

APPENDIX B.1

Findings and Recommendations from the Review of Zoning and Subdivision Regulations Town of Romulus

The Town of Romulus has divided the Town into several zoning districts. Most of the Town's farmland is located within the Agriculture district, although a significant amount of farmland is within the Hamlet Residential and Lakeshore Residential districts. For each zoning district, the regulations specify those uses that are permitted "by right," with only a zoning permit, those which require a Special Use Permit issued by the Planning Board, and those which are prohibited.

The Town's zoning defines various agricultural uses as follows:

Agricultural Use: The raising of crops, animals, or animal products, the selling of such products grown on premises, and any other commonly accepted agricultural operations, including incidental mechanical processing of products.

Agricultural Business: A commercial enterprise whose primary function is to provide goods and services, which directly support agricultural use. These commercial enterprises include but are not limited to: feed store, farm implement sales, grain storage, and fertilizer distribution.

Nursery/ Garden Shop: A commercial facility, which primarily includes the sale of trees, shrubs, plants, and utensils incidental to gardening. This shall not be interpreted to include the large-product retail sales of farm equipment and implements.

Stable, Commercial: A building in which horses are quartered, with remuneration.

The NYS Department of Agriculture & Markets has published several guidance documents to assist municipalities in determining whether their local regulations are consistent with the provisions of NYS Agricultural District Law, which protects farmers from municipal land use regulations that "unreasonably restrict" standard farming practices. The Agricultural District Law protects agricultural uses which meet certain requirements as defined in the law and are located in certified County Agricultural Districts.

1. Special Use Permit required for general agricultural uses

In the Hamlet Residential District and Lakeshore Residential districts, any Agricultural Use requires a Special Use Permit issued by the Planning Board.

The criteria for granting a special use permit are general; there are no specific requirements for these agricultural uses. In considering applications for Special Use Permits, the Planning Board must consider compatibility of the proposed use with the surrounding neighborhood, vehicular access and parking, landscaping, screening and the protection of existing natural and scenic features.

Recommendation: For agricultural uses within an Agricultural District as defined by NYS Agricultural Districts Law, all agricultural uses should be permitted "by right" and without the need for a Special Use Permit.

Special Use Permit required for certain agricultural uses

The Town zoning regulations state that a special use permit is required for certain types of agricultural uses, agricultural businesses and accessory uses to operate within the Agriculture district, including: Commercial Stable; Confined Animal Feeding Operation (CAFO); Nursery/ Garden Shop; Wind Energy/ Energy Production. Guidance documents from the NYS Dept. of Agriculture & Markets discourage municipalities from requiring Special Use Permits for standard agricultural practices on farms in certified Agricultural Districts. A requirement for Site Plan Review would be acceptable.

Recommendation: Modify the Town’s zoning regulations to incorporate a stand-alone Site Plan Review process, independent of the Special Use Permit provisions. (Currently, a site plan is only required as part of the review of an application for a Special Use Permit.) Site Plan Review provisions would authorize the Planning Board to review the site design for certain permitted uses.

Incorporate exceptions to the requirement for a Special Use Permit for Wind Energy, Stable, and Nursery/ Garden Shop where the proposed use is a standard agricultural practice on a farm as defined in Agricultural District Law that is located within a certified Agricultural District. This would allow the Town to require additional reviews on stables, garden shops, and wind energy facilities that are not considered agricultural uses.

Clarify the distinction between “Nursery” and “Garden Shop.” A “nursery” would be considered an agricultural use that includes sales of agricultural products grown on the site. A “garden shop” would be a strictly retail operation.

Modify the provisions for Wind Energy to eliminate some of the procedural requirements for projects that generate energy to support agricultural operations. These wind generation towers should be included in the definition of “Agricultural Structure.”

2. Agricultural uses prohibited in certain districts

Agricultural Uses are prohibited in the Industrial/Warehouse, Institution/ Government and Conservation/ Recreation districts. Most of these areas are within the former Seneca Army Depot and are not currently utilized for agriculture. Most of these lands are controlled by the Seneca County IDA, which does not envision leasing for agriculture. However, such uses may be a possibility in the future.

Recommendation: Retain existing prohibition as long as none of these lands contain farms within approved Agricultural Districts.

3. Agricultural Businesses prohibited in certain districts.

“Agricultural Business” uses are prohibited in the Hamlet Residential District and the Lakeshore Residential district. Existing businesses located in these districts, such as the feed mill in Hayt’s Corners, are permitted to continue as “pre-existing non-conforming uses,” but would not be allowed to expand.

Recommendation: Consider allowing Agricultural Businesses with a Special Use Permit in the Hamlet Residential district. The Planning Board would be able to determine on a case-by-case basis whether or not the business as proposed would be detrimental to the neighborhood.

4. Subdivision Regulations

The Town of Romulus requires the creation of three or more new lots to obtain subdivision approval from the Town Planning Board. The Town’s subdivision regulations incorporate a streamlined process for reviewing “Rural Subdivisions,” which consist of 3-4 new lots during a three year period, each of which is a minimum of five acres and where the subdivision does not include new streets, utility extensions, clustering, public open space or facilities. Subdivision that comprise 3-4 lots that are smaller than five acres are considered “Minor Subdivisions.” Larger subdivisions must comply with the requirements for a “Major Subdivision.”

The creation of one or two new lots does not require any review. These new lots can be created by filing a plat with the County Clerk. If the lot does not meet the requirements of the zoning regulations, the owner would be notified during the application for a building or zoning permit.

The creation of new building lots establishes the pattern for development of the Town. Subdivision regulations can ensure that new lots are laid out in a way that protects agricultural infrastructure such as access roads and minimizes impacts on natural features such as streams.

The Town’s subdivision regulations allow the Planning Board to approve “Cluster Subdivisions,” which set aside some land as open space and allow smaller lots. The number of lots that would be approved is no more than would be allowed in a conventional subdivision on the site. The Cluster Subdivision approach, also known as “Conservation Subdivisions,” can be used to set aside farmland for permanent protection. The Town Board may authorize the Planning Board to require a subdivision to preserve agriculture or open space through a cluster design.

Recommendations: Modify the Town’s subdivision regulations to require Planning Board approval for the creation of all new lots. Modify the definitions of “Rural Subdivision” and “Minor Subdivision” to apply to the creation of 1-4 new lots.

Incorporate the following design standards into the Town’s subdivision regulations:

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

Modify subdivision regulations to authorize the Planning Board to require clustered subdivisions where such a design would effectively protect agricultural land or significant natural features. Incorporate design standards to ensure that the subdivision includes appropriate buffers between the farmland and new dwellings.