



Draft

**Transfer of Development Rights
Demonstration Project**

Town of Canandaigua, NY

August 2017

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BFJ Planning

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1.0 INTRODUCTION

Objectives

The overall objective of a potential Transfer of Development Rights (TDR) program in the Town of Canandaigua is to implement a land use planning strategy that protects agricultural land and environmental areas from development while focusing new building in areas that are more appropriate for new development due to existing infrastructure, proximity to mixed land uses, and preservation of prime farmland. The concepts have been supported by the Town's Comprehensive Plan, Agricultural Enhancement Plan, Padelford Brook Greenway Plan, Farmland and Open Space Conservation Program, Prioritizing Farmland and Scenic Views, and existing Incentive Zoning districts. The Town has expressed interest in preserving agricultural land and natural land through conservation as response to development pressure from single-family residential expansion.

Canandaigua also has existing Incentive Zoning in the Mixed-Use Overlay Districts, which are used to promote future development in areas with existing infrastructure in close proximity to commercial centers. A potential TDR program would further advance the Town's goal of preserving agricultural land and open space by providing a market based tool that promotes growth in MUO areas while generating funds to support the purchase of conservation easements to protect agricultural land and open space.

The goal of this report is to provide a framework for a potential TDR program for consideration by the Town Board. This framework is meant to summarize options for how a TDR program could be developed and describe the components of such a program. A TDR program in the Town of Canandaigua could provide a land use planning tool that helps the Town achieve objectives of protecting agricultural and environmental areas from development while promoting mixed-use development in Mixed-Use Overlay (MUO) districts.

The objectives of a potential Canandaigua TDR program are to:

- Manage development pressure by preserving agricultural land/environmental areas while promoting smart growth.
- Explore alternatives to Incentive Zoning with a greater nexus between fees, community benefits, and incentives.
- Explore potential to use TDR as a way to allow uses and increased density currently not allowed in Mixed Use Overlay (MUO) districts.
- Develop more specific zoning language with regard to incentive development in the MUO-1 and MUO-3 districts.
- Promote mixed-use development in the MUO-1 along the Route 332 corridor and in the MUO-3 on the south-eastern border of the Town and along the east side of the Route 364 corridor.

Benefits of Transfer of Development Rights

What is TDR?

TDR is a market-based regulatory strategy that allows communities to preserve valuable assets in one area of a municipality—without hurting the economic interests of the property owners in that area—while also generating economic growth in another area that is efficient from an environmental, economic and community perspective.

Section 1: Introduction

TDR is anchored in zoning regulations and establishment of TDR legislation in a municipality follows that same process as any zoning change. TDR regulations consists of three key components: a Sending Area, a Receiving Area, and a Transfer Formula.

The Sending Area is the component of the TDR program that provides a way to protect land from future development. The TDR program provides a market-based method for property owners in the Sending Area to capture the economic value of their property without converting agricultural uses and environmentally valuable areas to residential or commercial uses through subdivision and development. By selling TDR credits, property owners in the Sending Area agree to a permanent conservation easement on agricultural and environmentally valuable areas.

The Receiving Area is the component of the TDR program that focuses future development in parts of the Town that have existing infrastructure and are in close proximity to existing commercial areas and the City of Canandaigua. In the Receiving Area, TDR zoning provides development incentives to property owners in exchange for the purchase of TDR credits. Development incentives may include increased density and/or building height, additional uses that are not currently allowed, reduction of minimum setbacks where needed, and reduction of parking requirements where appropriate. Proceeds from the sale of TDR credits in the Receiving Area can then be used to purchase conservation easements in the Sending Area.

The Transfer Formula quantifies how development units in the sending area are realized in the receiving area. The most common formula transfers floor area or units on a one-to-one basis. However, if the transfer occurs from a low-density area to a higher-density area, the transfer formula may equate the development right from one single-family home to more than one multifamily unit because the proportional infrastructure cost impacts of a multifamily unit are lower than for a single-family dwelling in a low-density area. This transfer to more than one unit may also be required to make the TDR financially feasible and to adequately compensate the property owner in the sending district for selling their development rights, especially in the case when TDR is combined with more restrictive zoning.

Stakeholder Meetings

In producing this report, BFJ Planning has held several meetings and conference calls throughout the process. The goal of these discussions was primarily to learn about the Town's priorities and objectives in exploring a potential TDR program. BFJ provided updates to Town staff and the Citizens' Implementation Committee (CIC) on progress, gathered input, and discussed revisions. During these meetings and calls, BFJ Planning provided an introduction on the firm's role on the TDR Toolbox. Town staff and CIC members discussed recent development patterns as well as the Town's interest and concerns with a potential TDR program. BFJ Planning also presented potential TDR zoning approaches in Receiving Areas. Development bonuses in Receiving Areas are critical to successful TDR programs, as these bonuses provide the incentive for developers to participate in the program by purchasing TDR credits. Discussion about zoning approaches was largely focused on building consensus about appropriate development incentives in potential Receiving Areas.

Stakeholder meetings and conference calls occurred on the following dates:

- July 11, 2016 – Conference Call with Staff.
- July 15, 2016 – CIC Meeting at Canandaigua Town Hall.
- August 17, 2016 – Conference Call with Staff.
- September 6, 2016 – WebEx with CIC.
- October 17, 2016 – WebEx with CIC.

Section 1: Introduction

- February 7, 2017 – WebEx with CIC.
- April 17, 2017 – Introduction to the Town Board.
- May 2, 2017 – WebEx with CIC.

2.0 SUMMARY OF EXISTING MATERIALS

Town of Canandaigua Comprehensive Plan, 2011

The Town of Canandaigua Comprehensive Plan, updated in 2011, focuses heavily on the importance of preserving the Town's agricultural character and economic base. Comprehensive Plan recommendations to promote agriculture include economic development activities as well as land use and conservation strategies. Although Transfer of Development Rights is not specifically identified, the plan acknowledges the need to continue seeking out strategies to preserve agricultural land and many of the concepts described are consistent with TDR. For example, recommendation 1: Agricultural Protection and Community Development includes text that is closely aligned with TDR: "The purpose of slowing the conversion of productive agricultural land is not to prevent development but to increase the quality of development, and to guide it toward those areas in which it is most appropriate and consistent with the Town's vision statement." This concept could be equally applied to the Town's sensitive environmental areas and open space resources.

More directly, the Comprehensive Plan update recommended creation of the Conservation Easement Team. The Conservation Easement Team has made a direct recommendation to the Town Board to explore implementation of a TDR program. This recommendation has been accepted by the Town Board via Town Board Resolution # 2015-274.

Padelford Brook Greenway Plan, 2015

The Padelford Brook Greenway Plan represents an acknowledgement by the Town Board and Planning Board for the need to plan for the future of the north end of the Town. The study area includes primarily agricultural lands but there are also a great deal of streams, wetlands, floodplains, and tributaries. Commercial and residential development pressures have increased in this area in recent years, both in Canandaigua and in the Town of Farmington to the north. Adopted as an addendum to the Town's Comprehensive Plan, the greenway area has been considered as a response to these development pressures as a strategy to conserve and protect agricultural and environmental areas. Some parcels within the proposed Padelford Brook Greenway area have already been approved to enter into the New York State Department of Agriculture and Markets Purchase of Development Rights (PDR) program (Catalpa Acres closed—596 acres).

This TDR study explores the potential to use the same boundary as the TDR Sending Area. If successfully implemented, the Town could expand the Sending Area in the future to preserve additional areas within the Town.

Town of Canandaigua Agricultural Enhancement Plan, December 2016

The Town's Agricultural Enhancement Plan, adopted in December 2016, outlines the high quality agricultural resources that the Town possesses and describes the ownership, land area, and value characteristics of Canandaigua's agricultural land. The Plan also details the development pressures that have begun to pose a greater threat to the Town's agricultural character in recent years. For example, the plan notes that the Town issued an average of about 119 building permits for residential units between 2004 and 2015, but issued more than double—283 building permits for residential units—in 2015.

Farmland and Open Space Conservation Program, 2004

The Town of Canandaigua Open Space Committee created the Farmland and Open Space Conservation Program as an implementation phase of a comprehensive plan recommendation. The program is broken down into two phases. The first phase is creation of a complete inventory of farmland and open space resources. The second phase is creation of the Lands of Conservation Interest map. The Farmland and Open Space Conservation Program recognizes growth along the west side of Canandaigua Lake and throughout the Route 332 corridor as well as the importance of maintaining working landscapes and scenic views. Issues identified in the comprehensive plan and in the Farmland and Open Space Conservation Program included conversion of farmland as well as conflicts with non-farm neighbors. The program identifies the need for innovative land use planning techniques to preserve farmland and open space in Canandaigua.

