



LIMA, NEW YORK

AGRICULTURAL AND FARMLAND PROTECTION PLAN



Prepared by the Town of Lima
with assistance from
American Farmland Trust

Town of Lima Agricultural and Farmland Protection Plan

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- Town of Perinton Agricultural Data Statement

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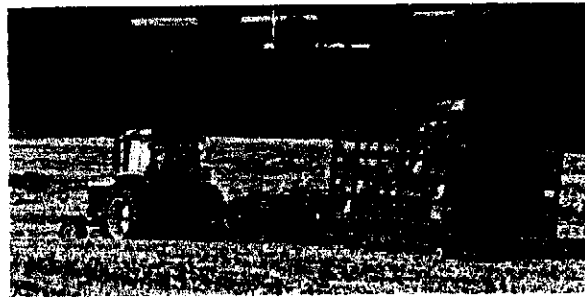
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EXECUTIVE SUMMARY

The Town of Lima comprises Livingston County's northeastern edge. A largely agricultural town, Lima is bordered to the north by two growing Monroe County towns. The high percentage of prime soils in Lima is one factor in the success of its farms. The foresight of the Lima Town Board, the Comprehensive Plan Committee, the Zoning Update Committee (whose members sought input from the Agricultural Advisory Committee for zoning updates relating to the Town's Agriculture Use Districts) and a dedicated group of farmers and interested citizens led to development of an Agricultural and Farmland Protection Plan. The Plan was funded with a grant from the New York State Department of Agriculture and Markets with the goals of proactively addressing the needs of agricultural businesses and protecting the abundant, high quality farmland in the Town.

Strong community support for preservation of Lima's agricultural sector identified in three town-wide citizen surveys led to the establishment of multiple recommendations to support agriculture in the Town's comprehensive plan adopted in March 2008. One recommendation called for the preparation of a local Farmland Protection Plan.

Once undertaken, this task identified an essential need to review and update zoning laws to support the Town's agricultural sector and to comply with protections set forth in New York State Agriculture and Markets Law. Agriculture



required Town support for both the business needs of farming and in stabilizing the land base. A detailed zoning analysis and recommendations accompany the Plan.

The year and a half planning process yielded both a plan and a discussion among Town farmers and residents. Public participation and dialogue were essential to the development of the written plan that will be implemented by the Town. The plan recommendations contain an action item to create a permanent agricultural advisory committee in Lima. This is one of the first tasks and once completed the Committee will be responsible for guiding the remainder of the implementation phase.

The Plan contains 4 main recommendations with action items and an implementation matrix.

The recommendations are:

- Plan for Town growth in order to maximize the protection of viable agricultural land. In the 2006 survey, 85% of residents ranked the amount of farming and agricultural uses of land as critically or very important.
- Adopt land use regulations that recognize the importance of agricultural working lands to the local economy and to the community.
- Support the business of farming recognizing that farms need to remain profitable and be sustainable in order to contribute to the quality of life and rural character that many Town residents appreciate. In the 2002 Comprehensive Plan Survey, “rural, small town character” received the highest rank of features that make Lima an attractive place to live.
- Educate the nonfarm public and local officials about the value of agriculture to the Town by promoting the benefits of agriculture to the community.

As Lima moves ahead to execute these actions it will be critical that the farm community remain active in the process. Farms provide numerous benefits to the community: economic, positive contributor to the local tax base (Cost of Community Services Studies), scenic, environmental, cultural, and provide healthy, local foods. Lima must remain dedicated to implementing the Agricultural and Farmland Protection Plan with the assistance, advice, and support of the farmers who operate the farms that benefit the larger Lima community.



A SHARED CALL TO ACTION

Following are excerpts from key State, County, and Town documents which support Lima's efforts to plan for agriculture and protect farmland.

➤ **New York State Agriculture and Markets Law – Declaration of Legislative Findings and Intent – Article 25AA Section 300**

(<http://www.agmkt.state.ny.us/AP/agsservices/2008C115.pdf>)

It is hereby found and declared that many of the agricultural lands in New York State are in jeopardy of being lost for agricultural purposes. When nonagricultural development extends into farm areas, competition for limited land resources results. Ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements, often leading to the idling or conversion of potentially productive agricultural land.

The socio-economic vitality of agriculture in this state is essential to the economic stability and growth of many local communities and the state as a whole. It is, therefore, the declared policy of the state to conserve, protect and encourage the development and improvement of its agricultural land for production of food and other agricultural products. It is also the declared policy of the state to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds, as well as for aesthetic purposes.

The constitution of the state of New York directs the legislature to provide for the protection of agricultural lands. It is the purpose of this article to provide a locally-initiated mechanism for the protection and enhancement of New York State's agricultural land as a viable segment of the local and state economies and as an economic and environmental resource of major importance.

➤ **Livingston County Agricultural and Farmland Protection Plan, 2006**

(<http://depot.livingstoncounty.us/pdfs/planning/Farmland-Protection-Plan-2006.pdf>)

"The County should be proactively encouraging towns to support retention of the best soils and most productive farmland in a manner that supports local development objectives."

Recommendations:

- ✓ *Actively support town based agricultural planning.*
- ✓ *Encourage and promote more comprehensive inclusion of agriculture in town level comprehensive planning which may include supporting town requests for state funding support.*
- ✓ *Support agriculture friendly development policies through incentives, infrastructure investments, and other methods that encourage in-fill development in villages and other already developed areas.*

➤ **Town of Lima Comprehensive Plan, 2008**

(<http://www.townoflima.org/WEBVersionCompPlan.pdf>)

"As the Town's largest industry, agriculture contributes significantly to the local economy. In addition, agriculture helps to retain the rural character and open space valued by Lima residents. Any significant, large-scale loss of land to non-agricultural use would be the loss of a valuable historic and future resource."

Recommendations:

- ✓ *Form a farmland protection committee charged with maintaining agricultural land resources and promotion farm operations within the Town.*
- ✓ *Prepare a local Farmland Protection Plan consistent with the Livingston County Farmland Protection Plan.*



INTRODUCTION

The Town of Lima was awarded a municipal agricultural planning grant from the New York State Department of Agriculture and Markets in January 2008. Prior to that award, the Town had established an Agricultural Advisory Committee to guide the planning process. American Farmland Trust was hired as the plan consultant, and they worked with George R. Frantz & Associates, to conduct the zoning review and analysis.

Lima adopted its first Comprehensive Plan in March of 2008. Two surveys of town residents conducted as part of the comprehensive plan process, one in 2002 and one in 2006, identified protection of agricultural lands and businesses as a high priority for the community. Those surveys also documented support for open space and maintaining the rural nature of the town – while allowing managed growth. Agricultural recommendations in the Comprehensive Plan include two that are directly related to the process of developing a municipal agricultural plan:

4. Form a farmland protection committee charged with maintaining agricultural land resources and promoting farm operations within the Town. This committee would research and recommend the best lands to be preserved and develop strategies to accomplish this goal. These strategies may include:

- *Voluntary conservation easements – legal documents in which a landowner does not relinquish ownership but agrees to permanently give or sell certain uses of his or her property to preserve its natural condition,*
- *Purchase of development rights using grant funding – payment by a municipality to a landowner for restricting the future non-agricultural development of the land,*
- *Outright purchase of land. This is not intended to recommend purchase of land by eminent domain.*

5. Prepare a local Farmland Protection Plan consistent with the Livingston County Farmland Protection Plan that was developed by the Farmland Protection Board.

Lima is also in the process of updating its Zoning Code. This coincides well with the municipal agricultural planning process, as a review of the zoning code is a requirement of the State grant.

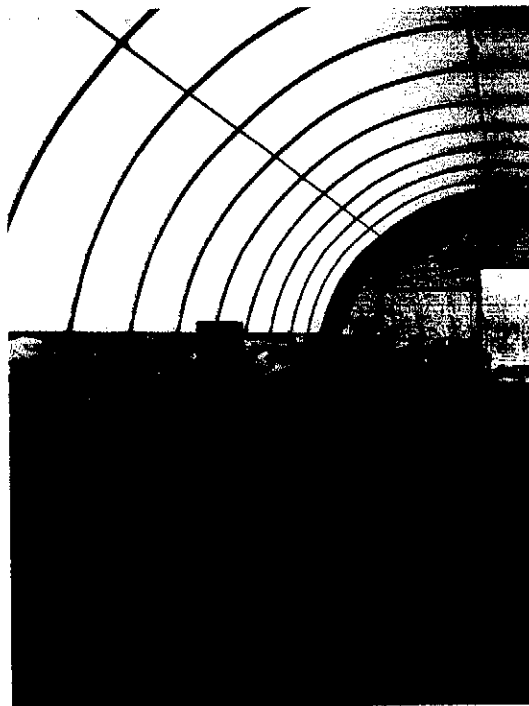


The zoning laws will be revised to be more agriculture-friendly, and to comply with New York State Agriculture and Markets Law.

More broadly, Lima's Agricultural and Farmland Protection Plan will complement Livingston County's Agricultural and Farmland Protection Plan which was adopted in 2006. The County Plan identified the need to support towns with agricultural land use planning, provide education and trainings for local officials, and promote agricultural economic development opportunities for farmers.

Livingston County's "DAN" Plan – Development, Agriculture, Natural Resources – also identifies the overall land use goal to "minimize the adverse impact on the County's natural resources and agriculturally productive lands". A key recommendation in the DAN Plan pertinent to future land use planning in Lima (p.20) states:

A.2. Every effort should be made, through legal tax incentives, land use regulatory devices, public improvements, and other governmental subsidies or other means to encourage future urban development to occur first within the village corporate boundaries and , secondly, outside but adjacent to the village corporate boundaries.



ANALYSIS OF LOCAL CONDITIONS

Livingston County:

Livingston County is located on the western edge of the Finger Lakes region of New York State and lies just south of Monroe County which includes the city of Rochester, population 208,123 (U.S. Census, 2006 estimate). Neighboring towns in Monroe County have experienced the effect of a sprawling population as it leaves the city and moves to the suburbs. Although Livingston County is still a largely rural, agricultural county, that population spread has easy access into the County via Interstate 390 which runs through the county connecting the city of Rochester with the Southern Tier of New York, and also connects with the New York State Thruway only a few minutes outside of Livingston County. Letchworth State Park, a popular, public attraction, lies partially in the western part of the County and includes the northward flowing Genesee River.

Population growth in the county in the decade from 1990 to 2000 was moderate: the population increased by 3%, the number of housing units increased by 4%, and the population density per square mile increased by 3% (U.S. Census). The proximity to Rochester and Monroe County and ease of access create the potential for an influx of people and new homes at some time, particularly in the northern towns of Livingston County.

Agriculture, in the ten year period from 1997 to 2007 had its ups and downs. Land in farms increased in that period by 6%, from 209,782 acres in 1997 to 222,415 acres in 2007. At the same time the total number of farms fluctuated slightly from 750 in 1997, to a high of 801 in 2002, and settling at 792 in 2007. A similar fluctuation occurred in the average size of a farm: 280 acres in 1997; 262 acres in 2002; and 281 acres in 2007. The most significant change was in the market value of agricultural products sold: almost \$75,000,000 in 1997; \$84,000,000 in 2002; and a dramatic jump to almost \$154,000,000 in 2007. Since Livingston County agriculture has a significant dairy industry, the high milk prices of 2006-2007 would have factored into the large increase in market value of agricultural products sold and may also have had some effect on the increase in land in farms as well.

Lima:

The Town of Lima sits in the northeastern corner of Livingston County, bordered on the east by Ontario County and on the north by the rapidly developing Monroe County towns of Mendon and Rush. From 1990 to 2000 (U.S. Census), the Town of Rush had a 12% increase in population and a 16% increase in housing units. The Town of Mendon's population and housing unit numbers increased by 22% in that same time period.

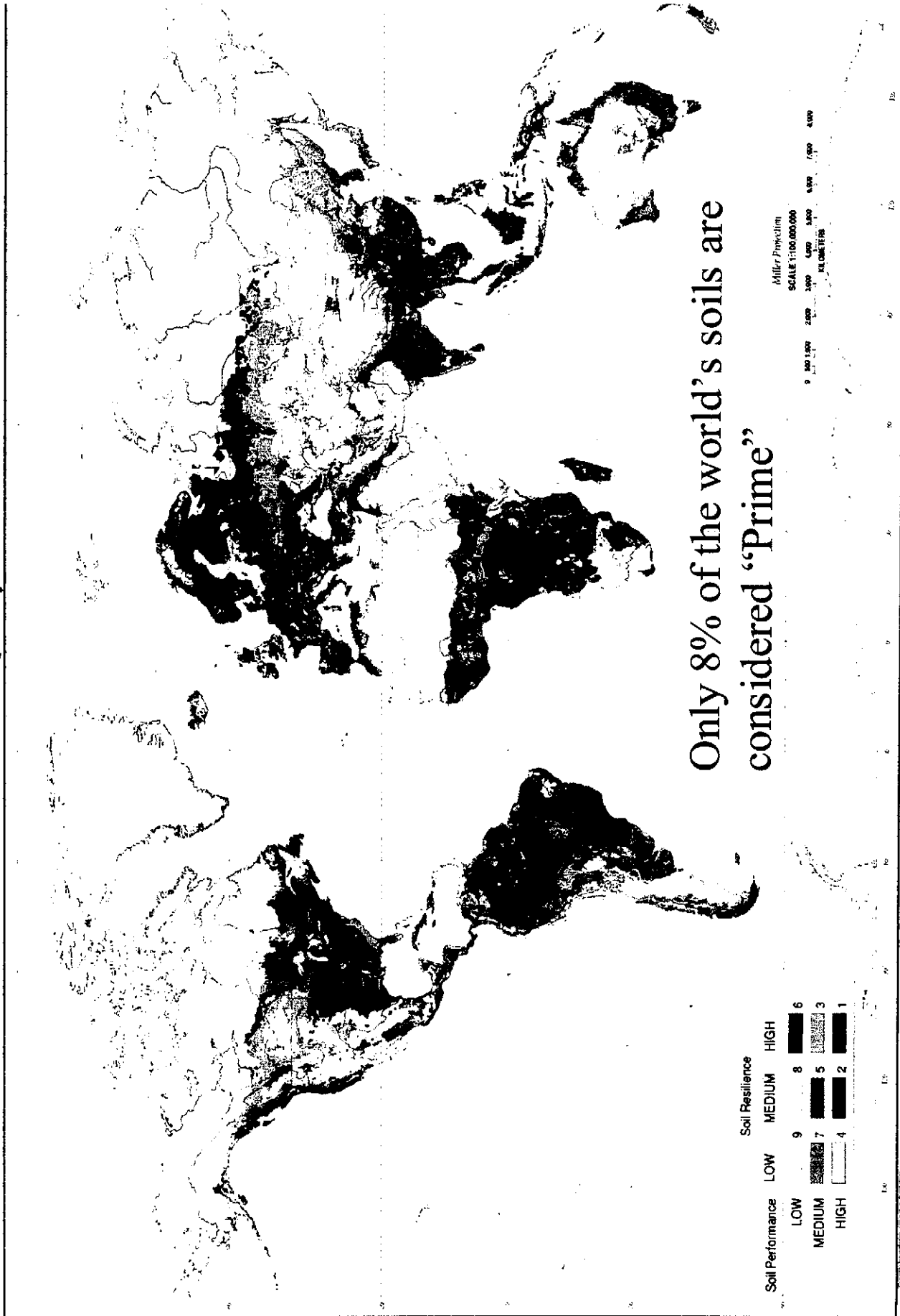
Lima is blessed with a wealth of highly productive soils. Only 8% of the world's soils (see Map 1) are equivalent to prime farm soils as defined by the U.S. Department of Agriculture. As seen in Map 2, the vast majority of the soil in the Town of Lima is classified as prime. Preserving the quality and productive capacity of this limited natural resource is vital to the Town's efforts to protect its valuable farmland. Map 3 depicts the agriculturally assessed value of the soils with the highest dollar values attributed to the very best soils.



Seventy percent of the town's 20,779 acres (32 square miles) are in a state-certified agricultural district (Map 4). Approximately one half of the town land area, 10,250 acres, is in active agricultural production (NRCS, Common Land Units). The following excerpt from the Livingston County Agricultural and Farmland Protection Plan highlights the value of Lima's soils.

Livingston County has a wide range of soil qualities and conditions, anchored by the highly productive soils found in the towns of Mount Morris, Leicester, York, Caledonia, Geneseo, Avon, and Lima. USDA classified "Prime" and "Productive" soils are found in large contiguous blocks in these areas, and are otherwise found in dispersed pockets in other parts of the County. Because many of these soils are well drained, they are often considered prime candidates for development.

Inherent Land Quality Assessment



Classifications 1 & 2 are Equivalent to Prime Form Soils as Defined by the US Department of Agriculture

Town of Lima Farmland of Statewide Importance and Prime Soils 2009



Livingston County

Legend

Soils Classification

- Prime Farmland
- Farmland of Statewide Importance
- Village Boundaries
- Town Boundaries
- Tax Parcels
- State Highway
- County Highway
- Town Road
- Seasonal Road
- Hydrography

Map #2

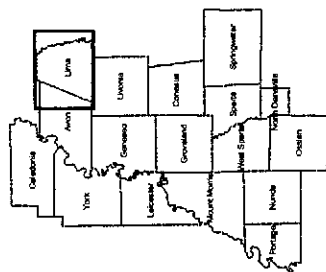
Map created by the Livingston County Planning Department, February 2010

Source: National Resources Inventory, 2001; USDA National Resources Inventory, 2001; USGS National Wetlands Inventory, 2001; USGS National Wetlands Inventory, 2001; USGS National Wetlands Inventory, 2001

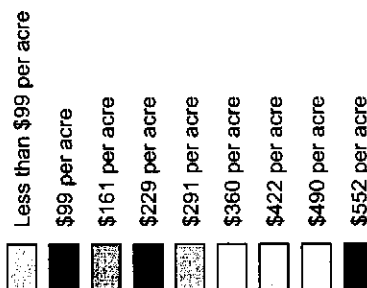
Town of Lima Agricultural Assessment Value of Soils 2009



Livingston County



Agricultural Assessment Value

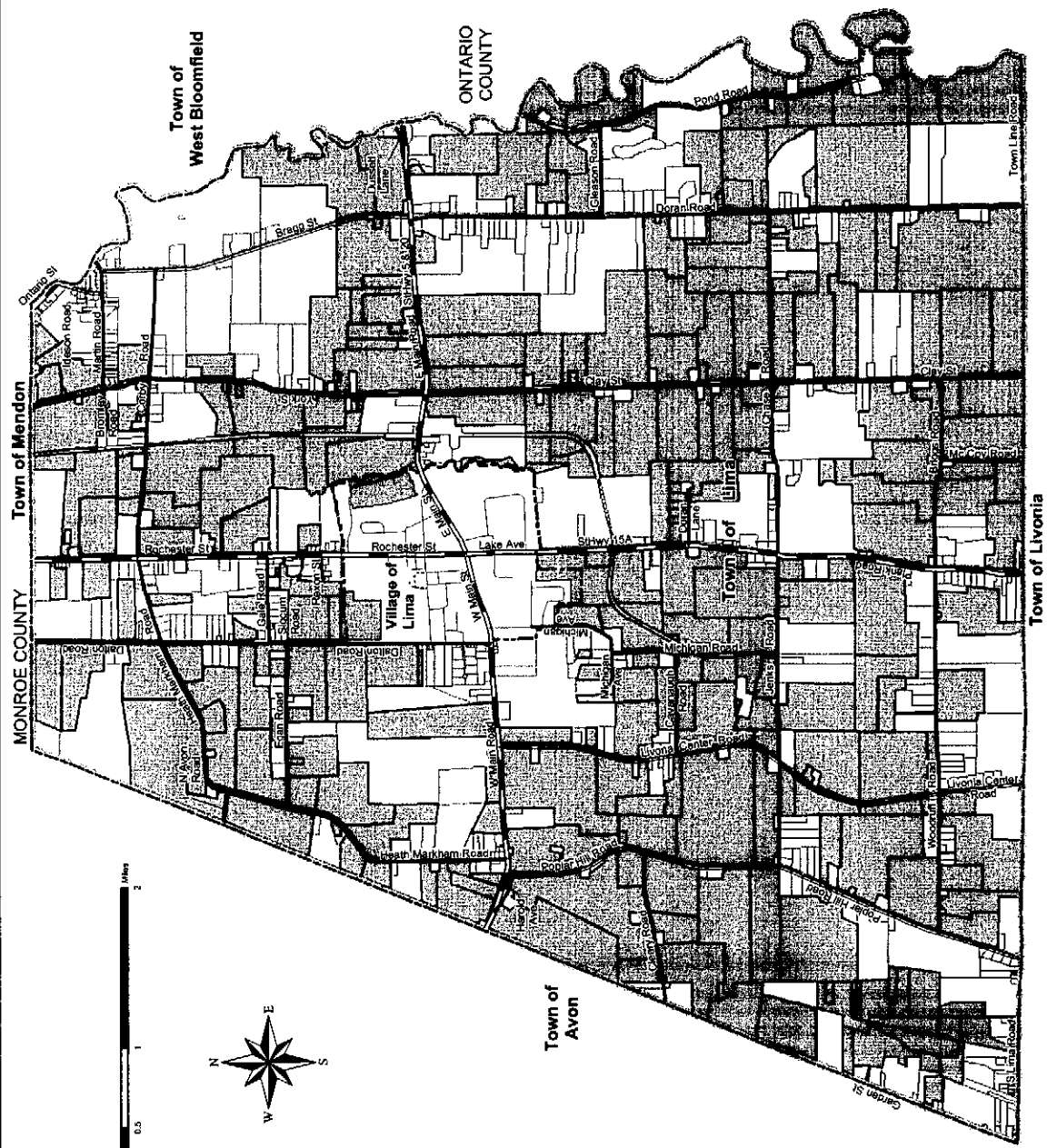


Map created by the Livingston County Planning Department, February 2010
 Sources: Soil Valuations Per Acre, NYSD Dept. of Agriculture and Markets, 2008
 Livingston County Real Property Tax Parcels, 2008
 from: town_lima.mxd, 2009, 1:1417.mxd

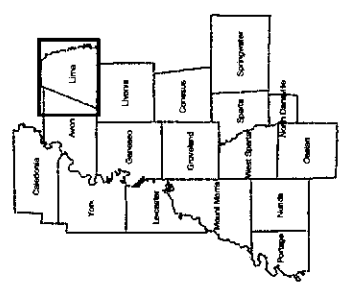
Map #3

Town and Village of Lima

Agricultural District #2



Livingston County



- Land in
Agricultural District #2
- Town Boundaries
 - Village Boundaries
 - Tax Parcels
 - State Highway
 - County Highway
 - Town Road
 - Seasonal Road
 - Private Drive
 - Village Road

Map created by the Livingston County
Planning Department February 2010
Source: Livingston County Real Property Tax Parcels, 2009;
Agricultural District #2, Livingston County Planning Dept., 2009

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Map # 4

Table 1 lists Town of Lima soil types, acreages of each, and notes soil classifications of prime, statewide important, and prime where drained. (See Soil Legend in Appendix for soil type listings.)

Soil Type	Acres	Classification	Soil Type	Acres	Classification	Soil Type	Acres	Classification
Ad	24.6	Prime	Hd	3688.6	Prime	Pc	248.7	Prime
Be	145.1	Prime	He	205.6		Pd	151.3	Prime
C8	47.5		Hh	1.2	Prime	Pe	6.9	
Cb	1.6	Important	Ka	322.8		Pf	114.4	
Cn	548.6		La	154.5	Important	Ra	49.1	
Co	474.2	Prime	Le	2.0	Prime	Sa	33.0	Important
Cq	102.7	Important	Lh	1357.3	Prime	Sb	70.7	Important
Cr	2109.2	Prime	Lo	341.1		Sc	249.0	Prime
Cs	129.7		Oc	26.8	Important	Sd	110.7	Important
Ct	204.1	Important	Oe	620.0		Se	519.1	
Cu	14.8	Prime	Of	54.8	Prime	Sf	88.3	Important
Cw	11.7	Prime	Og	0.1		Sg	279.6	Prime
Cx	16.5	Prime	Oh	73.5	Important	Sh	8.7	Important
Ea	15.6		Ok	241.1	Important	Sk	1003.5	Prime
Eb	325.7	Prime	Ol	2037.4	Prime	So	105.5	
Fa	94.4		Om	178.7	Prime	Sp	0.9	
Fb	124.1	Prime	On	167.0		Ss	16.2	
Fd	113.7	Important	Op	381.4	Important	Ta	68.6	Prime
Ga	23.1	Prime	Os	19.4	Prime	Tb	293.5	
Gb	144.5	Prime	Ot	101.8		W	67.8	
Gc	209.2		Ou	95.3	Prime-drained	Wb	2.6	
Ha	953.2	Prime	Pa	92.1	Prime	Wc	335.7	
Hc	27.9	Prime-drained	Pb	15.5	Prime	Wd	17	

Table 1

— Lima's approximately 30 active farms (see Appendix for current listing of active farms) are predominately cash crop farms with some dairy, livestock, and vegetable farming as well (Map 5). According to the 2002 Census of Agriculture, 80% of the farms in zip code 14485 had a value of agricultural products sold that year that were less than \$50,000 and the remaining 20% of farms had a value of agricultural products sold between \$50,000 and \$250,000. Figure 1 below shows these percentages from the 2007 Census of Agriculture. As noted previously, 2007 was an excellent year for the dairy industry, and although Lima does not have a large number of dairy farms they do have a few, as well as crop farms that provide feed for dairy farms. The increase in the two higher sales categories may be at least in part attributable to the success of the dairy industry that year.

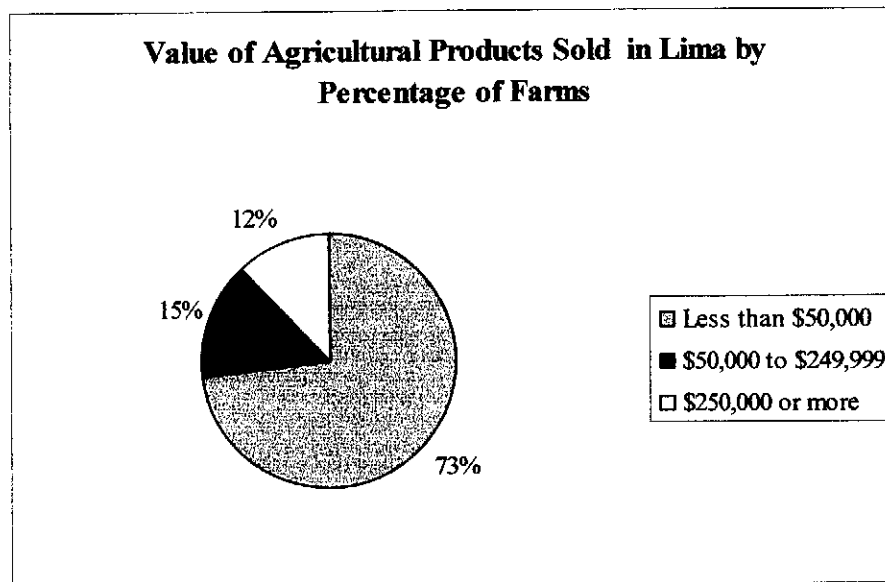
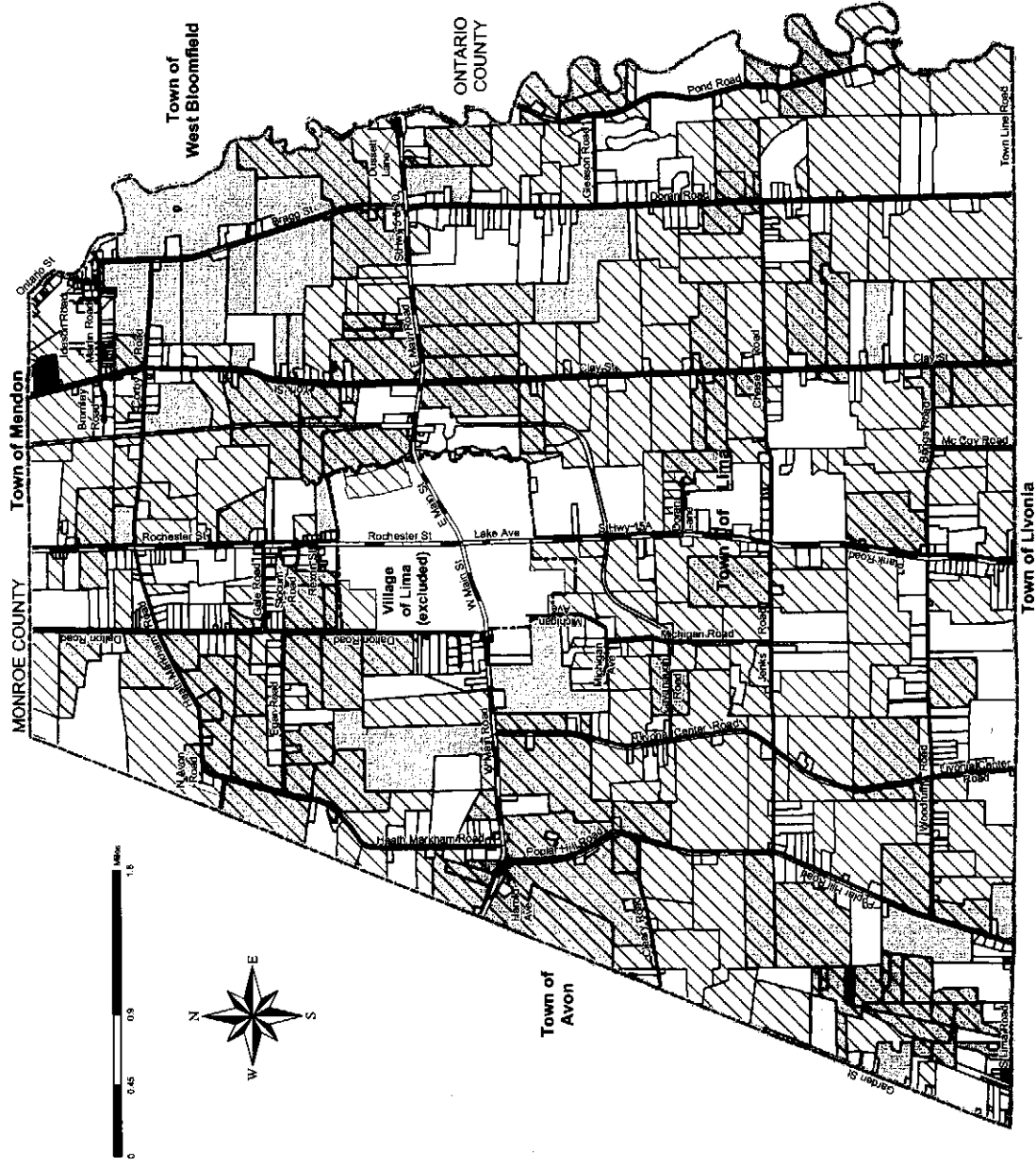
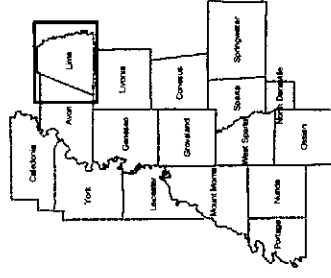


Figure 1

Town of Lima Agricultural and Rural Residential Land 2009



Livingston County



Agricultural Land

▨ Agricultural District No. 2

Property Class

- ▨ Vacant Agricultural Land
- ▨ Dairy
- ▨ Cropland
- ▨ Nursery/Greenhouse
- ▨ Rural Residential

Map created by the Livingston County
Planning Department, February 2010

Source: Livingston County Real Property Tax Parcels,
Property Class, 2009.
Livingston County Agricultural District #2, 2009.

