



**Division of Local  
Government Services**

# **Farmland Protection & Agricultural Viability**

A Division of New York State Department of State

# Loss of Farmland

- NYS farmland areas among top 20 most threatened:
  - *Hudson Valley, Finger Lakes, Lake Ontario & Long Island*
- Number of NYS farms:
  - 1945: 149,490
  - 1969: 51 909
  - 2007: 36,352
  - **Today: 35,537**



# Farmland Preservation Toolbox

- Comprehensive Plans
- Agricultural Districts
- Right to Farm Laws
- Land Use Regulations
- Use of Conservations Easements for:
  - Purchase of Development Rights
  - Lease of Development Rights
  - Transfer of Development Rights



# What is a Comprehensive Plan

- Expression of goals
- Outline for orderly growth
  - Land use regulation
  - Direct development
- Legal defense for land use regulations
- Implement
- Periodic review

- **Town Law: § 272-a**
- **Village Law: § 7-722**
- **City Law: § 28-a**



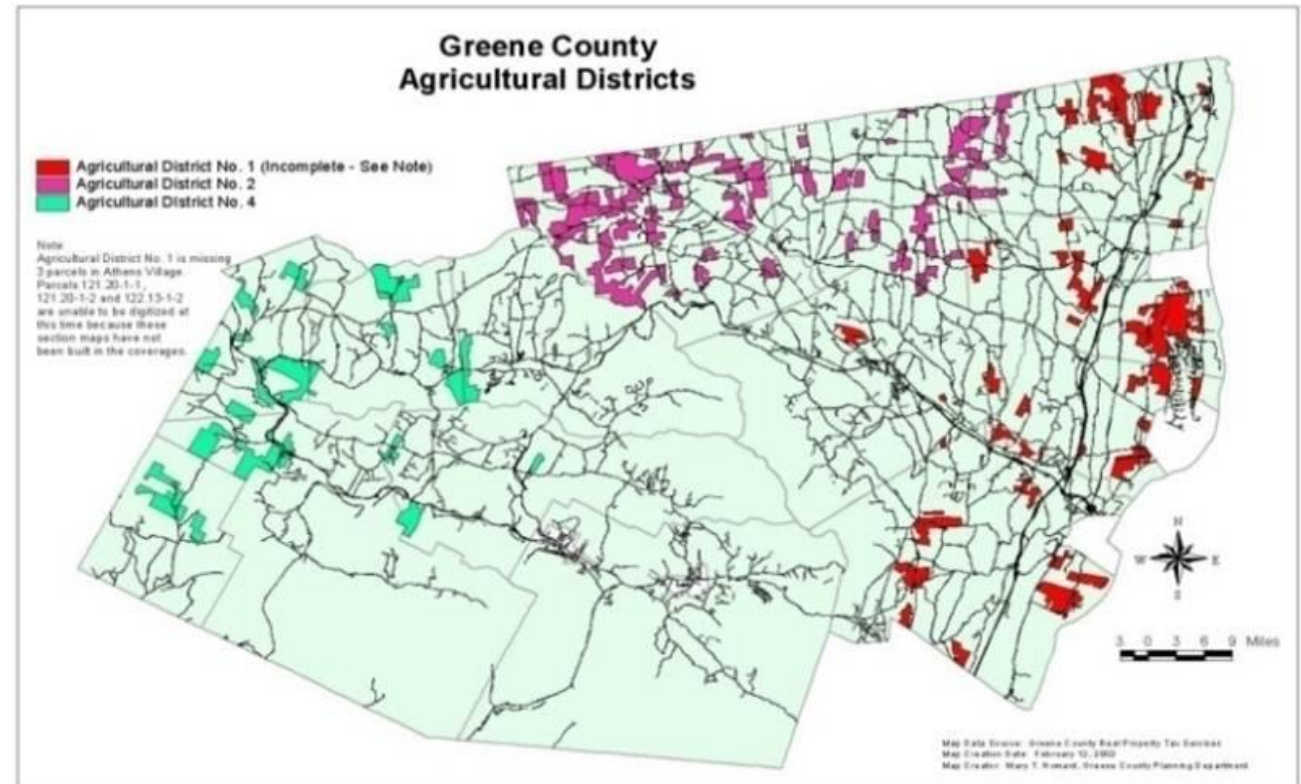
# Agriculture & Comprehensive Planning

- Engage farmers in the planning process
- Include supportive language for agriculture & farmland preservation



# Agriculture & Comprehensive Planning

- Map & identify
  - Priority farm areas
  - Prime & rare soils
  - Ag districts
  - Blocks of farm operations



