



Agriculture

Community Goal:

Maintain agriculture as an important economic activity that contributes to community character.

Objectives:

- Seek input from local farmers on agricultural issues.
- Purchase or transfer development rights from farms to permanently protect agricultural land and compensate landowners for the equity in their land.
- Encourage the economic viability of local agriculture.
- Reduce land use conflicts between farms and residential development.
- Promote community awareness of the importance of agriculture in the Town.

Agriculture is a significant component of Lloyd's economy and a major contributor to the Town's character and its quality of life. Agriculture, without a cost to the community, preserves the scenic roads and views that make Lloyd so attractive. Redirecting growth and at the same time preserving agriculture can make Lloyd even more attractive while enhancing the value of homes. The *Comprehensive Plan* places a high value on encouraging the economic viability of local agriculture and protecting agricultural lands.

Cost-of-community services show that agriculture makes a significant contribution to the tax base. According to three recent studies conducted in Hudson River Valley towns similar to Lloyd, municipalities reap an average net profit of 60 cents for every dollar a farm contributes in taxes.¹ In contrast, residential development results in an average net loss of 21 cents per tax dollar contributed. This disparity occurs because residential development, unlike agriculture, costs more to service than it provides in taxes. One reason for this is that "*cows and apple trees don't go to school.*"

¹ Cornell Cooperative Extension of Dutchess County and American Farmland Trust, *Cost of Community Services Study*, April 1989; Scenic Hudson, Inc., *The Real Cost of Development*, December 1989; Town of Warwick, *Cost of Community Services Study*, November, 1998.

Agriculture in Lloyd is mainly devoted to tree fruits, primarily apples. In recent years, much of this land has been converted to single-family homes, particularly in the Vineyard Avenue area. While Lloyd's soils and topography are favorable to the growing of tree fruits, various factors are contributing to fluctuating market conditions that are reducing the economic viability of agriculture, and resulting in the abandonment of cultivated lands or their conversion to other uses. If these trends continue and farmers are forced to sell their land, planting houses instead of crops, Lloyd's taxes will rise and the Town's rural character will be compromised. While many of the factors contributing to the decline of local agriculture are national and international in scope and are, thus, outside the Town's sphere of influence, it is urgent that Lloyd takes whatever steps it can to ensure the Town maintains its agricultural industry. Doing so will ensure a stable tax base and maintain the community character cherished by residents. It will also preserve agricultural soils, a significant natural resource, for future use.

To achieve this goal, Lloyd must take an aggressive and proactive approach to retain its agricultural land and industry. The best way to ensure the future of agriculture in Lloyd is to increase farmers' options so they can protect their land and enhance their businesses. The *Comprehensive Plan* presents a number of possible strategies to achieve Lloyd's goal to maintain agriculture as an important economic activity that contributes to the community's character. However, the Town cannot preserve farming without the involvement of farmers, residents and other agencies. The strategies discussed below should be considered for future implementation, with input from the local agricultural community.

5.1 INVOLVE LOCAL FARMERS

The recommendations discussed previously for protecting and enhancing Lloyd's quality of life include the use of planning techniques, such as clustering, conservation subdivision design, and limited development subdivision, that can also serve to protect farmland in Lloyd. The aim of these "smart growth" techniques is to permit development while preserving natural resources such as open space and agricultural lands. The *Comprehensive Plan* recommends that the Town Board appoint a Farmland Protection Committee to advise the Town on these smart growth techniques and other agricultural issues. The Farmland Protection Committee would also serve as an active liaison between the Town government and the agricultural community, and would advise local farmers on available tax opportunities and on the land use options for protecting farmland presented in this *Comprehensive Plan*.

One of the primary tasks of the Farmland Protection Committee would be to help the Town prepare an Agricultural and Farmland Protection Plan. In 1992,

New York State gave local governments more responsibility to develop plans and strategies to enhance agricultural and farmland protection programs. These new rights were contained within the amended New York State Agricultural Districts Law. Lloyd should take advantage of this opportunity by preparing an Agricultural and Farmland Protection Plan.

The preparation of a local agriculture plan should begin with a survey of Lloyd farmers to determine such issues as how long farmers have been farming in the Town, how long they plan to continue farming, whether they plan to buy or sell farmland in the future, and what factors hinder and help farming. The local plan could use the County's recently adopted Farmland Protection Plan as a basis.

One advantage to adopting a local agricultural protection plan is that it will give Lloyd priority in applying for State and Federal funds for purchase-of-development rights. Communities that demonstrate a strong commitment to the future of agriculture are more likely to receive funding to protect farmland.

