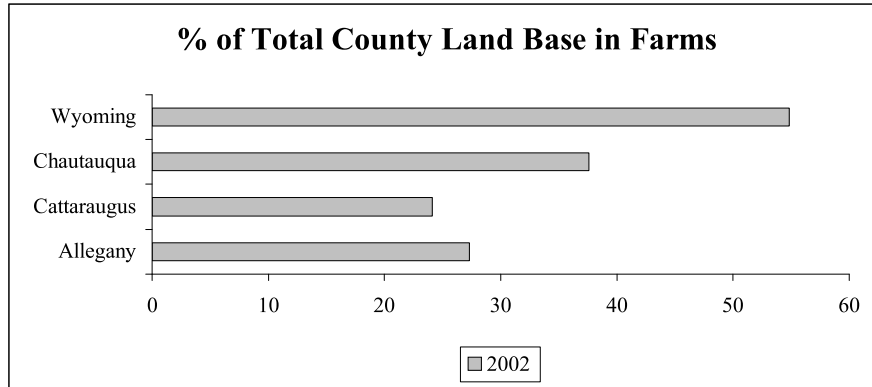
At the same time, infrastructure – particularly roads, water, and sewer – often accelerates new development in rural areas. Without appropriate land use planning, infrastructure extensions can occur in a fiscally inefficient and haphazard manner and spur scattered new development in agricultural areas.

Farm Trends

Farmland Assessment

In 2002, approximately 24% (201,913 acres) of Cattaraugus County's 838,305 acres were estimated to be in farm ownership or use. The County had the least percent of land in farms of the 4 counties shown in the region in Figure 4.

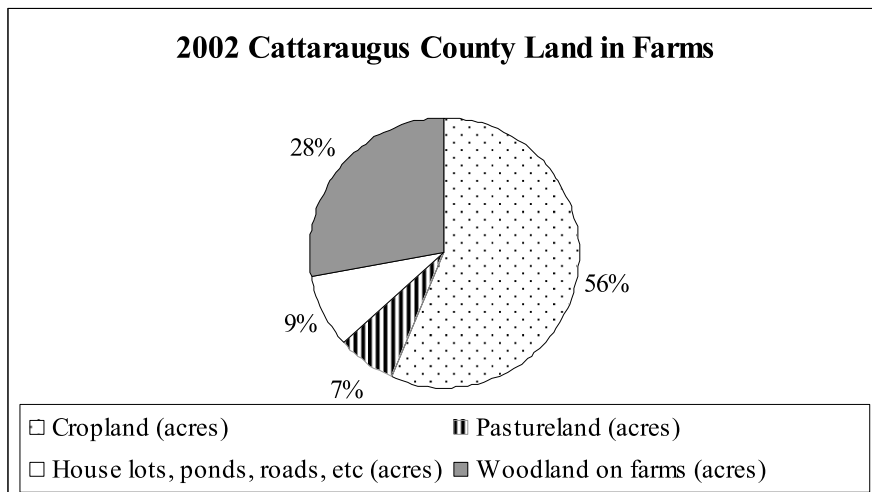
Figure 4: Farm Land Base



Source: 2002 US Census of Agriculture

Land in farms in Cattaraugus County includes cropland (56%), woodland on farms (28%), house lots, ponds, roads, etc. on farms (9%), and pastureland (7%) (See Figure 5). In 2002, 31,069 acres (approximately 15% of the County's land in farms) was rented farmland. If it is assumed that most of this rented land was cropland, rented land constituted almost 1/3 of the cropland in Cattaraugus County.

Figure 5: Land in Farms



Source: 2002 US Census of Agriculture

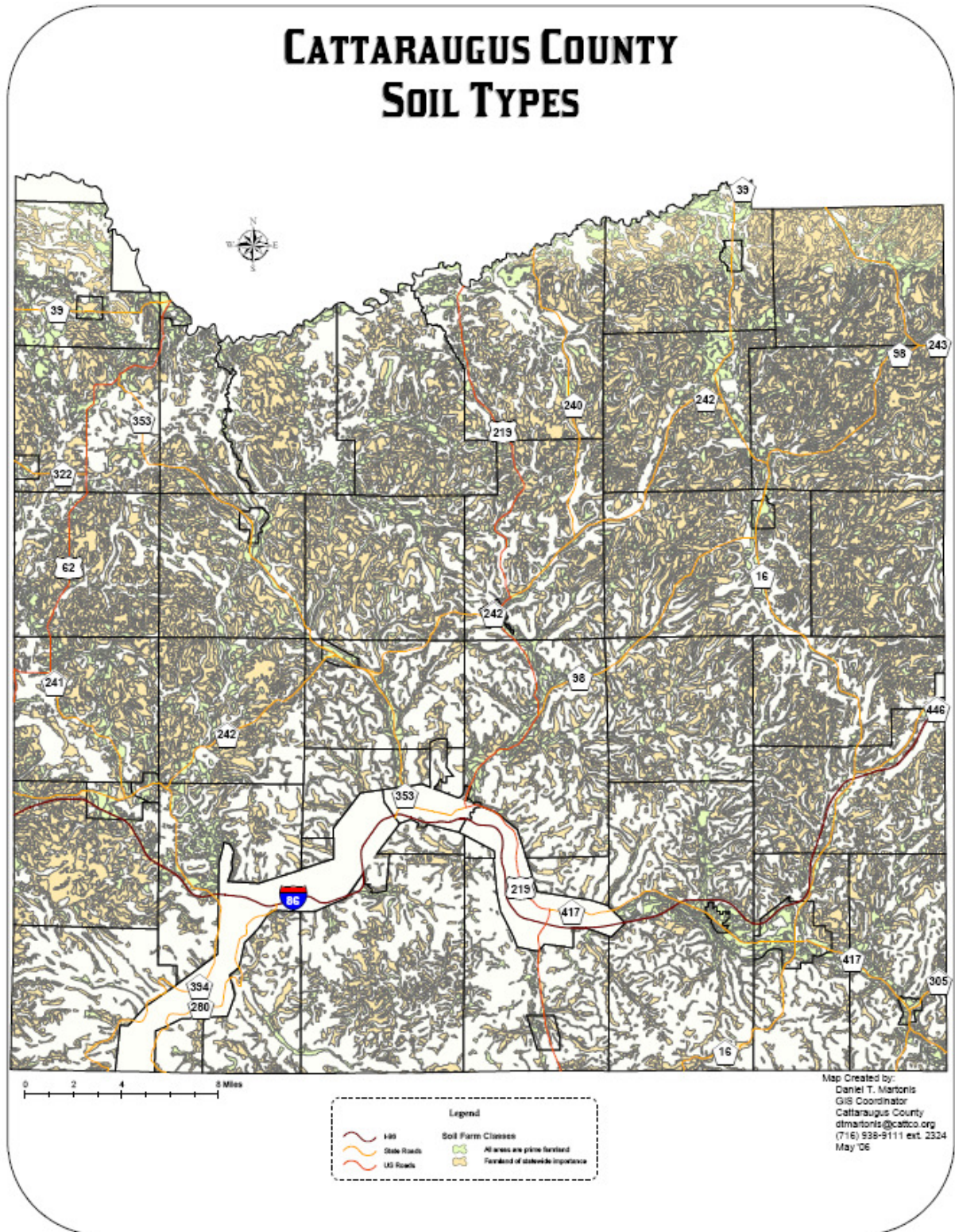
Cattaraugus County: Agricultural Land Use Plan

The four counties compared in Table 3 have some similarities and some differences. Cattaraugus and Allegany Counties are the most similar in terms of acres of farmland and the various uses of that farmland. But Allegany County shows a slight gain in agricultural land in the 5 years between 1997 and 2002, while Cattaraugus County shows a loss of 6.3% of total land in farms. Agricultural commodities and land topography in Chautauqua County are fairly different than Cattaraugus County but Chautauqua County has also sustained a loss of farmland. Wyoming County, one of the top 25 milk producing counties in the country, has a significantly higher proportion of land in agriculture than any of the other 3 counties. Wyoming County also shows strong growth of land in farms. Cattaraugus County had the greatest increase, 29%, in the value of land and buildings per acre on farms with Allegany and Wyoming Counties close behind with 24% and 22% respectively.