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Map #5

Also in zip code 14485, in the 2002 Census of Agriculture, 39% of the farms were in the size category of 1-49 acres and 61% of the farms were in the size category of 50-999 acres. Figure 2 shows the 2007 Census of Agriculture farm sizes.

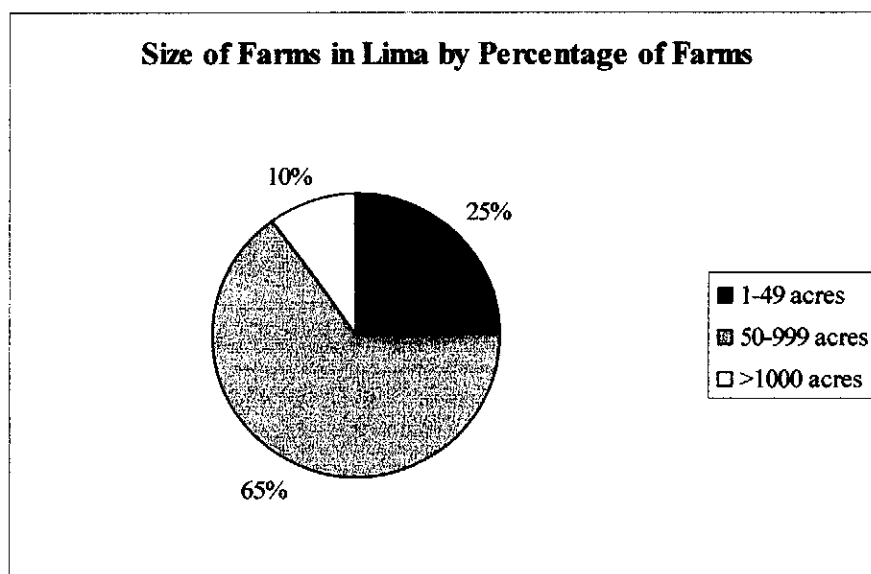


Figure 2

A shift occurred in the five years between the 2002 and 2007 Agriculture Censuses. Farms in Lima tended to become larger in land area. But, as evidenced by the 73% of farms that grossed \$50,000 or less in 2007, Lima has many small, part-time, and hobby farms that can play an important role in maintaining farmland, buffering larger farms, and providing a diversity of agricultural enterprises in the Town. Lima is just a 30 minute drive from Rochester and farmers have ready access to a large urban and suburban population via farmer's markets and other local markets and roadside stands. It is important to note though, that it is the bigger farms that are able to keep large, contiguous acreages in active production. To protect farmland, Lima will benefit from a mix of both small and large farms.

In 1990 Lima had a population of 4187 people (U.S. Census, 1990) and by 2000 the population had increased to 4593 (U.S. Census, 2000), an almost 10 % increase. The number of housing units in the Town increased by almost 6% and the population per square mile increased by almost 9%, while the average household size decreased by 37% in that same time period (figure 3). These are all noticeably higher growth rates than seen in Livingston County overall in those ten years. Growth has been somewhat slower recently with 20 housing permits issued in the Town and Village of Lima from 2006-2008. These are not alarming rates but are worth noting as the Town moves forward in planning for agriculture and managing growth.

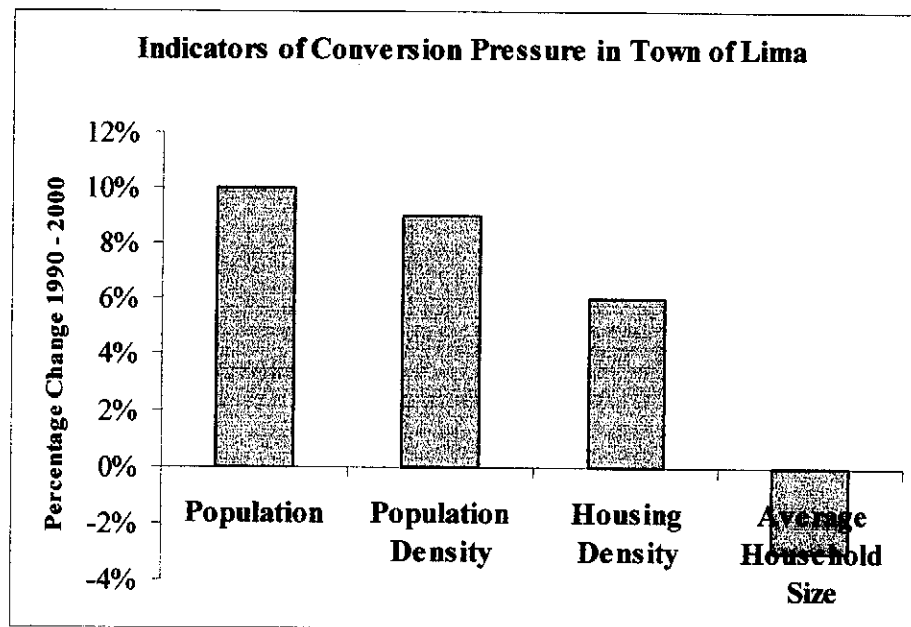


Figure 3

Over 15 *Cost of Community Studies* have been conducted in New York State (see Appendix for further information about the studies). These studies routinely show that farmland, open space, and forest land generate more in revenue than they receive in services, while residences generally require more in services than they pay in taxes. The average numbers are below:

Farm, Forest and Open Land:	\$0.29/\$1
Commercial:	\$0.26/\$1
Residential:	\$1.27/\$1

These numbers are not meant to discourage all residential growth in town but to emphasize the need to manage and balance growth with maintaining working farmland in Lima.

PUBLIC PARTICIPATION

Involvement of the farm and non-farm community in Lima was critical to this planning process. Four public meetings, and fourteen individual interviews were conducted over the year and a half plan development. Over 15 Agricultural Advisory Committee meetings were held to discuss each component of the plan.

Public Meetings

The Agricultural Advisory Committee sponsored three public meetings: a *Purchase of Development Rights* Roundtable on December 10, 2008; a public information meeting titled *Why and How to Plan for Agriculture* on January 14, 2009; and a Roundtable, *Zoning for Agriculture*, on February 11, 2009. A complete list of public meeting attendees can be found in the acknowledgements. A public hearing was also held on November 19, 2009.

Purchase of Development Rights Roundtable:

Presentations by:

- Diane Held, American Farmland Trust, regarding New York State's purchase of development rights (PDR) program – Farmland Protection Implementation Grants.
- Amber Hamman, Genesee Valley Conservancy, about Livingston County's participation in New York's program.
- Jeff Mulligan, Livingston County farmer and awardee of a state Farmland Protection Implementation Grant, about his family's decision to participate in New York's program.

Audience input and questions:

- Criteria for selection of local applicants to apply for the State grant.
- Soil types in Lima.
- Cost of Community Services Studies.

Why and How to Plan for Agriculture Public Information Meeting:

Presentations by:

- Cathy Gardner, Town of Lima Councilwoman, regarding Town's purpose for undertaking local planning for agriculture.
- Diane Held, American Farmland Trust, about the "toolbox" of "tools" available for towns to use to plan for and support agriculture and protect farmland.

SWOT Analysis with audience input:

- Responses regarding strengths, weaknesses, opportunities, and threats to agriculture in the Town of Lima (chart follows).

Zoning for Agriculture Roundtable:

Presentations by:

- Diane Held, American Farmland Trust, briefly presented findings from individual interviews conducted with Lima farmers and landowners.
- George Frantz, George R. Frantz & Associates, regarding issues related to planning for agriculture, agricultural zoning, agricultural commerce.

Audience input and questions:

- Clarification of fixed ratio zoning provisions and flag lot considerations.



SWOT Analysis

Strengths	Weaknesses
High quality soils.	High percentage of rental farmland in town.
Precipitation/water resources.	Not much additional land available to purchase or rent in town.
Markets – both local and regional.	Advancing average age of farmers in the town.
Proximity of processors.	Lack of a younger generation to take over many of the farms in town.
Highways & transportation corridors.	Property taxes – particularly school taxes.
Suppliers and vendors.	No bank in town.
Growing season.	
Town support for ag planning process.	
Well maintained farms/attractive.	
Adaptable farm businesses; hard working, smart farm owners.	
Farmers who are active in the community.	
Town highway department – works well with farm community needs.	
Terrain ideal for farming.	
Rental landowners who are flexible and understanding.	
Opportunities	Threats
Local food niche.	Availability of a skilled workforce in the future.
Small, diverse farms that can capitalize on local food interest and food safety concerns.	
Ability to adapt farms to changing business conditions based on ideal soil resources, and owner/operator knowledge base.	

Agricultural Stakeholders: Interview Summary

Fourteen interviews of farmers and farm landowners were conducted in the fall of 2008 and winter of 2009. Interviews allowed for direct input from the farm community in a comfortable environment, at their home or farm. Following are the main themes gathered from these interviews.

Farmers and farm landowners are concerned about increasing property taxes. “Taxes will force me to split my land and sell it for development to survive.” Many of the comments regarding property taxes were focused on what has happened to date with rising taxes but some of the concern was also for the future. Because farmers often own substantial amounts of land, and even with agricultural assessments on the land, they pay significant property taxes.

Landowners who rent farmland to farmers are often the most sensitive to this issue because they may not have any income other than land rent with which to pay property taxes. This does make land ownership less stable and threatens agricultural land with “death by a thousand cuts”.

Farmers may sell a parcel of frontage here and there to make ends meet, and landowners with rental land may sell their land in its entirety for development to fund retirement or other needs.

“My land is my retirement,” was the sentiment expressed by one farm landowner.



Zoning to support agriculture’s business and land use needs in Lima needs to be addressed and updated. For a number of years, community discussion has focused on whether it is best for agriculture to maintain the current minimum lot size of 2.5 acres in the agriculture district, or whether to reduce this to 1 or 1.5 acres. Opinions were divided

among the interviewees but very strong property rights sentiments were expressed by many of the farmers and landowners. Also, some of the farmers expressed frustration with the difficulties of operating farm markets, agriculture related businesses, and providing signage for agricultural

businesses due to overly restrictive agricultural zoning. Addressing these issues will not only make it less difficult for current farmers but may make Lima a more attractive place to farm for new and next generation farmers. One farmer lamented that he “can’t sell as an existing business unless the zoning becomes more flexible for agriculture-related businesses.”

There is significant competition for farmland in the Town. When farmers want to expand their operations in Lima they do compete with other farmers for land. And it may be that they are competing with farmers from outside of the town and/or outside of the county. Frustrating as this is for the farmers, it does show that the industry is strong enough to support business growth. And many of the farmers were appreciative of the landowners who rent farmland to them citing their efforts to accommodate the changing needs of farming.

Lima needs to balance the needs of the agriculture community with the needs of the larger community when making decisions about infrastructure growth – especially the extension of water lines. Encroachment of water lines out of Monroe County from the north and from the Livingston County Water Authority from the south are of real concern. Lima currently has water lines largely in the village and areas adjacent to the village, as well as some extending into the northeast quadrant of the town. Water quantity issues in the southeast quadrant of town were mentioned in some of the interviews and that area was identified as having potential for public water service. “Lima has definite potential as a bedroom community,” was expressed by one farmer. And extending water lines into agricultural areas of the town will put just that kind of pressure on farms. With Lima’s close proximity to Monroe County towns that have experienced significant residential growth, having the added attraction of public water will significantly increase housing development pressure.



More farmers in Lima need to become actively engaged in Town government and need to participate on local committees and boards. “There are not a lot of (Lima) farmers in local government positions.” A few of the interviewees seconded this thought. Farming is often a 365 day a year business with little time to spare for other pursuits. Because the farm population has become such a small percentage of the entire population (less than 2%), and because the effects of non-agricultural activity and development can be so devastating to the long term viability of farms, farmers must take the time to serve in various capacities in local government.



The farm labor force in the Town of Lima primarily consists of farm-family members and is supplemented with local employees. One farmer particularly enjoys giving local teens a tie to their home community, “it’s the best feeling when the teenagers come back and say ‘I worked for him’”. All of the interviewees used a local labor force if they needed to

hire any labor other than family. This may change over time if the main agricultural businesses in Town have a need for a larger labor force than they can fill locally, or if farms located outside of the Town (and already utilizing migrant labor) begin to work more of the land.

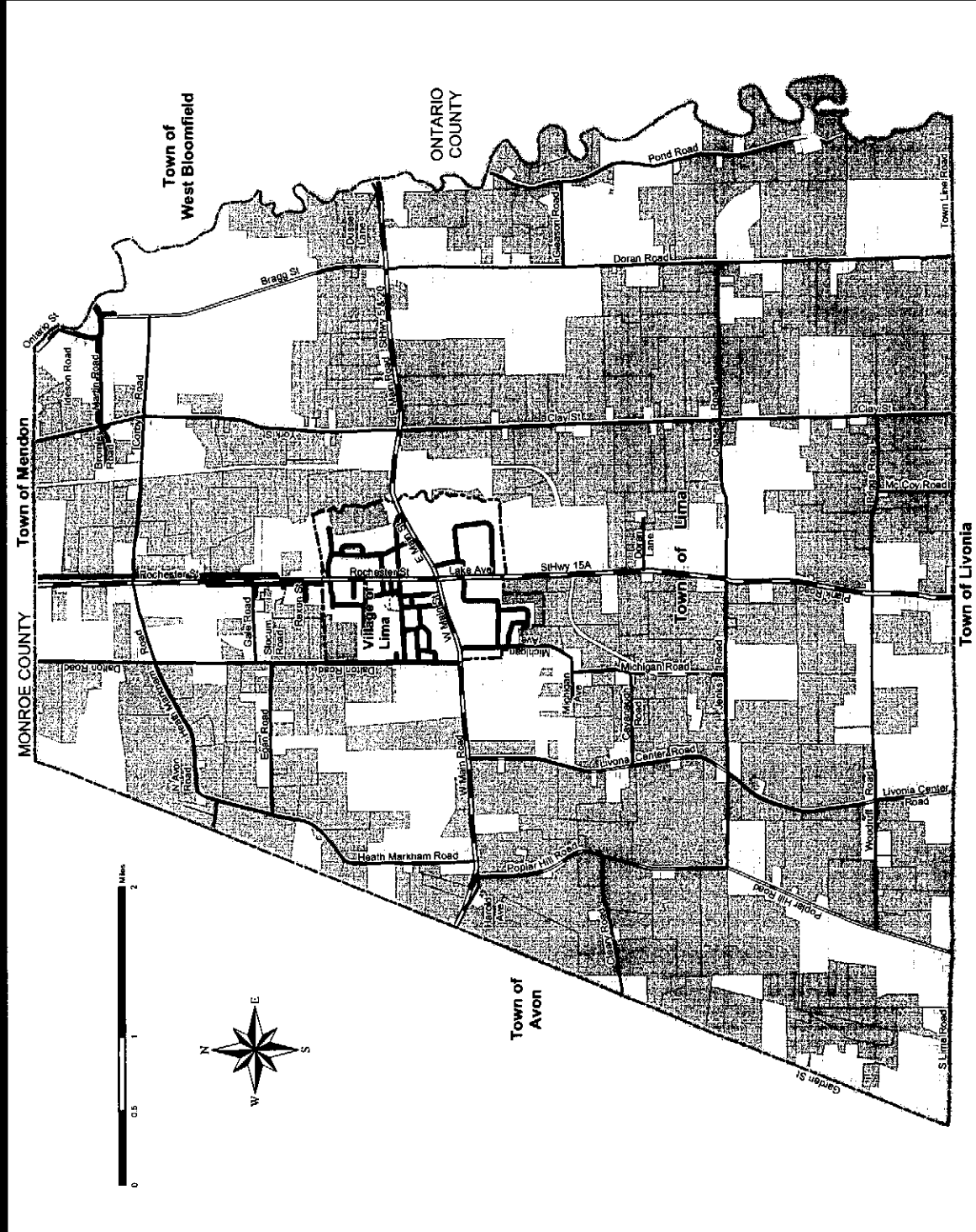
CONVERSION PRESSURE, FARMLAND PROTECTION AND PRIORITIZATION

As mentioned in the Analysis of Local Conditions section, the Town of Lima's proximity to a few of Monroe County's residential towns, as well as proximity to a Route 390 interchange (within a few miles of the Town limits), creates potential for Lima to become a bedroom community for the larger Rochester area. Already on a drive through town, scattered lot residential development is evident in some agricultural areas. Currently, water lines extend throughout the village and on the major roadways of Route 15A and Routes 5 & 20 (Map 6). One line does extend from Ontario County to the east into the northeast quadrant of the Town and concern about water quality and quantity has spurred early discussion about water lines extending into the southeast quadrant of the Town. Pressure to convert agricultural land to non-agricultural uses increases once water lines are extended into farming areas. And, keeping Lima's significant prime soil resources intact for farming use becomes more difficult because these high quality soils are also preferred for development.

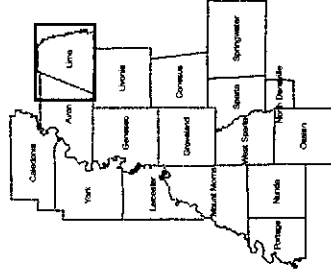
Lima's wealth of prime soils and large blocks of contiguous farmland found on active farms in all quadrants of the Town, have led planning efforts to focus on future residential growth occurring within the village limits or along the village edges. This is in direct accordance with the County DAN Plan goal as cited in the Introduction of this Plan. The Town's Comprehensive Plan also calls for new business development within the existing village limits and along the Route 15A corridor, extending north of the village. Lima is working to sustain agriculture and protect farmland throughout the Town, on viable farmland acreages.

Lima's excellent soil resources were cited as both a strength and an opportunity for farm adaptability in the SWOT analysis. As of this writing, approximately 1000 acres of farmland in the Town are either permanently protected with agricultural conservation easements or are under contract to be permanently protected. The focus of farmland protection efforts in the Town will be on the highest quality soils under the most threat of development. Following is a Land

Town and Village of Lima Agricultural District #2 with Waterlines 2009



Livingston County



- Land in
Agricultural District #2
- Town Boundaries
 - Village Boundaries
 - Tax Parcels
 - Waterlines
 - State Highway
 - County Highway
 - Town Road
 - Seasonal Road
 - Private Drive
 - Village Road

Map created by the Livingston County
Planning Department: February 2010

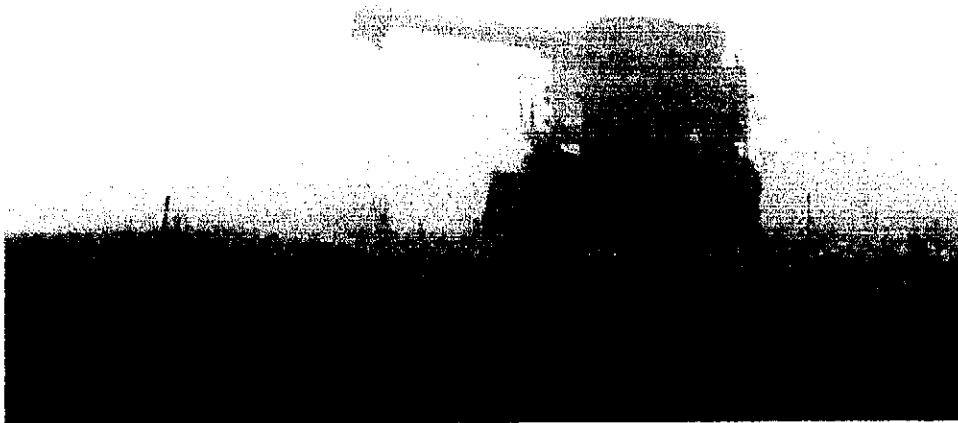
Source: Livingston County Real Property Tax Parcels, 2009;
Livingston County Waterlines: Livingston County
Water & Sewer Authority, 2008;
Agricultural District #2: Livingston County Planning Dept., 2009.

lima_town_agdistd2009_m_water_11x17.mxd

Map # 6

Ranking Tool which accounts for numerous factors that can help to evaluate a parcel's value and importance for agricultural purposes. The Town can use the Land Ranking Tool for two purposes:

1. If the town chooses to submit a purchase of development rights application to the state or federal program at any time, this tool can be used to rank Town farms who would like to apply. Thus giving the Town the ability to prioritize farms for application purposes.
2. The Town (Town Board, Agricultural Advisory Committee, and Planning Board) should utilize the land ranking tool for land use planning, reviews of potential nonfarm development in agricultural areas, and site planning considerations.



Town of Lima
Land Ranking Tool

Farm Name: _____

Landowner Name(s): _____

Eligibility Criteria met? Yes___ No___

Part II Score: ___/130 Part III Score: ___/15 Part IV Score: ___/15

Total Combined Score: ___/160

Total Project Acres: _____

-----**Part I – Eligibility Criteria**-----

***This section to be completed only when used for purchase of development rights project ranking.**

Y / N

___ Are the properties currently enrolled in an Agricultural District?

___ Does the zoning of the properties allow residential, commercial, or industrial development?

___ Do the physical characteristics of the properties permit residential, commercial or industrial development?

___ Do the properties have a Soil Conservation and Water Quality Plan, Forest Management Plan, Nutrient Management Plan, CAFO Plan, or similar plan?

___ Are the properties in good standing with local tax authorities?

-----**Part II - Property Information**-----

Farm Characteristics

1. Soil Quality

___ 20 points (50% - 74% USDA Prime soils)

___ 25 points (75% - 89% USDA Prime soils)

___ 30 Points (greater than 90% USDA Prime soils)

2. Size of Application

- ☐ 5 points (less than 100 acres but contiguous to permanently preserved parcels of more than 100 acres)
- ☐ 10 points (100-199 acres)
- ☐ 20 points (more than 200 acres)

3. Land Usage

- ☐ 5 points (50% - 74% tillable land)
- ☐ 10 points (75% - 89% tillable land)
- ☐ 15 points (more than 90% tillable land)

4. Commitment

- ☐ 5 points (all farm operator-owned land is included in the application)

Location Factors

5. Adjacency to Agricultural Land *check all that apply, maximum 20 points*

- ☐ 10 points (properties are adjacent to actively farmed land)
- ☐ 10 points (properties are within ½ mile of permanently protected farmland)
- ☐ 20 points (properties are adjacent to permanently protected farmland)

6. Adjacency to Public Water or Rt. 5 & 20 *check all that apply, maximum 20 points*

- ☐ 5 points (within ½ mile of Rt. 5 & 20)
- ☐ 5 points (within ½ mile of public water lines)
- ☐ 10 points (adjacent to Rt. 5 & 20)
- ☐ 10 points (adjacent to public water lines)

7. Development Pressure *check all that apply, maximum 5 point*

- ☐ 1 point (construction of non-agricultural buildings)
 - ☐ 1 point (changes in zoning)
 - ☐ 1 point (subdivision of building lots)
 - ☐ 2 points (purchase offer for non-agricultural use of the farm itself)
 - ☐ other. Explanation: _____
-

8. Road Frontage

- ☐ 5 points (1' - 1499')
- ☐ 10 points (1500' - 2999')
- ☐ 15 points (3000' or greater)

Part II Score: _____ / 130

----- **Part III – Farm Viability Narrative** -----

10. Type of Farm (no points awarded)

11. Farm Planning *check all that apply, maximum 5 points*

- ☐ 2 points (has a written partnership/succession plan)
- ☐ 2 points (phasing in of partner/next generation)
- ☐ 3 points (has a written business plan)

12. Farm Management Tools *maximum 5 points*

- ☐ 3 points (utilization of outside resources/expertise)
- ☐ 4 points (investment in more efficient equipment/technology)
- ☐ 5 points (utilization of conservation practices)

13. Capital Improvements *maximum of 5 points*

- ☐ 2 points (general maintenance of farm operation)
- ☐ 3 points (improvements to cropland - tiles, ditches, etc.)
- ☐ 4 points (improvements made to existing facilities)
- ☐ 5 Points (construction of new facilities)

Part III score: / 15

----- Part IV – Ancillary Section -----

17. Discretionary Points *check all that apply, maximum of 15 points*

- ☐ 5 points (cost of easement relative to appraised value)
- ☐ 2 points (consistency of application with County and/or Town Plans)
- ☐ 10 points (imminent sale or intergenerational transfer)
- ☐ 5 points (cultural or historic significance)
- ☐ 5 points (scenic vista)
- ☐ 5 points (gatekeeper parcel)

Part IV score: / 15

**Town of Lima
Land Ranking
Review Committee**

1 member of the Soil and Water Conservation District or Natural Resources Conservation Service

1 member of the Town Planning Board

1 member of the Town Agricultural Advisory Committee

1 member of the Genesee Valley Conservancy

1 member of the Town Board

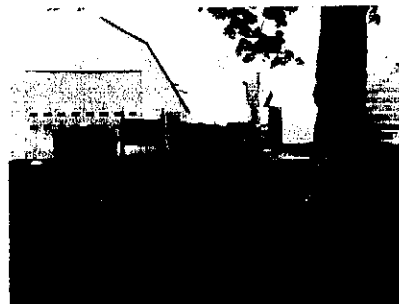
VISION, GOALS, RECOMMENDATIONS, AND ACTIONS

Vision: The Town of Lima is committed to supporting the viability of agriculture as an industry and to protecting the land base needed to support farms. Lima is fortunate to have an abundance of prime, productive soils that provide jobs and income for our residents. Good stewardship of the land is essential to the productivity and longevity of Lima's farms. Agriculture enhances the quality of life for all Lima residents by contributing to a vibrant economy, maintaining open space, providing environmental benefits, and supplying the food and fiber essential to our lives.

GOAL AND RECOMMENDATION 1

Plan for town growth in order to maximize the protection of viable agricultural land. In the 2006 survey, 85% of residents ranked the amount of farming and agricultural uses of land as critically or very important.

Towns are comprised of an array of businesses, land uses, and residents. Addressing and balancing the needs of these varying groups is key to town level planning. Agricultural enterprises are businesses which utilize a significant portion of town land, and are generally operated by local residents who live and raise their families in the community. Protecting the land base upon which agricultural businesses depend is essential to their long term success.



