

Agriculture and Farmland



GOALS:

- A. Promote the continued economic viability of agriculture.**
- B. Attract and retain agricultural support businesses such as suppliers and processors.**
- C. Preserve a large, contiguous area of high quality farmland to ensure a viable land base for continued agricultural production in the Town.**
- D. Reduce the potential for conflict between farmers and non-farming neighbors.**



Relevant Plans and Programs

Agricultural District Program

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

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

- **Agricultural use value assessments:** Land is assessed at its value for agricultural production, rather than at its full market value. If land that was receiving the agricultural exemption is sold for non-farm purposes, the landowner must repay the amount of property taxes saved over the life of the District, up to 8 years.
- **Protection from local regulations** that would restrict farm practices
- **Protection from public acquisition of farmland through "eminent domain."** Before a local or county government may undertake a project that affects

Background Information

Overview of Agriculture in Batavia

Agriculture is the biggest industry in Genesee County. In 2002, the market value of agricultural products sold was \$124.9 million. Genesee County ranks 4th in New York State in the value of agricultural products sold.

The leading products sold were dairy and vegetables. The following table summarizes the market value of leading products.

Market Value of Agricultural Products Sold

Genesee County -2002

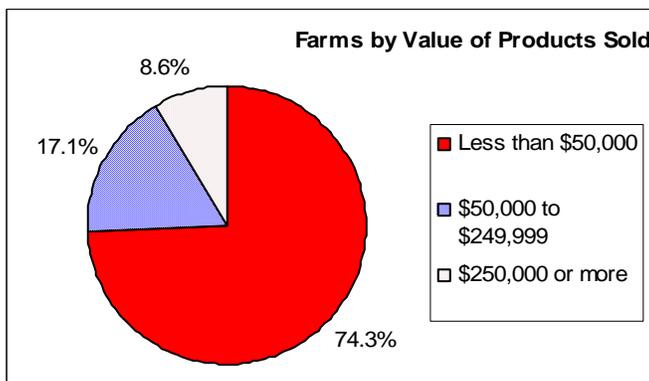
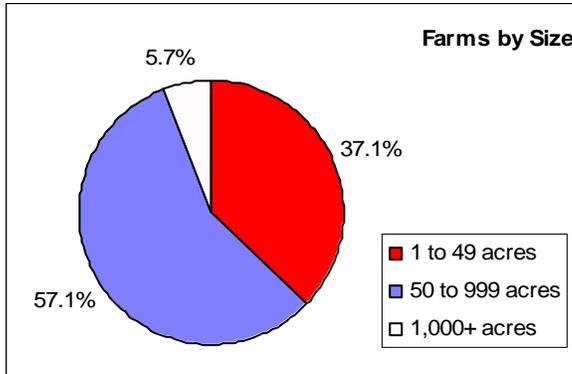
Product	2002 Sales (\$ million)	% of Total	State Rank
Dairy Products	\$58.514	47	7
Vegetables	\$33.953	27	2
Cattle & Calves	\$15.874	13	2
Grains & dry beans	\$8.953	7	7
Hay & other crops	\$2.933	2	15
Other products	\$4.711	4	
Total:	\$124.938		4

SOURCE: 2002 Census of Agriculture

The 2002 Census of Agriculture reported a total of 70 farms located in the Batavia zip code (14020). This represents 12% of all farms in Genesee County. Of these farms, 52 reported sales of less than \$50,000 and 6 reported sales of \$250,000 or more. A total of 26 farms were less than 50 acres in size while four were larger than 1,000 acres.

The types of farms reported for the Batavia zip code are representative of those in Genesee County as a whole. As shown in the following table, Batavia farms sold grains, vegetables, hay and other crops as well as dairy products, cattle and calves, horses and other livestock.

The "Agricultural Parcels" map depicts the location of parcels classified by the Town Assessor as agricultural.



Relevant Plans and Programs

Agricultural District Program

(Continued from page 2)

land within an Agricultural District, it must submit a "Notice of Intent" to the County Agricultural and Farmland Protection Board and the NYS Department of Agriculture and Markets for consideration of the impacts on agriculture.

- **Protection from nuisance suits (right-to-farm provisions)** A person who buys property within an Agricultural District must be notified about the possible presence of noise or odors associated with farm practices and acknowledge receipt of this notice in writing..

Western NY Land Conservancy

The Western NY Land Conservancy is a private, non-profit land trust based in Buffalo that provides for land conservation and stewardship. The Land Trust accepts donations of property or development rights and works with individual landowners and community leaders to protect land resources.