Table 3: Farm Statistics from 1997 and 2002

| | Allegany | | Cattaraugus | | Chautauqua | | Wyoming | |
|---------------------------------------------------|----------|-------------------------|-------------|-------------------------|------------|-------------------------|---------|-------------------------|
| | 2002 | Change 1997- 2002 | 2002 | Change 1997- 2002 | 2002 | Change 1997- 2002 | 2002 | Change 1997- 2002 |
| Proportion of Land in Farms | 27.3% | 3% | 24.1% | -6.2% | 37.6% | -5.3% | 54.8% | 4% |
| Total Land in Farms | 180,169 | 3% | 201,913 | -6.3% | 255,896 | -5% | 215,317 | 10.5% |
| Cropland | 101,707 | 6% | 108,279 | -6.5% | 149,985 | -3.5% | 151,257 | 11% |
| Pastureland | 12,497 | -2.5% | 18,066 | 2% | 15,737 | -25% | 11,912 | 17.3% |
| Land in House Lots, Ponds, Roads, Wasteland | 15,806 | -4% | 15,183 | -24% | 27,678 | 2% | 19,436 | 14.5% |
| Woodland on Farms | 50,159 | 2% | 60,385 | -3% | 62,496 | -6% | 32,712 | 3.1% |
| Rented Land in Farms | 28,159 | -4% | 31,069 | -14% | 39,054 | -9% | 51,790 | 18% |
| Value of Land & Buildings per Acre | \$1,056 | 24% | \$1,293 | 29% | \$1,401 | 16% | \$1,341 | 22% |

Source: 2002 US Census of Agriculture



Land Use Tools

Loss of farmland and its associated benefits of food production, stabilization of local economies, protection of the environment, and enhancement of the quality of life are being felt to varying degrees throughout the country. Common to most situations is the threat to the land base from sprawling suburban development and the vulnerability of a challenged industry, often in transition. Given the diversity of types of agriculture and the various governmental structures, protection of agriculture and farmland takes many forms. They are often in the form of land use regulations, agriculture economic development initiatives, and purchase of development rights to permanently secure a land base for the industry. The communities around the nation making the greatest strides are those employing some combination of the tools described in this section, as well as a robust economic development strategy – all customized to their respective circumstances.

In this section, land use planning techniques are discussed, as well as programming considerations for purchase of development rights (PDR) and a short primer on economic development tools for agriculture is provided. Finally, the current menu of options made available to jurisdictions and landowners by the State of New York to help protect agriculture in their communities completes this section.

At the local level, planning and zoning are important farmland protection tools. When a local area strives to sustain its agricultural economy and protect farmland, these objectives should be reflected in the planning and zoning process.

Comprehensive Plans

Comprehensive plans, also known as master or general plans, allow communities to create a long-term vision for their future. They outline local government policies, objectives and guidelines regarding development. Typically, they identify areas best suited for a variety of land uses, including agriculture, forestry, residential, commercial, industrial and recreational activities.

Comprehensive plans can establish a commitment to local agriculture by protecting natural resources and promoting farm business opportunities. Comprehensive plans can form the basis of a local farmland protection strategy by identifying areas to be protected for agriculture and areas where development will be encouraged. They also should aim to conserve natural resources while providing affordable housing and adequate public services.

Zoning

Zoning is usually the chief tool, along with the water and sewer plan and transportation plan, to implement what the community agreed to work toward in the comprehensive plan. Legally, all zoning requirements must be in accordance with a comprehensive plan. Zoning controls usually function at the smallest level of government. Zoning ordinances segment portions of counties, cities and towns into areas devoted to specific land uses. They also establish standards and densities for development.

Zoning ordinances, lot size requirements, and road specifications may affect agriculture immensely and should be reviewed carefully. Many local governments and planning boards assume that farming is a residential land use. Worse, they consider agriculture a temporary land use until further suburban or non-farm development occurs. As a result, farmland is often zoned in rural/residential districts, which may encourage premature conversion of the land.

Zoning can be used as a form of farmland protection. For instance, maintaining a lower density of development in an area may be beneficial to farming. Fewer neighbors mean fewer potential conflicts. Local governments can reduce the density of development in two ways: by increasing the minimum lot size or by reducing density without requiring large lots that may prove to be “too small to farm and too big to mow.”

Several different zoning techniques that may be used to encourage the protection of farmland are outlined below.

Agricultural Protection Zoning (APZ) - Agricultural protection zoning stabilizes the agricultural land base by keeping large tracts of land relatively free of non-farm development. For APZ to be effective, the area’s farming industry must be profitable, and farmers must be committed to keeping their land in production. Agricultural protection zoning ordinances designate areas where farming is the primary land use. They discourage development that could impair the land’s use for commercial agriculture and they restrict the density of residential development. They generally require building on small lots as opposed to dividing tracts into large, equally sized lots. Most ordinances make use of a fixed density, allowing, for instance, one dwelling for every 25 acres. Others are based on a sliding scale, with the dwelling and acreage allowances more flexible.

Sliding Scale Zoning - Sliding scale zoning uses a scale to determine the number of lots that potentially could be developed in an area. Owners of smaller parcels are allowed to divide more land into lots than are owners of larger parcels. To keep farmland in productive use, maximum lot sizes (usually two or three acres) typically are established. Non-farm development is directed to less productive land.

Cluster Zoning - Cluster zoning ordinances allow or require houses to be grouped close together on small lots to protect open land. They increase density on part of a parcel while leaving the rest undeveloped. This allows the construction of the same number of houses, while minimizing the impact to the area’s natural resources.

For example, the zones residential density is one unit per five acres and the parcel in question is 100 acres. This parcel could be divided into either 20 5-acre parcels or 20 1-acre parcels and an 80-acre parcel. In both examples, the result is 20 building lots (not considering the 80-acre parcel as a separate building lot) with a density of one unit per five acres. In the latter example, however, a relatively large, agriculturally viable parcel remains.

Cluster subdivisions may keep land open for future agricultural use, but generally they are not designed to support commercial agriculture. In addition, clustering may create tension between residential and agricultural land uses if new neighbors object to the sights, sounds and smells of commercial farming. To increase its usefulness as a farmland protection tool, provisions should be made to protect commercial farming or recognize that cluster arrangements may be more appropriate near less-intensive farming operations. New York Town Law, Section 281, allows municipalities to permit, or require, cluster development.

Large-Lot Zoning - Generally, large-lot zoning (that designates minimum lot sizes as small as five to ten acres) is not considered a farmland protection technique. In fact, it may encourage the premature conversion of farmland since it often results in the purchase of more residential acreage than homebuilders actually want or need. Large-lot zoning often is used in conjunction with lists of “permitted by right” uses that fail to view agricultural areas as important commercial zones worthy of special protection from incompatible uses.

