

Chapter 7.0: Agricultural, Natural & Cultural Resources

INTRODUCTION

Introduction

This chapter provides an inventory of existing agricultural, natural, and cultural resources in the Town and Village of Black Creek. In addition, issues associated with these resources are discussed and a vision, with supporting goals and objectives, is presented.



Agricultural, Natural & Cultural Resources Vision

Primary agricultural areas, woodlands, wetlands and other natural areas are protected from development pressure. Farming operations in the Town consist of several small, garden farms and rented cropland. The Town's farmland and natural areas enhance the rural character of the community by maintaining open vistas and providing buffers between residential areas to maintain the low, rural density of development desired by residents.

As has been the tradition, cultural and entertainment venues are easily accessible in nearby communities.

AGRICULTURAL, NATURAL, & CULTURAL RESOURCES VISION

In 2035, woodlands, wetlands, streams, and productive agricultural lands remain the dominant landscape features in the Town of Black Creek. Natural areas and open spaces provide recreational opportunities for residents and habitat for wildlife. Farming continues to be a productive and economically viable source of income residents. Residential and limited commercial areas have been developed with protected open spaces, preserving the scenery and panoramic views that define the community. Residents and visitors enjoy access to the natural environment via a network of local and county trails

The Village of Black Creek has expanded its park system to meet growing needs and includes permanenetly preserved open spaces as part of all residential development projects. The community embraces its history and culture through a variety of community events held throughout the year. Residents have access to a number of local and regional trail systems connecting them to the natural landscapes available in nearbycommunities.

Residential, commercial, and industrial development is changing the face of communities throughout Wisconsin. Most new construction outside of urban environments occurs on

previously undeveloped agricultural lands and open spaces. Without the need to demolish or rebuild existing structures, development costs are much lower in these areas. As the Town and Village of Black Creek grow over the next two decades each will need to consider how to preserve the agricultural, natural, and cultural resources most valued by residents the ensure that they remain available for the benefit and enjoyment of future generations.

The purpose of the the Agricultural, Natural, and Cultural Resources chapter is to describe the resources present in the community and prepare a plan for their long-term preservation.

~~Agricultural Resources~~ **AGRICULTURAL RESOURCES**

~~Why should farmers care about this Smart Growth Plan? First, farmers are the largest landholders in the Town. In fact between 20 and 30% of all residents live on farms.⁺ Farm families are the heart and soul of the Town — with a sense of history and place — as well as the Town’s economic foundation. As major landowners, farmers pay property taxes that support schools and other services used by farmers and non farmers. Therefore, farmers have a direct and important say in the future of the Town. Furthermore, given the Town’s Exclusive Agricultural Zoning, farming will remain important in the Town for the life of this plan and efforts must be made to keep farming a viable, productive use of the land.~~

~~The Town and Village of Black Creek value the input of local farmers and sought to include them to the fullest extent possible in the development of this plan.~~

