

Town of Marilla Agricultural & Farmland Protection Plan



December 2013

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A. Vision Statement, Goals and Objectives

The vision for Marilla:

- A town where diverse agricultural production thrives within a regional food system that supports the business of farming and in harmony with the community at large.

The goal of this Plan:

- Create a document that sets priorities for the Town's involvement in long-term land protection as well as policies and regulations and which documents the significance of agriculture in the Town.

The Town's objectives are to:

- Retain sufficient high quality farmland in the Town to support a viable agricultural industry.
- Maintain and administer local policies, laws, regulations and procedures in a manner that provides support for agricultural production in the Town.
- Ensure that farmers, farmland owners, farmland neighbors and residents have access to information about the contributions of agriculture to the regional economy.

B. Summary of Findings and Recommendations

Farming in the Town of Marilla includes large farms that produce dairy, livestock and nursery products as well as equine operations and vegetable farms. These farms contribute significantly to the regional economy and food system. The continuation of farming depends on economic conditions that allow agriculture to succeed as a business. Recommendations to support agriculture as an industry include encouraging agri-tourism and the purchase of local farm products, providing information to landowners about farm-related property tax exemptions, and modifying zoning to accommodate and encourage agriculture-related businesses on farms.

Agriculture is also the predominant land use in the Town. Approximately 5,867 acres of land in the Town (33% of the total land area) are currently farmed. Nearly all of this farmland consists of high quality agricultural soils, which represent a valuable global resource. Map 8 and the list of parcels with land suitable for protection will be used as a guide by the Town Board, Planning Board and Conservation Board in considering applications for purchase of development rights to expand the Purchase of Agricultural Conservation Easements (PACE) program as well as to support potential changes in land use regulations, proposed development and infrastructure extensions. Landowners are also encouraged to consider voluntary donation of conservation easements to a land trust.

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Farming can be more difficult in close proximity to residential neighbors. Communication among farmers and residents is essential to maintain good neighbor relations. Recommended actions to increase public understanding of farm practices include continuing the Town's annual "Agriculture Day" and distributing a fact sheet with information about farm practices and local and State laws that ensure "right to farm."

New development in farming areas often takes farmland out of production permanently and creates new non-farm neighbors. The Town's existing land use regulations include many provisions that support agriculture and limit new development in agricultural areas. Recommended actions in this plan include additional changes to zoning and subdivision regulations to better manage the impact of residential development on agriculture, through balanced zoning changes, farm-friendly subdivision design and oversight of utility extensions.

The Town of Marilla will partner with numerous County, State, regional, and private organizations to support area farmers and the agricultural industry. The Town will maintain communications with agencies such as Cornell Cooperative Extension, Soil & Water Conservation District, Erie County Department of Environment & Planning, Western NY Land Trust and others, and will provide information to residents about programs administered by these and other entities.

C. Methodology

The Town of Marilla initiated work on its Agricultural & Farmland Protection Plan in 2013 and retained the consulting firm of Stuart I. Brown Associates to assist in its preparation.

1. Public/ Stakeholder Input

a. Steering Committee

Members of the Town Board served as a Steering Committee to guide the process, with contributions from the Planning Board and Conservation Board. The Steering Committee and other Town representatives provided information to the consultant, assisted with outreach to farmers and other stakeholders, established policies and reviewed drafts.

b. Farmer/ Landowner meetings

In March 2013, the Town invited all farmers and farmland owners as well as the general public to participate in a public workshop at the Marilla Community Center to kick off the planning process. The Town's planning consultant facilitated by the workshop. Participants were encouraged to discuss the future of farming in the Town and identify opportunities and concerns.

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A public informational meeting was held in the Marilla Community Center on September 17, 2013. The Town's planning consultant presented the preliminary recommendations in the Plan, answered questions and facilitated comments from those in attendance.

c. Farmer interviews

The Town's consultant visited several farms and interviewed several farmers and farmland owners, in person and via telephone, during the course of the planning process. Operators of various types of farms were interviewed, including dairy, livestock producers, and nursery. The interviews helped to identify significant issues as well as appropriate techniques to support agriculture. In order to preserve the anonymity of those who participated in the interviews, their responses have been incorporated into the identification of issues and the evaluation of alternatives.

d. Residents Survey

A Residents Survey conducted by the Town in 2011 helped to establish community priorities. The results of the survey are included in Appendix A.

2. Approval process

Although this plan was prepared with Town funds, the Town followed the process established by the NYS Department of Agriculture's municipal Agricultural & Farmland Protection Planning Grants program as a model. The Town Board forwarded the draft plan to the Erie County Agricultural & Farmland Protection Board for approval in December 2013. It held a public hearing on the draft Plan on December 18 and subsequently approved it, incorporating comments from attendees, and forwarded the plan to the NYS Commissioner of Agriculture & Markets for approval.

D. Planning Context

This Agricultural & Farmland Protection Plan continues a long tradition of support for agriculture in Town policies and programs and complements numerous State, County and regional plans and programs. This section summarizes the policies and recommendations of existing Town, County, regional and State plans and programs as they relate to support of farming and the retention of agricultural land in Marilla.

1. Town of Marilla Plans and Programs

a. Comprehensive Plan – 1998

The Town's existing Comprehensive Plan, which was initially adopted in 1987 and updated in 1998, acknowledges the importance of agriculture to the Town's economy and character and encourages the retention of land for agricultural production. It

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recommends that large areas of the Town remain in rural or agricultural use. Relevant goals, policies and recommendations are presented below.

Goals and Policies

GOAL: Maintain the viability of the town's agricultural economy and protect prime agricultural production lands.

POLICIES

- Foster agriculture through the adoption of land use regulations which do not curtail farming operations within the town's agricultural areas.
- Permit commercial and industrial land uses in agricultural areas only where such uses will not be detrimental to agricultural and farming operations.
- Limit residential development in agricultural areas and direct growth to areas not in conflict with existing agricultural operations.
- Support state and county programs that foster agricultural growth as part of the region's economic development.
- Encourage the state and county to renew and sustain the agricultural district formed within the town under the New York State Agricultural Districts Law.
- Limit the placement of utilities, services, and other land uses that would encourage growth and development in those areas of the town zoned as agricultural.
- Develop tax abatement programs which would encourage property owners to keep rural land areas in open space, conservation, and agricultural uses.
- Encourage legislative changes which would reduce property tax pressures on agricultural lands so as to minimize the conversion of prime agricultural production lands to urban uses.
- Encourage the development and implementation of a townwide drainage program in an effort to increase farm production and the number of acres which can be viably farmed.
- Promote the sale of local products by encouraging a farmers market, local utilization, and the development of export markets.

Recommendations:

- Review and revise zoning to increase support of agriculture
- Consider long-term farmland protection measures
- Partner with land trust (e.g., WNY Land Conservancy)
- Comply with NYS Ag. Districts Law regarding Notices of Intent and Ag. Data Statements
- Inform landowners about agricultural use assessments

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- Require buffers between farmland and new residential development
- Discourage non-agricultural development on prime agricultural lands

b. Existing PACE program

Beginning in the late 1990s, the Town of Marilla began to identify potential parcels for permanent protection through voluntary conservation easements. Its Purchase of Agricultural Conservation Easements (PACE) program was funded initially through New York State's Department of Agriculture & Market's Farmland Protection Implementation Grant Program, commonly known as Purchase of Development Rights, in 2000-2001. To date the Town has facilitated the acquisition of permanent conservation easements on 17 parcels and 743 acres of farmland. The Western New York Land Conservancy holds and monitors the conservation easements that limit development on these parcels.

c. Right to Farm Law

In 1997, the Town adopted a "Right To Farm" local law. The Law states that reasonable agricultural practices are not to be considered to be public or private nuisances and appoints the Conservation Board to act as a grievance committee to address disputes that cannot be resolved by the parties and is not addressed by other laws or regulations.

The law also reiterates and complements provisions in the NYS Agricultural Districts law (NYS Agriculture and Markets Law, Article 25AA - Agricultural Districts, Sec. 310) that require disclosure notices to be included in real estate transactions for properties within State-certified agricultural districts. The Town's Right To Farm Law specifies that the notice must state:

"This property is within the Town of Marilla. It is the policy of the Town to conserve, protect, and encourage the development of farm operations within our borders for the production of food and other products and one should be aware of the inherent potential conditions associated with such purchases or residence. Such conditions may include, but are not limited to, noise, odors, fumes, dust, smoke, insects, operation of machinery during any hour, day or night, storage and disposal of plant and animal waste products, and the applications of chemical fertilizers, soil amendments, herbicides, and pesticides by ground or aerial spraying or other methods. Occupying land within the Town of Marilla means that one should expect and accept such conditions as a normal and necessary aspect of living in such an area."

d. Zoning Regulations

The Town of Marilla's zoning regulations contain several provisions that are designed to support and protect agriculture. For example, the stated intent of the Town's A Agricultural zoning district is, "to protect predominantly agricultural areas from suburban and urban

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development, encourage the continuation of agriculture, reduce land use conflicts and preserve open space and natural resources.” [§700-33.A.] In addition, within the A Agricultural zoning district, limitations on subdivision prohibit the creation of more than three new lots may be created within any five-year period. Additional information and analysis is included in the Zoning Audit and Analysis of Subdivision Regulations and Development Patterns , Appendix B.

2. New York State Agricultural Districts Program

The Agricultural District Program was established by New York State in 1971 to provide certain protections and benefits to farmers and farmland owners. Counties may establish and certify Agricultural Districts in order to make these benefits available to farmers. Inclusion in an Agricultural District denotes a commitment on the part of the County and the landowner to retain the use of such land for agriculture.

In Erie County, Agricultural Districts are scheduled for review every eight years, although if the District is not formally renewed, it stays in effect. In addition, landowners may request that property be added to the District during the annual 30-day addition period during the month of November.

Erie County is in the process of consolidating 14 Agricultural Districts into four. The consolidation is expected to be completed by 2023. Land in Agricultural Districts is depicted in Map 1.

The Agricultural District Program includes the following provisions to protect farmers:

- Agricultural use value assessments: Eligible farmland is assessed at its value for agricultural production, rather than at its full market value. If land that received the agricultural exemption is sold for non-farm purposes, the landowner must repay the amount of property taxes saved over the life of the District, up to 8 years. ***Agricultural use assessment is also available to owners of eligible farmland that is not located within an Agricultural District. Applications for agricultural use assessment must be filed each year.***
- Protection from local regulations that would restrict farm practices. The NYS Department of Agriculture & Markets can bar the implementation, on a case-by-case basis, of local land use and other regulations that unreasonably restrict standard farm practices.
- Protection from public acquisition of farmland through “eminent domain.” Before a local or county government may undertake a project that affects land within an Agricultural District, it must submit a "Notice of Intent" to the County Agricultural and Farmland Protection Board and the NYS Department of Agriculture and Markets for consideration of the impacts on agriculture.

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- Protection from nuisance suits (right-to-farm provisions). A person who buys property within an Agricultural District must be notified about the possible presence of noise or odors associated with farm practices and acknowledge receipt of this notice in writing.

3. Erie County Plans

a. Erie County Agricultural & Farmland Protection Plan (2012)

The primary strategies of the Erie County Agricultural & Farmland Protection Plan, completed in 2012, are to, “Keep land in agricultural production” and to, “Inform the public, local leaders, and elected officials.”

Strategy I: Keep land in agricultural production	
Goals:	<i>Protect farmland and stabilize the land base</i>
	<i>Help a next generation become established on new and existing farms through training programs, promotion, education, and incentives</i>
	<i>Improve farm viability and increase investment in agricultural economic development</i>
Strategy II: Inform the public, local leaders, and elected officials.	
Goals:	<i>Educate local leaders and elected officials about the benefits that farms provide to local economies and to the quality of life of county residents</i>
	<i>Help farms to provide affordable, local food to county residents</i>
	<i>Educate and inform the public about farms and food production</i>
	<i>Support partner agricultural organizations with advocacy efforts</i>

Recommended actions to, “*Protect farmland and stabilize the land base,*” include:

- Determine the feasibility of an Erie County Purchase of Development Rights Program
- Assist towns that wish to adopt term and/or permanent easement programs.

Recommendations to, “*Help a next generation become established on new and existing farms*” and to “*Improve farm viability and increase investment in agricultural economic development*” focus on:

- workforce development
- youth education
- training for new farmers
- regional processing facilities

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- marketing assistance

Recommendations relating to public education include:

- food procurement by County institutions
- public agricultural event
- Farm 2Table and Agriculture in the Classroom programs
- Farmers markets promotion
- farm tours for elected officials
- support of organizations such as SWCD and Cooperative Extension
- advocacy for county, state and federal agricultural policies and legislation

By preparing this Agricultural & Farmland Protection Plan, the Town of Marilla is helping to implement the Erie County Plan's recommendation to, "document the importance of agriculture to the local community either in their comprehensive plan or through other local planning efforts." Erie County staff have provided information and assistance to the Town.

b. Room at the Table: Food System Assessment of Erie County

A "food system assessment" examines how food is produced, distributed, processed, consumed and disposed of. The study completed by University of Buffalo in 2012 documents the contributions to the Erie County economy of agricultural production, food processing, wholesale and distribution, retail sales and restaurants, and waste disposal, as well as existing programs that support agriculture and agribusiness.

Many of the recommendations of the Food System assessment conducted by were incorporated into the Erie County Agricultural & Farmland Protection Plan. These include the establishment of:

- a "food hub" to address the storage, processing, distribution of sales
- a "food policy council"
- a food transportation cooperative
- local procurement policies

c. Erie County Road to a Bright Future (2008)

The Erie County economic development plan, issued in in 2008 by then County Executive Chris Collins, acknowledges the importance of agriculture to the County's economy. Recommended actions to promote the agricultural industry include:

- Complete a "Farmland Preservation and Economic Development Strategy"
- Advance financial incentive programs for the agriculture industry
- Implement an agribusiness program that focuses on farm-based tourism

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Initiatives for a Smart Economy, published in June 2013 by Erie County Executive Mark C. Poloncarz, expressed the vision that, “Erie County will be a statewide leader in undertaking new and innovative programs which elevate agriculture to equal standing with other priority sectors of the local economy.