Genesee County Farmland Protection Plan Recommendations

The Farmland Protection Plan sets forth eleven recommendations that lead, ultimately, to the creation of "Enhanced Agricultural Districts" and a County-Wide Purchase of Development Rights Program. The plan includes background information on Agricultural Land Preservation in New York, an analysis of farmland protection techniques and case studies of best practices. The following narrative summarizes the 11 recommendations.

1. **Refine the Strategic Farmland Map and incorporate it into the Smart Growth Plan.** The map itself should become a companion to the Smart Growth Plan and be used with it to inform town decision-making on land use and infrastructure issues.
2. **Reaffirm the importance of existing agricultural districts, especially with regard to water and sewer extensions.** The decision of one or more towns to allow lateral access without extenuating circumstances could create a precedent that endangers agricultural district integrity as well as other farmland protection measures throughout the county.
3. **Conduct an 'audit' of each town's zoning and subdivision provisions and recent past development patterns to help the towns understand the potential impact on maintaining a critical mass of farmland** - Once the audits are conducted, the County Planning Department and the Agriculture and Farmland Protection Board should host a summit of all town officials to present results and discuss alternatives.
4. **Consider the designation of an 'agricultural production zone'**- The concentration of large, highly-productive farms in Genesee County as well as smaller farms clustered together may lend themselves to a designation of a zone to protect the land's 'highest and best use' – production agriculture.
5. **Consider use of incentive zoning as a mitigation tool** - Take the opportunity with incentive zone to leverage protected land or protection funds when upzoning land within the Smart Growth Development areas.
6. **Develop new funding sources specifically for a farmland protection fund** - See farmland protection as avoidance of future infrastructure costs.
7. **Create 'Enhanced Agricultural District Program' for mid-term protection of Farmland** - Involves a voluntary commitment to restrict non-farm development for a period of 10 years, with automatic re-enrollment, in exchange for annual payments and priority in Genesee County's participation in the state's PDR program.
8. **Prepare to Purchase Development Rights** - Set an acreage goal, develop dedicated revenue sources, refine the selection components, and position Genesee County, with its exceptional resources to make maximum use of increasing State PDR funding.
9. **Integrate a farmland protection component into the County's public education efforts about agriculture.**
10. **Conduct periodic estate planning seminars for farmers and professionals.**

II. Advocate for implementation of the Agriculture Development Plan.

The Agricultural Development Plan identifies six key focus areas:

- Economic Development
- Business Development
- Policy and Planning
- Work Force Development
- Public Outreach and Education
- Regulation and Legislation

The Agricultural Development Plan was prepared at the County level. Implementation actions are assigned to County agencies such as the County Planning Department, Cooperative Extension and the Agricultural and Farmland Protection Board. However the following recommendations may be relevant to the Town's planning process:

Retain, expand and recruit agribusiness. Emphasize Genesee County's comparative advantages in distribution, production, processing and support services. Focus on the County's two most prominent sectors: dairy and vegetables. The Town of Batavia should work with the GCEDC to implement this recommendation.

Support Improvements to Rural Utilities. The Town should support public and private efforts to extend high speed internet service and reduce electricity costs.

Integrate County Plans, Policies and Programs. Utilize the County's Smart Growth Plan as an underlying policy document for land use/ development decisions.

Direct Consistent and Supportive Land-Use Policies. Improve comprehensive planning and investigate the use of incentive zoning, agricultural production zoning and use of performance criteria in granting special use permits.

Advocate for Appropriate Infrastructure Development. Identify needed transportation and water improvements.



Highlights from Roundtable Discussion

A roundtable discussion on agricultural issues was held on July 26, 2006 as part of the Batavia Comprehensive Plan Committee meeting. Farmers in attendance included Jeff Thompson, Nate Call and Gordon Offhaus. The following issues were raised during the discussion:

- Costs rise while prices for products fall.
- Difficult to attract good labor
- High quality soils
- Nearby support businesses
- Town should update zoning regulations
- Town should support Hispanic farm workers who are present in the community
- Concern about safety of workers driving farm machinery along roads
- Closing of Birdseye plant limits options for vegetable sales
- Agriculture is an important resource in Town of Batavia

Issues and Opportunities

Agriculture and related industries are important to the regional economy. Assets include excellent access to transportation, fresh water and high quality agricultural soils.

The following narrative identifies issues and opportunities relating to farmland and agriculture.

Economic Viability of Agriculture

Agriculture and agribusiness are a significant industry in the Town of Batavia and Genesee County, generating millions of dollars in sales each year.

Infrastructure

The industry requires well-maintained roads to facilitate transport of goods. Public water also is an asset to many farm operations.