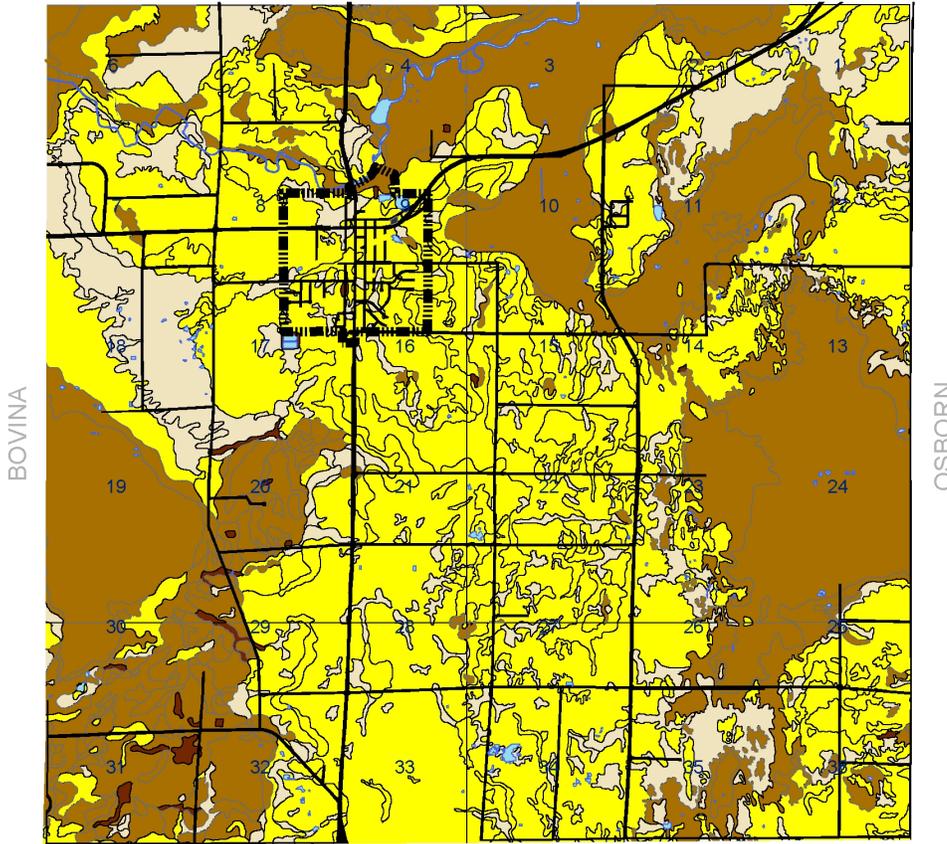
~~Agricultural land remain the dominant landscape feature of the Town of Black Creek. As development pressure grows it becomes the most threatened, since farm land is highly sought after for residential and commercial uses. Poorly planned and unguided development can result in a significant decreases in available agricultural acreage. This chapter identifies the available tools that can be used to preserve farming as both a viable land use and as an income producer for farm families.~~

⁺ The Program on Agricultural Technology Studies & The College of Agriculture and Life Sciences, Wisconsin Land Use Research Program, July 1, 1999, based on tax record data from WDNR and Tiger Census Files. Information is available on line at:
<http://www.wisc.edu/pats/landuse/rpemaps/Statewide/livingonfarms.html>.

AGRICULTURAL PRODUCTIVITY AREAS

BLACK CREEK

CICERO



CENTER



1" = 6100'

OMNI ASSOCIATES

PROJECT #M109402
DATE: 10/07/03
DRAWN BY: KAL
REVISED: 12/13/04

ONE EIGHT ONE DAVIS APPELTON WI 54911
PHONE (608) 755-9900 FAX (608) 830-9100

Legend

- ROADS
- HIGH
- MODERATE
- LOW
- UNPRODUCTIVE
- WATER
- VILLAGE BOUNDARY

Areas in yellow indicate soil types which are capable of producing high yields of crops typically grown in the county under a high level of management. Productive soils are considered to be those which are capable of producing an average of 4 tons per acre per year of grass-legume hay, or 100 bushels per acre of corn. The Soil Conservation Service considers a "high level of management" to include provisions for adequate drainage, appropriate tillage, planting and seeding with high yielding varieties, control of weeds, diseases, insects, optimum fertilizer application and timely, efficient harvesting techniques.

LOCATION: F:\GIS\M109402\DRAWINGS\GAG_11x17.mxd
SOURCE: EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION
OUTAGAME COUNTY

However, the removal of land from agricultural use is not always avoidable. Roads need to be built and people need places to live and work. Considering that agriculture requires land in order to operate, and that land is one commodity that cannot be manufactured, it seems logical to make some effort to assure that there will be sufficient farm land available in the future. Development in the Town should occur in a manner that preserves, to the greatest extent practicable, prime agricultural soils and established farm operations.

