

## **3. Agriculture Element**

### **3.1 VISION STATEMENT**

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Riverhead's agricultural industry will continue to play a leading role in the Town's economy and shape the Town's character and way of life. The Town will work with farmers and landowners to support farm business and promote farmland preservation, and the Town will strive do so in a manner that respects private property rights, protects landowner equity, and ensures flexibility and choice in the use of farm property.

Riverhead is known for its abundant farmland, lucrative farming activity, and attractive rural landscapes. A wide variety of agricultural products are grown and raised in Riverhead. Duck, fruit, and vegetable production provide foodstuffs for residents living throughout the region. Vineyards and wineries contribute to the reputable Long Island wine industry. Farm stands, pumpkin-picking, wine-tasting, and other activities provide agro-tourism opportunities for visitors.

At the same time, Riverhead's farmland resources are being depleted as a result of new development. Long Island's intense housing demand and limited land supply are creating pressure for conversion of farmland into new residential and commercial uses. Development is moving eastward from Brookhaven, leapfrogging over the Pine Barrens preservation area, and northward from Southampton, where land shortages and high prices are forcing prospective home-buyers to look elsewhere.

There are many good reasons to protect farmland and support agricultural activity in Riverhead. The farming industry provides jobs, creates local sales revenue, and creates a positive cash flow in terms of local property taxes. Building off the local tourist traffic, there is also a significant opportunity to develop agro-tourism, a growing vacation niche. Farming also contributes to the character and way of life of the Town, and public workshops have revealed that many residents would like to see the Town's rural character maintained.

This Element, in conjunction with Chapter 7, the Economic Development Element, lays out strategies for preserving farmland and supporting the local agricultural industry. These strategies are based on a detailed analysis and understanding of current trends in the agricultural industry, as well as extensive outreach to the Riverhead farming community. Appendix A contains background information related to current agricultural activity, farmland resources, and existing farmland preservation efforts.

### **3.2 SUMMARY OF BACKGROUND RESEARCH**

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Agriculture plays an important economic role in Suffolk County. The County has lead New York State historically in a variety of agricultural categories and continues to lead in the market value of agricultural products sold. In 1997, the reported total market value for crops in Suffolk County was \$160,784,000 — an average of \$276,993 per farm. Suffolk County leads all New York State counties with an average sales per farm figure of \$227,874 — almost three times the State average. This is particularly remarkable in light of the fact that in 1997, Suffolk County accounted for only 6 percent of total farmland New York State.<sup>1</sup>

Throughout its history, farmers in Riverhead have grown a variety of crops, the best known of which are potatoes and cauliflower. Other important agricultural products have included flax for linen thread, grains (e.g. wheat and rye), corn and vegetables, and fruits and berries of all sorts. Between the 1890s and the 1960s, Suffolk County was the national capital for duck production.

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<sup>1</sup> 1997 Census of Agriculture - County Data. USDA, National Agriculture Statistics Service. 1997.

In recent decades, the trend has been toward the production of more and more specialty crops, such as pumpkins, cabbage, beets, sprouts, broccoli, and spinach. Also, sod and greenhouse growing — which provide landscaping materials, garden plants, and cut flowers — have grown in tandem with the growing metropolitan population. Another growing part of Suffolk County’s agricultural economy is the wine industry, which contributes \$30 million to the local economy.<sup>2</sup> Suffolk County has the largest premium wine industry of any county in the U.S. outside California.

The shift to specialty, high-value crops has the following implications for the future of farming in Riverhead:

- *Increasing Labor Requirements.* Generally, specialty crops are more labor intensive than products like potatoes or grains. Given the historically low unemployment rate and the relatively high cost of living on eastern Long Island, the lack of available labor may, at some point, represent a constraint to continued growth of specialty crop production. Currently, Riverhead farmers rely on migrant labor to meet their needs during busy seasons. The reliance on migrant labor may continue to grow.
- *Increasing Reliance on Technology.* Specialty crops create the need for more market information and new management techniques. Farmers will need to have the financial capital to invest in modern technologies.
- *Increasing Role of Agro-tourism.* Agro-tourism activities range from roadside stands and pick-your-own crops, to farm vacations, school field trips, riding lessons, hay rides, wine tasting, and farm tours. Agro-tourism provides an additional income opportunity for farmers, and it ties into the established East End tourism industry.
- *Increased Vertical Integration of Farm Operations.* Vertical integration includes processing, packaging and shipping, and/or on-site sales. By becoming vertically integrated, farms can realize greater economies of scale and become more cost-effective. Also, vertical integration is particularly well-suited to specialty crops, which typically are more susceptible to spoilage and require quick transport from the plant to the customer.
- *Need for New Approaches to Land Use Regulation.* Since agricultural activity will be increasingly reliant on adjunct uses (laborer housing, technology, tourism, processing, packaging), land use regulations and preservation programs should be designed with enough flexibility to allow related farm uses. Flexibility can help farms to remain competitive.

## **FARMLAND RESOURCES AND PRESERVATION EFFORTS**

According to the Suffolk County Planning Department, the County’s supply of farmland has been declining at a rate of about 1,300 acres per year. Yet, as the amount of farmland has declined in Suffolk County, the Town of Riverhead’s share of agricultural land has increased, as shown in Table 3-1. In 1968, Riverhead had 30 percent of the County’s farmland (19,550 acres). In 1996, despite a 9 percent drop in the its agricultural acreage, Riverhead had 38 percent of the County’s

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<sup>2</sup> Suffolk County Planning Department. [www.co.suffolk.ny.us/planning](http://www.co.suffolk.ny.us/planning).

farmland (17,662 acres). These figures indicate that Riverhead has a critical role to play in the protection of prime agricultural lands in eastern Long Island.