Prioritizing Farmland and Scenic Views, 2006

Prioritizing Farmland and Scenic Views in the Town of Canandaigua was produced by the Environmental Conservation Commission to identify the parcels in the Town with the greatest conservation value. The report was created as a follow up to the Farmland and Open Space Conservation Program to provide guidance to the Town to focus conservation efforts on the most important parcels. The report developed a ranking methodology to evaluate farmland and scenic viewsheds and listed specific sites that ranked highly and suggested potential land use options to promote conservation.

Existing Code

AR-2 Rural Residential

The bulk of the proposed Sending Area is currently zoned AR-1 Agricultural Rural Residential. While most of the permitted principal uses are related to agriculture, the district also allows single-family dwellings on a minimum lot size of two acres. This has created some development pressure in the past of property owners seeking to subdivide farms and redevelop for single-family homes. The objective of the TDR program would be to provide an incentive for farmers to preserve agricultural uses.

Mixed-Use Overlay Districts

The Town of Canandaigua's three Mixed-Use Overlay (MUO) districts provide additional regulations in three key growth nodes that were identified in the Town's Comprehensive Plan. The MUO districts allow for a mix of land uses within these three growth areas once final site plan approval has been obtained by the Town Planning Board. Although there are some dimensional requirements included in the zoning code that apply to the MUO districts, there is no maximum density established in the code. This appears to give some discretion to the Planning Board during site plan review. Given that the MUO-1 and MUO-3 areas are proposed in this report as potential Receiving Areas, the zoning regulations for these districts would need to be revised in order to promote a successful TDR program. Most importantly, the zoning code should include specific development regulations for the MUO districts as a baseline for development that opts into the overlay. With specific regulations established, the code can then also provide development incentives above that amount for developments that participate in the TDR program.

Incentive Zoning

The Canandaigua Zoning Code features an incentive zoning district that can be used to protect farmland operations, preserve greenways and access to trails, high-quality scenic resources, historic and archaeological resources, and to provide a more desirable environment than what is possible under the existing zoning designation. Permitted incentives include an increase in residential density for a site, a change in lot area and dimensional requirement, and change of use. The community benefits or amenities

Section 2: Summary of Existing Materials

received in exchange for incentive zoning include the conservation of agricultural land, land conservation, construction of recreation and public facilities above the costs required to mitigate the impacts, preservation and improvement of historic and cultural sites, transportation improvements, and other facilities and benefits as determined by the Town Board.

Purchase of Development Rights

The Town's Purchase of Development Rights (PDR) program is funded by the New York State Department of Agriculture and Markets. The PDR program allows for farm owners to sell or donate development rights on their land, resulting in a perpetual conservation easement on the property. PDR provides financial assistance to the property owner and protects farmland from being developed, even if it changes hands. The PDR program contains some similarities to a TDR program—the primary difference is that it relies on grant funding to provide resources to purchase development rights, whereas the TDR program would be capitalized using fees paid by developers in a specified area of the Town in exchange for development incentives. The TDR Fund would also be able to use grant funds from Ag and Markets to supplement its resources.

3.0 DESCRIPTION OF SENDING AND RECEIVING AREAS

Proposed Sending Area

The proposed sending area is the Padelford Brook Greenway (Figure 1). The area currently consists of mostly rural and agricultural uses with some limited residential development and natural areas such as streams and wetlands. The most common existing land uses include vacant farmland, rural residential and agricultural uses (Table 1). Single family residential accounts for 13% of land area in the proposed sending area, which is greater than some agricultural uses, such as field crops and dairy farms. The prevalence of existing single family uses in the proposed Sending Area shows the importance of conserving open space within the Padelford Brook Greenway.

Table 1: Padelford Brook Greenway – Proposed Sending Area Existing Land Use

Land Use	Land Area (Acres)	Percent of Total Land Area	Parcels	Percent of Total Parcels
Vacant Farmland	2302	37%	36	10%
Rural Residential and Agriculture	1311	21%	14	4%
1 Family Residential	773	13%	224	62%
Field crops	389	6%	4	1%
Rural residential	244	4%	9	2%
Dairy farm	211	3%	1	0%
Horse Farm	203	3%	4	1%
Residential Vacant Land	167	3%	30	8%
Other	552	9%	40	11%
Total	6,153		362	

Receiving Areas

The proposed Receiving Areas consist of the existing MUO-1 and MUO-3 Mixed-Use Overlay districts, including the recently adopted extension of the MUO-3 between Route 364 and the Town border (Figure 1).

The current MUO-1 area is a commercial corridor with several auto dealerships and other highway-related uses. Nearly one-quarter of the land area (more than 180 acres) is classified as vacant commercial—The MUO-1 district is a prime area of future development (Table 2). The area has the potential to be transformed into a mixed-use, walkable environment, directly adjacent to the Town border with the City of Canandaigua.

The MUO-3 area and the MUO-3 extension both have a substantial area of vacant commercial land with some single-family residential, outdoor recreation, and greenspace (Table 3 and Table 4). The amount of vacant and land shows there is ample space for smart growth development.

Section 3: Description of Sending and Receiving Areas

Table 2: Existing Land Use in the MUO-1 Receiving Area

Property Class	Area (acres)	% of Total Area	Parcels	% of Total Parcels
330 Vacant comm	180.5	24.9%	27	16.8%
210 1 Family Res	106.6	14.7%	47	29.2%
557 Outdr sport	83.4	11.5%	2	1.2%
311 Res vac land	58.0	8.0%	12	7.5%
431 Auto dealer	47.8	6.6%	13	8.1%
322 Rural vac>10	36.3	5.0%	1	0.6%
411 Apartment	31.6	4.4%	6	3.7%
452 Nbh shop ctr	24.4	3.4%	4	2.5%
240 Rural res	24.1	3.3%	2	1.2%
Other *	131.7	17.9%	47	28.6%
Total Area	724.4	Total # of Parcels	161.0	

Table 3: Existing Land Use in the MUO-3 Receiving Area

Property Class	Area (acres)	% of Total Area	Parcels	% of Total Parcels
330 Vacant comm	205.3	20.7%	18	13.0%
210 1 Family Res	127.7	12.8%	45	32.6%
312 Vac w/imprv	111.7	11.2%	8	5.8%
531 Fairground	80.6	8.1%	1	0.7%
852 Landfill	68.8	6.9%	1	0.7%
240 Rural res	59.1	5.9%	3	2.2%
452 Nbh shop ctr	35.0	3.5%	3	2.2%
322 Rural vac>10	30.1	3.0%	2	1.4%
311 Res vac land	29.3	2.9%	8	5.8%
340 Vacant indus	28.7	2.9%	2	1.4%
Other *	217.7	21.8	47	33.0%
Total Area	994.0	Total # of Parcels	138	

Table 4: Existing Land Use in the MUO-3 Extension Receiving Area

Property Class	Area (acres)	% of Total Area	Parcels	% of Total Parcels
511 Legit theatr	69.8	33.2%	1	3.6%
311 Res vac land	47.6	22.6%	4	14.3%
822 Water supply	40.7	19.3%	1	3.6%
416 Mfg hsing pk	26.9	12.8%	1	3.6%
210 1 Family Res	6.8	3.2%	8	28.6%
330 Vacant comm	6.7	3.2%	2	7.1%
415 Motel	5.0	2.4%	2	7.1%
270 Mfg housing	2.5	1.2%	4	14.3%
Other*	4.4	2.0%	5	17.6%
Total Area	210.3	Total # of Parcels	28	