# Research & Inventory

Gather information on:

- Existing land uses
- Topography
- Natural resources
- Historic & cultural resources
- Housing
- Demographics
- Transportation
- Water & sewer facilities
- Economic trends



**Town of Pittsford**  
**“The Greenprint”**



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# Cost of Community Services Studies

- Estimates fiscal contribution of local land uses
- Informs land use & policy decisions
- Evaluates working & open lands
- Equally with residential, commercial & industrial
- Snapshot of costs vs. revenues for each land use
- Baseline of current information
- Does not predict future costs, revenues or the impact of future growth

**American Farmland Trust (AFT)**

[http://www.farmlandinfo.org/documents/38422/COCS\\_08-2010.pdf](http://www.farmlandinfo.org/documents/38422/COCS_08-2010.pdf)

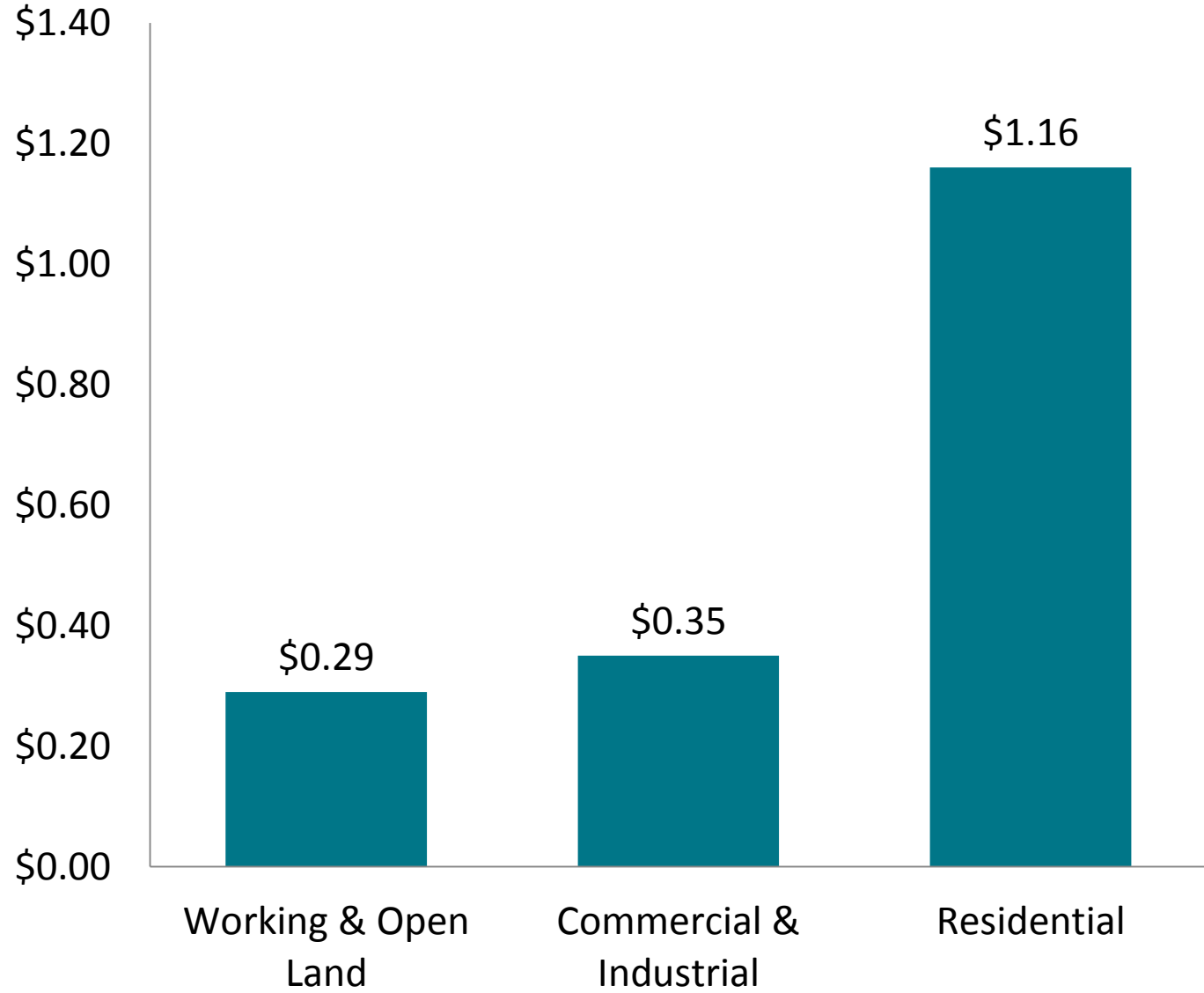


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# Cost of Community Services

