

## 2. Local and Regional Planning, Open Space and Agriculture



### A. THE PLEASANT VALLEY COMMUNITY

#### 1. Population and Demographics

The 2010 Demographic Profile from the United States Census registers the Town population as 9,672 persons, representing an increase of 606 persons, or approximately 7 percent since 2000. It can be expected that the population will continue to increase. Increased population creates many challenges, including how we make sure that development occurs in the appropriate places and that our important open spaces remain preserved and our natural resources protected.

Open spaces in Pleasant Valley include areas along the Wappinger Creek, a waterway that is central to the Town's identity, wetlands, lakes, ponds, forests, ridgelines, farms and recreational parks. The protection of the appropriate open spaces is vital to retain our rural character and to protect our important natural resources in order to ensure a high quality of life for the residents of our Town.

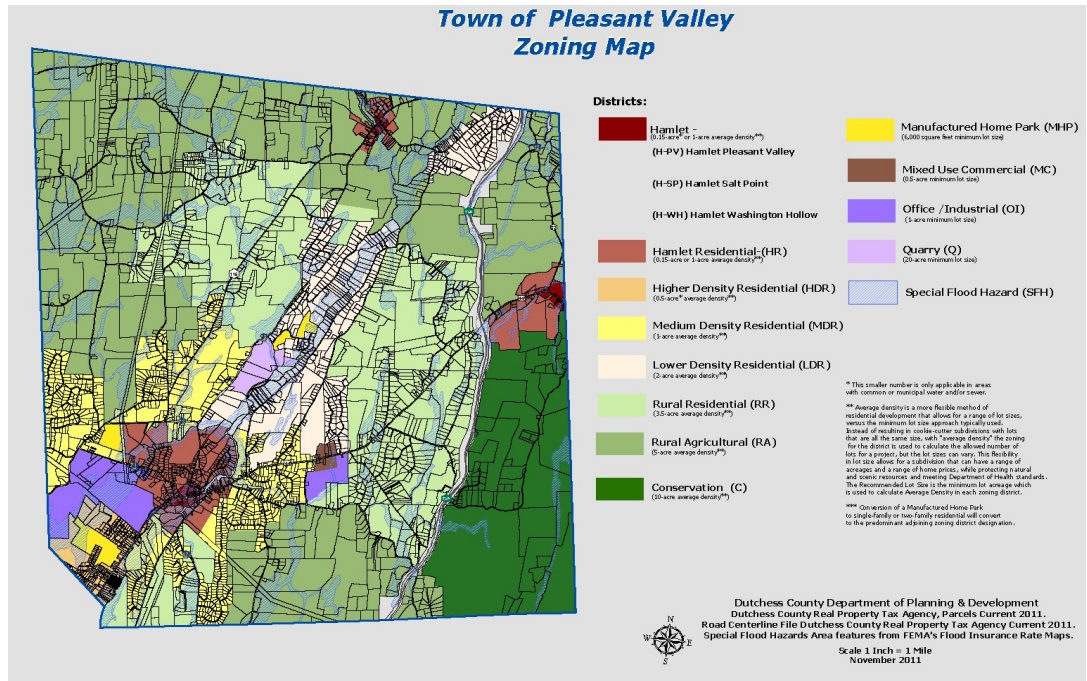
The Town manages to retain its rural character while still providing a commercial center with local shops and restaurants and two hamlets with limited commercial activity. Major transportation routes are accessible from all areas of Town.

#### 2. Farmland Protection

Farmland in Pleasant Valley is plentiful and in many places largely intact. Much of the Town's identity is tied to agricultural lands. As previously noted, 73 percent of the online survey respondents characterized Pleasant Valley as a rural community. Both the Pleasant Valley Comprehensive Plan and Zoning Code identify large areas of the town as Rural Agricultural, which is the largest zoning district in the Town (See Exhibit 2.1). The Rural Agricultural District includes land along the northern and northwestern boundaries of the Town (Upper Taconic Area, Salt Point Area, Northwest Area, Gretna/Netherwood Road Area) as well as land in the south/central part of the Town (Traver/Drake Road Area).