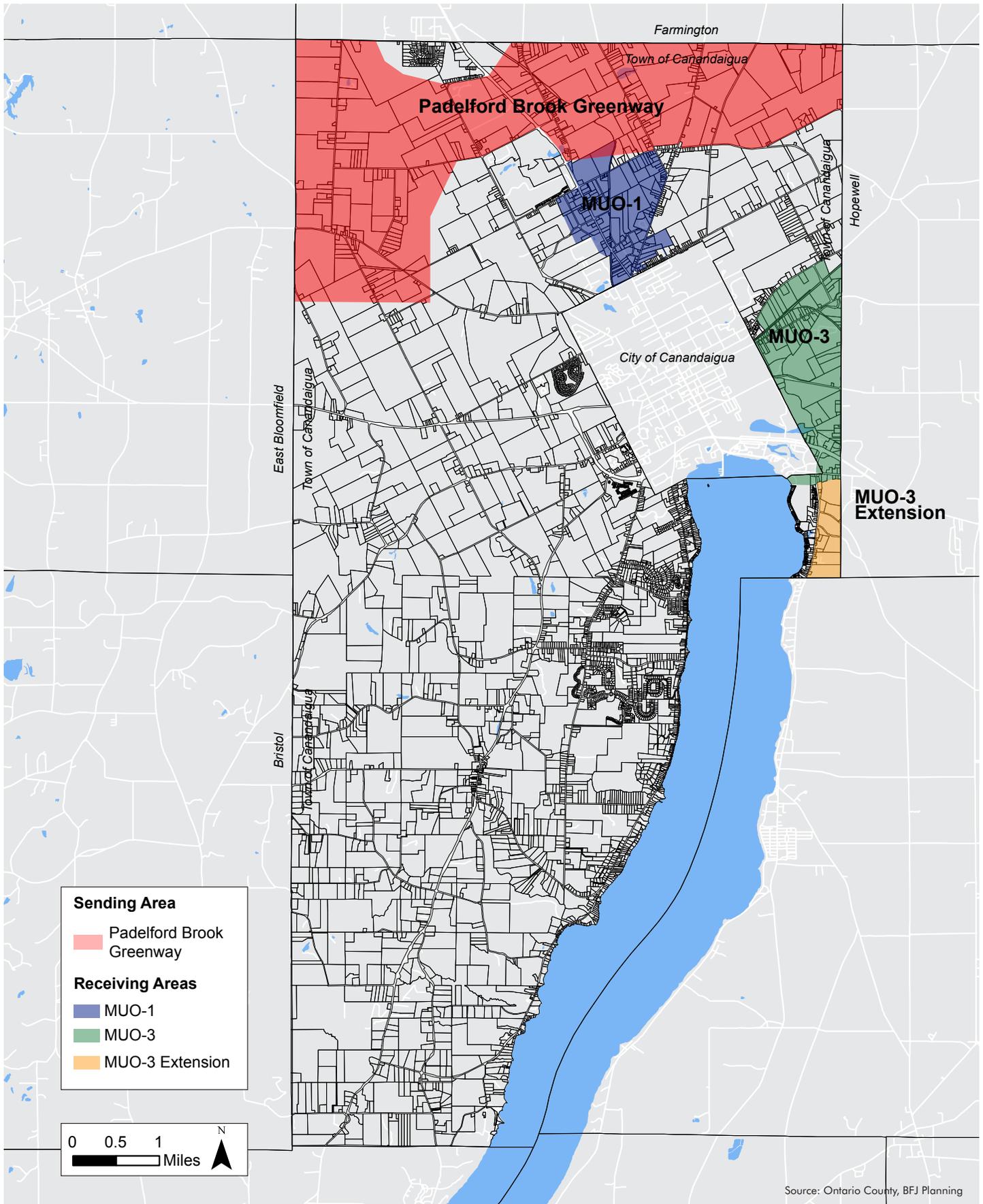


Figure 1: Proposed TDR Sending and Receiving Areas

4.0 DESCRIPTION OF TRANSFER PROCESS

There are two basic types of TDR mechanisms, Traditional TDR and Density Transfer Charge. Municipalities can implement either type of program to incentivize Sending Area property owners to transfer development rights to preserve land and encourage more efficient development in Receiving Areas.

Traditional TDR involves a private transaction between two property owners. In this type of program, the owner of the Receiving Area property negotiates and purchases development rights directly from the owner of the Sending Area property. In exchange, the Receiving Area property is allowed additional development rights while a deed restriction is attached to the Sending Area property, creating a conservation easement.

A Density Transfer Charge program involves creation of a TDR Fund that serves as an intermediary between the two property owners. In this type of program, the Receiving Area property owner pays a fee to the TDR Fund in exchange for an incremental increase in development rights. The TDR Fund can then use the revenue generated to purchase development rights from Sending Area property owners.

Both types of programs have their own advantages, however this report proposes that the Town of Canandaigua pursue a Density Transfer Charge program with a TDR Fund. Traditional TDR tends to be more straightforward legislation, however it has some drawbacks that favor a TDR Fund. The reason that the TDR Fund is favored by this report is that it creates greater flexibility for property owners in both the Sending Area and Receiving Area. With the fund set up as an intermediary, a developer in the Receiving Area can easily purchase TDR credits without having to seek out multiple Sending Area property owners. Meanwhile, once the fund is capitalized, a Sending Area property owner can sell TDR credits to the fund at any time, without having to wait for a developer to come along. In addition, since the TDR is controlled by the Town, it allows the Town to prioritize and target those properties in the Sending Area that have the greatest preservation value.

In either type of program, participation by property owners in the Sending Area and in the Receiving Area is voluntary. If a Sending Area property owner chooses to take part in the TDR program, the property owner may transfer through sale or donation all or part of the development rights associated with the property to the TDR Fund. Meanwhile, a Receiving Area property owner may purchase TDR credits from the TDR Fund and apply those development rights to an approved Receiving Area parcel.

Involved Parties

The following is a suggested outline of the roles for which each party involved in the TDR program would be responsible. This proposed framework is based on the operational needs of operating a TDR program and discussion with Town staff on local administrative processes. This outline, however, is not set in stone and the Town Board may consider revisions or alternative roles.

Town of Canandaigua

Town Board

- Must adopt TDR legislation and serve as lead agency on the Generic Environmental Impact Statement.

Citizen's Implementation Committee and Agricultural Advisory Committee

- Reviews subdivision, site plan, or special permit application by Receiving Site owner.

Section 4: Description of Transfer Process

- Coordinates with Town Manager and Assessor to verify Sending Site owner calculations and makes a determination (based on recommendation by Zoning Officer) on the accuracy of the TDR credit application.
- Coordinates with Town Manager and Assessor to verify Receiving Site owner calculations and makes a determination on the accuracy of the TDR credit application.

Planning Board/ Zoning Board of Appeals/Planning Board Attorney

- Records deed restrictions/conservation easements.
- Verifies draft deed restrictions/conservation easements submitted by Sending Site owner.

Town Manager, Assessor, Zoning Inspector, Planning Aide

- Verifies Sending Site owner calculations for site area and number of TDR credits.
- Verifies Receiving Site owner calculations for density bonus and TDR credit use.

Zoning Inspector

- Assists Sending Site owners in preparing TDR application.

Transfer of Development Rights Fund

- Operated by the Town, with the Town Manager as Executive Director.
- Negotiates purchase and sale price of TDR credits.
- Seeks outside funding sources to support TDR program operations.
- Identifies priority sites in the Sending Area to target for TDR program.

Finger Lakes Land Trust (in partnership with Town staff)

- Provides informational materials to Sending Site owners with information on the TDR program with assistance from the Environmental Conservation Board.
- Acts as a liaison between Sending Site owners, Receiving Site owners, and the TDR Fund.
- Assists TDR Fund in determining Sending Site TDR value.

Property Owner—Sending Area

- Submits application for transfer of development rights to the Agricultural Advisory Committee and the CIC with estimated number of credits. The Agricultural Advisory Committee will process applications with help from the CIC, the Zoning Inspector, and Planning Aide & make recommendations to the Planning Board.
- The application shall include basic landowner information, property information, a map of the proposed sending area parcel, and an estimated area calculation.
- Submits draft deed restrictions/conservation easements to the TDR Fund.

Section 4: Description of Transfer Process

Property Owner—Receiving Area

- Submits application for use of TDR credits to the Agricultural Advisory Committee and the CIC as part of site plan review. The Agricultural Advisory Committee will process applications with help from the CIC, the Zoning Inspector, and Planning Aide.
- The application shall include a zoning analysis that demonstrates the property area, total number of units, calculation of units per acre, and demonstration of intent to purchase required number of transfer credits to achieve the density increase.

TDR Process

The following section describes the step-by-step process of transferring development rights from Sending Area sites to Receiving Area sites (Figure 2 and Figure 3). This process was developed in coordination with the Development Office and with input from the CIC. However, specific roles and details of the process could be revised to reflect preferences of the Town Board, Planning Board, and/or Development Office.

Sale of Sending Site Development Rights

Phase 1: TDR Application

Step 1: Sending Site Owner Submits TDR Application to Agricultural Advisory Committee and Citizens Implementation Committee

In order to receive payment for the sale of development rights, Sending Site owners must complete a TDR Application. The application (which should be a standard form developed by the Town) shall include basic landowner information, property information, a map of the proposed sending area parcel, an estimated area calculation, and preliminary calculation of TDR credits.

The Sending Site owner may retain, at maximum, the ability to build one residential dwelling unit for every 50 acres of land area to be preserved. Any development rights retained by the Sending Site owner shall be subtracted from the total number of certified development rights for that parcel. Such unencumbered areas shall be delineated in the conservation easement survey.

The goal of allowing Sending Site owners the right to retain a single dwelling unit per 50 acres is to allow a large farm to be split up into smaller farms and preserves the ability for a small farmer to live on-site. The tradeoff this creates is that there may still be a risk that a large farm is subdivided and converted into large-lot residential development with no agricultural component. However, this may be a low-risk scenario and this type of development would still preserve open space and prevent smaller lot subdivisions.

When finalizing TDR zoning text, the Town has three options in determining how net site area is calculated. The difference between these three options is finding the appropriate balance of accurately valuing real development potential versus further incentivizing participation in the TDR program. Many sites in the Sending Area may have site area that is encumbered, for example by existing conservation easements, wetlands or water bodies, environmental areas, steep slopes, etc. The Town may choose to allow Sending Site owners to value encumbered lands in full, in part, or not at all. Below is a summary of each of these options.