Markets for Farm Products

The O-At-Ka dairy processing plant provides a local market for agricultural producers.

The closing of the Birdseye processing plant would eliminate a significant local market for farm products.

New ethanol plants that are being constructed in the region, including one that is planned for the Town of Shelby in Orleans County, may provide additional nearby markets for farm products. Although these plants will import corn from a large area, the proximity is expected to reduce transportation costs for local corn growers.

Economic Diversification

Farmers may seek to operate secondary businesses, such as farm markets, agri-tourism or small scale manufacturing. Such “value added” businesses promote diversification and may increase income.

Such businesses may change the character of the land from agricultural to commercial or industrial. It may be appropriate for the Town to develop a review process to ensure that such businesses are consistent with the surrounding neighborhood and incorporate sufficient setbacks and/or buffers. Other agricultural communities have established special use permit criteria for home-based businesses that require large minimum lot sizes and setbacks as well as annual inspections.

Immigrant Labor

As many farm operations rely on imported or migrant labor, community acceptance of workers and their families from Mexico and other central American countries helps to ensure that high quality labor will continue to be available.

Neighbor Conflicts

Residential development in agricultural areas may lead to conflicts between farmers and non-farm neighbors. Despite the notification required by the Agricultural District law, people who buy property within agricultural districts are frequently unaware of the potential impacts of agriculture. These include spraying of pesticides, late night use of farm equipment, slow moving equipment on roads, truck traffic and odors. Although complaints are not frequent, they can be disruptive to farmers.

Retention of Farmland

Conversion of Farmland to Development

New residential or commercial development has the potential to convert high quality farmland to non-farming uses. Such conversions may result in increased neighbor conflicts in addition to the loss of land for farming. The land that is most suitable for development is typically the same well-drained land that is best for agriculture.

Farm-neighbor conflicts become more frequent when new residential development is constructed adjacent to active farmland. In addition, efficiency of farming is affected when the subdivision of farmland reduces the amount of contiguous land available for farming.

In the Town of Batavia, land that is subject to flooding, such as large areas within the Tonawanda Creek floodplain, may be most suitable for agriculture. This land is highly productive and development opportunities are limited due to the risk of flooding.

Landowner Equity

Frequently, retiring farmers will sell land for residential development in order to finance their retirement, as the price paid by developers is often higher than what the land is worth for farming. From the farmland owner's perspective, any alternative to selling land for development would need to offer a similar financial return.

Programs such as the purchase of development rights are designed to compensate farmland owners for placing a conservation easement on their property that restricts future development. The land may be sold with the restriction in place. The owner would receive the value of the land when sold for agricultural use in addition to the value of the development rights. (See "Tools and Techniques" section of this chapter.)

Competition for land

Retention of farmland is especially challenging in those areas of the Town that are experiencing development pressures. Land that is close to the NYS Thruway interchange, in particular, has good potential for high-intensity industrial, commercial or other economic development uses. Individual landowners may choose to convert land to a more intensive use rather than pursue techniques that would preserve the land for continued agricultural use.

Tools and Techniques

Several tools and techniques are available to local governments, individual landowners and private organizations to help meet the goal of retaining farmland and encouraging the continued viability of agriculture.

Land Conservation Through Conservation Easements

Private, voluntary conservation easements

Landowners may place farmland under a permanent conservation easement to be held and monitored by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning as the value of the easement can be claimed as a tax deduction. The Finger Lakes Land Trust is active in Seneca County and holds easements to agricultural parcels elsewhere in the region. The American Farmland Trust also holds easements to farm properties.

Public purchase of development rights

Purchase of Development Rights (also referred to as “Purchase of Agricultural Conservation Easements” (PACE)) is a program which compensates owners of farmland in exchange for an agreement to keep land from being developed. The value of development rights is calculated as the difference between the value of the land for agricultural purposes and its value for development. A temporary or permanent easement restricts development on the parcel. Placing an easement on a property does not affect the ownership of the parcel. The owner may continue to farm the parcel, and/or sell it. The easement holder is responsible for monitoring the property to ensure that it is not developed.

Conservation easement programs have the following advantages and disadvantages:

Advantages:

- Protects agricultural land on a permanent basis (or for a specified period of time).
- Participation among landowners is voluntary

Disadvantages

- High cost
- Time and administrative work involved in purchasing easements
- Requires on-going monitoring by the easement holder

Zoning Techniques

Agricultural Protection Zoning

Agricultural Protection Zoning involves the creation of a zoning district that designates farming as the primary, preferred land use. Such a district targets the most productive soils and large contiguous areas of active farms. The minimum lot size is based on the size of the smallest viable farm unit -- such as 25 to 40 acres.

