

Growth Management Tools

The basic premise of the plan recommendations is that a Town or Village should continue to exercise control over development so that it occurs in a manner that is consistent with the Town or Village's vision for a quality community; a place that is desirable to live, work, and play for an entire lifetime.

Growth management is a process by which a community develops the methods and means (tools) to control the type, location and amount of land development (growth) in the community. The most common growth management tool is zoning. Zoning identifies distinct districts within which land use parameters are established for the type or use, density, and layout (setbacks) of development. Zoning can be an effective growth management tool when based on a community's comprehensive plan. However, zoning is just one of the tools available to local municipalities. Other tools falling into this category include subdivision regulations and various ordinances dealing with signs, landscaping, open space, noise, odors, and others depending on the needs of a particular community.

Regulatory tools are essential to ensure orderly growth in a community. However, other growth management tools that rely on incentives and voluntary involvement by landowners, are also available to assist communities who understand the importance of managing their growth. Some of these tools include easements, purchase of development rights, transfer of development rights, voluntary land acquisition, and development guidelines in conjunction with community supported plans.

Current growth management tools have been effective to a point, however, it is clear that if development is allowed to continue only under the guidance and regulatory framework of current zoning, the pattern of development will be similar to other highly suburbanized areas of the State and country.

The following pages provide a brief description of some of the growth management tools and techniques that might be appropriate for Lowville based upon the dialogue that has occurred during this comprehensive planning process. These tools are not direct recommendations. It is anticipated that future land use and open space studies will determine the appropriate growth management tools for both the Town and Village. The following information will provide some understanding and definition of these potential tools.

A. Clustering

The general concept behind clustering is that density is separated from lot size. In this way, the same number of homes are allowed but there is more flexibility in where the homes are located. Currently, the Town regulates density by having a minimum lot size for each zoning district. The minimum lot size in a particular zoning district, for example, might be 1 acre. Under this regulation, each home must be placed in the middle of a one acre "box". Another way to express this density is that a person can build 1 dwelling unit (du) per acre – so on 10 acres a person can build 10 homes. However, by expressing the density in this way, the person is no longer confined to dividing the land into one-acre lots. Smaller lots, as the capacity of the land can support, could be clustered on a portion of the site while the remainder remains open. In this way, the entire site is not divided into building lots and the homes can be sited in the most suitable locations.

There are many options for the remaining open lands derived from clustering. In all cases the open land should be restricted from any further development in some way. One method is through a conservation easement, held by the Town, a land trust, or both. There are several options in terms of ownership of the open land under easement. For example, if the original parcel was owned by a farmer, the farmer could retain ownership of the remaining lands. In this case the farmer would continue to farm the land and would retain all the rights of ownership (including the right to transfer title) except the property's development rights, which would already have been used. Or the large remaining open parcel could be sold for a large "estate" farm (as one of the housing units allowed based on the original lot count). In both cases, the open space would be managed by a private land owner.

Clustering can be included in the Town's land use regulations as an option or as a requirement. As an option, it is often ignored by developers who are unfamiliar with the concept and therefore are reluctant to try it. This is true even though they can often save money due to shorter road and infrastructure lengths. As a mandate, the Town could simply regulate density in terms of dwelling units per acre, as described above, and require some minimum percentage of open space for any subdivision. The minimum percentage of open space should be significant – at least 50% to make a real impact in terms of protecting resources and rural character. It is important to reiterate that the overall allowed density with clustering would not exceed what is possible with a conventional subdivision.

B. Conservation Development

The conservation development is a resource-based process for subdivision design. The Town should consider the design of conservation developments instead of conventional subdivisions. The conservation design approach is quite simple and involves collaboration between the Planning Board and the applicant at the earliest state of design – the concept or sketch plan phase. To determine the yield, or possible lot count for a site, subtract the lands which contain severe constraints to development (defined in the subdivision regulations – wetlands, floodplains, very steep slopes, etc.). The maximum number of housing units would be based on the number of acres remaining and the maximum allowable density in the zoning district (for example, 1 du/acre).

Once the number of housing units is established, the design process can begin. Start by identifying the resources present on the site (agriculture land, historic or scenic views, significant tree stands, etc.). Illustrated residential design guidelines, described below, could assist in this process. Once the analysis of resources is done, it is possible to identify lands where development is most appropriate. Locate the homes in these development areas, design road alignments to connect these homes, and then draw the lot lines. Because the area and bulk regulations used for conventional subdivisions are not applicable, the process is creative and not driven strictly by regulations. Randall G. Arendt, in his book *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks* (1996), provides excellent guidance in the use of this approach to subdivision design.