**Table 3-1: Change in Farmland Acreage, 1968-1996**

	1968	1996	Change in Total Acres 1968-1996		
			Number	Percent	Annual Average
Babylon	370	7	- 363	- 98.1%	- 13.0
Brookhaven	11,560	6,439	- 5,121	- 44.3%	- 182.9
East Hampton	2,420	1,672	- 748	- 30.9%	- 26.7
Huntington	4,170	1,294	- 2,876	- 69.0%	- 102.7
Islip	640	136	- 504	- 78.8%	- 18.0
<b>Riverhead</b>	<b>19,550</b>	<b>17,662</b>	<b>- 1,888</b>	<b>- 9.7%</b>	<b>- 67.4</b>
Shelter Island	80	156	76	+ 95%	2.7
Smithtown	1,240	338	- 902	- 72.7%	- 32.2
Southampton	12,450	8,617	- 3,833	- 30.8%	- 136.9
Southold	11,920	9,820	- 2,100	- 17.6%	- 75.0
Suffolk County Total	64,400	46,141	-18,259	- 28.4%	-652.1

Source: Suffolk County Planning Department.

The combination of strong economic growth, the scarcity of land, and the intense housing demand on Long Island are creating pressure for new development. With a conversion rate of 1,454 acres per year over the last ten years, Suffolk County farmland is under particular pressure to develop. Changing agricultural trends, the decline of the family farm, increasing land values, and tax burdens are also exerting pressure on farmers to sell or develop their land.

Efforts to protect and sustain agriculture in eastern Long Island are evident at the State, County, and local levels. These efforts take effect at two levels – those programs that work *directly* to preserve or purchase agricultural lands, and those programs that work *indirectly* by supporting farmers and farming as an occupation and a way of life. For more information on the available preservation tools, see Appendix A.

An important cornerstone of the regional effort to preserve farmland is the 1996 *Suffolk County Agricultural Protection Plan*. Although the 1996 plan targeted 20,000 acres of farmland for preservation (through the purchase of development rights), it also indicated that there is not enough money to reach that goal. Nearly 7,000 acres of farmland development rights have been acquired Countywide, but the additional 13,000 acres will cost more than \$100 million to purchase. Because County resources are limited, Riverhead and other towns need to do their part to protect farmland, whether through local land use regulations or other methods.

## AGRICULTURAL GROWTH POTENTIAL

If development pressures were not directly resulting in the loss of farmland, agricultural activity in Riverhead and throughout the East End would be expected to experience strong and long-term growth. The local agricultural industry has certain advantages that make the future economic outlook promising:

- Suffolk County has a ***natural comparative advantage*** in agriculture due to its relatively long growing season, fertile soils, and high percentage of sunshine.
- Suffolk County has a relatively ***high percentage of land in cropland***. Seventy-nine percent of Suffolk County's total farmland is used for crops, compared with sixty-two percent Statewide. This reflects the fact that local soil quality is particularly well-suited to certain field crops and fruit plants.
- Suffolk County farmers enjoy relatively ***high revenues from farming activities***. This has allowed a relatively high percentage of farmers, 70 percent, to continue to list farming as their principal occupation at a time when many other regions are experiencing a trend toward part-time farming. Suffolk County sales per farm in 1997 averaged \$276,993 and generated an average of over \$68,000 net cash return per farm.<sup>3</sup>
- ***Proximity to markets*** is another plus. There are 6.9 million people living in the four Long Island counties and 1.3 million in Suffolk County alone. Retail sales of food in Suffolk County were estimated at approximately \$2.6 billion in 1994.<sup>4</sup>
- Riverhead's agriculture is concentrated in ***product areas predicted to experience increasing demand*** on the urban fringe. Professional planners throughout the northeastern U.S., including New York State, recently predicted that future demand for agricultural products and services will increase for fresh and/or organic fruits and vegetables, greens, herbs, table grapes, wine, horses, bedding plants, cut flowers, turf/sod, animal boarding, breeding, and training, and wine tasting. All of these products and services are currently produced in Riverhead. In addition, planners anticipate increased demand for mushrooms, goat's meat and milk, lamb, local beef and pork, organic eggs and poultry, specialty cheese, veal, venison, farm retreats, tours and vacations, hay rides, school field trips, and mail-order or direct food delivery services. These represent areas that may provide further agricultural diversification and income opportunities for Riverhead's agricultural entrepreneurs.
- New and increased ***marketing and publicity efforts*** are working to support regional farms and a farming economy. These efforts include many of the State and County initiatives listed Appendix A, as well as efforts by the Long Island Tourism and Convention Commission, the Peconic Land Trust, and the Long Island Farm Bureau to help inform people of the diversity and availability of farm products in Suffolk County. To assist farmers in selling produce on Long Island, the Peconic Land Trust has sponsored the Long Island Community Markets

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<sup>3</sup> 1997 Census of Agriculture - County Data. USDA, National Agricultural Statistics Service. 1997.

<sup>4</sup> Suffolk County Planning Department.

Program funded by both private and public funds including a grant from Suffolk County. Farmers markets are currently operating in a number of communities, including Riverhead.

- A willingness on the part of lawmakers to support agricultural preservation through a variety of means is reflected in recent *favorable changes to tax investment laws and State agriculture laws* that have fostered the expansion of horse farms in Suffolk County. Additional initiatives underway at the State level to address threats from property tax burdens include a bill to create circuit breaker tax credits for farmers, and Statewide property tax reform.

These factors suggest that farmland preservation would go a long way toward bolstering the local agricultural economy now and in the future.

### 3.3 GOALS & POLICIES

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There are three overarching goals of the Comprehensive Plan with regard to agriculture: (1) preserving the agricultural land base, while maintaining equity value for agricultural landowners, (2) fostering the local agricultural economy, and (3) maintaining the rural character of the community. These goals can be achieved through a combination of zoning ordinance modifications, funding initiatives, and economic development strategies. For optimal effectiveness, a variety of tools are being proposed.

The focus of this Element is the first goal: how to preserve land in a way that minimizes any potentially negative impacts on land values. The other two goals are referenced throughout this chapter, but also addressed in other chapters. The second goal to promote the agricultural economy is specifically discussed in Chapter 7, the Economic Development Element. The third goal to promote rural character is addressed indirectly in all chapters and directly in Chapter 5, the Scenic and Historic Resources Preservation Element.

