

The Ulster County Agricultural and Farmland Protection Board (AFPB) has conducted a review of issues related to the continuation of Agricultural District #4. The AFPB finds that the majority of the land within the District continues to be viable agricultural land and recommends the recertification of Agricultural District #4 with modifications to remove 15 parcels as a result of land use changes.

Section 303-a(2c), Article 25AA of Agriculture and Markets Law requires the AFPB to consider the following factors in making its recommendation to recertify the District,

- 1. The nature and status of farming and farm resources within the district, including the total number of acres of land and the total number of acres of land in farm operations in the District**

Agricultural District #4, the district serving northern Ulster County, is located within the Towns of Marbletown, Hurley, Ulster, Kingston, Saugerties, Woodstock, Olive and Shandaken. The District currently comprises 10,345 acres in 337 parcels.

The District extends from Marbletown northward into Hurley and Ulster along the lands associated with the Esopus Creek and its floodplains that generally forms the District's eastern limit. In Ulster, a continuous band of parcels is interrupted in an area where Interstate 87 (New York State Thruway), Interstate 587, State Route 28 and U.S. Highway 209 connect with one another. Westward, the District becomes more dispersed with around two dozen parcels scattered across Kingston, Woodstock, Olive and Shandaken. Northward, the District moves into the Town of Saugerties, continuing to encompass land around the Esopus Creek, until it turns eastward toward the Village of Saugerties, without entering the Village. Parcels located elsewhere in the Town of Saugerties tend to be found along its perimeter with a concentration found along the border with Greene County.

Field and vegetable crops are the most prevalent type of agriculture in Agricultural District #4 – corn, greens and hay in particular. Field crop production is located mostly along the Esopus Creek, along with four dairy farms in the District. Several farms in the District have a greater diversity of crops and are classified as truck crop farms under the Real Property Tax Classification system.

The areas outside of the Esopus Creek and its floodplain see a variety of agriculture besides field crops. The District also contains several horse farms. An apiary was included in the District in 2009. A diversity of livestock operations are found in the District including cows, bison, goat, sheep, poultry and rabbit farms, sometimes in combination with one another.

A diverse set of agricultural operations have located in the areas of Agricultural District #4 in the area outside of the Esopus Creek floodplain. Northern portions of the District accommodate a

full range of agricultural operations. The heavily forested areas are utilized for sap production i.e. maple syrup. Recent annual inclusions have added a few sap production operations. Christmas tree farms are found in the mountainous, northern reaches of the District with additions in 2011 and 2012. The District has also added operations focusing on herbs and garlic since its last review. The District also contains a few orchards and horticultural operations. In 2013, a high-tech greenhouse operation was added to the District in Marbletown near the border with Olive. The greenhouse represents a trend in agricultural operations throughout the County with its focus on supplying high-end restaurants and stores. Also in 2013, a small plot intensive agricultural operation in Woodstock was added where raised-planting beds and a greenhouse are used to grow dozens of varieties of crops. Another planned, land-intensive agricultural operation in Shandaken is in the agricultural district inclusion process for 2014.

Approximately 7,800 acres of land are in active farming in Agricultural District #4. Total acreage in the District has remained constant for the last 16 years at approximately 10,000 acres.

2. The extent to which the district has achieved its original objectives

Agricultural District #4 continues to achieve its objectives. It remains a district with significant viable land for agriculture that contributes not only to the County's, but the larger, regional agricultural economy. It is also an area that has seen innovations to agricultural practices and technology.

A Variety of Agricultural Operations

Much of the land within Agricultural District #4 continues to remain viable for agriculture. At the beginning of the last review in 2006, Agricultural District #4 had 295 parcels and 10,917 acres, and after the review, 301 parcels and 9,665 acres. For the 2014 review, the District has started with 10,345 acres and 337 parcels and the AFPB recommendation is for the removal of 83 acres and 15 parcels. The AFPB recommendation would reduce the size of the District to 10,262 acres and 322 parcels leaving the District a little larger than after the 2006 review. The agricultural corridor along the Esopus Creek remains largely intact. Most of the additions over the years have occurred outside the Esopus Creek corridor.