1. The TDR program can deduct portions of the site with limited development potential from the sending site area calculation. Deducting existing conservation easements, submerged lands, environmental areas, wetlands, steep slopes, etc. is a more accurate reflection of development potential, but also reduces the number of TDR credits for some sites.
2. The TDR program can weigh the value of portions of the site differently, depending on development potential. For example, prime agricultural land may be valued at two credits per dwelling unit, while areas with steep slopes or wetlands are assigned a fraction of a credit (e.g., 0.25 credits per dwelling unit). This strategy allows a Sending Site owner to receive some financial return for land with limited development potential.
3. The TDR program can count site area with limited development potential towards the sending site area with no discount. Including these areas in the site area calculation overestimates development potential but provides an added incentive to sending site owners and also places an added value on ecologically important land (e.g., wetlands, steep slopes, streams, etc.).

Section 4: Description of Transfer Process

The total number of development rights available for transfer is determined by multiplying the sending site area by the base density for the zone in question.

The Sending Area applicant submits the completed application to the Agricultural Advisory Committee and CIC, including TDR Sending Area Application Fee to be used for administration and recording of the TDR credits.

Step 2: Agricultural Advisory Committee and Citizens Implementation Committee determine if agricultural, environmental, and/or open space value warrants approval of TDR credits.

The Agricultural Advisory Committee and the Citizens Implementation Committee serve as the first review of the application. The role of these two groups is to verify that the site in question has agricultural, environmental, and/or open space value. The committees also verify that the map submitted with the application for the proposed Sending Area parcel is of sufficient detail to show its general location, streets, available infrastructure, and agricultural or sensitive environmental features. If less than the full area of the parcel is being used for transfer of development rights, the committees will review the application map to confirm that it shows the specific area of the parcel subject to transfer.

If the Sending Site owner is using less than the full site area for sale of development rights, the Agricultural Advisory Committee and the CIC shall determine if future development on the area excluded from the transfer of development rights would degrade the value of agricultural uses on the portion of the site proposed for conservation easement. The Agricultural Advisory Committee and CIC has discretion to reject the application if the board determines that agricultural value is degraded by the non-encumbered portion of the site.

Step 3: Agricultural Advisory Committee and Citizens Implementation Committee forward application to the Town Manager for review of accuracy and zoning compliance.

The Agricultural Advisory Committee with the CIC shall forward the application to the Town Manager. The Town Manager shall review the application for accuracy and compliance with density allowance under the Town zoning ordinance.

Phase 2: Planning Board Approval

Step 4: Town Manager advises Planning Board of findings and any required adjustments to the application

The Town Manager shall advise the Planning Board of findings and required adjustments to the application if necessary.

Step 5: Planning Board verifies and approves the number of TDR credits in writing to the TDR Fund

The number of TDR credits that qualify for the transfer shall be verified and approved by the Planning Board, who provides the determination in writing to the applicant and the TDR Fund.

Phase 3: TDR Fund Valuation

Step 6: TDR Fund reviews application and determines valuation of TDR Credits based on TDR Transfer Formula

Valuation of Sending Site Credits is based on reverse engineering the Transfer Formula (described below). The formula determines how many TDR credits a Sending Site is worth. The value of TDR credits is determined based on appraisal of Receiving Area parcels. Therefore the TDR Fund should value Sending Sites with knowledge of recent transactions in the Receiving Area.

Section 4: Description of Transfer Process

Step 7: Sending Site Owner conducts title search to verify clear title and submits conservation easement to the Town Attorney

The Sending Site owner shall conduct a title search to verify the owner has clear title. Sending Site owner submits a draft deed restriction/conservation easement to the Town Attorney. The Town should provide a model deed restriction/conservation easement for the Sending Site owner to complete.

Phase 4: Recording of Conservation Easement and Payment

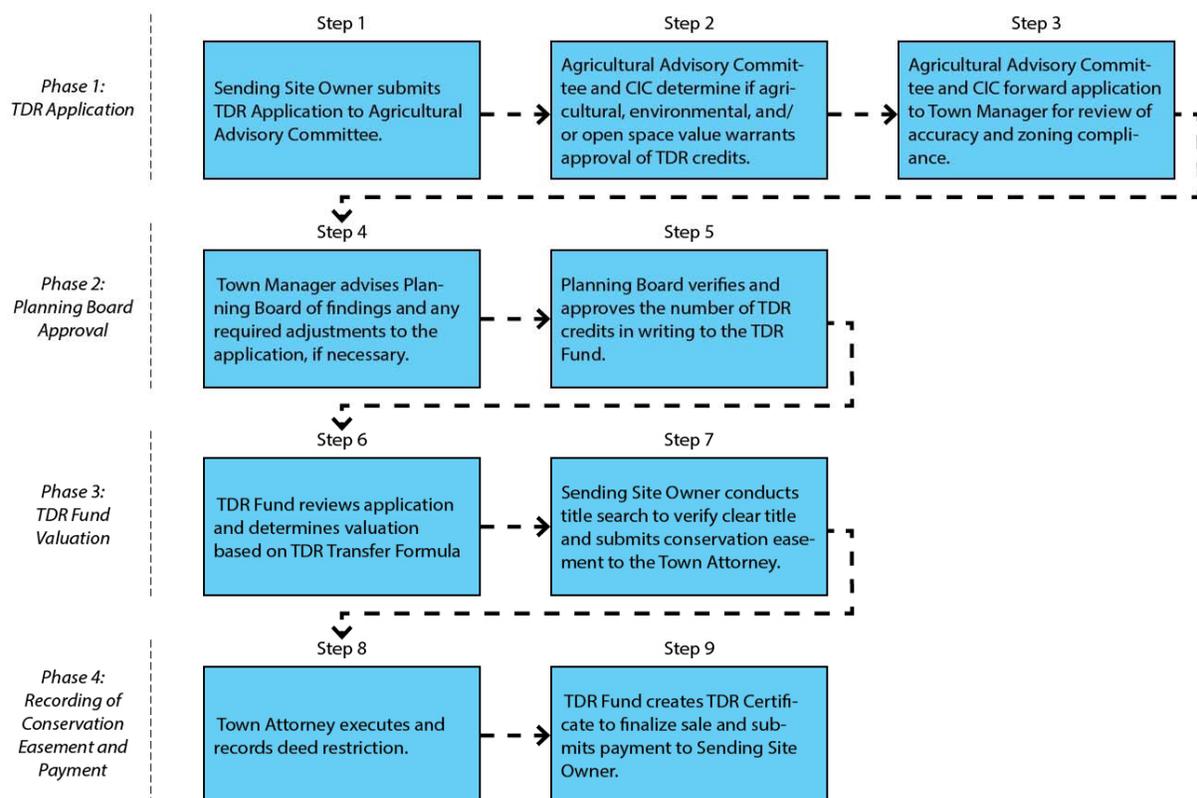
Step 8: Town Attorney executes and records deed restriction

After verifying the information submitted by the Sending Site owner, the Town Attorney executes and records the deed restriction.

Step 9: TDR Fund creates TDR Certificate to finalize sale and submits payment to Sending Site Owner

When the deed restriction/conservation easement is recorded, a TDR certificate is issued to the Sending Site owner by the TDR Fund. The TDR certificate is transferred to the TDR Fund and payment is submitted to the Sending Site owner by the TDR Fund. The TDR Fund holds the TDR certificate until it is redeemed by a Receiving Site owner. Easements could be held by the Town or by a third party, such as the Finger Lakes Land Trust.

Figure 2: Sending Site Process



Purchase of Receiving Site Development Rights

Phase 1: TDR Application

Step 1: Receiving Site Owner submits appraisal with analysis of development costs of bonus development

In order to be eligible for bonus development in exchange for purchase of TDR credits, Receiving Site owners must complete an appraisal and TDR Application. It is assumed that the bonus density allowed in the Receiving Area through the transfer of development rights will provide additional value to the Receiving Site owner. This additional value is used to determine the value of the TDR credits transferred. The value of the TDR credits shall be determined at the time of application for the use of such rights.

An appraisal and analysis of the incremental increase in value of the Receiving Area parcel shall be performed by an agreeable third party real estate appraiser. The appraisal and development value analysis must be approved by the TDR Fund. The development cost analysis shall include a comparative estimate of the costs involved to develop the Receiving Area parcel at the base density and at the proposed density using TDR credits.

The difference between the value of the undeveloped property at the base density and the value of the undeveloped property with TDR credits represents the fair market value of the development rights to be transferred. The value of each TDR credit must be less than the fair market value of the development rights (if the credits cost more than the value of the incremental increase in development rights, the developer would have no incentive to purchase TDR credits). For example, the TDR Fund could set the cost of TDR credits at 50% of the incremental increase in value.