Farms and agricultural operations provide jobs and attract residents and visitors looking for local, homegrown produce and agricultural products. Local residents and tourists are drawn to productive farms that can provide a constant local source of fresh safe food. A viable local agricultural industry not only provides food security but employment opportunities as well. In their publication, *"The Economic Benefits of Land Conservation"*, the Trust for Public Land (TPL) points out that tourists and new residents are attracted to open space and rural amenities attributable to agricultural preservation, such as viewsheds and wildlife habitat.

Exhibit 2.1 Town of Pleasant Valley Zoning Map



TPL also suggests that “farmland preservation programs can signal a commitment to an industry that then stimulates the industry to invest and work to be successful rather than waiting to “sell out.” A University of Maryland study shows that money paid to farmers for the purchase of development rights circulated back into the local economy via debt reduction, savings or farm investment, farm operation financing, retirement investment, or the purchase of more land or equipment.

It has been well documented that open lands, including farmland, pay more in taxes than they consume in town services. Preserving farmland, therefore, not only generates significant economic opportunities, but also helps stabilize local service costs. In various reports and research studies including, “*Planning for Agriculture in New York*”, the American Farmland Trust (AFT) describes that keeping the land in ranching, farming, or forestry often produces nearly as

much net economic benefit to a community as commercial or industrial development. TPL points out that farmland preservation programs may actually increase the tax revenue of local communities, even when the counties have preferential taxation programs, if housing prices increase when agricultural land is preserved.

### 3. Value of Farmland and Open Space to the Community

Supporting farm operations generates significant economic and preservation advantages to the community. Agriculture is a viable economic resource, an environmental enhancement, and a tourism booster. The Town of Pleasant Valley Comprehensive Plan states:

*“in addition to retaining farm operations, there is value in protecting “green spaces”. The value to the Town and its residents is in the retention*

*of rural landscapes, protection of scenic vistas,  
and an enhancement to the quality of life by  
retaining the beauty of the countryside.”*

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The Comprehensive Plan proposes taking steps in support of active encouragement of existing and new agricultural operations including farm related businesses, the on-site sale of farm products, lower taxation of active farmlands, and the protection of the right-to-farm from constraints associated with adjacent non-agricultural development. The open agricultural setting also acts as a greenbelt to residential neighborhoods.

A study by American Farmland Trust (AFT) identified the Hudson Valley as one of the 10 most threatened agricultural areas in the country. Farmland is typically flat and cleared of trees, and therefore it is attractive to residential developers. Pair that with the financial pressure on farmers to keep their land in active agriculture, and the result is more farmers subdividing and selling parcels of their land to reinvest the proceeds of that sale back into the farm.

If more financial support were provided to farmers by the Town or other mechanisms, farmers would feel less pressure to parcel off their land for sale and may consider placing their lands in permanent preservation programs, such as the donation of conservation easements or a purchase of development rights program. Currently there are approximately 500 acres of land in the Town that are protected through private conservation easements.

#### **4. Climate Change**

New York State's 2009 Open Space Conservation Plan states that there are real effects of global climate change and that to maintain the quality of life in our state, we must take action. Climate change can have a devastating effect on plants such as sugar maple trees. Pleasant Valley is home to maple tree farmers. The maple syrup season decreased by 2 to 4 days in the last 30 years and may not be a viable business in the future. Flooding has increased over the years. Unchecked development in flood-plain areas will increase replacement or relocation costs and will also increase the loss of natural flood absorption. Biodiversity is affected by a decrease in natural habitat. Forests store carbon, which helps to mitigate the effects of climate change.

As suggested by the New York State Open Space Conservation Plan, it is incumbent upon the cities, towns and villages to initiate policies to protect wetlands, forests and floodplains. Sensible land use regulations as outlined in the Pleasant Valley Comprehensive Plan will help protect private property, save our community money, conserve valuable wildlife habitat and create recreational opportunities.

## **B. REGULATORY FRAMEWORK**

*Policy Area 2, Environment, Greenspaces and Farmland Protection* of the Comprehensive Plan, outlines programs and services available to the Town and Pleasant Valley farmers who would like to explore options to protect their farmland. This section lists some of the existing regulations and initiatives available to support open space and farmland protection.

