

**Farmland Protection Strategies
for the Town of Alabama, New York
April, 2011**

(Appendix K to the DGEIS for the STAMP Project)

I. Introduction

The Genesee County Economic Development Center (“GCEDC”) is proposing to develop the WNY Science & Technology Advanced Manufacturing Park (“STAMP” or “Project”), which will be located on 1337.2 acres of land located along New York State Highway 77/63 (“STAMP Site” or “Site”) approximately 5 miles north of I-90/New York State Thruway in the Town of Alabama, New York. A map showing the location of the STAMP Site is included as **Figure 1**.

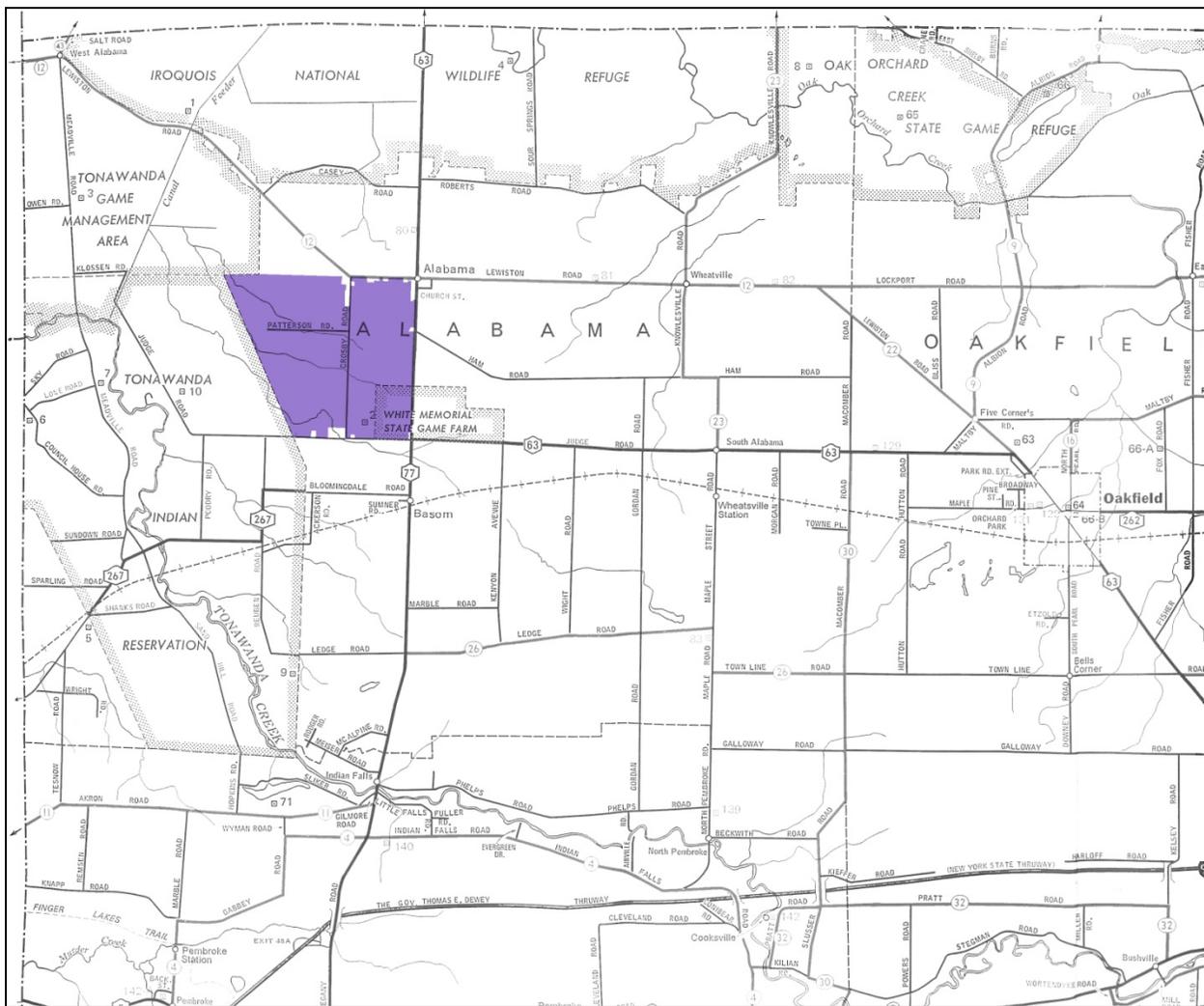


Figure 1

Currently, the STAMP Site is comprised of 23 separate parcels, the majority of which are (and have historically been) used for farming and agriculture. STAMP would eventually convert virtually all of the 1,337.2 acre STAMP Site to non-agricultural uses. Specifically, the STAMP Site would be zoned Technology District to accommodate the development of advanced technology manufacturing. The Preferred Alternative for STAMP includes 6.1 million square feet of development, including, among other things, technology manufacturing facilities, flex space and support facilities, office space, retail support uses, a new multi-use Town Hall building site and a network of open space trails that meander throughout the Site.

The GCEDC began an environmental impact review for STAMP under the State Environmental Quality Act (“SEQR”) on January 26, 2010 and is acting as Lead Agency for SEQR. Pursuant to the applicable requirements of SEQR, a Draft Generic Environmental Impact Statement (“DGEIS”) has been prepared to facilitate the environmental review process, seek public comment and input, and provide a basis for informed decision-making. The DGEIS presents a detailed analysis of the potential significant adverse environmental impacts of the Project, as well as measures to mitigate potential adverse impacts. An analysis of reasonable alternatives is also provided, emphasizing the analysis of the Preferred Alternative.