Regulations for this district typically limit non-agricultural development. Such a district may allow farm-related businesses and home-based businesses. Agricultural zoning districts may incorporate “density aver-

aging” or “sliding scale” provisions to limit the number of dwellings permitted. The regulations may also specify maximum (as well as minimum) lot sizes for non-farm development.

Agricultural protection zoning may be combined with purchase of development rights, transfer of development rights or incentive zoning. This technique has the following advantages and disadvantages:

Advantages:

- Effective in limiting non-farm development and reducing conflicts between agriculture and non-farm neighbors.
- Can protect large areas of farmland at no cost to the public

Disadvantages:

- May reduce the market value of land.
- Is not permanent. Zoning can be changed by the Town Board.
- Limits resale options for farmland owners

Density averaging

Density averaging allows residences to be built on smaller lot sizes than typically permitted by zoning, provided that the average density of the original parcel is not increased. For example, if zoning requires a maximum density of 1 dwelling per 10 acres, a farm of 100 acres would be entitled to develop up to 10 dwelling units. If the 10 dwellings were built on a total of 20 acres of the parcel (with an average lot size of 2 acres), 80 acres would remain open.

The smaller lots should be sited in locations that are least suitable for farming, and that offer the most appealing views of open space and natural resources. The design of a proposed clustered subdivision should include buffers between the new residential development and the remaining farmland. A conservation easement would be placed on the remaining 80 acres to prevent future development.

Density-averaging subdivisions have the following advantages and disadvantages:

Advantages

- Relatively simple to administer through the subdivision review process
- Provides for permanent protection of farmland or open space
- Landowner retains full development potential (number of building lots)

Disadvantages

- Results in non-agricultural development in close proximity to farming.
- May be more appropriate for open space preservation and retention of rural character than for retention of agricultural land.

Incentive zoning

Incentive zoning may be used to encourage the private acquisition of agricultural conservation easements (development rights) or to collect money toward a public fund to purchase such easements. Municipalities must designate an area or areas in which higher densities or more intensive uses may be permitted, pro-

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vided that the applicant offer certain amenities that would meet specified community needs. Acceptable amenities may include conservation easements on farmland or cash to be used in a purchase of development rights program. Advantages and disadvantages include:

Advantages

- Flexibility in administration
- Can result in permanent protection of farmland if agricultural easements are provided as an amenity in exchange for higher density of housing
- Allows conservation easements to be purchased privately

Disadvantages

- Requires designation of an area within which higher densities can be sustained.

Local “Right to Farm” Law

Several municipalities in New York State have passed local “Right to Farm” laws. Such laws typically establish a town policy in support of farming, define “generally accepted agricultural practices,” and affirm a farmer’s right to employ such practices. The laws also include a requirement that purchasers of property within the town be notified of the policy of encouraging farming, and that farm practices may include odors, noise and other activities.

A “grievance” procedure is established to resolve complaints between farmers and non-farm neighbors. A local grievance committee may be formed to hear and resolve complaints. Such a committee would include local farmers and may include non-farm representatives. Municipalities may appoint an existing committee, such as the Conservation Advisory Council or Planning Board, to act as the Grievance Committee. In some counties, the Agricultural and Farmland Protection Board may take on the responsibility of handling local grievances under the “Right to Farm” law.

A new committee would need to follow the requirements of the NYS Open Meetings Law and schedule and advertise its meetings in advance.

Recommended Actions

1. Work with landowners, private land trusts and governmental agencies to purchase land, place conservation easements or acquire the development rights to large areas of farmland. Target land that would result in the preservation of large areas of contiguous, high-quality farmland, such as the Agricultural Protection areas identified in the Future Land Use Map.
2. Revise zoning regulations to permit farm-related businesses, such as farm markets and craft manufacturing, to be established on farm property in conjunction with agricultural operations.
3. Encourage agriculture-related businesses, such as suppliers and processors, to utilize Genesee County's revolving loan fund for economic development.
4. Work with County and State economic development agencies to attract and retain agricultural support businesses.
5. When residential subdivisions are proposed that abut active farmland, require effective buffers to be incorporated into the subdivision design.
6. Encourage the preservation of farmland under conservation easement in conjunction with the subdivision review of residential development in designated rural/ agricultural areas of the Town.
7. In conjunction with the revision of zoning regulations, establish a committee that includes farmland owners to identify effective agricultural protection mechanisms that would result in the long-term retention of farmland within the Agricultural Protection areas identified in the Future Land Use Map. Revise the Town's zoning regulations to include effective provisions to encourage the retention of high quality farmland for continued agricultural use.