Performance Standards - Performance standards can minimize the impact of development on farming. They may be used to steer development away from prime agricultural soils and existing farm operations. They usually are applied on a case-by-case basis, and they require discretionary decisions by a local planning board. Some factors that can be used as performance standards are:

- Potential for conflict with agriculture.
- Need to minimize the amount of converted agricultural soils.
- Agricultural productivity of the land and soils involved.
- Compatibility with existing or permitted uses on adjacent property.

Overlay Districts - Some communities have used agricultural overlay districts to direct development away from prime farmland. While overlays lessen the impact of development on agriculture, they generally regulate how—not if—farmland is developed. So far, such districts have not been used to change underlying density requirements or limit non-farm uses. Agricultural overlay districts can be used to trigger cluster zoning provisions, buffer strips or other performance standards.

Subdivision Regulations

Unlike zoning ordinances, which address whether specific uses are permitted, subdivision regulations specify how development will actually occur and exactly what form it will take. For example, zoning ordinances designate how many lots can be developed on a parcel, but subdivision regulations determine where those lots will be located and how the land is developed. Subdivision regulations are usually the home of buffer requirements – the distance of homes or wells from farm operations - that can be critical for continued operation of adjacent farms.

Buffers - In rapidly growing areas, development inevitably will occur adjacent to active farm operations. Based on the concept that “good fences make good neighbors,” buffers create physical barriers between potentially incompatible land uses. Buffers may be created by strips of land (from 50 to 500 feet wide) or by vegetation such as existing hedgerows, planted trees and shrubs. Some subdivision ordinances require the developers to provide the buffers. To be effective, buffers must be designed on a site-specific basis and adapted to address different types of agricultural operations. In some cases, they simply may not be effective.

Mitigation Techniques - Mitigation techniques applied to high quality farmland refers to a “no net loss” approach to farmland protection. Land taken out of agriculture use and/or zoning must be replaced with either new land of equal size and productivity being brought into agricultural use or a fee paid by a developer to permanently protect acreage elsewhere.

In New York, the state Legislature has created a mitigation requirement in the Agricultural Districts Law. Section 305(4)(h-1) requires mitigation when land is taken by eminent domain for use as a landfill. The provision became effective January 1, 1998, representing the first time that a mitigation requirement has been applied to farmland in New York. The Army Corps of Engineers has also utilized the concepts of mitigation and “no net loss” routinely for the protection of wetlands. Such mitigation provisions are a way to balance growth and resource protection.

Transfer of Development Rights (TDR)

Transfer of development rights programs allow landowners to transfer the right to develop one parcel of land to a different parcel of land. (By contrast, cluster zoning usually shifts density within a parcel.) TDR programs can protect farmland by shifting development from agricultural areas to areas planned for growth.

Section 261-a of the Town Law and section 7-703 of the Village Law explicitly empower municipalities to authorize transfer of development rights. Such programs are defined in these provisions as “the process by which development rights are transferred from one lot, parcel or area of land in any sending district to another lot, parcel, or area of land in one or more receiving districts.”

To implement TDR, receiving and sending districts are designated and mapped in accordance with a comprehensive plan. State law dictates that the sending district may include agricultural land and that the receiving districts must have the infrastructure needed to support increased development. Development rights are documented as conservation easements that are enforceable by the town or other designated entity. They may be bought or sold by the municipality for deposit in a development rights bank.

Flexibility is important throughout the TDR process. For TDR to work, communities must build consensus on its use as a way to protect resources and direct future growth. A market must exist for both the development rights (either in the private sector or via a municipal development rights bank) and the higher density development that will result. While the TDR technique holds promise in theory, it has not been utilized in New York due to the complexity of its administration and its unproven track record.

Examples of New York Towns with farmland protection in their land use planning process

Town of Pittsford—After adopting an updated comprehensive town plan in 1995, the Pittsford Town Board developed a rating formula to evaluate the town’s remaining land resources. The highest rated parcels were identified in Pittsford’s *Greenprint for the Future* plan in 1996. The *Greenprint* steered development away from areas of ecological importance, recommending that approximately 60 percent of the town’s remaining undeveloped land be protected. In 1996, the town board approved \$9.9 million in bonds to purchase development rights and permanently protect seven farms totaling 1,100 acres.

Town of Stuyvesant—In 1993, Stuyvesant (located south of Albany in northern Columbia County) was accepted into the “model communities program” of the Hudson River Greenway Communities Council, which provided funding and technical assistance for the town to develop a comprehensive plan. The plan identified agriculture as the town’s primary land use; the town has since implemented a right-to-farm law and passed a resolution declaring Stuyvesant to be an “agricultural community.” The town also is considering farmland protection techniques such as incentives for residential clustering, low-density zoning and PDR.

Town of Ithaca—Located in the heart of the Finger Lakes Region, the town of Ithaca’s 1997 *Park, Recreation and Open Space Plan* incorporated recommendations from a 1992 report, *Planning for Agriculture in the Town of Ithaca*, that emphasized the importance of agriculture to the town’s economy and quality of life. The report made several policy recommendations including revising zoning regulations, integrating agricultural policy statements into the town’s comprehensive plan, creating a voluntary PDR program, and establishing a permanent town agriculture committee (which was created in 1993). The 1997 open space plan estimated the acquisition of development rights to important lands would cost the town \$3.7 million over 20 years, approximately \$15 per resident per year—a somewhat modest investment on a per capita basis.

Purchase of Development Rights (PDR)

In general, landowners possess a variety of rights to their property, including the rights to use water resources, harvest timber or develop the property consistent with local regulations. Some or all of these rights can be transferred or sold to another person. PDR programs enable landowners to voluntarily separate and sell their right to develop land from their other property rights. Participating farmers are typically offered the difference between the restricted value of the land and the fair market value of the land. A permanent conservation easement is recorded in the land records binding all future owners. The land remains in private ownership and on the tax rolls.

Local PDR programs can prevent development that would effectively eliminate the future possibility of farming in an area. Selling an easement allows farmers to cash in a percentage of the equity in their land, thus creating a financially competitive alternative to development. Agricultural producers often use PDR program funds to buy and/or improve land, buildings and equipment, retire debt and increase the viability of their operations. The reinvestment of PDR funds in equipment, livestock, and other farm inputs also may stimulate local agricultural economies.

Benefits

- Protects farmland permanently, while keeping it in private ownership.
- Participation in PDR programs is voluntary.
- Allows farmers to capitalize on unrealized assets—their land.
- Can be implemented by state or local governments, or by private organizations.
- Can provide farmers with a financially competitive alternative to development.
- Can protect ecological as well as agricultural resources.
- Removes the non-agricultural value of land, which, in some places helps keep it affordable to farmers.

Drawbacks

- It is expensive.
- PDR programs generally are oversubscribed. In New York, funding for PDR has been limited, with demand far exceeding available funds.
- Purchasing easements is time consuming. Participants in the state program generally must wait at least a year before all details regarding their easements are finalized.
- Monitoring and enforcing easements requires an ongoing investment of time and resources.

The effectiveness of PDR programs depends on how well municipalities address several key issues. There are many factors that a municipality or organization needs to consider before participating in the New York State Agricultural and Farmland Protection Program or before designing their own local PDR program. These include deciding what kind of farmland to protect, which geographical areas to focus on and how to set priorities; what restrictions to put on the use of the land; how much to pay for easements; how to raise purchase funds; how to administer PDR programs; and how to monitor and enforce easements.