Cost per dollar of revenue raised to provide public services



# Agricultural & Farmland Protection Plans

- Augment existing Comprehensive Plan
- 1<sup>st</sup> phase of a new plan
  - Elements include:
    - Location of proposed areas to be protected
    - Value to the agricultural economy
    - Open space value
    - Strategies for continued agricultural use
    - Level of farmland conversion pressure
      - *Potential consequences of conversion*



# Agricultural Districts Law

Local land use controls may not unreasonably restrict farm operations within an Agricultural District

- Local Laws & Agricultural Districts: How Do They Relate?
- Agricultural Districts Law- Article 25 AA



# Agricultural Data Statement

**TOWN /VILLAGE OF** \_\_\_\_\_

Date \_\_\_\_\_ Application # \_\_\_\_\_

**Agricultural Data Statement**  
 Instructions: This form must be completed for any application for a special use permit, site plan approval, use variance or subdivision approval requiring municipal review that would occur on property within 500 feet of a farm operation located in a NYS Dept. of Ag & Markets certified Agricultural District.

Applicant	Owner (if different from Applicant)
Name: _____ Address: _____ _____	Name: _____ Address: _____ _____

Type of Application: \_\_\_ Special Use Permit; \_\_\_ Site Plan Approval; \_\_\_ Use Variance;  
 \_\_\_ Subdivision Approval  
 Description of proposed project: \_\_\_\_\_  
 Location of project: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Tax Map Number: \_\_\_\_\_

*Check with your local assessor if you do not know the following:*  
 Is this parcel within an Agricultural District? \_\_\_ NO \_\_\_ YES  
 Agricultural District Number: \_\_\_\_\_  
 Is this parcel actively farmed? \_\_\_ NO \_\_\_ YES

List all farm operations within 500 feet of your parcel. Attach additional sheets if necessary.

Name: _____ Address: _____ Is this parcel actively farmed? Yes/No	Name: _____ Address: _____ Is this parcel actively farmed? Yes/No
Name: _____ Address: _____ Is this parcel actively farmed? Yes/No	Name: _____ Address: _____ Is this parcel actively farmed? Yes/No

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Signature of Owner  
(if other than applicant)

Reviewed by: \_\_\_\_\_ Date: \_\_\_\_\_  
Signature of Municipal Official

**NOTE TO REFERRAL AGENCY:** County Planning Board review is required. A copy of the Agricultural Data Statement must be submitted along with the referral to the County Planning Board.  
<http://www.co.washington.ny.us>

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- NYS Agriculture & Markets Law  
 – Article 25 AA, Section 305-a
- Town Law 283a

# Farm Worker Housing

Municipalities may want to amend zoning or adopt a local law to address farm worker housing

## Examples of local law provisions:

- Show proof of continuing employment on the farm
- Do not allow the creation of new lots



# Agricultural Mines

- Local communities may fully regulate small mines
- Small mines are important to rural economies
- Many farms need small mines to be viable



Less than 1,000 tons or 750 cubic yards within 12 consecutive months

# Forestry activities & timber harvesting

- Overly restrict forestry activities
  - Make exemptions
    - *Personal use & supplemental income*
- Agriculture & Markets Law §305-a
- Right-to-Practice Forestry Law
  - Municipalities voluntarily submit local regulations DEC review
  - Landowners can petition DEC review of local regulations

# State & Federal forestry regulations

- NYS DEC & US Army Engineers
  - Stream crossings
- NYS DEC
  - Wetlands & State designated rivers
    - *Wild, Scenic & Recreational*
- NYS DOT
  - Permits for hauling





# Local Regulation of Timber Harvesting

- Set standards for logging activities to:
  - Protect water quality
    - Stabilize stream banks
      - *Retain root system*
- Prevent damage to public roads
  - Restrict roads to seasonal use



# Conflicts

- Odors
- Noise
- Slow moving
- Increased traffic
- Aesthetics



# Agriculture Disclosure Notice

- Notice given to a prospective buyer prior to signing a purchase contract
  - Informs them they are buying land in an Agricultural District
    - State-mandated
- Right-to-Farm protections provided by the Agricultural Districts Law

Real Property Law §333  
RP-5217  
Sales Reporting form.