The important aspect of the conservation development is that it is an opportunity for a Planning Board to become involved very early on in the site development process. Under standard subdivision and site plan review procedures, a Planning Board or Zoning Board is in a reactionary mode and must wait for a concept plan to be presented. Under a conservation development procedure, the Planning Board is involved in the process of identifying developable and undevelopable land before sketches and concept plans are laid out. The process works well for standard subdivisions as well as cluster developments.

C. Incentive Zoning

An incentive zoning program establishes a framework that derives community benefits from development activity. The incentive program would generally function as follows; in return for the provision of specified (in advance by legislation) public benefits, the Town could permit some increase in allowed density (also specified by legislation). An example of a public benefit that the Town might desire would be public access through open lands set aside as part of a conservation development. This access might be used for the development of walking, bicycle, or horse riding trail systems linking different parts of the community. Examples of other public benefits might be the donation of public open space for a park, the donation of public lakes access, or the provision of low and moderate income housing. The amenities are given to the Town at no financial cost in exchange for the density bonus incentive. The Town would ensure that the amenities gained are “worth” the incentives as part of the incentive zoning review process.

A specific example of the potential use of incentive zoning in the Town would apply to the protection of important viewsheds and environmental features. Incentive zoning would permit waving of formal dimensional requirements provided that a conservation design is employed. This would allow flexibility in site design in pursuance of the goals of the incentive program. This growth management tool could be effective to protect the stream corridors, ravines, viewsheds and viewpoints, and other ecologically sensitive areas.

D. Conservation Easements

One way for the Town and Village of Lowville to protect scenic resources, open farmlands, and other resources of value to the community would be to encourage the use of conservation easements to protect open land. A conservation easement is a voluntary legal agreement between the landowner and the Town, or a third party such as a land trust, to protect land from development by permanently restricting the use and development of the property, thereby preserving its natural or manmade features. The legally binding agreement is filed in the Office of the Lewis County Clerk in the same manner as a deed. The landowner retains ownership of the land, and all of the rights of ownership except the ability to develop the land. The specific restrictions are detailed in the easement agreement.

A landowner can choose to donate a conservation easement on all or part of his/her land. There are often income and estate tax benefits for the landowner associated with the donation of a conservation easement. As part of land development proposals, conservation easements can also be used to permanently protect open space set aside as part of a conservation (clustered) subdivision.

There are additional uses of conservation easements that can be promoted by the Town or Village. The Town or Village could consider taking a more pro-active approach to keeping specific parcels of land undeveloped. These are further described in the following three sections.

E. Purchase of Development Rights (PDR) Program

The community can take an active role in protecting open space and farmland using conservation easements. The development value of specific parcels of land can be purchased by the Town or a land trust. Conservation easements are the legally binding document that ensures that once the development rights are purchased, the land remains undeveloped in perpetuity. If the development rights are purchased, the process is called Purchase of Development Rights (PDR). The cost of PDR depends on the specific parcel. It is calculated by determining the current appraised value of the property and its appraised value as open or agricultural land without development potential. The difference between these two numbers is the value of the development rights.

Generally speaking, PDR programs are regarded as being fair to landowners because the landowners are compensated directly for their contribution to something the public desires. In other words the community must “put its money where its mouth is.” The land remains on the tax rolls and is taxed at an assessed value that reflects its restricted use. These programs are also popular with residents because they achieve permanent land protection.

In order to implement a PDR program, the Town would need to make a commitment to funding this activity. Initially, this may seem to be a very large expense – and it is. However, through careful analysis, some communities have found that their investment will actually cost less in the long term than it would cost to provide services for new residences that might instead be built on that land. Communities have paid for these programs in various ways including bonding for the money to spread the cost over a period of years. There are also sources of state and federal grant funding available to assist communities in permanently protecting farmland and open space in this manner.

A Purchase of Development Rights program requires up-front planning to implement. Communities with well-defined programs have a higher likelihood of receiving grants due to their competitive nature. The return on this investment in planning can be substantial in terms of both the community’s fiscal situation and community character.