### 1. New York State

New York State supports farmers through designated agricultural districts, County Agriculture and Farmland Protection Boards (AFPB), and grant funding under New York State's Agricultural and Farmland Protection Program for the purchase of development rights (PDR) on farmland. To qualify for PDR funding, the municipality applying for the grant must have an adopted agricultural and farmland protection plan. New York State also offers a Conservation Easement Tax Credit to all owners of conservation easement-restricted land. The tax credit does not reduce local property tax revenues, so there is no negative impact on town and county budgets.

### 2. Dutchess County

The Dutchess County Agriculture and Farmland Protection Board supports agriculture in the County by sponsoring applications to the New York State Department of Agriculture and Market's Farmland Protection Program and by designating the agricultural districts. Together with Dutchess County Planning and various other local and regional organizations, the Agriculture and Farmland Protection Board is currently updating their own Open Space and Farmland Protection Plan.

Dutchess County adopted the Partnership for Manageable Growth (PMG) program in 1999 to assist the County and its municipalities in implementing the Dutchess County Agriculture and Farmland Protection Plan and to protect important agricultural and open space resources. The program provides a matching portion of fee simple, development rights, or the conservation easement purchase price up to 50 percent of the

total project cost. Applicants partner with the County and other funding sources (public and private) to secure full project funding. According to Dutchess County (<http://www.co.dutchess.ny.us/CountyGov/Departments/Planning/16882.htm>, June 27, 2013) since its inception, the County program has helped protect over 2,428 acres of farmland and open space in Dutchess County. As of the writing of this document, the County was not accepting any new applications for PMG funds, but focusing their resources on completing pending PMG projects that will increase the total farmland and open space protected in Dutchess County to approximately 3,200 acres.

### 3. Pleasant Valley

The Town has moved forward on many important initiatives including: joining the Greenway Compact Program in October of 2004; adopting the Pleasant Valley Wetland, Waterbody and Watercourse Protection Ordinance in June of 2004; signing the Intermunicipal Agreement for the Wappinger Creek Watershed in June of 2004; and, authorizing and receiving the completed Pleasant Valley Aquifer Study in May of 2007. The Town also updated its Comprehensive Plan and Zoning Code in December of 2009.

The Comprehensive Plan encourages "agricultural operations including farm-related businesses, the on-site sale of farm products, lower taxation of active farmlands, and the protection of the right-to-farm from constraints associated with adjacent non-agricultural development." The Comprehensive Plan suggests the Zoning regulations be updated to implement strategies that would: promote the conservation of agricultural lands and prime soils, placing importance on connectivity of adjacent resources; promote

agricultural uses and direct marketing of agricultural operations; and include right-to-farm provisions.

A full description of the land protection tools that are available to the Town of Pleasant Valley, should the Town decide to pursue any of these initiatives is provided below.

### **C. LAND PROTECTION TOOLS**

The Town of Pleasant Valley can undertake various initiatives to promote the protection of open space and farmland. These initiatives range from supporting private donations of land or conservation easements, to purchasing development rights, to creating zoning regulations that complement the preservation goals as set forth in the Comprehensive Plan. Whether land is conserved in a private or public manner, the net result will benefit the entire community. This section presents some of the tools and programs available to both the Town and to private landowners and farmers interested in open space preservation.

#### **1. Conservation Easements**

A conservation easement is a tool private landowners can use to protect the environmental value of their land while continuing to own the land. It is a voluntary legal agreement made between a landowner and a private land trust organization that limits development of the land to ensure that the owner's conservation goals for the property are upheld.

Local land trust organizations that actively work to conserve land through acquisition or stewardship include the Dutchess Land Conservancy and the Winnakee Land Trust. Though less frequently utilized, a conservation easement can

also be held by a public agency, such as the Town of Pleasant Valley or Dutchess County.