The agricultural activity in the District serves both Ulster County and the larger region. Davenport Farms for example supplies area supermarket chains. Recent inclusions into to the District (and others in Ulster County) look to sell exclusively to high-end stores and restaurants throughout the Hudson Valley and Greater New City Metropolitan Area. Many farms also retail their products at farmers markets and farm stands, which create healthy eating habits and draw tourists to the area. Horse farms in the District are also part of this tourist infrastructure and add to the critical mass needed for the viability of agricultural service industry. In other words, horse farms add help keep businesses like equipment and feed suppliers open, which is a benefit to other agricultural operations in the region.

Staying Competitive on an Evolving Landscape

The agricultural economy in the District is an increasingly complex and diverse one. An increasing number of the District's agricultural operations focus on the production of valuable items to stay competitive on relatively small parcels of land. Sunfrost Farms in Woodstock uses raised-planting beds and a greenhouse on about an acre of land to raise dozens of varieties of crops. It sells what it produces in a grocery and eatery on site, which includes a number of value-added items. It even produces enough to sell to other grocers. It has been in business for around four decades, but evolved into its current form to attract tourist dollars and remain a profitable enterprise.

Ulster County's approximately twenty remaining dairies tend to specialize. A number focus on goats' milk as opposed to that from cows. Ulster County's dairy farms are smaller than that in other parts of New York State, and the rest of the country for that matter, and rely on value-added products to improve profitability. FC Brooks and Sons Dairy Farm in Marbletown is an excellent example of a dairy in Ulster County that specializes. It specializes in hormone and antibiotic-free, raw cows' milk and also makes dairy products from this raw milk like cheese. It has also diversified into strawberries and garlic, and rents other lands it owns to bring in income.

The high-tech greenhouse mentioned earlier lies on a twenty-seven and a half acres parcel of land. Only about an acre of this land is devoted to the greenhouse and associated equipment. Various greens are grown on rolling platforms with the remainder grown along the walls. Three of the six rolling platforms were installed at the time of the 2013 inclusion in the District. The greenhouse is also designed to produce four different climate zones.

In certain respects, Agricultural District #4 has even become a proving ground for agriculture. The District in 2013 became home to the Hudson Valley Farm Hub located on 1,255 acres at Gill Farms in Hurley. The Farm Hub was purchased the NoVo Foundation and will be managed the Local Economies Project, both non-profit organizations. The Farm Hub has five aims:

- Provide training for new and existing farmers in sustainable agriculture and marketing
- Support research and demonstration of new technologies and practices that promote resiliency
- Assist farmers with secure and affordable access to land
- Assist farmers and entrepreneurs with access to capital to establish and grow their operations
- Serve as an educational resource for advances in local food and farming in the Hudson Valley

The Local Economies Project also provides funding to farm support businesses such as Farm-to-Table Co-Packers, a packaging and processing facility for agricultural products located in the Town of Ulster.

Agricultural District #4's farms have, and should continue to be, important contributors to the region's agricultural economy. The District is also taking on a new dynamic by becoming a center of innovation in agriculture. As a variety of agricultural operations continue to take root here, this transforms the nature of agriculture in the District.

3. The extent to which county and local comprehensive plans, policies and objectives are consistent with and support the district

The Ulster County Legislature adopted *the Ulster County Agricultural and Farmland Protection Plan* in 1997. The Plan identifies state certified agricultural districts as a key tool for preserving farmland. The Plan encourages farm participation in the New York State Agricultural District Program, promotes land use compatibility and recommends strategies and practices that increase agricultural viability. Five of the eight towns in Agricultural District #4 have established a comprehensive set of policies for agriculture as part of their long-range, land-use planning.

Limited Focus on Agriculture in Comprehensive Planning

Within the District, three of the towns' comprehensive plans provide little support or mention agriculture. Shandaken makes passing references to farming in the discussion of its history and in citing statistics for employment and land acreage. Olive does not have a comprehensive plan. Kingston makes no mention of agriculture in its comprehensive plan. Woodstock includes references to agriculture and acknowledges that small farms need protection and encourages more of them. Its plan calls for looking into the agricultural potential of the Hamlet of Wittenberg, protecting open space that had once been farms and establishing a tax break for farmers making more than \$10,000. It also cites areas that would be good for farm markets.