ACTIONS

- Any land use planning decisions made in the Town will take into consideration the value of the soil quality.
- Research the potential cost and impact of a term easement program (lease of development rights) whereby farmers receive a reduction in property taxes in exchange for a deed restriction to keep their land in active agriculture for a specified period of time.
- Endorse the policy of the Livingston County Agricultural and Farmland Protection Plan (Recommendation 12) to give preference to purchase of development rights farm applicants from a town with an adopted Agricultural and Farmland Protection Plan. Reserve the possibility for the Town to submit an application on behalf of a local farm.
- Draft and adopt a Town Right to Farm Law that establishes a dispute resolution committee.
- Lima will communicate directly with Town farmers when Livingston County announces that it is accepting PDR applications.
- Research alternatives for a town land protection fund: Community Preservation Act authorization; developer fee; private funding; others.
- Draft and adopt a Town law that establishes a permanent Agricultural Advisory Committee with specified duties. Model this law after the Town of Eden's law (see Appendix) with the following modifications:
 - Committee membership (5) to consist of (4) residents of the Town of Lima agricultural community and (1) resident not associated with agriculture. Additionally, (2) liaisons, one each from the Town Board and the Town Planning Board. It was noted that at any time when a Lima farmer is appointed to the County Ag and Farmland Protection Board, it would be desirable to include this individual as a member of the Town Committee.
 - As part of review of proposed zoning change, land subdivision policy change or development in the agricultural use district, the Committee will receive copies of all Agricultural Data Statements and related notices.

- The Committee shall review Agricultural Data Statements and shall, at its discretion, provide comments regarding potential development impacts, including but not limited to drainage considerations to surrounding farm operations to allow for identified impacts to be considered as part of review deliberations, and to provide for mitigation of said impacts when appropriate.
- The Committee shall participate in the review and consideration of any infrastructure improvements proposed for any area within the Town's Agricultural Use Districts and shall evaluate and provide recommendations which account for the potential impacts on agricultural operations in the area under review. Any Committee recommendations shall be forwarded to the County Agricultural and Farmland Protection Board for consideration in their review of the same proposals.
- At least annually, the Committee will discuss the condition of drainage ditches situated along roadways and will provide an assessment of such conditions to the Town.
- Annually, the Committee will review any changes or updates made to Agricultural Markets Law 25AA and will recommend corresponding updates to local regulations as it deems appropriate.
- Meetings called by the Chairperson as needed, no less than once a year.

IMPLEMENTATION RESPONSIBILITY: Agricultural Advisory Committee; Lima Town Board; Lima Planning Board; Town Attorney; Town Supervisor

BUDGET CONSIDERATIONS: Town staff time; Volunteer Committee time



FUNDING RESOURCES: Allocation of funding for Town staff time

GOAL AND RECOMMENDATION 2

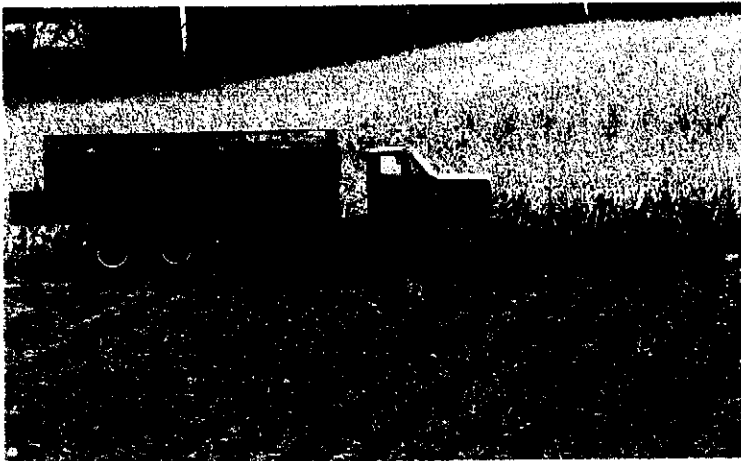
Adopt land use regulations that recognize the importance of agricultural working lands to the local economy and to the community.

Creating a supportive operating environment for agriculture with appropriate zoning code is an action that the town can take to help maintain flexibility for local farms as they adapt to an ever-changing business environment. Establishing land use regulations that address the needs of agriculture and protect the land base are critical to the long-term future of farming in Lima.

ACTIONS

- Adopt the New York State Department of Agriculture and Markets policy on water hookups in Agricultural Districts insuring that active agricultural operations may access waterlines at any point if such infrastructure is extended into an agricultural district. This policy is also in effect county-wide.

In 1999, the Livingston County Water and Sewer Authority adopted construction guidelines and a lateral restriction policy for water transmission mains located in an

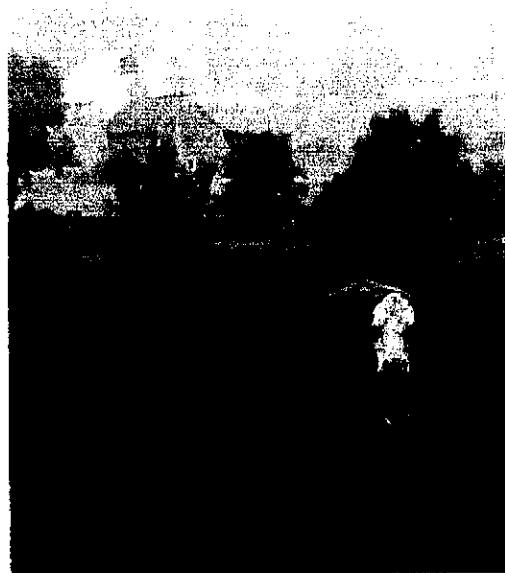


Agricultural District: "The only land and/or structures which will be allowed to connect to the proposed waterline within the agricultural district will be existing structures at the time of construction, future agricultural structures, and

land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality," (Livingston County Agricultural and Farmland Protection Plan, p.49). This policy is the same as the New York State Department of Agriculture and Markets policy. The

Agricultural Advisory Committee should review all potential infrastructure extensions into the Town's Agricultural District.

- Assessments on obsolete agricultural buildings should reflect their limited value for present day agricultural purposes.
- Consider establishing an agricultural overlay zone. Consider allowing property tax reductions in exchange for a term easement on active agricultural land in the overlay zone.
- Work with the Livingston County Planning Department to draft a model Transfer of Development Rights policy for possible future use in Lima and other Livingston County towns.
- Act in accordance with the Livingston County DAN Plan, Land Use Policies Plan when planning infrastructure improvements:
 - *A.2. Every effort should be made, through legal tax incentives, land use regulatory devices, public improvements, and other governmental subsidies or other means to encourage future urban development to occur first within the village corporate boundaries and secondly, outside but adjacent to the village corporate boundaries.*
 - *A.5. Municipal water and sewer services should be used as a planning tool to achieve desired land use development patterns adjacent to the villages.*
- Use the land ranking tool to assist with land use planning review in the Town's Agricultural Use Districts.
- Address inconsistencies in zoning as identified in the Town of Lima Zoning Analysis included in this plan. Adopt recommendations as identified in the Town of Lima Zoning Recommendations included in this plan.

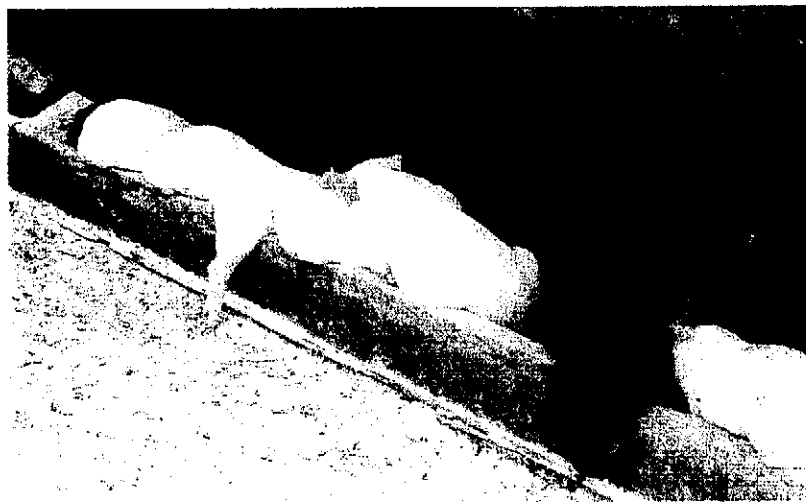


- Use Agricultural Data Statements (example in Appendix) for review as required by Agriculture and Markets Law. Forward all Agricultural Data Statements received by the Town to the Agricultural Committee in addition to neighboring farm operators. Provide for a publicized time and location for discussion of potential impacts on the neighboring farms.
- Provide copies of current Agriculture and Markets Law to all Planning and Zoning Board members. Require that zoning and development reviews consider potential impacts to nearby agricultural lands and businesses.

IMPLEMENTATION RESPONSIBILITY: Agricultural Advisory Committee; Lima Town Board; Lima Planning Board; Livingston County Department of Planning; Town of Lima Assessor; Town Attorney; Town Supervisor, Town Zoning Board of Appeals

BUDGET CONSIDERATIONS: Volunteer Committee time; Dept. of Planning staff time; Town staff time

FUNDING RESOURCES: Allocation of funding for town staff time.



GOAL AND RECOMMENDATION 3

Support the business of farming recognizing that farms need to remain profitable and be sustainable in order to contribute to the quality of life and rural character that many Town residents appreciate. In the 2002 Comprehensive Plan Survey, “rural, small town character” received the highest rank of features that make Lima an attractive place to live.

Sustaining the beautiful working landscapes that cover much of the Town of Lima requires recognition of the need to support the viability of farms. Farms are businesses and they must be profitable to remain in business. Although the Town may be limited in its ability to take direct action to affect farm profitability, it can establish regular communication with town farmers to gauge current needs and respond where appropriate and able.

ACTIONS:



- Strive to have a farmer on each local board and/or committee as well as on the County Agricultural and Farmland Protection Board.

- Adopt the Agricultural and Farmland Protection Plan as part of Lima’s Comprehensive Plan.
- Provide Town support for implementing recommendations in the County’s Agricultural and Farmland Plan.
- Encourage Town Board advocacy in support of state and federal initiatives and legislation that promotes agricultural viability and protects farmland.
- Collaborate with other Livingston County towns and the County IDA to spur agricultural economic development efforts countywide.

IMPLEMENTATION RESPONSIBILITY: Agricultural Advisory Committee, Town Board, Town Supervisor, Town Attorney

BUDGET CONSIDERATIONS: Town staff time.

FUNDING RESOURCES: Allocation of funding for town staff time.

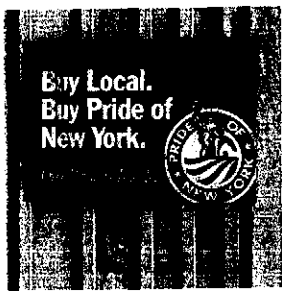
GOAL AND RECOMMENDATION 4

Educate the nonfarm public and local officials about the value of agriculture to the Town by promoting the benefits of agriculture to the community.

Once, most people in a rural community like Lima had a direct tie to farming through a relative or close friend or neighbor. Now, most people are a few generations removed from that association. And with this distance between production agriculture and town residents comes a disconnect that can create issues for both farmers and nonfarm residents. Informing and educating local officials and town residents of the contributions that agriculture makes to the community is a critical component to bridge that gap.

ACTIONS:

- Provide periodic trainings for Town Board, Planning Board, Zoning Board of Appeals members, the Town Attorney, and Code Enforcement Officer about the tools available to plan for agriculture in the Town of Lima.



- Create an identity for Lima as an agricultural Town. Post “Right to Farm” or other ag-friendly signage on major routes through the Town. Create an agricultural logo and website for the Town. Possibly work with a professor and students at SUNY Geneseo to create a “branding of place” for Lima agriculture.

- Connect the larger community with the agricultural community at least annually through the use of agriculture related press communications, Town website features, and/or promotional exhibits.
- Expand promotion of Lima's Farmer's Market and also expand the educational component of the Market.
- Encourage all local officials and board/committee members to attend a meeting/training presenting Lima's Agricultural and Farmland Protection Plan. Highlight the tools that have been identified to support Lima's agricultural businesses and protect farmland.
- Design and print a high-quality brochure/publication that highlights agriculture in the Town. Distribute this brochure at public agricultural events, Town Hall, library, and other public venues.

IMPLEMENTATION RESPONSIBILITY: Agricultural Advisory Committee; Town Supervisor; Town Board,

BUDGET CONSIDERATIONS: Volunteer Committee time; Town staff time; cost of signs for Town

FUNDING RESOURCES: Allocation of funds for staff time.



Town of Lima Agricultural and Farmland													Protection Plan Implementation Matrix												
Recommendation Number and Actions	Priority Level	Implementation Partners																							
		Town						Other																	
		Ag Committee	Town ZBA	Town Planning Board	Town Board	Town Supervisor	Town Attorney	AFPB	Livst County Plng	CCE	GVC	AFT													
1. Decisions consider soil quality	HIGH	X	X	X	X																				
1.Term easement program	Low	X			X	X						X	X				X								
1.Promote .PDR-town/county	Medium	X			X	X						X	X												
1.Draft Right-to-Farm Law	VERY HIGH	X			X	X						X	X												
1.PDR communication	Medium	X			X	X										X									
1.Research land protection fund	Medium	X			X	X											X								
1.Draft Ag Committee Law	VERY HIGH	X			X	X					X														
2.Adopt water hookup policy																									
2.Considerr establishing an ag overlay zone	Low	X			X	X					X														
2.Infrastructure extensions contiguous to villages	HIGH	X		X	X							X	X												
2.Use land ranking tool	Medium	X	X		X	X						X	X												
2.Address zoning changes in zoning recommendations	VERY HIGH	X			X	X					X														
2.Use ag data statements	VERY HIGH	X	X	X	X	X						X	X												
2.Copies of AML to town officials	HIGH	X	X	X	X	X					X	X													
3.Farmers on local boards	HIGH	X			X	X																			
3.AFPP adopted in Comp Plan	VERY HIGH	X			X	X					X														
3.Support County AFPP	Medium	X			X	X						X	X												
3.Support state/federal legislation	HIGH	X			X	X						X	X				X								
3.Collaborate to spur county ag economic development		X																							
4.Planning for ag trainings for town boards	HIGH	X	X	X	X	X					X					X									
4.Create a Lima ag identity	Medium	X			X	X																			
4.Connect community with ag	Medium	X			X	X									X										
4.Expand Farmer's Mkt promotion	Medium	X			X	X									X										
4.Presentation of Lima AFPP	HIGH	X	X	X	X	X					X					X	X								
4.Produce a brochure for public use	Medium	X		X	X	X																			

AFPB = Agricultural and Farmland Protection Board

AFPP = Genesee Valley Conservancy

Livst County Plng= Livingston County Dept. of Planning

AFT = American Farmland Trust

CCE = Cornell Cooperative Extension

Town ZBA=Town Zoning Board of Appeals

CCE = Cornell Cooperative Extension
Town ZBA = Town Zoning Board of Appeals

Livst County Plng = Livingston County Dept. of Planning
AFT = American Farmland Trust

ZONING ANALYSIS AND RECOMMENDATIONS

Analysis of Existing Town of Lima Zoning Regulations As They Pertain to Agriculture

Introduction (Refer to Map 7)

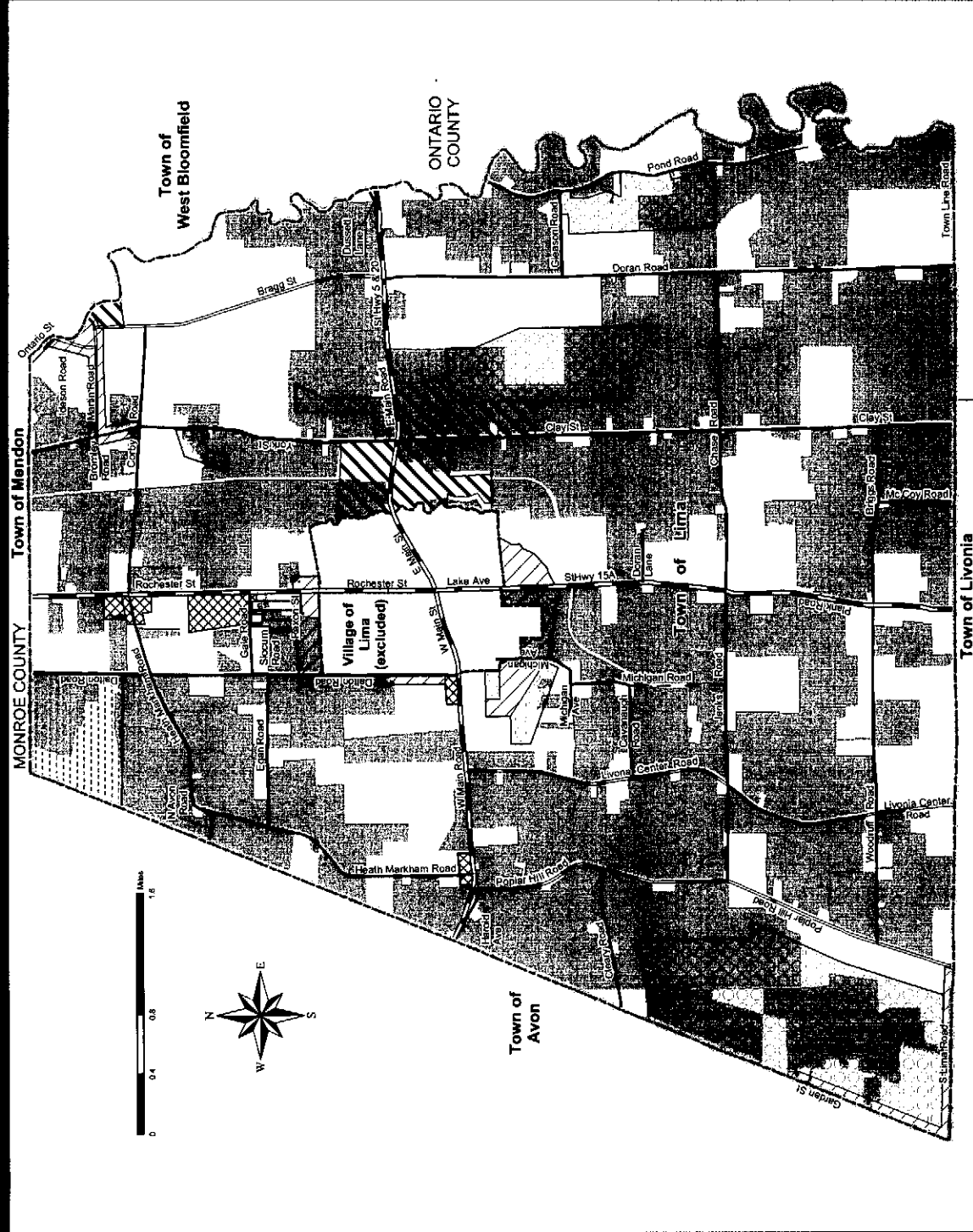
For the purpose of this analysis agriculture is defined as the use of land, buildings, structures, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise or a hobby, and including commercial horse boarding operations as defined in the Agriculture and Markets Law Article 25-AA, Section 301. Historically agriculture has included a variety of disciplines aside from fruit, vegetable and crop production and livestock raised for food. Although they may not at first thought be considered "agriculture," pursuits such as animal husbandry, or the breeding of specific animals for use or sale (e.g. race horses), beekeeping, aquaculture (fish production), horticulture, floriculture and silviculture are all considered agricultural pursuits as well.

Agriculture and farming, and agricultural operations and farms are considered to be interchangeable terms in this report.

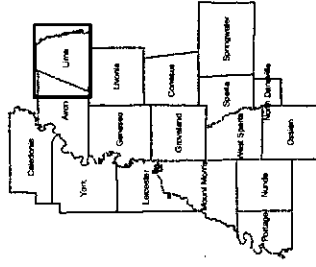
One of the issues that communities such as the Town of Lima face today is that, in the arena of land use policies and zoning regulations in America, agriculture has traditionally been relegated to secondary status as a land use. It has rarely given the attention and protections afforded other land uses in the community. For many decades agriculture has been treated as a transitory land use, one which at some point in the future would disappear as land was developed for its "highest and best use." Planning and zoning as a result has been biased toward residential, commercial and industrial use of the land, and a certain level of ambivalence with regard to agriculture.

Zoning regulations in many cases also tilt toward protecting residential development and non-farm residents of the district from some of the less attractive aspects of agricultural operations,








Zoning & Agricultural District #2












Livingston County



Zoning Districts

-  Agricultural (A)
 Residence (R)
 Planned Development (PD)
 Industrial (M)
 Quarry (Q)
 Land Conservation (LC)
 General & Highway Business (B)

Legend

-  Land in Agricultural District #2
 Town Boundaries
 Village Boundaries
 State Highway
 County Highway
 Town Road
 Seasonal Road
 Private Drive
 Village Road

Map created by the Livingston County
Planning Department; February 2010
Source: Agricultural District #2; Livingston County Planning Dept., 2009
Livingston, Louisiana 70454 2008 11x17 map

Map # 7

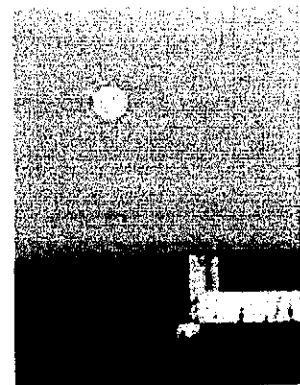
— such as the noise, dust, insects and odors generated in the day to day operation of the modern farm.

Today communities are recognizing the importance of agriculture to the local economy, and as an investment worthy of protection, across the country. Agriculture and the character of place it creates are increasingly seen as valued community assets. Communities that desire to enhance the long term viability of their agricultural sectors are now taking a closer look at local regulations to ensure that they reflect the character of modern agriculture, create a farm friendly environment, and yet also protect the general health, safety and welfare of the overall community.

— There are a number of points where the existing Town of Lima zoning regulations may pose potential problems for agricultural operations in the community or place unnecessary and even unanticipated burdens on agricultural operations. In a few cases provisions of the regulations may be in conflict with the NYS Agriculture and Markets Law and the protections it affords farmers and farm operations within NYS Agricultural Districts. In some cases the issue is one of inconsistency between various sections of the zoning regulations.

This report focuses on four areas of the Town of Lima zoning regulations as they relate to agriculture in the Town:

- zoning definitions;
- permitted (and not permitted) land uses;
- zoning dimensional requirements;
- level of review required for certain agricultural infrastructure;
- conformance with Agriculture and Markets Law



Zoning Definitions:

— The glossary section is one of the most important components in any set of zoning regulations. It contains definitions of various terms used in the zoning regulations. Clarity is critical to ensuring fair and consistent interpretation of zoning regulations, promoting efficient

administration and positive public perceptions with regard to their local zoning. Clear, concise and comprehensive definitions can also inoculate the community against controversy and in some case expensive litigation.

As a rule of thumb a word used in zoning regulations should be defined within a definitions section of a zoning ordinance if:

1. It is a term specific to the zoning regulations and not found in the dictionary or in commonly used language; (e.g. "home occupation," "industrial agriculture," "hard weather surface")
2. It is a term that must be interpreted in a specific manner for the purpose of the zoning regulations.(e.g. "animal shelter," "artificial lake," "parking space," "yard")

In the Town of Lima regulations there are a number of terms used in reference to agriculture that for which specific definitions are provided. They include:

- | | |
|-------------------------------------|----------------------------------------|
| 1. Agriculture; | 6. Industrial agricultural enterprise; |
| 2. Agricultural accessory products; | 7. Poultry house, cage-type; |
| 3. Animal husbandry; | 8. Riding academy; |
| 4. Farm market; | 9. Stable, private; |
| 5. Farm stand; | 10. Stable, public; |



The Town of Lima zoning regulations define "Farm" as:

"Any tract of land comprising three or more acres on which agricultural products, animal products or animal increase with a value of \$150 or more are produced annually. It excludes fur farms, cage-type poultry houses, public stables and dog kennels."

Agriculture is defined as:

"The production of crops, or plants or vines and trees."

Both of the above definitions should be reviewed to ensure conformance with the NYS Agriculture and Markets Law, but also to ensure that they adequately represent agriculture today. Of particular concern is that, strictly interpreted, the Town's definition of agriculture technically excludes dairy, beef, swine, poultry, sheep, and a host of other traditional agricultural pursuits.

The distinguishing of "caged-type" poultry facilities from other types of agricultural operations in the definition of a farm should be reviewed. No rationale is given for treating such operations as anything other than conventional agricultural operations. Moreover no rationale is offered for distinguishing such facilities from structures housing cattle, swine, sheep, horses or other livestock, or why such a distinction furthers the general public health, safety and welfare.

In addition the minimum acreage and minimum income requirements within the definition of farm may inadvertently may preclude a number of small-scale specialized agricultural operations recognized by the New York State Agriculture and Markets Law, such as specialty gardens and greenhouse operations. Such operations can be important elements in an overall agricultural economy.

By carefully defining "agriculture" as an umbrella term the Town of Lima can eliminate a number of other terms now used in its zoning regulations. It would be possible to use a single word (agriculture) to: 1) define the physical entity (farm); 2) the activities that take place on the farm (farming, farm-related activities); and 3) the associated structures (farm dwelling, customary farm buildings, agricultural buildings and structures, manure storage, farm buildings for storage of products or equipment, farm buildings for housing animals, farm water supply ponds). This could simplify interpretation of the regulations and reduce potential for inconsistent interpretations.

— Another definition which may warrant reconsideration is the one for Industrial Agricultural Enterprise:

"The intensive housing or feeding of animals carried on as an industry, on an area less than three acres where less than 8 percent by weight of the feedstuffs consumed by and of the litter used for the animals is grown on the premises."

As with the case of cage-type poultry facilities, no rationale is given for distinguishing such operations from any other sort of conventional agricultural operations and no public health, safety or welfare interest is identified.

Moreover the majority of agricultural operations today could conceivably be described, by reasonable persons, as being "industrial." A large number of municipalities in regions where agriculture is a major economic sector in fact now treat agriculture in much the same manner as industry. They have crafted agricultural zoning district regulations with the explicit objective of protecting agricultural land resources and promoting agricultural economic development. Rather than subordinating the interests of the agricultural community to those of non-agricultural residents, these zoning regulations clearly delegate non-agricultural residential development to a subordinate status as a land use.

Permitted Uses and Setback Requirements

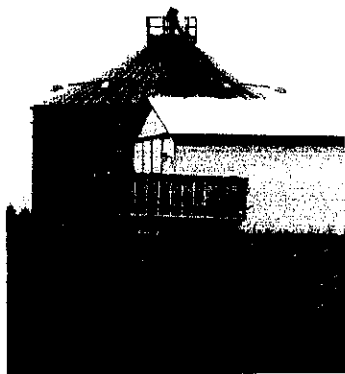
There are a variety of agricultural and non-agricultural uses permitted in the existing Agricultural Use District A (Sect. 250-11). The purpose of the district is as follows:

"The Agricultural Use Districts A are established primarily for farm and rural residential uses in areas where it appears that the intermingling of farm and residential uses is desirable."

As stated above the Town of Lima purpose statement, as is the case in many municipal zoning regulations, assumes the intermingling of agriculture and residential development. Although the mingling of residential and agricultural land uses is an American tradition and is by no means inappropriate, the potential for conflict between both land uses must also be recognized. Given the potential for such conflicts, communities must decide which land use will be subordinate to the other.

— In the case of the Town of Lima the zoning regulations as they are currently written appear to favor rural residential development over agriculture. Some examples of the potential bias include:

- 1) The definitions discussed above and additional approval requirements and restrictions imposed on large-scale poultry operations and industrial agricultural enterprises.
- 2) The restrictions placed on "private stables" (Sect 250-14(D)) such as minimum lot size, maximum number of animals and minimum setback requirement of 250 feet between any stable and any residence. Horse raising and breeding is a universally recognized branch of animal husbandry and thus a legitimate agricultural pursuit. Because the regulations apply in the Agricultural Use District the minimum lot size and setback requirements also seem arbitrary as they apply to horses but no other types of livestock.
- 3) The special regulations that apply when an agricultural building is located on a parcel of land that lacks a dwelling (Sect. 250-14(E)) such as a ten-acre minimum lot size, minimum road frontage of 500 feet, and minimum setback of 400 feet from the centerline of a road and 200 feet from any other lot lines appear to be both excessively burdensome and arbitrary. Moreover the stated rationale: *"These setbacks are prescribed so as to minimize the impact or effect of such barn or agricultural building may have in connection with adjacent residential uses authorized as of right in an Agricultural Use District A."* display a definite bias against agriculture and in favor of non-agricultural residential uses.



- 4) The provisions for farm stands (Sect. 250-18 (A) (4) (5)) limit sales to honey, maple syrup and "vegetative produce." The term "vegetative produce" is not defined anywhere, leading to a question as to what is permitted to be sold. For instance are fruit, flowers, or horticultural products included? Are eggs, meats, baked goods and jams, jellies or juices included? Also the seasonal use only plus limits on hours, and the requirement that structure be dismantled or removed from site during off season may be unreasonably restrictive and discouraging to prospect farm stand entrepreneurs.