Setting Priorities

Setting priorities for a PDR program is an exercise in achieving balance. Since the program is voluntary, it needs to be attractive to the farmers who own the county's prime agricultural resources. Flexible easement conditions and reasonable prices to facilitate participation by farmland owners are as important as raising the public funds to buy the easements. The process of setting priorities assumes funding and participation. It takes a number of forms.

With the development of Geographic Information Systems (GIS), strategic farmland mapping is a relatively new expression of a jurisdiction's priorities. It is a very effective way to graphically depict what is the most important and the most vulnerable land so that purchases with limited funds can be strategic. This sort of mapping is also an indispensable tool for education of the public and local officials about the connection between the agricultural resources and public infrastructure decisions.

Eligibility criteria are minimum requirements for participation. Sometimes they are reflections of purpose clauses or other legal requirements in state PDR enabling legislation or local ordinances. They often include categories such as location, develop-ability, parcel or farm size, soil quality, and stewardship provisions. These criteria are the first round of a selection process because they decide who can apply to sell easements.

Once applications are received, a ranking formula is used to decide the order in which offers will be made until the funds allocated to that 'batch' of properties is spent. It is a means of stating preferences among eligible applicants. Because the goal of the program is the long-term protection of the land base, rankings formulas typically are heavily weighted for soil quality and size characteristics and for adjacency to other farmed and/or protected land. However, they often contain categories of points measuring economic productivity, capital investment, ease of development/threat, and degree of public policy support (i.e., agricultural protection zoning) context for the purchase.

Agricultural Conservation Easements

The conservation easement is the legal instrument that protects the land for agriculture over time. They are written documents signed and acknowledged by all parties involved. They are filed with the county clerk's office so that future owners and lenders will learn about the restrictions through a title report. Depending on the circumstances of the transaction, the easement may need to meet the requirements of the New York Environmental Conservation Law and the federal tax code.

The purchase of development rights uses a conservation easement to secure the removal of development rights on the property. Most conservation easements are permanent. The farmland owner retains all other rights of ownership and can continue to farm the land as he or she did before. The land remains private and on the tax rolls.

Because agriculture is always evolving, agricultural conservation easements must be flexible and tailored to meet its ever-changing conditions. Generally, they:

- Extinguish virtually all non-farm development rights (i.e., the right to build residential or non-agricultural structures).
- Limit future uses of the land that degrade the agricultural value or productivity of the land.
- Encourage the business of farming.
- Permit the construction of new farm buildings and farm employee housing.
- Do not require public access.

Determining Easement Value

In general, the value of an easement is the fair market value of the property minus its restricted value, as determined by a qualified appraiser. For example, if the market value of an unprotected parcel of farmland is \$200,000, but worth only \$100,000 if protected with an agricultural conservation easement, then the farmer is paid the difference of \$100,000 for selling the development rights. Landowners may choose to donate some or all of the value of their development rights as a way to permanently protect their farmland and potentially reduce income and estate taxes.

Program Costs

Most PDR programs (including New York State's) require a local dollar match, county and municipal funds are also necessary for the implementation of PDR projects. For example, the New York State PDR program will fund up to 75% of the cost of a purchased easement. The remaining 25% must be matched by local jurisdictions. The following section outlines several ways local communities can finance their PDR programs.

Bonds - In the past decade, many New York communities have recognized that farmland conservation is a long-term investment. Several of these communities have issued municipal bonds to pay for the purchase of development rights on farmland. Suffolk County on Long Island was the first. In 1976, they authorized a \$21 million bond program to pay for the development rights to thousands of acres of farmland. Since then, several towns on the eastern end of Long Island also have instituted bond programs of their own. In the 1990s, the western New York town of Pittsford authorized two consecutive \$5 million bonds to fund its farmland protection program.

General Revenues - Other communities have set aside annual appropriations to pay for farmland protection projects by using current revenues. The town of Amherst has allocated funding for its projects in this manner, as well as the town of Ithaca.

Real Estate Transfer Taxes - In 1998, the state Legislature and Governor Pataki approved a law that allowed five towns in the Peconic Bay region of Long Island to establish individual community preservation funds. The proposed funding mechanism would create a 2 percent real estate transfer tax to apply to most high-end property sales. The tax, paid by the purchaser, is based on property value above a designated threshold.

In 1998, the proposed real estate transfer tax was approved by voter referendum in all five towns as a way to raise money for the protection of farmland and other resources. The money raised in each town through tax revenues will be used to purchase development rights on farmland, as well as protect other environmentally sensitive or historic properties. New York State approval will be required before local communities can increase the real estate transfer tax.

Public/Private Partnerships - Some municipalities have successfully used partnerships with private organizations to facilitate their PDR programs. In some areas, local land trusts, once formed primarily by conservationists concerned about vanishing habitat and open space, have formed to tackle the challenges of preserving farmland. It is possible for a private land trust to have the needed easement settlement and administration expertise that municipalities may lack.

For example, a land trust may play a key role in assembling PDR applications; holding, monitoring and enforcing easements; managing the PDR program; or providing a portion of the local match as in-kind credit or in cash. In addition, land trust involvement may increase the incentive for farmer participation, since landowners who donate an easement or a portion of their property to a nonprofit land trust may receive a federal tax deduction, thus offsetting some of their capital gains tax liability.

Stewardship and Monitoring

When landowners sell or donate an agricultural conservation easements to the State, municipality or a qualified nonprofit conservation organization, that agency or organization then ‘holds’ the easement. The holder of an easement is obligated to monitor the land involved and uphold and enforce the terms of the agreement.

Though the New York State Agricultural and Farmland Protection Program provides funding to purchase development rights to farmland, New York State Department of Agriculture & Markets, itself, does not hold easements. It is often the town or county that holds the easement and therefore takes on the perpetual responsibility to monitor its conditions.

Known as stewardship, the process of holding and maintaining easements is an important consideration to any PDR program. Good stewardship will help ensure the perpetual nature of the easement. The municipality holding the easement should set up a system for administering, monitoring and enforcing the easement terms. That involves creating baseline documentation, maintaining a good working relationship with the landowner, monitoring the property, and, if needed, addressing violations. In recognition of this permanent obligation and responsibility, project costs in the New York State Agricultural and Farmland Protection Program can include funding for stewardship expenses as part of the initial transaction for which state assistance payments are sought.

New York State Agricultural and Farmland Protection Initiatives

New York State first formalized its Agricultural and Farmland protection efforts in 1971 with the passage of the Agricultural Districts Law, also known as Article 25-AA. The law recognizes that while agricultural land is one of the State's most important resources, farmland throughout New York is threatened by non-farm development. The law's purpose is to provide local mechanisms for keeping land in agricultural production.

The Agricultural Districts Law has been amended several times. In 1992, it was enhanced significantly to support New York State's farmland protection activities. These changes were included in the Agricultural Protection Act, signed into law that year. Among other amendments, the legislation included stronger right-to-farm protection and established a statewide agricultural and farmland protection program.

The following components of the agricultural and farmland protection efforts in New York State are:

- Agricultural Districts
- Tax relief
 - Agricultural assessment
 - Ad valorem limitations
 - Farmers' school tax credit
 - Farm building exemptions
 - Sales tax relief for farm supplies
 - Local tax abatement
- Right-to-Farm "Package"
- Agricultural and Farmland Protection Program
 - Planning grants
 - Purchase of development rights (PDR) grants

The players include the Advisory Council on Agriculture (ACA) at the state level and county Agricultural and Farmland Protection Boards (AFPB) at the local level.