This Farmland Protection Strategies Report (“FPSR”) has been prepared in association with the DGEIS for the STAMP Project. The STAMP Project has identified the loss of agricultural land as one of the potential adverse environmental impacts associated with the Project. This FPSR is intended to describe and consolidate potential strategies for the Town of Alabama to evaluate and consider in preserving farmland elsewhere in the Town. As such, the FPSR was designed as a tool for the Town. The FPSR has been provided as a way to avoid or minimize adverse environmental impacts to the Town as a result of the proposed Project. This FPSR mitigates the loss of farmland associated with STAMP, by providing the Town with a comprehensive framework for developing and implementing a town-wide farmland protection strategy. The FPSR is a working document, which provides proposed options for the Town to ensure that notwithstanding some development, such as the STAMP Project, the Town will continue to maintain its agricultural roots. Ideally, this FPSR can serve as a foundation for the Town to create a broad-based Farmland Protection Plan for Alabama that will protect farmland throughout the Town for years to come. Because this FPSR goes so far beyond mitigation of the STAMP Project, responsibility for selecting and implementing appropriate farmland protection strategies must necessarily be left to the sound discretion of the Town Board.

This FPSR is based on a farmland protection research completed by various organizations, governmental entities and academic institutions. (A list of references is provided at the end of this report.) It has also been tailored to and relies on many existing Town and County planning documents including the Genesee County Smart Growth Plan, the Genesee County Farmland Protection Plan, the Town of Alabama Zoning Code (“Zoning Code”) and the Oakfield Alabama Comprehensive Plan (“Comprehensive Plan”). It is designed to provide the Town with options and choices and does not mandate any particular strategy. The core concept behind this document is to give Town officials and the public an opportunity to review farmland protection options and provide feedback through the environmental review process. Ultimately, based on this feedback, the Town Board will select which options are appropriate for the Town of Alabama.

II. Issues Facing Farms in New York State

As a general matter, farms in New York are under a continuous assault from development pressures. Farms, by definition, generally encompass large tracts of land that are ideal for residential and commercial development, making farmland susceptible. It is not difficult to see the potential benefit of purchasing a large tract of land in one transaction, subdividing it into small residential lots and selling it at a profit. A recent publication from the American Farmland Trust titled, "Planning for Agriculture in New York" notes that the loss of farmland in New York is still largely driven by the migration of residents from cities to the suburbs and rural communities surrounding them, and not from population growth. Summarizing the threat, the American Farmland Trust states:

New York's landscape has been changing for generations. Studies from 20 to 30 years ago documented the rise of new non-farm development and the potential impacts on agriculture. So why is it more important than ever that we take action now? Non-farm development has been on the rise in New York for decades, but the scale, speed and distribution of recent development is significantly different. The most recent statistics from the United States Department of Agriculture indicate that roughly 47,700 acres of farmland were developed in New York between 2002 and 2007. This equates to roughly 9,000 acres of farmland per year or a farm every three and a half days.

American Farmland Trust, *Planning for Agriculture in New York: A Toolkit for Towns and Counties*, (2011), p. 5.

This tremendous loss of farmland occurs despite the many benefits farms provide to a community. For instance, farms offer jobs for the local work force and provide a market for ancillary services. According to the data found in the Genesee County Farmland Protection Plan, in 1997, the output value of Genesee County's farming sector was equivalent of approximately \$141 million, which created employment for approximately 1,200 people. Agricultural and Community Development Services, Inc. (2001a¹) Appendix A, p. 31. The Genesee County Farmland Protection Plan also determined that for every \$10 of farm output there is an addition \$4.50 of economic output in other industries in the county. Agricultural and Community Development Services, Inc. (2001a), Appendix A, p. 34. Aside from providing farm jobs, farms support a wide array of goods and service providers, including feed suppliers, motor transportation supplies, real estate services and railroad services. Agricultural and Community Development Services, Inc. (2001a), Appendix A, p. 36. Accordingly, for every 10 farm jobs that are created, an additional 7.7 support jobs are created in ancillary services. Agricultural and Community Development Services, Inc., (2001a), Appendix A, p. 34. Farms operate as businesses, purchasing goods and services, creating jobs and providing fiscal stability.

¹ This document references several documents with the same author that were published in the same year. A letter has been added after the year in these references, so as to enable the reader to distinguish between documents that would otherwise have had identical references.

Another benefit of farms is that by their very nature, farms require less public infrastructure per acre as compared to residential uses. Therefore, farms require less town services, less maintenance and create less costs for the Town. As such, it is well established that farms are a net-positive tax benefit to a Town. This is supported by direct evidence collected as part of case study in the Town of Byron, completed in support of the Genesee County Farmland Protection Plan (“Byron Study”). Agricultural and Community Development Services, Inc., (2001c). The Byron Study found that on average residential development required \$1.30 in services for every \$1.00 of revenue. Agricultural and Community Development Services, Inc., (2001c). In comparison, agricultural/forest and open space require approximately \$0.49 in Town services for every \$1.00 of taxes. Agricultural and Community Development Services, Inc., (2001c). As the study demonstrates, from a tax perspective, farms are self-supporting and provide a surplus, relative to their costs. Similarly, commercial and industrial uses are also net-positive taxpayers and provide \$1.00 in revenue to the Town for every \$0.77 worth of required services. Agricultural and Community Development Services, Inc., (2001c). The American Farmland Trust reports slightly different figures, concluding that residential development requires \$1.27, farms require \$0.29 and commercial development requires \$0.26 worth of services for every tax dollar. American Farmland Trust, (2011). However, as both studies show, farms and open spaces uses require fewer town services than residential uses.

In addition to providing a stable economic base and tax revenue, farms also improve the quality of life in rural communities. Many rural towns include long standing farms that have been owned and operated by the same family for generations. These multi-generational farms become part of the very fabric of a town, and it is this type of history that creates the unique spirit in a town that cannot be recreated once it is lost.