5.2 PURCHASE OF DEVELOPMENT RIGHTS

The purchase of farmland conservation easements, frequently known as Purchase of Development Rights (PDR), preserves farmland through direct compensation to landowners for some or all of the equity in their land. Under a PDR arrangement, the farmer sells development rights and receives compensation for the restrictions placed on the land. The farmer retains title to the land and can sell or bequeath the land to others. The conservation easement is attached to the land in perpetuity, often prohibiting residential development except for the owners, their children or farm laborers.

The goal of PDR is to preserve both farmlands and farming. The tool provides long-term protection of farmland. The farmer can use the capital gained from the sale of development rights to repay debt, invest in equipment, or for other purposes. The program is voluntary and can be implemented at the local, county or state level.

The most important consideration in using PDR is prioritizing which farmland to preserve. The decision should be based on the significance of land to the practice of agriculture. When preparing for such a program, a Town should always consider the productivity of soils for farming. Other important factors to look for include a critical massing of farms within the Town to maintain the rural fabric and viability of farming within the community, and economic factors that show the overall stability of agriculture in that area. Maintaining a critical mass of farmland is one of the most important determinants for agriculture's survival. Farming in the midst of subdivisions is virtually

impossible due to land use conflicts, and a large number of farms is necessary to ensure the availability of agricultural services to support the industry.

Lloyd should actively pursue State and Federal funding to purchase development rights from participating farmers. The conservation easements on the farm could be held and monitored by a local land trust such as the Wallkill Valley Land Trust or by the Town. To ascertain whether it would be beneficial for the Town to establish its own PDR program, Lloyd should conduct a fiscal impact study of the tax revenue impacts of different land uses in the Town.

In 1994, the Town of Pittsford, Monroe County NY conducted a fiscal impact analysis to study the tax consequences of purchasing development rights on the Town's remaining 1,200 acres of farmland. The study found that if the 1,200 acres were developed residentially as zoned, it would cost the average taxpayer over \$200 per year in additional property taxes because the demand for services would outweigh the tax revenue on residential property. In contrast, if the Town issued \$9.9 million in bonds to purchase the development rights from the 1,200 acres of farmland, the cost to the average taxpayer would be only \$67 per year. As a result of this study, Pittsford residents voted to fund the PDR program, which the Town is currently implementing.

Pittsford became one of the first towns in New York State to develop a Town level PDR program. The Town of Warwick in Orange County NY, and the Town of Red Hook in Dutchess County, NY have recently joined the ranks. In 2001, Warwick passed a local law to establish a PDR program, and residents voted in favor of a \$9.5 million bond to fund the program. In 2003, Red Hook authorized a \$3.5 million bond fund for its PDR program. In studying the impacts of a local PDR program, Red Hook found that converting 1,000 acres of farmland to residential development would incur \$1.875 million in annual spending for schools, but preserving those 1,000 acres would cost only \$112,133 to \$146,200 in bond costs. These Towns have taken a proactive approach to preserving farmland and stabilizing the tax base.

As in the case of Pittsford, Warwick and Red Hook, a Lloyd PDR program may be economically attractive to both the community and the landowners involved. If a landowner is willing to sell the development rights, the Town would pay the difference between the farm's development value and its agricultural value, as determined by an independent certified appraisal. Interest on the outstanding balance paid to the landowner may be exempt from income taxes. In return, the landowner agrees to grant, by deed, a permanent conservation easement on the property. The landowner can use, rent or sell the land only for agricultural and permitted non-development purposes, thus assuring that it remains as open space. The source of funds for

this program could be derived from incentive zoning (discussed below) and from grants made available through State or Federal funding.

5.3 TRANSFER OF DEVELOPMENT RIGHTS

Another potential farmland protection technique is the use of a density transfer process. This is a voluntary means of transferring development rights among two or more property owners, but within the overall density standards of the Town's zoning regulations. The transfer of development rights (TDR) makes it possible to limit development in one area (called the Sending District) where there is an important resource such as active farmland or significant open space, and transfer those development rights to another area (called the Receiving District) where there are little or no impediments to higher density. The density is transferred from a "sending" parcel to a "receiving" parcel. The sending and receiving parcels do not have to be contiguous.

