5. Financing the Preservation of Open Space and Farmland

This strong connection between the protection of open space and agricultural resources and the economic benefits of these valuable land resources is integral to protection efforts and programs. When communities fully understand the fundamental financial value of their undeveloped land resources, they will be more invested in protecting these resources.

While this Plan includes a Significant Resource Area map, and recommends various policy initiatives the Town could choose to implement, the key is to identify how the Town can achieve the protection of its priorities. As purchasing properties outright or purchasing development rights can be quite expensive, the question remains as to how the Town can raise funds for open space and farmland protection. The Town of Pleasant Valley has various private and public funding options available to finance these protection measures including: tax incentives, bonds, the Community Preservation Act, and private donations. Creating new and using available public funding mechanisms will enable the Town not only to protect existing valuable land and water resources, but also to expand open space systems.

Local, state, and federal governments and private individuals can achieve land conservation by working together and leveraging funds. The federal government, New York State and Dutchess County all have programs to help acquire land and purchase development rights. However, the best way Pleasant Valley can ensure that its priorities are protected is by creating its own funding source. The key in every case is to leverage funding to stretch the Town's monies as far as possible and at the same time protect as many of the Town's priorities as possible. A sample of these potential funding sources is provided below.

A. TOWN DEDICATED FUNDING SOURCES

The Comprehensive Plan recommends that the Town should develop a mechanism to fund open space and farmland protection. In furtherance of this suggestion, the Town can consider creating an Open Space Fund, which would be solely dedicated to the protection of open space and farmland in the Town. This fund could be created utilizing a portion of property taxes, sales taxes, developer impact fees, user fees or another mechanism developed by the Town. The monies in this fund could then be used to protect priority projects. This would allow the Town the option of a "pay-as-you-go" program with a steady stream of revenue allocated annually or on a multi-year basis. This dedicated source of revenue could be used for the acquisition of land, conservation easements, or to purchase options on important properties.

1. RECREATIONAL FEES

New York State Town Law § 274-a(6) grants to towns the authority to impose recreation fees on site plans containing residential units. At present, per the Town of Pleasant Valley Zoning Code (§98-86), recreation fees are collected in accordance with applicable state law, which requires the Planning Board to make a number of findings before recreation fees may be imposed upon any new site plan containing residential units. These include, first confirming that a proper case exists for requiring a development application to provide recreation fees. The Board would review the proposed development application and determine whether it would create additional demand for existing or future Town recreation resources, based on projected population growth generated by the proposed project. If the Board finds that the application being considered would create additional demand, and the proposed project cannot provide suitable recreation or park area on the site plan, the Planning Board can substitute the payment of a sum of money for the dedication of land for a park.

The Town could consider using a portion of this fee, or adopting a new fee for open space and farmland protection and preservation, which would be similarly implemented.

2. OPEN SPACE AND FARMLAND PROTECTION BOND

The Town of Pleasant Valley can consider a referendum to allow the voters to approve a bond for open space and farmland protection. The Town could bond for a specific amount, which could only be used for the stated purpose of protecting open space and farmland. A voter approved bond would relieve the Town of having to rely on outside sources when time sensitive opportunities arise. A priority property could be purchased immediately and the cost could be extended for the period of time required to pay back the bond.

The three towns in Dutchess County that have placed an open space bond referendum in front of their voters have all been successful. Respondents to the 2006 Community Survey overwhelmingly (72 percent) stated that they would be willing to fund open space and farmland protection with a local bond. The online preferences survey conducted in conjunction with the Open Space and Farmland Plan, while not statistically significant in terms of overall response rate, included a 53 percent positive response to supporting a municipal bond for open space and farmland protection.

3. THE COMMUNITY PRESERVATION ACT

Passing a Community Preservation Act in Pleasant Valley would allow the Town to raise revenue to preserve open space and farmland. Passage of the act would allow the Town to adopt a local law, which would create a real estate transfer tax (currently two percent maximum) to fund a Community Preservation Fund. This fee would only be applied to properties whose value exceed the median sale price of residential property in Dutchess County. The tax would only apply to the portion of the sale price above the median price.

The Town would have to adopt a Preservation Plan, to ensure that the monies collected from the tax would be spent as intended. Currently, under New York State law, communities seeking to fund local land conservation and preservation initiatives must go through the New York State Legislature for approval before they can conduct a voter referendum to establish a Community

Preservation Fund. The Town should consider seeking approval of the State legislature or, in the alternative, supporting efforts for a regional Community Preservation Act that would apply to all Hudson Valley communities.