# Right-to-Farm

- Policy statement
- Creates a supportive environment
- Helps limit conflicts
  - Mediation
  - Avoids court costs
  - Defuses tensions
  - NYS Agricultural Mediation



# Land Use Regulations

- Zoning
  - Rural/agricultural
  - Overlays
  - Incentive zoning
  - Density averaging
- Subdivision review
  - Cluster



# Zoning

- Regulates:
    - Use of land
    - Density & intensity of land uses
    - Placement of structures
  - May divide community into districts
- General City Law §20
  - Town Law §261 & § 264
  - Village Law §7-700 & §7-110



# Agricultural Zoning



# Farm Zones

## Exclusive

- Most restrictive with few non-agricultural uses allowed
- High priority farm land or soils
- As-of-right uses
  - Agricultural
  - Forestry
  - Nurseries
  - Fisheries

## Non-exclusive

- Additional uses allowed with additional review
  - Cottage industries
  - Off-site farm stands
  - Wineries
  - Garden centers





# Subdivision Review

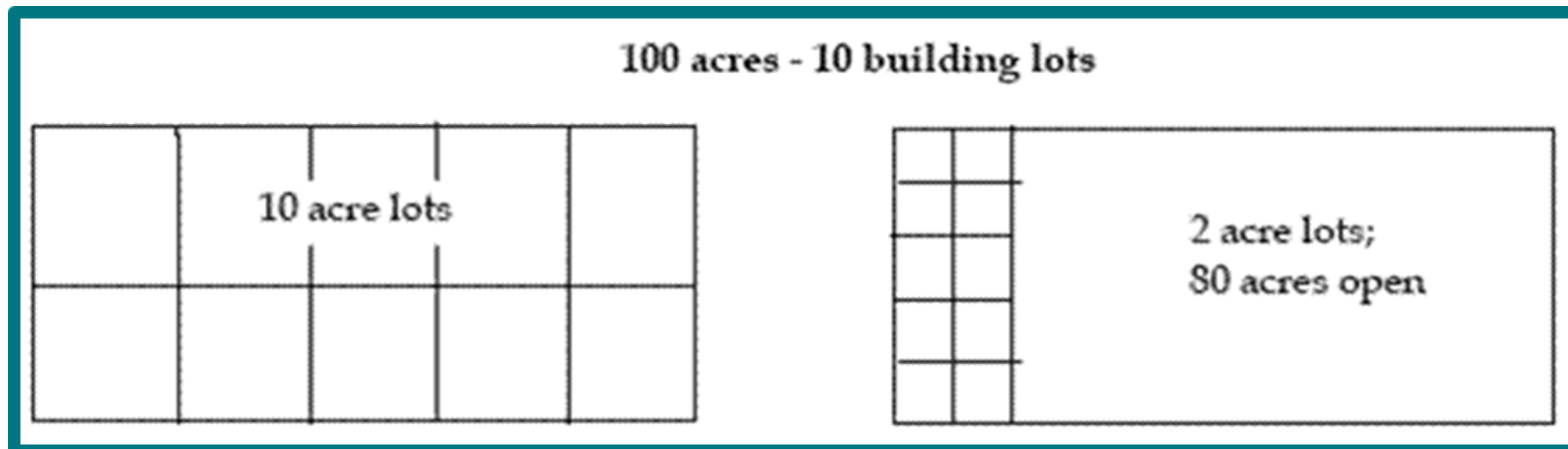
- Lot sizes
- Fragmentation
  - “Death by 1,000 cuts”
- Conflicts with non-agricultural uses
- Farmland conversion
- Connectivity



- Town Law §276 & §277
- Village Law §7-728 & §277
- City Law §32 & §33

# Large Lot Subdivision

- Minimum lot size zoning:
- 100 acre parcel
  - Minimum lot sizes of 5 acres
  - Could result in up to 20/ 5 acre lots



# Cluster Development

- Modifies zoning to provide alternatives for the layout, configuration & design of lots in order to preserve open land
- Requires specific authorization
- May designate specific districts where allowed
- Does not allow more lots than prescribed by current zoning
- Is not incentive zoning