Agricultural Districts

In 1971, the Agricultural Districts Law set forth the concept of "agricultural districts" as an effective and politically viable way to protect New York farmland. In exchange for designation as an agricultural district farmland owners benefit from limitations to utility ad valorem taxes, protection from local regulations that might impinge on necessary farming practices, and limited protection for nuisance suits under right-to-farm legislation.

An agricultural district is initiated when interested landowners submit a proposal to their county legislative body. The owners must collectively own at least 500 acres (or 10 percent) of the land proposed for the district. In considering the agricultural district proposal, the county legislature evaluates:

- The viability of active farming in the district and adjacent areas
- The presence of viable farmland that is not actively farmed
- The extent of other land uses
- County development patterns and needs

Once the county legislative body adopts an agricultural district, the commissioner of New York State Department of Agriculture & Markets must certify the district. Agricultural districts are reviewed every eight years by the County legislature. Recent amendments (2002) to the law allow landowners to petition and be included in a district at any time, rather than waiting for the eighth year review. However, land cannot come out of a district except during that review.

Agricultural districts have been created in 52 of New York's 57 counties. As of early 2003, 325 districts encompassed more than eight million acres statewide, with an average district size of approximately 26,000 acres.

Tax Relief

Tax relief is an important issue for farmers. Farms need land to operate and property taxes on farmland are a significant expense. Taxes on farm buildings are often substantial as well. Farmers often say, "Cows don't go to school," which reflects the concept that taxes on agricultural land should be proportionate to its demand on municipal services and its ability to generate income. Because farmland tends to provide more in property tax revenues than it requires in public services, keeping it in production may help control the cost of community services.

Since overtaxed agricultural land may be more susceptible to conversion to non-agricultural uses, tax relief measures may also be considered a farmland protection tool. The expense of property taxes may discourage farmers from buying land and can force existing farmers to sell. Farmers' savings from property tax relief programs can be significant and may make the difference between staying in business and selling out. Several state and local programs now exist to offer various kinds of property tax relief for farmers.

Agricultural Assessment - New York's Agricultural Districts Law established agricultural assessment as a way to provide property tax relief for farmers. Agricultural assessment allows farmland to be taxed for its agricultural value rather than its market value. Any land used for agricultural production may qualify if it meets the acreage and income requirements established by the Agricultural Districts Law. This provision recently changed from 10-acre minimum parcel size to 7 acres plus \$10,000 a year in agricultural sales. Smaller parcels are eligible if they generate at least \$50,000 annually. Another important change in agricultural provisions was to allow horse boarding income to count toward agricultural income. Thoroughbred breeders may also now count their winnings as income. Land does not have to be located in an agricultural district to receive the assessment.

Agriculture & Markets maintains an agricultural land classification system based on soil productivity that is used by the New York State Department of Real Property

Services. The system consists of 10 primary groups of mineral soils and four groups of organic (muck) soils. In determining agricultural assessment, the local assessor multiplies the State certified assessment value for each soil group by the total number of acres within the soil group. The assessor then totals the sub-amounts and applies the local equalization rate to determine the parcel's agricultural value.

Land placed under agricultural assessment and then converted to a non-agricultural use is subject to conversion fees. These payments equal five times the taxes saved in the last year during which the land was receiving an agricultural assessment, plus 6% interest compounded annually for each year that the assessment was granted (up to five years).

Ad Valorem Limitations - The Agricultural Districts Law limits the taxation of farmland for certain municipal improvements such as sewer, water, lighting, non-farm drainage, solid waste disposal or other landfill operations. Land used for agricultural production within an Agricultural District cannot be taxed for such improvements unless the fees were imposed prior to the formation of the District—or unless the farm structure benefited directly from the improvement district. The fees may be imposed on a one-half acre lot surrounding any dwelling or non-farm structure located on the farm's land. In addition, the governing body of a fire protection or ambulance district may adopt a resolution to state that agricultural assessment values be used to determine the taxes levied by that district.

Farmers' School Tax Credit - In 1996, the Farmers' Protection and Farm Preservation Act created the farmers' school tax credit. This allowed eligible farmers to obtain an income tax credit (or corporation franchise tax credit) for school district property taxes.

The credit applies to school taxes paid by the farmer on land, structures, and buildings used for agricultural production in New York. Farmhouses used as personal residences do not qualify. However, some farmers may also qualify for the New York State School Tax Relief (STAR) program to receive a partial exemption on the assessment of their houses. STAR is a residential tax exemption available to anyone in the State who meets age and/income criteria.

The farmers' school tax credit is fully funded by the State. It is neither a real property tax exemption nor is it affiliated with the agricultural assessment program. The credit does not diminish local school district revenue and does not shift the school tax burden to farmers' neighbors.

Farm Building Exemptions - Several provisions in the Real Property Tax Law exempt farm buildings or structures from property taxes. Section 483 exempts new and rebuilt farm buildings for ten years. Section 483-a exempts entirely certain agricultural structures from taxation, including farm silos, feed grain storage bins, commodity sheds, bulk milk tanks and coolers, and manure storage and handling facilities. Section 483-c also exempts temporary greenhouses.

The Real Property Tax Law also offers a limited exemption for the rehabilitation of historic barns. Local governments and school districts may authorize a 10-year exemption for the increase in value to a reconstructed or rehabilitated barn. This does not apply to buildings that have already received exemptions, to barns used for residences, or to renovations that alter historic appearances.

Local Tax Abatement - Local municipalities can also offer tax abatement targeted at their working landscapes. For example, the towns of Perinton, Penfield and Webster in Monroe County have enacted local tax abatement programs in exchange for term conservation easements. Authorized by Section 247 of the General Municipal Law, these programs offer reductions in property taxes to participating landowners.

In Saratoga County, the town of Clifton Park recently enacted a local tax abatement program for owners of 15 or more acres of farmland or open space who agree to keep their land in farming, or open, for at least 15 years. Two adjacent landowners can apply if their combined acreage meets the 15-acre minimum. Landowners who convert their land prematurely face penalties.

Right-To Farm ‘Package’

The continued development of agricultural areas has increased the potential for conflicts between farmers and their neighbors. In 1992, the Agricultural Districts Law was amended to add a limited defense for farmers against private nuisance lawsuits. Commonly referred to as the right-to-farm law, all 50 states have enacted some kind of nuisance protection law. Generally, these provisions aim to strengthen the ability of farmers to defend themselves in a nuisance suit brought by a neighbor or local government.

Right-to-farm laws also may be used to shield farmers from excessively restrictive local laws or to ward off intrusive and unwanted public infrastructure. Right-to-farm provisions can improve the viability of farm businesses since a “farm-friendly” local business climate can allow farmers to invest more in the future of their operations.

Despite the ambitious tone of their title, right-to-farm laws are not meant to shield farmers from all legal disputes with neighbors. However, they assert that a person who voluntarily moves into the vicinity of the nuisance activity (which is interfering with his or her enjoyment of the property) has no right to expect that a court would restrict such an activity.

The Agricultural Districts Law now provides five types of right-to-farm protections for farm businesses:

- Definition of Agriculture—Requires the commissioner of New York State Department of Agriculture & Markets to determine whether land uses are agricultural in nature.
- Local Ordinance Provision—Provides protection against laws that unreasonably regulate farm operations in agricultural districts.

- Notice of Intent–Requires analysis of proposed public projects that may impact farms in agricultural districts.
- Sound Agricultural Practice Determinations–Offer limited protection from private nuisance claims.
- Disclosure Notices–Inform property buyers about farming practices before they purchase property in an agricultural district.