B. TAX INCENTIVES

1. FEDERAL: QUALIFIED CONSERVATION CONTRIBUTIONS

The federal government offers a federal charitable income tax deduction for qualifying donations of conservation easements to encourage private landowners to conserve land. The donation must meet the conservation goals and additional requirements set forth in the federal tax code. The value of the donation must be determined by a qualified appraiser who determines two values, the value of the "highest and best use" of the property without a conservation easement and the value of the property based on the terms of the conservation easement. The differences in these values is the potential amount of the tax deduction. Additionally, donating a conservation easement during one's lifetime or by will, can potentially result in a reduction of estate taxes.

2. NEW YORK STATE

a. New York Conservation Easement Tax Credit

In 2006, New York passed the New York Conservation Easement Tax Credit. This tax credit gives New York State landowners, whose land is restricted by a qualified conservation easement, an annual refund of 25 percent of the property taxes paid on that land. The tax credit does not apply to the buildings or structures located on the property. The tax credit is capped at $5,000 per landowner but is an annual credit, which can be claimed every year. This tax credit is innovative in that it applies to the donor of the conservation easement and each subsequent owner of the conservation easement property. Although only the original conservation easement donors can benefit from the federal income tax deduction, all owners of conservation easement protected properties benefit from the tax credit. The tax credit is a means to provide landowners that protect their land with a conservation easement, some property tax relief. Of great importance is that the tax credit does not reduce local property tax revenues, so there is no negative impact on the Town or County budgets.

b. 480-A–Forestry Program

Landowners can qualify for a reduction in their tax assessment under Section 480-A of the Real Property Tax Law. This law encourages landowners to keep woodlands healthy and undeveloped by following a forest management plan and committing their property to the program for a minimum number of years. The current number of acres required to participate in the program is fifty acres, however, this amount may change over time as contiguous woodland habitat becomes more threatened. This program may be a good option for landowners along the wooded ridgelines on the eastern side of the Town.

c. Agricultural Assessment and Agricultural Districts

Agricultural Assessments – As the value of farmland increases, farmers are faced with the difficult decision of selling to developers or persevering and continuing with farming. New York has a program in place to reduce property taxes for eligible farmland properties. This program allows the property to be assessed at its agricultural use value rather than its development value. There are specific requirements to qualify and many farms in Pleasant Valley currently qualify and benefit from agricultural assessments.

Agricultural Districts – Agricultural districts are created pursuant to the Agricultural Districts Law of 1971 and create economic and regulatory incentives to promote and encourage farming. Districts must consist primarily of viable farmland and review of each district is completed by the Dutchess County Agriculture and Farmland Protection Board and the Dutchess County Planning Board. Farms within an agricultural district receive benefits such as "right-to-farm" protections, the assistance of the Department of Agriculture and Markets in various disputes involving farm activities and the requirement of additional safeguards against local rules or regulations that could inhibit farm operations.

d. New York State Historic Barns Tax Credit

The Farmer's Protection and Farm Preservation Act, enacted in 1996, was designed in part to preserve the historic barns that dot New York's landscape. In order to qualify for an income tax credit equal to 25 percent of the cost of rehabilitating historic barns the following rules apply: it must be a barn; it must meet the tax definition of income-producing; it must have been built or placed in agricultural service before 1936; the rehabilitation cannot "materially alter the historic appearance" of the barn; and only costs incurred after January 1, 2003 are eligible.[1]

e. Farm Buildings Exemptions

New York State offers a ten year property tax exemption for newly constructed agricultural structures or reconstructed agricultural structures. The buildings must be used for farming and an application should be made to the Town and County assessors.

f. Farmer's School Tax Credit

New York State offers eligible farmers a tax credit for school taxes paid on land, structures and buildings owned by the farmer. Farmers must meet specific requirements in terms of the organization of the farm and the amount of revenue produced on the farm.

C. DUTCHESS COUNTY

Dutchess County currently offers a program to assist towns with acquisition of open space and farmland protection priorities. The Dutchess County Partnership for Manageable Growth is a matching grant program to support open space and farmland protection efforts as well as the improvement of water and wastewater services. Greenway Compact municipalities, such as Pleasant Valley, can apply for assistance to partially fund open space and farmland protection projects. Currently, the County program requires that the municipality in which the property is located contribute financially to the project to demonstrate local support of the land protection project.

1 Source for further information: http://nysparks.com/shpo/tax-credit-programs/

D. NEW YORK STATE PROGRAMS

1. Agricultural and Farmland Protection Programs

The passage of the Agricultural Protection Act in 1992, and the concurrent creation of Article 25-AAA, Agricultural and Farmland Protection Programs, encouraged further development of State and local agricultural and farmland protection programs. The legislation is intended to support local efforts to protect agricultural land and ensure the continued economic viability of the State's agricultural industry.