- Village Law §7-738
- Town Law §278
- General City Law §37

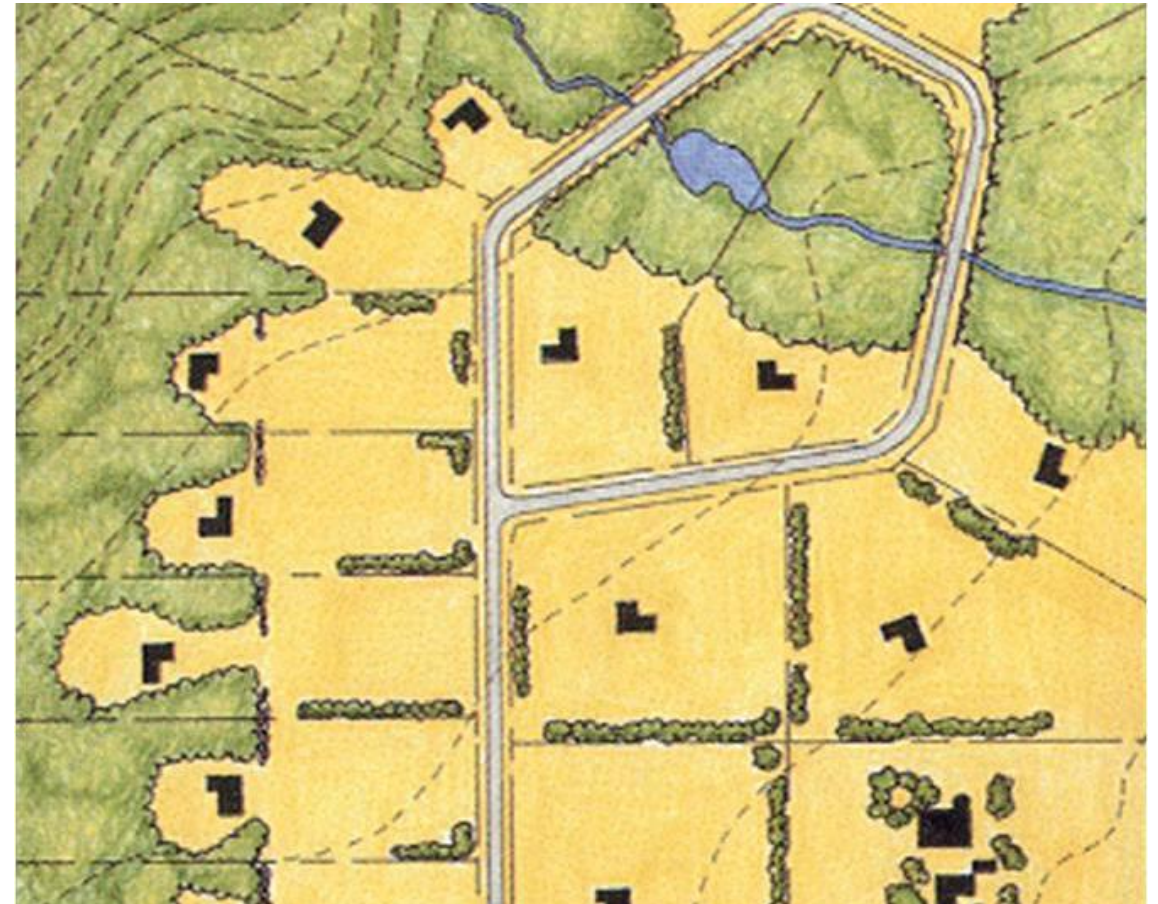
# Conservation Subdivision

- Allows for more creative & efficient use of land
- Preserves development value of the land while protecting land resources
- Reduces cost of infrastructure



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# Density Averaging

- AKA: Fixed area ratio zoning
- May specify a minimum acre lot size
- Allow for the provision of on-site water supply & wastewater disposal
- May specify a maximum acre lot size
- For uses other than farming, the farmstead & farm support businesses



# Density Averaging Example

- 100 acre parcel
  - Limits the number of development rights per parcel
    - Zoned 1 residential lot per 10 acres
    - 10 lots total for the 100 acre parcel
- Maximum lot size of 2 acres
  - Exempt original lot (parent or mother lot)
  - 9 lots at 2 acres or less each





# Density Averaging

- The remaining 82+ acres constitutes remaining lot after all development rights used.
  - Cannot be further subdivided.
  - A conservation easement can be placed on part of the remaining lot.
- The municipality must closely monitor the number of parcels created.
  - Town of Milton requires a notation on the plat prohibiting further subdivision.