By creating receiving parcels as markets for the sale of unused development rights in the sending parcels, a TDR program encourages the maintenance of agriculture and other sensitive features of the designated sending parcels. When the owner of a sending parcel sells development rights to the owner of a receiving parcel, the purchaser increases density beyond otherwise permissible limits, and the selling landowner places a conservation easement on the original property limiting further development. In this way, the Town can protect resources of critical importance to its citizens while providing a mechanism to compensate sending area landowners for any diminution in land development potential.

A special permit application for a density transfer would be required from the Planning Board, and both property owners would sign the application. The selling landowner would first have to demonstrate to the Planning Board the ability to develop the number of lots under the Zoning Code on the property for which the development rights will be sold. The receiving property owner would get a density credit for the additional building lots.

In addition to the landowners demonstrating to the Planning Board that all of the Town's special permit standards have been met, they would also need to demonstrate that:

- The transfer of density units to the receiving parcel would not adversely affect the surrounding area.
- The density transfer will benefit the Town by protecting open space of conservation value.

- The density transfer is consistent with the Town *Comprehensive Plan* and Zoning Law.
- A conservation easement must be executed on the sending parcel reducing the number of dwelling units by an amount equal to the number of units transferred to the receiving parcel.

The Town of Warwick in Orange County, NY recently adopted a new Zoning Law that permits a voluntary transfer of development rights from the Town's Agricultural Overlay Protection District to the Traditional Neighborhood Overlay District, where greater density is desired. The program permits farmers to realize the current development value of their land while still allowing it to remain in agricultural use. A similar program could be adopted in Lloyd, using Warwick's as a model.

Lloyd has two advantages over Warwick which would facilitate the implementation of a transfer of development rights program. First, the hamlet of Highland is already served by central water and sewer. This would permit increased density in the hamlet without the expense of installing new infrastructure. Second, unlike many towns in the Hudson Valley, the hamlet of Highland is under the jurisdiction of the Town. Thus a transfer of development rights from outlying areas in the Town to the hamlet could occur without the need for an intermunicipal agreement.

Some communities also lease development rights, which amounts to a give back in property taxes. Lloyd should also explore this as a possible option.

5.4 INCENTIVE ZONING

If a developer wishes to receive a density credit but there is no selling landowner available at the time, the developer could make the equivalent cash payment to a "resource bank" which the Town could use for purchase of development rights in the future. This can be established through a mechanism called "incentive zoning."

Incentive zoning encourages developers to provide community benefits in exchange for increased density. Incentives that may be offered to developers include increasing density by allowing more residential units or a greater building floor area than the Zoning otherwise permits. These incentives are given in exchange for the developer providing community benefits, such as open space, parks, affordable housing, community sewer or water, or "*other specific physical, social or cultural amenities, or cash in lieu thereof, of benefit to the residents of the community.*" [NYS Town Law § 261-b] Where it is not feasible or practical for benefits to be provided directly, the developer may make a

cash payment to the Town in lieu of the benefit. This sum would be held in a trust fund or “resource bank” to be used exclusively for the specified benefit.

Since one goal of Lloyd residents is to preserve Highland as the commercial, institutional and cultural center of the Town, the hamlet could be identified as an area where zoning incentives are permitted. In exchange for developing this area at a greater density, the developer would provide the Town with a cash payment that would be earmarked for purchasing development rights from participating Lloyd farms. The developer would have to demonstrate the same list of requirements as in a density transfer.

This program has two advantages: it is entirely voluntary, and it benefits both the developer and the Town. The developer would gain the economic advantage of greater density, and the Town would benefit from protecting farmland. In fact, the Town would benefit in two ways from this program because it would achieve two of the main goals favored by Lloyd residents—to maintain the hamlet as the Town center and to protect the Town’s outlying open space. Together, these goals will protect Lloyd’s traditional settlement pattern and rural character.

5.5 DENSITY

To ensure that PDR, TDR and incentive zoning is effective in Lloyd, the *Comprehensive Plan* reiterates the previous *Development Plan*’s recommendations that density in the Agricultural District should be decreased. The *Comprehensive Plan* recommends that the minimum lot size in the Agricultural District be increased to four acres per unit for conventional subdivisions and be calculated at two acres per unit for clustered subdivisions.