The Plan’s goals and initiatives include:

- Attract new agribusinesses to Erie County and increase the profitability of local agriculture.
 - Establish a shovel-ready agribusiness park in Erie County
 - Establish a shovel-ready agribusiness park in Erie County
- Increase market access and profitability for small to medium sized farmers
 - Initiate a food hub feasibility study
- Increase the amount of healthy, locally produced food purchased by citizens of Erie County.
 - Increase the amount of healthy, locally produced food purchased by citizens of Erie County.
 - Develop a regional agricultural brand
- Assist in the promotion of agritourism
 - Support agritourism efforts

d. Erie County Industrial Development Agency Comprehensive Economic Development Strategy (2011)

The Comprehensive Economic Development Strategy (CEDS) provides the framework for funding economic development activities by the Erie County Industrial Development Agency (IDA.) It incorporates recommendations of other County and regional plans. It identifies agriculture and agribusiness as a targeted industry sectors which have priority in IDA funding. It identifies initiatives that are already underway, including:

- Micro enterprise loan fund (with ECIDA) for agricultural businesses (first loan Jan. 2010).
- An agribusiness program that focuses on farm-based tourism
- Southtowns Southtowns Agri- Tourism Trail Survey and map

4. Regional Plans

a. Erie Niagara Framework for Regional Growth

The Framework delineates “Developed,” “Developing”, and “Rural” areas as well as Development Centers and Corridors. The entire Town of Marilla is designated “Rural” and no designated Development Centers or Corridors are located in the Town.

Strategies for Rural Areas include:

- Expand efforts to strengthen the rural economy, including the conservation of agricultural lands and rural economic development initiatives
- Identify and conserve agricultural lands, support zoning that reduces permitted development densities, require cluster development to maintain rural character and protect resources, and discourage continued subdivision of rural road frontages
- Encourage the contraction of sewer district boundaries that extend into areas designated for agricultural use

b. One Region Forward

One Region Forward is a regional plan for sustainable development that will advance the 2006 Erie Niagara Framework for Regional Growth. It is based on “livability principles” including the safeguarding of rural landscapes.

c. Western New York Regional Sustainability Plan – 2012

The Western New York Regional Sustainability Plan, funded by the NYS Energy Authority (NYSERDA), identifies goals and recommended initiatives to promote the region’s sustainability. One of the key targets of the plan is to promote the economic viability of agriculture and forestry as well as sustainable land use and livable communities. Projects recommended in the Sustainability Plan may be eligible for implementation funding through NYSERDA.

Relevant goals include:

- Strengthen the economic viability of agriculture and forestry enterprises.
- Achieve more efficient uses of energy inputs and maximize utilization of agriculture and forestry by-products for energy production.
- Increase support from government officials and the public for the protection of farmland, continued use of farmland for agricultural practices, and for strengthening the business climate for agriculture and forestry in the region.
- Promote environmentally sustainable management systems for the agriculture and forestry sector.

Recommended projects include:

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- WNY mobile meat processing unit
- Farmer Recruitment Program
- Small Farm Innovation and Entrepreneurship Program
- WNY Small-Scale Food Processing Center
- WNY Food Hub Project
- East Aurora Cooperative Market
- Erie County Purchase of Development Rights Program
- Marilla Agriculture and Farmland Protection Plan

d. Western New York Regional Economic Development Council Strategic Plan

The Regional Economic Development Councils were created by NYS to identify priority economic development projects to be funded through the Consolidated Funding Application (CFA) process. “Core Strategies” include smart growth. The Strategy identifies several key sectors, including agriculture, energy and tourism.

Key Accomplishments of the REDC’s Agriculture Work Group include

- Support for the Niagara Wine Trail project.
- Strategies to implement a regional branding initiative for agriculture.
- Explored the development of a regional food hub.
- Presentations/research on NYS pesticide regulation and the Erie County Food System study.

Relevant recommendations to support business development include:

- Create and participate in a state-wide committee to: review existing agricultural regulations to evaluate whether they are relevant and necessary; make regulations activity specific instead of department specific to reduce cost and burden on agricultural businesses with the end result of streamlining licensing/permitting processes and reducing the number of agencies involved in the process
- Encourage NYS Department of Environmental Conservation to adopt the Federal EPA regulations for agricultural materials, such as pesticides. NYS lags all other states, including California, by months to years for approval of safer materials.

E. Farming in the Town of Marilla

1. Community Description

The Town of Marilla is located in the east central portion of Erie County. (See Map 2: Regional Setting.) It encompasses approximately 28 square miles.

State highways include NYS Route 354 (Clinton Street) and NYS Route 358 (Two Rod Road.) Many community services, including the Town Hall, Highway Department, post office, elementary school, churches and commercial businesses are located in the hamlet of Marilla. The hamlet of Porterville is located in the southwest are of the town.

The predominant land use in the Town is agriculture. Of the 17,622 acres in the Town, 11,057 acres (63%) are in parcels that are used in part for agricultural production.

Residences are located predominantly in the hamlets of Marilla and Porterville, as well as in residential subdivisions and several manufactured home parks. Businesses in the Town are located in the hamlet of Marilla and along Clinton Street.

The land form in the northern portion of the town is nearly level and gently undulating; steep slopes and hills are common in the southern portion of the town. Streams include Buffalo Creek, which flows through the southwestern portion of the town, Little Buffalo Creek, and Cayuga Creek in the northeast portion of the town. These streams are part of the Buffalo River watershed. (See Map 3: Topography.)

2. History and Types of Farms

Farms in the Town include both large commercial farms as well as small part-time operations. These farms produce dairy products, cattle and other livestock and field crops such as corn and soybeans. Two farms specialize in horse breeding and boarding. Map 4: Farm Parcels by Property Classification, depicts the types of farms by tax parcel classification for assessment purposes.

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The following is a partial list of farm operations in the Town of Marilla:

Table 1: Farm Operations

Name of Farm	Location	Products
Dairy		
Leonard Janiga		Dairy
GC Acres (Gerhardt)		Dairy; also crops, cattle
Foss		Dairy; also crops, livestock
Rogacki		Dairy
Cattle, calves, other livestock		
Gingerich (Claymount Farms)		Cattle
Wigler		
Stanley Travis		Beef cattle; also crops
Debbins		Replacement heifers
Field Crops		
Handy		Grain
Burzynski		Grain
Richard Janiga		Cash crops
Peter		Cash crops
Crystal Springs		Cash crops
Equine		
High Time Stables		Horse breeding, boarding, sales
Pleasant Run Stables		Horse boarding, training, shows
Specialty Animals		
Huston	Bullis Road	Cash crops; Whitetail deer
Horticultural		
Berner		Plants, flowers, garden supplies
Vegetables, Other		
Schilling	Four Rod Road	Cash crops; Maple Syrup

SOURCES: Various internet sources compiled by Stuart I. Brown Associates: Town of Marilla

NOTE: This is a partial list.

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Statistics from the 2007 Census of Agriculture for the four zip codes in the Town of Marilla and surrounding area (see tables and graphs on the following page) document the variety of crops produced by area farms.

Table 2: Statistics from 2007 Census of Agriculture

Farms with sales of animals and their products		Farms with sales of crops	
14	Dairy		
37	cattle/ calves	49	field crops, including hay
11	hogs/ pigs	31	grains
5	sheep/ goats	9	Vegetables
26	horses/ ponies	17	Horticulture/ nursery
23	Poultry, including eggs	4	Fruits
4	Specialty animals	7	Cut Christmas trees

SOURCE: U.S. Census of Agriculture, 2007 - Zip code totals for the 14004, 14052, 14102, 14059 and 14086 zip codes

Of the 243 farms based in the zip codes that include Marilla, 129 (52%) were less than 50 acres in size and 111 (46%) were between 50 and 999 acres in size. Three farms, all of which were based in the 14086 (Lancaster) zip code, were 1000 acres or larger.

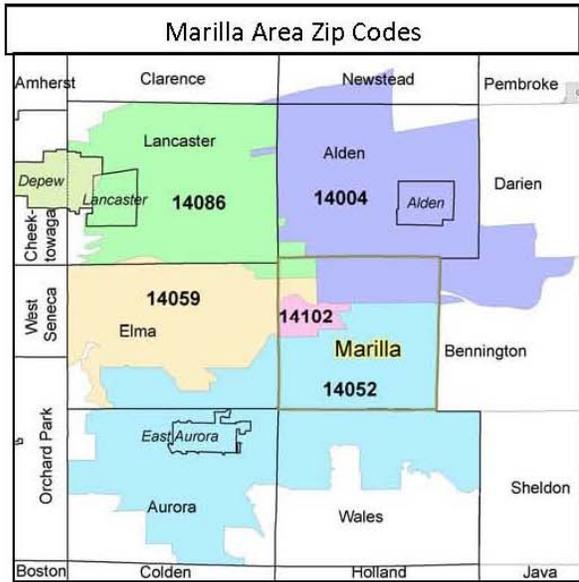
Most (88%) of the farms in the Marilla area generated less than \$50,000 per year in sales. A total of 16 farms sold more than \$250,000 in agricultural products and 14 generated sales of between \$50,000 and \$249,999.

Of the 128 farms with sales from crops, 42 sold grains and 78 sold other field crops, including hay. A total of 33 farms sold horticultural or nursery products, 15 sold vegetables, and nine sold cut Christmas trees. Only 18 (14%) of the farms that sold crops generated at least \$50,000 in sales, and only 8 of these generated \$250,000 or more. Of the 10 crop farms that generated at least \$50,000 in sales, 7 produced grains, 4 produced vegetables, and one produced other field crops, including hay;

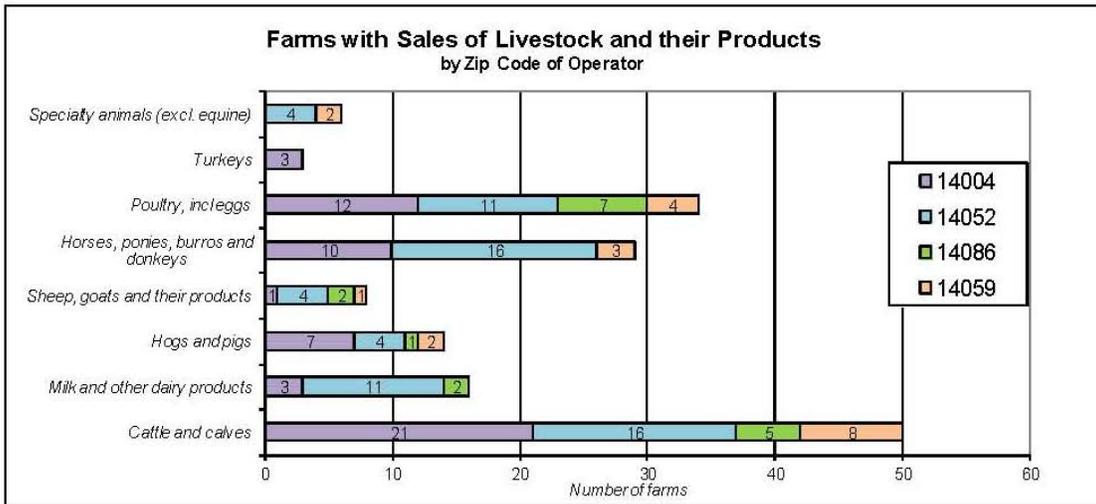
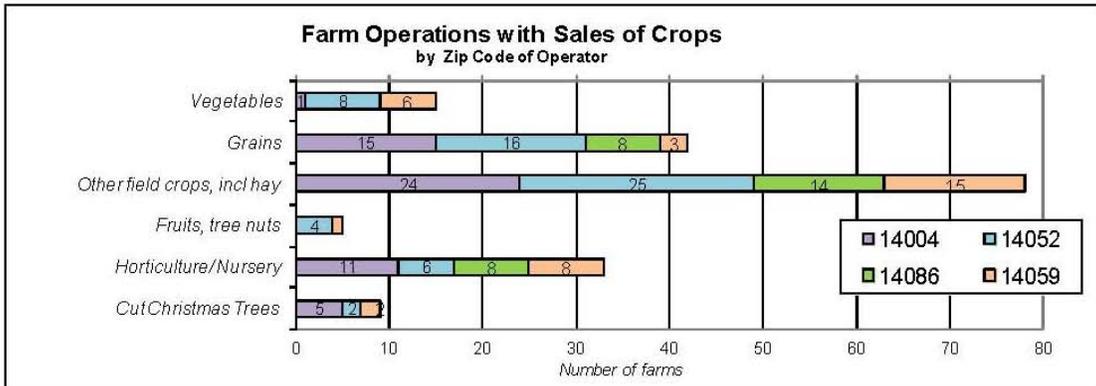
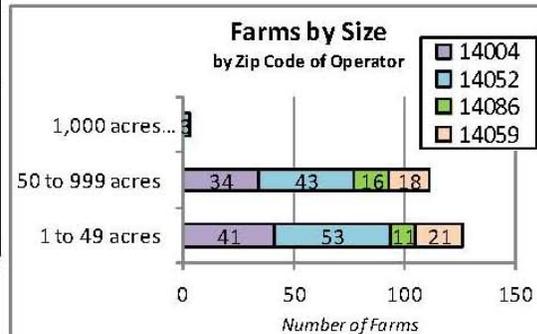
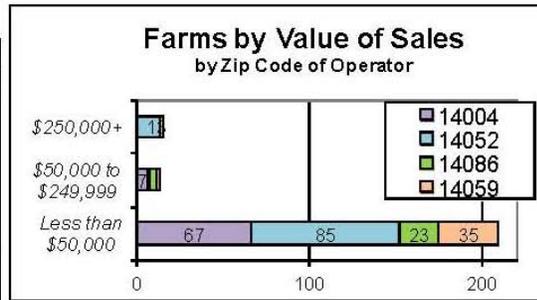
Of the 103 farms with sales from animals and their products, 14 (14%) generated sales of \$50,000 or more. A total of 12 were dairies, one sold specialty animals and one was a horse farm.

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Agricultural Statistics for Marilla Area Zip Codes



NOTE: Statistics for the 3 farms based in the 14102 zip code are not reported to protect confidentiality.