The terms of the conservation easement are worked out between the property owner and the land trust organization. The terms contain restrictions that limit the development of the property. For example, a conservation easement can guarantee that a stand of forest or other important habitat would be maintained in perpetuity. Even if the property is sold, the conservation easement stays with the land and protects it from losing the natural or farm features that distinguish the land. The landowner grants the land trust organization the right to enforce the terms of the conservation easement. However, the landowner still owns the property and can continue to use the property. Any future building or development must be done in compliance with the terms of the conservation easement.

Each conservation easement is a unique document that reflects the values of the individual landowner. Conservation easements are very flexible documents and can be tailored to fit the needs of the landowner while still conserving important natural resources on the property. As conservation easements are legal documents, they are recorded with the Dutchess County Clerk's Office and become part of the property's title. Therefore, all title searches by subsequent landowners will find that a conservation easement protects the property.

Although the majority of conservation easements are granted in perpetuity to ensure that a property will be protected for all future generations, term easements are also considered by some land trust organizations to achieve conservation goals for a specific amount of time.

Landowners can either donate land for conservation and become eligible for federal and state tax benefits that incentivize landowners to conserve their land or they can “sell” their development rights as discussed below. The Internal Revenue Service (IRS) allows conservation easements to qualify as tax deductible charitable gifts, provided they meet certain conservation criteria. The value of the gift is the difference between the land’s value with a conservation easement and its value without the easement as determined by a qualified appraiser. Of particular note is that properties with conservation easements remain in private ownership and therefore on local rolls. Placing land into conservation easement may reduce estate taxes because these taxes are assessed on the fair market value of a property.

### **2. Purchase of Land by the Town**

When an important parcel of land from a habitat, recreational or farmland perspective becomes available, the Town can consider purchasing the property outright from the willing seller. The Town would then be the owner of the land and could decide the most appropriate use of the land. This could entail holding the land as Town property to be used for active or passive recreation or working with local farmers to create a community agriculture program. Purchasing property should be considered when less costly alternatives, such as purchasing development rights, are unavailable and there is great public support for the acquisition.

### **3. Trail Easements**

Similar to conservation easements, trail easements are a useful conservation tool and can be very effective for promoting passive recreation. Trail easements can be purchased or donated and enable the public to cross a small portion of a landowner’s property in a specifically designated

area. Landowners that donate trail easements allowing public access are given specific liability protections under New York State law.

As recommended in the Town of Pleasant Valley Comprehensive Plan, every development or redevelopment project along the Wappinger Creek corridor should be reviewed for the potential for a public right-of-way as part of a connective creekside trail system. In addition to working with landowners with new and re-development proposals, the Town can work with current landowners along the Wappinger Creek corridor to determine whether landowners are interested in granting trail easements to the Town. The Town should develop a standard trail easement to be used as a boilerplate for all interested landowners.

### **4. Deed Restrictions**

Deed restrictions are voluntary, private agreements, which can limit the use of property in the same way as a conservation easement. Deed restrictions are used most often when a property is subdivided or when neighbors wish to restrict development to specific areas or to ensure buildings or structures are constructed or maintained in a certain style. For example, neighbors may all sign an agreement that no trees can be cut in a specific area or that no fences may be built exceeding a certain height. Deed restrictions can apply to the current owners and to all future owners of the property or they can be drafted to apply only to the existing landowner. Generally, the parties agreeing to the deed restriction and maybe other limited third persons, such as a neighbor, can enforce the deed restrictions.

Unlike conservation easements, deed restrictions can be terminated by the mutual agreement of the people that created the restrictions. Addition-

ally, deed restrictions are not given the same legal protections or tax benefits under state or federal law as conservation easements. If a landowner is concerned about the protection of a property in perpetuity (forever), a combination of both a conservation easement and deed restriction should be considered. In this case, the land trust or public agency holding the conservation easement, the people that created the restrictions, and neighbors could all potentially enforce the conservation easement and restrictions.