Governmental entities have a long history of creating laws and regulatory devices that protect and promote farming in New York. These laws and regulatory devices are found at numerous levels of government and are based on various provisions of the state, county and local laws. For instance, in 1971, the New York State Legislature passed the Agricultural Districts Law which authorized the creation of agricultural districts. Subsequent laws and amendments have continued throughout the years, including the addition of laws designed to provide tax relief to agricultural properties. However, these programs are far from unified. A farm receiving tax benefits need not be in an agricultural district, while a farm that is located in an agricultural district may not necessarily receive tax benefits. In addition, the Department of Agriculture and Markets (“Agriculture Department”), working under the New York State Agriculture and Markets Law and associated regulations, administers a variety of other farm assistance programs. For example, the Agriculture Department reviews projects that will affect farmlands, such as pipeline projects, well drilling and wind farms. Under this program, the Agriculture Department works with project sponsors throughout the review phase of the project to design projects that minimize impacts to agricultural lands. Furthermore, the Agriculture Department provides grants for the purchase of development rights or conservation easements. The Agriculture Department also administers a grant program that funds local governments in creating farmland protection plans. These grant programs provide opportunities for counties and towns to get involved with farmland protection and institute farmland protection devices specifically targeted at local needs, rather than relying on programs run at the state level.

Nevertheless, with so many options, available at so many different levels, it can be very difficult for an individual farm owner to determine what programs, options and strategies are available to assist his or her farming operations. Moreover, while there is a Genesee County Farmland Protection Plan, none of the currently available farmland protection tools were designed specifically for the farms or for the particular circumstances in the Town. Accordingly, this FPSR will endeavor to provide a one-stop shop for the farmland protection devices that could potentially be employed to protect farmland and improve agribusiness in the Town of Alabama.

III. Current Farmland Status

Farming is a major industry in Genesee County and within the Town. In 2008, Genesee County was ranked fourth in New York State for economic activity generated from farming (\$179 million). There are approximately 183,983 acres located in designated Agricultural Districts within the County. Within the Town, agriculture is the single most prevalent economic activity, making up almost 50% of the land use therein. Wildlife conservation areas (25.94%) and Indian reservation uses (17.52%) represent the second- and third-largest types of land uses in the Town. According to the Town's Comprehensive Plan, single-family residential use is the fourth-largest use, encompassing a mere 4.19% of the Town's total land use.

The farms in Genesee County are primarily vegetable or dairy farms. From the late 1980's until the Genesee County Farmland Protection Plan was completed in 2001, there was a trend in Genesee County whereby the amount of dairy farming business decreased, while farms dedicated to vegetable production increased. Agricultural & Community Development Services, Inc., (2001a), p. 4. In fact, from 1987 to 1997, vegetable acreage increased by 40% in Genesee County. Agricultural & Community Development Services, Inc., (2001). This is significant because in addition to offering increased profits, vegetable farms spend more money locally than other types of farms. Agricultural & Community Development Services, Inc., (2001a). Forty-four cents of every dollar spent by the Genesee County vegetable farming sector remains in the County, while 23 cents of every dollar spent by the dairy farmer sector remains in Genesee County. Agricultural & Community Development Services, Inc., (2001a), p. 5. Clearly, based upon the amount of land that farming encompasses in the Town and the economic contribution of farms to the local economy, farming is extremely important to the Town of Alabama. (For more information on current farming conditions in the Town of Alabama, please refer to the DGEIS).

The need for farmland protection strategies have been somewhat limited in the Town of Alabama because there has not been significant development pressure. The Genesee County Smart Growth Plan, which was adopted in 2001, controls development by limiting the ability of landowners to connect to public water for new development outside of designated development areas. In 2001, Genesee County issued the County Farmland Protection Plan, which was designed to collect data and develop an understanding of public opinion regarding farming. The County Farmland Protection Plan documented interviews with local community members on topics such as taxes, zoning, purchase development rights ("PDRs") and the best way to organize and determine preservation priorities. Agricultural & Community Development Services, Inc., (2001), p. 30. In general, there is consensus concerning the need for farm land preservation, and the community seems to be familiar with the tools available to achieve it. Agricultural &

Community Development Services, Inc., (2001), p. 30. Nonetheless, competing interests and concerns often make farmland protection strategies difficult to implement. As such, the Town Comprehensive Plan recommends several farmland protection strategies including agricultural only zoning and the creation of a subdivision law that have yet to be implemented. Wendel Duchscherer, (2004).

In light of the continued development pressure on farms in New York State and the proposed development of STAMP in the Town of Alabama, it makes sense for the Town to reconsider its options for farmland protection.

IV. Farmland Protection Strategies Available to the Town of Alabama

The following is a list and descriptions of various farmland protection strategies that are available to the Town. The strategies listed below are suggestions that the Town may want to consider and specific methods for employing a strategy, where applicable. The Town has the option to adopt and implement as many or as few strategies as desired. In addition, all of the strategies have the potential to be adopted in whole or in part, as well as in connection with any other strategy.

A. Enhance Zoning Protection For Agricultural Lands

The first strategy that could be considered is improving the zoning protection for agricultural activity in the Town. There are two central issues that zoning law must address to protect farms. The first is keeping residential uses separated and buffered from working farms, which avoids conflicts that can occur when residential uses are developed in close proximity to active farms. Agricultural operations, by their very nature, produce noise and odors that make farming incompatible with residential uses that are too near an operating farm. Zoning measures can be instituted to keep these uses separated. The second is designing zoning laws to specifically encourage agricultural uses and discourage all other uses. For example, zoning districts that allow many uses, including residential uses, appear to advance agricultural purposes by freely allowing agricultural use over a broad area. However, because of the varied uses that are permitted, a farm in this type of district can be easily converted to other uses, which actually encourages the development of agricultural land. A zoning code should include provisions designed to target both components of the issue by advancing farming needs, while narrowly tailoring language to avoid providing incentives to abandon farming uses.