# Incentive Zoning

- Allows municipalities to offer bonuses:
  - Density increases
  - Greater lot coverage
  - Reduced parking requirements
- In exchange for amenities:
  - Open Space
  - Preserved farmland
  - Recreational facilities
  - Affordable housing



- Town Law § 261-b
- Village Law § 7-703
- City Law § 81-d

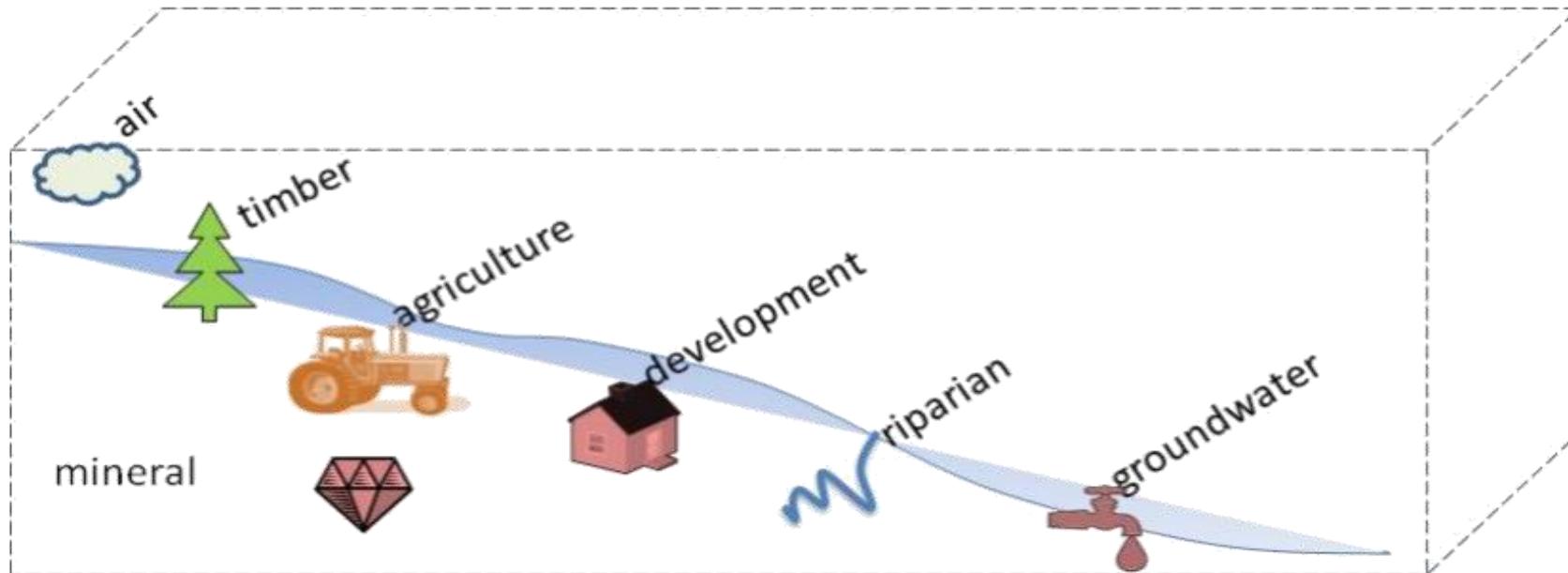
# Property rights based tools

- Conservation Easements
- Purchase of Development Rights (PDR)
- Lease of Development Rights (LDR)
- Transfer of Development Rights (TDR)
- Land Trusts
- Local Programs



# Property rights

- Rights can be separated for sale or transfer
- Municipalities may acquire interests/rights for open space preservation
  - General Municipal law §247



# Land acquisition

## Fee simple

- Most complete set of rights
- Absolute title to land
- Often expensive
- Management/ maintenance funds not included

## Easement

- Partial interest or rights
- Can do through “PDR”
- Land managed by:
  - Owner
  - Land Trust
  - Municipality



# Conservation Easements

- A voluntary agreement restricting development in perpetuity
- Held by a land trust, public agency or municipality
- Provides tax benefits for the landowner

–*ECL, Title 3, Article 49*



Saratoga County Farm protected  
by a conservation easement



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# Purchase of Development Rights



- Commonly used for farmland protection
- Other rights are retained by the owner

- Development rights are voluntarily offered for sale by the owner



# Lease of Development Rights

- Similar to PDR
- Not permanent
- Terms ranges
  - 5 to 30 years
- Less costly
- First right of refusal
- Breathing room for the community
- Tax benefits to landowner





# Land Trusts

Private nonprofit organizations dedicated to conserving important tracts of land & managing them for conservation purposes

- Often locally oriented
- Accepts donations of land, conservation easements or funds
- Monitors & enforces agreements
- Assists municipalities to develop & implement open space plans
- Provide technical assistance & information



# Local Funding Mechanisms

- Municipal Revenue Raising Techniques for farmland preservation:
  - Annual Appropriations
  - Municipal Bonds
  - Real Estate Transfer Tax