#### **5. Purchase of Development Rights Program**

One of the most common methods used by local municipalities to protect open space and farmland is a purchase of development rights (PDR) program. A PDR program usually involves either a public agency or not-for-profit, such as a local land trust, actually purchasing a willing landowner's development rights. Every property has a value in terms of its potential development and the landowner is paid for limiting the development of the property in a manner that furthers the conservation of open space or farmland. A conservation easement is negotiated with the landowner and identifies how the property development will be limited and the resources protected. As some landowners cannot take advantage of all the tax benefits available for donating conservation easements, PDR programs are a great way to compensate a landowner and at the same time ensure that the property will remain open for the future.

When landowners agree to sell their development rights, the value of the development rights is determined by a qualified appraiser. The appraiser will determine the value of the property

without a conservation easement and the value of the property when development is limited by a conservation easement. The difference between these values is the value of the development rights and the amount to be paid to the landowner. Landowners can agree to accept less than the full value of the development rights in what is called a "bargain sale." This would enable the landowners to potentially take advantage of federal and state tax benefits by essentially donating a portion of their development rights. For tax planning purposes, this is often a financially beneficial way to structure a PDR project and landowners should always consult with their legal and tax professionals for advice.

As stated in the Comprehensive Plan, a PDR program is an effective technique for protecting farmland. Farmers often struggle to maintain an economically viable operation. A PDR program can help the farmer by paying the farmer for development rights and the farmer can in turn invest that money into the farm operations. The farmer does not have to limit all future development of the farm and can reserve specific development rights, such as the right to build an additional house in a specified area. By reserving some development rights, the farmer is ensured a future source of revenue for the farm.

By creating its own PDR program, the Town can ensure the protection of properties that have been prioritized in this Plan with the input and participation of the residents of the Town. A PDR program benefits the Town by enabling the Town to purchase development rights rather than purchasing properties outright thereby saving Town funds. By purchasing development rights, the conservation goals of the Town are

met while the landowners still own their land and the properties remain on the tax rolls. Additionally, a PDR program at the Town level could potentially decrease the time needed to complete projects as many landowners are hesitant to agree to sell their development rights due to the time it might take to complete the project using federal or state funds.

To assist in the process of implementing a PDR program in the Town, this Open Space Committee has developed a Significant Resource Areas Map included in Chapter 4 of this Plan. A full description of the process used to develop this map, is discussed in Chapter 4. To assist in the implementation of this Map and Plan, the Open Space Committee can advise the Town on how to evaluate each proposed project and present recommendations to the Town Board. Because this program would be implemented by the Town Board, a public hearing for every project would be part of the Town process in order to ensure transparency and allow the public the opportunity to comment.

#### **6. Term Easements or Leasing Development Rights**

As an alternative to conservation easements, which are typically held in perpetuity, the Town could also consider a program where landowners agree to restrict development on their property for a determined number of years. In exchange for agreeing to restrict the development of their property, the landowners could receive monthly/yearly lease payments or in the alternative, a reduction of their property taxes. Although this method will not protect valuable farmland or habitat indefinitely, it may provide the Town and the landowners extra time to develop a more permanent protection solution.

#### **7. Transfer of Development Rights**

Transfer of development rights (TDR) programs are a valuable conservation option. A TDR program works by creating “sending” and “receiving” areas within the Town. Sending areas are those areas in the Town that are designated for added protection and receiving areas are those where development has been determined appropriate. For example, hamlets within the Town could be receiving areas and portions of the main Greenway Areas identified in the Comprehensive Plan could be sending areas.

The benefits of a TDR program are that it directs development to appropriate locations as determined by the Town. It also utilizes private funds rather than public funds to further the Town’s land conservation goals. TDR programs are also thought to be more permanent than zoning. If the Town decides to implement a TDR program, the Town Board can use the Significant Resource Areas Map, as a starting point for preservation efforts. The Town Board would then be tasked with choosing sending parcels based on the criteria in the Zoning Code with full consideration being given to school district location.

#### **8. Zoning**

Zoning is among the most important tools for ensuring the protection of open space and farmland. Zoning, in agreement with the Comprehensive Plan, includes options such as steep slope protection, water protection, transfer of development rights, purchase of development rights, density management provisions, and minimum “average density” lot sizes with flexibility to cluster buildings to promote farming and habitat connectivity.