SOURCE: USDA National Agricultural Statistics Service, 2007 Census of Agriculture

3. Farmland Resources

a. Agricultural Soils

High quality agricultural soils include those soil types designated by the USDA Natural Resource Conservation Service (NRCS) as “prime,” “prime when drained” and “other soils of statewide importance. These soils occupy a total of 14,629 acres in the Town of Marilla and comprise 77% of the Town’s total land area. Map 5 depicts the extent of prime and important agricultural soils in the Town.

Prime farmland soils identified by the USDA Natural Resource Conservation Service (NRCS) are defined as follows:

Prime farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, range-land, forest land, or other land, but not urban built-up land or water). It has the soil quality, growing season, and moisture supply needed to economically produce sustained high yields of crops when treated and managed, including water management, according to acceptable farming methods. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. They are permeable to water and air. Prime farmlands are not excessively erodible or saturated with water for a long period of time, and they either do not flood frequently or are protected from flooding.

Additional “farmland of statewide importance” is defined by NRCS as:

land, in addition to prime and unique farmland, that is of statewide importance for the production of food, feed, fiber, forage, and oil seed crops. ... Generally, additional farmlands of statewide importance include those that are nearly prime farmland and that economically produce high yields of crops when treated and managed according to acceptable farming methods. Some may produce as high a yield as prime farmlands if conditions are favorable.

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Of the 14,629 acres of high quality agricultural soils in the Town, a total of 5,560 acres (38%) are actively farmed. The remainder have been developed or are wooded land or brush.

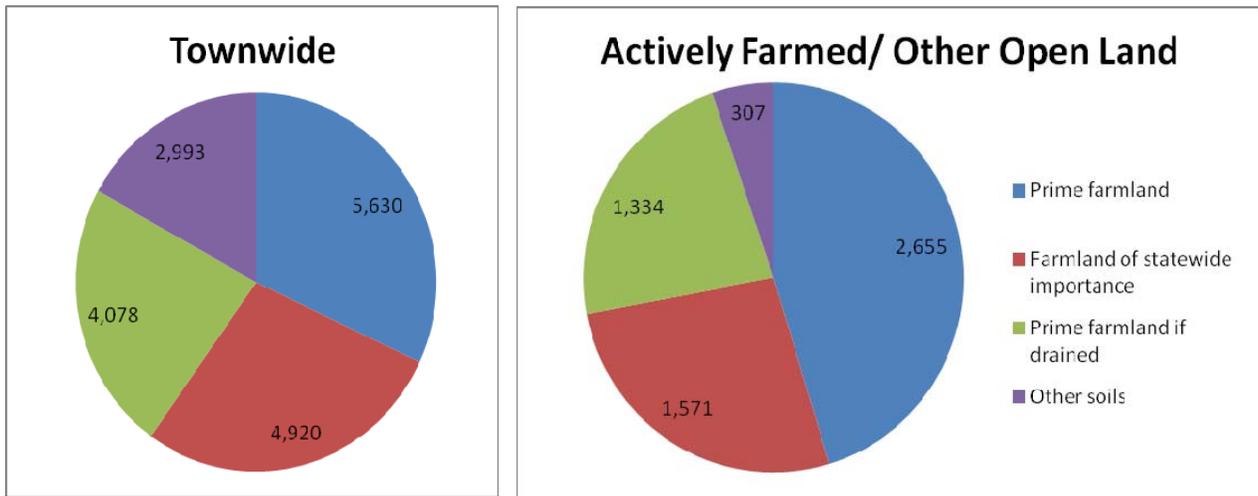


Table 3: Agricultural Soils

Agricultural Soils Classification (from USDA Soil Survey)	Townwide (includes developed, wooded and fallow land)		Active Farmland Only (cropland, pasture, other open land) ¹	
	Acres	%	Acres	%
Prime farmland	5,631	32.0%	2,655	45.3%
Farmland of statewide importance	4,920	27.9%	1,571	26.8%
Prime farmland if drained	4,078	23.1%	1,334	22.7%
Total high quality agricultural soils:	14,629	83.0%	5,560	94.8%
Other soils (includes water)	2,993	17.9%	307	5.2%
Total:	17,622	100.0%	5,867	100.0%

¹Calculated with GIS software from delineations of active farm fields and other open land that may be suitable for farming, from aerial photos. See Map 6: Active Farmland

b. Land in Agricultural Production

Approximately 5,867 acres in the Town of Marilla consist of actively farmed land or other open land that may be suitable for agriculture, based on an analysis of aerial photographs taken in 2008 and analysis by the Steering Committee. This land represents approximately 33% of the total land area of the Town. (See Map 6: Active Farmland).

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Farmland in the Town of Marilla is located on approximately 388 individual tax parcels, which comprise 11,056 acres. Most of the parcels with active farmland also include buildings as well as forested land or hillsides that are not actively farmed.

Table 4: Acres in Farmland – Town of Marilla

<i>Land Area in:</i>	<i>Acres</i>	<i>% of Town's Total Land Area</i>
Entire Town (1)	17,622	100%
Parcels that include Active Agricultural Land	11,056	63%
Active Agricultural/ Other Open Land (2)	5,867	33%

(1) SOURCE: Calculated using GIS software from map of Town.

(2) Calculated from areas of Active Farmland or Other Open Land that may be Suitable for Agricultural Production, digitized from aerial photos by Stuart I. Brown Associates.

c. Protected Land

Between 1999 and 2008, the Town of Marilla received grant funding through the NYS Department of Agriculture & Markets' Farmland Protection Implementation Grant Program (commonly known as Purchase of Development Rights, or PDR) to establish its Purchase of Conservation Easements (PACE) program. To date, this program has placed 17 parcels and 743 acres of land under the protection of permanent conservation easements. The Western New York Land Conservancy holds and monitors the conservation easements on these parcels. (See Map 7: Protected Land.)

4. Economic and Fiscal Benefits of Agriculture

Markets and Support Businesses

Agriculture is the predominant land use in the Town of Marilla and is a major industry in Erie County. Opportunities relating to production agriculture, agri-tourism, agricultural support businesses, distribution and processing are key to the Town's long-term economic development.

Farms in and around the Town of Marilla generate sales each year through the production and sales of farm products and support the regional economy through purchase of supplies and services. Small and large farms contribute to the rural, agricultural character of the town and support the agricultural economy through the purchase of supplies and services.

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Several farms generate income from complementary activities that were not included in USDA farm statistics. For example, the equine industry generates income from boarding, sales of horses, training and other services. The NYS Agricultural District Law was recently amended to include such income to allow equine operations to be defined as “farm operation” for the purpose of Agricultural District protections and agricultural use assessment, provided the operation consists of at least seven acres, stables at least 10 horses and generates \$10,000 in sales from commercial equine activities. (See text in Appendix C.)

Agriculture also generates economic impacts from businesses that provide services or goods to farmers and from businesses that process, transport or resell farm products. These include: retail businesses that sell equipment, fertilizer, seeds and other inputs; providers of financial, technical, and engineering services; construction contractors; trucking companies; processing plants; and retail sales of farm products.

5. Fiscal impact of agriculture

a. Tax revenues from agricultural production

The total taxable value of parcels that are designated “agricultural” in the Town’s assessment roll is approximately \$8.5 million.

A total of 156 parcels in Marilla received an agricultural use exemption to property taxes in 2013. The value of these exemptions was \$2,661,700, which represents 16.5% of the value of all exemptions in the Town. The total taxable value of properties that received an agricultural use exemption was \$7,669,150.

b. Cost of community services – agriculture and other land uses

Several studies have determined that agriculture requires lower expenditure for governmental services than other types of land use, particularly residential. The largest service cost is education, which is shared among residents of the school districts. In general, the increase in tax revenue associated with residential development is outweighed by the cost of services. Because of these costs, land use policies need to be based on factors other than the potential for additional tax revenue.

The American Farmland Trust has completed several “Cost of Community Services” studies that document the fiscal impacts of residential development. (See summaries in Appendix D.) A study completed for the Town of Aurora in 2008 found that the cost of services for an average priced new residence in the Town was approximately equal to the increased tax revenue that would result from the new construction. A copy of this study is included in Appendix D.

F. Farmland targeted for protection

The Town has identified all lands that have high quality agricultural soils and that are currently used for agricultural production as the highest priority for long-term protection. The areas of active farmland were delineated from aerial photographs and represent crop fields, pasture and other open land that may be suitable for agricultural production (see Map 6: Active Farmland). High quality agricultural soils include soils classified by the USDA Natural Resources Conservation Service Soil Survey as “prime farmland,” Prime farmland if drained”, and “other soils of Statewide importance (see Map 5: Agricultural Soils). The intersection of these two features – areas that consist of prime or important agricultural soils as well as active farmland – are depicted in Map 8: Farmland Suitable for Protection.

Agricultural Soils

Of the 5,867 acres of actively farmed in the Town of Marilla, 5,560 acres (95%) consist of prime agricultural soils or other soils of Statewide significance. These areas of prime and important agricultural soils that are actively farmed represent the most significant agricultural land resources in the Town.

The areas depicted in Map 8: Farmland Suitable for Protection represent the Town’s most important agricultural land resources. Map 8 should be used by Town boards and advisors as a reference when reviewing development proposals and in implementing strategies for the long-term protection of these lands.

A list of parcels that include agricultural land that is suitable for protection is included in Appendix E. The list incorporates the following weighting factors were applied to the total number of acres within each soil category:

<i>Agricultural Soils Classification</i>	<i>Rating Factor</i>
Prime Soils:	3
Prime if Drained:	2.5
Soils of Statewide Importance:	2
Other soils:	1

The Agricultural Rating for each parcel is the sum of the acres of soils in each category multiplied by the weighting factor. This rating system assesses only the amount and quality of agricultural soils on individual parcels. As such, it is intended as the starting point for determining the suitability of individual parcels for long-term protection.

In addition, the highest agricultural soils ratings are given to large parcels that include significant quantities of farmland. Small parcels that are used to raise high value crops such as

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vegetables would not receive a high rating using this system; the agricultural value of these smaller parcels will need to be documented on a case-by-case basis.

In addition, the rating system does not group parcels that are part of a single farm operation. However, if multiple parcels are proposed for protection, the data for each individual parcel may be added together to determine the total rating for a group of parcels.

Several other factors, in addition to the presence of high quality agricultural soils, should be considered in assessing suitability for long-term protection. These include the application of land management and conservation practices, plans for continued operation of the farm in succeeding generations, and proximity to other farmland and other protected lands. These other factors should be considered on a case-by-case basis for those parcels that are proposed for long-term protection.

In evaluating parcels for the purpose of sponsoring applications for purchase of development rights, should be based on the following criteria.

- Acreage of high quality agricultural soils
- Proportion of the parcel that contains high quality agricultural soils
- Long-term viability of the farm operation over the long term
- Impact on the protection of significant natural resources
- Extent to which the farm is subject to significant development pressure

Information about past Purchase of Development Rights grants administered by New York State Department of Agriculture & Markets is included in Appendix H.

Long-term Viability

Factors that should be considered in evaluating the long-term viability of a farm parcel include:

- The presence of a succession plan that demonstrates that the land is going to continue to be farmed, either by the next generation of the family that is currently farming the property or by a neighboring farmer.
- A history of appropriate conservation and land management practices on the farm
- Location in an area does not have constraints to continued farming. For example, a parcel that is completely surrounded by residential development is more difficult to farm than one that is contiguous or near other farm parcels.

Development Pressure

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Farms that are susceptible to conversion to other uses may be a higher priority for conservation than other farms. Pressure for conversion may take the form of scattered residential development, residential subdivisions or other development and may be stimulated by infrastructure extensions or nearby development. The extent of development pressure should be a consideration in the evaluation of farm parcels for long-term protection.

Natural Resource Value

Farmland protection may have the added benefit of protecting or enhancing nearby natural resources. For example, cropland and pasture absorb rainwater and generate less stormwater runoff than developed land. It can serve as a buffer to forests and wildlife habitat. If properly managed, it can provide protection to stream corridors. The contribution of the farm toward the protection of natural resources should be considered in the evaluation of individual farm parcels for long-term protection. Map 9 depicts the locations of wetlands, flood zones and other natural resources in the Town.

Reclaim land for future agricultural use

In addition to the protection of existing agricultural land, there is land in the Town of Marilla with the potential to be made available for agricultural use. This land is not currently farmed but contains high quality agricultural soils. Some of this land is currently wooded and would need to be cleared.

Map 10: Potential Agricultural Land - Prime Soils Not Farmed, depicts the location of these lands. A list of parcels with 2 or more acres that include prime soils that may be suitable for farming is included in Appendix G.

G. Development Pressure

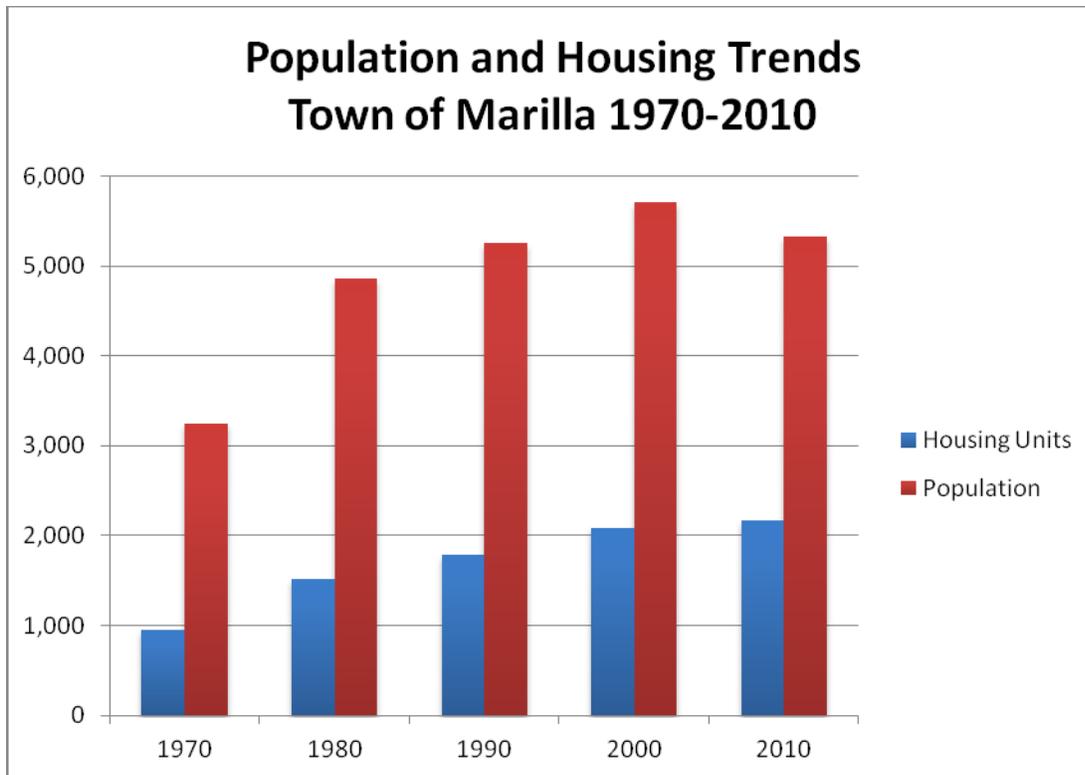
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1. Population and Housing Trends

The population of the Town of Marilla in 2010, according to the U.S. Census, was 5,327. This represents a decrease in population since the 2000 count of 5,709.