Considerable Focus on Agriculture in Comprehensive Planning

Hurley devotes an entire section to agriculture in its comprehensive plan. Hurley expressly states that its goal is to maintain farmland. Its comprehensive plan recommends amending the zoning statute "to promote production of local food and other agricultural products." Its plan also states "that the town does not intend to unreasonably restrict or regulate farm operations." Hurley does have a very specific recommendation regarding agriculture, which is to establish a local right to farm law. Most agriculture in Hurley is located in the Esopus Creek/Route 209 corridor, generally away from residential neighborhoods. Development is unlikely to encroach on this agricultural corridor given floodplains and other environmental constraints. A local right-to-farm law would take on an added importance if more agricultural operations were to open in other areas of Hurley.

The Town of Ulster also devotes a whole section of its comprehensive plan to agriculture. Its comprehensive plan makes several recommendations focused on preserving agriculture. Those directly related to land use controls include:

- Identify areas where agricultural activity should be supported over the long-term
- Develop land-use policies aimed at retaining large blocks of farmland that are able to support a variety of farm businesses
- Create an A-G Agricultural Zoning District
- Review land-use controls to ensure they are agriculture friendly

Unfortunately, the zoning statute for Ulster does not reflect these recommendations. Agriculture is located in zoning districts allowing a full spectrum of commercial and residential development in prime agricultural lands along the Esopus Creek. Yet for now, the economics of agriculture has allowed lands devoted to it to remain constant in spite of this permissive zoning. Ulster's comprehensive plan recommendations concerning agriculture need to be implemented.

Saugerties does not devote a section of its comprehensive plan to agriculture, however, it ties agricultural protection policies to geographic features. Soils, in particular, play an important role in how Saugerties treats agricultural protection. The joint town and village comprehensive plan for Saugerties places considerable emphasis on natural resource protection. Prime agricultural soils are cited as important natural resources that should have measures taken to protect them. As recommended in its plan, Saugerties should “[i]mplement land-use policies and regulations that provide for uses and densities, which are compatible with the soil’s ability to support development, while protecting prime agricultural soils, existing farmland and farming operations wherever possible.” Floodplains are also cited as natural resources given their utility for recreational corridors and agriculture. Saugerties overarching policy is to “[p]reserve and maintain agricultural lands and support the economic viability of agriculture.” Such a policy does not make Saugerties distinctive in Agricultural District #4 or elsewhere, but the fact that agricultural protection policy is tied to something as crucial as soils is distinctive.

Marbletown has done the most long term planning for agriculture. Marbletown published its own farmland protection plan. *The Marbletown Agricultural and Farmland Protection Plan* builds on the Town’s policy of supporting agriculture with several broad recommendations to protect and promote it. Each recommendation has a list of proposed actions. In general, the recommendations have the aim of establishing farmland protection programs and improving agricultural economic development. These recommendations also have the aim of integrating agricultural friendly policies not just into the Town’s land use laws, but in its operating activities,

too. This comprehensive agricultural policy is reflected in Marbletown's zoning statute, which integrates state certified agricultural districts with local zoning.

4. The degree of coordination between local laws, ordinances, rules and regulations that apply to farm operations in such district and their influence on farming

Olive, Shandaken, Woodstock and Ulster

Several towns allow agricultural operations in every zoning district. Olive, Shandaken, Woodstock and Ulster are towns that permit agriculture in every zoning district. Shandaken and Woodstock have supplementary regulations for agricultural operations in their zoning statutes, too. These regulations address setbacks for buildings and for locating manure and or other dust- or odor-producing substances near adjacent properties. These regulations also address the number of animals allowed on a piece of land. Olive addresses setbacks for manure and other dust- or odor-producing substances right alongside the regulations that deal with zoning districts themselves. Despite allowing agricultural operations in every zoning district, Ulster has development and zoning issues that make it different from other towns in Agricultural District #4, and are discussed in detail below.

Olive, Shandaken and Woodstock deal specifically with farms stands. Farm stands come under special permit procedures and site plan review in Olive as commercial uses, and are allowed in every zoning district. In Shandaken, farm stands are permitted by right in all commercial districts and by special permit in residential districts. Woodstock has very specific farm stand standards as part of its supplementary regulations for agricultural operations, which are designed to keep such operations small (150 square feet). Woodstock allows farm stands in three of its six residential districts and one of its three commercial districts.