A review of the current Zoning Code for the Town identified several areas where the Zoning Code could be revised to help preserve farms. In fact, there are several provisions in the Zoning Code, which will be discussed in detail below, that inadvertently tend to encourage the sale and subdivision of farms.

1. Create Agricultural Districts

Under the current Zoning Code, agricultural uses are placed in the A-R Agricultural/Residential District. This district does not distinguish, separate or give preference to residential or agricultural uses. In fact, the applicable sections of the Zoning Code encourage both equally.

Under the current Zoning Code, farm properties that are within this zone can be changed to residential use without any permits or approvals from the Town. The Town could consider revising the A-R District to create separate zones specifically designed for either residential or agricultural uses. Wendel, (2004).

For example, the Town could create a zone specifically tailored for agricultural uses. Wendel, (2004). Under this scenario, the farm would be the primary use and houses built on a farm property would only be allowed as an accessory use. Other farming-related uses, such as roadside stands and home businesses, are also allowed. Primary residential development would be prohibited.

If this strategy was employed, the Town Zoning Map would need to be revised. Agricultural zones would be placed in areas where the Town wishes to discourage residential uses. Ideally, the location of agricultural versus residential districts would be located based on the potential productivity of the actual soils found on a property. Data about existing farming and residential uses, as well as other technical data, could be used to propose new district lines. For instance, the Natural Resources Conservation Service, a division of the United States Department of Agriculture, has created a classification system that identifies the soils that create the largest yield with the least amount of resources. These areas are considered prime farmlands.

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, an acceptable level of acidity or alkalinity, an acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding. Soil Survey Division Staff, (1993).

Thus, all other factors being equal, areas that contain prime farmland would be preferred for farming purposes and placed in an agricultural district, instead of in a residential district.

Similarly, residential zones would be set up in areas that would be preferred for residential development. These residential zones could be determined based on other nearby residential uses or areas of commercial development. These residential zones could also be designed by using soil data as well, using the prime farmland mapping to create residential districts outside of prime agricultural land districts.

In addition, Genesee County has a Smart Growth Plan. The Smart Growth Plan has outlined areas within the County and in the Town where smart growth should be encouraged. Genesee County Department of Planning, (2010). One of the main ways that the Smart Growth Plan encourages and/or limits growth is by restricting lateral connections to water outside of the

growth areas. If the Town wishes to modify the Zoning Code, the location of new districts or new permitting requirements should be designed to fit within designated growth areas outlined in the Smart Growth Plan. If there are differences between the areas that the Town desires for development and the growth areas designated in the Smart Growth Plan, the Smart Growth Plan should be revised. The Genesee County Smart Growth Plan now calls for a review of the Smart Growth Development boundaries every three years (originally it was a two-year cycle). However, revisions can take place prior to a review year (the next review will be in 2013) if a municipality requests a change. After the local legislative body of a municipality indicates in writing that a change to its Smart Growth Development Area boundaries is desired and submits it to the County Legislature, the County Department of Planning evaluates the request and makes a recommendation to the County Legislature. The County Legislature then chooses to amend the Smart Growth Development Areas or take no action. If the requested amendment is approved, the Smart Growth Plan is then amended.

If this strategy is employed and the current uses in the A-R District are divided into separate districts, when a landowner desires to convert agricultural zoned property to residential uses, the landowner would be required to apply to the Town Board for an approval to rezone the farmland from Agriculture to Residential. This would allow the Town Board and Town residents to have notice and input prior to the development of a farm, and any decision of whether to allow the development would require a legislative determination of the Town Board.

2. Create a Subdivision Law

Current Town laws do not include a subdivision law. Section 306 of the Zoning Code freely permits the subdivision of land in the Town so long as it meets the minimum lot requirements. Under Section 306, the Town has no planning involvement or oversight in the division of land. Town of Alabama, (1987). As such, farmers can freely divide up and sell their property for residential development without seeking approvals from the Town Board or the Planning Board. Since there are currently no significant development pressures in the Town of Alabama, the lack of a subdivision law has not caused a major problem. However, if and when there are development pressures in the Town, the lack of a subdivision law could be a significant factor in loss of farmland.

This process usually occurs slowly over a number of years. In typical scenarios, road frontage is developed first with single lot developments. Farm-residential lots are created along the road front immediately adjacent to the remaining working portion of the farm. While the initial residents, who are usually family members or local community members, are understanding of the farm and farming operations, subsequent owners of the property may not be employed by the farm and therefore may not be so understanding.

Since many farms are located near other farms, frontage subdivisions, as described above, often create a small residential strip by an operating farm. In effect, the lack of a subdivision law allows the creation of residential islands in agricultural zones.

Town Law Section 276 states that subdivision review is designed:

For the purpose of providing for the future growth and development of the town and affording adequate facilities for the housing, transportation, distribution, comfort, convenience, safety, health and welfare of its population, the town board may, by resolution, authorize and empower the planning board to approve preliminary and final plats of subdivisions showing lots, blocks or sites, with or without streets or highways, within that part of the town outside the limits of any incorporated village. See, NYS Town Law § 274 (McKinneys 2010).

Initially, the Town would need to decide the level of review that it would like to implement. The process could be designed to be very simple by requiring Planning Board approval only for larger subdivisions (e.g., four or more lots). Alternatively, the subdivision law could require Town Board approval for all subdivision requests. The subdivision law would also require that either the Town Board or Planning Board hold a public hearing to gather information prior to any approval. In addition, the subdivision law could be developed so that there are different procedures for minor subdivisions as compared to major subdivisions. Under this type of subdivision procedure, major subdivisions exceeding more than a specific number of parcels would require a public hearing. In contrast, a minor subdivision would not require a public hearing. These are just a few examples of the myriad of ways that the subdivision law could be tailored specifically to the goals and preferences of the Town and the public. There are many ways to tailor a subdivision law to be most useful for the Town, yet not overly restrictive.

