

IX. Impediments to Farming and Recommendations for Improved Policies

The historical tradition of Cape Cod is one of farming and fishing. However, rapid population growth coupled to a sprawling pattern of development on the local level, and a national change in the way food is produced and transported on a national and global level has resulted in a drastic decrease in the number of farms on Cape Cod during the past three to four decades. As more people chose Cape Cod as a retirement destination or a second-home location, the price of land skyrocketed and parcels that were once farms were transformed into subdivisions. Today the high cost of land and the scarcity of parcels of any size are the most intractable impediments to farming.

Current state, regional and local policies also contribute to the loss of farming activity. The sections below identify impediments and offer recommendations to improve the future of farming.

A. State Level

Agriculture Preservation Restriction Program

The Massachusetts' Agriculture Preservation Restriction program provides incentives to Massachusetts' farmers by providing cash for reinvestment in farming in return for placing a permanent agricultural restriction on the property. The program is geared to farms of "state" importance and those that are situated on prime agricultural soils.

The American Farmland Trust has undertaken surveys to determine what the impediments are to greater use of the program. Partnering with the Massachusetts Farm Bureau Federation in 2009, the American Farmland Trust received 341 survey responses out of 2,000 survey instruments mailed (AFT fact sheet 2009). Respondents who said they were ineligible for the program cited five major reasons for their lack of eligibility. These were a parcel:

- With a primary use of horseback riding or boarding,
- Of less than 5 acres,
- Of more than 2/3 wooded,
- With a majority of the land in cranberry production, or
- With less than half the land on prime soils.

Of the respondents whose land was eligible, owners cited several reasons for not applying to the program including:

- Lack of knowledge,
- Fear that the program rules might change or that the restriction would limit the ability to alter the farm,
- Concern that the payment would not equal the value of the land, and
- Desire to sell at full market value in the future.

The American Farmland Trust also sought input about the APR program from local land trusts that have been active in facilitating APR projects. The 2007 survey sought information about potential projects that did not move forward in the past 5 years. Of 21-26 projects that did not result in an agriculture restriction on the farm, about one-half were not eligible because their land did not contain prime or statewide important soils.

When land trust representatives were asked why they thought some owners did not seek an APR, the representatives responded that:

- The APR program was not likely to pay what the land was worth,
- The land might increase in value,
- Owners were unable to find local match or undertake a bargain sale, and
- The application process is too long.

On Cape Cod, there is only one parcel within the APR program. It is a very large parcel but has not been farmed in about a decade. The current owner is not the person who placed the land in the APR program.

The impediments and restrictions cited by farmers in the surveys would likely be more pronounced on Cape Cod where:

- The high price of real estate, even in this economic downturn, would dissuade a farmer on Cape Cod from participating in the APR program, which has a cap of \$10,000 per acre for payment to farmers.
- Of the approximately 4,250 acres of farmland on Cape Cod, less than 14% is located on prime soils; when cranberry bogs are removed from the calculation, the total is still only 21%. Thus very few Cape Cod farms could meet the criteria for prime agricultural soils.
- About half of the farms in the General Farming Category (i.e., truck farming, animal husbandry, pasture land) are less than five acres in size.
- Many Cape Cod farms are cranberry bogs, which are not eligible for the APR program.

Recommendation:

The state should recognize the benefit of farming activity taking place in all regions of the Commonwealth. To that end, the state should reduce the number of acres necessary for participation in the APR program from 5 acres to 2 ½ to 3 acres. The amount of income that must come from farming activity should remain the same

Chapter 61 and 61A

There are approximately 1,180 acres of farmland on Cape Cod in the Chapter 61A program. However, as with the state APR program, the minimum lot size of five acres restricts the utility of the Chapter 61 program on Cape Cod. Almost 43% of the farms on Cape Cod are less than five acres in size.

Recommendation:

Given the heightened interest in and benefits of locally-grown food, the ability to raise commercial crops on small acreages and the potential of carving out some farmland on the remaining prime soils lands on the Cape, The minimum lot size for inclusion in the state Chapter 61 and 61A programs should be reduced to of 2.5 to 3 acres.

State Zoning Act

As discussed in an earlier section of this document, the Massachusetts State Zoning act explicitly exempts agriculture from unreasonable local prohibitions of restrictions on parcels of two acres or more. However, also as noted earlier, the state does not have legislation that explicitly authorizes agricultural protection zoning, thus leading to uncertainty as to its legality.

Recommendation:

The state should recognize the critical importance of agriculture to the future of the Commonwealth by enacting legislation authorizing agriculture protection zoning, while safeguarding the financial investment of the farmer.

B. Regional Level

The 2009 update to the Cape Cod Commission's Regional Policy Plan (RPP) identifies agriculture as an important component of Cape Cod's ecology, history, culture and economy.

The RPP (Land Use goal 3.1) recognizes the increasing need to grow food locally in Land Use goal 3.1, which concludes by stating a goal to "support activities that achieve greater food independence for Cape Cod."

RPP Land Use goal 3.2 states "development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use."