Town of Kingston in Comparison to Similar Towns

The zoning statutes for Olive, Shandaken, Woodstock and Ulster do not differentiate between crop growing and livestock agriculture. This has the potential to create land use conflicts with neighbors - especially when dealing with livestock - in residential areas with small minimum lot size i.e. one acre or smaller. The Town of Kingston, a town very similar to Olive, Shandaken and Woodstock in its rural residential character and mountainous terrain, does not allow agricultural activity in a particular residential area, save for farm stands. This part of town takes up very little land area and is distinguishable from the rest of town by its concentration of single-family homes. Everywhere else in Kingston, agricultural operations are allowed.

Hurley, Marbletown and Town of Saugerties

Other towns in Agricultural District #4 also look to minimize land use conflicts through separation of certain agricultural operations and residential uses through zoning. In particular, towns look to limit where livestock and poultry operations can locate. Hurley, Marbletown and the Town of Saugerties do this by classifying crops from livestock separately in their zoning statutes, whereas they all allow crop growing in every district. Marbletown in its supplementary regulations for agriculture allows for livestock in any zoning district provided the farm is in a state certified agricultural district and certain standards are followed.

In general, though, Hurley, Marbletown and Saugerties restrict livestock agriculture to areas that require larger minimum lot sizes, and as a result, not as densely developed. This makes it less likely for activities on one property to be a nuisance to an adjacent one. Marbletown restricts livestock agriculture to the more rural areas in less dense zoning districts, as do Hurley and Saugerties. These zoning districts, with their larger lot sizes, encompass large portions of the three towns with the districts that prohibit livestock agriculture being small in comparison.

Other than its integration of state certified agricultural districts into local zoning, Marbletown's supplementary regulations are similar to Shandaken's and Woodstock's. Marbletown's supplementary regulations address setbacks for buildings and odor producing substances, too. Marbletown's supplementary regulations are unique in its policy for granting variances to agricultural operations. Marbletown allows more latitude in an agricultural operation's request for a variance even if it is not within an agricultural district. This is opposed to granting the minimum variance necessary as customary by zoning board of appeals.

Both Marbletown and Hurley limit where farm stands can locate in the same manner as livestock agriculture. Farm stands have their own supplementary regulations in Saugerties. The supplementary regulations for farm stands focus largely on vehicular traffic i.e. parking and access to and from a site. In Saugerties, the supplementary regulations for agricultural operations in general are similar to ones found elsewhere in the District with their emphasis on setbacks for buildings and for odor-producing substances.

Saugerties also has one land use category for *soil preparation crop, farm labor management and landscape and horticultural services* and another for *farm equipment rental, sales and repair*. Both land-use categories are allowed in most zoning districts by site plan review and sometimes even permitted by right. Saugerties treats horticulture as its own distinct land use allowing it in every zoning district, but with site plan review. Kennels, categorized as agricultural and allowed by special permit, are not allowed in the two zoning districts with the most compact residential development, but are allowed everywhere else. Unlike in many other zoning statutes, kennels are

considered businesses for both “boarding and breeding”, not just boarding. Veterinary hospitals, also categorized as agricultural, are regulated the same way as kennels.

Finally, Saugerties has a local right-to-farm law. Saugerties’s right-to-farm law is similar to New York State’s. Both provide for a quasi-judicial body to resolve nuisance disputes between those operating a farm and neighbors claiming a nuisance. Both laws provide an opportunity to resolve disputes in a manner that is less costly than litigation. Both employ sets of standards about agricultural practices to guide decision making. Under Saugerties’ Law this, entails determining what is reasonably necessary to conduct the business of agriculture. For any agricultural practice, in determining the reasonableness of the time, place and methodology of such practice, due weight and consideration shall be given to both traditional customs and procedures in the farming industry, as well as to advances resulting from increased knowledge and improved technologies.

These two laws establish a forum to resolve disputes where agricultural practices are given full consideration. Both provide a forum where the necessity of particular agricultural practices are weighed against whether or not they are reckless and pose a threat to public health and safety. This creates a fairer forum for farmers to make their case when disputes with neighbors arise.

