

Farmland Preservation in Wayne County

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Goals for Tonight

- Briefly Explain Purchase of Development Rights
 - A management tool (not for everyone)
- Explain the NYSDAM grant process
- Identify landowners and Towns who want to submit a grant this year

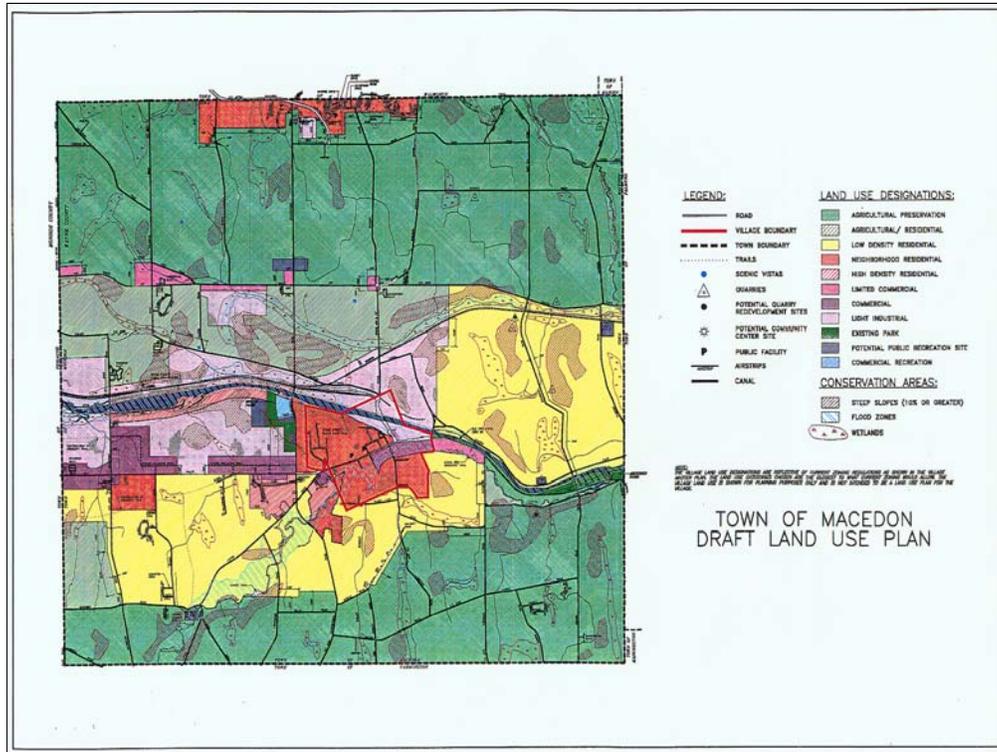
I have been asked by the Town Board to explain what a purchase of development rights (PDR), or a purchase of an agricultural conservation easement (PACE) program is, how it may impact your farm, how the State grant program works and finally to see if anyone is interested in pursuing a grant. We probably have quite a range of levels of interest here tonight from those who have studied the concept of farmland protection a long time to those who are just learning. Tonight I will focus mostly on the State grant program and answer questions about whether or not you should (not) consider applying this year.

Bare bones simple- Two parallel tracks- Landowner and Municipal-

Landowner= PDR is an Estate planning tool- "I am going to retire on X-date and live for Y-years, spending \$Z per year. At that time, I will have \$M left. Therefore, the day I retire, I need to have \$___ in equity. Today I have \$___ in equity, ___ of which is tied up in the land. I need to receive \$_____ for the sale of my farm."

If you need \$100,000 when you retire, and have \$98,000 right now, you have different options than if you want \$100,000 and have \$2,000 on-hand. Neither are bad, just different. For landowners, we are talking about one option for the sale of a capital asset.

For Towns- it is a matter of land use planning and economic development- crafting the future picture of your Town by using grant programs today.