Two recent studies on the economic impact of downzoning have concluded that increasing lot sizes has minimal, if any, impact on the value of land. The widely held view is that a decreased yield of subdivision lots should translate into lower value for the land. However, a study in Baltimore County, Maryland showed that land in a very restrictive 50-acre zone was of equal or greater value per acre than land zoned for 1 dwelling per 5 acres. The study was based on actual land sales, and was carefully controlled for several confounding variables, including distance from the City of Baltimore and from major roads, varying school districts, accessibility and date of sale. The study found that the price per acre was, in fact, often *higher* in the more restrictive, larger lot zone than in the smaller lot zone. Land traded at a premium in the largest size category, and the sale price per acre declined with the size of the transaction. Similar findings resulted from a study conducted in San Juan County, Washington. This study, which was based on the assessed value of a

property rather than its sales price, concluded that very little loss in property value would result from downzoning.

Several hypotheses were advanced to explain the study's findings. The larger lot zoning may maintain or enhance land values by preserving the likelihood of high-valued uses. Put another way, the scarcity of available housing sites created by the more restrictive zoning caused the fewer, but larger, blocks that have permitted house sites to enjoy a premium in value. Moreover, buyers appear to be willing to spend more for protection from development.

For farmers who plan to continue farming in the future, decreasing density in the Agriculture District in order to ensure the success of PDR, TDR and incentive zoning will likely be more beneficial than maintaining the existing density, because these techniques will reduce the potential for land use conflicts between agricultural and residential uses. Since the bulk of Lloyd's agriculture is in apples, a crop that requires intensive spraying in the Hudson Valley, the potential for significant conflicts with neighboring residences is great. If one farm is converted to a subdivision of 1-acre residential lots, the impact on a neighboring working farm will be significant, even with a local right-to-farm law and requirements for buffering and windbreaks. Farmers must weigh carefully the economic benefits of realizing the development potential of their land by selling or transferring development rights while still maintaining their land in agricultural use, against the drawback (if any) of decreased density.

5.6 PROMOTE AGRICULTURE AS AN INDUSTRY

To preserve Lloyd's working landscapes and local economy, the business of farming must also be promoted. If the land is protected but the farms go out of business, Lloyd will lose a large industry and a major contributor to its tax base. The *Comprehensive Plan* recommends a number of possible strategies that can play a role in promoting farming in the Town. No single technique will do the whole job; each plays a role in achieving the desired result. In addition to the recommendations discussed below, the Town should review the Zoning Law to ensure that the laws regulating agriculture are "farm-friendly."

5.6.1 Accessory Retail Businesses and Recreational Uses

Lloyd farmers are competing in a national and international market. Food imported from other states with lower property taxes and from other countries with significantly lower labor costs place local farmers at a disadvantage. While the Town cannot address these national and international policies, it can

assist local farmers by permitting them to supplement their farm income. The *Comprehensive Plan* recommends that the Town's Zoning be amended to permit accessory retail businesses and recreational uses on farms, and to permit greater flexibility in the use of accessory farm structures.

Pick-your-own operations, road stands and farm markets, wineries, greenhouses, food processing facilities, inns, bed-and-breakfasts, and other low impact endeavors will improve a farmer's prospect for economic success. Permitting these accessory businesses will provide flexibility to farmers in the use of their existing buildings to generate income. Recreational uses can also strengthen the financial viability of farming and ensure that agricultural soils are protected for future generations. Passive and non-motorized outdoor recreational uses that are clearly related to agriculture or to the enjoyment of nature and open space and that coexist with, not replace, agriculture should be permitted on farmland properties under the Town's Zoning Law. These activities might include fishing, cross-country skiing, camping, hunting, hiking and biking trails, and limited special events such as harvest festivals and hayrides.

5.6.2 Accessory Farm Structures

Providing farmers with greater flexibility in the use of accessory farm structures should also be allowed, both to supplement farm income and to preserve farm structures that define the Town's agricultural heritage. Warehousing of supplies and equipment, manufacturing and packaging of products and materials, and business and professional offices are just a few of the uses that could be permitted in unused or underutilized farm buildings, such as cold storage facilities and historic barns, and would help to assure their preservation for potential future farm use again.

To ensure that new accessory farm businesses are compatible with other land uses, it is essential to recognize that their impact on the community is more important than actual use. Thus, any zoning changes that would permit a variety of accessory farm businesses should also include the development of performance standards so that these new uses do not negatively affect their neighbors or the Town.

5.6.3 Historic Barns

The Town should also encourage owners of historic barns to take advantage of New York State's investment tax credits for barn rehabilitation. In 1996, the State Legislature enacted the "Farm Protection and Farm Preservation Act."

This Act allows a credit of 25 percent of a taxpayer's qualifying rehabilitation expenditures for any barn that is considered a qualified rehabilitated building.