The subdivision law could also have specific subdivision eligibility requirements that would vary by zoning district. The list of property that is eligible for subdivision could be narrowly tailored. For example, subdivision of active agricultural land could be more restrictive. The Genesee County Farmland Protection Plan actually recommends creating performance standards under the subdivision law. Genesee County Farmland Protection Plan, (2001), p. 17. The performance standards require that the Planning Board consider factors including the potential for conflict with agriculture, the productivity of the lands converted and the existing uses on the adjacent property, which factors are then evaluated as part of the subdivision review process. Genesee County Farmland Protection Plan, (2001), p. 17. The goal is for the consideration of these performance factors to steer development towards non-agricultural parcels.

Another option for a subdivision law could involve restricting the placement of the subdivided lots. When subdivided lots are located in a thin strip along road frontage, it affects the overall aesthetic of the farm-based community. Long stretches of roads occupied by farms create a feeling of a rural, agriculturally-based community. The views generally consist of a barns, sometimes with a silo or other out building, and a single residential home with a long stretch of roadway until the next farmhouse. The look and the feel of this pattern of development defines a rural community. In contrast, where subdivision occurs without controls, farms are often carved up by out-parcels fronting the roadway in a seemingly random fashion. Development along such a thin strip interrupts the rural landscape, thereby altering the community character and changing the rural feel of the community. Thus, as part of the subdivision law, the Town could prohibit frontage subdivisions, in that the subdivision law could be designed to cluster houses on subdivided parcels along the rear lot line or in a centralized area with a common access drive, instead of along a roadway.

In general, subdivision law is an effective farmland protection tool that can be easily implemented by a local community and narrowly tailored to a town's specific needs or wishes. Genesee County Farmland Protection Plan, (2001). Subdivision laws give the Town input into the location for developments and provide the Town with the opportunity to encourage development in appropriate areas, as opposed to prime farmlands. American Farmland Trust. 2011. Subdivision laws also provide an opportunity for the Town to not only consider a development's location, but also its layout. For example, Town subdivision law can create buffer area requirements that will separate conflicting uses and centralize the development on a parcel, so as to maximize the advantage of the buffer space. There are many ways that a subdivision law could be designed to preserve farmland without being overly restrictive.

3. Increase Minimum Lot-Sizes

Under Sections 306 and 502 of the Zoning Code, one- and two-family dwellings are allowed as-of-right with minimum lot sizes ranging from 20,000 to 40,000 square feet, depending upon the date the lot was created. Such small lot sizes make it very easy to convert agricultural land to residential uses. In fact, it is easier than developing a residentially zoned district, which requires a minimum 50,000 square foot lot. Thus, in terms of lot sizes, it may make sense to increase lot size requirements to limit the density of residential development that can be undertaken on agricultural property.

As a separate consideration, in conjunction with this strategy, the Town Board may wish to substantially increase minimum lot size requirements (i.e., to minimum 100 acre lots) particularly for prime farmland. The concept behind large minimum lot sizes is to make land sufficiently expensive that farms cannot be converted from agriculture to residential uses without significant investment. Such strategies have had mixed success in Upstate New York, where land values are relatively low. As a modification to the minimum lot size approach, the Town could increase minimum lot size somewhat (to limit the density of development that can be undertaken on agricultural land) and, at the same time, implement a special use permit requirement for residential uses on agricultural property. This would give the Town an affirmative opportunity to direct development away from agricultural areas.

4. Adjust Supplementary Yard Regulations

Another adjustment to the Zoning Code that could be considered to improve farmland protection in the Town would be to enhance the Supplementary Yard Regulations found in Section 402(f). Currently, Section 402(f) requires only a buffer strip between a lot in a business or industrial district and an abutting residential or agricultural lot. The Town could consider expanding this prerequisite and requiring a buffer strip between agricultural and non-agricultural uses whenever any non-agricultural use is developed next to an existing agricultural use. The addition of a buffer strip between residential and agricultural would minimize the potential for conflict between disparate, yet abutting, uses.

5. Appoint an "Agricultural Member" of the Planning Board

Pursuant to Town Law Section 271(11), when appointing the Planning Board, the Town Board may appoint an “agricultural member” of the community to serve on the Planning Board. This is an excellent way to ensure that Planning Board deliberations take into account a farming perspective. Currently, there is more than one farmer on the Planning Board, but not because such an agricultural member is required. Section 808 of the Zoning Code could be amended to make this a requirement, which would ensure farmers are always represented in Planning Board deliberations.

B. Create a Town-Based Purchase Development Rights Program

Purchase Development Rights (“PDR”) programs began in New York in 1960, when the State Legislature, pursuant to General Municipal Law, authorized local governments to purchase rights in real property for the goal of preserving agricultural land. In essence, a PDR agreement requires a farmer to promise not to develop a property. Generally, the farmer memorializes this promise in the form of a conservation easement, which is recorded just like any other easement on a property. The easement states that the landowner will not develop the property and provides for inspections and enforcement of the easement in perpetuity. In exchange for the conservation easement, the farmer is paid for selling the right to develop the property. Landowners who sell or even donate their development rights preserve all of their other rights to own, use and occupy the land.

New York State currently offers grants to purchase development rights. Under the Agriculture Department’s PDR program, which is found in Article 25-AAA of the Agriculture and Markets Law, farmland protection boards and municipalities with farmland protection plans can seek grants from the Agriculture Department for up to 75% of the cost of the PDR rights. The applicant for grants funds must have a local match from public or private sources for the remaining 25%.