# Annual appropriations & bonds

- Annual appropriations are:
  - part of local budgetary process
  - not subject to referendum
- Municipal bonds may be issued either by:
  - governing board approval
    - *subject to permissive referendum*
  - placing the measure on the ballot
    - *direct approval or rejection by the local electorate*



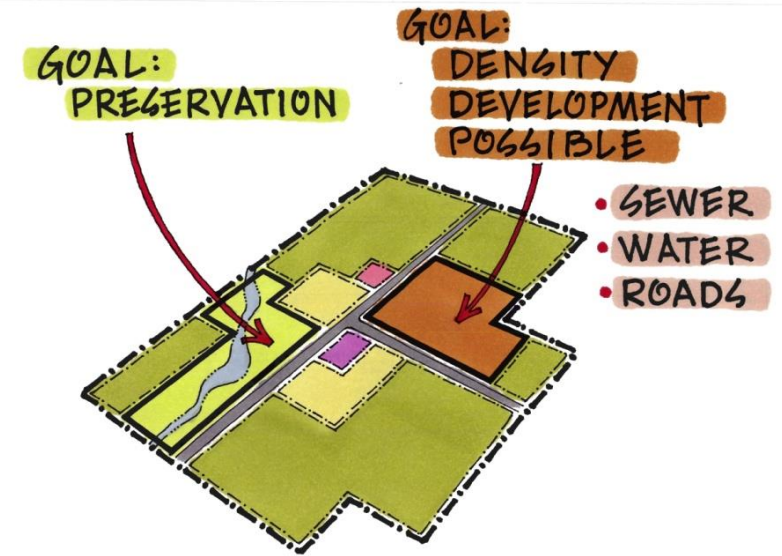
# Real Estate Transfer Tax Program

- Requires an act of the State Legislature
- Subject to referendum
- Tax based on the sale price
- May be used to purchase land or development rights



# Transfer of Development Rights

Allows increased development in areas designated by the municipality for development, in return for the preservation of places the community wants to protect.



- Town Law §261-a
- Village Law §7-701
- General City Law §20-f

# Transfer of Development Rights

## Sending areas

- Agricultural lands
- Scenic vistas
  - Ridgelines
- Historic resources
- Natural resources
  - Aquifers

## Receiving areas

- Existing Villages, Hamlets
- Targeted growth areas
  - Intersections
  - Density
  - Infrastructure



# Overlay Zoning District

Applies additional standards to a designated area, which lays over several districts and are used to protect:

- Historic areas
- Soils
- Farmland
- Steep slopes
- Aquifers
- Wetlands
- Areas of ecological significance



# Agricultural Viability: Economic & Community Development

Saratoga, NY  
Farmers' Market





# Agriculture's Importance to NYS

- Contributed over \$5 B to NYS economy
- About 25% of NYS land in farming
- Dairy farming:
  - #1 agricultural activity
  - 4<sup>th</sup> largest dairy state
  - nearly half total agricultural receipts