Step 2: Receiving Site Owner submits appraisal and application to Agricultural Advisory Committee and Citizens Implementation Committee with zoning analysis and required TDR credits

Once the Receiving Site owner has completed the appraisal, the property owner should submit their application to the Agricultural Advisory Committee and the CIC. This application should include the appraisal as well as a zoning analysis that demonstrates the property area, total number of units, calculation of units per acre, and demonstration of intent to purchase required number of TDR credits to achieve the density increase.

This application informs the Agricultural Advisory Committee and the CIC of the Receiving Site owner's intent to use TDR credits.

Step 3: Agricultural Advisory Committee and Citizens Implementation Committee review application and forward to the Town Manager for review of accuracy and zoning compliance

After their review, the Agricultural Advisory Committee with the CIC shall forward the application to the Town Manager. The Town Manager shall review the application for accuracy and compliance with density allowance under the Town zoning ordinance.

Phase 2: Planning Board Approval

Step 4: Town Manager advises Planning Board of findings and any required adjustments to the application

The Town Manager shall advise the Planning Board of findings and required adjustments to the application if necessary.

Step 5: Planning Board reviews TDR application to ensure coordination with application for subdivision, site plan review, or special permit

After the Town Manager signs off on the application, it is sent to the Planning Board for review along with subdivision, site plan, or special permit review.

Section 4: Description of Transfer Process

In exchange for purchasing TDR credits, a Receiving Site development is eligible for development bonuses in the form of increased density, additional uses (e.g. multi-family residential or mixed-use), reduced parking requirements, and/or revised area and bulk requirements. The Planning Board reviews the development application to verify that the proposed development bonuses are consistent with the number of TDR credits being purchased.

Receiving Site owners may use any number of TDR credits on a project, as long as the development does not exceed the allowable development bonuses for the site. The Receiving Site owner's application must demonstrate the allowable number of units based on underlying density, the allowable number of units based on TDR credit density, and the number of TDR credits proposed. The maximum density in the Receiving Area shall be based upon an approved subdivision, site plan or special use permit.

Phase 3: TDR Fund Valuation

Step 6: Planning Board verifies and approves the number of TDR credits in writing to the TDR Fund

Upon approval of development plans and the TDR application, the Planning Board shall notify the TDR Fund in writing and forward the application to the TDR Fund. This alerts the TDR Fund to determine the valuation of the TDR credits being purchased.

Step 7: TDR Fund reviews application and determines valuation based on approved appraisal

Once it has received the application, the TDR Fund shall review the application, the number of TDR credits proposed for purchase, and the appraisal completed by the Receiving Site owner. Based on the appraisal of the incremental increase in value of the development and the number of TDR credits required to achieve the proposed development bonuses, the TDR Fund shall determine the appropriate valuation of the TDR credits.

As described above, the TDR Fund should work from a common formula for determining value of TDR credits. The value of TDR credits must be less than the increase in value of the development. For example, if the incremental increase value per unit of the bonus development is \$10,000, the cost per TDR credit could be 50% of this incremental increase per unit, or \$5,000.

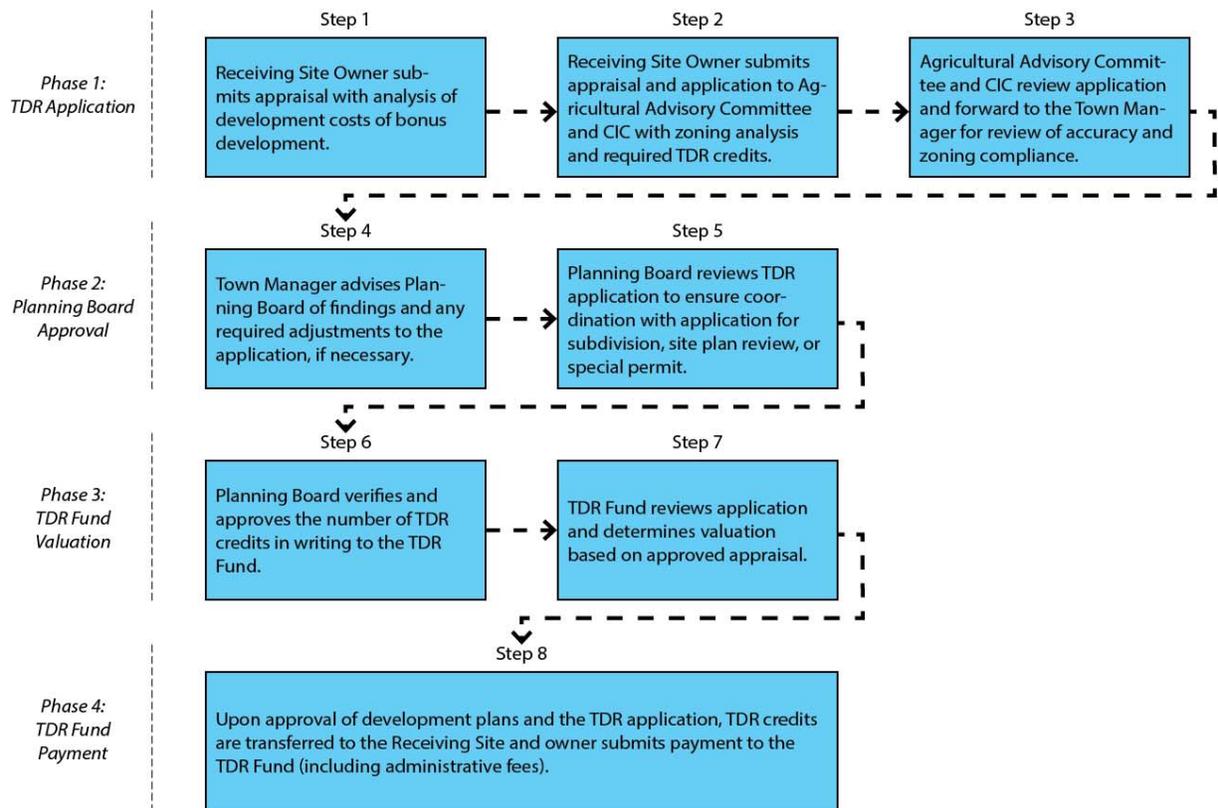
Phase 4: TDR Fund Payment

Step 8: Upon approval of development plans and the TDR application, TDR credits are transferred to the Receiving Site and owner submits payment to the TDR fund (including administrative fees)

TDR credits will be transferred to the parcel in the Receiving Area and the Receiving Site owner shall submit payment to the TDR Fund in the amount of the cost per credit times the number of credits, plus associated administrative fees.

Section 4: Description of Transfer Process

Figure 3: Receiving Site Process



Review Costs

The Receiving Site owner shall be responsible for all costs associated with the review of the TDR credit transfer application in addition to any costs associated with normal subdivision, site plan, or special use permit review, including all professional fees authorized by Town staff.

TDR Fund Administration and Funding

The purpose of the TDR Fund is to assist in the implementation of the TDR program by purchasing and selling TDR credits. The TDR Fund may acquire development rights only from property located within the designated Sending Area. TDR credits purchased from the TDR Fund may only be used for properties located within the designated Receiving Areas. Sending and Receiving Areas must be adopted in the Town Zoning Code by the Town Board. As such, they are subject to future expansion or addition if the Town determines that there are agricultural, environmentally sensitive, and open space areas that are priorities to be preserved through the TDR program.

Administration

The TDR Fund shall be administered by the Town with the Town Manager serving as Executive Director. The responsibilities of administering the TDR Fund include:

- Managing the TDR Fund.

Section 4: Description of Transfer Process

- Authorizing and monitoring expenditures.
- Recording dates, amounts, and locations of development rights purchases and sales.
- Executing development rights purchases and sales.
- Providing periodic summary reports of TDR Fund activity.

The TDR Fund may select prospective purchasers based on the price offered for the TDR credits, the number of credits offered to be purchased, and the potential for the sale to achieve the objectives of the TDR program.

The Town Board may establish a TDR executive board to monitor and oversee activity of the TDR Fund. The executive board could be made up of the directors of appropriate agencies within the Town, e.g., the Development Office, Town Supervisor, Environmental Conservation Board, Agricultural Advisory Committee, Planning Board, and representatives of the Citizens Implementation Committee.

Funding and Expenditures

The primary role of the TDR Fund is to serve as a conduit to transfer development rights from Sending Area sites to Receiving Area sites. The TDR Fund may purchase development rights from qualified Sending Area sites at prices not to exceed fair market value and to sell development rights at prices not less than fair market value. The TDR Fund may accept donations of development rights from qualified TDR Sending Sites.

The TDR Fund may also use funds to facilitate development rights transfers. These expenditures could include establishing and maintaining a web site, marketing the TDR program, procuring title reports and appraisals, and reimbursing costs incurred by the Town for administering the TDR Fund and executing development rights purchases and sales.

The TDR Fund may use revenue from TDR credit sales to cover the cost of providing staff support for operation of the program.

The TDR Fund may be funded through a combination of purchases by Receiving Site owners, fees collected by Receiving Site and/or Sending Site owners, and outside funding sources.