- 5) The provisions for farm markets (Sect 250-18(B)) such as the required 175-foot setback from road edge of pavement and 200 feet from side lot lines appear to be unnecessarily burdensome and

restrictive. They are also inconsistent with the treatment of requirements for barns (75 ft. from road centerline) or similar commercial enterprises (80 ft front yard, 30 ft side yard). Limitations on hours of operation and restrictions on outdoor display may be both unnecessarily restrictive and discourage such operations.

In both cases of farmstands and farm markets the limitation of products permitted to be sold to those grown on land owned or leased by the stand or market operator may be unnecessarily restrictive. Such limitations may also negatively impact the agricultural community in general by precluding the opportunity for the sale of produce and other agricultural products that could be grown on neighboring farms and sold to the farm stand or farm market owner for resale to the general public.

Finally, consideration should be given to eliminating a number of incompatible land uses such as motels, hospitals, mobile home parks, multifamily developments and drive-in theatres that are currently permitted as special exceptions within the Agricultural Use District A. (Section 250-53). Such facilities may compete with farmers for valuable land, as well as raise the potential for conflicts between agricultural and non-agricultural uses.

Level of Review

Section 250-11 leaves unclear what, if any agricultural or agriculture-related structures are subject to site plan approval by the Planning Board. In general any agricultural facility where access by the general public is not granted should not be subject to site plan approval. The intent of the site plan approval process has traditionally been to protect the health and safety of the general public through safe planning and design of commercial and other types of development where the public has general access. It can also be a very burdensome requirement on farmers, as well as planning boards.

Conversely, given the nature of farm markets (but not farm stands) and their potential impacts, the Town of Lima may wish to consider a requirement for site plan review for such facilities.

The Town of Lima requirement (Section 250-53) that a special exception be granted for cage-type poultry houses, as well as the setback requirements and operation restrictions imposed by Section 250-76 may be

problematic. This is also true for the special exception approval and setbacks required for industrial agricultural enterprises.

In both cases there is no rationale given as to why such agricultural operations require special treatment. They are similar in scale to many other types of modern agricultural operations. In general they are not open to the general public nor do they attract large volumes of traffic. The primary consideration in the imposition of additional review appears to be potential impact on non-agricultural residential land use. If so then the additional level of review is another indication that agriculture is subordinate to residential development within the Agricultural Use District A.

The process of obtaining a special exception can be extremely burdensome, politicized and risky for an applicant. In general it is reserved for land uses that warrant a higher level of review because of potential large impacts on other land uses within the same zoning district. Because cage-type poultry operations and the types of agricultural operations defined as industrial agricultural enterprises by the Town of Lima are considered to be legitimate agricultural pursuits under the Agriculture and Markets Law, the requirement that such operations be subject to the special exception approval process is likely to be interpreted as a contravention of that law.

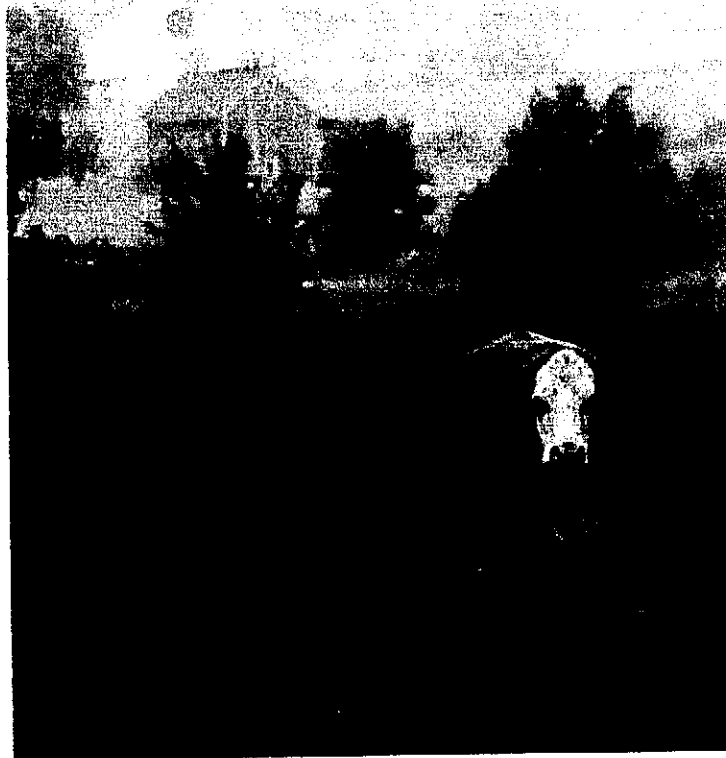
Agriculture and Markets Law

The Agriculture and Markets Law (AML) Section 305-a provides farmers and agricultural operations located within State agricultural districts specific protections against local zoning regulation that may be unreasonably restrictive and cause undue interference with legitimate agricultural practices as defined by State law. Because many of the farms in the Town of Lima are located within a state agricultural district, they are afforded the protections available through Section 305-a.

In addition the Legislature in 2002 amended Town Law Section 283-a. Local governments must now ensure that their laws, ordinances or other regulations that might apply to agricultural operations located in State certified agricultural districts do not ***"...unreasonably restrict or regulate farm operations in contravention of Article 25-AAA of the Agriculture and Markets Law, unless it can be shown that the public health or safety is threatened."***

— The Commissioner of Agriculture and Markets is empowered to initiate a review of local land use regulations as they may affect farm operations within a State agricultural district, either independently or upon the request of a farmer or municipal official within an agricultural district. The Department of Agriculture and Markets will review the regulations to assess whether the local law or ordinance is unreasonably restrictive on its face and whether it is unreasonably restrictive when applied to a particular situation. The Department must also assess whether the regulated activity also poses a threat to public health or safety.

If the Department of Agriculture and Markets determines that a local law or ordinance does impose an unreasonable burden on farm operations within a State agricultural district, it will notify the municipality of its findings. The Department will then work with municipal officials to bring the local regulations in line with the AML. If the issue cannot be resolved through negotiation the Commissioner is authorized under the law to bring an action against the municipality to enforce the provisions of Section 305-a.



Recommended Revisions to Town of Lima Zoning Regulations As They Pertain to Agriculture

Introduction

There are a number of points where the existing Town of Lima zoning regulations may pose potential problems for agricultural operations in the community or place unnecessary and even unanticipated burdens on agricultural operations. In a few cases provisions of the regulations may be in conflict with the NYS Agriculture and Markets Law and the protections it affords farmers and farm operations within NYS Agricultural Districts. In some cases the issue is one of inconsistency between various sections of the zoning regulations.

The following recommendations are put forward with the objective of ensuring that the Town of Lima zoning regulations are:

1. Supportive of agricultural operations and work to enhance the long-term viability of agricultural operations in the Town of Lima;
2. Protective of the right of farmers to engage in legitimate agricultural pursuits and limit the potential for conflict between agricultural operations and non-farm residents within the Agricultural Use District;
3. In conformance with Town Law Section 283-a that requires local governments to ensure that their laws, ordinances or other regulations that might apply to agricultural operations located in State certified agricultural districts do not unreasonably restrict or regulate farm operations in contravention of Article 25-AAA of the Agriculture and Markets Law, unless it can be shown that the public health or safety is threatened.

The table shown on the next two pages provides a summary of the recommended changes. In the pages following the table the various recommendations with regard to zoning definitions, permitted uses and lot dimensional requirements and the appropriate level of review for specific land uses are addressed in further detail.



Table 1. Summary of Recommended Changes

Issue	Recommendation
Definition of "agriculture" incomplete; may contravene Ag & Markets Law	Revise definition in Section 250-9
Definition of "farm" outdated; may contravene Ag & Markets Law	Revise definition in Section 250-9
No provisions permitting and regulating "agricultural borrow pits;" may contravene Ag & Markets Law	Add a new definition for "agricultural borrow pits" to Sect. 250-9; add to Sect. 250-11 as an accessory use to an agricultural operation
Definition for "agricultural accessory products" may place unnecessary limits on farm product sales	Revise definition in Section 250-9
No provisions for permitting and regulating agriculture-related enterprises; may contravene Ag & Markets Law	Add a new definition for "agribusiness enterprises" to Sect. 250-9; add to Sect. 250-11 as a use permitted with Site Plan Approval
No provisions permitting and regulating "agricultural recreational events;" may contravene Ag & Markets Law	Add a new definition for "agricultural recreational events" to Sect. 250-9; add to Sect. 250-11(A) as a use permitted with Site Plan Approval
Definition of, restrictions placed on farm stands, ambiguous language in Sect. 250-18 (A)(4)(5) should be revised; may contravene Ag & Markets Law	Modify Sect. 250-9, Sect. 250-18
Definition of, restrictions placed farm market sales, excessive setback requirements in Sect 250-18(B) should be revised; may contravene Ag & Markets Law	Modify Sect. 250-9, Sect. 250-18
Special exception requirement for large-scale poultry operations and industrial agricultural enterprises in Sect. 250-53 contravenes Ag & Markets Law	Revise Section 250-9 to remove these terms; remove from Sect. 250-53
Definition of "public stable" may be too restrictive; may contravene Ag & Markets Law	Revise the definition of "public stable" in Sect. 250-9 to conform to Agriculture and Markets Law
Agricultural Use District A purpose statement does not adequately support agriculture as a land use and promotes residential development. (Sect 250-10)	Revise statement to make it clearer that agriculture is the primary land use within the Agricultural Use District

Issue	Recommendation
No "right to farm" language in Sect. 250-10	Add "right to farm" paragraph to Section 250-10
In Sect. 250-11 the requirements that certain agricultural buildings be subject to site plan review by Planning Board contravenes Ag & Markets Law	Revise Sect. 250-11 to remove requirement, simplify language
Restrictions placed on "private stables" in Sect 250-14(D) may contravene Ag & Markets Law	Delete Section 250-14(D); revise Sect. 250-20 to add as accessory use "private stable" with proposed restrictions
Language related to "farm" in Sect. 250-11(D) is redundant	Revise Sect 250-11 (D) to delete the language related to "farm" and replace with "public stables."
Section 250-53 includes incompatible land uses permitted by special exception in Agricultural Use District	Remove such land uses from list of uses permitted by special exception; where appropriate move to Residence Use or General and Highway Business Use districts
Sect. 250-11(N) and Sect 250-14(E) place substantial restrictions on selected agricultural buildings; may contravene Ag & Markets Law	Revise Sect. 250-11(N) to replace provisions governing agricultural buildings with provisions permitting "agriculture-related enterprises" subject to site plan approval; eliminate Sect. 250-14(E)
No provisions permitting and regulating wineries and associated activities; may contravene Ag & Markets Law	Add a new definition for "wineries" to Sect. 250-9; add to Sect. 250-11 as a use permitted with Site Plan Approval
Provisions of Sect. 250-14 (A) may be both too lax, and too restrictive when applied to barns, stables and other agric. buildings; may contravene Ag & Markets Law	Revise Sect. 250-14 (A) to exclude barns, stables and other agricultural buildings from the list of buildings.
Sect. 250-18 regulations governing farm stands and farm markets pose significant restriction on such enterprise; may contravene Ag & Markets Law	Sect. 250-18 should be substantially revised to both remove barriers to establishing and operating such enterprises
Private stables not permitted in Residence Use districts	Add to Sect. 250-20 as an accessory use "private stable" with proposed restrictions
Special exception requirement for animal hospitals; excessive setback requirements (Sect 250-53)	Add to Sect 250-11 as use permitted with site plan approval

In addition to the recommended changes listed above the Town of Lima should consider eliminating from its draft revisions to the current zoning ordinance (August 2009 version) Section 250-66(U), which governs the installation of non-commercial wind energy systems on agricultural lands. The extensive guidelines and requirements of this section appear to be out of scale with the potential impacts of the small wind energy systems (up to 50 kW) to be permitted with the proposed revisions.

Of particular concern is the fact that Section 250-66 (U) unnecessarily treats small wind energy systems on farms differently from such systems elsewhere in the Town, requires inspections not required elsewhere and, at the discretion of the Town, an "Environmental Monitor" at the owner's cost. Given the extremely small footprint of the typical small scale wind energy systems, the small number of wind turbines (2 or 3) permitted within the 50 kW limitations set forth in the draft regulations, and the fact that cost considerations would most likely dictate locations in or adjacent to existing farmsteads, the multiple requirements covering location of the systems, access roads, culverts, etc. appear to be unnecessary. For the same reason provisions for stockpiling topsoil, removal of soil from the site and site restoration, minimum requirements for cable trench depths, etc. appear to be unnecessary and costly additional burdens on a farm operator.

Zoning Definitions

The following revisions to the definitions used in the Town of Lima zoning regulations should be made as the Town of Lima moves forward with updates to its zoning:

1. Revise the definition of "agriculture" to better reflect the diversity of agricultural pursuits and to ensure conformance with the NYS Agriculture and Markets Law. Language might include:

The use of land for the production, preparation, marketing and transportation of grain, vegetable, fruit, and other crops, horticultural and floricultural products, animal husbandry, livestock and livestock products, as well as the buildings, structures, equipment, manure processing and handling facilities and associated operations necessary to support such production activities and practices, including a commercial horse boarding operation as defined in the Agriculture and Markets Law Article 25-AA, Section 301.

2. Revise the definition of "farm" to remove any references to size, income or the exclusion of certain activities recognized by the Agriculture and Markets Law as legitimate agricultural pursuits and to conform to the recommended definition for agriculture. Language might include:
Any tract of land used for the production, preparation and marketing of grain, vegetable, fruit, and other crops, silviculture, horticultural and floricultural products, animal husbandry, livestock and livestock products, as well as the buildings and structures necessary to support such production activities and practices.
3. Add a definition for "agricultural borrow pit" that would permit farm operators to excavate limited amounts of soil and gravel - up to 2,000 cubic yards per year (or a hole roughly 80 ft. by 100 ft. by 7 ft. deep) - for use in their operations, as provided for under the Agriculture and Markets Law. This would bring the Town zoning into conformance with the Agriculture and Markets Law but also protect it and its residents from commercial mining operations outside the existing Quarry zoning district. Language might read:
"The removal of up to 2,000 cubic yards of earth, gravel, rock or other mineral resources for use as fill material in support of an agricultural operation in another location on the premises or off the premises, but not for sale to the general public."
4. Revise the definition for "agricultural accessory products" to expand it to include items not grown on the premises and clarify what products might be sold to include the sale of grain, trees, shrubs and flowers, syrups and honeys, in addition to fruit and produce. Also products principally utilized in agricultural production such as seed, fertilizers, mulch soil amendments and like products should be included to support the sale of trees, shrubs, flowers and potted vegetable plants.

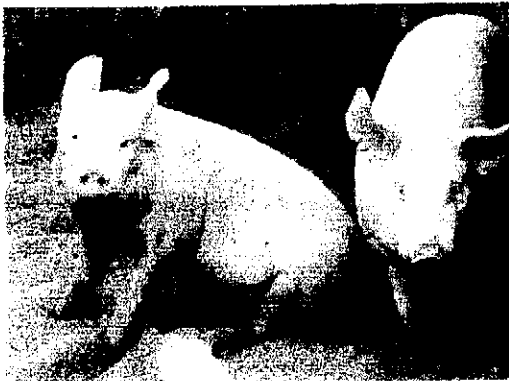
Possible new definition language could be:

"Items, whether natural, processed, or manufactured, which are directly linked to and promote the use and sale of agricultural products such as but not limited to grain, fruit, produce, trees, shrubs, flowers, syrups and honeys, as well as seed, fertilizers, mulch soil amendments, hand implements and like products principally utilized in gardening, animal husbandry, horticulture, floriculture, apiculture and other agricultural pursuits."

5. Add a new definition for "agribusiness enterprise." This class of use would permit farm operators to tap sources of supplemental income by providing goods and other services that support theirs and other agricultural operations in the town and the region. Such businesses would be owned and operated by the owner/operator of an active farm and be subordinate to the farm operation. Examples of such businesses would be farm equipment dealerships, seed, grain, hay, straw and fertilizer sales, repair services, building, excavating and other contracting services and trucking services.

Definition language might include:

"A retail or wholesale enterprise providing services or products principally utilized in agricultural production, operated by the owner of the agricultural operation existing on the property, including sale and erection of structures used in support of agricultural operations, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, storage and shipping of crops, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations, including the packaging and storage of raw and processed materials utilized in the operation of said enterprise."



Key to controlling the size and scope of agriculture-related enterprises is that they be limited to the owner/operator of an active agricultural enterprise, be subordinate to the larger farm operation and have limits on the number of permitted employees. Limiting the number of employees of such non-farm enterprises, for instance to 3 or less, can prevent the agribusiness enterprise from growing into a large-scale independent

business on the premises. Limiting the amount of land allocated to an agribusiness enterprise to one acre (43,560 square feet) and building floor area dedicated to such an enterprise to 10,000 square feet could also limit them to an appropriate size and scale.

6. Add a new definition for "agricultural recreational events." These activities would include on-farm recreational activities such as petting zoos, corn mazes, hayrides, farm tours, demonstrations

of historic and contemporary handcrafts, cooking and other activities that can tap the interests of the non-farm community in agriculture, provide opportunities for both education and recreation and generate supplemental income for the farm operation.

Such activities and enterprises would be open to the general public and likely require support facilities such as temporary or permanent parking areas, walkways, restrooms, and temporary or permanent structures such as booths and pavilions. They may also generate traffic and other impacts that should be investigated. As a result such activities should be subject to Site Plan Review. Definition language might include:

"Recreational, educational and entertainment activities operated in conjunction with and as part of an overall direct marketing strategy for an active agricultural operation or farm market that contribute to the production, preparation and marketing of crops, livestock and livestock products, and including activities such as petting zoos, hayrides, corn mazes and other such recreational activities, educational demonstrations, the onsite processing of foodstuffs and sale of prepared foods comprised primarily of ingredients produced on the premises for consumption on site and off site."

Specific standards should also be formulated for such activities that would address issues such as traffic, noise control, lighting, hours of operation and dates of operation. Such standards should be incorporated into the zoning regulations and be met prior to the granting of site plan approval.

7. Revise the definitions of "farm stand," and "farm market" to modify the requirement that limits sales to "agricultural produce grown upon the ... premises" and the "sold in season" requirement. The rationale for modifying this restriction is that the locations where produce or other agricultural products may originate is of less importance, in terms of the potential impact of such enterprises on adjacent properties and the community as a whole, than the size of the enterprise. Permitting farmers to sell the product of others on the other hand can both enhance the profitability of the farm stand or farm market, and provide an outlet for the goods produced on surrounding farms, many of which may not have frontage or exposure on a main thoroughfare.

Farmstands could be permitted to dedicate up to 30 percent of their sales display areas to products not produced on the premises. For farm markets the recommendation is that they be permitted to dedicate up to 50 percent of their sales display areas to products not produced on the premises.

In addition to removing restrictions on product sources, the definition of farm market should be revised to permit "onsite preparation of processed foods comprised primarily of ingredients produced on the farm, such as a kitchen or bakery, as well as facilities for onsite consumption of such foods..."

Farm stands are relatively small operations generating limited traffic. Farm markets on the other hand are larger scale operations with the potential to generate traffic and other impacts that should be investigated prior to receiving municipal approvals. As a result farm markets should be subject to Site Plan Review.

8. Revise Section 250-9 to delete the " Industrial agricultural enterprise" and "Poultry house, cage-type" definitions.
9. Revise the definition of "public stable" to include "riding academy providing lessons in horseback riding and equestrian sports." A revised definition might read:

"A building and ancillary facilities such as paddocks, indoor and outdoor riding rinks and pastures that provide care, housing, training and health- related services to horses kept on the premises or on other properties owned or leased by the stable operator, including horses boarded on the premises by others, and which may include activities such as the sale of horses to the general public, the hiring of horses and horse drawn vehicles to the general public, and riding academy providing lessons in horseback riding and other equestrian skills or sports."

The objectives of the above definition are to conform to the provisions of the Agriculture and Markets Law regarding commercial horse boarding operations within County agricultural districts, streamline somewhat the zoning regulations, and to distinguish such operations from private stables. Private stables would still be permissible, with appropriate conditions, as accessory uses

in the Residence Use Districts, but the larger and more intense public stables would be limited to the Agricultural use Districts.

10. Add a definition for “comfort care house” also known as a hospice. Possible language for a definition could be:

A building other than a hospital or nursing home where up to two terminally ill persons are regularly lodged and furnished with meals and nursing care.



Permitted Uses and Setback Requirements

The purpose of the Agricultural Use District in Lima should be restated in a manner that communicates more clearly that agriculture and associated activities is the primary land use within the district.

Examples of zoning district purpose statements that emphasize the agricultural character of the zoning district from other Towns include:

"The purpose of the A1-Agricultural District is to protect the agricultural production resources of the Town of Ulysses as seen today in viable agricultural operations, and the agricultural heritage of the Town as seen today in the variety of land uses and the openness of agricultural fields."

Town of Ulysses Zoning Law Art. V, Sect. 5.1

"The purpose of the Agricultural Zone is to assure a proper economic and physical environment for continued agricultural use of land and other nonextractive natural resource land uses; to maintain an open rural character to viable agricultural areas; to assure compatible types and densities of development on lands that are usable for agricultural pursuits; and to minimize other land uses incompatible with farming. Persons and entities not engaged in agricultural pursuits in the Agricultural Zone should be aware that the primary intention of the zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of concerns and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive. To the extent buffer areas may be required, the intention of such buffers is to reduce the potential for conflicts between farming and nonfarming uses. Agricultural Zones are also areas of the Town where it is unlikely public water or sewer will be made available, so as to reduce the economic pressures for development that often flow from the introduction of such facilities. Accordingly, persons acquiring property in Agricultural Zones should not expect such public facilities to be provided."

Town of Ithaca Code, Chapter 270, Zoning/ Art. VI, Agricultural Zones

In their respective statements both Ithaca and Ulysses make it clear that the primary land use in their agricultural zoning districts will be agriculture, and that the intent of the zoning regulations is to enhance the long-term viability of the agricultural sector agricultural. Neither Town precludes non-agricultural residential use of the land, but neither do they explicitly endorse it. The Town of Ithaca goes a further step in explicitly noting that persons who purchase homes within its Agricultural Zone must be prepared to accept the impacts of agricultural operations and forego the prospect of future extensions of public utilities to their home.

The Town of Ithaca statement above appears to be an appropriate template for the Town of Lima. The Town of Lima however could make the statement stronger by changing the first sentence to read (added language in bold text):

"The purpose of the Agricultural Use District is to ensure that agriculture shall be the primary land use; assure a proper economic and physical environment for continued agricultural use of land and other nonextractive natural resource land uses; to maintain an open rural character to viable agricultural areas; to assure compatible types and densities of development on lands that are usable for agricultural pursuits; and to minimize other land uses incompatible with farming"

A second step that the Town of Lima can take would be to add a new section within Article IV immediately following the purpose statement. This section would contain a "right to farm" statement that would parallel the typical language found in many local right-to-farm laws. The rationale for including such language in the zoning regulations for the Town of Lima is that it would reinforce the purpose statement. Moreover including such language would increase the public awareness of the right-to-farm concept, as in most communities many more residents and officials consult local zoning regulations than adopted local laws.

Language used by the Town of Ulysses in its Zoning Law reads as follows:

"In the A1-Agricultural District, agriculture shall be the primary land use. Within the District any agricultural practice determined to be a sound agricultural practice by the New York State Commissioner of Agriculture and Markets pursuant to Article 25-AA, Section 308, including but not limited to practices necessary for on-farm production, preparation and marketing of agricultural commodities, such as the operation of farm equipment; proper use of agricultural chemicals and other crop protection methods; direct sale to consumers of agricultural commodities or foods containing agricultural commodities produced on-farm; and construction and use of farm structures, shall not constitute a private nuisance."

Town of Ulysses Zoning Law, Art. V, Sect. 5.2

The above language or slight variation on it would be appropriate for the Town of Lima Zoning ordinance. To make the language stronger however the above statement should be expanded to include the following language from the Town of Ithaca zoning regulations, or similar language:

"Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of concerns and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive. To the extent buffer areas may be required, the intention of such buffers is to reduce the potential for conflicts between farming and nonfarming uses. Agricultural Zones are also areas of the Town where it is unlikely public water or sewer will be made available, so as to reduce the economic pressures for development that often flow from the introduction of such facilities. Accordingly, persons acquiring property in Agricultural Zones should not expect such public facilities to be provided."

Town of Ithaca Code, Chapter 270, Zoning/ Art. VI, Agricultural Zones

With regard to permitted uses and setback requirements, in a number of cases specific sections of the Town of Lima zoning regulations outlining should be revised or removed. Table 2 and table 3 on the following pages summarize the recommended revisions to permitted uses. They include:

1. Sect. 250-11. Revise to read:

"In the A Agricultural Use Districts no building or other structure or land shall be used and no structure or other building shall be built, altered or erected for any other purpose other than the following:"

The objectives of this proposed revision is to bring the Town of Lima zoning regulations into conformance with the Agriculture and Markets Law and to also bring the language in Sect. 250-11 in line with the language utilized for other zoning districts.

2. Sect 250-11(A) (7). Revise to read simply: "Private stable. Animal husbandry includes the raising, breeding, use and boarding of horses. Hence the restrictions on "private stables" constrain what is generally considered to be a legitimate agricultural activity and in addition appear to contravene the provisions of Agriculture and Markets Law. The recommended action is to delete the section and the potentially burdensome restrictions on private stables within the agricultural district contained therein.

This action is proposed to occur in conjunction with revising Section 250-11(D) below to permit "public stables."



**Table 2. Recommended Zoning Revisions to Section 250-11:
Permitted Uses**

Permitted Use by Right	Keep	Remove	Add	Notes:
Agriculture Agricultural Operation	X			Should be redefined as ag operation to distinguish from use that is allowed in residential use district and moved up to top of list to reflect its position as <i>primary</i> use in the agriculture use district
One-family dwelling Farm ...Public utilities ... CampsH&F Cabins Other ...(Signs/Temp)	X			
Animal husbandry		X		This term may be redundant in light of use of agriculture and agricultural operation
Open Storage		X		Would still be permitted as a recognized customary accessory use to a farm operation but not a principal use.
Barn or Ag Building		X		Not necessary to list as they are integral to agriculture and agricultural operations.
Riding Academy &.... Stable public or private	X			These operations should be allowed as part of AG,
Agribusiness enterprise			X	Replace "Sales and service of ag machinery" with new, broader "agribusiness enterprise," with broad definition such as proposed in text. Permit subject to Art. XIII site plan review
Agricultural recreational events			X	Permit as accessory use to agricultural operation; Art. XIII site plan review
Comfort Care House			X	Permit subject to Art. XIII site plan review
Farm markets			X	Permit subject to Art. XIII site plan review
Non-Commercial Wind Energy			X	Permit subject to output limits and setback standards

**Table 3. Recommended Zoning Revisions to Section 250-53:
Uses Permitted with a Special Use Permit**

Permitted Use by Special Permit	Keep	Remove	Notes:
Carnival, Circus	X		Revise definition of carnival to include circuses, emphasize temporary nature and lack of permanent structures.
Airfield, private		X	
Animal hospital		X	More suited to business district
Cage...poultry Industrial Ag		X	Redundant – covered under definition of agriculture and agricultural operation
Churches or... Educational ...	X		Churches and educational institutions have special status under zoning and generally can't be prohibited. Churches historically part of rural/agricultural landscape; public schools exempt from local zoning, but not private ones
Rod & Gun Clubs, Clubhouses	X		Move rod and gun clubs from 250-11 (Permitted) to 250-53
Elec. Substation	X		
Radio or television transmission facilities...	X		Revise to explicitly exclude broadcasting studios, offices, etc.
Nursing Home Hospice Senior Housing Mobile home park Two family ...		X	
Gov't use/bldg		X	Government facilities traditionally exempt from local zoning regulation
Golf Courses Public Parks Playgrounds Private...non-profit	X		Park facilities and golf courses can have significant impacts to surrounding land uses and community infrastructure and should be subject to special permit review. Should be moved from 250-11 to 250-53
Private auto lot		X	Existing would be grandfathered as legal non-conforming use
Sand & Gravel		X	Commercial sand and gravel operations should be limited to the Industrial Use District. Town can always entertain proposal to rezone land, and use process to ensure that impacts of mining operation are adequately mitigated. Agricultural borrow pits could still be permitted as accessory uses on a farm
Tourist Home/Bed & Breakfast	X		Replace "Tourist Home" with "Bed and Breakfast"
Wineries	X		New use

3. Sect. 250-11(D) Delete the language related to "farm" as it would be covered under 251-11(B) in a revise ordinance and replace with "Public stables."
4. Sect. 250-14(D). This section should be deleted.
Although the language in Sect. 250-14(D) may not be suitable for the Agricultural Use District, permitting private stables within the Residence Use District, subject to these or similar restrictions, may be appropriate. This would permit non-farm residents to own horses while at the same time protect their neighbors from potential adverse impacts. Public stables and riding academies should be limited to the Agricultural Use District and permitted by right. See 10 below.
5. Sect. 250-11(M) Revise Sect. 250-53 to delete the following uses permitted by Special Exception:
 - Boardinghouse or rooming house;
 - Cage-type poultry house;
 - Crematorium;
 - Dental clinic;
 - Drive-in outdoor theatre;
 - Hospital;
 - Industrial agricultural enterprise;
 - Medical clinic;
 - Motel or motor court;
 - Multi-family dwellings;
 - Private commercial automobile parking lot;
 - Sand and Gravel: non-commercial;
 - Sanitarium;

Courts in New York have consistently taken the position that whenever a municipality lists a land use as being permitted by special approval or as a special exception or conditional use, the municipality has made the legislative determination that said land use is appropriate for that particular zoning district. Although a community may have substantial leeway in setting conditions designed to mitigate the potential adverse impacts of such land uses, it can be

extremely difficult to marshal the arguments necessary to support the denial of approval for such uses. The best approach is to simply not permit such uses in any zoning district if there is any question of whether or not they are appropriate.