PRODUCTIVE AGRICULTURAL AREAS

Farmland makes up ~~69.1~~ percent of the land base in the Town of Black Creek. Wetlands ~~make up account for~~ another ~~28.6~~ percent, while forested lands and forests total 2.1 percent.²



Prime farmlands (productive agricultural areas) are determined by soil types that are capable of producing high yields of crops under a high level of management. Productive soils are considered to be those soils that are capable of producing an average of 4 tons per acre per year of grass-legume hay, or 100 bushels per acre of corn. The United States Department of Agriculture Soil Conservation Service considers a “high level of management” to include provisions for adequate drainage, appropriate tillage, planting and seeding with high yielding varieties, control of weeds, diseases, insects, optimum fertilizer application and timely, efficient harvesting techniques. Productive agricultural soils are illustrated on the *Agricultural Productivity Areas Map*. The soils in the Town of Black Creek are considered highly productive and have an estimated crop yield of 110 bushels per acre of corn.

Town Survey Results

In the Town resident survey, a vast majority of respondents believe that local farmland has a positive impact on the Town's natural areas (67% believe impact is positive), local wildlife (61%), preservation of rural character (75%), the area's scenic quality (72%) and local economy (65%).

CONCENTRATED ANIMAL FEEDING OPERATIONS

Concentrated Animal Feeding Operations (CAFOs) or “mega farms” are increasing in number in Wisconsin. CAFOs are farms with over 1,000 animal units. An “animal unit” is equivalent to 1,000 pounds. In 1985, there was one such operation in the state. By 1990, 24 operations and by 2000 there were 77 mega farms in Wisconsin. Generally, CAFOs locate in rural areas where conflicts with neighboring property owners can be minimized. In many respects, Black Creek is a desirable location for a CAFO given its easy access to STH 47 (and nearby access to USH 41), low population density and abundant farm areas.



CAFOs often bring advantages and disadvantages to a community.

² 1993 Land Cover Data, Wisconsin Town Land Use Data Project: Program on Agricultural Technology Studies, UW-Madison

- From an economic standpoint, CAFOs generate jobs and taxes in a municipality.
- Proponents also argue that animals in CAFOs are generally cleaner and better cared for than animals on smaller farms.
- Opponents site concerns related to manure management, odor, traffic, neighboring land value, and lighting issues as concerns which must be addressed to successfully locate a CAFO in a community.

Locating CAFOs is a challenge. Helping landowners locate larger operations prevents problems later with potential feedlot runoff, manure storage, and manure handling problems. Of particular concern is having more animal units than cropland available for spreading manure.

Recent changes to Wisconsin State and local (county) regulations mean more livestock and cash grain producers are following nutrient management plans (NMP). In addition, the USDA and EPA are proposing changes that will reduce the number of animal units that a farm may have before a WPDES permit is required. Those farms currently required to have a nutrient management plan include:

- Farms with more than 1,000 animal units;
- Farms under county conditional use permits;
- Farms that have taken cost sharing money for a manure system since 1990; and
- Farms that have had a DNR notice of discharge (NOD).

One major change as a result of the new regulations is that counties and townships are no longer allowed to have more restrictive livestock ordinances than state statutes, unless the government body can document that more restrictive rules are necessary to protect water quality (state statute 92.15).

The newly revised regulations require nutrient management plans for all farms, including those with no livestock. By 2008, all farming operations must meet nutrient management standards. The new rules apply to all fields that receive nutrients (fertilizers and manure). To meet the nutrient management standards, farms must have a plan that complies with the NRCS standard 590.

WHAT IS A WPDES PERMIT?

The WDNR regulates municipal, industrial, and significant animal waste operations discharging wastewater to surface or groundwaters through the Wisconsin Pollutant Discharge Elimination System (WPDES) permit program.

The permits are for a maximum of 5-years. They establish the performance standards for the wastewater treatment systems and set numeric criteria the discharger must meet. The permit is the discharger's approval to discharge a set quantity of wastewater at a specific location.

More information is available on-line at:
www.dnr.state.wi.us/org/water/wm/www/

CONSERVATION PRACTICE STANDARDS

The NRCS (a division of the USDA) has developed a handbook that provides technical guidance for nutrient management concerns, including those related to manure management.