The Town could consider positioning itself to be eligible for PDR funding. Section 324-a of Agricultural and Farmland Protection Law states that municipalities may develop agricultural and farmland protection plans in conjunction with cooperative extensions and local farmers. Once the municipality has developed a plan (here, the Town), it would be eligible to seek funding from the Agriculture Department’s PDR program. Pursuant to Section 324-a, an approvable plan shall include:

- (a) the location of any land or areas proposed to be protected;
- (b) an analysis of the following factors concerning any areas and lands proposed to be protected:
 - (i) value to the agricultural economy of the municipality;
 - (ii) open space value;
 - (iii) consequences of possible conversion; and
 - (iv) level of conversion pressure on the lands or areas proposed to be protected; and
- (c) a description of activities, programs and strategies intended to be used by the municipality to promote continued agricultural use, which may include but not be limited to revisions to the municipality’s comprehensive plan pursuant to

paragraph (a) of subdivision two of section two hundred seventy-two-a of the town law and land use regulations as defined in paragraph (b) of subdivision two of section two hundred seventy-two-a of the town law as appropriate.

After the protection plan is completed under Section 324-a, it must be approved by the Commissioner of the Agriculture Department. The Town could consider collecting the data described above and preparing a plan for submission to the Commissioner, which would make the Town eligible for State funding.

Unfortunately, funding for PDR programs is limited and generally the demand exceeds the available funds. The Agriculture Department noted that, in 2004, 43 municipalities sought 86 million dollars worth of grants; ultimately, only 12.5 million dollars worth of grants were awarded to 15 municipalities. Department of Agriculture and Markets Website, Farmland Protection Program, (2011). As a variation on this PDR strategy, the Town could consider creating its own PDR program and providing its own funding. The first challenge in such a strategy involving a PDR option is identifying potential revenue sources. The Town could consider allotting funds in support of a PDR Program, issuing a municipal bond or using a land installment purchase obligation method. Once a revenue source is available, the Town could create its own PDR program. Under a Town-based PDR program, the Town would accept applicants to the program based on Town preservation goals. The Town could set up preferences for farms in certain areas or certain types of farms. A Town-based PDR program could be very effective in preserving farms on the periphery of development that are highly valued by the Town. This ability to target specific farms or areas of the Town could make a Town-based PDR program more effective in meeting Town goals than State level grants.

As an alternative, the Town could consider a conservation easement program. Under a Town-based conservation easement program, farmers could voluntarily restrict the development of their properties. In some instances, particularly for farms not receiving tax assessment reductions under the Agriculture and Markets Law, this could reduce the assessment value of the property and reduce the tax burden for the farm. A Town-based conservation easement program, like a Town-based PDR program, could be specifically tailored to protect particular types of farms. For example, smaller farms that might be ineligible or might be overlooked as meriting preservation on the state level may be more likely to enter into a conservation easement program with tax benefits.

A Town-based PDR or conservation easement program that directs development at the Town level is especially helpful for protecting particular farms. For example, if the Town identified three small farms that may be susceptible to development in a particular area, the Town may consider trying to attract all three farms into the program. The Town's ability to specifically target parcels or certain areas, as opposed to the State program which waits for volunteers, would provide the Town with a unique advantage over the State program. Such programs also allow the Town to encourage farm preservation in conjunction with the Town's development plan for certain areas.

C. Create an Advisory Town Farmland Protection Committee

Farmland protection is a complex issue that requires a coordinated effort at the local level. One way to ensure that local legislative, land use and planning decisions are made with a view towards farmland protection is to create an advisory board or committee. Pursuant to New York State Town Law, the Town Board is empowered to appoint a committee of Town Board members to assist the Town Board in performance of its duties. NYS Town Law § 63. As an alternative, if the Town Board wanted to create a committee of non-board members to advise the Town Board, the Town could do so pursuant to the Town's authority under Municipal Home Rule Law Section 10. The purpose of the Committee would be to provide advice to the Town Board, the Planning Board and the Zoning Board of Appeals on issues which affect farmland protection. The Committee could also act as a conduit for information to the local farming community and to help strengthen the Town's relationship with important agricultural resources such as the Genesee County Agricultural & Farmland Protection Board, Genesee County Department of Planning, Genesee County Farm Bureau, the Cornell Cooperative Extension and the Genesee County Soil and Water Conservation District.

The Committee could also be charged with developing partnerships to promote local agriculture, improve agribusiness in the Town of Alabama and create economic opportunities for farmers. While the ultimate structure and mission of the farm committee is very flexible, it would have the singular goal of protecting farmland. The committee could become the centralized resource for all farming resources. The benefit of having a local group with a single, focused mission is that it would undoubtedly advance farm issues in the Town of Alabama, as the committee would not have any other unrelated duties.

D. Identify/Refine Priority Farmland List

Another important strategy in farmland protection could be collecting and organizing data and information related to the quality and quantity of farmland in the area, as well as recognized development threats. For example, if the Town created a farmland protection board, the board could create a method for collecting and prioritizing farmland preservation goals. Data could be collected by a simple poll or by categorizing farmland based on the designated criteria. For instance, a rating system for a property's development vulnerability could be modeled based on the standards found in the Genesee County PDR grant application, which is included in the Genesee County Farmland Protection Plan, Appendix I. These standards include an evaluation of the soil quality, number of contiguous parcels, economic productivity, capital investment, the current zoning and zoning density, total feet of public road frontage, adjacency to protected lands, adjacency to development areas, adjacency to public water or sewer and adjacency to an interstate highway. Genesee County Farmland Protection Plan, Appendix I. Additional evaluation standards could include: location relative to the Agricultural District, location outside of a Smart Growth development area, mandatory minimum acreage, presence of USDA-designated prime soils and possibly an evaluation of the parcel's development potential. The Town can also add any other factors to address specific town issues, such as increasing the property's vulnerability to development if it is adjacent to a housing development and decreasing it if the property is surrounded by farms.