While the population decreased between 2000 and 2010, the number of housing units increased. The 2010 Census reported 2,164 housing units; this represents an increase of 129 from the 1,016 reported in the 2000 Census. Households consist of fewer people, on average. In addition, the average age of Marilla residents has increased from 38.6 in 2000 to 45.3 in 2010. The trend toward smaller households and an aging population is nationwide and is expected to continue.

The chart below illustrates population and housing trends over the last several decades.



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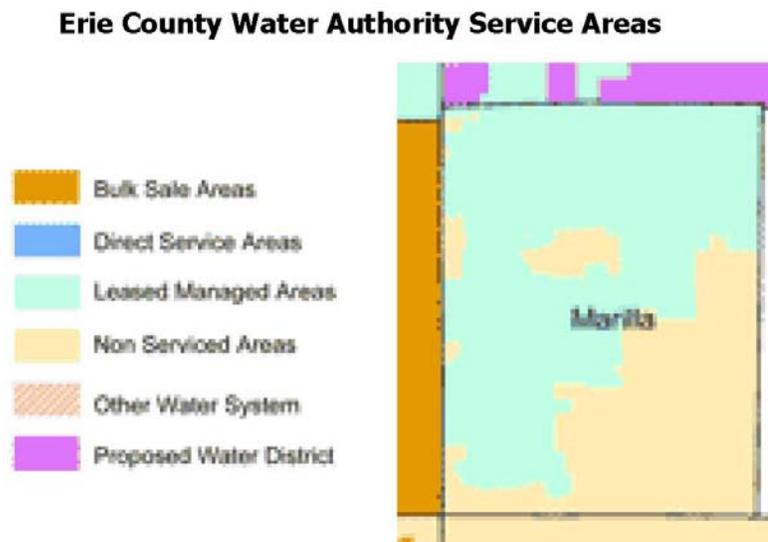
Residences are concentrated in the hamlets of Marilla and Porterville, in residential subdivisions, in manufactured home parks and along roads throughout the Town. The first houses in Marilla were constructed during the 1800s on farms and in the hamlet of Marilla. During the first half of the 20th century, new houses were built on small lots along existing roads and on farms. During the 1960s and 1970s, several residential subdivisions were created and the population increased. Development continued at a slower pace during the 1980s through 2012. Continued growth in residential development – even at the modest pace of 160 new homes per decade – could have significant impacts on farmland and farming if it is not managed effectively. Map 11 depicts the locations of residential lots by the year structures were built.

2. Business Development Trends

The few businesses in the Town of Marilla are located in the hamlet of Marilla, along Clinton Street, and in scattered locations throughout the Town.

a. Sewer and Water

Most of the Town is served by public water. The five water districts in the Town are supplied by the Erie County Water Authority, which leases the infrastructure and manages customer service, billing, meter reading and maintenance. The Town is responsible for capital improvements.



SOURCE: Erie County Water Authority website

Most of the areas that do not have public water service are located in the south and southeastern portions of the Town. The existing water distribution system limits the potential for extending water service to these areas. The single pump station and water storage tank that serve the Town's water district do not have excess capacity. Expanding service to additional areas would require considerable capital investment in new pump station and storage tank.

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b. Zoning

Most of the Town is zoned A Agricultural (see Map 12.) Nearly all (93%) of the actively farmed land in the Town is zoned A Agricultural. A total of 314 acres is zoned RR Rural Residential and less than 100 acres are zoned for commercial uses (B or B-1.)

The Town's A Agricultural zoning district permits single family dwellings with a minimum lot area of 60,000 square feet, as well as agricultural uses and roadside stands. Uses permitted with a special use permit include:

- Essential services, excluding power plants.
- Private airstrips.
- Camping grounds.
- Not-for-profit public and semipublic uses and buildings, excluding gun clubs.
- Kennels.
- Stables or riding academies where animals are rented or leased.
- Commercial recreation uses, excluding firing ranges and amusement arcades.
- Rooming houses.
- Bed-and-breakfast establishments.
- Telecommunications facilities
- Private, semipublic and public golf course recreational facilities

c. Potential Development

The most significant threat to farmland in the Town of Marilla is residential development. Residential development in the town, both along existing roadways and in new subdivisions has resulted in the conversion of significant amounts of agricultural land. Map 11 depicts residential development trends.

The Town's zoning regulations limit the development of residential subdivisions in the A Agricultural District to a total of three new lots (four including the parent parcel) within any five-year period. While this provision slows development, agricultural land continues to be vulnerable to conversion to residential development.

The subdivision of prime farmland into building lots threatens to reduce the amount of prime and important soils available for agricultural production. The Town may be able to encourage landowners to design future subdivisions in a manner that utilizes the marginal land for building lots and sets aside the most productive land for continued agricultural production. (See Conservation Subdivisions under Evaluation of Alternative Strategies section.)

Map 13: Zoning Districts and Active Farmland by Agricultural Soil Classification illustrates the current zoning classifications of existing farmland. Future rezoning should take into consideration the impact on farmland, with a priority to avoid developing on lands with prime soils.

H. Role in Regional Food System

The regional food system consists of agricultural production, food processing, wholesale and distribution, retail sales and restaurants, and waste disposal. The Town of Marilla's primary role in the regional food system is agricultural production; a secondary role is food consumption by Town residents. Processing occurs on a limited basis on farms and by small businesses. Retail and restaurant sales are limited to the Country Store in the hamlet of Marilla, a convenience store at Clinton Street and Two Rod Road, and several farm stands. Distribution occurs mainly from farms to markets or transportation hubs.

I. Strengths, Weaknesses, Opportunities and Threats (SWOT)

At the public workshop held in March 2013, farmers, farmland owners and residents identified the Strengths, Weaknesses, Opportunities and Threats (SWOT). The exercise was facilitated by the Town's planning consultant and helped to guide the planning process. "Strengths" and "weaknesses" are generally intrinsic to the community; "opportunities" and "threats" come from outside the community. The table on the following page summarizes the SWOT analysis.

Town of Marilla Agricultural & Farmland Protection Plan

Table 5: **Strengths, Weaknesses, Opportunities and Threats (SWOT) Relating to Farmland and Agriculture**

<p><u>Strength</u> - An asset or policy that can be leveraged to help achieve our goals</p> <p><u>Opportunity</u> - A situation or an element that can be seized or capitalized on to support our goals</p>	<p><u>Weakness</u> - A liability, hindering us in achieving our goals, that can be corrected or mitigated</p> <p><u>Threat</u> - An element or force that must be countered because it threatens achievement of our goals</p>
<p><u>Strengths</u></p> <ul style="list-style-type: none"> • Close to markets • Great soil • Potential impacts of yogurt plants • Good local and regional transportation network • Close to many ancillary business support places (ex. Places to get farm equipment serviced and repaired) • Weather – it’s better than some places and supports a variety of crops • Nice rural Town with limited housing developments <ul style="list-style-type: none"> ○ Leads to beautiful aesthetics ○ Low density and quiet ○ Tight knit community ○ Despite small Town feel there are lots of activities • Wildlife • Lots of farmland in the winter translates to huge snowmobile trail network <ul style="list-style-type: none"> ○ Supports local businesses – food, gas, etc. • Non-chlorinated water • Town’s value is in its land • Town government support of agriculture 	<p><u>Weaknesses</u></p> <ul style="list-style-type: none"> • From dairy farmers point of view – to be a successful dairy farmer you must have A LOT of land which at this point is almost impossible to assemble within the Town • Expansion is difficult – shift from large farms to small farms • Traffic, narrow roads, narrow/no shoulders <ul style="list-style-type: none"> ○ Creates serious safety concerns for cars passing slow moving farm vehicles/equipment
<p><u>Opportunities</u></p> <ul style="list-style-type: none"> • New technology and farming techniques allows land that wasn’t suitable for farming to be farmed • Huge “Buy Local” trends and public awareness • Growth in the organics industry • Government support programs, funding, and grants • Start working with the IDA • Solar/Wind power <ul style="list-style-type: none"> ○ Other forms of alternative energy • Educate the public officials on rules and regulations pertaining to agricultural land 	<p><u>Threats</u></p> <ul style="list-style-type: none"> • Housing developments • Residents unintentionally affecting the ground water through chemical runoff, etc. • Financial hardships • Retiring farmers with no one to replace them • Fracking? • State regulations • Taxes • Misinformation – especially through the internet • Lack of education relating to agriculture and food systems <ul style="list-style-type: none"> ○ Both for the general public and within schools

SOURCE: Comments from attendees at first public workshop – March 2013

J. Agricultural preservation techniques

Several tools and techniques are available to local governments, individual landowners and private organizations to help meet the goal of retaining farmland and encouraging the continued viability of agriculture.

1. Conservation Easements/ Purchase of Development Rights

A conservation easement is a legal document that limits future development on land. Landowners voluntarily participate in easement or purchase of development rights programs. As conservation easements permanently protect land from development, they are a very effective tool for the retention of farmland. Conservation easements may be acquired by a not-for-profit organization such as a land trust, or by a governmental entity through a “purchase of development rights” program.

a. Private, voluntary conservation easements

Landowners may place farmland under a permanent conservation easement to be held and monitored by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning as the value of the easement can be claimed as a tax deduction.

Landowners may place farmland under a permanent conservation easement to be held and monitored either by a governmental entity or by a private land trust or other non-profit organization. The donation of easements may be helpful to some families in estate planning, as the value of the donated easement can be claimed as a tax deduction. Donation of easements provides permanent protection of farmland and open space at no cost to the town. Landowners would decide voluntarily to donate.

Land trusts often work with landowners to determine whether a conservation easement would be an appropriate way to preserve land. The Western New York Land Conservancy, based in East Aurora, is a private, non-profit land trust that accepts donations of property or development rights, and works with individual landowners and community leaders to protect land resources.

Western New York Land Conservancy worked with the Town of Marilla and individual landowners to secure New York State funding through a series of Purchase of Development Rights grant awards to preserve 14 agricultural parcels in the Town that total approximately 622 acres. The Conservancy manages and monitors the conservation easements on these properties. Additional information about the Western New York Land Conservancy is included in Appendix G.

The New York Agricultural Land Trust (NYALT), established in 2006, works with landowners throughout New York State to advise them regarding estate planning, easements, and applying

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for State purchase of development rights. Information about the NYALT is included in Appendix H.

Land trust staff are often available to speak with landowners about their options regarding the preservation of their properties for continued agricultural or other conservation uses.

b. Public purchase of development rights

Purchase of Development Rights (PDR) is a program which compensates owners of farmland in exchange for an agreement to keep land from being developed. The value of the development rights is calculated as the difference between the value of the land for agricultural purposes and its value for development. A permanent conservation easement typically restricts future development on the parcel to agricultural buildings only.¹ Placing an easement on a property does not affect the ownership of the parcel. The owner may continue to farm the parcel, and/or sell it. The easement holder, which is either the Town or a private land trust, is responsible for ensuring that the property is not developed.

Although New York State has not accepted or awarded applications for funding for this program in several years, a new round of funding is expected to be announced in 2013.

When development of a property is limited due to a permanent conservation easement, the assessment on the property must take into consideration the impact of the easement on the value of the property. This may result in reduced property taxes for the owner. However, in practice, properties that are receiving an agricultural use value assessment would continue to be assessed based on the agricultural value rather than the market value of the property.

PDR programs are regarded as fair to landowners, who receive fair market value for the development rights. The property remains privately owned and is assessed at a value that reflects its limited use. Such programs achieve permanent protection of farmland and open space.

New York State's PDR program has provided grants of up to 75% of the cost of purchasing development rights. The landowner or another entity such as the Town may provide the matching funds. Some landowners agree to sell their development rights for less than the appraised amount (known as a "bargain sale"), thereby donating the difference and often claiming a tax deduction for the amount donated.

The Town of Marilla sponsored applications for PDR funding in 1999 and 2000 and was awarded established its Purchase of Conservation Easements (PACE) program. The Western New York Land Conservancy holds the easements on all of the farms in Marilla's PACE program .

¹ A copy of the current easement used by New York State in its PDR program is provided in Appendix H.

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New York State's program was suspended for several years while its administrators worked with previous grantees to complete easement purchases. The backlog appears to have been addressed and new applications may be accepted in 2013.

c. Federal Farm and Ranch Lands Protection Program

The Federal Farm and Ranch Lands Protection Program can provide additional matching grants for farms that have a pending offer for the purchase of development rights from a state or local government. Funding and program guidelines were established through the 2008 Farm Bill.

d. Funding options for local purchase of development rights

Some local governments in New York State have directly purchased development rights to farmland. Examples include the Towns of Webster, Perinton, Penfield, Parma and Pittsford in Monroe County. Funding for the purchase of development rights typically is raised through bonding and requires the establishment of a Capital Reserve Fund that is dedicated to the purchase of land and/or conservation easements (development rights.)

The Town may accept donations of land or easements, or money to be used to purchase land or easements. Federal, State or County grants may be used to purchase farmland or development rights.