#### OVERARCHING GOALS

##### **Goal 3.1: Protect the agricultural land base, while maintaining equity value for landowners.**

The key to maintaining agriculture in Riverhead is the preservation of the agricultural land base. As the economics of farming evolve and the demographic makeup of the farming community changes, preservation of the current agricultural land base will sustain farming for future generations. If farmland is converted into residential, commercial, and industrial development, farming is no longer possible. Thus, preservation of the agricultural land base is the foundation upon which this Element is based.

The agricultural land base of Riverhead is under considerable pressure for conversion over time to residences and golf courses. The Town and County purchase of development rights programs (PDRs) have been able to preserve roughly 25 percent of the existing agriculturally zoned land to date. Compared with East End neighbors Southampton and East Hampton, fragmentation of

Riverhead's agricultural land has been minimal so far, but development trends suggest that fragmentation may become more of an issue for the agricultural community in the near future. Given the high land values, there will be a limit to the amount of land that can be preserved via purchase alone. A variety of regulatory, incentive-based, and funding strategies will be necessary.

Farmers and landowners are dependent upon the value of their land for long-term financial security. For this reason, it is not enough to strive for farmland preservation, but also to present landowners with a multitude of options that maintain the equity value of their land. Providing choice gives landowners an alternative to development as a way to realize financial gain.

**Goal 3.2: Foster the local agricultural economy.**

Although the Town cannot single-handedly support the agricultural economy, it can adopt policies that allow farmers the flexibility to market their goods in a variety of ways, financially benefit from the sale of development rights and easements, and allow necessary agricultural support businesses to remain in operation.

In order to support the local agricultural economy, the Town needs to adopt flexible zoning standards for farms and engage in a wide range of economic development activities, as discussed in Chapter 7, the Economic Development Element. The issue of affordable housing for farm laborers is another related issue. It is addressed in Chapter 8, the Housing Element.

**Goal 3.3: Maintain and preserve the rural character and heritage of Riverhead**

The character of Riverhead is defined by agriculture. Historically, Riverhead has been the center of Long Island agricultural production and today accounts for nearly 40 percent of Suffolk County's remaining farmland. The culture and character of the Town evolved around the industry of agriculture. Citizens and officials have spoken of the critical need to preserve the rural character of the Town of Riverhead.

The rural character of Riverhead is not just a visual nicety; it is an economic asset. Agro-tourism, for example, is able to thrive because the rural scenery is so attractive to visitors. While many new residents move to Riverhead for its rural and scenic character, unfettered residential development threatens to fragment the agricultural landscape and put further pressure on farmland to be sold, subdivided, and developed. As such, compromising the Town's rural character and scenic quality could limit the Town's future economic possibilities.

**Goal 3.4: Reduce the amount of development in those areas of Riverhead where agricultural activity is currently concentrated.**

***Policy 3.4A: Adopt the reduced density agriculture and residential districts in Figure 2-1, the Proposed Land Use Plan.***

Currently, the large agricultural areas of the Town are primarily zoned for residential development on 40,000 square foot lots (the Agriculture A and Residence A zones). These relatively high densities of development are out of character with the surrounding agricultural areas. Upzoning agricultural areas can help maintain the agricultural uses of Riverhead, by reducing the overall number of people, traffic, and other non-agricultural activity in predominantly agricultural areas. The Proposed Land Use Plan sets forth a new set of agriculture and residential districts that replace several existing zoning use districts. All parcels in the Agricultural Protection Zone (APZ), Residence A-80 (RA-80), Residence B-80 (RB-80), and Residence AB-80 (RAB-80) districts shall have an as-of-right density of 80,000 square feet. The remaining parcels located in and around Downtown Riverhead are proposed to be Residence A-40 (RA-40) and Residence B-40 (RB-40), with minimum lot sizes of 40,000 square-feet.

***Policy 3.4B: Allow fast-track review for “Agriculture Opportunity Subdivisions,” in which the density yield has been voluntarily reduced and the subdivision is laid out for large-lot development.***

A landowner within the APZ and RAB-80 district would have the option to choose either large-lot development with “fast track” approval or the standard subdivision review process for cluster development (see Policy 3.6A). A voluntary large-lot development project — “Agriculture Opportunity Subdivision” — would be exempt from the clustering requirement, but would be required to have minimum lot sizes of 11 acres. A one-acre footprint on each lot would be reserved for a single-family residence, and the remaining ten acres around the housing would remain in private ownership but would be preserved by a perpetual conservation easement. The minimum lot size is based upon the minimum 10 acres of land in agricultural production required by the Suffolk County Assessor for a property to be assessed agricultural rather than residential taxes. These ten-acre sites would potentially still allow the opportunity for agricultural activity to continue to take place.

Currently, a typical major subdivision takes 9 to 12 months for approval. Large-lot development has fewer regulatory requirements and thus the time between application and approval can be cut in half. Much of the time in the conventional subdivision application process is associated with review by the Suffolk County Health Department (SCHD) with regard to septic systems. Since the SCHD reviews only those subdivisions with lot sizes of five acres or less, Agriculture Opportunity Subdivisions could skip this step. Similarly, the large-lot subdivision should not have to submit a sketch plan for review by the Planning Department. The first step would be to submit a preliminary plat to the Planning Board for approval. The final hearing on the preliminary plat would be waived. The Planning Board would be required to rule on the subdivision within 90 days of receiving the original application.

**Goal 3.5: Target farmland preservation efforts to Riverhead’s agricultural greenbelt, located between Sound Avenue and Route 25 and Middle Road, along with certain actively tilled farms north of Sound Avenue and south of Route 25 at Jamesport.**

***Policy 3.5A: Establish the Agricultural Protection Zone (APZ) based on the boundaries illustrated on the Proposed Land Use Plan (Figure 2-1).***

Initiating the APZ is the first step that the Town should take to retain its agricultural landscape. The APZ creates incentives for landowners to keep their land in an agricultural use, while making development less appealing. This is done by increasing the regulations pertaining to development, while adding flexibility to the agriculture-related regulations.

Figure 2-1, the Proposed Land Use Plan, shows the proposed APZ boundaries, which includes most of the Town’s active agricultural land.