Outside funding sources may include:

- New York State Department of Agriculture and Markets grants and matching funds
- Other grant funding sources
- Sending Site owners who choose to donate development credits to the TDR Fund

Depending on the balance of potential development between the Sending Area and the Receiving Area, outside funding sources may be necessary to ensure that the TDR Fund has enough funding to purchase all available development rights in the Sending Area. If there are substantially fewer potential TDR credits that can be purchased in the Receiving Area, these outside funding sources can be used to make up the difference.

Zoning Approach

Transfer of Development Rights must be adopted in the Town’s zoning code to designate the Sending Area and Receiving Areas on the Town’s zoning map. The zoning code will also include specific development incentives in the Receiving Area.

Sending Area

The proposed Sending Area, which is defined by the Padelford Brook Greenway boundary, is largely zoned AR-2 Agricultural Rural Residential. This zoning district has a minimum lot area of two acres per dwelling unit for single-family residential homes (Table 5). The proposed TDR program for the Town of Canandaigua does not suggest any revisions to the underlying zoning in the Sending Area. Rather, the mapped Sending Area would allow property owners in this area to sell TDR credits to the TDR fund. After this sale, a conservation easement would be placed on the property, preventing future development.

Note that the Sending Area can be expanded or revised in the future. For example, if a substantial amount of development rights are purchased in the initial sending area, or if the Town identifies other areas that are priorities for preservation (whether agricultural land or environmental areas), the Sending Area can be expanded.

Table 5: Base Density of Sending Site Zoning Districts	
AR-2 Agricultural Rural Residential	2 acres/d.u.

There are about 5,000 acres of eligible parcels in the proposed Sending Area (this figure excludes sites that are already developed as residential, commercial, or public facility use). Of this site area, about 850 acres are considered “constrained,” meaning that they have steep slopes, are in flood zones, or include streams, wetlands, and associated buffers (Table 6). This proposed TDR program suggests discounting constrained lands, valuing them at the equivalent of 0.25 dwelling units. Constrained lands would not be developable in a subdivision, however giving them a discounted value provides an extra incentive for Sending Area property owners to participate in the TDR program.

Table 6: Total Development Potential in Sending Area Sites				
	Acres	Dwelling Units per Acre (existing zoning)²	TDR Credits per Dwelling Unit³	Total Available Credits in Proposed Sending Area
Unconstrained Acres	4,157	0.5	1.0	2,123
Constrained Acres¹	848	0.5	0.25	106
Total	5,006			2,229

1. Constrained acre calculations were made by calculating the area of each parcel that is constrained by natural features (steep slopes, flood zone, streams, wetlands, and associated buffers). Not all land uses would be eligible to sell their development rights for TDR. Land uses that were excluded include most non-agricultural residential, commercial, and public facility uses.
2. Underlying zoning varies, however vast majority of the area is zoned 1 d.u. per 2 acres.
3. Underlying zoning permits 0.5 d.u. per acre, constrained acres are given 0.25 credits per d.u.

Receiving Area

The proposed Receiving Areas are the MUO-1, MUO-3, and newly extended MUO-3. These parts of the Town have a variety of underlying zoning districts. The overlay gives the Development Office some discretion in approving development that would not be permitted by the underlying zoning. However, the MUO zoning text does not specify maximum development densities. In order for the TDR program to provide an adequate incentive for Receiving Area property owners, the zoning text should be revised to provide a specific maximum density for the underlying MUO (without participation in the TDR program) as well as an additional development incentive for participation in the TDR program.

The zoning approach recommended in this report is different for the MUO-1 and the MUO-3. In the MUO-1, has a tiered structure that allows a property owner to opt into the overlay district and choose whether or not to participate in the TDR program. However, if the development does not take advantage of the TDR program by purchasing TDR credits, the maximum density is capped at eight units per acre. If the development does include the use of TDR credits, the maximum density is increased to 16 units per acre. In the MUO-3, on the other hand, there is no tiered structure. Opting in to the overlay requires participation in the TDR program, with a maximum of 12 units per acre.

Table 7: Density of Receiving Sites in MUO-1 Zoning Districts

Zone	Area of Underlying Zoning District (Acres)	Existing Maximum Underlying Density	Proposed MUO-1 Density	Proposed Max. Density with TDR
CC	305	0.5	8	16
I	29	0	8	16
MR	27	8	8	16
R-1-20	10	2	8	16
R-1-30	240	1.5	8	16
RB-1	79	0	8	16

Table 8: Density of Receiving Sites in MUO-3 Zoning Districts

Zone	Area of Underlying Zoning District (Acres)	Existing Maximum Underlying Density	Proposed Max MUO-3 / TDR Density
AR-1	211	2	12
CC	300	0.5	12
I	204	0	12
MH	4	6	12
R-1-30	162	1.5	12

Table 9: Density of Receiving Sites in MUO-3 Extension Zoning Districts

Zone	Area of Underlying Zoning District (Acres)	Existing Maximum Underlying Density	Proposed Max MUO-3 / TDR Density
MH	27	6	12
R-1-20	175	2	12

Section 4: Description of Transfer Process

Receiving Area Incentives to Promote TDR

Density Bonus

The Town of Canandaigua can implement a successful TDR program by combining the TDR concept with density bonuses. These bonuses will provide increased density over existing zones in the proposed Receiving Area. The Town should keep the existing zoning in place and only provide Receiving Site owners with the benefit of these bonuses if they purchase TDR credits. Proposed density bonuses for the MUO-1, MUO-3, and MUO-3 extension are outlined below in Tables 7-9.

Expedited Approvals

The TDR program zoning text could include strict time limits on the review process to provide additional incentive to developers to participate in the program. TDR applications could be considered as part of the site plan review process and processed per the time limits set in the TDR legislation. To receive expedited approvals, the TDR legislation would specify that the application package must be fully complete, including complete SEQOR package. This stipulation protects the Town in the event that delays occur due to an incomplete application. In other words, if delays are the result of an incomplete application, the Town cannot be held to time limits for the review process until the application is complete.

Permitted Uses

There may be interest by the Town in allowing uses in the Receiving Area that are not currently permitted by existing zoning in underlying districts, such as multifamily residential, mixed-use commercial/residential, hotels, etc. Therefore, participation in the TDR program could provide additional permitted uses with site plan review.

Reduced Parking Requirements

Parking requirements, particularly for multi-family buildings, are often designed with low-density, auto-focused communities in mind. However, the Town could consider reduced parking requirements as a development incentive for participation in the TDR program. In this application, a development could be eligible for reduced parking requirements in exchange for purchase of TDR credits and if the application can demonstrate reduced car ownership and vehicle trips.

Revised Area and Bulk Regulations

The Town could also provide revised area and bulk regulations as a development incentive. Area and bulk regulations include building height, building coverage and setback requirements. In particular, minimum setbacks could be a regulation that is relaxed for applications that participate in the TDR program. For example, in the CC Community Commercial district, which is mapped along the Route 332 corridor in the MUO-1 area, principal building uses have a minimum front setback of 100 feet to 200 feet. If one goal of the TDR program is to promote smart growth development in more walkable communities, one could argue for reduced setbacks that bring building frontages closer to the street.