Many notice-of-intent filings concern proposals to extend water and sewer lines into farming areas. These filings are so common that the Department of Agriculture & Markets has developed guidelines for water and sewer transmission mains located wholly or partially within an agricultural district. Three of the four guidelines relate to construction. They strive to minimize the disruption of farm enterprises, address soil compaction and erosion, and provide repair for any damaged agricultural drainage systems. The fourth guideline recommends that future water and sewer service be provided only to agricultural structures.

Agricultural and Farmland Protection Program

New York State’s Agricultural and Farmland Protection Program was enacted in 1992 as part of the Agricultural Protection Act. The program, often referred to as Article 25-AAA, encourages counties and towns to work with farmers to promote local initiatives that help maintain the economic vitality of agriculture and protect the industry’s land base.

Under this program, funds are available for counties to develop agricultural and farmland protection plans. Since 1994, 48 counties have received planning grants through the State’s Environmental Protection Fund to develop such plans. Forty counties have completed and approved plans. In 1996, the State amended Article 25–AAA to provide counties that have approved plans, known as eligible municipalities, with implementation grants to purchase development rights to farmland.

Planning Grants - County agricultural and farmland protection boards, in conjunction with local soil and water conservation districts and the United States Department of Agriculture Natural Resources Conservation Service (USDA NRCS), develop agricultural and farmland protection plans. These plans locate important county farmland, analyze the agricultural and environmental value of such farmland and identify threats to its continued agricultural use. They also describe activities, programs and strategies that will help keep the land in agriculture.

Completed agricultural and farmland protection plans, while tailored to the specific concerns of their region, usually address four critical issues:

- Agricultural viability and profitability–For agriculture to succeed, it must be profitable.
- Agricultural land use and farmland protection–Maintaining the land base for agriculture is crucial to its success as an industry.

- Agricultural awareness and public education—Public support for agriculture depends on educational efforts that stress its importance.
- Municipal land use—Review of local laws, ordinances, regulations and comprehensive plans can help identify potential conflicts with agriculture.

Strategic agricultural and farmland protection plans are only the beginning of a continually evolving process. To ensure their greatest success, plans must be evaluated periodically and revised as needed. They also will not achieve their objectives unless the recommendations they make are enacted. Responsibility and oversight for implementation efforts must be assigned. In addition, future actions should be prioritized in order to focus efforts once the plan has been adopted.

Funding sources for implementation also need to be identified and obtained. Some implementation efforts, such as purchasing development rights, can make use of state farmland protection grants. Other initiatives, such as agricultural economic development, likely will require local funding sources as long as state funds are not available for that purpose. Still other initiatives may serve as catalysts for new statewide or regional programs or may create new partnerships between public and private sectors.

Purchase of Development Rights (PDR) Grants - In 1996, the New York State Legislature provided eligible municipalities that have approved agricultural and farmland protection plans with implementation grants to purchase development rights (PDR) on farmland. PDR is a voluntary farmland protection technique that pays farmland owners for permanently protecting the land for agriculture.

In New York, PDR was first funded in 1996 under the State's Environmental Protection Fund and the Clean Water/Clean Air Bond Act. Grants have been awarded to communities across the state. Since the program's inception, competition for the state's limited funds has been intense. From 1996 to 2003, farmland protection grants were awarded to counties and towns throughout New York, totaling nearly \$56 million to protect 22,000 acres in 115 easements. As of April 2003, 60 easements totaling 10,600 acres and representing \$20 million have completed settlement. PDR programs have become increasingly popular with farmers. Despite the recent allocation of state grants, however, current funding levels have not been sufficient to meet the growing demand for agricultural conservation easements. Only about a quarter of all applications for PDR sale are able to be funded.

While there are no minimum eligibility requirements to apply, the State uses the following selection guidelines when choosing which projects to fund:

Priority is given to projects that:

- Preserve viable agricultural land,
- Are in areas facing significant development pressure, and
- Serve as buffers for a significant natural public resource.

Additional criteria considered are:

- Number of acres preserved,
- Soil quality,
- Percentage of total farm acreage available for agricultural production,
- Proximity to other conserved farms,
- Level of farm management demonstrated by current landowner, and
- Likelihood of the property's succession as a farm if ownership changes.

Advisory Council on Agriculture

The Advisory Council on Agriculture (ACA) is appointed by the Governor and authorized to make recommendations on state government plans, policies and programs affecting agriculture. This includes agricultural districts, agricultural assessment values and land use issues.

The ACA consists of 11 members selected for their expertise. At least five members are operators of commercial farm enterprises and at least two are local government officials. The rest represent agricultural businesses or institutions. The ACA also invites participation by the Chair of the state soil and water conservation committee and the Dean of the New York State College of Agriculture and Life Sciences at Cornell University.

County Agricultural and Farmland Protection Boards

In 1992, the Agricultural Protection Act reconstituted the former agricultural district advisory committees as county agricultural and farmland protection boards (AFPBs). To date, AFPBs have been formed in 52 of New York's 57 counties.

Agricultural and farmland protection boards, established by the county legislative body, usually consist of 11 members. This includes the Chair of the county soil and water conservation district's board of directors, a member of the county legislative body, a representative of the county cooperative extension, the county planning director and the county director of real property services. In addition, the board must contain at least four active farmers and an agribusiness representative (these members must reside within the County). A representative from a land preservation organization may be on the board.

County agricultural and farmland protection boards are authorized to:

- Advise the county legislative body about agricultural districts.
- Review notice-of-intent filings.
- Make recommendations about proposed actions involving government acquisitions of farmland in agricultural districts.
- Prepare and update county agricultural and farmland protection plans.
- Request review of state agency regulations that affect farm operations within an agricultural district.
- Review and endorse applications for New York PDR funds.

These responsibilities provide the opportunity for AFPBs to become active partners with NYS Agriculture & Markets in influencing state and local policy on agricultural and farmland protection issues.

Farmland Protection Tools and Cattaraugus County

| <i>Protection Tool</i> | <i>Definition</i> | <i>Benefits</i> | <i>Drawbacks</i> | <i>Applicability/Status-Cattaraugus County</i> |
|--------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Comprehensive Plan | Guiding vision of what a community wants to be in the future and a strategy for achieving that. | An organized way to identify productive farmland and set growth and protection goals. Serves as basis for land use regulations. | Not legally binding. May be changed or ignored by officials as they rule on development proposals. | Not all towns have a Comprehensive Plan. New funding opportunities at the NY Department of Agriculture and Markets can facilitate development of town level Agricultural Plans. |
| Differential Assessment | Taxation of farmland based on its agricultural use rather than its development value. In NY, calculated based on productivity of soils. Penalty if converted to non-ag use. Not tied to property being enrolled in an agricultural district. | Modest incentive to keep land in commercial farming. Especially important in NY State where tax burden on farms is very high. | Also benefits land speculators waiting to develop land. | Minimum 7 acres and \$10,000 in sales; horse boarding operations now eligible. Available to county farms but not widely used even among district properties. The effects of the differential assessment are not applied equally across all jurisdictions. |
| Agricultural Districts | State designation of an area of at least 500 acres of viable agricultural land. Initiated by landowners, adopted by county. Land can go in any time but can only come out when district is reviewed every 8 years. Not tied to agricultural assessment. | Farmed land within district provided limited protection from local ordinances, nuisance suits, and utility ad valorem taxes. Commissioner of NY State Ag & Markets has authority to rule on local land use conflicts. | Area defined by landowner willingness. County adopts but town ordinances are affected if there is a dispute. State Ag & Markets has authority to rule on local land use conflicts. | Adopted in 1973, Cattaraugus County has seven agricultural districts representing 234,044 acres. Nearly 28% of the County's land base is enrolled in the program which covers 30 of 32 towns. All districts will fall under review in the next five years. |