***Policy 3.5B: Designate the Farmland Preservation Committee as the APZ Oversight Committee, which would serve in an advisory capacity to the Town Board.***

The APZ Oversight Committee would not be able to change the rules that apply to properties in the APZ, which could lead to unpredictability for landowners and developers. However, it would monitor preservation efforts in the APZ on an ongoing basis, including cluster development (see Policy 3.6A) and the TDR program (see Goal 3.7). The Oversight Committee would identify issues and concerns and bring those to the attention of the Town Board.

***Policy 3.5C: Work with the APZ Oversight Committee to undertake a public education campaign about the APZ, focusing on cluster development provisions and the TDR program.***

Because of the complexities involved with cluster development and the TDR program, the Town should attempt to educate property owners about these new programs. The Town should consider a variety of outreach mechanisms in the years after the adoption of the Comprehensive Plan: making brochures available in Town Hall and the Riverhead Free Library; posting information on the Town's web site; and conducting educational seminars. Planning Department staff should be augmented and trained to provide information to landowners with respect to land subdivision within the APZ.

**Goal 3.6: In Riverhead’s agricultural greenbelt, concentrate development into compact nodes, while preserving the surrounding open space for agricultural use.**

***Policy 3.6A: Promote cluster development within the APZ.***

Section 278 of the Town Law and Article XIX of the Riverhead Zoning Ordinance provide the authority to the Planning Board to create clustered lots in subdivision approval.

Through clustering, development would be concentrated on a portion of a site, while the remainder of the parcel would be preserved as open space and/or farmland. A deed restriction would prohibit development on the preserved area. The open space preserve could be held in either private ownership, by a homeowners association, a third party conservancy group or land trust, or by the Town.

***Policy 3.6B: For cluster development in the APZ, attempt to protect a significant area of the original parcel.***

As a component of a cluster development ordinance, it is preferable to preserve a reasonable percentage of the tract as undeveloped land. The Town of Southampton, for instance, uses a sliding scale that requires different percentages of prime agricultural soils to be preserved.

It is recognized that within the APZ, there are parcels that may not be suitable for agricultural cluster subdivision due to the existence of slopes, a high percentage of woodland cover, or poor agricultural soils. In order to provide for the orderly development of residential plats within the APZ, it is critical that the Planning Board have the flexibility to properly size and arrange both residential and agricultural lots. To this end, Article XIX of the Riverhead Zoning Ordinance should encourage agricultural cluster subdivision review within the APZ with a goal of preserving the prime agricultural soils upon the tract to the greatest extent practicable.

***Policy 3.6C: Require that all subdivision applications in the APZ submit a proposed cluster plan together with a conventional subdivision layout plan and yield map.***

Section 108-87 of the Riverhead Zoning Ordinance states that each applicant for a major subdivision shall submit at least one (1) proposed cluster plan with each major subdivision application. By requiring all subdivision applications in the APZ to present an alternative cluster plan, applicants would have the flexibility to optimize lot configuration and the opportunity to preserve prime agricultural soils, and environmentally sensitive or scenic areas.

At the time the Planning Board grants final approval to a subdivision plan, the Planning Board shall provide a written report decision stating its findings and conclusions with respect to the layout of the subdivision. The findings statement would justify and defend the final layout of a subdivision plan and explain the criteria that the Planning Board applied in coming to its decision. In this way, the findings statement would ensure that the Planning Board clarifies how it considers each alternative layout and renders a decision on an application.

***Policy 3.6D: Establish development standards for clustered housing areas.***

The Town zoning ordinance needs to include specific development standards pertaining to clustered subdivisions within the APZ. The intent is for the clustered area to maintain a low-density, suburban-rural character. Thus, the following standards are suggested for residential lots:

- Minimum lot size: 30,000 square feet.
- Minimum lot width: 175 feet.

- Maximum height: 35 feet.
- Maximum floor area ratio: 1 story house 9%, 2 story house 6%, 3 story house 4%
- Maximum building coverage: .12
- Maximum impervious (buildings and paved surfaces) coverage: 0.30 to 0.40

For some of the above standards, a range is provided. This does not mean that a range should be permitted in the zoning code, but that the Town should decide upon a single number within this range. In considering which numbers would be most appropriate, the Town should take into account current market trends, existing environmental conditions, visual quality, and so on.

***Policy 3.6E: Through the subdivision review process, establish standards for the siting of house lots and agricultural parcels.***

The siting of house lots and agricultural parcels is a critical consideration in the process of developing cluster subdivisions within the APZ as well as on parcels zoned RAB-80 north of Sound Avenue. Because each tract is different, with its own natural and built features, each site should be developed in a way that is tailored to its own conditions. That is, the arrangement of lots and open space on each site will be unique. The following is a checklist of items that serves as a guide for laying out the site:

- If possible, agricultural parcels should be coterminous with existing agricultural parcels, parcels stripped of development rights, or parks on adjacent properties. This would create larger pockets of open space and farmland, which are generally better suited to agricultural activity. Also, it would reduce the potential for farms to be located next to residential or commercial uses, which may complain about farm-related “nuisances,” such as odor, noise, or fugitive topsoil.
- The agricultural parcels divided from the tract should include as many of the site's natural, scenic, and historic resources as possible. Developed areas should be located in such a way that they avoid detracting from the integrity of those resources. These resources can be described as follows:

*Natural Resources:* prime agricultural soils, soils of Statewide importance, streams, ponds, wetlands, woodlands, habitat areas for special status species, and flood hazard areas.

*Historic Resources:* Structures such as farmhouses and barns, as well as sites such as cemeteries and areas with potential archaeological resources.

*Scenic Resources:* hills and contours, meadows, cultivated fields, vineyards and orchards, pastures, as well as any of the natural or historic resources mentioned above that contribute to the scenery. (See Chapter 5, the Scenic and Historic Preservation Element for a discussion of how existing scenic views can be taken in account in clustered subdivisions.)

- Housing should generally be concentrated in the least desirable agricultural areas in the form of a single node. However, the arrangement of natural, scenic, and historic resources on

some sites may be such that multiple nodes are preferable. Although multiple nodes should be permitted, no individual node should contain less than 30 percent of the total number of building lots on the tract. For example, if the cluster subdivision contains 50 lots in all, it would be possible to have three nodes on the property: two with 15 lots each and the third with 20 lots. This is intended to reduce the potential for the over-dispersal of housing throughout the tract, which defeats the original intent to create appropriate agricultural parcels.