Capital Reserve Fund

A Capital Reserve Fund is authorized by General Municipal Law Article 11, Section 6-c and allows a municipality to accumulate funds for major purposes over a period of more than one year. If the fund specifies the parcels or interest in parcels to be acquired, a permissive referendum is required to create the fund. If the fund is created for purchase of properties or development rights in general, no permissive referendum is required to create the fund but a permissive referendum will be required before utilizing the funds for a specific purchase. The fund may be financed through annual appropriations.

The Town may issue bonds to finance the acquisition of land and/or development rights, or to finance the establishment of a fund for the purchase of land and/or development rights. If the bond will be financed over a period of more than five years, a permissive referendum is required.

Before using public funds, whether from a Reserve Fund or Bond, to purchase a particular property or development rights, the Town must publicize and hold a public hearing.

Potential Future Funding Sources

Tax incentives to raise funds for purchase of development rights would require authorization from the New York State legislature. Certain counties in New York State (Westchester and Putnam, Long Island) have been authorized to collect a tax on real estate transfers to fund preservation of natural and historic resources. A bill to authorize such a tax statewide was

Town of Marilla Agricultural & Farmland Protection Plan

proposed in 2005 but has not been successful. A real estate transfer tax would be most effective in municipalities with very high value real estate and a large quantity of transactions each year.

Private foundations may be a source of funding for purchase of development rights. Other innovative funding sources, such as selling carbon credits, may have potential, although additional research is needed.

e. Term easement program (“Lease of Development Rights”)

Certain municipalities in New York State administer a voluntary term easement program to encourage landowners to keep farmland and other open space undeveloped for a specified period of time. The easements typically require that the land remain undeveloped or in active farm use. The Town Assessor considers the impact of the easement on the value of the land for tax purposes. As a result, property taxes may be reduced.

Some towns impose a penalty on landowners if the easement is broken or cancelled. For example, the Town of Perinton, located southwest of Rochester in Monroe County, requires that the property tax savings for the past five years must be repaid. The funds are placed into the Town’s Open Space Acquisition Reserve Fund and have been used by Perinton to purchase nearly 800 acres of land and development rights.

3. Zoning and Subdivision Techniques

a. Agricultural Protection Zoning District

Zoning regulations can be used to provide support to agricultural businesses. For example, zoning in designated agricultural areas may allow for a range of businesses to be established in conjunction with a farm operation, including farm-related businesses and home-based businesses.

Some agricultural zoning district regulations limit the number of residential lots that can be created from a “parent” parcel. Regulations may require density averaging or use a “sliding scale” to limit the number of dwellings permitted. The regulations may also specify maximum (as well as minimum) lot sizes for non-farm development.

b. Incentive zoning

Land can be permanently protected by easement as part of an incentive zoning transaction.

Pursuant to NYS Town Law Section 261-b, incentive zoning may be used to encourage the private acquisition of agricultural conservation easements or to collect money toward a public fund to purchase such easements (development rights). The Town would need to specify in its incentive zoning regulations that development rights for the protection of farmland would be an acceptable incentive.

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Incentive zoning is fair to the owners of land to be preserved, as a developer must purchase the development rights at fair market value in order to obtain a density incentive. The technique does not diminish the development potential of land to be developed.

The technique is fairly easy for the Town to administer, as the developer and the owner of the farmland or open space arrange the transaction privately. A developer who demonstrates that land will be preserved would be entitled to the density bonus on the property to be developed.

Use of this technique can result in the permanent protection of farmland or open space through a conservation easement at virtually no cost to the Town.

c. Conservation Subdivisions (Clustering)

Land can be permanently protected by easement as part of a conservation subdivision. Conservation subdivisions, also known as clustering, allow residences to be built on smaller lot sizes than would otherwise be permitted by zoning, provided that the number of units that could be constructed on the parcel with a conventional design is not exceeded.

Typically, an applicant would design a conventional subdivision for the site, with all of the lots meeting the minimum lot size, in order to determine the number of dwelling units that could be accommodated. The conservation features to be protected are delineated next, and the house lots laid out on the remaining lands. An example of a conservation subdivision is provided in Appendix B.

The house lots should be sited in locations that are least suitable for farming, and that offer the most appealing views of open space and natural resources. The subdivision design should incorporate buffers between the new residential development and the remaining farmland. A conservation easement would be placed on the farmland to prevent future development.

d. Farm-Friendly Subdivision Design

The way new residential subdivisions are designed can minimize the potential for conflict. "Farm friendly" design is important even when only one or two new lots are created from a parent parcel. Such considerations include:

- Incorporate buffers between the residences and adjoining farmland. Such buffers should be part of the design of the residential development.
- Avoid disturbing agricultural infrastructure such as access roads and drainage facilities

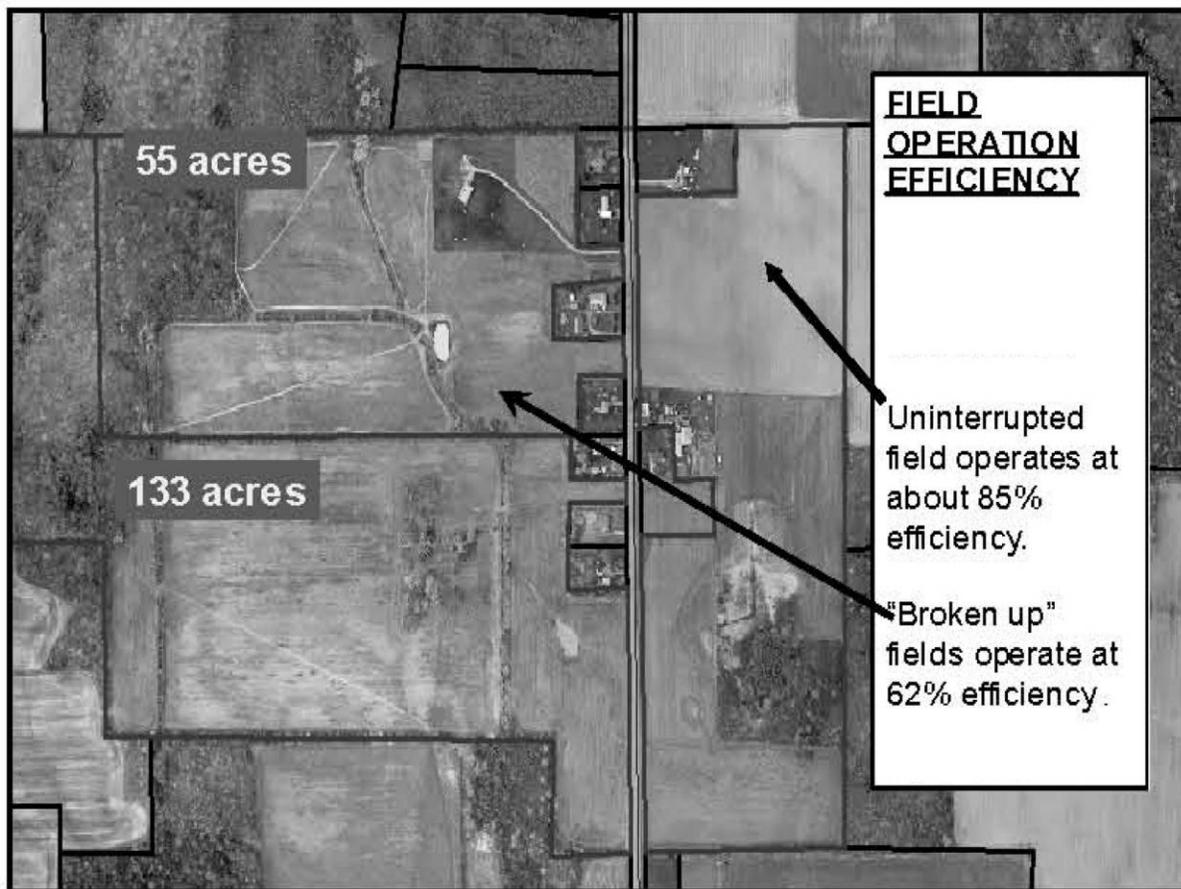


Figure 1. Field Operation Efficiency

e. Planning Board review of subdivisions

The design of subdivisions can also minimize the conversion of high quality farmland by requiring or encouraging development on the least productive portion of the parcel.

Through the subdivision review process, Towns can authorize their Planning Boards to manage the design of new residential development to minimize the potential for conflict. For example, the layout of new house lots can be designed to avoid impacts to efficient farm operations, access roads and drainage facilities, and to maintain buffers between farms and residences.

Planning Board review of the creation of one or more new lots could reduce the potential for new lots to be designed in a manner that is not “farm friendly.” The Town Board would need to modify the Town’s subdivision review law to give the Planning Board the authority to review the creation of one or more new lots. (See Zoning Audit in Appendix B.)

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“Conservation subdivisions,” also known as density averaging or clustered subdivisions, can result in the retention of farmland for agricultural use by increasing density on a portion of the parcel. This technique works best when the zoning district requires very low densities of development.

Incorporate buffers into design of non-farm residential development

Through local zoning and subdivision review regulations, the Town Planning Board can encourage or require that new residential development is designed to minimize the potential for conflict between agricultural operations and neighboring farms. For example, new house lots should be sited to ensure that they do not impede efficient farm operations, do not disturb drainage, and maintain buffers between the farm fields and house lots.

f. Regulation of Impacts from Agribusinesses

Zoning regulations can help to prevent or alleviate conflicts with neighbors relating to agribusiness and entertainment uses. The Town may regulate ancillary activities, such as outdoor entertainment, provided that such activities are not determined by the NYS Department of Agriculture & Markets to be agricultural practices. Such regulations should balance the need to maintain the quality of life of residential neighborhoods with the regional economic benefit of agri-tourism businesses.

4. Tax Relief Programs

Farming utilizes large amounts of land but does not demand proportionally large expenditures from local governments. In response to this situation, New York State has established programs to reduce property taxes on farmland that meets certain eligibility requirements.

Agricultural Use Assessments base property taxes on the value of the land as farmland, rather than its value for development. In order to be eligible, the farmland must be used by a farm operation that generates at least \$10,000 a year from a farm operation as defined by New York State Agricultural Law. (See Circular 1150 in Appendix C.) Farms located within a certified Agricultural Districts, as well as farms outside a District that meet certain requirements, may be eligible to receive Agricultural Use Assessments. Agricultural Use Assessment is also available to landowners who rent the property to an eligible farmer.

Agricultural use value property tax assessment typically results in a significant reduction in the amount of taxes paid by the landowner. The use value assessment is set by a formula developed by NYS Department of Agriculture & Markets that is based on soil types. In areas where the land is valuable for development purposes, the agricultural use value will be much lower than the market value, resulting in significantly lower property taxes. However, in areas where farming is the “highest and best use” of the property – where a farmer is likely to pay as much for the land as anyone else - the agricultural use value may be the same as the market value.

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While agricultural use assessments are applied automatically to property taxes levied by municipalities and school districts, fire districts must “opt in.” To do so, the governing body needs to pass a resolution agreeing to utilize agricultural use assessments.

- New York State has established the **Farmers School Property Tax Credit** program for eligible farmers to receive refunds of up to 100% of School taxes on up to 350 acres of agricultural land, and 50% of School taxes on acreage in excess of 350 acres. To be eligible for this tax credit, farmers must earn at least 2/3 of their income in excess of \$30,000 from farming. The credit may be claimed in the farmer’s annual NYS tax return.
- Farm worker housing is exempt from property taxes, provided that the facility meets all safety and health standards set by the State building code and the NYS Department of Labor.
- Renovation of a historic barn for continued agricultural use qualifies for a property tax exemption.
- Certain property and services used in agricultural production is exempt from sales tax. Farmers need to complete Form ST-125.

5. Business Development Programs

a. Business Development Financing

The Erie County Industrial Development Agency (IDA) offers financial incentives for industries – including agricultural products processing – that create or retain jobs. Low-interest loans, sales tax exemptions, and payments-in-lieu-of-taxes are available to help finance the purchase of new equipment and/or the expansion of facilities.

Some New York counties have established agricultural economic development revolving loan programs to help create or expand value-added and direct marketing opportunities. Loans of up to \$25,000 may be available for farm stand infrastructure (construction, design development, market analysis, etc.), value-added agricultural product development, training for cheese-making, meat-cutting or other agricultural processing initiatives, training and equipment to ensure food safety and security, and promotional materials for agri-businesses (such as websites, pamphlets, signage, etc.).

b. Harvest New York

Erie County Cooperative Extension is participating in Harvest New York, a pilot program established through NYS County Law 224-b to spur agricultural economic development in New York State. A new staff position at Erie County Cooperative Extension, established in October 2012, supports Agricultural Economic Development and Food Systems.

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(Contact Cheryl Thayer, Association Resource Educator, Cornell Cooperative Extension Erie County, at 716-592-9507 or cbt32@cornell.edu . (See Appendix I.)

The NYS Office for Community Renewal’s CDBG program can also provide grants or loans for the construction of infrastructure to support business diversification or expansion activities that would result in the creation or retention of jobs.

Grants for the installation of renewable energy or energy efficiency improvements are available through NYSEDA and the NYS Department of Agriculture and Markets. (See Appendix J for additional information.)

The NYS Department of Agriculture & Markets periodically offers grants through the NYS Consolidated Funding Application (CFA) process, administered through the Regional Economic Councils. In 2012, up to \$3 million statewide was available for the Agriculture Development Program, which provided grants to assist with construction, expansion or renovation of agricultural facilities or operations relating to the production, processing, warehousing or distribution of NYS crops and livestock. In addition, NYS tax credits were available through the Excelsior Jobs Program for investment in agricultural production and support businesses that create at least 10 new jobs.

c. Promotion of Local Farm Products

Organizations such as Cornell Cooperative Extension of Erie County are active in promoting farm markets, roadside stands and agri-tourism operations. For example, a workshop held in April 2013 encouraged bed & breakfast innkeepers to collaborate with farmers to make local farm products available to inn guests.