In response to the statewide loss of farmland due primarily to development pressures, in 1996, Article 25-AAA was amended to establish the Farmland Protection Program, which provides eligible municipalities with grants to implement farmland protection activities.

2. Purchase of Development Grants

Since 1996, the New York State Department of Agriculture & Markets has administered an agricultural and farmland protection program awarding implementation grants totaling over $100 million primarily for purchase of development rights. The program, is administered by the New York State Department of Agriculture & Markets, and provides grants to eligible municipalities for the purchase of conservation easements (development rights) from farmers. The program encourages counties and towns to work with farmers to promote local initiatives that will help maintain the economic viability of agriculture and to protect the land base from development. To qualify, counties and towns must have state-approved "agricultural and farmland protection" plans. This Plan incorporates both open space and farmland protection and is drafted to meet the requirements of this State program. The adoption of this Plan, would make the Town of Pleasant Valley eligible for this funding source, which comes from the state's Environmental Protection Fund, and is paid for with revenue from the state real estate transfer tax.

The program is currently a matching program and the State will contribute up to 75 percent of the total project costs and the remaining 25 percent must come from local or private sources. These grants are awarded pursuant to a Request for Proposals.

Proposals for funding will be accepted from: (1) county agricultural and farmland protection boards in counties with an approved county plan developed pursuant to Section 324 of Article 25-AAA of the Agriculture and Markets Law; or (2) any municipality which has in place a local farmland protection plan, provided the proposed project is endorsed for funding by the agricultural and farmland protection board for the county in which the municipality is located.[2]

The NYS Office of Parks, Recreation and Historic Preservation offers a variety of grant programs including: Parks Grant Program, Acquisition Grant Program, and a Historic Preservation Program. The NYS Department of Environmental Conservation has grant opportunities including the Landowner Incentive Program and Hudson River Estuary Grant Program. As a member of the New York State Hudson River Valley Greenway, Pleasant Valley can also apply for Greenway funds for planning and land protection projects.

2 Source for further information: http://www.agriculture.ny.gov/rfps/FPIG09/Round%2012%20RFP.pdf

3. New York State Conservation Partnership Program

The New York State Conservation Partnership Program strives to improve the quality of and ensure the permanence of voluntary conservation of private lands. Nationally recognized as a "model for leveraging public and private funding for communities in their efforts to advance open space, farmland preservation, and resource conservation goals as part of the 2009 New York State Open Space Plan," these grants are funded annually through the NYS Environmental Protection Fund. Program Eligibility Requirements for Applicants include the following: (1) tax-exempt under Section 501(c)(3) of the Internal Revenue Code; (2) registration as a qualified conservation organization under Section 170 (h) of the Internal Revenue Code and has a stated land conservation mission; (3) have formally adopted Land Trust Standards and Practices and (4) the service area is located within the State of New York. Transaction and all grant funded project costs must be based in New York State. [3]

E. FEDERAL PROGRAMS

The Federal government offers a variety of assistance programs to help landowners protect farmland, achieve best management practices, and protect wildlife habitat. Programs such as the Environmental Quality Incentive Program (EQIP), Conservation Reserve Program (CRP), Farm and Ranchland Protection Program (FRPP), Wetlands Reserve Program (WRP), and Wildlife Habitat Incentives Program (WHIP) all provide landowners, especially farmers, alternatives in terms of raising revenue and at the same time protecting vital farmland soils, wildlife habitat or sensitive wetlands.

3 Source for more information: http://www.dec.ny.gov/lands/48901.html

1. Farm and Ranch Lands Protection Program[4]

This grant program, funded by the United States Department of Agriculture, provides matching funds to help purchase development rights to keep productive farm and ranchland in agricultural uses. Eligibility requirements for this program include that the land must (1) be part of a pending offer from a State, tribe, or local farmland protection program; (2) be privately owned; (3) have a conservation plan for highly erodible land; (4) be large enough to sustain agricultural production; (5) be accessible to markets for what the land produces; (6) have adequate infrastructure and agricultural support services; and (7) have surrounding parcels of land that can support long-term agricultural production.