***Policy 3.6F: If County Health Department approvals are not expected to be forthcoming, work with the County to promote the conditional approval of the plat.***

Areas within the APZ east of Roanoke Avenue are located in the County's Groundwater Management Zone IV, which allows individual septic systems on 20,000-square foot lots. Alternatively, areas west of Roanoke Avenue within the APZ are located in Groundwater Management Zone III, which allows for the installation of individual septic systems on 40,000-square foot lots.

Recent subdivision policy directives issued by the Suffolk County Department of Health Services would constrain the use of agricultural lots created via cluster subdivision within Groundwater Management Zone III. An analysis of this policy's affect on land subdivision assuming a minimum lot area of 80,000 square feet (yield) results in a maximum agricultural area of 60 percent of a tract with residential lot areas of a minimum of 32,000 square feet.

***Policy 3.6G: Allow very limited use of agricultural parcels on a clustered subdivision.***

The primary intent is for the parcels to serve as active agricultural land. That is, the land should be owned by or leased to a farmer for cultivation or pasture. In addition, the following compatible uses could be permitted:

- Historic structures predating the subdivision (i.e., farmhouses, barns) should be allowed to remain within the open space preserve, but with certain restrictions regarding their future use.
- Agriculture; homesteads; agro-tourism activities; retail sale of agricultural products.
- Accessory dwelling units.
- Home occupations, home professional offices; artist/craft studios; bed-and-breakfasts.
- Sites for active recreation (i.e., playing fields, lawns, picnic areas, playing courts, etc.), provided that they do not occupy more than 5 percent of the land area within the open space preserve.
- Walking and biking trails, provided that they do not interfere with agricultural activity.

***Policy 3.6H: Do not allow golf courses to count toward open space in clustered subdivisions in the APZ.***

Golf courses would not be permitted within the open space preserve portion of a clustered subdivision in the APZ, because they would prevent agricultural use of the preserve. Although golf courses can be less environmentally harmful than agricultural uses (i.e., same or lower use of pesticides), the conversion of open space to golf courses virtually ensures that the land will be permanently removed from the available pool of farmable land. This would further reduce the ability of the agricultural industry to remain and prosper in Riverhead, a major goal of both this Element and Chapter 7, the Economic Development Element.

**Goal 3.7: Implement a Transfer of Development Rights (“TDR”) program to reduce development pressure on Riverhead’s APZ and certain parcels zoned RAB-80, north of Sound Avenue.**

TDR is based on the premise that land ownership confers upon the owner a bundle of specific development rights, as shaped by municipal zoning regulations, state and federal environmental regulations, and other laws. By allowing the owner to separate those development rights from the land, and then allowing those rights to be transferred elsewhere, it is possible to conserve the underlying land as open space or agricultural land.

TDR is not the same thing as cluster development. Both TDR and clustering involve the shifting of development rights, but cluster development involves the re-organization of development yield *on the same property*, whereas TDR involves the transfer of rights *from one property to another*. TDR has the potential to create "win-win" situations for preservationists and property owners. Through TDR, significant land areas can be preserved in rural or open space areas, while property owners retain their equity value by being able to sell development rights to property owners in more urbanized areas.

Although the Town implemented TDR legislation in 1997, the program has never been used. In addition to refining the TDR legislation and ensuring the long-term funding of the Town PDR legislation, an installment purchase program is a valuable tool for the Town to use to preserve agriculture.

***Policy 3.7A: Amend Chapter of the Riverhead Town Code to maximize the utility of the receiving area to accept rights and ensure the viability of development rights transfer.***

The existing Town of Riverhead Zoning Ordinance, in general, and the Transfer of Development Rights legislation should be amended to provide for the following modifications.

- Assign development rights for real property within the sending area using an arithmetic rate of one (1) development right per 43,560 square feet of real property without the preparation of a conventional yield map. In order to avoid the creation of fractional development rights, the number of rights will be rounded down to the nearest whole number.

- Allow for heights of development on County Road 58 to a maximum of 50 feet at a rate of one (1) development right per 1,500 square feet of increased floor area.
- Repeal the as-of-right 50 foot maximum height within the Business D District and allow heights of up to 50 feet from the as-of-right 35 feet at a rate of one (1) development right per 1,500 square feet of increased floor area.
- Amend the Planned Recreational Park (PRP) district to provide for an as-of-right floor area ratio of ten percent (10%) with an ability to increase the FAR to a maximum of 15% at a rate of one (1) development right per 1,500 square feet of increased floor area.
- Amend the Planned Industrial Park (PIP) District to provide for an as-of-right floor area ratio of ten percent (10%) with an ability to increase the FAR to a maximum of 15% at a rate of one (1) development right per 1,500 square feet of increased floor area.
- Amend the Agricultural Lands Preservation Ordinance to allow the alienation of development rights purchased by Town funds and allow the deposit of such rights in the clearinghouse at a rate of .5 rights per acre of development rights purchased.
- Provide for receiving areas within a half-mile distance from the commercial centers of Aquebogue and Jamesport.
- Repeal the special permit provisions for one hundred percent coverage within the Business D District and require the purchase of development rights for increased building coverage at the rate of one (1) development right per 1,500 square feet of increased coverage.
- Allow the total area of impervious surfaces to be increased with the transfer of development rights at a conversion factor to be determined.
- Allow for heights of attached multi-family units approved north of Sound Avenue to increase to fifty (50) feet with the use of transferred development rights at a conversion factor to be determined.
- Provide for a residential TDR receiving overlay with performance standard criteria to allow high-density residential development on appropriately sized parcels with frontage upon major thoroughfares and served by necessary infrastructure. See Chapter 2, the Land Use Element, for more details.
- Require TDR on a one for one basis for yields greater than one (1) unit per acre within the retirement community overlay district.
- Require TDR to increase coverage within the Destination Retail Center (DRC) district from 10 percent to a maximum of 15 percent, at the rate of one (1) development right per 1,500 square feet of increased floor area.