Cattaraugus County: Agricultural Land Use Plan

| <i>Protection Tool</i> | <i>Definition</i> | <i>Benefits</i> | <i>Drawbacks</i> | <i>Applicability/Status-Cattaraugus County</i> |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Right-to-Farm Laws | <p>In NY for land in ag district:</p> <ol style="list-style-type: none"> 1. Definition of agriculture 2. Local ordinance provision 3. Notice of Intent 4. Sound ag practices determination 5. Disclosure notices | <p>Strengthens the ability of farmers to defend themselves against nuisance suits. Shields farmers from excessively restrictive local laws and unwanted public infrastructure. Tied to agricultural district designation.</p> | <p>Not meant to shield from all legal disputes with neighbors. Does not stop complaints from non-farm neighbors. May not protect major changes in farm operations or new operations.</p> | <p>These protections are afforded to farmland in the agricultural district in the County.</p> <p>No evidence, however, that the Notice of Intent (towns must analyze projects for impact on district) and the Disclosures Notices (seller, agents must inform buyers of district status) are being carried out across the board.</p> |
| Agricultural Zoning | <p>Zoning that allows residential development at a rate of one unit per 20 acres or lower in a predominantly farming area. Ideally, the allowed density can be built on much smaller lots rather than large lots with each residence.</p> | <p>Limits non-farm development in areas intended for agricultural use. Can protect large areas of farmland at low public cost.</p> | <p>Local government can rezone land. Landowners may complain about loss of 'equity value' if land values have begun to escalate due to development pressure.</p> | <p>Agriculture remains a significant land use in all towns, however, there is little zoning that could be considered protective of agriculture.</p> |
| Purchase of Development Rights | <p>Voluntary separation and sale of the development rights from land in exchange for a permanent conservation easement. Typically paid difference between restricted value and fair market value. Land remains in private ownership and on tax rolls.</p> | <p>Provides permanent protection of farmland and puts cash into farm and farm economy.</p> | <p>Public cost may be high. Combined with being voluntary, it may be difficult to protect a critical mass of farmland.</p> | <p>Currently no purchase of development rights program in County for agricultural land., per se. The current AFPB planning effort will begin process of setting priorities.</p> <p>Accept for isolated areas, the restricted and fair market values will not have sufficient spread to entice land owners to apply.</p> |

| <i>Protection Tool</i> | <i>Definition</i> | <i>Benefits</i> | <i>Drawbacks</i> | <i>Applicability/Status-Cattaraugus County</i> |
|---------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|
| Transfer of Development Rights | Voluntary separation and sale of development rights from land in one part of a jurisdiction to be used to increase density in another part. Conservation easement placed on sending parcel. | Developers compensate farmland owners. Creates permanent protection of farmland and shifts some costs to private sector. | Difficult to establish and administer. Opposition by landowners in receiving areas. Needs to be an integral part of a jurisdictions growth management strategy at a time that sending area resources are relatively intact and intensification of receiving areas is feasible. | Currently no TDR programs in any towns in the County. |
| Private Land Trusts | Local non-profit 501.c (3) corporations designed to identify resources to be protected, accept permanent conservation easements from landowners, and monitor their provisions through time. | Can provide permanent land protection. Can forge public-private partnerships. Greatly facilitate the donation of conservation easements from landowners able to benefit from income tax benefits. | Private land trusts rarely have funds to buy easements. Conservation deals sometimes based on allowing limited development. May create islands of protection rather than a critical mass of contiguous lands. Unless specifically designed for agricultural protection, farming may be virtually impossible on conservation easements designed for other purposes. | The Western New York Land Conservancy is currently the only Land Trust active in the area. |

Implications for the Agricultural and Farmland Protection Plan:

This analysis of land use trends and projections found the following issues to be of particular importance to Cattaraugus County's agricultural industry:

Although Cattaraugus County has experienced a small decrease in land in farms, the agricultural land base is still relatively intact. Once farmland is lost to development of any kind, it is rarely converted back to agricultural use. Maintaining a core land base in active agriculture is necessary for the survival of the industry.

Lower density rural residential development expected to occur in Cattaraugus County can still have a significant impact on farm businesses. Poorly planned, scattered residential development can bring new non-farm neighbors to the doorstep of farm businesses. These new neighbors may be unfamiliar with agricultural practices and can generate time consuming and potentially expensive conflicts.

Slow, but steady land use change in a few areas of the county will continue. It is expected that this will occur in towns surrounding the village of Ellicottville, and in towns bordering Erie and Wyoming Counties as they experience interest from buyers looking for larger lots to build a house and have acreage available for recreational pursuits. When the Route 219 extension is built, localized impacts will be felt where the interchanges are located.

The rate and type of development that occurs in these communities will be influenced by broader economic factors as well as by local land use policies and decisions. Planning for agriculture at the town level can positively affect development patterns within a community so that both agriculture and the broader community benefit.

Recommendations

Given that land use policy is determined at the town level, these recommendations offer guidance to the County and the AFPB in supporting town level action. As well, the recommendations offer guidance for improving the level of education and understanding of the general public regarding agriculture. The study team realizes that the County will not be able to implement all aspects of the recommendations, but expects that this list should spark a debate that helps to further classify, refine, and prioritize agricultural land preservation initiatives.

As priorities are developed, key town and County agencies should adopt them as part of their individual work plans, and the County should work with towns and municipalities to integrate them into their comprehensive plans. It is also noted that the commitment and support of the County along with the towns and industry is critical to the success of this plan as well as the economic development recommendations included in the “Agricultural and Farmland Protection Plan” component of the report.

Note: Each recommendation includes a priority ranking which is based on the frequency and urgency of issues identified during the study; cost considerations address funding issues, exclusive of personnel requirements, based on the study team’s experience; and responsibility which is based on the logical agency(s) to oversee implementation.

AGRICULTURAL AND FARMLAND PROTECTION

Ten-Year Objective

Create a land use environment where agriculture is treated as an important economic and ecological land use and not as a holding pattern for residential development. Future agricultural land use initiatives and policy will focus on improving the regulatory, physical, and fiscal (tax) conditions under which agriculture operates by directing public resources to enhance industry infrastructure, bring equity across all taxing jurisdictions, protect prime soils, and preparing an environment that supports future agricultural planning such as PDR.

Furthermore, the public will have a better understanding of the importance agriculture as a land use and a better understanding of the importance of agriculture to their particular town. With this understanding, it is the study team’s expectation that those towns where agriculture has the most significant impact will seek to adopt town level farmland protection plans. The County should be prepared to support such efforts.

Five-Year Action Plan

RECOMMENDATION 1

Support Farm Friendly County Based Land Use Policies and Programs

Local land use policy in New York rarely generally treats agriculture as a holding pattern for residential development and thereby encourages the co-mingling of residences with industrial activity. Scattered lot residential development in Cattaraugus County is already having an impact on agricultural land. Outgrowth from Ellicottville, Arcade, and Erie County has created competition for land. This development pressure needs to be managed if agriculture in those areas is going to survive.