6. Sect. 250-11(N). Delete this section. Replace it with:

"Agribusiness enterprises, subject to Site Plan Review as provided for in Article XIII."

7. Add a new Sect. 250-11(O) that would permit wineries and activities typically associated with such operations. Wineries and their ancillary facilities and activities would be subject to Site Plan Approval. Language might include:

"Wineries, including wine production facilities, sales and display areas, recreational, educational and entertainment activities operated in conjunction with and as part of an overall direct marketing strategy for the winery including facility tours, wine tasting, the onsite processing and sale of prepared foods in support of marketing wine, as well as public and private parties and special events such as festivals and receptions hosted for the purpose of promoting the sale of wines produced on premise, subject to Site Plan Review."

8. Sect. 250-14 (A). Revise this section to exclude barns, stables and other agricultural buildings from the list of buildings. While it has been traditionally considered appropriate to have garages and small scale accessory structures such as storage sheds within typical front, side and rear yard areas, and with 0 to 10 feet of a property boundary, barns and other agricultural buildings generally should not be permitted that close to a property line.

Suggested revised language for Sect. 250-14(A) is:

"No private garage or other accessory building shall be placed closer to a side or rear property line than 10 feet, closer to the street line than 10 feet to the rear of the rear main wall of the principal building and, on a corner lot, closer to the street line of the side street than 90 feet. No barn shall be placed on a property closer than 100 feet from any street line, and no closer than 50 feet to any side or rear lot line that is not also a street line."

9. Sect. 250-14(E). These special regulations that apply when an agricultural building is located on a parcel of land that lacks a dwelling should be deleted. In addition to being biased against agriculture they appear to contravene the provisions of Agriculture and Markets Law.
10. Sect. 250-18. The regulations governing farm stands and farm markets should be substantially revised to both remove substantial barriers to establishing and operating such enterprises and to bring the Town of Lima zoning regulations into conformance with the Agriculture and Markets Law. Examples of provisions that should be reconsidered include excessive setback requirements, annual permitting process and fees, limitations on hours and season of operation.

In the case of both farmstands and farm markets the limitation of products permitted to be sold to those grown on land owned or leased by the stand or market operator should be removed. The public policy rationale for such restrictions is not clearly stated in the zoning regulations. More importantly such limitations may negatively impact the agricultural community in general by precluding the opportunity for the sale of produce and other agricultural products that could be grown on neighboring farms and sold to the farm stand or farm market owner for resale to the general public.



Suggested revisions to Section 250-18(A) include:

- a. Sect. 250-18(1). Revise the maximum permitted size down from 200 square feet to 150 square feet. The rationale for this is that the majority of farm stand are generally less than 100 square feet in size and generally no larger than a typical hay wagon. Moreover the portability of a structure decreases substantially above 150 square feet.

- b. Sect. 250-18(A) (3). Revise to read:

"Any structure or ground display shall be located outside the public highway right-of-way but in all cases shall be located no closer than 25 feet from the edge of the pavement of the adjacent public road."

This added language is to ensure that in cases where the public highway right-of-way is wider than normal farm stands are still located off the right-of-way.

- c. Sect. 250-18(A) (4). Revise to read:

"Sales shall be limited to vegetables, fruits, syrups, jams and jellies, juices, honey, baked goods and other foodstuffs grown or produced as part of a home occupation, however in no case shall the sale of goods requiring refrigeration or freezing be permitted."

The above description expands the potential selections as well as the sources of the products that could be offered at a farm stand. Although the selection of goods may be expended, the size and thus traffic generation and other potential impacts of such enterprises are still controlled by Sect. 250-18(A) (1) and (2). The Town may also consider adding handcrafts produced as part of a home occupation to the list of items that would be permitted.

- d. Sect. 250-18(A) (5). Deleted this locational requirement, but replace it with basic design standards for parking or safe pull-off for prospective farm stand customers. Language might include:

"No roadside stand shall be placed in a manner that limits the sight distance available to the motoring public or that in any other way obstructs their vision while driving, and furthermore, adequate space for customers to be able to park outside the outer edge of the road or highway shoulder shall be provided. Said space shall consist of an all weather surface."

- e. Sect. 250-18(A) (6). Revise this section to eliminate season requirement and modify requirements to remove farm stands. Language might include:

"Farm stand sales shall be permitted between 8:00 AM and one-half hour after sunset. During those times or seasons of the year when such farm stand is not operational it shall be either dismantled or removed from the location to an area or a building upon the lands of the proprietor where such structure would be permitted. At all times of the year however farmstands visible from the public rights-of-way shall be maintained in a safe and attractive manner."

The rationale for giving owners the possibility of year-round operations is that with advances in technology it is possible to sell locally grown fruits, produce and other foodstuffs year-round. Also in areas where there are larger populations of Plain Sect (Amish, Mennonite) farms many baked goods stands already operate year round, with no apparent adverse impacts.

Suggested revisions to Section 250-18(B) include:

- a. Sect. 250-18(B) (1) (a) (b) (c). Revise to simplify. Suggested language might include:

(1) Buildings and Structure.

(a) *"No farm market, whether in a shared structure or freestanding structure, shall have more than 1,500 square feet of retail sales and display area, including any areas under porch roofs or other structures with roofs. Greenhouses and other structures utilized for production of plants but which may still be open to the public, or areas under cultivation open to the public such as "U-Pick" operations, are excluded from the limitation on size of retail sales and display area."*

(b) *"No farm market structure or associated parking areas shall be located within any front, side or rear yard setback areas of the property."*

The above language simplifies the Section by essentially eliminating language referencing various building code requirements. It also takes into consideration the practice in many greenhouse-based agricultural enterprises of opening up the production greenhouses to customers in lieu of moving plant stock to a central display area. Although such an interpretation would be considered

extreme, the fields of a typical "U-Pick" operation could be interpreted as "retail sales and display areas."

Finally, the above revisions propose to eliminate what appear to be unnecessarily restrictive setback requirements for farm markets. Farm markets generally have fewer impacts on the community than many typical retail commercial enterprises, including gas station convenience stores that have far smaller setback requirements.

More appropriate setbacks for a farm market structure would be the existing front yard setback requirement for the Agricultural Use District outlined in Section 250-13(B) of 50 feet from the street line or 75 feet from the centerline of a street, whichever is greater. Parking could be permitted within the front yard area, however no parking should be permitted within 20 feet of a street line, and that any area between parking spaces and the street line shall be landscaped. Given that such markets are permitted in the agricultural use districts and may be situated adjacent to parcels which include pre-existing residences, the existing side yard setback requirements of 20 feet outlined in Section 250-13(C) should be extended to 40 feet, with no parking permitted within 20 feet of any side yard property line.

b. Sect. 250-18(B) (2) (a) (b) (c). Revise to simplify. Suggested language might include:

"(2) Except for products on display under porches or other structures with roofs, or in greenhouses and open fields or gardens, no more than 1,500 square feet of outdoor or ground display of products shall be permitted. Furthermore no more than 200 square feet of the above 1500 square feet of outdoor or ground display shall be permitted within any front, side or rear yard areas of the property. No outdoor or ground display of products shall be permitted within any public right-of-way."

c. Sect. 250-18(B)(3). Revise to simplify and eliminate unnecessary parking requirements. Suggested language might include:

"(3) Paved, gravel or other all-weather surface offstreet parking facilities shall be provided. A minimum of one parking space for each 300 square feet of indoor and outdoor retail display area

shall be provided. No parking shall be permitted within any front, side or rear yard areas of the property. No single dimension of the parking area shall exceed 150 linear feet."

d. Sect. 250-18(B)(5). Revise to simplify and eliminate unnecessary restrictions. Suggested language might include:

"(5) Display of Products.

No more than 20 percent of the bulk or volume of the products or wares displayed for sale at any farm market shall be agricultural accessory products as defined in this chapter. For the purpose of this section greenhouses and other structures utilized for production of plants but which may still be open to the public, or areas under cultivation open to the public such as "U-Pick" operations, are excluded from the calculation of the size of retail sales and display area."

e. Sect. 250-18(B)(6). The 8AM to dusk restrictions imposed on hours of operation for farm markets should be reconsidered. They are likely unnecessary given the character of such retail establishments and may also contravene the Agriculture and Markets Law. At the same time the type of 24 hour/7 days per week businesses now common in commercial zoning districts are not appropriate for residential or rural areas. Some restriction on hours of operation is warranted, and limiting hours of operation to between 6 AM and 10PM is recommended. This proposed approach can balance the need for protection from 24/7 retail operations without imposing undue burdens on farm enterprises.

f. Sect. 250-18(B)(7). The requirement for an annual permit for a farm market should be reconsidered. No rationale as to how any public policy is furthered by the requirement, nor does it appear that any other businesses in the Town of Lima are subject to the level of scrutiny given farm markets. As is the case with other provisions of the zoning regulations the requirement for an annual permit may also contravene the Agriculture and Markets Law.

g. Sect. 250-18(B)(8). This section should be deleted, primarily because the code enforcement officer generally has the power to enter any retail commercial establishment open to the general public, nor does it appear that any other businesses in the Town of Lima are subject to the level of scrutiny given farm markets.

h. Sect. 250-18(C). This section should be deleted. The definition of a farm market coupled with the other provisions of the zoning regulations should effectively protect the Town of Lima from "isolated, general commercial enterprises" being created within the Agricultural Use District. Whether a farm market operates in conjunction with an active farm operation or independently of an active farm, is of less importance than the size of such enterprises and the character and scope of items offered.

12. Sect. 250-20. Add as an accessory use "private stable" with the following restrictions:
- a. The private stable shall be an accessory use incidental to a private dwelling;
 - b. No more than two (2) horses kept exclusively for the use of residents of the dwelling and their non-business guests may be kept, and no boarding of horses for fee shall be permitted;
 - c. Minimum lot size shall be five (5) acres and all pastures and paddocks shall be securely fenced;
 - d. No structure housing horses shall be placed within any required front, side or rear yard areas.

Level of Review

Zoning regulations in practice generally classify permitted land uses into three categories: uses permitted as of right; uses subject to site plan review; and uses permitted by special approval, conditional use permit, or in the case of the Town of Lima, special exception. These categories incorporate three possible levels of review for development within a community.

In the case of uses permitted as of right, the level of review is an administrative exercise limited in most cases to a review for conformance with zoning regulations, building code and other relevant codes. If the proposed development complies with zoning and other regulations approval is automatic.

Land uses such as commercial and industrial development are many times subject to site plan approval, usually by the planning board. The primary objectives of site plan approval are to: 1) ensure compliance with zoning and other growth management regulations; 2) ensure that the proposed layout of buildings, streets, roads, parking lots and other facilities ensures the safety of site tenants, workers and the general public that will be accessing the site; and 3) ensure the mitigation of potential impacts on the

- environment and surrounding community. Site plan review is for the most part a technical review of the proposed development to ensure that the proposed development complies with generally accepted design and safety standards. As a result while a planning board may set conditions of approval to ensure compliance with such standards, planning board can deny site plan approval only in cases where a development proposal is in violation of zoning or other codes.

Although the Agriculture and Markets Law substantially limits the power of local municipalities to apply site plan review to agricultural operations, it is an appropriate tool for a small number of land uses associated with agricultural operations. In cases where the general public is invited onto the premises there is a legitimate tie to the protection of the public safety and health. For that reason such activities as farm markets, wineries, public stables and agriculture-related enterprises should be subject to site plan review. Farm operations and proposed improvements not open to the general public and taking place outside areas open to the general public should be exempt from such review.

- The Department of Agriculture and Markets recognizes that the limited application of site plan review is appropriate. The Department however also urges municipalities to make the process as streamlined as possible for the farm community.

Certain land uses, due primarily to their more intense nature and hence greater potential for significant adverse impact on the environment and surrounding community, warrant a higher level of review than site plan review because of potential large impacts on other land uses within the same zoning district. In some cases such uses may not be appropriate for all locations within a zoning district due to potential impacts. The Town of Lima utilizes the special exception approach for a number of such land uses in various zoning districts.

The process of obtaining a special exception can be extremely burdensome, politicized and risky for an applicant. The Department of Agriculture and Markets views the application of special exception and similar review procedures to agricultural operations as being unnecessarily burdensome to farmers.

- At the same time there are a number of land uses that are listed as permitted by special exception in the Agricultural Use District that are not compatible with agriculture or may work against the Town's desire to protect its agricultural land resources. These uses include among others boarding homes, drive-in

theatres, hospitals, motels, apartment complexes and private commercial automobile parking lots. Given the relatively limited capacity for the Town to deny approval under the special exception review process, these and other uses should be removed as recommended above.

Land Subdivision

Although outside the purview of zoning the subdivision review process can have a positive effect in furthering the goal of protecting agricultural lands. Subdivision regulations generally do not set development densities. Creative subdivision plat design however can have a positive impact.

Over the past several decades as farm sizes have increased through acquisition and consolidation of other farm properties many traditional farmsteads – the residence and barn complexes that dot the rural landscape have become obsolete. In many instances the barn complexes have been removed and the residences and surround lot subdivided off and sold. There are however a number of farmstead residences that are still part of an overall farm operation.

In some cases it may be desirable to have these residences subdivided off from the main farm operations. The Town of Lima minimum lot size requirement of 2.5 acres and associated setbacks in the Agricultural Use District, while appropriate for newer residential lots, may be unnecessarily excessive in the case of existing farmstead homes. In some cases the requirements may result in the unintended loss of valuable agricultural lands.

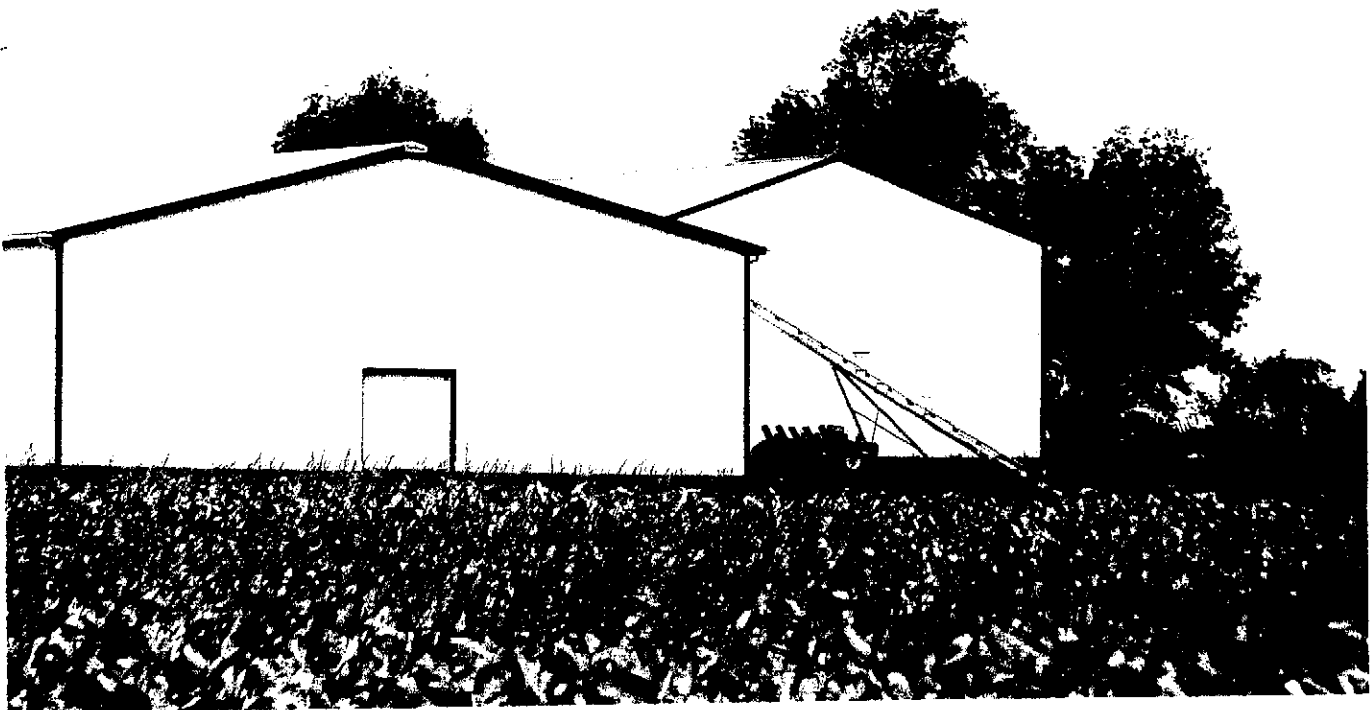
To permit a reduction in lot size for existing farmstead residences while protecting the overall integrity of the zoning lot size and setback regulations the Town of Lima should consider revising Section 250-100 (C) to provide the Zoning Board of Appeals authority to grant variances for smaller lot sizes and setbacks, provided that 1) the proposed lot shall be at least 1 acre in area and that 2) such variance would:

- a. Permit subdivision off of a pre-existing residence (i.e. built before October 1, 2009) on the premises that is part of an active agricultural operation;
- b. Serve to protect the integrity of an existing agricultural operation, including providing for adequate lands surrounding and existing barn complex needed to maintain its capacity to function safely and efficiently;

- c. Serve to protect other farm infrastructure such as ponds, drainage ways, tile systems, access points and other existing feature critical to safe and efficient operation of the farm;
- d. Serve to protect agricultural land resources.

These variance requests should be referred to the Agricultural Advisory Committee for review and comment prior to submission to the Zoning Board of Appeals.

The above provisions if enacted would permit the adaptive re-use of farm residences while preserving existing agricultural lands and operations. Given the above criteria necessary to grant such a variance it will have limited application throughout the Town of Lima. Nonetheless it could promote the adaptive reuse of existing farm residences while providing housing for the non-farm population of the town without loss of valuable agricultural lands.



APPENDIX

Resources for Additional Information and Technical Support

American Farmland Trust

Providing technical assistance to towns and counties to develop and implement farmland protection plans

21 South Grove Street, Suite 200

East Aurora, NY 14052

(716)652-0100

www.farmland.org

Cornell Cooperative Extension of Livingston County

Providing technical assistance to farmers and farm businesses

158 Main Street

Mount Morris, NY 14510

(585)658-3250 www.ccelivingstoncounty.org

Livingston County Department of Planning

Providing technical assistance in planning and matching grant funding for farmland protection

6 Court Street

Geneseo, NY 14454

(585)243-7550

aellis@co.livingston.ny.us

Genesee Valley Conservancy

Providing technical assistance in farmland protection and planning to farmers interested in protecting their properties

P.O. Box 73

One Main Street

Geneseo, NY 14454

(585)243-2190

www.geneseevalleyconservancy.org

New York State Department of Agriculture and Markets

Providing technical assistance and grant funding for farmland protection, marketing and many others

10B Airline Drive

Albany, NY 12235

(518) 457-3880 or 800-554-4501

www.agmkt.state.ny.us

New York State Department of State

Providing technical assistance in planning

99 Washington Avenue

Albany, NY 12231-0001

(518) 474-4752

www.dos.state.ny.us

New York State Office of Real Property Services

Providing technical assistance in agricultural assessment

16 Sheridan Avenue

Albany, NY 12210-2714

(518) 474-2982

www.orps.state.ny.us

NY Farm Net

Providing counseling and technical assistance in farm succession and business planning, and linking farmers and landowners

415 Warren Hall

Ithaca, NY 14853-7801

800-547-3276

www.nyfarmnet

Map Unit Legend

Livingston County, New York

Map symbol	Map unit name
Aa	Allis silt loam, sloping
Ab	Alluvial soils, undifferentiated
Ac	Arkport fine sandy loam, gently rolling
Ad	Arkport fine sandy loam, gently undulating
Ae	Arkport fine sandy loam, hilly
Af	Arkport fine sandy loam, steep
Ag	Aurora silt loam, gently sloping
Ah	Aurora silt loam, moderately steep and steep
Ak	Aurora silt loam, sloping
Ba	Bath channery silt loam, hilly
Bb	Bath channery silt loam, rolling
Bc	Bath-Mardin channery silt loams, hilly
Bd	Bath-Mardin channery silt loams, rolling
Be	Berrien fine sandy loam, gently undulating
Bf	Braceville silt loam
Bg	Brockport silt loam
Bh	Burdett silt loam, gently sloping
C	Caneadea silt loam, gently sloping
C2	Chenango gravelly loam, alluvial fan phase
C3	Chenango gravelly loam, nearly level
C4	Chenango gravelly loam, sloping
C5	Chenango soils, undifferentiated hilly
C6	Chippewa silt loam, gently sloping
C7	Chippewa silt loam, nearly level
C8	Colwood silt loam
C9	Conesus silt loam, gently sloping
C10	Conesus silt loam, sloping
Ca	Caneadea silt loam, moderately steep
Cb	Caneadea silt loam, sloping
Cc	Caneadea silt loam, very gently sloping
Cd	Caneadea silty clay, loam, eroded, gently sloping
Ce	Caneadea silty clay loam, eroded, moderately steep
Cf	Canedaea silty clay loam, eroded, sloping
Cg	Caneadea silty clay loam, gently sloping
Ch	Caneadea silty clay loam, moderately steep
Ci	Caneadea silty clay loam, sloping
Cj	Caneadea silty clay loam, very gently sloping
Ck	Canfield gravelly silt loam, gently sloping
Cl	Canfield gravelly silt loam, moderately steep
Cm	Canfield gravelly silt loam, sloping
Cn	Cartisle muck
Co	Cayuga silt loam, gently sloping
Cp	Cayuga silt loam, moderately steep
Cq	Cayuga silt loam, sloping
Cr	Cazenovia silt loam, gently sloping
Cs	Cazenovia silt loam, moderately steep
Ct	Cazenovia silt loam, sloping
Cu	Chagrin fine sandy loam, high bottom phase
Cv	Chagrin shaly silt loam, alluvial fan phase

Map Unit Legend

Livingston County, New York

Map symbol	Map unit name
Cw	Chagrin silt loam
Cx	Chagrin silt loam, high bottom phase
Cy	Chenango fine sandy loam, nearly level
Cz	Chenango fine sandy loam, sloping
Da	Dunkirk silt loam, hilly
Db	Dunkirk silt loam, rolling
Ea	Edwards muck
Eb	Eel silt loam
Ec	Eel silty clay loam
Ed	Erie channery silt loam, gently sloping
Ee	Erie channery silt loam, moderately steep
Ef	Erie channery silt loam, nearly level
Eg	Erie channery silt loam, sloping
Fa	Farmington loam, ledgy, gently sloping
Fb	Farmington loam, nearly level and gently sloping
Fc	Fremont channery silt loam
Fd	Fulton silt loam
Ga	Genesee fine sandy loam
Gb	Genesee silt loam
Gc	Gravel pits
Ha	Hilton gravelly loam
Hb	Holly silty clay loam
Hc	Fredon fine sandy loam
Hd	Honeoye loam, gently sloping
He	Honeoye loam, sloping
Hf	Homeli silty clay loam, moderately steep
Hg	Homeli silty clay loam, sloping
Hh	Howard fine sandy loam, nearly level
Hk	Howard fine sandy loam, sloping
Hi	Howard gravelly loam, nearly level
Hm	Howard gravelly loam, sloping
Hn	Howard soils, undifferentiated, hilly
Ka	Kendaia silt loam
La	Lakemont silty clay loam
Lb	Langford gravelly silt loam, gently sloping
Lc	Langford gravelly silt loam, moderately steep
Ld	Langford gravelly silt loam, sloping
Le	Lansing silt loam, gently sloping
Lf	Lansing silt loam, moderately steep
Lg	Lansing silt loam, sloping
Lh	Lima silt loam, gently sloping
Lk	Lordstown flaggy silt loam, moderately steep
Li	Lordstown flaggy silt loam, sloping
Lm	Lordstown flaggy silt loam, steep
Ln	Lordstown stony loam, steep
Lo	Lyons silt loam
Ma	Manlius shaly silt loam, moderately steep
Mb	Manlius shaly silt loam, sloping
Mc	Mardin channery silt loam, eroded, sloping

Map Unit Legend

Livingston County, New York

Map symbol	Map unit name
Md	Mardin channery silt loam, gently sloping
Me	Mardin channery silt loam, moderately steep
Mf	Mardin channery silt loam, sloping
Mg	Mentor fine sandy loam
Mh	Middlebury silt loam
Mk	Marl pits
Oa	Odessa silt loam-Berrien fine sandy loam, gently sloping
Ob	Odessa silt loam-Berrien fine sandy loam, sloping
Oc	Odessa silt loam, gently sloping
Od	Odessa silt loam, sloping
Oe	Odessa silt loam, very gently sloping
Of	Ontario fine sandy loam, gently sloping
Og	Ontario fine sandy loam, moderately steep
Oh	Ontario fine sandy loam, sloping
Ok	Ontario loam, eroded, sloping
Oi	Ontario loam, gently sloping
Om	Ontario loam, gray subsoil
On	Ontario loam, moderately steep
Op	Ontario loam, sloping
Or	Ottawa loamy fine sand, rolling
Os	Ottawa loamy fine sand, undulating
Ot	Ovid silt loam, gently sloping
Ou	Ovid silt loam, nearly level
Ov	Ovid silt loam, sloping
Pa	Palmyra fine sandy loam, nearly level
Pb	Palmyra fine sandy loam, sloping
Pc	Palmyra gravelly loam, nearly level
Pd	Palmyra gravelly loam, sloping
Pe	Palmyra soils, undifferentiated, hilly
Pf	Poygan silty clay loam
Ra	Retsof silt loam, gently sloping
Rb	Retsof silt loam, sloping
Rc	Riverwash
Rd	Ross silt loam, 0 to 5 percent slopes
Re	Rough stony land, Lordstown soil material
S	Salt dumps
Sa	Schoharie silt loam, gently rolling
Sb	Schoharie silt loam, rolling
Sc	Schoharie silt loam, undulating
Sd	Schoharie silty clay loam, eroded, gently rolling
Se	Schoharie silty clay loam, eroded, hilly
Sf	Schoharie silty clay loam, eroded, rolling
Sg	Schoharie silty clay loam, eroded, gently rolling
Sh	Schoharie silty clay, loam, rolling
Sk	Schoharie silty clay loam, undulating
Si	Steep broken land, Caneadea soil material
Sm	Steep Chenango soils, undifferentiated
Sn	Steep Langford, Canfield, and Mardin soils, undifferentiated
So	Steep Lansing, Ontario, and Honeoye soils, undifferentiated

Map Unit Legend

Livingston County, New York

Map symbol	Map unit name
Sp	Steep ledgy land
Sr	Steep Manlius, Allis, and Homell soils, undifferentiated
Ss	Steep Palmyra and Howard soils, undifferentiated
St	Steep Wooster, Valois, and Bath soils, undifferentiated
Ta	Tioga silt loam
Tb	Toledo silt loam
Tc	Tuscarora sandy loam
Va	Valois gravelly loam, hilly phase
Vb	Valois gravelly loam, rolling
Vc	Volusia channery silt loam, gently sloping
Vd	Volusia channery silt loam, moderately steep
Ve	Volusia channery silt loam, nearly level
Vf	Volusia channery silt loam, sloping
W	Water
Wa	Wallkill silt loam
Wb	Wayland silt loam
Wc	Wayland silty clay loam
Wd	Westland silt loam
We	Wooster gravelly loam, eroded, hilly
Wf	Wooster gravelly loam, hilly
Wg	Wooster gravelly loam, rolling
Wh	Wooster gravelly loam, undulating

Town of Lima – Inventory of Active Farms and Owners of Large Agricultural Acreage

(derived from information provided by Livingston County Real Property Tax Services Department - 2008)

F = Farm Operator, R= Large Landowner (75+ acres) – leased for Ag, CRP=Conservation Reserve Program

NORTHEAST QUADRANT

1. Ron Blodgett	1556 Bragg St	F	
2. John Cintineo	1037 York St	F	
3. Donald Hill	1105 Rochester St	F	
4. Richard Hollenbeck	1426 York St	F	
5. John Matthews	Corby Road	F	
6. David Meisenzahl	Rochester St	F	
7. Robert Menzie	Rochester St	F	(also NW quadrant)
8. Leslie Desmann	7755 Martin Rd	R	
9. Warren Gillette	1711 York St	R	
10. Dale Haubert	7537 East Main Rd	R	
11. Ted Zornow	Bragg St, Martin Rd	R	
12. Scott Gillette	1601 York St	CRP	

NORTHWEST QUADRANT

1. Howard Brisbane	1600 Dalton Rd	F	
2. Coyne Farms	Avon-Lima Rd		F (also SW quadrant)
3. Marc Krieger	Heath Markham Rd	F	
4. Jerry Loss	7091 West Main St	F	
5. Robert Menzie	Heath Markham Rd	F	(also in NE quadrant)
6. Catherine Mroczek	1367 Heath Markham	F	
7. Philip Perry	7049 Heath Markham	F	
8. John Rectenwald	1750 Heath Markham	F	
9. David Wilbur	6691 West Main St	F	
10. Shirley Sousa	1479 Dalton Rd	R	

SOUTHEAST QUADRANT

1. Fred Arner	7612 Briggs Rd	F / R	
2. Ed Blodgett	7786 East Main Rd	F	
3. Don DeKramer	2010 Doran Rd	F / R	
4. Headin'South Farms	1845 Doran Rd	F	(Blodgett)
5. George McEvoy	2893 Clay St	F	
6. Neenan Farms	Clay St		F
7. Jeff Shanks	2191 Pond Road	F	
8. Lorne Ainsworth	2639 Clay St	R	
9. John Bean	2266 Doran Rd	R	
10. Beverly Garling	7646 East Main Rd	R	
11. Beverly Gillette	7728 East Main Rd	R	
12. Thomas Jones	2519 Doran Rd	R	
13. Cory Grundman	Pond Rd	R	
14. Roland Michalski	2645 Pond Rd	R	
15. Robert Wiggins	Plank /McCoy	R	
16. Clark Goetzman	Doran Rd	CRP	

SOUTHWEST QUADRANT

- | | | |
|-----------------------|------------------------|-------------------------|
| 1. Ken Benson | 6608 West Main Rd | F/ Agribusiness |
| 2. Robert A. Brisbane | 2609 Livonia Center Rd | F |
| 3. Robert F. Brisbane | 2721 Livonia Center Rd | F |
| 4. Coyne Farms | Livonia Center Rd | F (also in NW quadrant) |
| 5. Michael Finucane | 6790 Jenks Rd | F |
| 6. Richard Gruschow | 7170 Jenks Rd | F |
| 7. Joseph Tuchrello | Poplar Hill/S. Lima Rd | F |
| 8. James Webb | 6402 E Avon-Lima Rd | F |
| 9. Roy Moses | 2713 Poplar Hill Rd | R |
| 10. Mark Petroski | 2632 Poplar Hill Rd | R |
| 11. Margaret Preston | 6363 Clearly Rd | R |
| 12. Laurel Schenkel | Plank/Michigan | R |
| 13. Robert Schenkel | Livonia Center Rd | R |
| 14. David Warner | 2871 Livonia Center Rd | R |

Guidelines for Review of Local Zoning and Planning Laws

Background and Objective

As communities adopt or amend zoning regulations, potential conflicts between farm operations and local land use controls may increase. This, coupled with continuing exurban development pressures on many of the State's agricultural communities, increases the need to better coordinate local planning and the agricultural districts program, and to develop guidelines to help address conflicts which may occur. Proactively, guidelines can aid in crafting zoning regulations by municipalities with significant farming activities.