Several State and regional programs have been established to promote local products and raise public awareness of the contributions of the agricultural industry. For example, the “Pride of New York” program, administered by the NYS Department of Agriculture and Markets, offers labeling and promotional materials to participating farmers and encourages consumers to purchase products that are produced in New York State.

d. Technical Assistance for the Development of New Products

Potential entrepreneurs can access the resources of the NYS Food Venture Center, which is administered by Cornell University and located in Geneva. Information about the preparation of business plans and small loans are available through Cornell Cooperative Extension (<http://cce.cornell.edu>) and the Small Farms Program (<http://smallfarms.cornell.edu>).

e. Recruit Agricultural Support Businesses

The Town’s land use regulations permit agriculture-related businesses in the Town. (See Zoning Audit in Appendix B.)

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In addition to providing for agricultural support businesses through zoning regulations, the Town, working with County and State officials, can establish a policy that welcomes such businesses to the Town in appropriate locations.

6. Promotion and Public Information

Public education activities undertaken by farmers, municipalities or other agencies can help to raise public awareness of the importance of the agricultural industry to the region's economy and to help residents understand farm practices.

Some coordinated public outreach efforts are initiated and carried out by farmers. For example, a group of dairy farmers in LeRoy, Genesee County New York, cooperatively place an ad in the local Pennysaver each spring to notify residents about their need to spread manure, and give phone numbers to call with any questions. This outreach helps to reduce complaints. The farmers are willing, when possible, to schedule manure spreading to avoid holidays or days when neighbors have outdoor events planned.

7. "Right to Farm" Laws

a. Town of Marilla "Right to Farm" Law

The Town of Marilla has adopted a local "Right to Farm" law. This law clearly establishes the town policy in support of farming, defines "generally accepted agricultural practices," and affirms a farmer's right to employ such practices. The law also includes a requirement that purchasers of property within the town be notified of the policy of encouraging farming, and that farm practices may include odors, noise and other activities. A copy of the law is included in Appendix K.

Marilla's Right to Farm law also establishes a local "grievance" procedure to resolve complaints between farmers and non-farm neighbors. The Conservation Advisory Board is empowered to hear and resolve complaints. A local grievance committee may be formed to hear and resolve complaints. The CAB is subject to the requirements of the NYS Open Meetings Law and is required to schedule and advertise its meetings in advance.

b. Right to Farm Provisions of New York State Agricultural District Law

The NYS Agricultural Districts Law requires developers to prepare and submit an Agricultural Data Statement when a project may impact farm properties within a County Agricultural District (see forms in Appendix L.) It also includes a requirement that buyers of property within an Agricultural District sign a form that notifies them of potential noise, odors and other impacts associated with agricultural areas. A copy of Agricultural Districts Law is included in Appendix C.

8. Programs to minimize the impact of water and sewer lines extensions into agricultural areas

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Tools available to municipalities to minimize the impacts of sewer and water line extensions on agricultural land include the “Notice of Intent” process mandated by the NYS Agricultural Districts Law and restrictions on non-agricultural hook-ups.

a. Notice of Intent Process

Section 305 of the Agricultural Districts law requires local governments, before extending a water or sewer line that would serve non-farm structures within an Agricultural District, to file a preliminary and a final Notice of Intent with the NYS Department of Agriculture and the County Agricultural & Farmland Protection Board. The law states:

Any ... local government ... which intends to construct, or advance a grant, loan, interest subsidy or other funds within a district to construct, ... water or sewer facilities to serve non-farm structures, shall use all practicable means in undertaking such action to realize the policy and goals set forth in this article, and shall act and choose alternatives which, consistent with social, economic and other essential considerations, to the maximum extent practicable minimize or avoid adverse impacts on agriculture in order to sustain a viable farm enterprise or enterprises within the district.

The Notice of Intent (NOI) must set forth:

- A description of the proposed action and its agricultural setting
- The agricultural impact of the proposed action, including short-term and long-term effects
- Any adverse impacts on agriculture that cannot be avoided
- Alternatives to the proposed action
- Any irreversible and irretrievable commitments of agricultural resources which would be involved in the proposed action
- Mitigation measures proposed to minimize the adverse impact of the proposed action on the continuing viability of farms within the district
- Any aspects of the proposed action that would encourage non-farm development

A preliminary notice must be filed before the municipality issues a determination of significance pursuant to the State Environmental Quality Review Act (SEQR). The final notice must be filed at least 65 days prior to the construction or advancement of public funds. The commissioner has 45 days from receipt of the final notice to determine whether the action may have an unreasonably adverse effect on farm viability, and may take an additional 60 days to review the proposed action and issue findings.

The Commissioner of Agriculture may propose reasonable or practical alternative actions that would minimize or avoid the adverse impact of the proposed action on agriculture. The

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municipality or funding agency may either accept the proposed alternative or certify that other actions have been taken to minimize impacts on agricultural operations.

b. Lateral Restrictions

Often, as an outcome of the Notice of Intent process, a municipality will adopt a resolution that restricts hookups for non-farm structures to a new water or sewer line that extends into an Agricultural District. The restriction on hookups would apply to non-agricultural structures for as long as the property is located within an Agricultural District.

Typical language for such a resolution is as follows:

Lateral Restriction - Conditions on Future Service

The [municipality] imposes the following conditions, as warranted or recommended on the management of water/sewer lines located along [location] within an agricultural district:

(1) The only land and/or structures which will be allowed to connect to the proposed waterline or sewer within an agricultural district will be existing structures at the time of construction, further agricultural structures, and land and structures that have already been approved for development by the local governing body prior to the filing of the Final Notice of Intent by the municipality.

Land and structures that have been approved for development refer to those properties/structures that have been brought before a local governing body where approval (e.g., subdivision, site plan, and special permit) is needed to move forward with project plans and the governing body has approved the action.

(2) If a significant hardship can be shown by an existing resident, the lateral restriction to the resident's property may be removed by the municipality upon approval by the Department. It is the responsibility of the resident landowner to demonstrate that a hardship exists relative to his or her existing water supply or septic system and clearly demonstrate the need for public water or sewer service. The municipality shall develop a hardship application to be filed with the municipality, approved by the County Department of Health, and agreed to by the Department of Agriculture and Markets.

(3) If it can be demonstrated to the Department's satisfaction that the landowner requested the county to remove his or her land from an agricultural district at the time of district review and the county legislative body refused to do so, lateral restrictions may be removed by the municipality if the Department

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determines that the removal of the restriction for the subject parcel(s) would not have an unreasonably adverse effect on the agricultural district.

(4) If land is removed from a county adopted, State certified agricultural district, and the district has been reviewed by the county legislative body and certified by the Commissioner for modification, lateral restrictions imposed by the municipality are no longer in effect for the parcels of land that have been removed from the agricultural district.

(5) Hydrants and valve boxes must not be placed directly in agricultural fields.

K. Policies

The following narrative presents the Town's policies with regard to agricultural and farmland protection and analyzes the related issues and opportunities. The key policies are:

1. Support all types of farm operations in the Town
2. Protect the agricultural land base
3. Improve the economic viability of agriculture
4. Minimize impediments and increase support to farm operations
5. Protect environmental quality and support sustainable energy usage
6. Build community support for agriculture

1. Support the diversity of farm operations in the Town

The wide diversity of farms in the Town and surrounding areas contribute to the protection of the land base, community character, and support of the regional agricultural economy. These include large commercial dairy and crop farms, small part-time operations, diversified farms, organic farms and equine operations. Dairy and crop farming utilize the majority of farmland in the Town, but other types of farm operations are increasing.

While the NYS Department of Agriculture and Markets defines a "farm operation" as a commercial enterprise that generates at least \$10,000 annually from agricultural activities, several smaller farms in the Town also help to preserve the agricultural landscape and contribute to the agricultural economy. Many of the policies and recommendations in the Plan are intended to support commercial farms as defined by NYS Agricultural Districts Law, and others support part time operations as well.

The equine industry in the region is growing. The larger facilities that are involved with breeding, boarding and other services, as well as the residences with horses for their own use, support other businesses.

As small, organic and specialty crops become more established in the Town and in Erie County, agricultural support organizations need to adapt their programs to provide assistance to a greater diversity of farm operations. Vegetable farms and organic farms are also in need of technical support.

2. Retain sufficient high quality agricultural land to support farm operations

Agriculture is the predominant land use in the Town and a significant amount of the Town's land base consist of soils that are highly suitable for agricultural production. Issues and opportunities relating to the protection of farmland include:

- Conversion of farmland to residential and other development
- Vulnerability of rented land
- Potential for permanent protection of farmland through conservation easements

a. Encourage the permanent protection of farmland through conservation easements and purchase of development rights

Public purchase of development rights and private conservation easements protect land permanently from development and keep affordable land available for agricultural production. However, obtaining sufficient funds to purchase development rights is a significant challenge. New York State funding is currently unavailable and future funding opportunities are not known.

b. Target highest quality land for crop production

Significant areas in the Town consist of prime agricultural soils that are actively farmed. Areas determined to be most suitable for continued agricultural use consist of those high quality agricultural soils that are actively farmed and suitable for long-term protection. (See Map 8: Farmland Suitable for Protection).

While agricultural soils are especially crucial to crop production, equine and livestock operations can utilize more marginal lands for pasture. Preservation efforts should be focused on the highest quality soils, although other open areas are also important to equine and livestock operations.

c. Acknowledge dependence on rented land

Many farmers in the Town rely on rented land to support their operations. Issues relating to rented land include increasing competition from farmers for the available land, and the vulnerability of rented land to conversion.

Farmers who lease land typically make arrangements directly with a neighboring landowner. Annual land rents vary, depending on the location of the land in relation to the farmers home base, the quality of the soil and the configuration of the parcel. Some farmers are able to negotiate long-term leases.

Although many of the landowners who lease land to farmers for agricultural production benefit from agricultural use value assessment, they may pay more in property taxes than they receive in annual lease payments.

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d. Ensure landowner awareness of tax relief programs

Some landowners may not be aware of all of the tax relief programs that are available to them, such as agricultural use assessments; capital improvement exemptions, etc. Owners of land that is rented for farming, in particular, may not know that they are eligible for agricultural use assessments if their land is utilized by a qualifying farmer.

While many owners of farmland are committed to keeping the land available for agricultural use, some owners of rented land are interested in selling for development if the right opportunity arises.

e. Limited land available to purchase or rent

Many farmers would purchase additional land if it became available.

Some land that was formerly used to produce crops is now being used for livestock pasture.

The availability of affordable land is frequently a major challenge to start-up farms as well as the expansion of larger farms. Permanent protection of land through conservation easements can increase the availability of affordable land for new as well as experienced farmers. Additional programs that connect farmers seeking land to land for sale or rent may be helpful.

f. Protected land

Increased availability of land that is permanently protected by conservation easements would provide on-going opportunities for continued agricultural production in the Town.

g. Farm succession

Although many of the farm operators in the Town have plans to pass the farm on to a younger generation in the same family, others do not. Farmland owned by families that do not include a younger generation in the business is more likely to be converted to residential or other development.

However, there is interest among young farmers in establishing farm operations. Land that is protected by permanent conservation would be more affordable to such new farmers.

3. Improve the economic viability of agriculture

Agriculture is a major industry in Erie County. Agriculture-related businesses, including production agriculture, agri-tourism, agricultural support businesses, distribution and processing are key to the region and Town's long-term economic development. Productivity has increased considerably over past few decades through mechanization and other advances in technology. As there is less potential for increased productivity, increased profitability will rely on diversification and vertical integration of the food system.

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This Plan focuses on those issues that can be addressed or influenced by the Town and other local entities. It does not address commodity prices, global markets, and regulations that are outside of the control of local, County and State officials.

Issues and opportunities relating to the economic viability of agriculture involve:

- Enhance markets for local farm products
- Increase regional processing capacity
- Support value-added products and business diversification
- Support agri-tourism

a. Markets for agricultural products

Markets for milk and conventional cash crops are well-established and individual farmers and local governments have little leverage to influence them. However, there are opportunities for local action to support markets for local produce and livestock, and to expand markets for value-added products.

b. Promotion of local farm products

Demand for local food products has increased significantly in recent years and presents opportunities for local farmers. Residents of Erie County are ready markets for locally grown food. Opportunities are especially strong for producers of vegetables, fruit and animal products, and for niche products such as pasture-raised meat and organic products.

c. Direct Sales

Farmers markets and roadside stands allow consumers to purchase agricultural products directly from the farmer. Direct retail sales can increase income to the farmer by eliminating costs for distribution.

Direct sales operations also contribute to agri-tourism in the Town and Erie County.

d. Processing opportunities

Several dairy processors are located near the Town, including Upstate Niagara in West Seneca and yogurt plants in Batavia. The proximity of these processors is an advantage to local dairy farms.

Local meat producers utilize small scale processors in Strykersville and Arcade. For larger volumes, animals must be shipped to Pennsylvania – approximately a four hour drive.

e. Distribution/ Aggregation

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While larger farms have their own trucks for hauling milk and other products to markets, smaller producers need to contract for distribution. Small producers are challenged to find appropriately scaled distribution and marketing services. A current initiative at Cornell Cooperative Extension is examining opportunities to support markets for local agricultural products.

f. Value-added products

Sales of value-added products can increase farmer's profits by adding income from product sales.

Local value-added products are also sold at farmers markets in Alden, East Aurora and at other local outlets. The increasing public interest in locally-produced food has helped to support the market for these products.

For small-scale producers, it is often difficult to increase production without prohibitive investment in new equipment and employees.

g. Business diversification

On-farm processing can create additional markets for farm products, or enable farmers to meet the demands of large processors. Some farm operations may need financial or technical assistance to support expansion or diversification.

Grant funds may be available to such expansions when they will result in the creation or retention of jobs. Some local producers have received grants from USDA Rural Development or New York State. The Erie County Industrial Development Agency will work with businesses to secure such funding whenever the funds would result in job creation.

h. Agri-Tourism Opportunities

Wine, beer, farm stands and the equine industry all contribute to the tourism economy as well as the agricultural industry. The economic impacts of tourism are generated from sales of gas, lodging, food service and other products in addition to direct sales of agricultural products.

Roadside stands that sell their products directly to the public contribute to agri-tourism efforts. Equine operations and private horse farms offer recreational opportunities and scenic views to residents and visitors.

The value of agricultural products produced on farms that offer agri-tourism activities varies greatly. However, each of these farms contributes to the community by maintaining open land, promoting local farm products, and participating in the regional agricultural economy.

i. Labor

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Farmers find it difficult to find suitable willing workers. Farm work is physically demanding and requires dedication.