ACTIONS

- Coordinate the development of regionally significant infrastructure improvements and target future infrastructure siting away from agricultural areas. While most land use decisions are made at the town level, the county can encourage and support communication and coordination between towns to prevent poor decisions made with inadequate information.
- Work with towns that will have interchanges on the Route 219 Extension to proactively plan for development in those areas while protecting important agricultural resources that might be impacted by new growth.
- Map all water lines in the county and provide this information to all towns for their use in land use planning. Adopt a lateral water line restriction policy in county agricultural districts.
- Encourage towns to adopt, implement, and promote town level Right to Farm Laws. Include a local agricultural dispute resolution process in the Law. Consider reviewing and updating the Cattaraugus County Right to Farm Law.
- Periodically hold trainings for local realtors and attorneys (provide continuing education credits when possible) to increase their understanding of NY Agriculture and Markets Law 25-AA and to help them better understand agriculture as a business and land use.
- Propose legislation for real estate disclosure notices to potential buyers of property near agricultural operations even when the property to be purchased is not in an agricultural district.

IMPLEMENTATION RESPONSIBILITY: Agricultural and Farmland Protection Board, Cattaraugus County Department of Economic Development, Planning, and Tourism, NRCS, Cornell Cooperative Extension.

BUDGET CONSIDERATIONS: Action items within this recommendation will require a limited administrative budget. Most of the expense will be in allocation of staff time.

ISSUE PRIORITY: The AFPB recognizes this as a high priority.

FUNDING RESOURCES: County funding should be allocated to cover basic staff time costs.

RECOMMENDATION 2

Actively Support Town Based Agricultural Planning

In New York State, most of the land use decisions are made at the town level. Differing levels of development pressure within Cattaraugus County towns necessitates the use of a variety of town-level farmland protection tools. Supporting, and periodically training, town officials in the use of these tools is critical.

ACTIONS

- Provide maps and GIS data to municipal officials to outline the location of productive farmland, Agricultural Districts and other agricultural resources with a goal of better integrating agriculture's interests into municipal planning.
- Encourage town level planning for agriculture by including agriculture in town comprehensive plans, zoning ordinances, and subdivision regulations.
- Provide County support through in-kind and cash match to town level applications for grants from New York Agriculture and Markets for funds to create municipal Agricultural and Farmland Protection Plans, grants to integrate agriculture into local planning from the Quality Communities Program and other grant programs available for town level agricultural planning.
- Engage town officials in agricultural district renewals by incorporating a tour of sample farms in the renewal area. Use this opportunity to inform town officials about the county Agricultural and Farmland Protection Plan and to encourage them to plan at the town level.
- Conduct formal training for town supervisors, town boards, planning boards, and zoning board of appeals members on land use law and best practices in planning as they relate to agriculture. Include some of these trainings in sessions offered by Southern Tier West Regional Planning and Development.

IMPLEMENTATION RESPONSIBILITY: Agricultural and Farmland Protection Board, Cattaraugus County Department of Economic Development, Planning, and Tourism, Cornell Cooperative Extension, Soil and Water Conservation District, Southern Tier West Regional Planning and Development Board.

BUDGET CONSIDERATIONS: Staff time will be the largest component of spending for this recommendation. A budget of \$5,000 for training of local officials is needed.

ISSUE PRIORITY: The AFPB recognizes this as a high priority.

FUNDING RESOURCES: County funding should be allocated to cover local officials training and extra staff support for this recommendation.

RECOMMENDATION 3

Support Efforts to Establish a State Tax Incentive Program to Stabilize Farmland and Investigate a Purchase of Development Rights Program for Identified High Development Pressure Areas in the County

Easing the tax burden on farms can help improve the financial situation of many farms. In some localities and states, a “term easement” program has been used to provide tax relief to farmers in exchange for keeping their land in agriculture for a specified period of time. Such a program does not permanently protect land but does help stabilize the agricultural land base. Purchasing development rights on farmland will provide this permanent protection from conversion pressure. Some specific areas in the county may have farms that would be candidates for a purchase of development rights project.

ACTIONS:

- Support the concept of a state Agricultural District Enhancement Program that would reduce property taxes on productive farmland in exchange for a term deed restriction.
- Communicate with state legislators and New York State Farm Bureau about the need for this program. Coordinate efforts with other western New York counties such as Genesee, Wyoming, and Livingston who are also supportive of this concept.
- Demonstrate the significance of the property tax burden on Cattaraugus County farmers and rural landowners.
- Provide information to farmers and rural landowners about New York’s Farmland Protection Program and USDA’s Farm and Ranchland Protection Program (purchase of development rights programs) and land trusts that may be of assistance in farmland protection projects.
- Support new funding opportunities for purchase of development rights programs such as the Community Preservation Act (legislation to enact a town real estate transfer tax for use in establishing local farmland and open space protection funds).

IMPLEMENTATION RESPONSIBILITY: Agricultural and Farmland Protection Board, Cattaraugus County Department of Economic Development, Planning, and Tourism, Cornell Cooperative Extension, Cattaraugus County Office of Real Property Tax Services, local towns.

BUDGET CONSIDERATIONS: Action items within this recommendation will require an allocation of staff time.

ISSUE PRIORITY: The AFPB recognizes this as a high priority.

FUNDING RESOURCES: County funding should cover needed staff time.

RECOMMENDATION 4

Promote Understanding and Appreciation of Agriculture to the Non-Farm Public

In Cattaraugus County, where much of the county is rural, people still are often removed from direct contact with farms and have limited understanding of modern farming practices. This can lead to farmer-neighbor misunderstandings that have the potential to negatively affect agriculture in the county. In addition the public does not have a clear understanding of the economic and environmental contributions made by the local agricultural industry. Many rural communities rely on agricultural businesses as their main economic base and those same businesses are often the fabric of the rural community's heritage. Cattaraugus County's rural nature is attractive to its more urban neighbors in Erie County and lends itself well to agritourism and agriculture-based events where the "teachable moment" can be used to inform the public about agriculture.

ACTIONS

- Publicize the economic, environmental, and cultural benefits of Cattaraugus County farms. Have appropriate sections of the AFPP and other outreach materials available at public offices. Cornell Cooperative Extension, Soil and Water Conservation District, NRCS, FSA, and Cattaraugus County Department of Economic Development, Planning, and Tourism should have a variety of agricultural publications available for public distribution.
- Identify a key agency/person to be the first contact for agricultural questions and issues. Refer questions to the appropriate agency/person.
- Develop a brochure for use with the non-farm public that explains what farmers do and why they do it. Possible topics: spreading manure, CAFO plans, legal standards, who to contact with questions.
- Plan an event appropriate to meet Cattaraugus County's needs by evaluating models used in other areas of the State such as Saratoga County's Sundae on the Farm, Genesee County's Local Decision Makers Tour, Tompkins County Farm City Day and others. (See more info about the Tompkins County tour at: <http://counties.cce.cornell.edu/tompkins/farmcityday/index.html>)
- Develop a county brochure that highlights agritourism businesses and events available for the public. Include farmers markets and seasonal roadside markets in the brochure.

IMPLEMENTATION RESPONSIBILITY: Agricultural and Farmland Protection Board, Cattaraugus County Department of Economic Development, Planning, and Tourism, Cornell Cooperative Extension, Soil and Water Conservation District, NRCS.

BUDGET CONSIDERATIONS: Action items will require an allocation of staff time. Approximately \$2000 - \$5000 should be allocated for brochure design and printing.

ISSUE PRIORITY: The AFPB recognizes this as a high priority.

FUNDING RESOURCES: County funding should be allocated to cover brochure development and printing costs.