All of the TDR Sending and TDR Receiving zones are located within the Riverhead Central School District, avoiding any potential problem that might have been associated with the transfer of development rights across school boundaries.

The prices offered for development rights will be determined by the marketplace. Importantly, interest in TDR purchase (and thus price) is largely driven by real estate demand in the *receiving zone*. A TDR program is most successful in areas where the receiving zone has an extremely strong real estate market, where the profit potential from additional development is high. This is the main reason for which the TDR receiving zone has been concentrated in the area along Sound Avenue, which is expected to have a very high potential demand for residential development. However, parcels within the RAB-80 district north of Sound Avenue also have natural, scenic, agricultural, and open space values, along with strong real estate market values and adequate infrastructure. For this reason, the RAB-80 district gives landowners the flexibility to send and receive development rights in the TDR program. The Route 58 corridor and Enterprise Park are also expected to be high-demand areas, where property owners would be willing to actively seek out development rights for the purpose of building additional commercial square footage.

***Policy 3.7B: Establish a TDR Bank or Clearinghouse that can purchase, hold, and later resell development rights from the APZ.***

TDR, in its ideal form, can operate entirely within the auspices of the private real estate market. That is, a willing TDR buyer with property would seek out a willing TDR seller. However, in many parts of the country, TDR programs have also made use of a public entity that functions as a TDR bank or Clearinghouse. That is, the public entity purchases and holds on to development rights with the long-term intent of selling them off to a private property owner.

Although the Town of Riverhead has had a TDR program since 1997, the program has never been used, and no development rights have been transferred from the agricultural sending areas to the receiving areas. The Town and the County have purchased and then retired development rights, but because the Town has not been authorized to act as a bank, it has not been able to resell those rights to property owners within the Town's receiving districts. By acting as a bank and selling off its accumulated development rights, there are several benefits:

- First, the Town can recuperate some of the costs of the initial purchase, reducing the long-term cost of open space preservation for taxpayers. The revenue from the sale should ideally be dedicated to toward the preservation of other open space tracts, functioning like a revolving fund. Alternatively, the revenue could be used to expand the Town's greenway system or improve Town parks.
- Second, the bank can help kick-start private-sector interest in the TDR program.
- Third, the Town can step in to purchase development rights from properties in the APZ that are at risk of development but for which there are no ready buyers. At a later time, when a property owner in the TDR Receiving area expresses interest in purchasing development rights, those rights can potentially be purchased from the Town.

- In the event that the Town borrows funds for purchases of development rights in the future, the Clearinghouse should be created and funded through borrowing.

***Policy 3.7C: As an incentive for selling development rights, provide property owners in the APZ and RAB-80 district with a higher development yield calculation for the purposes of the TDR than they would otherwise be permitted to build on-site.***

To further encourage the utilization of TDR, the development rights on a property will be determined in the following way. If the landowner decides to ***transfer***, the number of transferable development rights would be calculated by the Planning Board at a rate of one (1) development right per 43,560 square feet of land area, not including underwater land. If, however, the landowner decides to subdivide any portion of the property (partial transfer), the Planning Board would require the approval of a standard yield plan with a minimum lot area of 40,000 square feet and would assign one (1) development right per lot. In order to create lots for future filing with the Suffolk County Clerk and for building permit application, two (2) development rights would need to be retired for each building lot.

Further, a landowner within the APZ and RAB-80 district would also have the option of partial transfer and partial site development. But in no event shall the partial transfer yield more total lots or rights than could be achieved pursuant to the yield map requirements of 80,000 square-foot lots in the APZ. For instance, the owner of a 100-acre tract could petition the Planning Board to issue 100 TDR certificates pursuant to the zoning legislation. In the absence of TDR, the owner would be able subdivide the tract into 43 lots at minimum lot size of 80,000 square-feet. The 43 lots, at a two acre yield, would retire 86 TDR certificates, which are computed a ratio of one TDR certificate per acre. The 14 remaining TDR certificates, however, would be retired as well. As a result, since 43 lots represent the maximum yield on the parcel, all 100 TDR certificates would be retired to achieve on-site development.

The property appraisal would include transferable rights, even though they could not be developed on the site. The negative implication for the landowner is that he or she would be taxed on this appraisal, but it also means that the value could be borrowed against, giving the owner additional equity.

***Policy 3.7D: Establish development standards for subdivisions in the residential receiving zones.***

Subdivision standards in the receiving zones need to be adjusted from standard lot dimensional criteria in order to accommodate TDRs as certified by the Planning Board. The following adjustments should be made:

- Minimum lot size: 30,000 square feet.
- Minimum lot width: 175 feet.
- Maximum height: 35 feet.
- Maximum floor area ratio: 1 story house 9%, 2 story house 6%, 3 story house 4%

- Maximum building coverage: .12
- Maximum impervious (buildings and paved surfaces) coverage: 0.30 to 0.40

**Goal 3.8: Use public funding to purchase development rights in Riverhead's agricultural greenbelt for the purpose of open space preservation.**

The Town of Riverhead already has enacted a Town Purchase of Development Rights (PDR) program and cooperates with Suffolk County in the County PDR program.

***Policy 3.8A: Continue to use Town funding to acquire development rights from farmland and open space parcels.***

The Town Board should continue to pursue an aggressive program to acquire agricultural lands and open space and promote public and private conservation strategies. This program should include extending funding for the Town's development rights acquisition program, and renewing and potentially increasing the open space bond financing program. With this dedicated reserve fund, the Town would have the ability to leverage significant County and State funds for land acquisition and private conservation efforts.

Despite the expense associated with such efforts, farmland acquisition and open space preservation benefit the character and identity of a community. Also, the long-term land values of privately owned properties adjacent to open space preserves may tend to be higher, resulting in higher tax revenue from these properties that would have otherwise not been anticipated. This would partially compensate for the expense of open space acquisition.

Generally, it is preferable for both the Town and landowners to purchase development rights, rather than land in fee simple. For land owners, the sale of development rights provides them with a cash outlay that can be used to finance farm operations or retire outstanding debts. Also, PDR effectively reduces the value of the land itself, resulting in a lower potential tax assessment, lower estate transfer taxes, or other tax benefits.<sup>5</sup> Among other benefits, the farmer pays no closing costs and can continue to live in his house and farm the land.