The next step would be to use the vulnerability list to set up farmland preservation priorities, because as Charles Kettering, an engineer and the inventor of the electric starter, stated: "A

problem well stated is a problem half solved.” Once the Town has ranked farms and identified those that are most vulnerable to development, it can then create a priority list. That priority list will define the areas of concern, which would then allow the Town to focus its efforts on the farms that it is most interested in protecting.

E. Promote Agriculture and Focus on Improving Agribusiness

One of the easiest ways to protect and preserve farms is to ensure that they are profitable businesses. The Genesee County Agriculture and Farmland Protection Board has advanced farm protection issues throughout the County for decades. Most significantly, the Board completed the Farmland Protection Plan and an Agricultural Development Plan. The Agricultural Development Plan alone included interviews with approximately 80 farmers, agricultural service providers, interested parties and public officials. Agricultural Development Plan (2001) p. 2. Through this process, the Genesee County Agriculture and Farmland Protection Board was able to collect information about agribusiness concerns and opportunities. In addition, the Genesee County Farmland Protection Board, in accord with Agriculture and Markets Law, includes an agribusiness representative. As such, the Agriculture and Farmland Protection Board has expertise in this area. The Town could contact the agri-business representative regarding recommendations for advancing agribusiness in the Town specifically, in addition to the County as a whole.

In addition, several County-based farmland protection agencies have worked with other entities to hire consultants or staff to focus on local agribusiness issues. An agribusiness expert could be hired to specialize in creating economic opportunities for agricultural-based businesses and farms. For instance, the “Action Guide for Agricultural and Farmland Protection for New York,” which was prepared by the American Farmland and Trust, cited to an example where Oneida County and the Cornell Cooperative Extension paired to maintain economic development specialist positions. American Farmland Trust, (1999). The specialist brokered a deal where local farmers supplied food directly to the local prisons. American Farmland Trust, (1999). The Town could investigate and pair with another entities to create a position for a person specializing in agricultural economic development. These types of arrangements, which focus on finding local large scale users, ensures that there is an adequate demand for the farmer’s goods, which will help ensure the farm’s long term economic stability.

F. Assist Farmers in Identifying or Developing Direct Marketing Options

The Town could assist local farmers in developing direct market options. The Town could work to identify potential direct market options similar to the one described above involving the prison and farms in Oneida County. Generally, farmers who directly market their sales to their customers received a better price than if they sold to wholesale purchasers. American Farmland Trust, (1999). The Town could assist in organizing a local farmers’ market, which could even occur on Town property. Generally, farmers’ markets are most successful when they are located near a large population source. The Town could coordinate and assist local farmers in creating or getting involved in an already-existing farmers’ market in Rochester, Batavia or Buffalo. Another option for direct marketing is roadside stands. Most importantly, the Town should

ensure that the Zoning Code does not impede the opportunity for direct marketing, such as roadside stands and farmers' markets.

Lastly, the Town could meet or work with the members of the County Agricultural and Farmland Protection Board, particularly those focused on creating agriculturally related economic opportunities and direct marketing opportunities.

G. Provide Public Education on the Value of Farms

The public often undervalues the benefits of farms. As part of the Genesee County Farmland Protection Plan, 64 of the interviewees were members of the farming community. The Genesee County Farmland Protection Plan noted that interviewees "almost universally" identified the need for better public education regarding the benefits of farming for a community. Genesee County Farmland Protection Plan, (2001), p. 30. Interviewees noted that better education might prevent or diminish the conflicts that arise between residential users and agricultural users. Genesee County Farmland Protection Plan, (2001), p. 30. Therefore, another strategy that the Town could consider is providing public education for the community regarding the benefit of farms.

Public education efforts could be as simple or elaborate as the Town may desire. Public education could consist of brochures available at the Town Hall describing all of the benefits that farms bring to the Town. More elaborate community education efforts could involve Town designed or coordinated education displays or demonstrations at the Town Hall or at large gatherings, such as the county fair. The Town could consider organizing a festival weekend that highlights dairy farming and the types of agriculturally-related businesses that operate in the Town. American Farmland Trust, (2011).

All of these public education activities would increase the visibility of agricultural activities in the Town and heighten public awareness. Once non-farming residents of the Town have a better awareness and understanding of the benefits of farms, then non-farming residents are less likely to complain about farms and are more likely to see the benefits of purchasing locally-grown farm products.

H. Provide Public Education on Existing Programs/Assistance

The Town could consider creating a repository of information regarding programs that are available for farmers. Farmers are very busy people and do not have much time to research and to locate all of the information that is available to support farms. Ideally, the repository would be a "one-stop" collection of all of the information that a farmer in the Town would need for information regarding Ad Valorem tax benefits for agricultural districts, school tax credits for farms and farm building exemptions under New York State Real Property Tax Law Section 483. The repository could also contain publications prepared by the Agricultural Department and the Genesee County Farmland Protection Plan, along with other reference documents. The repository might also contain a list local organizations and contacts that are available to assist farmers in applying to a particular program or seeking a certain tax exemption, such as the Genesee County Agricultural and Farmland Protection Board. Ideally, this repository would be

available at a public building, such as the Town Hall or the local library. The Town could also consider making the material available on-line, if allowed. A document repository could be a significant time saver for busy local farmers who would like to stay informed. Once farmers become more aware of the programs and opportunities they will be more likely to use the resources that are available. A farmer that is well informed is more likely to seek out farmland protection devices, which advance the goals of both the Town and the individual farmers.

I. Organize and Provide Farm Generational Planning and Estate Planning

One of the most pressing issues affecting the viability of farms is developing a transition plan for the farm after the current farmer retires. The average age of a farmer in Genesee County was 50.9 in 1987. USDA, (1992). The average age of a farmer in Genesee County increased to 54.1 in 2002. USDA, (2007). By 2007, according to the latest USDA Farm Census in 2007, the average age for a farmer in Genesee County increased to 57.2 years old. USDA, (2007). Furthermore, in 2007, 97 of the 551 farms in Genesee County were reported as having a primary operator who is at least 70 years old. (USDA, (2007).