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This is a picture of the Town of Macedon Comprehensive Plan that identifies the areas where the Town would like to have conservation easements. The Town goal is about 6200 acres which is much less than the total of the green.

Conservation Easements

- Development Rights are Extinguished
- Right to use property for ag purposes
- Right to control access
- Mining
- Farmstead areas
- Conservation Plan
- Forest management

What is “Farmland Protection” or Purchase of development rights? For the purposes of today’s discussion, it is selling an easement to the Town or Land Trust that says in essence-“NO MORE HOUSES, This is a FARM.”

How is the value of the easement determined? It is determined by an appraisal which contains two appraisals- first is the value of the farm today (which sets the “high value”) and second appraisal determines the value of the farm without development rights, or what the farm would be worth with the easement in place (“low value”). The difference between the two is the value of the easement.

Who holds the easement? A municipality or a land trust (an entity created to hold, steward and monitor easements and/or land).

What is a farmstead? A defined area in the easement where building improvements can occur without modifications to the easement. This could be considered barns, silos, storage barns, farm worker housing, etc. If you have specific concerns, address them with your attorney prior to placing an easement on the property.

What is monitoring? Usually an annual visit to ensure the terms of the easement are being met. Often there is a monitoring plan which is defined at the creation of the easement which establishes the process for monitoring.

What about enforcement? The holding entity has enforcement responsibilities to ensure the terms of the easement are being met. If a violation occurs, the easement may spell out the steps for enforcement.

Conservation Easements

- Baseline Documentation
- Annual Review
- Enforcement
- Transfer of property/ easement

Why sell an easement?

There are as many different reasons to sell easements as there are people who sell them.

Some reasons are- to capture non-performing equity, to use cash for estate planning or inter-generational farm transfer, to use the cash for business expansion or diversification, to preserve the land as a farm, in some instances, a donated easement may reduce tax liabilities.

Financial and legal advisors should be consulted before making these decisions.

Why Sell an Easement?

NYSDAM Study 2009

Use of Funds	First Use		Second Use		Third Use	
	Rank	Percent	Rank	Percent	Rank	Percent
Pay down debt	1	30	4	11	3	8
Purchase more farmland	2	18	4	11	-	-
Retirement fund	2	18	2	16	-	-
General savings or invest	4	14	2	16	2	18
Construct or improve structures	5	6	1	18	-	-
Other farm improvements	6	*	9	*	3	8
Trusts for children	6	*	-	-	3	8
Other uses	6	*	8	5	-	-
Daily farm expenses	9	*	7	8	3	8
Purchase more livestock	9	*	-	*	-	-
Purchase farm equipment	-	-	4	11	1	34
Travel or recreation	-	-	9	*	-	-
Add a farm store	-	-	-	-	3	8
Don't know	9	*	-	-	3	8

* Less than 5 percent

Why sell an easement?

NYS Dept of Ag & Markets commissioned an in-depth study of farms and farmers who have been involved with the State farmland protection program.

[http://www.nass.usda.gov/Statistics_by_State/New_York/Publications/Special_Surveys/Report-NY Farmland Protect Svy.pdf](http://www.nass.usda.gov/Statistics_by_State/New_York/Publications/Special_Surveys/Report-NY_Farmland_Protect_Svy.pdf)

There are many other resources available at:

<http://newyork.farmland.org/publications/>

I am going to highlight one of the slides from the report's executive summary.