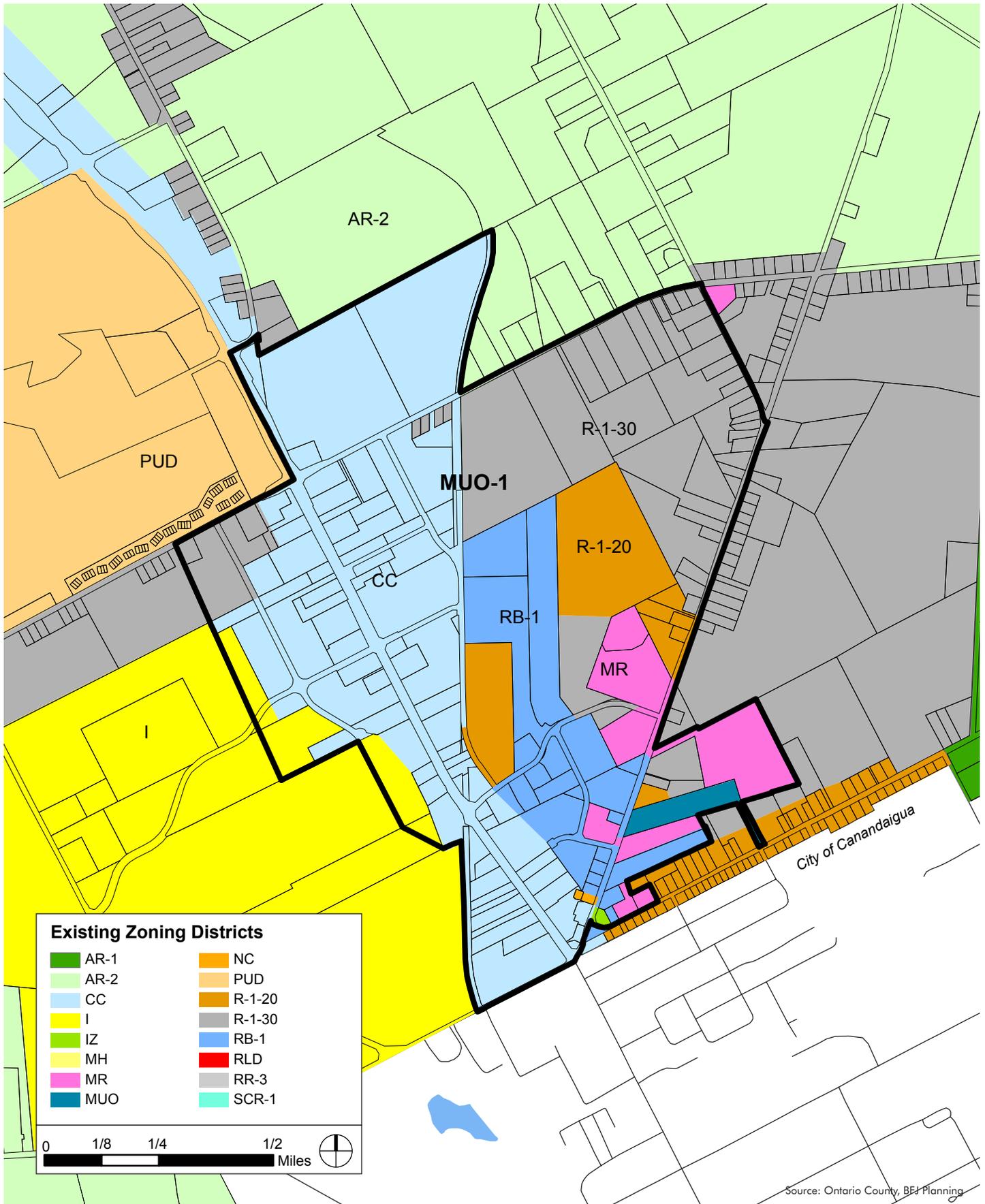


Figure 4: Existing MUO-1 Zoning

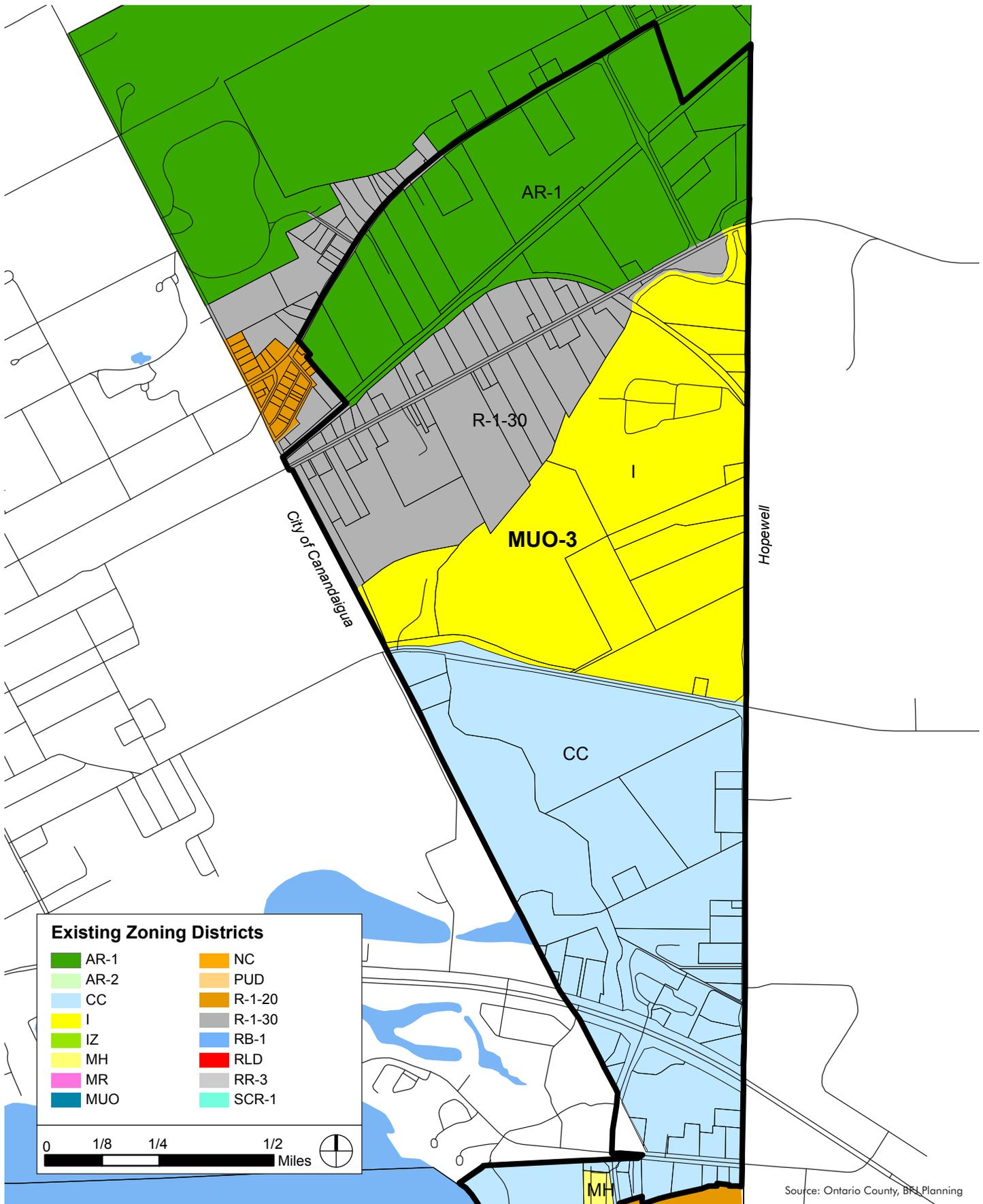
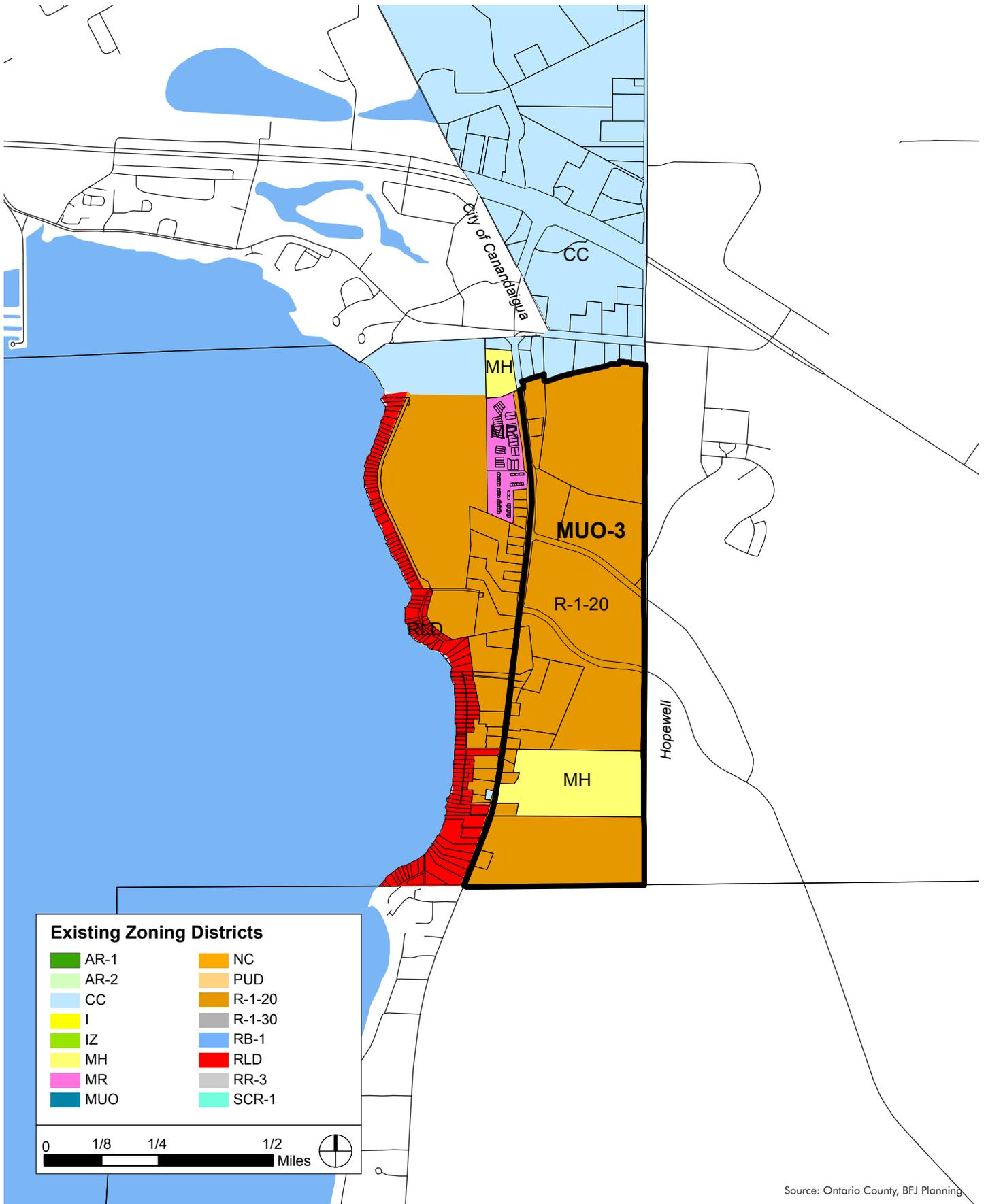