Saugerties and Marbletown have the most sophisticated agricultural regulations. This level of sophistication goes along with both towns having a large percentage of their lands devoted to agriculture and both having a range of agricultural operations. Other towns in Agricultural District #4 have simpler regulations, but ones that reflect much lower levels agricultural activity. Whatever the level of sophistication, most of the towns in Agricultural District #4 are clear in what they are looking to achieve. They have regulations that someone can easily follow and apply them to a particular property. The one exception, though, is Ulster where land use controls are in seeming conflict with the comprehensive plan.

Town of Ulster, Zoning and Agriculture

Ulster sees a range of land development pattern that include suburban-style subdivisions, manufacturing and commercial uses. These are permitted in the same zoning districts as agriculture and more importantly on lands with prime soils. Ulster would be better served with a clearer approach to its agricultural land use regulations recognizing certain areas as primary agricultural areas. Ulster’s zoning statute also has one land-use category for “Agricultural Operations” and another for “Farming Operations”. “Agricultural Operations” are permitted by right in every zoning district. “Farming Operations” are permitted by right in every zoning district except the residential zoning district with the densest development. By using two separate categories, Ulster sees “Agricultural Operations” and “Farming Operations” as two distinct, albeit similar, land uses. Exactly how they differ is unclear, though. “Agricultural” is

never defined let alone differentiated from “farming”, this adds to the confusion as agriculture and farming are synonymous.

Even if Ulster’s zoning statute differentiates agriculture between crops and livestock, it may still need to reconsider allowing agriculture by right in every zoning district. Site plan review or special permits may be appropriate for certain types of agriculture in certain zoning districts. Conversely, areas with significant agriculture, such as along the Esopus Creek, would be well served with zoning regulations that limit development. This is in keeping with goals listed in the comprehensive plan for Ulster. Changes to Ulster’s agricultural zoning regulations need not be to the extent of Saugerties, or even Marbletown, but an increased level of sophistication is well advised. Ideally, more sophisticated agricultural zoning in Ulster would help protect what exists now and minimize the number of potential land use conflicts.

5. Recommendation to continue, modify or terminate such district

Agricultural District #4 can continue to play an important role in northern Ulster County’s farming communities. It covers areas that continue to see significant field and truck crop agriculture, but not always with zoning that would curtail encroachment from non-agricultural development. The District also extends into towns seeing an increase in agricultural activity, but with simple – although currently appropriate – land use policies and zoning for agriculture. This may need to change if current trends continue. Throughout the District, operations are turning northern Ulster County into a testing ground for a variety of agriculture. Agricultural operations in the District are exploring various ways of maximizing what they can produce on smaller parcels of land. Agricultural District #4 would continue to benefit existing agricultural operations and it would also help accommodate northern Ulster County’s farming communities through a period of transition now underway.

The AFPB recommends continuation of the District with modifications to its boundaries.

The AFPB’s decisions for modification were based on the following process:

Aerial Photography Analysis

The analysis began by looking at the available digital map of the area. While this map is not the most up to date record of the District, it allows Ulster County Planning staff to review the bulk of parcels and see which ones are viable agricultural lands. In this analysis, viable agricultural lands are ones with real property class codes in the 100 (agriculture) or 300 (vacant lands) range and 241 (single-family residence with agriculture) or 555 (horse farm). In other words, land that tax assessors designated as agriculture or vacant. Agricultural property class codes obviously mean an operational farm. Vacant land already in an agricultural district is given the benefit of the doubt. Meaning such land was deemed viable at one point for agriculture and is presumed to

be so now.¹ Economic factors may come into play that would make them operational farms one day. Agricultural district parcels with residential, commercial, industrial or other property class codes were subjected to an additional level of scrutiny using aerial photography.

In examining aerial photos, Ulster County Planning Department staff looked for several indicators that made parcels candidates for removal from the agricultural district:

Subdivision activity. By subdivision activity, Planning Department staff looked for residential subdivisions where multiple single family homes were built. This also may have included the creation or improvement of a new road to service these homes. Subdivision activity often suggests land has been taken out of agricultural use for good.

Parcels in areas far away from an agricultural district and/or an agricultural operation. These isolated parcels in the agricultural district stood out because they appear as islands far away from other areas of the District. These isolated parcels drew particular scrutiny when determined through review of aerial photography and tax assessment records that an agricultural operation was not likely taking place on site. Taken altogether, this suggested that the parcel wasn't part of an agricultural operation either on-site or as part of ones on neighboring parcels.