# Growth Areas

- Villages & Hamlets
- Older settlement areas
- New Town Centers



- Farmers' Markets
- Events
- Infill & reuse
- Design Guidelines

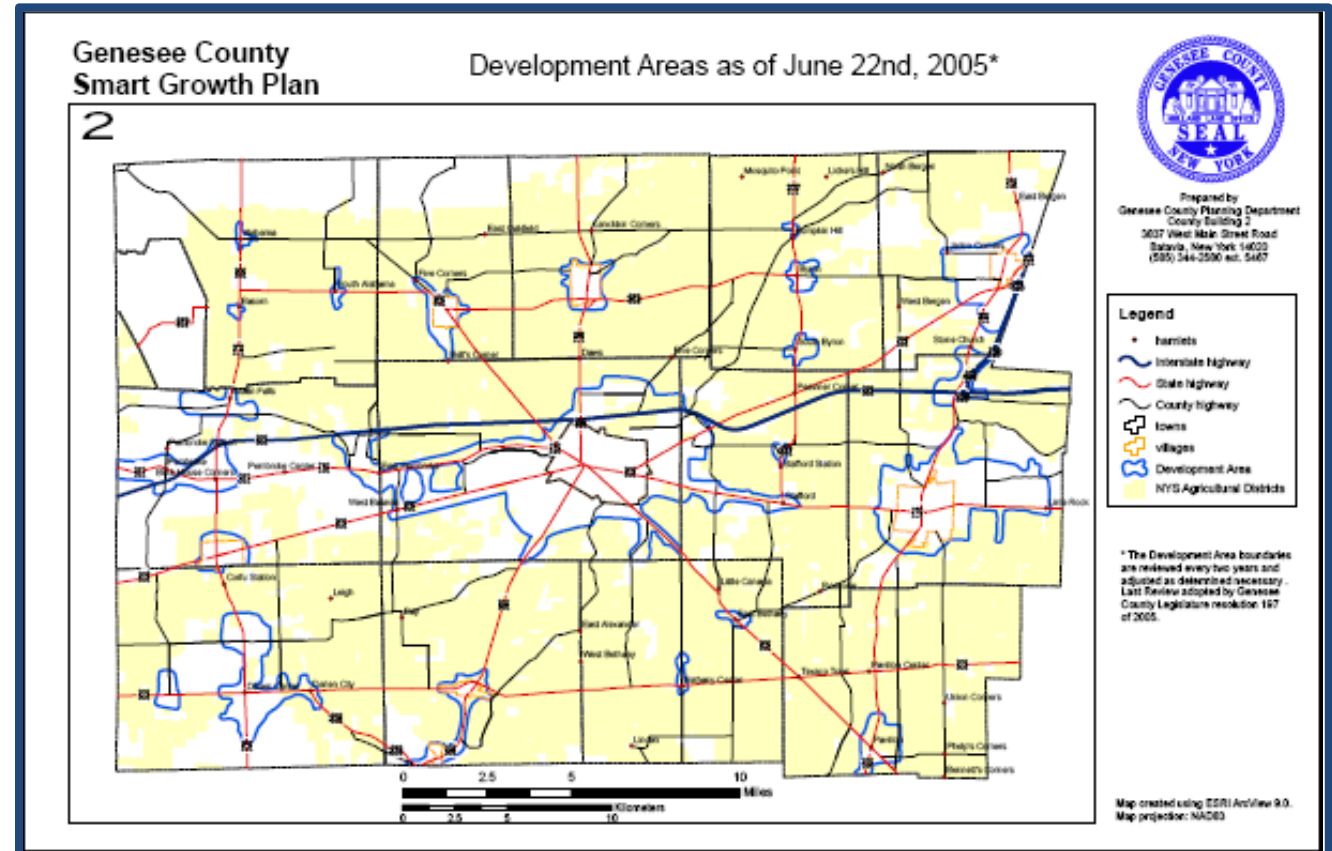
# Sewer & Water

- Direct away from threatened lands & resources
  - Wetlands, flood zones & water resources
  - Farmland, agricultural districts & open space
- Provide only where needed for economic development



# Sewer & Water

- Direct to targeted growth areas
- Not just anywhere on demand
- Reduce sewer connection fees in growth areas to incentivize development



# Agricultural Infrastructure

- Affordable electric & fuel
- Sound roads & bridges
- Drainage facilities
- Signage



The farming community has business needs like any other economic sector

# Economic Development

- Buy local
- Marketing & branding
- Local procurement
- Value-added
- Local processing
- Agri-tourism
- Micro-enterprises
- Entrepreneurism
- Diversity



# Marketing Campaigns

- Collaborative packaging & marketing
  - Branding campaign
    - Logos
      - Store windows & products
- Assistance to farmers & small processors
  - Internet presence
  - Fill orders
    - Focus on increasing production



# Buy Local

- Supports the local economy
- “Greener”
- Fresher
- Safer
- Healthier
- Adaptive
- Diverse





# Direct Marketing

- Farmers Markets
  - Virtual
  - Site based
- Farm stands
- Internet sales
- Community Supported Agriculture
- Direct deliveries
- Farm-to-chef, farm-to-fork...



# Diversification

- Diversity stabilizes the local economy
  - Resulting in more land base
- Variety in:
  - Products
  - Types & sizes of farms
    - Equine
    - Fiber
    - Grapes



# Local Purchasing Policies

- Institutional procurement
  - Farm-to-School
  - Champlain Valley Specialties
- Farm-to-Fork
- Supermarkets



# Value-Added Products

- Regulatory reform
- Joint marketing
- Cooperative purchasing
- Access to food processing facilities
- Small business technical assistance



# Financial & Technical Assistance

- Microenterprises
- Technical assistance
- Innovative financing
- Government programs
  - United States Department of Agriculture (USDA)
  - Sustainable Agriculture Research & Education (SARE)
  - Grow NY Enterprise Program



# Economic Development

- Private/ public partnerships
- Economic development
- State assistance
  - Empire State Development Corporation
  - Governor's Office for Small Cities



# New York Department of State

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Training Unit

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[www.dos.ny.gov/lg/lut/index.html](http://www.dos.ny.gov/lg/lut/index.html)