F. Transfer of Development Rights (TDR) Program

Transfer of Development Rights (TDR) programs use real estate market activity to focus development in suitable locations while protecting open spaces. To establish such a program, the town designates specific areas as “sending zones”. Sending zones are places that the community seeks to preserve. The town also establishes “receiving zones”. These are areas that are suitable for fairly high density development. Through

the TDR program, development rights are sent from the sending zone to the receiving zone. Land in the sending zone will therefore be protected while land in the receiving zone will be densely developed.

Development in the sending zones is tightly regulated for natural resource and open space protection. However, landowners in the sending zone are allowed to sell a certain number of “development rights” to land developers at a price that they negotiate with the developer. Land developers who seek to build in the “receiving zones” can purchase those development rights in order to develop their land more densely. When the landowner in the sending zone sells development rights to the developer, the landowner is required to place his/her land under a permanent conservation easement. (Note: TDR can also be accomplished through incentive zoning.)

A TDR program also requires up-front planning. Sending and receiving zones must be carefully designated. In some cases it may be necessary to consider the development of public water and sewer infrastructure to accommodate the higher density development. In addition, the town must set up the administrative mechanisms to make the program work efficiently. Still, in Lowville, it might be possible to make a TDR program work for portions of the Town.

G. Term Easements and Tax Abatement Program

This type of program, used by several communities in New York State, provides tax abatements for term easements on particular parcels of open space or farmland. As the name implies, a term easement is a voluntary legal agreement between a landowner and the Town which is written to last for a period of years, most commonly for 5 to 20 years. Tax abatements are usually calculated on a sliding scale with a larger tax abatement for a longer term easement. If these protected lands are converted to development prior to the expiration of the term, the tax benefit must be returned and a penalty paid. While these programs are effective in addressing the loss of open space and farmland in the short term, they simply place these lands on hold. Long-term solutions must still be developed for the future of these spaces.

H. Residential Development Design Guidelines

The Town and Village could consider creating illustrated design guidelines for new development. Illustrated design guidelines complement the increased design flexibility allowed by conservation (clustered) subdivisions. No longer restricted to maximizing the number of X-acre boxes allowed by zoning’s minimum lot size requirements, the designer of a subdivision can be more conscious of the natural features of the parcel(s) and the surrounding landscape. It is best for the community to provide guidance in this regard by describing what it values and what it seeks to protect. Illustrations make these guidelines more easily understood by developers, review boards, and the public. All types of items can be incorporated into a community’s design guidelines depending upon what the community values. Design guidelines could include specific requirements that:

- Development along and/or projecting above ridge line be prohibited, and that development at other visually prominent locations be discouraged.
- Homes be located adjacent to or within wooded areas instead of in the middle of open fields wherever possible.
- The builder maintain existing trees to the maximum extent possible during the construction of homes (as opposed to clearing the entire site).
- Homes be located away from rural highways and collectors, or that they be visually buffered from these roads in order to maintain their rural character. Frontage lots should be discouraged.
- Low volume local roads (including subdivision streets) be designed to an alternative rural road standard more in context with their setting. Examples of rural road standards are available from several sources including the Cornell Road Program and the Dutchess County Department of Planning.
- Natural drainage ways, wildlife habitat areas, contours and land forms be respected and disturbance to these areas minimized.
- Cut and fill activity be minimized and that all disturbed areas be restored with vegetation.

A pre-application conference or sketch plan workshop between the applicant and the Planning Board becomes extremely important in order to creatively deal with design issues early in the process.

Design guidelines are generally informational and collaborative in nature. That is, the applicant has an opportunity to review the guidelines prior to designing a project in order to understand what the community and the Planning Board desires. The sketch plan workshop with the Planning Board is another opportunity to discuss initial design options before the more thorough and expensive design work begins. The workshop should focus on creativity and not confrontation. It will always be in the applicant's best interest to work cooperatively with the Planning Board because the board must ultimately decide where to approve the final plans. Achieving consensus at the start can significantly reduce the time and cost of the review process for the applicant.

I. Fiscal Model

A fiscal model is a planning tool that can be used to identify the implications of current zoning and other future land use planning scenarios. It is intended as a means of comparing land uses, such as residential and commercial, to determine how increased growth rates would impact the fiscal budget of the Town, Village and school districts.

The model includes a series of variables that are model input. For example, a scenario might compare the impact of increased economic development against the current growth rates. There are many useful implications of such a model. Another benefit is that the model is open-ended, which means it is capable of expansion into a much more detailed program without the need to rewrite the model.