Figure 5: Existing MUO-3 Zoning



Source: Ontario County, BFJ Planning

Figure 6: Existing MUO-3 Extension Zoning

Transfer Formula

Potential Transfer Ratio

The transfer formula determines how potential development in the Sending Area is converted into bonus development in the Receiving Area. In Canandaigua, the Sending Area is primarily made up of agricultural land that is zoned for low density residential development. The Receiving Area is made up of the Mixed Use Overlay District, which has three different sub areas with varying levels of allowable density in the underlying zoning. The objective of the transfer formula is to establish a transaction that converts development rights sold by Sending Site owners into TDR credits that can be used by Receiving Site owners. The Mixed Use Overlay District sub areas should allow for greater densities and/or allowable uses for developments taking advantage of the TDR program than the underlying zone allows. These greater allowable densities ensure that the TDR program provides a benefit to Receiving Site owners that incentivizes them to participate, while also respecting the existing character of the areas.

For this preliminary formula, Sending Area densities are based on the AR-2 zoning district. Additionally, for this calculation, it is assumed that moderate density development in the Receiving Area should be favored over low density development in the Sending Area. Therefore each Sending Area dwelling unit is converted into two TDR credits. This transfer ratio benefits property owners in both the Sending Area and the Receiving Area.

Finally, Sending Area land that is encumbered by wetlands, steep slopes, or other development restrictions is discounted to reflect the limited development value on this type of land. For this calculation, encumbered area is valued at a transfer ratio of 0.25 TDR credits per dwelling unit.

Table 10: Preliminary Sending Area Transfer Ratio			
Sending Area Zoning District	Sending Area Density	Transfer Ratio	
		Unencumbered d.u./credit	Encumbered d.u./credit (Wetlands, steep slopes, etc.)
AR-2 Agricultural Rural Residential	0.5 d.u./acre	1 d.u. : 2 TDR credits	1 d.u. : 0.25 TDR credits

Table 11: Preliminary Transfer Formula

$$\text{Area} * \text{Sending Area Density} * \text{Transfer Ratio} = \text{TDR Credits}$$

The following example demonstrates how the transfer formula would be applied in the Sending Area. In this case, a 50 acre site in the AR-2 district is made up of 40 acres of agricultural land and 10 acres of wetlands/steep slopes. To calculate the number of TDR credits, the Sending Site owner would first multiply the area of agricultural land by the underlying allowable density (40 acres times 0.5 d.u./acre). Since each dwelling unit in the low density Sending Area is transferred to two TDR credits in the Receiving Area, this number is then multiplied by the transfer ratio of two to arrive at 40 TDR credits. Then, the owner would calculate how many credits they can earn from the 10 acres of wetlands/steep slopes. The formula is the same, except that the transfer ratio for encumbered land is 0.25. Therefore, the 10 acres is multiplied by 0.5 d.u./acre, then the 0.25 transfer ratio to arrive at 1.25 TDR credits. The total amount of TDR credits that this site qualifies for is the sum of these two figures, or 41.25 TDR credits.

Section 4: Description of Transfer Process

Table 12: Sample Sending Area TDR Credit Calculation						
Example: 50 Acre site in the AR-2 district, 10 acres of wetlands/steep slopes.						
40 acres	*	0.5 d.u./acre	*	2 TDR credits/d.u.	=	40 TDR Credits
10 acres	*	0.5 d.u./acre	*	0.25 TDR credits/d.u.	=	1.25 TDR Credits
Total					=	41.25 TDR Credits

Receiving Area: Potential Maximum TDR Bank Sale Capacity

Sample Receiving Area TDR Credit Calculation

To explore the development potential under TDR for a sample site in the receiving district, this report looked at the parcel located at 3535 State Route 364. Note that these calculations are only an example, not reflective of a pending application.

The site is located at the southern border of the Town, just west of Route 364. This area is included in the recent extension of the MUO-3 overlay district. The underlying zoning is R-1-20, which allows single family residential with a minimum lot size of 20,000 square feet (approximately two units per acre). The total area of the site is 33.2 acres.

Under existing zoning, a single-family residential subdivision on this site could build up to 72 units. However, if this property were to opt to participate in the proposed TDR program, the development could purchase TDR credits to achieve 12 units per acre, which would allow for up to 398 units. The incremental increase in units in this scenario is 326. In order to be eligible for that development bonus, the developer would be required to purchase 326 TDR credits.

Based on the estimate of an incremental increase in value of \$10,000 per dwelling unit, and a TDR credit valuation of 50% of the incremental increase in value, each credit would cost the development \$5,000, for a total of \$1,630,000. In exchange for this increase in development on Route 364, the TDR Fund would then have over \$1.6 million to put towards purchasing conservation easements in the Sending Area.

Table 13: Total Potential Development in Receiving Area Sites						
MUO District	Total Acres	Developable Acres ¹	Units Under Existing Zoning	Units Under Proposed MUO Density	Units Under Proposed TDR Density	Incremental Increase in Units (from Existing to TDR Density)
MUO-1	760	624	730	4,990	9,979	9,249
MUO-3	1,013	577	413	6,926	6,926	6,513
MUO-3 Ext.	300	262	506	2,402	2,402	1,896
1. Developable acres are unconstrained areas with a land use that is likely to be developed. Not all land uses were assumed to be developable. These non-developable uses include community facilities, public utilities, and parks.						

Important Note:

Although the above calculations show a substantial potential increase in units in the MUO districts with TDR, the actual number of units is limited by how many credits are available for purchase in the Sending Area.

Section 4: Description of Transfer Process

These calculations are based on applying the TDR density to all units in the Receiving Area, but once the TDR credits in the Sending Area are exhausted, there would be no more TDR-related development bonuses available for use in the Receiving Area.

In addition, there is currently no specific maximum density in MUO districts in the Town Zoning Code. The above proposed Zoning Approach would apply a maximum density in these areas, providing guidance to potential developers and Town planning staff.

Based on the above calculations and the existing 2,230 Single Family Credits that would be available for purchase in the Sending Area and based on a 2:1 Transfer Ratio, there would be 4,460 potential additional units that could be constructed in the Receiving Areas. Additional Receiving Area credits could be made available in the future if the Sending Area were expanded.

5.0 CONCLUSION

The proposed TDR program outlined here for the Town of Canandaigua would provide a land use mechanism that supports the Town's goal of preserving agricultural and environmental areas while clarifying development incentives in the mixed-use overlay areas. The intent of this report is to provide an overview of a potential program, but if the Town is interested in pursuing this strategy, many of the details contained here could be revised to be consistent with general town policies.

The approach in the proposed Sending Areas is similar to existing programs in the Town, including the Purchase of Development Rights program and efforts by the Finger Lakes Land Trust to purchase conservation easements. The proposed approach in the Receiving Area is also similar to existing zoning programs in the Town, but this report attempts to provide some clarity to MUO regulations while also providing a nexus between development fees that the Town collects and the development bonuses that are provided in exchange for those fees. This program would create a connection between fees paid for increased development in parts of the Town where greater development is more appropriate, while using funds generated to preserve agricultural and environmental lands from future subdivision.

There are currently over 5,000 acres of land in the proposed Sending Area that this program could preserve from development. If this program is successful in the Town, it also could provide a model that could be expanded to other parts of Canandaigua to preserve additional agricultural and environmental areas.

Next Steps

Following BFJ's presentation to the Town Board on August 21, 2017, it will be up to the Town to determine the best way to proceed. The process to implement TDR legislation is similar to adopting any zoning code revision, including compliance with SEQRA and the Town will also have to establish the TDR Fund. The Town could consider conducting stakeholder outreach to refine details of the proposed TDR program in this report. Stakeholders could include property owners in the proposed Sending Area and local developers who may be interested in participating in the program in the Receiving Area.

Following consideration by the Town Board and Town Manager, as well as any potential stakeholder outreach, the Town could proceed to drafting the local law that would establish the TDR program in the local zoning code and initiate the SEQRA process.