2. United States Department of Agriculture – Natural Resources Conservation Service

a. Environmental Quality Incentive Program (EQIP) [5]

The Environmental Quality Incentives Program (EQIP) is a voluntary program that provides financial and technical assistance to farmers with contracts up to a maximum term of ten years. The financial assistance is based on a portion of the average cost associated with implementation. The assistance focuses on helping farmers plan and implement conservation practices that address natural resource concerns and for opportunities to improve soil, water, plant, animal, air and related resources on agricultural land and non-industrial private forestland. This program is eligible to owners of land in agricultural or forest production, livestock, agricultural or forest production on eligible land with a natural resource concern.

4 Source for more information: http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/farmranch

5 Source for more information: http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip/

b. Conservation Reserve Program (CRP)[6]

Signed into law by President Ronald Reagan in 1985, CRP is the largest private-land conservation program in the United States. The Conservation Reserve Program (CRP) is a land conservation program administered by the United States Department of Agriculture (USDA) Farm Service Agency (FSA). In exchange for a yearly rental payment, farmers enrolled in the program agree to remove environmentally sensitive land from agricultural production and plant species that will improve environmental health and quality. Contracts for land enrolled in CRP are 10-15 years in length. In addition to contributing to improvement of the environment in multiple ways, those enrolled in CRP receive an annual rental payment for their enrolled acres. FSA also provides cost-sharing and other incentives to help offset the costs associated with putting these practices in place

The long-term goal of the program is to re-establish valuable land cover to help improve water quality, prevent soil erosion, and reduce loss of wildlife habitat. Eligibility requirements include: (1) continuous ownership or operation of the land for at least 12 months prior the previous CRP sign-up period (with some exceptions).

c. Wetlands Reserve Program (WRP)[7]

The Wetlands Reserve Program (WRP) is offered through a voluntary program offering landowners the opportunity to protect, restore, and enhance wetlands on their property through long-term conservation and wildlife practices and protection. Eligible lands include: (1) Wetlands farmed under natural conditions; (2) Farmed wetlands; (3) Prior converted cropland; (4) Farmed wetland pasture; (5) Certain lands that have the potential to become a wetland as a result of flooding; (6) Rangeland, pasture, or forest production lands where the hydrology has been significantly degraded and can be restored; (7) Riparian areas that link protected wetlands; (8) Lands adjacent to protected wetlands that contribute significantly to wetland functions and values; and (9) Wetlands previously restored under a local, State, or Federal Program that need long-term protection.

Various assistance programs exist including: (1) Permanent Easement: A conservation easement in perpetuity. USDA pays 100 percent of the easement value and up to 100 percent of the restoration costs; (2) 30-Year Easement: An easement that expires after 30 years. USDA pays up to 75 percent of the easement value and up to 75 percent of the restoration costs; (3) Restoration Cost-Share Agreement: An agreement to restore or enhance the wetland functions and values without placing an easement on the enrolled acres. USDA pays up to 75 percent of the restoration costs; (4) 30-Year Contract: A 30-year contract option is only available on tribal lands. USDA pays up to 75 percent of the restoration costs.

Under the easement options the USDA will pay all costs associated with recording the easement in the local land records office, including recording fees, charges for abstracts, survey and appraisal fees, and title insurance. Under the voluntary easement the landowner retains the rights to: (1) control of access, (2) title and right to convey title, (3) quiet enjoyment, (4) undeveloped recreational uses, (5) subsurface resources, and (6) water rights.

6 Source for more information: http://www.fsa.usda.gov/FSA/webapp?area=home&subject=copr&topic=crp

7 Source for more information: http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/wetlands/

d. Wildlife Habitat Incentives Program (WHIP) [8]

The Food, Conservation, and Energy Act of 2008 reauthorized WHIP as a voluntary approach to improving wildlife habitat in our Nation. The Wildlife Habitat Incentive Program (WHIP) is a voluntary program for conservation-minded landowners who want to develop and improve wildlife habitat on agricultural land, nonindustrial private forest land, and Indian land. The Natural Resources Conservation Service administers WHIP to provide both technical assistance and up to 75 percent cost-share assistance to establish and improve fish and wildlife habitat. WHIP cost-share agreements between NRCS and the participant generally last from one year after the last conservation practice is implemented but not more than 10 years from the date the agreement is signed.

8 Source for more information: http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/whip/

F. PRIVATE DONATIONS

Private individuals may be able to contribute funds for land conservation to preserve the rural character of Pleasant Valley. Often when landowners find out that an important farm or property with critical wildlife habitat in their neighborhood is under the threat of development, those landowners get together to raise funds to purchase the property or in the alternative purchase a conservation easement. Although it is difficult to privately raise funds for land conservation, a committed group of individuals can achieve great protection through working cooperatively with a landowner and coming up with options that many prove as financially beneficial to the landowner as selling to a developer.