Copies in the back-

They interviewed 130 participants

The farmers used the funds to-

Pay down debt/ Purchase more land

Construct or improve buildings

Reasons for participation-

Preserve the land

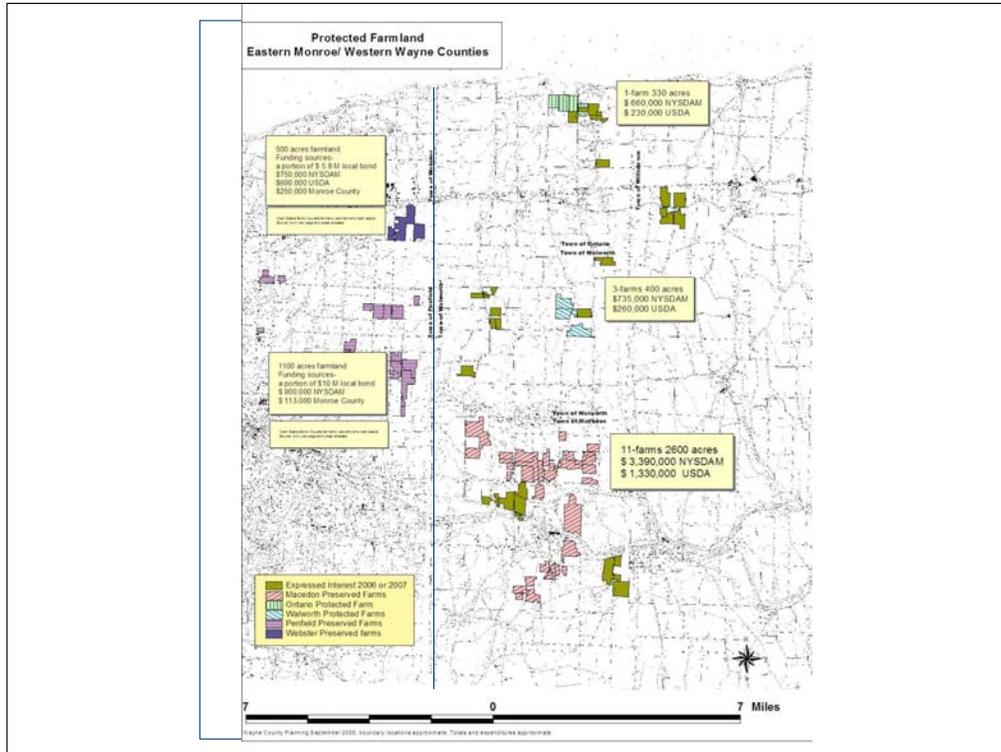
Pay down debt

Preserve the farm for future generations

Provide capital

Provide retirement income

Background Information for Landowners

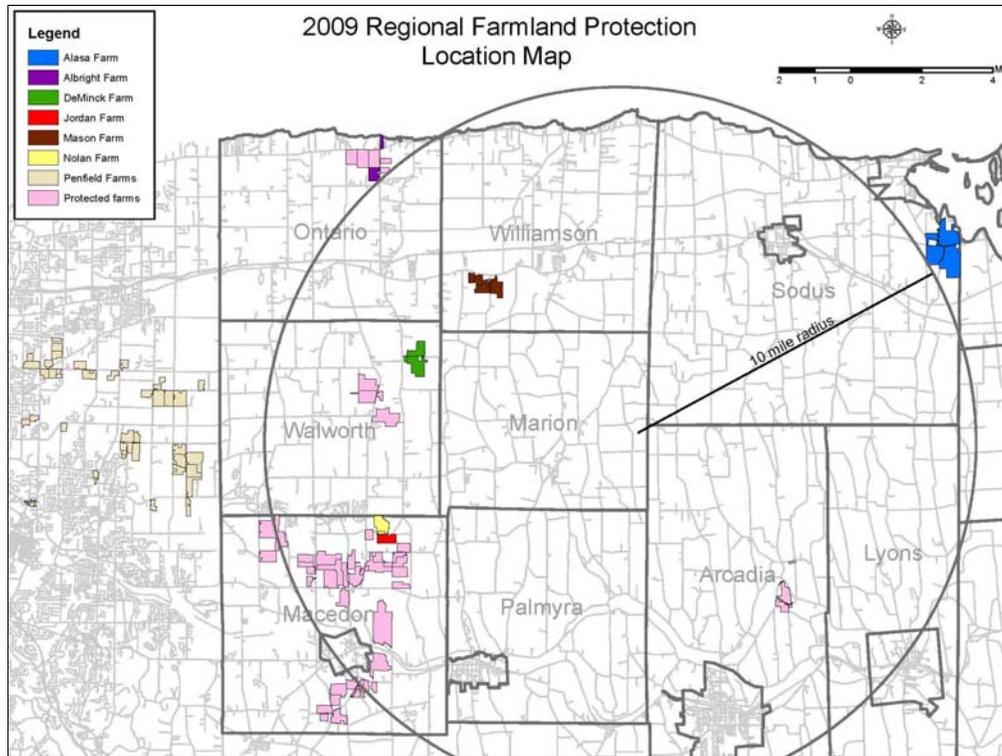


There has been significant interest in the region.

This 2008 slide shows the protected farms and those interested in submitting grant proposals in the six western Wayne County Towns and the three eastern Monroe County Towns.

2008-2009 Wayne County Proposals-

- Four Towns (plus joint Walworth-Penfield proposal)
 - Seven Farms
 - 1,647 acres
 - \$3.7 M applied for from NYSDAM
 - \$1.8 M awarded 4-farms



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This slide shows the protected farms and those interested in submitting grant proposals in the six western Wayne County Towns and the three eastern Monroe County Towns.



Other resources-

I have developed an on-line resource for farmers interested in learning more about conservation easements. It is located at

<http://www.co.wayne.ny.us/Departments/EDP/AgDevFarmWorkbook.htm>



The purchase of development rights program that we are speaking about this evening has certainly made an impact on thinking in our area. I have spoken to 5 Towns in Wayne County and towns in 2 other counties about the program. This program has really gotten people in our region to take notice and start talking.

Macedon has 8 farms with 2400+ acres of land stepping up and saying- “This is something that can work for us”



In the five Towns in which I have worked on a farmland protection proposal, the main question has been, “What is it worth on my farm?”