Zoning and Farm Operations: Practical Limitations and Problems

Farms are host to several discrete but interdependent land uses which may include barns, commodity sheds, farm worker housing, garages, direct farm markets, silos, manure storage facilities, milking parlors, stables, poultry houses and greenhouses, to name but a few. The typical zoning regulation, in addition to establishing minimum lot sizes and separations between uses, often prohibits more than one "principal" structure on each parcel of record. Many zoning devices, then, are unable to distinguish between on-farm structures as part of a *farm operation* from the same building when it is used for an independent, freestanding use.

The minimum separation and "yard" requirements of zoning are designed to avoid over concentration, maintain adequate spaces for light and air, and to reduce fire hazard in more urban environments. The application of such requirements to suburban and rural communities and farm operations often results in the unintended regulation of farm operations and uses not as an integrated whole, but as separate improvements.

The rapidly changing nature of the agricultural industry does not always allow zoning and the comprehensive planning process to keep pace. This can result in the application of outdated regulations to contemporary land uses and gives rise to potentially unreasonable restrictions. Local governments may run afoul of the letter and intent of the Agricultural Districts Law by limiting the type and intensity of agricultural uses in their communities and by narrowly defining "farm" or "agricultural activity." This is sometimes problematic even in municipalities with a significant base of large, "production" level farming operations. Inadequately defined terms also give rise to conflict between the zoning device and farm operations.

Because of the inherent nature of zoning, there is essentially no discrete administrative authority to waive its standards, even when those standards are at variance with the community's land use policy and what may be deemed its "intent." A municipal zoning board of appeals may, consistent with specific tests

found in Town, Village and City Law, vary the use and area standards of a zoning regulation, and reverse or affirm determinations of the zoning administrative official. Such a remedy: i.e., an area or use variance, may, however, in and of itself be considered "unreasonably restrictive" if it is the only means available to establish, expand or improve a "farm operation" in a county adopted, State certified agricultural district.

These and other limitations and problems that can lead to AML §305-a violations may be avoided in the first instance by sound comprehensive planning. The Town Law, Village Law, General City Law and the Agricultural Districts Law are designed to encourage coordination of local planning and land use decision making with the agricultural districts program.

Agricultural Districts and County Agricultural and Farmland Protection Plans: Their Influence on the Municipal Comprehensive Plan and the Zoning Process

The preparation, adoption and administration of a municipal comprehensive plan and zoning regulation are not independent actions of local government, but should be part of a well thought out, seamless process. A zoning regulation is, in the final analysis, simply a device to implement the community plan and, in fact, "... must be in accordance with a comprehensive plan ..." [Town Law §272-a(11)(a)]

The State Legislature has codified the intent, definition and content of the comprehensive plan (Town Law §272-a, Village Law §7-722 and General City Law §28-a). In so doing, the Legislature has given significant status to "agricultural uses" in general, and State certified agricultural districts and county agricultural and farmland protection plans created under Agriculture and Markets Law Articles 25-AA and 25-AAA in particular. Town Law §272-a (9) requires agricultural review and coordination with the comprehensive planning process:

"A town comprehensive plan and any amendments thereto, for a town containing all or part of an agricultural district or lands receiving agricultural assessments within its jurisdiction, shall continue to be subject to the provisions of article twenty-five-AA of the agriculture and markets law relating to the enactment and administration of local laws, ordinances, rules or regulations. A newly adopted or amended town comprehensive plan shall take into consideration applicable county agricultural and farmland protection plans as created under article twenty-five-AAA of the agriculture and markets law."

(The same language is found in Village Law and General City Law.)

Thus, the statutory influence the Agricultural Districts Law and the Agricultural and Farmland Protection programs have on the comprehensive planning process and zoning regulations is significant. State certified agricultural districts and

county agricultural and farmland protection plans are community shaping influences in much the same way as existing and proposed infrastructure; wetlands, floodplains, topographical features; cultural, historic and social amenities; economic needs; etc. are viewed. The Agricultural Districts Law is a valuable planning tool to conserve, protect and encourage the development and improvement of the agricultural economy; protect agricultural lands as valued natural and ecological resources; and preserve open space.

In addition to AML §305-a, limitations on local authority in Town Law §283-a and Village Law §7-739 were enacted to ensure that agricultural interests are taken into consideration during the review of specific land use proposals. Town Law §283-a (1) and Village Law §7-739(1), as recently amended by Chapter 331 of the Laws of 2002, require local governments to "...exercise their powers to enact local laws, ordinances, rules or regulations that apply to farm operations in an agricultural district in a manner which does not unreasonably restrict or regulate farm operations in contravention of the purposes of article twenty-five-AA of the agriculture and markets law, unless it can be shown that the public health or safety is threatened." The recent amendments make the Town and Village Law provisions consistent with AML §305-a regarding showing a threat to the public health or safety. AML §305-a, subd.1 is not a stand-alone requirement for coordination of local planning and land use decision making with the agricultural districts program. Rather, it is one that is fully integrated with the comprehensive planning, zoning and land use review process.

Application of Local Laws to Farm Operations within Agricultural Districts

In general, the construction of on-farm buildings and the use of land for agricultural purposes should not be subject to site plan review, special use permits or non-conforming use requirements when conducted in a county adopted, State certified agricultural district. The purpose of an agricultural district is to encourage the development and improvement of agricultural land and the use of agricultural land for the production of food and other agricultural products as recognized by the New York State Constitution, Article XIV, Section 4. Therefore, generally, agricultural uses and the construction of on-farm buildings as part of a farm operation should be allowed uses when the farm operation is located within an agricultural district.

Town Law §274-b, subdivision 1 allows a town board to authorize a planning board or other designated administrative body to grant special use permits as set forth in a zoning ordinance or local law. "Special use permit" is defined as "...an authorization of a particular land use which is permitted in a zoning ordinance or local law to assure that the proposed use is in harmony with such zoning ordinance or local law and will not adversely affect the neighborhood if such requirements are met." Agricultural uses in an agricultural district are not, however, "special uses." They are constitutionally recognized land uses which are protected by AML §305-a, subd.1. Further, agricultural districts are created

and reviewed locally through a process which includes public notice and hearing, much like zoning laws are adopted and amended. Therefore, absent any showing of an overriding local concern, generally, an exemption from special use permit requirements should be provided to farm operations located within an agricultural district.

The application of site plan and special permit requirements to farm operations can have significant adverse impacts on such operations. Site plan and special permit review, depending upon the specific requirements in a local law, can be expensive due to the need to retain professional assistance to certify plans or simply to prepare the type of detailed plans required by the law. The lengthy approval process in some local laws can be burdensome, especially considering a farm's need to undertake management and production practices in a timely and efficient manner. Site plan and special permit fees can be especially costly for start-up farm operations.

Generally, farmers should exhaust their local administrative remedies and seek, for example, permits, exemptions available under local law or area variances before the Department reviews the administration of a local law. However, an administrative requirement/process may, itself, be unreasonably restrictive. The Department evaluates the reasonableness of the specific requirement/process, as well as the substantive requirements imposed on the farm operation. The Department has found local laws which regulate the health and safety aspects of the construction of farm buildings through provisions to meet local building codes or the State Building Code (unless exempt from the State Building Code ¹) and Health Department requirements not to be unreasonably restrictive. Requirements for local building permits and certificates of occupancy to ensure that health and safety requirements are met are also generally not unreasonably restrictive.

Site Plan Review for Farm Operations within an Agricultural District

Many local governments share the Department's view that farm operations should not have to undergo site plan review and exempt farms from that requirement. However, the Department recognizes the desire of some local governments to have an opportunity to review agricultural development and projects within their borders, as well as the need of farmers for an efficient, economical, and predictable process. In view of both interests, the Department developed a model streamlined site plan review process which attempts to respond to the farmers' concerns while ensuring the ability to have local issues examined. The process could be used for farm buildings and structures (new and significant expansions) proposed for a site, but should not be required for non-structural agricultural uses. For example, to require farm operations in an agricultural district to undergo site plan review to engage in the production,

¹ A discussion of the New York State Uniform Fire Prevention and Building Code follows below.

preparation and marketing of crops, livestock and livestock products, would generally be unreasonably restrictive.

The authorizing statutes for requiring site plan review are quite broad and under "home rule" municipalities retain significant flexibility in crafting specialized procedures (e.g., the selection of a reviewing board; uses which trigger submission of site plans; whether to have a public hearing and the length of time to review an application). Town Law §274-a and Village Law §7-725-a define a site plan as "a rendering, drawing, or sketch prepared to specifications and containing necessary elements as set forth in the applicable zoning ordinance or local law which shows the arrangement, layout and design of the proposed use of a single parcel of land... ." These sections of law further outline a list of potential site plan elements including parking, means of access, screening, signs, landscaping, architectural features, location and dimensions of buildings, adjacent land uses and physical features meant to protect adjacent land uses as well as additional elements.

Many municipalities have also added optional phases to the site plan review. While a preliminary conference, preliminary site plan review and public hearings may assist the applicant earlier in the review process and provide the public an opportunity to respond to a project, they can result in a costly delay for the farmer.

For the sake of simplicity, the model site plan process and the following guidance presume that the planning board is the reviewing authority.

Site Plan Process

The applicant for site plan review and approval shall submit the following:

- 1) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways.

Show the existing features of the site including land and water areas, water or sewer systems and the approximate location of all existing structures on or immediately adjacent to the site.

- 2) Show the proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.
- 3) Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views. Include copies of any available blueprints, plans or drawings.

- 4) Provide a description of the project and a narrative of the intended use of such proposed buildings, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the applicant and any professional advisors. If the applicant is not the owner of the property, provide authorization of the owner.
- 5) If any new structures are going to be located adjacent to a stream or wetland provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property.
- 6) Application form and fee (if required).

If the municipality issues a permit for the structure, the Code Enforcement Officer (CEO) determines if the structures are subject to and comply with the local building code or New York State Uniform Fire Prevention and Building Code prior to issuing the permit. Similarly, the Zoning Enforcement Officer (or the CEO in certain municipalities) would ensure compliance with applicable zoning provisions.

The Department urges local governments to take into account the size and nature of the particular farm buildings and structures when setting and administering any site plan requirements for farm operations. The review process, as outlined above, should generally not require professional assistance (e.g., architects, engineers or surveyors) to complete or review and could be completed relatively quickly.² The Department understands, however, that in some cases, a public hearing and/or a more detailed review of the project which may include submission of a survey, architectural or engineering drawings or plans, etc., may be necessary. The degree of regulation that may be considered unreasonably restrictive depends on the nature of the proposed activities, the size and complexity of the proposed buildings or structures and whether a State agricultural exemption applies.

Time Frame for Review and Decision

Town Law §274-a and Village Law §7-725-a require that a decision on a site plan application be made within a maximum of 62 days after receipt of the application or date of a public hearing, if one is required. Town and Village Law authorize town boards and village boards of trustees to adopt public hearing requirements and local laws often provide planning boards with the discretion whether to hold a public hearing. The Department recommends that if the municipality requires construction of farm buildings and structures within a state certified agricultural district to undergo site plan review, that the review and decision be expedited within 45 days, with no public hearing. The Department recognizes that the Town Law allows municipalities to determine which uses

² Please see discussion of Agricultural Exemptions below.

must undergo site plan review, the time frame for review (within the 62 day maximum), and whether to conduct a public hearing. A protracted review of most agricultural projects could, however, result in significant economic impacts to farmers.

The process outlined above affords the community an opportunity to examine a proposed agricultural project and to evaluate and mitigate potential impacts in light of public health, safety and welfare without unduly burdening farm operations. Of course, the "process" must also be administered in a manner that does not unreasonably restrict or regulate farm operations. For example, conditions placed upon an approval or the cost and time involved to complete the review process could be unreasonably restrictive.

Agricultural Exemptions

State Environmental Quality Review (SEQR) - Agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with "generally accepted principles of farming" are designated as Type II actions which do not require preparation of an Environmental Assessment Form (EAF) and are not subject to compliance with State Environmental Quality Review (SEQR). 6 NYCRR §617.5(a), (c)(3). [See *In the Matter of Pure Air and Water Inc. of Chemung County v. Davidsen*, 246 A.D.2d 786, 668 N.Y.S.2d 248 (3rd Dept. 1998), for application of the exemption to the manure management activities of a hog farm.] The SEQR regulations require localities to recognize the Type II actions contained in the statewide list.

New York State Uniform Fire Prevention and Building Code - While farmers must comply with local requirements which regulate health and safety aspects of the construction of farm buildings, many farm buildings are exempt from the State Uniform Fire Prevention and Building Code ("Uniform Code"). The Uniform Code recently underwent major revisions and now is comprised of seven sub-codes (the Building Code, Fire Code, Residential Code, Plumbing Code, Mechanical Code, Fuel Gas Code, and the Property Maintenance Code). The exemption for agricultural buildings has been incorporated in the following portions of the revised Uniform Code and the Energy Conservation Construction Code, which became fully effective on January 1, 2003.

- Agricultural building is defined in §202 of the Building Code as "A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated or packaged, nor shall it be a place used by the public."

- Building Code §101.2(2) provides an exemption from the Building Code for "[a]gricultural buildings used solely in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation."
- Section 102.1(5) of the Fire Code of New York State provides that "[a]gricultural buildings used solely in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation" are exempt from the provisions of the Fire Code pertaining to construction but are subject to applicable requirements of fire safety practice and methodology.
- Section 101.4.2.5 of the Energy Conservation Construction Code ("ECCC") exempts "nonresidential farm buildings, including barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes" from the provisions of the ECCC.

The above briefly highlights the agricultural buildings exemptions. Any specific questions regarding the interpretation and applicability of the revised State Uniform Fire Protection and Building Code should be directed to the Department of State's Codes Division at (518) 474-4073.

Professionally Stamped Plans - Education Law §7209(1) provides that no official of the State or any city, county, town or village charged with the enforcement of laws, ordinances or regulations may accept or approve any plans or specifications that are not stamped with the seal of an architect, or professional engineer, or land surveyor licensed or authorized to practice in the State. Thus, where local laws, ordinances or regulations require that plans and specifications for private construction be accepted or approved, they may not be accepted or approved without the required seal, subject to the exceptions set forth in the statute. 1981 Op Atty Gen April 27 (Informal).

However, the exceptions contained in Education Law §7209(7)(b) include "farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes." As a result, plans and specifications for such buildings are not required to be stamped by an architect, professional engineer or land surveyor.³

Against this backdrop, specific guidelines for review of zoning and planning regulations by local governments and the Department can best be understood.

Generic Review Guidelines

Generic reviews are those of entire zoning regulations or sections of zoning regulations that impact the municipality's farm community as a class or several farm operations in the same way. Examples of actions which might result in a generic review include the adoption or administration of an entirely new or

³ Similar requirements and exceptions are also provided in Education Law §7307(1) and (5).

substantially amended zoning regulation that results in a material change in the use and area standards applied to farm operations in a State certified agricultural district. In such cases, the Department recommends that the municipality ask itself the following questions:

- Do the regulations materially limit the definition of farm operation, farm or agriculture in a way that conflicts with the definition of "farm operation" in AML §301, subd.11?
- Do the regulations relegate any farm operations in agricultural districts to "non-conforming" status?
- Is the production, preparation and marketing of any crop, livestock or livestock product as a commercial enterprise materially limited, restricted or prohibited?
- Are certain classes of agriculture subject to more intensive reviews or permitting requirements than others? For example, is "animal agriculture" treated differently than crop production without demonstrated links to a specific and meaningful public health or safety standard designed to address a real and tangible threat?
- Are any classes of agricultural activities meeting the definition of "farm operation" subject to special permit, site plan review or other original jurisdiction review standard over and above ministerial review?
- Are "farm operations" subject to more intensive reviews than non-farm uses in the same zoning district?
- Are "farm operations" treated as integrated and interdependent uses, or collections of independent and competing uses on the same property?
- Is the regulation in accordance with a comprehensive plan and is such a plan crafted consistent with AML Article 25-AA as required by law?

If the answer to any of the first six questions is "yes," or if the answer to either of the last two is "no," the zoning regulations under review are likely to be problematic and may be in violation of AML §305-a, subd.1. Certainly such regulations would appear to be on their "face" inconsistent with the statutory requirement that *"Local governments ...shall exercise these powers in such manner as may realize the policy and goals set forth in this article [Article 25AA-Agricultural Districts]."*

Guidelines for Site Specific Reviews

AML §305-a zoning case reviews often involve application of zoning regulations to a specific farm operation. Such cases typically result from applying the site plan, special use permit, use or non-conforming use sections, yard requirements, or lot density sections of the municipal zoning device to an existing farm operation.

These cases often evolve because although the zoning regulation may appear to be consistent with the agricultural districts law, its application to a specific issue or set of facts is not. In such cases, the Department recommends that the municipality ask itself the following questions:

- Is the zoning regulation or restriction being applied to a use normally and customarily associated with a "farm operation" as defined in AML Article 25-AA?
- Does the regulation or restriction materially limit the expansion or improvement of the operation without offering some compelling public benefit?
- Is the regulation or restriction applicable to the specific farm operation in question or, under the same circumstances, would it apply to other farm operations in the community?
- Does the zoning regulation impose greater regulation or restriction on a use or farming activity than may already be imposed by State or federal statute, rule or regulation?
- Is the regulation or restriction the result of legislative action that rendered the farm operation a "non-conforming use"?

If the answer to any of these questions is yes, then the zoning regulation or restriction under review is likely to be problematic and may be in violation of the statutory prohibitions against unreasonably restrictive regulation of farm operations in an agricultural district, unless a threat to the public health or safety is demonstrated.

Guidance on Specific Zoning Issues

The following are some specific factors that the Department considers when reviewing local zoning laws⁴:

A. Minimum and Maximum Dimensions

Generally the Department will consider whether minimum and maximum dimensions imposed by a local law can accommodate existing and/or future farm needs. For example, many roadside stands are located within existing garages, barns, and outbuildings that may have dimensions greater than those set by a local ordinance. Also, buildings specifically designed and constructed to accommodate farm activities may not meet the local size requirements (e.g., silos and barns which may exceed maximum height limitations). The size and scope of the farm operation should also be considered. Larger farms, for example, cannot effectively market their produce through a traditional roadside

⁴ Please see other Department guidance documents for further information on issues related to specific types of farm buildings and practices.

stand and may require larger farm markets with utilities, parking, sanitary facilities, etc.

B. Lot Size

Establishing a minimum lot size for farm operations within a zoning district that includes land within a State certified agricultural district might be unreasonably restrictive. The definition of "farm operation" in AML §301, subd. 11 does not include an acreage threshold. Therefore, the Department has not set a minimum acreage necessary for protection under AML §305-a and conducts reviews on a case-by-case basis. For example, a nursery/greenhouse operation conducted on less than 5 or 10 acres may be protected as a "farm operation" under §305-a if the operation is a "commercial enterprise" and more than a hobby farm.

For agricultural assessment purposes, however, AML §301, subd. 4 states that a farm must have "land used in agricultural production" to qualify (either seven or more acres and gross sales of an average of \$10,000 or more in the preceding two years or have less than seven acres and average gross sales of more than \$50,000 in the preceding two years). A recent amendment to AML §301, subd. 4 also provides for an agricultural assessment on seven or more acres which has an *annual* gross sales of \$10,000 or more "...when such land is owned or rented by a newly established farm operation in the first year of operation." AML §301, subd. 4.h. *Laws of 2003, Chapter 479*, effective September 9, 2003.

Local requirements for minimum lot sizes for farm buildings raises concerns similar to those involving minimum and maximum building dimensions. A farmer may be unable to meet a minimum lot size due to the configuration of the land used for production or lying fallow as part of a conservation reserve program. The need to be proximate to existing farm roads, a water supply, sewage disposal and other utilities is also essential. Farm buildings are usually located on the same property that supports other farm structures. Presumably, minimum lot size requirements are adopted to prevent over concentration of buildings and to assure an adequate area to install any necessary utilities. Farm buildings should be allowed to be sited on the same lot as other agricultural use structures subject to the provision of adequate water and sewage disposal facilities and meeting minimum setbacks between structures.

C. Setbacks

Minimum setbacks from front, back and side yards for farm buildings have not been viewed as unreasonably restrictive unless a setback distance is unusually long. Setbacks that coincide with those required for other similar structures have, in general, been viewed as reasonable.

A farm operation's barns, storage buildings and other facilities may already be located within a required setback, or the farm operation may need to locate new facilities within the setback to meet the farm operation's needs. Also, adjoining land may consist of vacant land, woodland or farmland. The establishment of unreasonable setback distances increases the cost of doing business for farmers because the infrastructure needed to support the operation (e.g., water supply, utilities and farm roads) is often already located within, and adjacent to, the farmstead area or existing farm structures. Setbacks can also increase the cost of, or make it impracticable to construct new structures for the farm operation.

D. Sign Limitations:

Whether or not a limitation on the size and/or number of signs that may be used to advertise a farm operation is unreasonably restrictive of a farm operation depends upon the location of the farm and the type of operation. A farmer who is located on a principally traveled road probably will not need as many signs as one who is located on a less traveled road and who may need directional signs to direct the public to the farm. The size of a sign needed may depend on whether the sign is used to advertise the farm's produce or services (e.g., for a commercial horse boarding operation) as part of the farm's direct marketing, or just for directional purposes.

E. Maximum Lot Coverage

Establishing a maximum lot coverage that may be occupied by structures may be unreasonably restrictive. For example, it may be difficult for horticultural operations to recoup their investment in the purchase of land if they are not allowed to more fully utilize a lot/acreage for greenhouses. Farm operations within an agricultural district should be allowed the maximum use of available land, consistent with the need to protect the public health or safety. Generally, if setbacks between buildings are met and adequate space is available for interior roads, parking areas (where required), and safe operation of vehicles and equipment, health and safety concerns are minimized.

F. Screening and Buffers

Some municipalities impose buffer requirements, including setbacks where vegetation, landscaping, a wall or fencing is required to partially or completely screen adjacent land uses. Often, the buffer area cannot be used or encroached upon by any activities on the lot. Requirements for buffers or setbacks to graze animals, construct fences and otherwise use land for agricultural purposes are generally unreasonably restrictive.

Buffers and associated setbacks may require farmers to remove land from production or otherwise remove land from use for the farm operation. The impact on nursery/greenhouse operations is especially significant since they are often

conducted on smaller parcels of land. Maintenance of the buffer also creates a hardship to the landowner. If a setback is required for fencing, the farmer may have to incur the expense of double fencing the perimeter of the property, or portion thereof, to prevent encroachment by neighboring property owners.

A requirement to screen a farm operation or agricultural structures such as farm labor housing or greenhouses from view has been found by the Department to be unreasonably restrictive. Screening requirements suggest that farm operations and associated structures are, in some way, objectionable or different from other forms of land use that do not have to be screened. Farmers should not be required to bear the extra costs to provide screening unless such requirements are otherwise warranted by special local conditions or necessary to address a threat to the public health or safety. While aesthetics are an appropriate and important consideration under zoning and planning laws, the purpose of the Agricultural Districts Law is to conserve and protect agricultural lands by promoting the retention of farmland in active agricultural use.

New York Direct Marketing Association Model Zoning for Roadside Stands and Farm Markets

Permitted Uses

The following sections contain proposed language that would incorporate into a zoning ordinance, as permitted uses, roadside stands and farm markets. The language should be inserted into the district regulations for each zoning district within the community where roadside stands or farm markets exist, or are being considered as allowed uses.

Included in the proposed language are statements of purpose for each of the two types of markets. These statements provide the community's rationale for allowing the uses within the framework of their zoning regulations.

Roadside Stand

The purpose of a roadside stand is to allow farmers, who are actively farming, low cost entrance into direct marketing their farm products. It is characterized as a direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts. Permitted activities include: the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; pick-your-own fruits, vegetables and nuts; community supported agriculture (CSA)

Farm Market

The purpose of a farm market is to provide opportunities for actively producing farms to retail their products directly to consumers and enhance income through value-added products, services and activities. Permitted activities include: the marketing of agricultural products, products that are agriculture-related, including specialty foods, gift items, mass produced items that reflect the history and culture of agriculture and rural America; crafts; agricultural commerce, agricultural tourism, pick-your-own operation; community supported agriculture; bed & breakfast inn; farm vacations.

The following are allowed as accessory uses to the farm market operation: Petting zoo and animal attractions; children's games and activities; crop mazes; holiday-oriented activities; miniature golf course, incorporating farm themes; food service if growing any portion of the food served, such as vegetables with a deli, fruit in desserts, etc; horseback riding arenas

Definitions

Definitions are critical to ensuring clarity and uniformity in the interpretation of zoning regulations. Clear definitions can inoculate the community from legal actions related to their zoning regulations. At the same time they can protect the individual property owner by ensuring

consistent and uniform application of the regulations. For this purpose the following definitions should be incorporated into the zoning ordinance when it is amended to allow roadside stands or farm markets.

Actively Producing Farm: Pursuant to Section 301, Sub. 4 of the Agriculture and Markets Law, the farm must have a minimum of 7 acres in production with \$10,000 in sales, or \$50,000 in sales if under 7 acres of land are in production. In addition, a predominance of the agricultural products being sold at the farm be New York State produced. This would be on an annual basis and would be determined by volume of product.

Agricultural Commerce: Additional enterprises permitted at farm markets to attract customers and promote the sale of agricultural products. These include, but are not limited to gift shops, on-farm brewery, Community Supported Agriculture, bakery, florist shop, garden center, nursery, ice cream shop, food processing where the predominant ingredient is grown by the market operator, cider mills, on-site artistry and pick-your-own operations.