There are three important benefits for the Town. First, the Town would pay less for the development rights than would be necessary for fee simple<sup>6</sup>, suggesting a more efficient use of taxpayer money. Second, the owner of the deed-restricted land still holds the title and is thus responsible for ongoing maintenance. Third, the property stays on the local tax roles, albeit at a

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<sup>5</sup> Connecticut Forest and Park Association, "Cultivating a Legacy: Farmland Preservation in Connecticut," *Connecticut Woodlands Magazine*, Spring/Summer 2001, reprinted at the web site of the Connecticut Farm Bureau, <[www.cfba.org/fpc1](http://www.cfba.org/fpc1)>, visited March 4, 2002.

<sup>6</sup> "Fee simple" is defined as the absolute ownership of land, giving the owner the sole authority to use and control the parcel. "Fee simple" is in contrast to an "easement", which is defined as a right or privilege that a party may have in another's land. For example, a "right of way" is a type of easement that allows a party to travel across a portion of another person's property.

lower assessed value. In this regard, in the drafting of the new zoning use district to regulate development within the APZ, the Town Board should design the relevant schedule of dimensional regulations in such a way as to ensure that appraised values of development rights to be purchased remain commensurate with the appraised value of development rights to be built.

***Policy 3.8B: Increase Town funding available for the purchase of development rights, and to the greatest extent possible, use local funding to leverage County and State funding for the purpose of purchasing farmland or development rights.***

The Town has developed a strong framework for the Purchase of Development Rights (PDR) program and uses County criteria to assess potential parcels for PDR. The partnership between the Town and Suffolk County is strong, as the two programs have led to the preservation of over 100 parcels amounting to 5,000 acres.

Continued local funding for the Town PDR program is of critical importance to the long-term success of the program in Riverhead. Currently, the PDR program is supported by a \$30 million bond to purchase agricultural and open space land and development rights, as well as the revenues from the Community Preservation Fund (CPF) 2 percent real estate transfer tax. These funds, however, do not cover the projected long-term needs of the program. The real estate transfer tax only affects improved properties over \$150,000 and unimproved properties over \$75,000, and therefore, does not generate the kinds of revenues generated by neighboring towns.

In the absence of more definitive and dedicated long-term funding, the Town has looked to State and federal programs for additional funding for open space and farmland acquisition. The State Clean Air and Water fund has provided funding, as has the County greenway program. However, the Town must find additional sources of funding to keep the PDR program as the primary local farmland preservation mechanism. The Town should consider placing additional bond issues before the voters for approval.

***Policy 3.8C: Continue to explore a wide variety of local, State, County, foundation and non-profit funding sources that can be utilized for purchasing farmland or development rights for the purpose of permanent farmland preservation.***

Both the Town and the County have a Purchase of Development Rights (PDR) program in place. Thus far, the County has purchased 3,889 acres and the Town 1,103 acres. The Peconic Land Trust has worked closely with communities on the South Fork to leverage funding available for land acquisition and open space preservation. The Town should encourage those entities to continue allocating money toward this aim.

***Policy 3.8D: Coordinate and pool resources with County and State agencies, private entities, and non-profit organizations for the purpose of purchasing development rights.***

In order to achieve greater benefit from the Town's PDR program, the Town should coordinate its efforts with County, State, private, and non-profit groups. Town resources could be combined

with the resources of those entities on a case-by-case basis to create a large pool of funding, which can be used for farmland preservation. In particular, the Town should continue its strong partnership with the Peconic Land Trust to leverage funds for open space preservation.

***Policy 3.8E: Reconsider criteria used to identify parcels for the purchase of development rights.***

The County and the Town share the same criteria for identifying potential parcels for purchase. A result is that the Town and County may duplicate preservation efforts on the same properties, while other properties go unconsidered. The Town should reconsider its criteria and determine whether there might be ways to avoid duplication. The Town could focus its efforts on properties that the County is less willing to consider.

***Policy 3.8F: Adopt a local Installment Purchase Program.***

With recent passage of State enabling legislation for installment purchase programs, a new mechanism for leveraging funds is available to the Town. Through an Installment Purchase Program, the Town enters into an agreement with a landowner to purchase the property (fee simple or development rights) incrementally over time, paying interest and/or interest plus principal. The Town should consult with State officials to determine the best ways to structure the Installment Purchase Program.

An installment program benefits a property owner in several important ways:

- The landowner collects interest payments, which are exempt from income taxes. Semi-annual interest paid on the outstanding balance of the purchase price is exempt from federal, State, and local income tax (to the same extent as interest on the County's general obligation bonds).
- The landowner can defer taxes on capital gains. Pursuant to the Internal Revenue Code of 1986, property owners entering into installment purchase agreements for the sale of development rights may, in certain circumstances, defer recognition of capital gain until they actually receive the principal amount.
- Landowners can transfer the installment purchase agreement. The installment purchase agreement is a negotiable instrument, and property owners are permitted to securitize and sell their interests in installment purchase agreements at settlement or later.
- Because installment purchase agreements can be transferred, they offer flexibility in estate planning. They can be placed into marital trusts or used in connection with various estate-planning techniques. Additionally, separating the development rights from the land and making the agreement transferable allows the property owner's heirs to sell their interest in the agreement rather than in the land in order to pay estate taxes.
- A farmer may also receive a deduction from his taxable income equal to the difference between the value and the sale price of the development easements. The usefulness of this

deduction would be limited by the landowner's income, assuming that the landowner has outside income.

There are also several important advantages for the Town:

- The Town has a lower upfront cost associated with the purchase. That is, rather than having to gather all of the necessary funding in a lump sum at the start of the process, the Town can pay off the land purchase incrementally, as the money is raised through taxes or other means.
- Although payment is incremental, open space preservation is immediate.
- The Town may be able to purchase the land at a reduced cost. Because of the value of benefits offered over a 30-year period, a landowner may be willing to sell the land or the development rights at prices as low as 50 to 60 percent of appraised value.
- Because a smaller pot of money is necessary upfront, securing funding is simpler. That is, it can be raised locally through taxes or other mechanisms. There is no waiting for State or County approval of funding grants and no need for a big-ticket bond issue.