More recently, New York State launched a Barns Restoration and Preservation Program to help pay for the renovation of barns and other aging farm buildings that are at least 50 years old to preserve them as monuments to the state's agricultural heritage. The \$2 million program will help pay for as much as 80 percent of the cost of repairs, up to \$25,000 per project. Owners must pay the other 20 percent in cash or labor. This program is administered by the State Office of Parks, Recreation and Historic Preservation. Structures being improved for active agricultural use, that are visible from scenic roads, that are fixtures in the rural landscaped, or that are on or are eligible for the State and National Historic Registers are given priority. The Town should encourage local farmers to take advantage of this program.

The State Environmental Quality Review Act (SEQR) can also be used effectively to help protect the Town's agricultural heritage. Applications for new development that involve removing existing farm structures should consider the effect of the loss of such structures on the Town's agricultural character. The Town should also consider whether amendments to the Town's Zoning concerning protection of agricultural character are appropriate.

5.6.4 Agri-Tourism

The *Comprehensive Plan* also recommends that "agri-tourism" be encouraged and local farming operations be promoted. "Agri-tourism" is a term that covers a wide range of farm-related activities, such as shopping at farmers markets, sampling wine at local wineries, and picking-you-own fruits and vegetables. Other examples of agri-tourism include educational working farms, bike tours highlighting farming operations, crop art, farm tours, and harvest festivals. Lloyd should permit and encourage these activities. It should also permit the establishment of bed-and-breakfasts on farms, and should support continued production of an Ulster County map listing farm stands, farm products, and farms available for visits, and the Southern Ulster Alliance publication agriculture and other attractions in the region.

5.7 REDUCE LAND USE CONFLICTS

The New York State Constitution acknowledges the necessity of agriculture, and laws enacted by the Legislature have affirmed that State and local legislative and other decision-making activities must not interfere with or serve to discourage agriculture. To protect these rights, the Town should consider adoption of a local "right-to-farm" law.

Such legislation is encouraged by the New York State Department of Agriculture and Markets and would be designed to protect a farmer against regulations and private nuisance suits that would prevent the farmer from conducting normally accepted agricultural practices. A local right-to-farm law could also identify the importance of agriculture to the Town's economy and quality of life, its visual appeal, and the manner in which farming generates social well-being in the community. The law could make clear that Lloyd encourages farming and urges understanding and cooperation with the necessary day-to-day operations involved in farming.

New subdivisions that are developed contiguous with farmland should be clustered and should be required to provide vegetative buffer strips and windbreaks to minimize the potential for conflicts between agricultural and residential land uses. Buffer strips and windbreaks protect farmers from nuisance complaints by members of the new residential community who do not understand the urgency of time and the procedures used in many farming practices. Buffer zones can serve to supplement agricultural notices that should be placed on all subdivision plat maps in the Town.

Finally, to strengthen farmers' protection against nuisance suits, the Town should require that homeowners sign a disclosure notice and legally binding disclaimer, which includes right-to-farm notices and provisions, prior to closing on a home adjacent to an active farm. Such a notice should be required on the deeds of new subdivisions within 200 feet of a farm and within 2,000 feet of a certified Agricultural District.

A related recommendation concerns abandoned orchards. If untreated, abandoned orchards can become infested and create a land use conflict with adjacent working farms. Regulations should be implemented to require the removal of abandoned trees where possible to help reduce the need for pesticides.

Finally, the Town should prevent the extension of municipal water and sewer services into areas of the Town with prime and statewide significant agricultural soils as this could promote residential development in these areas, and attendant land use conflicts.

5.8 PROMOTE COMMUNITY AWARENESS

Modern farm practices result in a minimally polluting, vital industry that makes significant economic, social, and cultural contributions to the Town of Lloyd. The *Comprehensive Plan* recommends that the Town's Environmental Conservation Council and the proposed Farmland Protection Committee

promote citizen awareness of the economic and environmental benefits of preserving farmland. One method to achieve this would be to invite speakers to Lloyd to address these issues. The talks could be videotaped and aired on Public Access Television to reach the widest possible audience.

The *Comprehensive Plan* also encourages the Highland Central School District to incorporate “ag in the classroom” in elementary schools and to develop an Agricultural Education Program for the higher grades. Such programs could be developed with the assistance of Cornell Cooperative Extension. This may encourage young people to choose farming as an occupation, and will provide trained people to work in local agricultural and related vocations, helping to maintain the viability of the local farming industry. It would also educate the next generation about the practices and benefits of local agriculture.