The Commission establishes thresholds that trigger regulatory review of developments that are of regional significance. The present RPP mandates Development of Regional Impact (DRI) review for clear cutting land of two acres or greater. There are no mandatory provisions for DRI review for developments proposed for existing farms or for land on prime agricultural soils.

Recommendations:

The RPP should include a goal of no loss of farmland on Cape Cod.

The Commission should establish a committee to begin work with the agricultural community to determine how the Commission can best implement the goal to "support activities that achieve greater food independence for Cape Cod."

The Commission should change the wording in RPP Land Use goal 3.2 "development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use" by striking the words "or minimize."

The Commission should lower thresholds that trigger regulatory review of developments that are proposed for existing farmland or prime soils. Just as the present RPP mandates Development of Regional Impact review for clear cutting land of two acres or greater, the RPP should make any development proposal to alter existing farmland or undeveloped prime soil land 2 acres or greater a mandatory DRI.

The Cape Cod Commission should ensure that any proposed development of regional impact does not affect current farming practices or the use of prime agricultural lands for any purpose other than agriculture. Land Use goal 3.2 states: "development unrelated to agricultural operations shall be designed so as to avoid or minimize development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use." This goal should be changed to state: "development unrelated to agricultural operations shall avoid any development on lands capable of sustained agricultural production as evidenced by soils, recent agricultural use, and/or surrounding agricultural use."

C. Local Level

Local Comprehensive Plans and Natural Resource Plans

Many of Cape Cod's Local Comprehensive Plans include a goal to protect and preserve agriculture for historic and cultural reasons, however there are not stated policies or plans to implement such a goal. Barnstable is the only town that has mapped areas to be considered for future agriculture redevelopment.

Recommendations:

Towns should make every effort to identify and protect parcels where farming is occurring, especially larger parcels.

Cape Cod towns' Local Comprehensive Plans should include a goal of no net loss of active farmland and the necessary policies to implement that goal.

Towns should develop open space plans that include agricultural lands. Towns should identify and map areas for redevelopment as agricultural lands.

Low-density Zoning

With the passage in Shutesbury, Brewster, Wendell and New Salem of low-density zoning to protect resources such as forestry, water resources, open space, agriculture and community character, towns now have a better ability to protect agricultural land, and farming in general, through zoning regulations.

Recommendation:

Cape Cod towns should identify areas where agriculture could be a desired land use, especially areas that are on prime agricultural soils, and consider enacting low-density zoning in those areas. Nomination of such an area as a district of critical planning concern may be a valuable tool to provide towns the necessary time to craft a zoning bylaw to protect agriculture.

Cluster or Open Space Residential Design Development

Cluster or Open Space Residential Design Development (OSRD) bylaws are found in Cape towns, but are not used regularly in most towns. There are two amendments to this kind of zoning that would improve opportunities for agriculture. One would be to make cluster or OSRD by right and a grid design available only with a special permit. The second improvement would be to reduce the number of acres necessary to use cluster or OSRD. As noted earlier in this document, most cluster or OSRD bylaws include agriculture as a permitted use on the open space part of the parcel.

Recommendations:

Cluster or OSRD bylaws should be by right; grid design subdivisions should be by special permit only.

Towns should reduce the number of acres necessary for cluster or OSRD subdivisions.

Land Bank/Community Preservation Act/Land Trusts

As noted earlier in this document, in many areas of the state and in some places on Cape Cod, land bank and Community Preservation Act funds have been used to protect agricultural land, either by acquisition or by placement of an agricultural restriction on the property. Many land trusts have also worked with these entities to protect agricultural land.

Some non-profit environmental organizations that hold land they wish to keep in pasture for the purpose of promoting species diversity have partnered with local farmers who place their grazing animals on the land to retain meadows or pastureland. In addition to their use as grazers, these animals also attract visitors to these sites, thereby increasing the visibility and attractiveness of farming to the community at large.

Recommendation:

The agricultural and open space communities on Cape Cod should collaborate to protect farmland through acquisition or the use of agriculture conservation restrictions.

Land trusts and farmers should consider joint ventures where grazing animals maintain pastures, thereby

increasing habitat diversity while benefiting local farmers.

Municipal Lands/Tax Title Lands

In its regional policy plan, the Cape Cod Commission advises towns to evaluate municipal lands and tax title lands for their suitability as open space. As there are many uses to which towns could put such lands, towns should undertake a comprehensive study of such lands and determine their suitability for different uses. To be sure, undertaking such a project is a delicate task, as there are many competing uses for land—wildlife habitat, rare plant communities, scenic woodlands, walking trails, passive recreation, active recreation, affordable housing, other municipal needs, as well as land for community gardens or other kinds of agricultural activities.

Recommendation:

Towns and the local farming community should evaluate municipal lands and tax title lands for their suitability for agriculture.

Agricultural Commissions and Right-to-Farm Bylaws

Agricultural Commissions advocate for farmers, farm businesses and farm interests and resolve nuisance issues with farm abutters.

Recommendations:

All towns should start an agricultural commission to promote local farming.

Towns should enact Right-to-Farm bylaws, thereby acknowledging that farming is an accepted and desirable use of land that is of value for cultural and economic reasons.