***Policy 3.8G: Allow local property owners to consider voluntary donations of farmland to the Township, County, State or to a foundation or non-profit organization for the purpose of permanent farmland preservation.***

There may be some interest among property owners in donating all or a portion of their farmland properties, whether in fee simple or in the form of a development easement, to a public entity, a foundation or a non-profit organization. Property owners could potentially receive significant tax benefits from making such donations.

***Policy 3.8H: Monitor areas from which development rights have been purchased, to ensure that they remain free of development.***

### **Goal 3.9: Help promote Riverhead's agricultural industry and products.**

Regulatory techniques, used on their own, are not sufficient to protect the long-term future of agriculture in the Town of Riverhead. Therefore, it becomes increasingly important to couple regulatory tools with market and incentive based programs that work to preserve agriculture. There are several incentive-based strategies that have been successfully used across the country in an attempt to preserve agriculture, the most successful of which are used in concert with aggressive regulatory techniques.

***Policy 3.9A: Continue to allow and encourage farm-based retail sales, but improve enforcement to ensure that such retail outlets do not sell a higher-than-permitted amount of non-local goods.***

There is a strong market for East End produce, fish, and game. This market is currently being tapped by those farmers who have erected permanent stores or temporary stands on their farms to sell their locally grown products, as permitted under the Town's zoning regulations. In focus groups and CAC meetings, some farmers expressed the concern that some farm-based stores and stands were selling a higher-than-permitted percentage of non-local products. By improving enforcement of farm-based sales, the Town could reduce what many farmers perceive to be unfair competition. In order to address such issues, the Town should promulgate legislation controlling the development and operation of farm stands.

***Policy 3.9B: Sponsor a seasonal farmers' and baymen's market.***

An improved indoor weekly farmers' market has been recommended in the downtown area (see Chapter 6, the Business Districts Element). In addition, the Town should study the feasibility of a seasonal farmers' and baymen's market that would take place in a larger location with better regional access. The location should provide adequate infrastructure to support local sales, such as parking, bathroom facilities, coolers and freezers, etc. Towards this end, the Town should identify the most viable area for this use and implement the necessary zoning amendments.

***Policy 3.9C: Provide incentives and develop outreach tools to encourage East End farmers and fishers to participate in the seasonal farmers' and baymen's market.***

As an incentive to farmers, the Town could offer market infrastructure (i.e., tables, canopies, electricity and water connections). Through brochures, advertisements, and the Town's website, Riverhead should promote the significant benefits of the market. In a study conducted by the *Farming Alternatives Program of Cornell University*, farmers' markets were found to provide rich entrepreneurial environments that help people develop homegrown businesses. Farmers' markets serve to transform an informal enterprise into a more formal business, allowing participants to gain important skills in understanding the needs of consumers, merchandising and display, and cooperating with others. Farmers' markets can also be a vehicle to help educate the non-farming majority about local agriculture and fisheries and other opportunities to support these industries. Farmers' markets could be a gathering point for farm and fishery tours and a source of information about agro-tourism.

***Policy 3.9D: Promote Community Supported Agriculture.***

Towns throughout the country have had success with Community Supported Agriculture, in which residents pay a subscription to a local farm, and in return, they receive fresh produce on a weekly basis.

**Goal 3.10: Reduce the potential for excessive golf course development in Riverhead's agricultural greenbelt, and ensure that golf courses are environmentally friendly.**

***Policy 3.10A: Allow limited golf course development in the APZ.***

Golf courses provide important open space and recreational values, which have been proven to attract high-end residential development either within or contiguous to the golf course parcel. This type of development should be allowed within the APZ, but regulated as follows.

- i) Existing courses – Regulated by an overlay zoning use district that would limit residential yields to 1.5 units per hole with the ability to increase residential yields to a maximum of 3.5 units per hole with the use of transferred development rights.
- ii) New courses – As new courses have no inherent residential development component, vacant parcels contiguous with such new courses should be designated receiving areas with an ability to accept one (1) development right per acre.

***Policy 3.10B: Ensure that golf courses meet high standards for environmental quality.***

Historically, one of the main drawbacks of golf course development has been the potential for groundwater or surface water contamination resulting from intensive use of pesticides and herbicides.

Excessive water use is another problem associated with golf courses. Golf course maintenance often requires daily irrigation, particularly in times of drought. County Health Department regulations should continue to be enforced to ensure that new golf courses are not exceeding daily water use limits. To strengthen these regulations, it is recommended that the Town adopt regulations requiring the use of Integrated Pest Management (IPM) techniques for course maintenance. In addition, the Town should endorse programs that require golf courses to limit water usage, and to monitor water quality and the impacts of chemical applications on water quality. Also, golf courses should be required to utilize stormwater Best Management Practices (BMPs), such as extended wet and dry detention ponds, wastewater recycling and reuse. Environmental standards related to golf courses are discussed in more detail in Chapter 4, the Natural Resources Conservation Element.

**Goal 3.11: Protect the family farm.**

***Policy 3.11A: Consider allowing streamlined review for certain types of subdivisions on family farms.***

Guidelines and specific criteria can be established to support continued farming while allowing subdivisions as a means to providing affordable housing for family members and farm workers.

***Policy 3.11B: Work with family farmers to identify technical or financial information that may help improve the efficiency, productivity, or profitability of their farm operations.***

There are successful examples around the country of how small-scale farmers have managed to thrive in an increasingly competitive industry dominated by large commercial farm operations. Building off State and County resources, the Town should identify success stories and compile a set of case studies or guidelines that can provide useful insights for Riverhead farmers.

***Policy 3.11C: Consider allowing farm operations to have small secondary businesses, subject to certain restrictions, that can provide supplementary income for the farm operation.***

Farmers can use small secondary businesses to supplement their income from agricultural production. For example, a farmer who has carpentry skills may choose to set up a woodworking shop in an underutilized portion of a barn. Such a "farm business" could be permitted subject to meeting certain regulations in order to ensure that the business is secondary to the farm use, compatible with the surrounding agricultural and residential areas, and not detrimental to the natural environment.