Immigration policies and enforcement also affect farm operations. Programs that recruit workers for other countries require fees and paperwork that reduce their viability for local farmers.

Some farmers see potential to utilize college students as farm labor in association with organized programs.

j. Financial Assistance

High start-up costs make it difficult for young people to establish farms. The cost of land and capital is very high.

Small farms find it difficult to increase production without investing in new equipment. Technical assistance to help value-added producers increase the scale of production

4. Provide information and technical assistance to farmers

a. Encourage and support beginning farmers

Although the average age of farmers is high, increasing numbers of young people have expressed interest in farming. Technical assistance for these entrepreneurs is available through programs such as the Northeast Beginning Farmer Project, which is housed at the Cornell Small Farms Program and funded by the USDA's Beginning Farmers and Ranchers Development Program, Cornell Cooperative Extension and regional organizations. (See <http://nebeginningfarmers.org/>.)

- Technical assistance with business planning
- Assistance with writing grants

b. Increase support to farm operations

This plan recommends that the Town and other local entities take measures that would support farm operations and avoid actions that would make farming more difficult. Many farm operations would benefit from continued support through technical assistance, maintenance of infrastructure, and drainage projects.

The issues relating to farm operations include:

- Managing development to keep residences away from productive farmland
- Avoiding or managing conflicts between farms and non-farming neighbors
- Reducing cumbersome regulations

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- Maintaining and improving physical infrastructure, such as roads and drainage facilities
- Providing information and technical assistance to farmers

5. Manage development to keep residences away from productive farmland

Generally, it is difficult to farm in close proximity to residential neighbors. Land use regulations and other land use planning tools should seek to direct new development away from farms/agricultural areas or, if such development is unavoidable, to design the development in such a way as to minimize impacts on farm operations. Local laws can help to resolve conflicts between farmers and non-farming neighbors.

The extension of utilities tends to encourage residential development, which can make farming more difficult. In planning for the extension of water and other public infrastructure, the potential impacts on agricultural operations should be considered and mitigated as needed. The use of agricultural data statements and lateral restrictions can help to reduce impacts created by the extension of utilities into farming areas.

a. Avoid or manage conflicts between farms and non-farming neighbors

When farm operations are in close proximity to residences, the potential for neighbor complaints can increase. Conflicts between farming and non-farm neighbors can arise even in areas that are sparsely populated, with relatively few non-farm residences located adjacent to farming operations. The report “Farms, Community and Collaboration: A Guide to Resolving Farm-Neighbor Conflict,” examines the issues relating to such conflicts and how they may be resolved through mediation.

Farm neighbors may complain about mud on the road, odors, noise, slow vehicles or other farm practices. Although these practices are protected, in most cases, by “right to farm” provisions of the NYS Agricultural Districts Law, neighbor complaints can make farming more difficult. If nuisance complaints are taken to court, farmers must undertake expensive legal defense, and divert time and energy from their farm business.

Neighbors may complain about noise associated with agri-business events, such as outdoor music performances. Whether or not public entertainment at an agribusiness is a protected practice that is protected by the NYS Agricultural Districts law is subject to interpretation by the NYS Department of Agriculture & Markets. Even for agri-businesses that are protected through the Agricultural District program, the complaint can make it hard to establish activities that may be integral to the agri-tourism.

Non-farming residents of the Town, particularly those new to the area or to country living, may perceive that certain farm practices threaten the environment. These residents may benefit

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from additional information about the extent to which farmers manage resources to protect water quality by preventing runoff of manure or chemicals, for example, or to minimize odor.

Subdivision design can affect agricultural operations

New residential lots in agricultural areas have the potential to impact agricultural drainage, access roads and other agricultural infrastructure. When new lots are created in agricultural areas, farmland may be lost and the potential for conflicts between the new residential development and the remaining farmland is increased. In addition, fields that are broken up by house lots are less efficient to farm with large equipment.

b. Reduce cumbersome regulations

The Town's land use regulations are generally supportive of agriculture. However, there are some provisions that may be inconsistent with the NYS Agricultural District Law. The Zoning Audit in Appendix B presents an analysis of the Town's land use regulations and recommends ways that the regulations can be more supportive of those agricultural operations that are defined as a "farm operation" by the NY Agricultural Districts Law.

- Difficult and expensive to comply with government regulations: food safety (milk and fresh produce), labor, pesticide and fertilizer spraying, other environmental regulations. Potential for more onerous Federal regulations for farms within the Chesapeake Bay watershed.

Many of the issues identified by stakeholders, however, are outside of the control of local officials. These include concerns about federal and state food safety regulations, immigration laws and their enforcement.

c. Maintain and improve physical infrastructure

Maintain Transportation Infrastructure

- Good access to Thruway, north-south highways
- Access to rail transportation
- Local roads need to support weight of trucks hauling agricultural products

Drainage concerns

- Some farmland requires drainage improvements to improve its productivity. The investment in such improvements is a barrier to farmers with limited access to capital.
- Some of the agricultural land in the Town requires drainage improvements in order to maintain productivity. Often, these projects require cooperation among several landowners, as easements are needed to allow access for maintenance. Any drainage

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project must comply with State and Federal regulations that address wetlands, flood hazard areas, and stream corridors.

- The County Soil & Water Conservation District advises landowners regarding the design and installation of drainage projects.

d. Access to supplies and support services

Farms in the Town benefit from the proximity of the agricultural support and supply businesses located in East Aurora, Alden and other neighboring towns. Such businesses should be encouraged to remain and/or be located in the Town.

6. Protect environmental quality and support sustainable energy usage

Environmental protection is important to farmers and non-farming residents alike. Residents as well as livestock rely on groundwater for drinking water supplies. Generating energy from renewable sources can reduce dependence on fossil fuels.

a. Groundwater quality and the environment

Agricultural operations depend upon the availability of clean water supplies. The protection of groundwater is important to Town residents as well, as both public and private drinking water supplies draw from groundwater wells. Potential projects and practices that could impact groundwater and surface water quality, such as the land spreading of sanitary sewer sludge, need to be closely examined before being permitted in the Town.

b. Renewable Energy opportunities

Some farm operations and related businesses may benefit from the installation of wind, solar, biomass or anaerobic digesters to replace conventional sources of energy. The use of sustainable energy sources has the potential to reduce long-range energy costs and lower greenhouse gas emissions.

- Cellulosic ethanol
- Solar panels funded by USDA Rural Energy Assistance Program grant
- Wind energy for on-site use
- Anaerobic digesters can convert manure into electricity
- New net-metering legislation allows energy producers to sell excess electricity to the utility
 - USDA REAP, NYSERDA grants

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- Energy efficiency incentives

Grants and loans to install Energy Efficiency & Renewable Energy grants are available through NYSERDA, USDA Rural Development, and NYS Department of Agriculture & Markets (See Appendix J.)

c. Impacts from gas drilling and mining

While leases for natural gas can generate needed income for farmers, many residents are concerned about the potential impacts of natural gas drilling and hydrofracking, in particular, on the natural environment and the character of the community.

Currently, the NYS Department of Agriculture does not consider oil/gas drilling and wind turbine development to be incompatible with agricultural operations provided that certain safeguards are put in place. The easement placed on farmland that is protected by New York State's Purchase of Development Rights program does allow gas drilling provided that any farmland that is disturbed during drilling is properly restored. For example, topsoil must be separated from the subsoil when land is excavated, then restored properly to retain its former productivity. In addition, the construction of access roads to serve gas wells should not sever farm fields or remove viable land from agricultural production.

Despite the safeguards that can retain soil productivity following gas drilling on individual parcels, intensive mining and natural gas extraction can have significant negative impacts on community character. Such impacts may detract from the rural landscape which is a significant asset to the tourism-based economy of the region.

7. Build community support for agriculture

Community residents and political leaders clearly support the agricultural industry and local farms. Sustaining and building this support is necessary to ensure the success of the policies and recommendations in this Plan. Issues relating to community support include:

- Fiscal benefits of retaining land in agricultural use compared to residential development
- Availability of local food
- Scenic value of farmland

In addition, institutions that support farmland and the agricultural industry require continued financial assistance from government and other entities. These range from the Erie County agricultural economic development programs at Cornell Cooperative Extension to local purchase of conservation easement programs.

The following assets in the community were identified at the first public workshop on this Plan:

- Considerable expertise among farmers as well as institutions that support farmers – academia, businesses, government agencies

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- Understanding and support of agriculture by County and local politicians is currently strong. Concerns that political support for agriculture may diminish as population changes.
- Past and potential loss of funding for programs that support agriculture.
- Agricultural heritage: Farming is part of the Town's history and community character (noted in Comprehensive Plan)
- Build on the local food movement to generate support for local farms
- Protection of farmland can benefit communities fiscally, as documented by Cost of Community Services Studies.
- Environmental/ Animal rights activists can impact farm operations
- Need for improved coordination
- Coordination among agricultural support entities: Cooperative Extension, SWCD
- Continue and expand public education programs

Public education

While the community generally appreciates the open space and scenic views afforded by plentiful farmland, the general public has little awareness of the economic and fiscal benefits that agriculture provides to the community. These benefits include:

- the economic impact of agriculture as an industry
- the production of local food
- lower cost of community services as compared to residential development
- scenic views of open land

L. Recommended Actions

Goal 1. **Permanently protect high quality farmland for continued agricultural production**

Permanent protection of farmland, provided that farming remains financial viable, is the most effective way that local entities and landowners can support agriculture over the long term. Permanent conservation easements remove the development rights from land, removing development pressure and creating land that is more affordable for purchase by farmers.

Recommended Actions

- a. **Purchase additional conservation easements under the Town's Purchase of Agricultural Conservation Easements (PACE) program.**
 - i. Establish a Capital Reserve Fund or allocate Town funds for PACE.
 - ii. Publicize the program and solicit proposals from landowners.
 - iii. Apply the criteria specified in this Plan to target the highest rated agricultural parcels for inclusion in the program.
 - iv. Retain a qualified technical consultant to administer the easement preparation and negotiations.
 - v. Seek additional funding from Erie County, private foundations and other sources to support the PACE program.
 - vi. Sponsor applications to NYS for Purchase of Development Rights (PDR) and/or Federal Farm and Ranch Protection Program as funding becomes available.
- b. **Encourage landowners to donate conservation easements to a land trust.**
 - i. Provide information to landowners who may choose to donate conservation easements to a land trust, potentially as part of estate planning.
 - ii. Encourage the Western New York Land Conservancy and other land trusts to discuss with landowners the potential benefits of easement donation and to encourage private donation of conservation easements.

Goal 2. Improve economic conditions for farming

Agriculture is a business and cannot continue unless it is economically viable. Although most of the economic factors that affect farming as a business that are well outside the influence of local governments (prices, regulations, global markets, etc.), local governments can support the business of farming through land use regulations, administering tax exemptions and supporting local markets for agricultural products.

Recommended Actions

a. Encourage agri-tourism.

- i. Periodically publish and distribute a local business guide that includes farm markets, roadside stands and other agriculture-related businesses (Marilla Business Directory.)
- ii. Collaborate with neighboring Towns, Erie County Cooperative Extension and other entities to support and promote farm markets, roadside stands and other agri-tourism enterprises on a region basis.
- iii. Maintain land use regulations and development policies that support agri-tourism businesses while protecting the rural character of the community and environmental quality.

b. Encourage landowners and farm business operators to obtain all applicable real property tax exemptions and incentives.

- i. Identify owners of land that is rented for agricultural production who do not receive agricultural use assessments and mail them information about the program.
- ii. Ensure that information about various tax relief programs is available in the Assessor's Office and elsewhere at the Town Hall.
- iii. Encourage the Town Assessor to inform farmland landowners about tax relief programs that they may be eligible for, including information about deadlines for applying. Include information about exemptions in the Town's annual mailing regarding agricultural assessments.

c. Support the development of value-added manufacturing of agricultural products.

- i. Remove zoning restrictions on farm-based animal processing, as recommended in the Zoning Audit, in order to accommodate additional value-added production and support markets for local products.

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- ii. Provide information to entrepreneurs about sources of technical and financial assistance, such as the resources available through Cornell Cooperative Extension of Erie County.
- d. Work with County and State agencies to develop or expand markets for agricultural products.**
- i. Work with Erie County and regional entities to retain and attract food processors, distributors and other agriculture-related industrial businesses to the region.
 - ii. Provide information about grants and loans administered by the IDA for the creation, expansion or improvement of agriculture-related businesses that create or retain jobs
- e. Encourage residents and institutions to purchase local farm products.**
- i. Establish a policy for the Town to purchase local agricultural products whenever possible.
 - ii. Encourage the local schools, churches and other institutions to increase purchases of local farm products.
- f. Modify zoning regulations to better support agriculture (See Zoning Audit.)**
- i. Clarify definitions of agricultural uses.
 - ii. Add agricultural uses that are part of a farm operation in a certified Agricultural District to the list of permitted use in the RR Rural Residential District.
 - iii. Clarify that agriculture-related fencing is limited to 8 feet in height.
 - iv. Clarify that parcels with less than 10 acres may be used for farming if they are part of a farm operation that meets the threshold for protection under the NYS Agricultural Districts Law.
 - v. Include commercial stables that meet the threshold for protection in the NYS Agricultural Districts Law in the definition of “agricultural use” or “farm.”

Goal 3. Increase public understanding and support of agriculture in the community.

Education and awareness programs help residents to celebrate local agriculture, learn about the complexities of the agricultural industry, to dispel misconceptions, and to better understand the limited role that local government has to regulate farm practices.

Recommended Actions

- a. Continue to sponsor the Town's annual Agriculture Day at the Pavilion.
- b. Prepare and distribute a "fact sheet" that includes information about standard farm practices and the right-to-farm provisions of the NYS Agricultural District Law.
- c. Continue to promote and apply the Town's local Right to Farm Law.
- d. Change name of Marilla Conservation Advisory Board to "Marilla Agriculture & Conservation Advisory Board."
- e. Provide information to residents and local schools about programs administered by New York State, Erie County, Cornell Cooperative Extension, and other agencies that raise public awareness of farming practices and the economic significance of agriculture, including educational activities for school children.