This is the bottom line question. For the purposes of the grant, the municipality needs to demonstrate a reasonable budget. Assuming that I continue to develop these proposals, I will work with the landowner and Town to establish a number that they are both comfortable with. It should be reasonable- for example it is not good to state the easement is worth \$10,000 per acre when sales are less than half that- it will not be a competitive application. Likewise, it is not good to understate the value either because it is difficult to go back and ask for more.

Contact the Town Supervisor if you are interested in actively pursuing a grant. This is a SLOW process and should start as soon as possible!

NYS Dept. of Ag & Markets

- Farmland Protection Program Funding
 - 2014-15 ~ \$14 million (proposed by Governor)
 - 2013-14 ~\$13 million
 - 2009-10- \$ 23 million
 - 2008-09- \$17.5 million (orig. \$30 M)
 - 2007- \$35 million
 - 2006- ~\$20 million

How are easements valued?

The short answer is “With an appraisal.” The complete process is more complicated. The property is valued at its current (high value) market value, or what the owner could reasonably expect to receive for the property in an arm’s-length sale (a sale with no special circumstances). A second appraisal is then performed to determine the market value of the restricted property (low value), or with the easement in place. The appraiser can use comparable sales of similar farmland in areas away from development pressure. An income-based appraisal, what the property would be worth based on potential profit as farmland, might be performed. A third way to determine the “restricted value” of the farmland would be to compare sales of land with easements in place. The value of the development rights (conservation easement) is the difference between the high and low values of the land.

How much money is available?

The State had \$12 million in 2003 and received \$48 million in applications. This year the Governor has \$8.5 million in his proposed budget. The chart above gives an indicator, but as always, the final budget figures are open to negotiation and won’t be finalized until the budget is passed in March or April.