This data clearly indicates that the majority of farmers in Genesee County are in the latter part, as opposed to the earlier part, of their farming careers. As farmers near retirement age, it becomes more important that they develop a transition or estate plan for the farm. American Farmland Trust, (1999). With so many farms in Genesee County owned by farmers nearing retirement age, it is important for the Town to encourage farmers to adopt transition plans to ensure that the farms operate well into the future.

It is important that a farmer has a transition or estate plan to prevent a lapse in operation of the farm after the current owner discontinues operations. It also reduces the potential for the farm to be sold to a developer, or otherwise developed. There are additional important reasons to ensure that farmers have considered estate planning. For instance, farmers who have identified a successor are more likely to find the business justification for continued investment in the farm. American Farmland Trust, (1999). Such continued investment provides for more profitability, and thereby more longevity, for the farm.

In order to encourage farmers to adopt transition plans, the Town could consider organizing periodic estate planning seminars. The Town could ask local attorneys and accountants to offer a seminar on estate planning options for farmers. In fact, the Town may be able to find attorneys and accountants who may offer an introductory seminar free of charge, as it would help them meet new clients. The Town might also consider asking the local community school to offer estate planning classes as part of their community school curriculum. The Town's assistance in organizing and publicizing such classes is a strategy that could easily be adopted and put into place.

J. Organize and Assist in Identifying a Farm Worker Pool

Historically, because farms were a family business, training to be a farmer usually began when a farmer was a child, as farms were passed from generation to generation. Today's farms sometimes struggle when a farm operator does not have an heir or a relative who wishes to work

at the farm and eventually take over the farm. American Farmland Trust, (1999). In fact, it can be difficult to identify a qualified farm worker at all. The Town could act as a contact point or as a clearinghouse to maintain a list of farmers looking for farm workers and people interested in farming operations. If the Town could collect this information and assist in making these types of connections, it could assist farmers in finding potential workers.

In addition, the Town could assist in creating awareness and facilitating connections between local farmers and trainees from the Agricultural Workforce Certification Program (“AWCP”). The AWCP is a collaboration between the Agriculture Department, State University of New York and the Cornell Cooperative Extension. American Farmland Trust, (1999). It is designed to provide on-the-job training and coursework for agricultural workers. Available qualified workers, whether they are family members or employees, are as crucial to a farm as they are to any other business. The Town, as the centralized entity, could assist in publicizing this program and in connecting farmers and qualified workers.

K. Implement Additional or Strengthen Existing Right-To-Farm Laws

The Town could enact a Right-To-Farm (“RTF”) law, or enact Town-based provisions within the Zoning Code, similar to the State RTF law. American Farmland Trust, (2011). RTF laws are enacted to encourage farming and to limit the situations in which farming may be deemed to be a nuisance. New York State has very strong RTF laws within NYS Certified Agricultural Districts that protect farmers and provide notice about farms to purchasers of property. Agricultural properties within Agricultural Districts are also offered an administrative review process for local laws that will adversely affect farming operations. Many towns across New York have enacted town-based RTF laws. The American Farmland Trust publications include many examples where towns increased farm protection using provisions similar to the those found in State RTF Law. These towns include the Town of Charlton, the Town of Sweden and the Town of Eden, just to name a few. American Trust, (2011). Under the State RTF Law, Agriculture and Markets Law Section 310, a grantor of property within an agriculture district must provide a property grantee with notice that the property is within an agricultural district. The notice must say:

It is the policy of this state and this community to conserve, protect and encourage the development and improvement of agricultural land for the production of food, and other products, and also for its natural and ecological value. This disclosure notice is to inform prospective residents that the property they are about to acquire lies partially or wholly within an agricultural district and that farming activities occur within the district. Such farming activities may include, but not be limited to, activities that cause noise, dust and odors. Prospective residents are also informed that the location of property within an agricultural district may impact the ability to access water and/or sewer services for such property under certain circumstances. Prospective purchasers are urged to contact the New York State Department of Agriculture and Markets to obtain additional information or clarification regarding their rights and obligations under article 25-AA of the Agriculture and Markets Law.

The Town's RTF law could expand the areas of the Town that are covered under the RTF notice provisions found in the State law. The Town's RTF law could include areas outside of agricultural districts, as well. For example, in the Town of Charlton, the real estate disclosure notice above is included in all building permits and on all subdivision plats issued in the Town, which helps prospective residents understand that the Town has a strong agricultural component and that agricultural activities may create noise, dust, or odors. The Town could also require a disclosure notice on not only building permits, but on all town approvals e.g., (site plan approval).

In addition, RTF laws often include an alternative dispute resolution process. The American Farmland Trust reports that this type of provision was included in local laws adopted in Wyoming County, the Town of Charlton and the Town of Eden. American Farmland Trust 2011. These RTF laws provide for an alternative dispute resolution process for handling conflicts between farmers and neighboring property owners. An alternative dispute resolution method ensures that disputes are resolved before costly litigation ensues. The alternative dispute resolution process could consist of a mediation process before Town residents appointed to hear such matters. Alternative dispute resolution ensures that issues are quickly resolved before conflicts escalate.

V. Conclusion

Farms are the primary land use in the Town and, therefore, farms are a defining component of Town life. Farms provide long-term community benefits and fiscal stability to the Town. This FSPR was designed to collect and present a wide selection of potential strategies that the Town Board could choose in order to improve farmland protection in the Town. All strategies have the potential to be adopted in whole or in part, as well as in connection with any other strategy. Ideally, the Town will select several strategies to form the basis of a long-term comprehensive Farmland Protection Plan for the Town of Alabama.

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