Neighboring parcels with barriers. Often, residential parcels in an agricultural district next to farms are involved somehow in the neighboring agricultural operation. Common ownership often signifies this. From looking at a residential parcel and the land around it, one sees how open spaces, plowed fields or row crops that cross parcels signify the connection between a residential parcel and an agricultural operation. However, a parcel in an agricultural district with rows of trees or fence separating it from adjacent agricultural operations or other lands viable for agriculture came under scrutiny. This situation suggests that the parcel currently in the agricultural district may not be part of an agricultural operation. The nature of the barrier had to be taken into consideration as a single row of trees or a small chain-link fence, to use two examples, would not necessarily mean a residential property

Commercial or industrial activity. Parcels with commercial or agricultural activity were subject to scrutiny. Ones where an agricultural operation couldn't be connected to a

¹ There are two exceptions. In Marbletown, parcel 55.3-2-18.113 is recommended for removal. This parcel's neighbors, the ones on the same side of the street, are single-family residences as indicated by aerial photography and tax assessment records. Parcel 55.3-2-18.113 is owned by a realty company, and the land development patterns in this area suggest residential subdivision activity. So while being vacant, parcel 55.3-2-18.113 appears intended for a one- or two-family home. In Saugerties, parcel 9.3-7-13.220 is recommended for removal. It's almost the same size (1.96 acres) as a neighboring parcel (2.0 acres) also being recommended for removal. Moreover, other single family residential parcels in the area also around two acres.

commercial or industrial operation either through aerial photography, tax records or internet research were seen as lands unlikely to see agriculture again.

Missing Parcel Analysis

At this stage of identifying parcels for removal, a spreadsheet from the Real Property Tax Service was the primary tool. This spreadsheet contains all of the parcels that form Agricultural District #4. This is the spreadsheet that will ultimately be modified and become the official spreadsheet of the District. Using the sort and filter tools in Microsoft Excel, Ulster County Planning staff isolated parcels that did not appear in the digital map file. This round of analysis reconciles the fact that the parcel files with the Ulster County Real Property Tax Service Agency and Ulster County Information Services do not correspond exactly. (Complicated technical issues create this situation and a discussion of them is beyond the scope of this report.) Once these parcels were identified, they were mapped and examined using criteria from the first round analysis.

Business Count Analysis

This stage of analysis estimated the number of businesses in the District. Using the spreadsheet of agricultural district parcels supplied from the Ulster County Real Property Tax Agency, Planning Department staff grouped together land records to arrive at an estimation of agricultural operations going on within the District. First, records with property class codes indicating agricultural land uses were isolated and records were grouped by name of ownership to derive an initial count of agricultural operations. After these operations were counted, other parcels without property class codes for agricultural operations or vacant land were isolated. These parcels were examined against aerial photography to ascertain their involvement in an agricultural operation. This duplicated the earlier first round analysis, but the additional look often showed how a residential parcel was or wasn't tied into an agricultural operation. Internet research was used to see if an agricultural business was located at a parcel's address.

Preliminary List Analysis

During the first three stages, a preliminary list was being compiled of parcels recommended for removal. This round generates the list that was submitted at the Agricultural and Farmland Protection Board meeting on September 9, 2014 for review and deliberation. At this point, there were two dozen parcels. Each parcel was scrutinized using Internet research and closer examination of tax assessment records than in earlier stages. Files from agricultural district inclusions were reviewed when applicable. In one case in Marbletown, a vacant parcel was recommended for removal from the District based on the development patterns. After this round, the list comprised of 21 parcels totaling 135 acres.

Recommendation

The AFPB held its meeting concerning the review of Agricultural District #4 on September 9, 2014. The AFPB reviewed the parcels highlighted for removal by the Ulster County Planning Department staff. The AFPB also considered the need to remove additional parcels as well as the additions of parcels to the District. The AFPB after review of the parcels highlighted by Planning Department Staff and after consideration of additional parcels to be removed as well as the need for any additions recommends that **15 parcels totaling 83 acres be removed from Agricultural District #4. The recommended parcels for removal are attached as Appendix A, a parcel location map is included as Appendix B and Appendix C contains the original PowerPoint presentation of the parcels highlighted by the Planning Department Staff.**