NYS Dept. of Ag & Markets

- 75% State/ 25% local funding
- New- up to 87.5% State funding if
 - Landowner donates 12.5% as bargain sale
- Also new- Land Trusts and Soil & Water Districts can apply (with municipal support)

The NY State Department of Agriculture and Markets has provided the bulk of the funding for Farmland protection in our County. This program utilizes Bond Act funding to help municipalities buy easements on farmland. In the last few years, the State has changed its funding formula. Up to 2008, all the easement sales utilized 75% State and 25% Federal funding. With the new formula, the State will contribute up to 87.5% of the easement value IF the LANDOWNER donates the remaining 12.5%. If any other agency contributes funding to the project, the State will contribute up to 75% of the funding for a project. If the Federal program is involved, the State will only contribute 25%, thereby rendering the Federal program a very unlikely partner for future projects in Wayne County.

NYS Dept. of Ag & Markets

- All Decisions based on-
 - Likelihood to stay in farming
 - Soils/ Acreage
 - Development Pressure
 - Viability as a farm unit
 - Proximity to other protected lands

The State ranks grant proposals based upon the number of acres which will be protected; the quality of the soil resources involved; the percentage of total farm acreage available for agricultural production; for projects involving the purchase of development rights, the extent to which the proposed property is bordered by or proximate to other farms which are already NYS Department of Agriculture and Markets Request for Proposals protected by a conservation easement or which might reasonably be expected to enter into a farmland preservation agreement in the future; the level of farm management demonstrated by the current landowner; the likelihood of the property's succession as a farm if the present ownership changes; the cost of the proposal in terms of achieving the best value for the funds requested; the reasonableness and feasibility of the proposal.

NYS Dept. of Ag & Markets

- 2014 Application
 - Awards capped by municipality & region-
 - No more than 4 applications per Town
 - Can't be more than one landowner per proposal
 - For more info see State website
http://www.agriculture.ny.gov/AP/agservices/fp_impl_grants.html

There were only three farms awarded funding in our region in 2014- one in Canandaigua and two in Livingston County.

This grant program is extremely competitive across the state.

Limitations of the 2014 program-

No award shall exceed \$2.0 million, but any project seeking Federal farmland protection funding shall not be awarded more than \$500,000 of State financial assistance.

- State contribution toward purchase price of the development rights shall not exceed \$29,000/acre.
- State contribution toward easement stewardship shall be \$10,000 per easement.

Time Frames

Don't know when 2015 NYS grant proposals are due. 2014 was announced May 14 and due July 14, then extended to August 4.

Likely similar time frames for the future.

- Closing on easement 2-3 years after grant submitted (2-yrs is best case scenario-average is 40 months)

Time Frames

- Ideally April identify interested landowners
- Landowner works with financial planner to decide if the program makes sense
- Town/County submits proposal on behalf of the landowner

Farmers who are interested in submitting a farmland protection implementation grant to NYSDAM should have a good idea that they are committed to going through this process by April.

The NYSDAM grant last year was due July-August timeframe.

Next Steps (if submitting)

- Technical Rating Form-
 - Conservation Easement- copy in back
- Bargain Sale- if no other \$ a must!
- Tax parcels-
 - Exclusions- why- why won't hurt farm
- Stewardship

If there is no other source of funding in place and committed to the grant proposal (which has been the case for all Wayne County farms) then the landowner must agree to donate 12.5% of the project cost as an “in-kind” match.

Next Steps

- Farm Plan

A Farm Plan is a sketch plan for the farm easement that identifies building locations, potential future buildings, the area of the easement, whether or not the easement can be subdivided and other points of discussion. **I anticipate that a farm plan will be required** for the grant submission, it does help demonstrate that the farm owner has thought about some of the critical and long-term implications of owning land under an easement.

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Next Steps

Suggested Timeline-

- (If) Grants are due in Albany summer 2014
- Ideally Towns and Farms- identified By May 1
 - In 2014 Towns could only submit (4) farms
 - Max \$2M per municipality
 - Not sure what 2015 details are

Next Steps

- More questions-contact Ora
at (315) 946-5919 orothfuss@co.wayne.ny.us
- If interested- contact Town Supervisor