Agricultural Products: Pursuant to Section 301, Sub. 2 of the Agriculture and Markets Law: Crops, livestock and livestock products, including, but not limited to the following:

- a) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.
- b) Fruits, including apples, peaches, grapes, cherries and berries.
- c) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets and onions.
- d) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.
- e) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, ratites, such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, milk, eggs, and furs.
- f) Maple sap
- g) Christmas trees derived from a managed Christmas tree operation whether dug for transplanting or cut from the stump.
- h) Aquaculture products, including fish, fish products, water plants and shellfish.
- i) Woody biomass, which means short rotation woody crops raised for bioenergy, and shall not include farm woodland.

Agriculture-related products: items sold at a farm market to attract customers and promote the sale of agricultural products. Such items include, but are not limited to all agricultural and horticultural products, animal feed, baked goods, ice cream and ice cream based desserts and beverages, clothing and other items promoting the farm enterprise operating the farm market and agriculture in New York, value-added agricultural products, Christmas trees and related products and on-farm wineries.

Agricultural Tourism: Agricultural related tours, events and activities, as well as non-agricultural related activities used to attract people and promote the sales of farm produce and agricultural products. These tours, events and activities include, but are not limited to petting zoos, school tours, outdoor trails, corn mazes, hayrides, pony rides, group picnics, on- and off-site food catering services, musical events, craft shows, outdoor recreation. To be a permitted use, the farm must be actively producing agricultural products for sale. Farm markets where the

seller is not actively producing agricultural products for retail sales will require a special use permit for agricultural tourism activities.

All-Weather Surface. Any roadway, driveway, alley or parking lot surface paved with crushed stone, asphalt, concrete or other pervious or impervious material in a manner that will support the weight of anticipated vehicular traffic in all weather conditions and minimize the potential for ruts, potholes or pooling of water.

Community Supported Agriculture: The retail sale of agricultural products to customers through a subscription paid in cash or labor, or a combination thereof

Enhanced Agricultural Products: An agricultural product that has been altered or processed in a way to increase its value to consumers and increase the profitability of the product to the farmer.

Farm Brewery: Facility for the production of malt liquors operated as a subordinate enterprise to a farm by the owner or owners of the farm on which it is located.

Farm Market: A permanent structure, operated on a seasonal or year-round basis, that allows for agricultural producers to retail their products and *agriculture*-related items directly to consumers and enhance income through value-added products, services and activities.

Farm Vacation: Temporary residency on the premises by paying transient guests for the purpose of observing or participating in the ongoing activities of an agricultural operation and learning about agricultural life.

Farm Winery: any place or premises, located on a farm in New York State, in which wine is manufactured and sold, and is licensed by the State Liquor Authority as a farm or commercial winery.

Glare: Light emitting from a luminaire with intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

Handcrafted Item: An object that requires use of the hands, hand tools and human craft skills in its production, and which is usually not adaptable to mass production by mechanical means.

Pick Your Own Enterprise: A fruit or vegetable growing farm which provides the opportunity for customers to pick their own fruits or vegetables directly from the plant. Also referred to as a PYO.

Roadside Stand: A direct marketing operation without a permanent structure and only offering outdoor shopping. Such an operation is seasonal in nature and features on-farm produced as well as locally produced agricultural products, enhanced agricultural products and handmade crafts.

Seasonal Sign: any sign that is removed for three consecutive months. These signs must be removed whenever business is closed for seven or more consecutive days. Because seasonal signs will be removed for a minimum of three months at a time, size and quantity restrictions do not apply.

Design and Operations Standards

In addition to clear definition of what would constitute the permitted activities associated with a roadside stand or farm market, specific design and use standards governing the design and operations of such enterprises should also be incorporated into the zoning ordinance. Recommended standards include:

There shall be no sales of fuel and related products, tobacco products, alcoholic beverages except those listed under permitted uses, lottery tickets, vehicles or related products.

Food franchises are prohibited in any roadside stand or farm market operation.

To ensure public safety, roadside stands will be required to have off-street parking with an all weather surface and adequate ingress and egress with an area for turn-around.

There shall be one 10 x 20 parking area per 200 sq. ft. of selling and display area, with a minimum of 2 spaces. Parking spaces are exclusive of driveways and turnarounds. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. Pick-your-own operations will require a greater number of off road parking spaces based on expected number of cars per day.

Parking: To ensure public safety, farm markets will be required to have off-street parking with adequate ingress and egress with an area for turn-around. A minimum of one 10 x 20 parking area per 200 sq. ft. of selling and display area, with a minimum of two spaces, shall be required. For the purpose of calculating the required number of parking spaces, production facilities, garden plots, planting beds and outdoor storage area opened to the public are excluded. The above notwithstanding, adequate off street parking shall be provided. Parking spaces are exclusive of driveways and turnarounds. Entrances and exits onto roadways must have an all-weather surface. PYO operations will require a greater number of off-road parking spaces based on the expected number of cars per day. Overflow parking should be, minimally, grass covered.

Setbacks: Frontyard - 20 feet from the right of way line to front of sales area, excluding production facilities, garden plots, planting beds and outdoor storage areas open to the public. No parking is allowed within frontyard setback or within 20 feet of the edge of roadway, whichever distance is less.
Sideyard - 20 foot setback from property line.

Rear - 40 foot setback from property line.

Where a roadside stand or farm market is located on a separate parcel of land, maximum lot coverage by buildings shall be 30%. Total coverage, including parking areas, shall not exceed 70%.

Signs: Seasonal signs are allowed, but cannot be placed anywhere it would create a traffic hazard. All other town signage regulations may apply.

Lighting: No outdoor lighting shall produce glare beyond the boundary of the property. No rotating or flashing lights on advertising signage *shall be permitted*.

Buffers: Buffers shall be a minimum of 15 feet in width, and planted with plant materials reaching a minimum of 6' within 5 years and producing a continuous visual barrier, or alternately, include a solid fence or wall with a minimum height of 6'.

(Buffers are recommended in addition to any required setbacks if next door use is substantially different.)

Water: Potable water on site is required.

These rights and privileges extend to any active farm in any zoning district.

Is Your Town Planning a Future for Agriculture?

—A Checklist for Supporting Agriculture at the Town Level in New York

Understanding Agriculture in Your Town: *Does Your Town...*

☐ Yes ☐ No

...have a detailed section on agriculture in the town's comprehensive plan? The comprehensive or master plan is the big picture view for the future of the town. Does your town's comprehensive plan refer to "maintaining rural character," but overlooks agriculture as the primary component? Consider having a town-appointed committee profile local farms to demonstrate the economic, cultural and environmental benefits of agriculture. Agriculture shouldn't be an afterthought!

☐ Yes ☐ No

...have a consistent approach for local procedures that deal with agriculture? Town boards, planning boards and zoning boards have different responsibilities, but a common regulatory outlook is possible. Update your comprehensive plan to reflect the value that agriculture contributes to your town's quality of life through open space, wildlife habitation, watershed purification and natural resource preservation. Establish, as a policy, that agriculture is beneficial to your town and fairness will follow.

☐ Yes ☐ No

...have any visible demonstration of the value of local farms? Does your town support a fair, an apple festival or other farm events? When agriculture is visible to the public, residents will better understand the benefit of having farms in town.

☐ Yes ☐ No

...have farmers serving on local planning boards, zoning boards or local economic development committees? Having farmers serve on town committees is one of the most effective ways for towns to incorporate agricultural concerns into local land use or economic development plans. Town Law Sect. 271(11) permits towns with state agricultural districts to allocate planning board seats to farmers. Agricultural advisory committees can also be established to provide guidance to a town.

☐ Yes ☐ No

...publicize where to go to get advice and assistance on farm questions? Towns should help make the connection between farmers and local, state and federal agricultural and conservation organizations that can serve as resources.

Creating a Supportive Business Environment for Farming: *Does Your Town...*

☐ Yes ☐ No

...allow agricultural uses in more than one zoning district? Agricultural businesses are not the same as other commercial development. Some towns confine agricultural businesses to the commercial zone only, while other towns prohibit such uses in the commercial zone. Farm enterprises often are hybrids of several different uses. Ordinances and regulations should allow farm business flexibility.

☐ Yes ☐ No

...allow flexibility in regulations to accommodate the unusual needs of agricultural businesses? Does your town have appropri-

ate regulations for farm retailers such as expanded hours of business, temporary and off-site signs, parking near pick-your-own fields, or on street parking? The land use impact and off-site impact of a seasonal farm business can be much less than that of a full-time retail business. Pick-your-own operations or Christmas tree farms may have a hard time staying viable in a town that treats farms like all other retailers.

☐ Yes ☐ No

...allow farm stands to sell produce purchased elsewhere? Many towns have rules that require a certain percentage of farm stand produce to be grown on the farm. The basis for allowing a farm stand shouldn't be how much is grown on the farm, but what benefit the farm provides to the town in terms of open space, wildlife habitation, watershed purification and natural resource protection.

☐ Yes ☐ No

...allow rural businesses compatible with agriculture in farming areas? Home-based occupations such as farm machinery repair shops, sawmills and other rural businesses can help farm families make ends meet. They can also provide an economically viable alternative to selling farmland for development.

☐ Yes ☐ No

...work to pro-actively address trespassing on farmland? When people trespass on farmland, crops, fields and infrastructure can be damaged. Communities can help protect public safety and prevent needless farm losses by pro-actively addressing trespassing problems.

☐ Yes ☐ No

...have business infrastructure that supports modern farms? Modern farming operations require services, as do other businesses. To support farm businesses, towns should ensure that telephone, electric and other wires are high enough to prevent accidents with farm equipment. They also should make snowplowing on roads leading to dairy farms a priority so that milk trucks can collect milk easily, and should maintain good culverts and drainage systems to help move water away from farm fields. Towns should also check their roads and bridges to determine whether they can handle tractor-trailers, which are commonly used to provide goods and services to farms.

Supporting Appropriate Tax Policies for Farmland and Buildings

Does Your Town...

☐ Yes ☐ No

...properly assess specialized agricultural structures? Has your town assessor received training on assessing farmland and farm buildings? Specialized structures such as silos, milking parlors and permanent greenhouses depreciate in value over time. If your town frequently overvalues agricultural structures, this can have a chilling effect on all types of farm investment.

☐ Yes ☐ No

...recognize the property tax benefits of farmland and support tax policies that are fair to farmland owners? While farmland may provide less tax revenue per acre than other land uses, it also requires significantly less in local services. "Cost of Community Services" studies in over 15 New York towns have demonstrated that farmland generally pays more in taxes than it receives in local services. By comparison, residences generally require more in local services than they

pay in taxes. Has your town considered adopting agricultural assessment values for fire, library or other service districts as a means of demonstrating that farmland requires fewer public services?

☐ Yes ☐ No

...act as a resource for information about property tax reduction programs aimed at farmers and other farmland owners? Local governments and New York state have developed a number of programs aimed at reducing property taxes for farmers and other owners of farmland. Does your town encourage the use of New York's Agricultural Assessment and Farm Building Exemption programs and the Farmers' School Tax Credit?

Developing Strategies to Protect Your Town's Best Farmland

Does Your Town...

☐ Yes ☐ No

...identify areas where it wants to support agriculture over the long-term? Do you know where the best agricultural soils are located in your town? The USDA Natural Resources Conservation Service (NRCS) and Soil and Water Conservation Districts can be important partners in identifying productive agricultural soils. This soil data combined with other information can help towns identify priority farming areas where they want to support agriculture over the long-term.

☐ Yes ☐ No

...have policies aimed at retaining large blocks of farmland that are able to support a variety of farm businesses? Farmers don't want to be an "island in a sea of development." Has your town developed policies to keep large blocks of land in agricultural use over the long-term? Larger areas of farmland provide greater opportunities for farms to adapt to changing market conditions. Retaining such blocks helps to ensure a future for farming.

☐ Yes ☐ No

...limit expansion of infrastructure in areas where it wants to support agriculture over the long-term? Extending water and sewer lines through farmland should be done with caution. Providing these services without accompanying planning measures can accelerate the loss of farmland. Focusing water, sewer and other services in already developed areas can help limit the development of a town's best farmland.

☐ Yes ☐ No

...have a strategy for protecting its best farmland? Once your town identifies its priority farming areas, complementary land use policies should be developed to encourage the retention of that land in continued agricultural use. Flowery language about agriculture in a comprehensive plan isn't good enough. Work with farmers to turn the ideas expressed in your comprehensive plan into specific policies to retain your town's best farmland.

☐ Yes ☐ No

...encourage the use of conservation easements on farmland? Does your town support applications to the state or federal government to purchase agricultural conservation easements on local farms? Have you considered providing funding for acquiring conservation easements on farmland? Agricultural conservation easements can be used to protect the natural resource base for agriculture. Once a conservation easement is recorded on farmland, the land will permanently be kept available as a resource for future generations of farmers.

Limiting the Impacts of New Development on Agriculture

Does Your Town...

☐ Yes ☐ No

...have policies aimed at limiting the impact of new development on productive farmland? Does your town have strategies for limiting the footprint of new development? New development can take place in many ways. Creative site planning can accommodate new development while limiting the loss of your town's best farmland.

☐ Yes ☐ No

...require buffer zones between farmland and residential uses? The old saying "good fences make good neighbors" has a modern corollary that says, "good buffer zones make new neighbors into good neighbors." New development should not place the burden on existing farms to give up boundary land as a buffer zone between agricultural and residential areas. New residential development should provide for its own buffer zone and/or landscape plantings for screening when necessary.

☐ Yes ☐ No

...have an "agricultural zone" that limits the impacts of new developments on farms? Does your town have a strategy for managing new development in agricultural zones in a way that supports agriculture over the long-term? Many towns in New York have zoning ordinances with "agricultural zones" that permit scattered development next to farms—a recipe for future conflict.

☐ Yes ☐ No

...have planning tools that are supportive of New York State Agricultural Districts? The Agricultural Districts Law, which was enacted in 1971, is one of New York's oldest farmland protection tools. Agricultural districts provide important "right-to-farm" protections to farmers. Does your town incorporate the boundaries of agricultural districts into your zoning maps and other local land use policies?

☐ Yes ☐ No

...have policies to mitigate conflicts between farmers and non-farm neighbors? A local Right-to-Farm Law expresses a community's support for agriculture. It can also prevent unnecessary lawsuits between farmers and non-farm neighbors by referring conflicts to mediation before the courts are involved. Cornell Cooperative Extension, Soil and Water Conservation Districts, the New York State Agricultural Mediation Program and other groups can serve as partners in addressing conflicts before they grow into painful disputes or expensive lawsuits.



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FARMLAND
INFORMATION
CENTER

FACT SHEET

COST OF COMMUNITY SERVICES STUDIES



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DESCRIPTION

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

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

METHODOLOGY

In a COCS study, researchers organize financial records to assign the cost of municipal services to working and open lands, as well as to residential, commercial and industrial development.

Researchers meet with local sponsors to define the scope of the project and identify land use categories to study. For example, working lands may include farm, forest and/or ranch lands.

Residential development includes all housing, including rentals, but if there is a migrant agricultural work force, temporary housing for these workers would be considered part of agricultural land use. Often in rural communities, commercial and industrial land uses are combined. COCS studies findings are displayed as a set of ratios that compare annual revenues to annual expenditures for a community's unique mix of land uses.

COCS studies involve three basic steps:

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

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

HISTORY

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

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

American Farmland Trust (AFT) developed COCS studies in the mid-1980s to provide communities with a straightforward and inexpensive way to measure the contribution of agricultural lands to the local tax base. Since then, COCS studies have been conducted in at least 125 communities in the United States.

FUNCTIONS & PURPOSES

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

COST OF COMMUNITY SERVICES STUDIES

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

www.farmlandinfo.org

(800) 370-4879

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

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

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

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

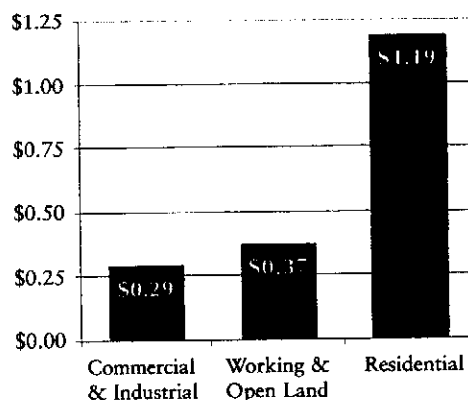
do not cover their costs, they must be subsidized by other community land uses. Converting agricultural land to residential land use should not be seen as a way to balance local budgets.

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

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

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

Median COCs Results



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

AMERICAN FARMLAND TRUST · FARMLAND INFORMATION CENTER

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

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

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

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

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

Community	Residential including farm houses	Commercial & Industrial	Working & Open Land	Source
New York				
Amenia	1 : 1.23	1 : 0.25	1 : 0.17	Bucknall, 1989
Beekman	1 : 1.12	1 : 0.18	1 : 0.48	American Farmland Trust, 1989
Dix	1 : 1.51	1 : 0.27	1 : 0.31	Schuyler County League of Women Voters, 1993
Farmington	1 : 1.22	1 : 0.27	1 : 0.72	Kinsman et al., 1991
Fishkill	1 : 1.23	1 : 0.31	1 : 0.74	Bucknall, 1989
Hector	1 : 1.30	1 : 0.15	1 : 0.28	Schuyler County League of Women Voters, 1993
Kinderhook	1 : 1.05	1 : 0.21	1 : 0.17	Concerned Citizens of Kinderhook, 1996
Montour	1 : 1.50	1 : 0.28	1 : 0.29	Schuyler County League of Women Voters, 1992
Northeast	1 : 1.36	1 : 0.29	1 : 0.21	American Farmland Trust, 1989
Reading	1 : 1.88	1 : 0.26	1 : 0.32	Schuyler County League of Women Voters, 1992
Red Hook	1 : 1.11	1 : 0.20	1 : 0.22	Bucknall, 1989
Ohio				
Butler County	1 : 1.12	1 : 0.45	1 : 0.49	American Farmland Trust, 2003
Clark County	1 : 1.11	1 : 0.38	1 : 0.30	American Farmland Trust, 2003
Knox County	1 : 1.05	1 : 0.38	1 : 0.29	American Farmland Trust, 2003
Madison Village	1 : 1.67	1 : 0.20	1 : 0.38	American Farmland Trust, 1993
Madison Township	1 : 1.40	1 : 0.25	1 : 0.30	American Farmland Trust, 1993
Shalersville Township	1 : 1.58	1 : 0.17	1 : 0.31	Portage County Regional Planning Commission, 1997
Pennsylvania				
Allegheny Township	1 : 1.06	1 : 0.14	1 : 0.13	Kelsey, 1997
Bedminster Township	1 : 1.12	1 : 0.05	1 : 0.04	Kelsey, 1997
Bethel Township	1 : 1.08	1 : 0.17	1 : 0.06	Kelsey, 1992
Bingham Township	1 : 1.56	1 : 0.16	1 : 0.15	Kelsey, 1994
Buckingham Township	1 : 1.04	1 : 0.15	1 : 0.08	Kelsey, 1996
Carroll Township	1 : 1.03	1 : 0.06	1 : 0.02	Kelsey, 1992
Hopewell Township	1 : 1.27	1 : 0.32	1 : 0.59	The South Central Assembly for Effective Governance, 2002
Maiden Creek Township	1 : 1.28	1 : 0.11	1 : 0.06	Kelsey, 1998
Richmond Township	1 : 1.24	1 : 0.09	1 : 0.04	Kelsey, 1998
Shrewsbury Township	1 : 1.22	1 : 0.15	1 : 0.17	The South Central Assembly for Effective Governance, 2002
Stewardson Township	1 : 2.11	1 : 0.23	1 : 0.31	Kelsey, 1994
Straban Township	1 : 1.10	1 : 0.16	1 : 0.06	Kelsey, 1992
Sweden Township	1 : 1.38	1 : 0.07	1 : 0.08	Kelsey, 1994
Rhode Island				
Hopkinton	1 : 1.08	1 : 0.31	1 : 0.31	Southern New England Forest Consortium, 1995
Little Compton	1 : 1.05	1 : 0.56	1 : 0.37	Southern New England Forest Consortium, 1995
Portsmouth	1 : 1.16	1 : 0.27	1 : 0.39	Johnston, 1997
West Greenwich	1 : 1.46	1 : 0.40	1 : 0.46	Southern New England Forest Consortium, 1995
Tennessee				
Blount County	1 : 1.23	1 : 0.25	1 : 0.41	American Farmland Trust, 2006
Robertson County	1 : 1.13	1 : 0.22	1 : 0.26	American Farmland Trust, 2006
Tipton County	1 : 1.07	1 : 0.32	1 : 0.57	American Farmland Trust, 2006

AMERICAN FARMLAND TRUST · FARMLAND INFORMATION CENTER

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

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

American Farmland Trust's Farmland Information Center acts as a clearinghouse for information about Cost of Community Services studies. Inclusion in this table does not necessarily signify review or endorsement by American Farmland Trust.

Department of Agriculture and Markets Guideline – Conditions on Future Service

The Project sponsor/permittee should impose the following conditions, as warranted or recommended on the management of water/sewer lines within agricultural districts:

- (1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within the agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action. If no local approval is required for the subdivision of land and/or the construction of structures, the municipality accepts the limitation under Public Health Law §1115 that defines a "subdivision," in part, as "any tract of land which is divided into five or more parcels." Water and/or sewer service will not be extended to the fifth and subsequent parcels where no local approval is required and the land is located within a county adopted, State certified agricultural district.

- (2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.
- (3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from the agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.
- (4) If land is removed from a county adopted, State certified agricultural district and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

TOWN OF EDEN, NEW YORK

CHAPTER 5 AGRICULTURAL ADVISORY COMMITTEE

§ 5-1 Title.

This chapter shall be known as the "Agricultural Advisory Committee Law of the Town of Eden, New York."

§ 5-2 Purpose.

The purpose of this chapter is to:

A. Recognize the importance of agriculture as both a vital local economic base and as a land form that provides the Town of Eden with much of its rural, rustic character and charm.

B. Assure the continued viability of farming as an industry which is important to the local economy and to the preservation of open space and vistas.

C. Provide for the most beneficial relationship between the use of land and buildings and the agricultural practices of the community and to further encourage the wise use and management of the town's natural resources through modern farming practices.

D. Provide the Town Board, Planning Board and other relevant boards/committee of our government with a conduit for recommendations from the agricultural community on the long- and short-term impact of a variety of matters and questions considered by these groups.

§5-3. Formation of Committee; membership; terms of office.

A. The Committee shall be composed of five members appointed by the Town Board as follows:

(1) Five residents of the Town of Eden from the agricultural community, including but not limited to representatives from the greenhouse, crop production and dairy segments of the industry. The members shall recommend a Chairperson for appointment by the Town Board.

(2) One member of the Planning Board, the Board of Assessors Chairperson, one representative from the Erie County Farm Bureau and one member of the Town Board shall serve as ex officio members.

B. The members appointed to the Committee shall serve for a three-year term. Upon initial formation, one member shall serve for a one-year terms, two members for a two-year term and all others for a three-year term. Each year thereafter, reappointments or new appointments will be for three-year terms.

C. Appointments shall be from January 1 through December 31.

D. Members shall serve without salary.

§ 5-4. Powers and duties.

The Committee shall:

A. Advise the Town Board and the County Agricultural and Farmland Protection Board in relation to the proposed establishment, modification, continuation or termination of any county agricultural

district. The Board shall present advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area.

B. Review of proposed zoning change or development in agricultural districts.

(1) Whenever a proposed zoning, policy change or development (residential, business or industrial) affecting town agricultural zoning districts is presented to the Town Board within or contiguous to a county agricultural district or town agricultural zones, it shall be referred to the Agricultural Advisory Committee for review. The Agricultural Advisory Committee shall have 45 days to respond with a recommendation(s) for the action(s).

(2) The Board shall present advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within any proposed or established area. This recommendation(s) shall include a determination as to whether the proposed action(s) will have an unreasonable adverse effect on the continuing viability of a farm enterprise or enterprises within the county or town agricultural districts. This recommendation(s) shall be advisory only.

C. Review county, state and federal legislation affecting agricultural issues and communicate the effect to the appropriate board and/or the Town Board.

D. Serve as a vehicle for communication between the agricultural community, the town communicate the effect to the appropriate board and/or the Town Board.

E. Meet as determined necessary by Committee members, but no less than two times a year for review and recommendation purposes. These annual review and recommendations shall focus on zoning, planning activities and other actions within the county agricultural districts and the town agricultural zones.

F. Submit to the Town Board an annual summary of the activities of the Agricultural Advisory Committee.

Memo To: Applicants, Developers, Engineers

From: Wm. Scott Copp, Director of Building Department

RE: Agriculture District Notifications

In accordance with New York State Town Law 283-a, the Town of Perinton has developed an agricultural data statement for use in evaluating any impacts the requested approval may have upon farm operations on the property in question or property within 500 feet of a farm operation. The enclosed Agricultural Data Statement must be completed as part of the application for Site Plan, Subdivision, Special Use Permit or Use Variance for any of the parcels listed on the enclosed sheet or within 500 feet of any such parcels.

Upon receipt of an Agricultural Data Statement from an applicant, the Town will notify the owner or operator of the farm operation of the pending application and provide them information relative to the request.

/2004

NOTICE OF PENDING APPLICATION
Project involving land requiring an Agriculture Data Statement

This notice is being sent to you, an identified owner of land containing a farm operation or the operator of a farm operation with boundaries within five hundred feet of a parcel of land proposed for Site Plan, Subdivision, Special Use Permit or Use Variance approval before the Town. This notice is being sent in accordance with the provisions of Section 283-a of the State of New York Town Law.

_____ is proposing _____ at
(Applicant Name) (Proposed Action)

_____ tax account no. _____
(Street Location)

The _____ Board of the Town of Perinton will conduct a public hearing on this application on _____, 200__ at 7:30 P.M. in the Perinton Town Hall, 1350 Turk Hill Road. Should you have any questions regarding this application, you may review the proposal at the Building Department Office at the Town Hall Monday through Friday 9:00 a.m.-5:00 p.m., or call the Building Department Office at 223-0770.

If you have comments regarding this application, they will be received by the Planning Board at the public hearing or they may be submitted to the Board in writing prior to the meeting.

Town of Perinton Agricultural Data Statement

Project application number _____

In accordance with Section 283-a of the New York State Town Law, the Town of Perinton will use the data in this statement to assist in evaluating the impacts of proposed development projects, subdivisions or special use permits on farm operations within the Agricultural Use Districts.

- A. Name of applicant: _____
- B. Mailing address of applicant: _____

- C. Description of the proposed project: _____

- D. Project location: _____
(give street address, distance and direction from nearest cross street)
- E. Tax account number _____
- F. Total number of acres involved in the project _____
(total acreage in tax account Or in all involved tax accounts)
- G. Total number of acres to be disturbed, altered, divided, effected _____
- H. Is any of the site currently used for agriculture? _____ Yes _____ No
- If so, how many acres are involved? _____ acres, and what type(s) of agriculture currently take place on the site? _____

If no, is the site within 500 feet of an agricultural operation within the District? _____
(information is available on the location of the operations within the district)

- I. Who is currently farming the site? _____
Does this person own the site? _____ Yes _____ No, rent the land

K. Generally describe the topography of the site _____

L. Does the site contain any Limited Development District? _____ Yes _____ No
(Section 148-80 of the Town of Perinton Code)

M. Following development, what is the intended use of the remainder of the land? _____

Who will retain ownership of the remainder of the site? _____

N. Please describe the existing ground cover on the site _____

Describe the site drainage _____

(include information on any field tiles, streams, flood plain areas and changes to the site drainage)

O. On an existing tax parcel map indicate the parcel(s) that contain the site and all properties within 500 feet of the boundaries of the site that contain agricultural activity. For any identified agricultural sites within 500 feet, identify the owners or operators and describe the operations on those properties. For example, livestock, field crops, orchards, nursery and greenhouses. Provide detail for each of the identified subtypes, were applicable. Tax map and parcel ownership information is available at the Town of Perinton Building Department or Assessors Office.