Goal 4. Manage non-agricultural development to minimize impacts on agriculture.

New non-agricultural development in Marilla has the potential to remove high quality soils from agricultural production. Residential development in close proximity to farms can lead to conflicts between farmers and non-farming neighbors. Local governments can help to minimize these impacts through local zoning and *subdivision* regulations and management of utility extensions.

Recommended Actions

- a. **Apply zoning and subdivision regulations to ensure that new residential development in the Town has a minimal impact on agricultural operations.**
 - i. Rezone certain areas that are less suitable for agricultural use from Agricultural (A) to Rural Residential (RR) and a corresponding amount of land that is more suitable for agricultural use from RR to A. See Map 13 as a guide.

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- ii. Develop a subdivision design book to demonstrate how farmland can be retained as part of a conservation subdivision design. Incorporate clear guidelines into the Town's subdivision regulations that help the Planning Board and the landowner/ developer to site new house lots in a way that minimizes the potential for conflict with farming.
 - iii. Amend subdivision regulations to authorize the Planning Board to review subdivisions that create one or more new lots.
 - iv. Modify subdivision regulations to authorize the Planning Board to require conservation (clustered) subdivisions where they would effectively preserve high quality farmland.
- b. Avoid or reduce impacts on agricultural operations from infrastructure extensions.**
- i. Consider impacts of increased development on agriculture relating to extensions of sewer or water services.
 - ii. When water lines are extended through land in a State-certified Agricultural District, adopt lateral restrictions to limit residential hookups.

Goal 5. Promote environmental protection and sustainability

Agricultural production both relies on a healthy natural environment and has the potential to affect the environment. Local governments can encourage participation in Federal, State and regional programs to protect the environment and promote sustainable use of natural resources.

Recommended Actions

- a. Support and monitor environmental protection, sustainable energy and drainage improvement programs administered by other entities.
 - i. Work closely with NYS DEC during the review of solid waste disposal and other activities that may impact groundwater quality.
 - ii. Encourage farmers to participate in the Agricultural Environmental Management Program and other programs that protect environmental quality on farms.
 - iii. Provide information to farmers about incentives to install renewable energy facilities and improve energy efficiency.

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- iv. Work with the Erie County Soil & Water Conservation District to identify, obtain funding for, and construct drainage projects that would benefit agricultural operations in the Town.
- b. Minimize the impact on farmland from gas wells and other utility expansions.
 - i. Provide information to farmland owners and gas exploration companies to ensure that both parties are aware of the procedures that need to be followed to properly manage agricultural soils during and after gas well drilling and other land disturbance activities.
 - ii. Enact local laws to restrict large scale mining and drilling where such activities would negatively impact the rural character and landscape of the Town.

Goal 6. Maintain partnerships with governmental and not-for-profit agricultural support agencies.

Numerous County, State and regional agencies administer numerous programs to support area farmers and the agricultural industry. These include the NYS Department of Agriculture & Markets, Cornell Cooperative Extension of Erie County, Erie County Agricultural and Farmland Protection Board, Erie County Soil and Water Conservation District, USDA Natural Resources Conservation Service, Erie County Industrial Development Agency, Erie County Department of Economic Development and Planning and other agencies. Local governments can help to publicize the programs these agencies offer. Often, these programs would benefit from local promotion.

Recommended Actions

- a. **Compile and distribute information about programs administered by Erie County agencies at the Town Hall and through the Town's website.**
- b. **Maintain communications with Erie County agencies about programs to assist and support farmers and farm-related businesses in the Town.**

M. Implementation Strategy – Time Frame and Responsible Entities

Policies & Recommended Actions	Short Term Action 0-3 years	Long Term Action 3-7 years	Ongoing Action	Responsible Entity	Other Involved Parties
Goal 1. Permanently protect high quality farmland for continued agricultural production					
a. Purchase additional conservation easements under the Town’s Purchase of Agricultural Conservation Easements (PACE) program.					
i. Establish a Capital Reserve Fund or allocate Town funds for PACE.	X			Town Board (funding) Conservation Board (administration)	Land Conservancy of WNY
ii. Publicize the program and solicit proposals from landowners.	X			Town Board	Land Conservancy of WNY
iii. Apply the criteria specified in this Plan to target the highest rated agricultural parcels for inclusion in the program.	X			Town Board	Conservation Board; Land Trusts
iv. Retain a qualified technical consultant to administer the easement preparation and negotiations.	X			Town Board	Land Conservancy of WNY
v. Seek additional funding from Erie County, private foundations and other sources to support the PACE program	X			Town Board	Erie County; Land Conservancy of WNY
vi. Sponsor applications to NYS for Purchase of Development Rights (PDR) and/or Federal Farm and Ranch Protection Program as funding becomes available.	X			Town Board	Land Conservancy of WNY
b. Encourage landowners to donate conservation easements to a land trust..					
i. Provide information to landowners who may choose to donate conservation easements to a land trust, potentially as part of estate planning.			X	Land Conservancy of WNY	Conservation Board
ii. Encourage the Western New York Land Conservancy and other land trusts to discuss with landowners the potential benefits of easement donation, potentially as part of estate planning.			X	Conservation Board	Land Conservancy of WNY

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Policies & Recommended Actions	Short Term Action 0-3 years	Long Term Action 3-7 years	Ongoing Action	Responsible Entity	Other Involved Parties
Goal 2. Improve economic conditions for farming					
a. Encourage agri-tourism					
i. Periodically publish and distribute a local business guide that includes farm markets, roadside stands and other agriculture-related businesses (Marilla Business Directory.)	X		X	Town Board	Conservation Board
ii. Collaborate with neighboring Towns, Erie County Cooperative Extension and other entities to promote agri-tourism regionally.	X		X	Conservation Board	CCE
iii. Maintain land use regulations and development policies to support agri-tourism businesses while protecting the rural character of the community and environmental quality.			X	Town Board	Planning Board
b. Encourage landowners and farm business operators to obtain all applicable real property tax exemptions and incentives.					
i. Identify owners of land that is rented for agricultural production who do not receive agricultural use assessments and mail them information about the program.	X			Town Assessor	Town Board; Conservation Board
ii. Ensure that information about various tax relief programs is available in the Assessor's Office and elsewhere at the Town Hall.			X	Town Assessor	Town Board; Conservation Board
iii. Encourage the Town Assessor to inform farmland landowners about tax relief programs that they may be eligible for (agricultural structures, etc.), including information about deadlines for applying. Include information about exemptions in the Town's annual mailing regarding agricultural assessments.			X	Town Assessor	Town Board; Conservation Board
c. Support the development of value-added manufacturing of agricultural products.					
i. Remove zoning restrictions on farm-based animal processing, as recommended in the Zoning Audit, in order to accommodate additional value-added production and support markets for local products.			X	Town Board	Planning Board

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Policies & Recommended Actions	Short Term Action 0-3 years	Long Term Action 3-7 years	Ongoing Action	Responsible Entity	Other Involved Parties
ii. Provide information to entrepreneurs about sources of technical and financial assistance, such as the resources available through Cornell Cooperative Extension of Erie County.			X	Conservation Board	Cornell Cooperative Extension; USDA RD; Erie County IDA
d. Work with County and State agencies to develop or expand markets for agricultural products.					
i. Work with Erie County and regional entities to retain and attract food processors, distributors and other agriculture-related industrial businesses to the region.			X	Town Board	Cornell Cooperative Extension
ii. Provide information about grants and loans administered by the IDA for the creation, expansion or improvement of agriculture-related businesses that create or retain jobs			X	Conservation Board; Town Board	Erie County IDA
e. Encourage residents and institutions to purchase local farm products.					
i. Establish a policy for the Town to purchase local agricultural products whenever possible.			X	Town Board	Conservation Board
ii. Encourage the local schools, churches and other institutions to increase purchases of local farm products.			X	Conservation Board	School Districts, local organizations
f. Modify zoning regulations to better support agriculture (See Zoning Audit.)					
i. Clarify definitions of agricultural uses.	X			Town Board	Planning Board
ii. Add agricultural uses that are part of a farm operation in a certified Agricultural District to the list of permitted use in the RR Rural Residential District.	X			Town Board	Planning Board
iii. Clarify that agriculture-related fencing is limited to 8 feet in height.	X			Town Board	Planning Board
iv. Clarify that parcels with less than 10 acres may be used for farming if they are part of a farm operation that meets the threshold for protection under the NYS Agricultural Districts Law.	X			Town Board	Planning Board
v. Include commercial stables that meet the threshold for protection in the NYS Agricultural Districts Law in the definition of "agricultural use" or "farm."	X			Town Board	Planning Board

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Policies & Recommended Actions	Short Term Action 0-3 years	Long Term Action 3-7 years	Ongoing Action	Responsible Entity	Other Involved Parties
Goal 3. Increase public understanding and support of agriculture in the community.					
Recommended actions					
a. Continue to sponsor the Town’s annual Agriculture Day at the Pavilion.			X	Conservation Board	Town Board; Town Clerk
b. Prepare and distribute a “fact sheet” that includes information about standard farm practices and the right-to-farm provisions of the NYS Agricultural District Law			X	Conservation Board	Town Board; Town Clerk
c. Continue to publicize and apply the Town’s local Right to Farm Law.			X	Town Board	Conservation Board Town Clerk
d. Change name of Marilla Conservation Advisory Board to “Marilla Agriculture & Conservation Advisory Board.”	X			Town Board	Conservation Board
e. Provide information to residents and local schools about programs administered by New York State, Erie County, Cornell Cooperative Extension, and other agencies that raise public awareness of farming practices and the economic significance of agriculture, including educational activities for school children.			X	Conservation Board	School Districts; Cornell Cooperative Extension; Soil & Water Conservation District; school districts
Goal 4. Manage non-agricultural development to minimize impacts on agriculture.					
a. Apply zoning and subdivision regulations to ensure that new residential development in the Town has a minimal impact on agricultural operations.					
i. Rezone certain areas that are less suitable for agricultural use from Agricultural (A) to Rural Residential (RR) and a corresponding amount of land that is more suitable for agricultural use from RR to A. See Map 13 as a guide.	X			Town Board	Planning Board
ii. Develop a subdivision design book to demonstrate how farmland can be retained as part of a conservation subdivision design. Incorporate clear guidelines into the Town’s subdivision regulations that help the Planning Board and the landowner/ developer to site new house lots in a way that minimizes the potential for conflict with farming.	X			Planning Board	Erie County Planning
iii. Amend subdivision regulations to authorize	X			Town Board	Planning Board

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Policies & Recommended Actions	Short Term Action 0-3 years	Long Term Action 3-7 years	Ongoing Action	Responsible Entity	Other Involved Parties
the Planning Board to review subdivisions that create one or more new lots.					
iv. Modify subdivision regulations to authorize the Planning Board to <u>require</u> conservation (clustered) subdivisions where they would effectively preserve high quality farmland.	X			Town Board	Planning Board
b. Avoid or reduce impacts on agricultural operations from infrastructure extensions.					
i. Consider impacts of increased development on agriculture relating to extensions of sewer or water services.			X	Town Board	Town Engineer
ii. When water lines are extended through land in a State-certified Agricultural District, adopt lateral restrictions to limit residential hookups.			X	Town Board	Town Engineer
Goal 5. Promote environmental protection and sustainability					
a. Support and monitor environmental protection, sustainable energy and drainage improvement programs administered by other entities.					
i. Work closely with NYS DEC during the review of solid waste disposal and other activities that may impact groundwater quality.			X	Planning Board; Town Board	NYS DEC
ii. a. Encourage farmers to participate in the Agricultural Environmental Management Program and other programs that protect environmental quality on farms.			X	Conservation Board	Soil & Water Conservation District
iii. Work with Cooperative Extension, NYSERDA, USDA Rural Development and other entities to provide information to farmers regarding financial assistance programs to install renewable energy facilities			X	Conservation Board	Cornell Cooperative Extension; USDA RD; NYSERDA
iv. Work with the Erie County Soil & Water Conservation District to identify, obtain funding for, and construct drainage projects that would benefit agricultural operations in the Town.			X	Conservation Board	Soil & Water Conservation District

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Policies & Recommended Actions	Short Term Action 0-3 years	Long Term Action 3-7 years	Ongoing Action	Responsible Entity	Other Involved Parties
b. Minimize the impact on farmland from gas wells and other utility expansions.					
i. Provide information to farmland owners and gas exploration companies to ensure that both parties are aware of the procedures that need to be followed to properly manage agricultural soils during and after gas well drilling and other land disturbance activities.			X	Conservation Board; Town Board	Cornell Cooperative Extension
ii. Enact local laws to restrict large scale mining and drilling where such activities would negatively impact the rural character and landscape of the Town.	X			Town Board	Planning Board
Goal 6. Maintain partnerships with governmental and not-for-profit agricultural support agencies					
Recommended Actions					
a. Compile and distribute information about programs administered by Erie County agencies at the Town Hall and through the Town's website.			X	Conservation Board; Town Clerk	Erie County; Cornell Cooperative Extension; SWCD
b. Maintain communications with Erie County agencies about programs to assist and support farmers and farm-related businesses in the Town.			X	Conservation Board; Town Board	Erie County; Cornell Cooperative Extension; SWCD

N. Implementation Strategy

1. Administrative Framework

The Town Conservation Board will be responsible for the land protection and public awareness tasks recommended in this Plan. The Town Planning Board will apply subdivision review standards and will work closely with the Town Board to update land use regulations as recommended in the zoning audit. The duties of the Conservation Board include the following:

- Maintain communications with the farm operators and farmland owners.
- Advise other boards regarding issues relating to agriculture and farmland protection. Refer these boards to appropriate sources for information.
- Maintain information about conservation programs available to farmland owners, as well as information on estate planning and land conservation programs.
- Work with local retailers, restaurants and institutions as well as farmers to help bring local crops to local markets.
- Coordinate the recommended public education activities.

2. Formal Approval Process

The plan was referred to the Erie County Agricultural and Farmland Protection Board for approval. The Town Board held a public hearing on the proposed plan on December 18, 2013. The Town subsequently approved the Plan and submitted it to the Commissioner of the NYS Department of Agriculture and Markets for final approval.