Signature of individual completing form _____ Date _____

(FOR TOWN USE ONLY)

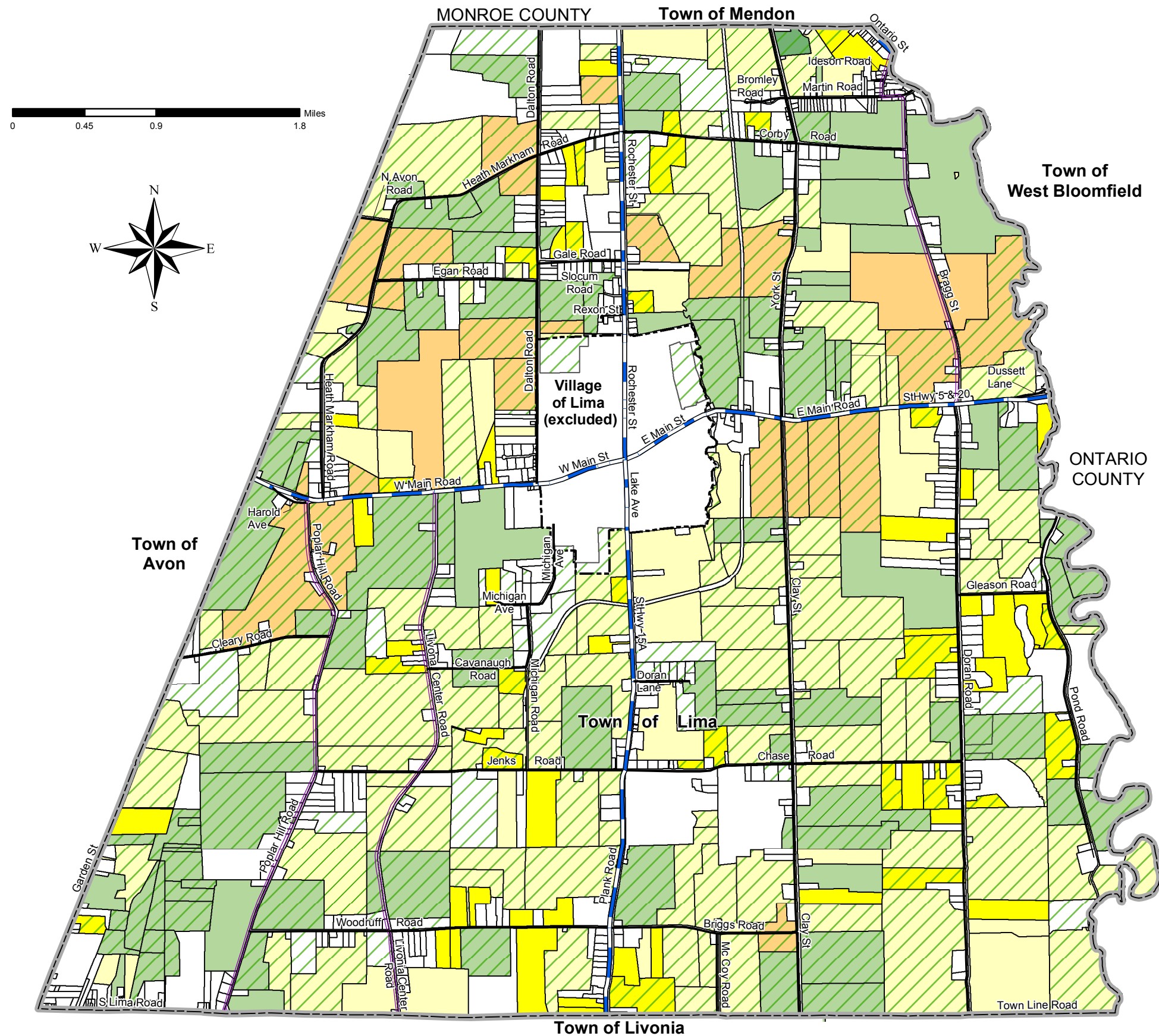
Referred to Monroe County Planning _____ Yes _____ No, if no state reason _____

Date of referral _____ County referral number _____

Signature of Official Accepting form _____ Date _____

Town of Lima


Agricultural and Rural Residential Land 2009



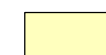




Livingston County



Agricultural Land

 Agricultural District No. 2

Property Class

-  Vacant Agricultural Land
-  Dairy
-  Cropland
-  Nursery/Greenhouse
-  Rural Residential

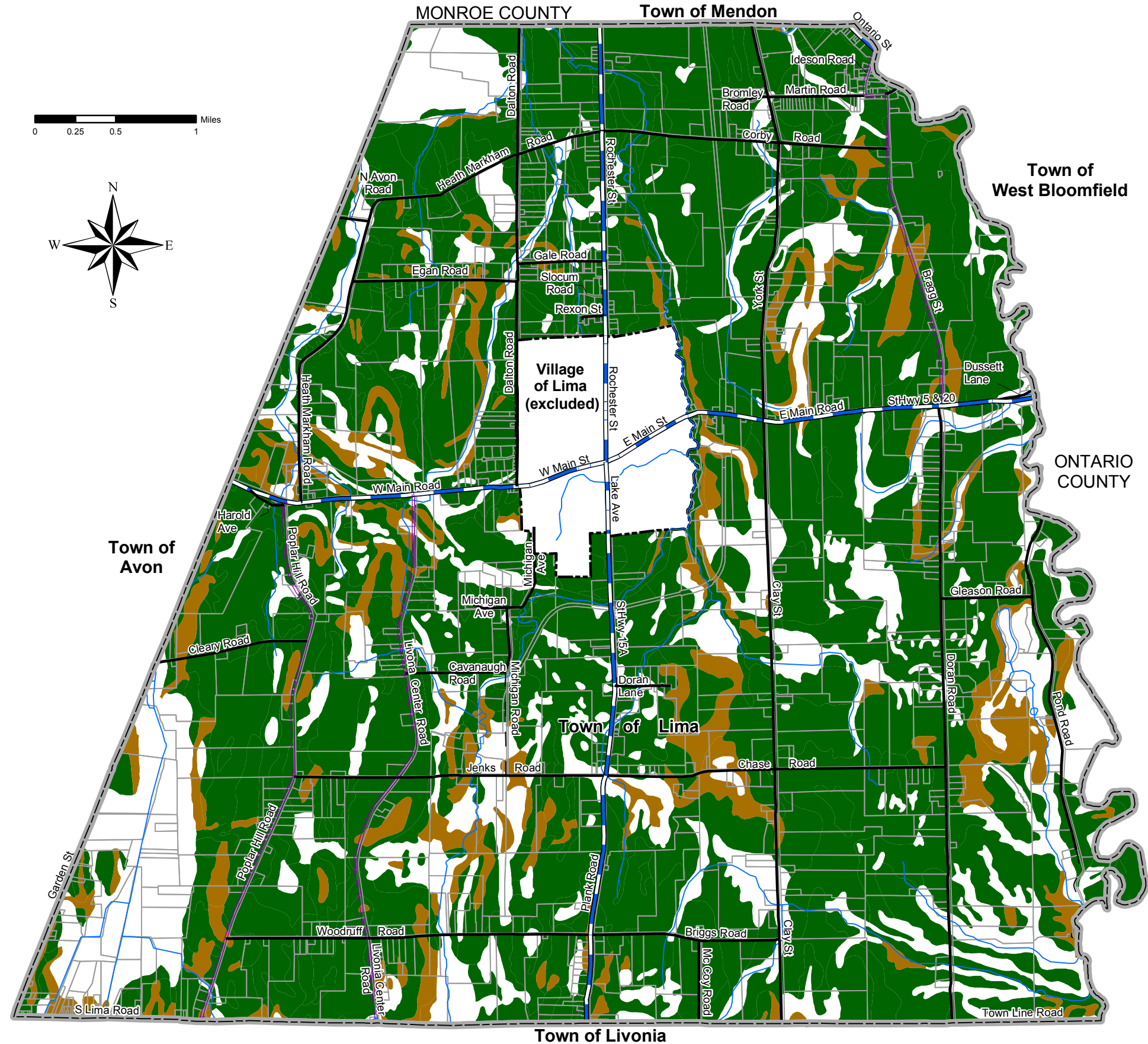
Map created by the Livingston County Planning Department: February 2010

Source: Livingston County Real Property Tax Parcels, Property Class, 2009.
Livingston County Agricultural District #2, 2009.

lima_town_agland_2009_11x17.mxd

Map #5

Farmland of Statewide Importance and Prime Soils 2009













Livingston County



Legend

Soils Classification

-  Prime Farmland
-  Farmland of Statewide Importance
-  Village Boundaries
-  Town Boundaries
-  Tax Parcels
-  State Highway
-  County Highway
-  Town Road
-  Seasonal Road
-  Hydrography

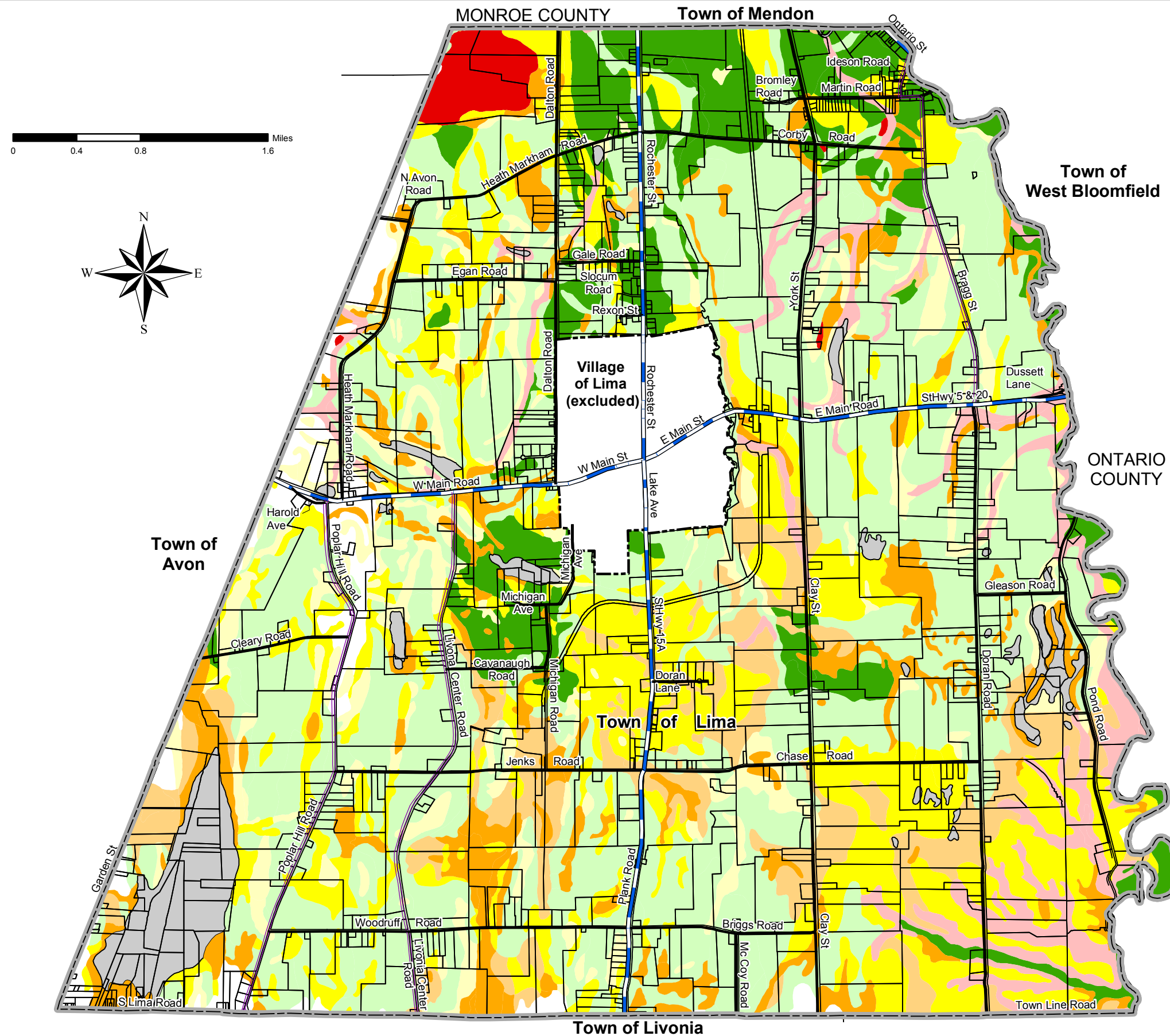
Map created by the Livingston County
Planning Department: February 2010

Source: Livingston County Real Property Tax Parcels, 2009;
USDA Soil Survey of Livingston County, NY, 1956.

lima_town_prime_statewideimp_soils_2009_11x17.mxd

Map #2

Town of Lima Agricultural Assessment Value of Soils 2009



Livingston County



Agricultural Assessment Value



Map created by the Livingston County Planning Department: February 2010

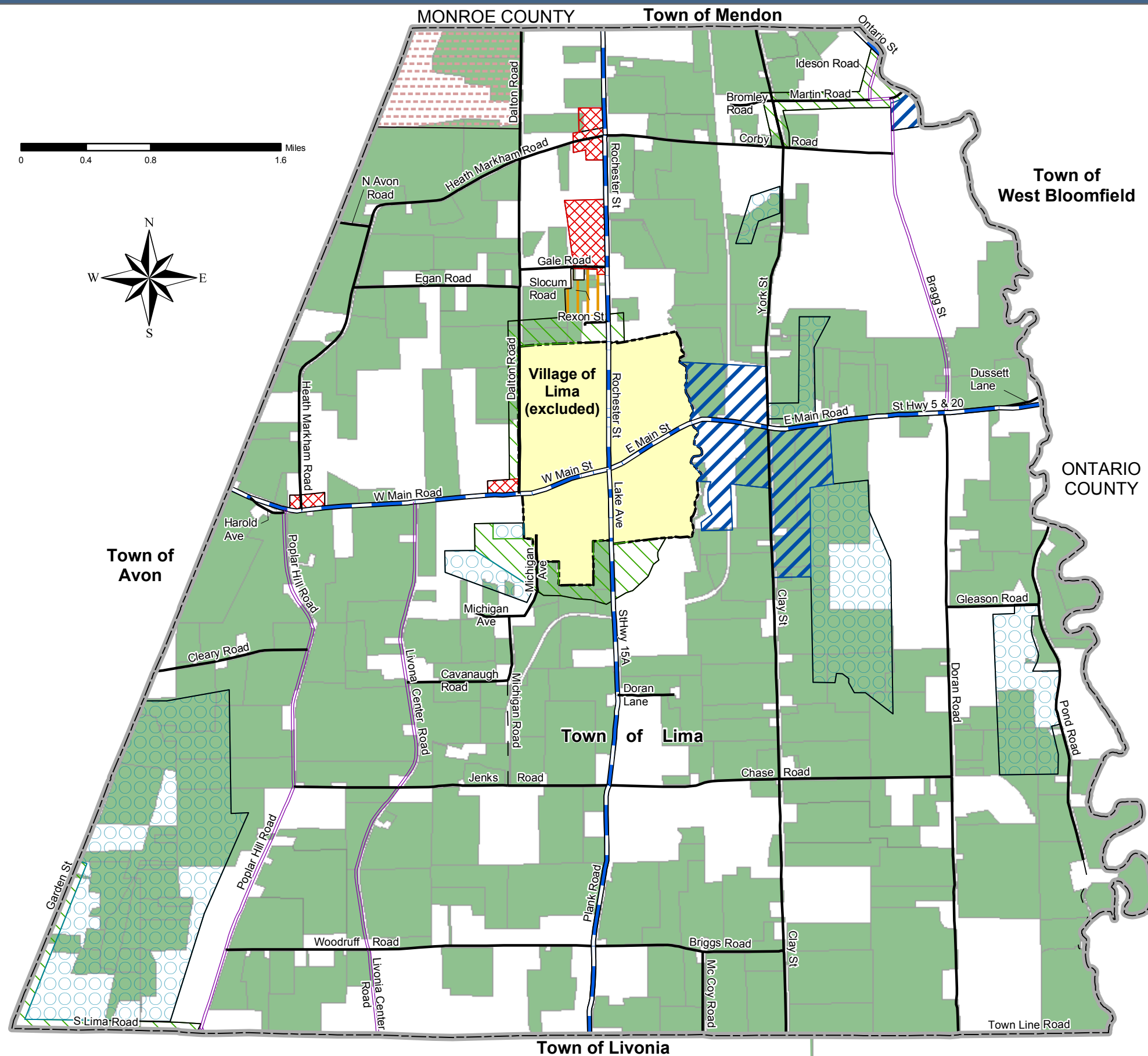
Source: Soil Valuation Per Acre, NYS Dept. of Agriculture & Markets, 2009; Livingston County Real Property Tax Parcels, 2009.

lima_town_valueofsoils_2009_11x17.mxd

Map #3

Town of Lima

Zoning & Agricultural District #2



Livingston County



Zoning Districts

- Agricultural (A)
- Residence (R)
- Planned Development (PD)
- Industrial (M)
- Quarry (Q)
- Land Conservation (LC)
- General & Highway Business (B)

Legend

- Land in Agricultural District #2
- Town Boundaries
- Village Boundaries
- State Highway
- County Highway
- Town Road
- Seasonal Road
- Private Drive
- Village Road

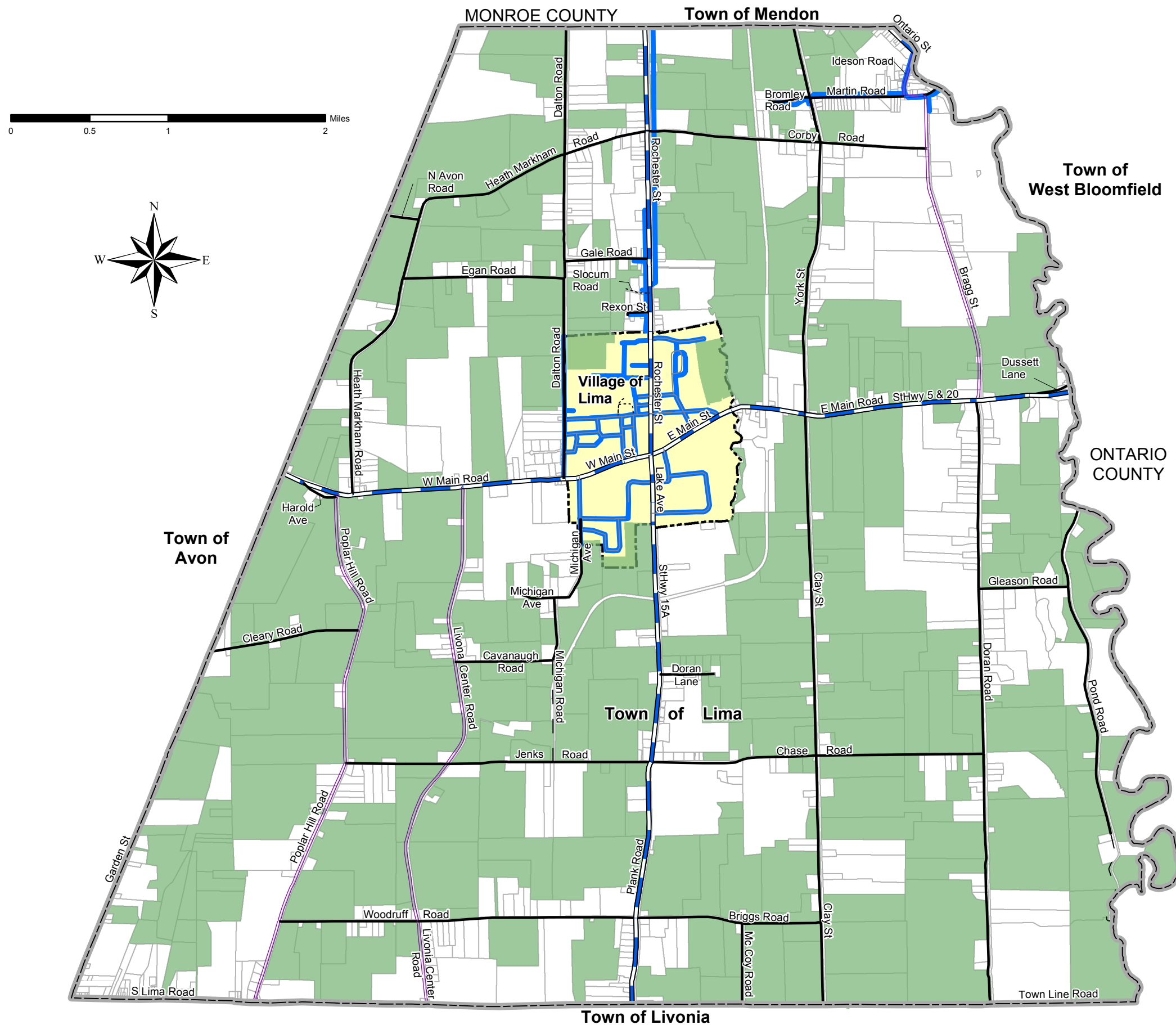
Map created by the Livingston County Planning Department: February 2010

Source: Agricultural District #2: Livingston County Planning Dept., 2009

lima_town_zoning_agdistricts_2009_11x17.mxd

Map # 7

Town and Village of Lima Agricultural District #2 with Waterlines 2009



- Land in Agricultural District #2
- Town Boundaries
- Village Boundaries
- Tax Parcels
- Waterlines
- State Highway
- County Highway
- Town Road
- Seasonal Road
- Private Drive
- Village Road

Map created by the Livingston County Planning Department: February 2010

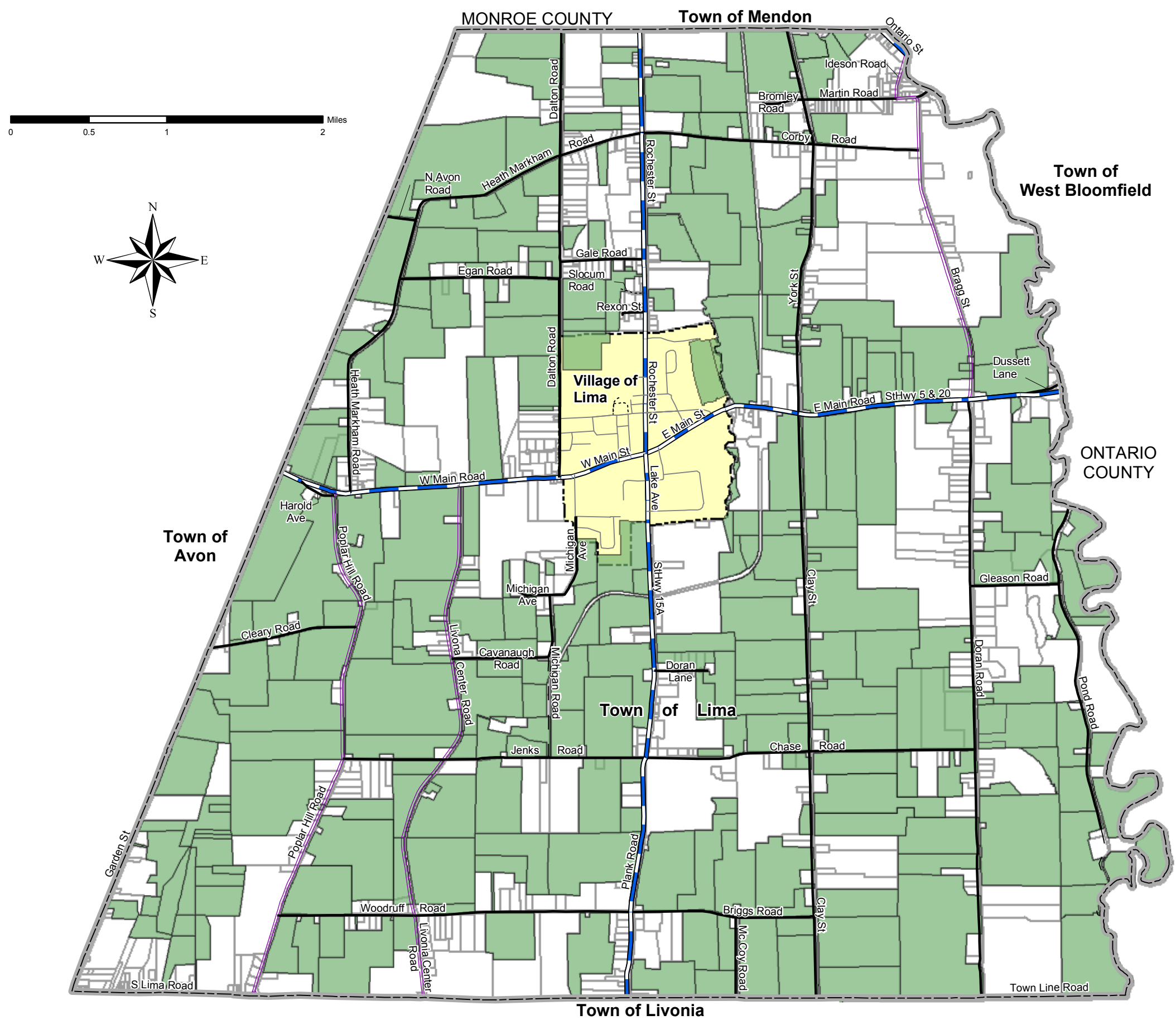
Source: Livingston County Real Property Tax Parcels, 2009;
Livingston County Waterlines: Livingston County Water & Sewer Authority, 2008;
Agricultural District #2: Livingston County Planning Dept., 2009.

lima_town_agdistricts2009_w_water_11x17.mxd

Map # 6

Town and Village of Lima

Agricultural District #2



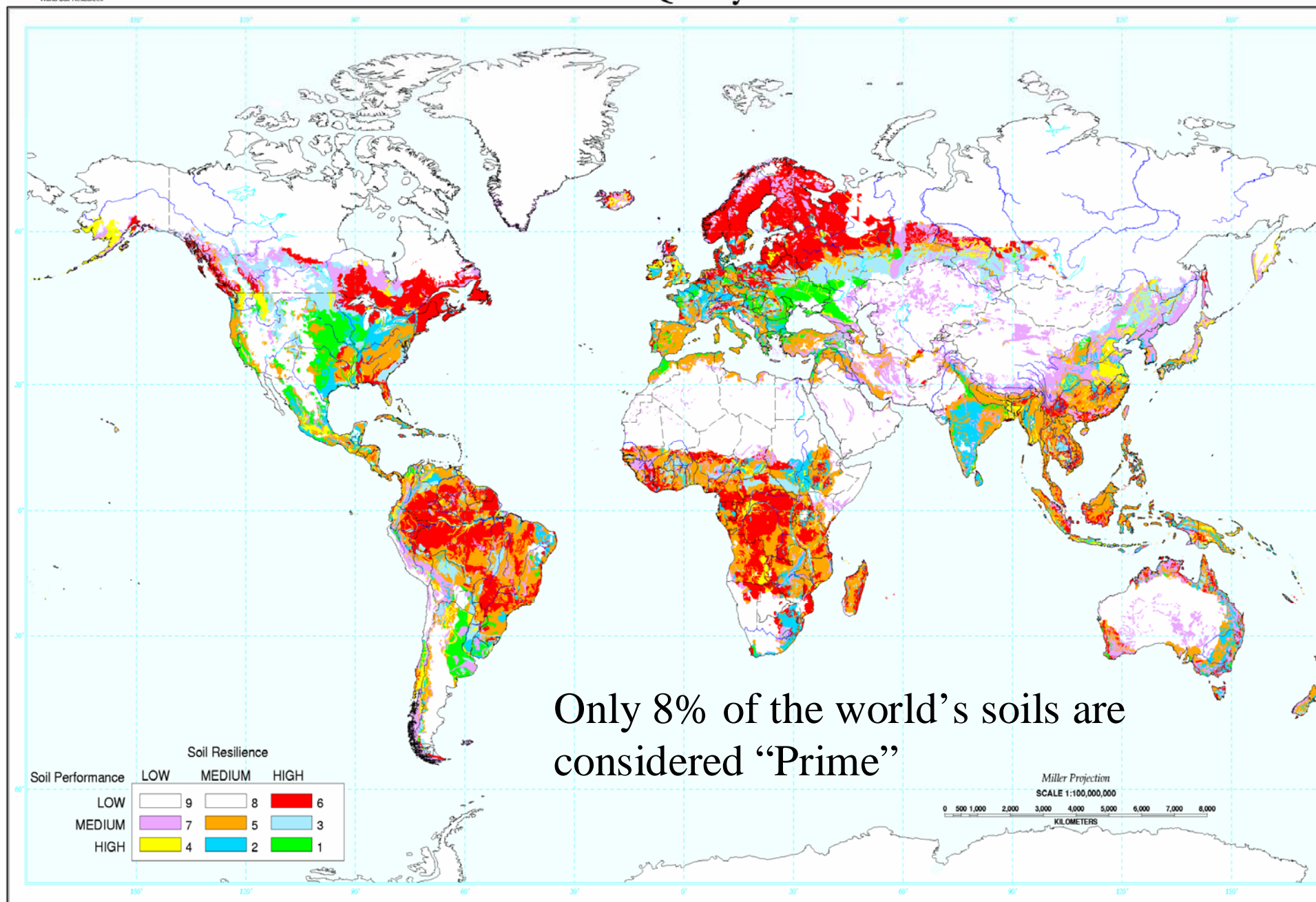
- Land in Agricultural District #2
- Town Boundaries
- Village Boundaries
- Tax Parcels
- State Highway
- County Highway
- Town Road
- Seasonal Road
- Private Drive
- Village Road

Map created by the Livingston County Planning Department: February 2010

Source: Livingston County Real Property Tax Parcels, 2009; Agricultural District #2, Livingston County Planning Dept., 2009.

lima_town_agdistricts2009_11x17.mxd

Inherent Land Quality Assessment



Only 8% of the world's soils are considered "Prime"

Miller Projection
SCALE 1:100,000,000
0 500 1,000 2,000 3,000 4,000 5,000 6,000 7,000 8,000
KILOMETERS