313 Waste Storage Facilities
 359 Waste Treatment Lagoons
 634 Manure Transfer
 561 Heavy Use Protection Area

Additional information is available on-line at:
www.nrcs.usda.gov/programs/afo/cnmp_guide_index.html

THE CHANGING FARMING DYNAMIC

The loss of farms and farmland is a problem that affects all Wisconsin communities. However, the pace and severity of agricultural decline varies considerably across the state. In 1989 there were 39 dairy farms in the Town of Black Creek. By 1997, the number of dairy farms had

decreased to 21 (a 46.2% decrease). Between 1990 and 1997, the Town of Black Creek lost nearly 300 acres of farmland. **UPDATES REQUIRED**

The major livestock sectors – poultry, hogs, dairy and beef – have been at the leading edge of change in U.S. agriculture. In recent decades, four trends in the national livestock industry have been particularly striking:

- Dramatic rates of decline in the numbers of all types of livestock producers;
- The emergence of “industrial-type” confinement systems that permit extremely large scales of production;
- Increased reliance on hired labor rather than family labor; and
- A new emphasis on contraction relationships among producers, suppliers and buyers.

Reflecting nationwide trends, Wisconsin has lost substantial numbers of livestock farms over the past two decades. Overall livestock numbers and sales in Wisconsin have also declined. While modest-scale family farms continue to be the mainstay of Wisconsin agriculture, there has been growing debate about the desirability of expanding existing farms or creating new larger scale enterprises to restore or boost livestock production levels.



The Black Creek community understands the challenges associated with modern farming operations. To support a strong local farm economy, the Black Creek community will:

- Support the a local farmers “Right to Farm”;
- Consider applications for properly permitted CAFOs; and
- Provide farmers with information about private (i.e. land trusts), state, and federal assistance programs available to farmers.

AGRICULTURAL LAWS AND PROGRAMS

WISCONSIN RIGHT TO FARM LAW

~~Wisconsin has a right to farm law protecting farmers from nuisance lawsuits related to typical farm noise and odors. As residential development expands into farmland areas, it is inevitable that odor issues develop. Often the issues relate to manure spreading and storage. Another common farm practice is plowing and harvesting at night, which also creates some disturbance concerns for residents living nearby. People who move to rural areas near farmland are not always aware of these and other potential nuisances. As more people move to rural farmland areas and as farm operations get bigger, conflicts are inevitable. To minimize conflicts, education is strongly recommended. By educating new landowners about potential conflicts, “surprise” nuisances can be avoided.~~

2002 FARM SECURITY AND RURAL INVESTMENT ACT

The Farm Security and Rural Investment Act of 2002, which governs federal farm programs for the next 6 years, was signed into law on May 13, 2002. Its provisions support the production of a reliable, safe, and affordable supply of food and fiber; promote stewardship of agricultural land and water resources; facilitate access to American farm products at home and abroad; encourage continued economic and infrastructure development in rural America; and ensure continued research to maintain an efficient and innovative agricultural and food sector.

Under the 2002 Farm Act, the milk support purchase program, which had been operating year to year recently, became a multiyear program. The milk support price equals \$9.90 per hundredweight (cwt). The Commodity Credit Corporation (CCC) will buy, at support purchase prices, any butter, cheddar cheese, or nonfat dry milk that is offered to it and meets specifications. The support purchase prices are set to ensure that the price of manufacturing milk averages at least the milk support price of \$9.90 per cwt.

The Dairy Export Incentive Program (DEIP) pays cash bonuses that allow dairy product exporters to buy U.S. products and sell them abroad when international prices are below domestic prices. DEIP removes products from the domestic market, helps develop export markets, and plays an important role in milk price support. The DEIP quantities and dollar amounts are subject to World Trade Organization restrictions under the Uruguay Round Agreement on Agriculture.

The 2002 Farm Act also established a national Dairy Market Loss Payments (DMLP) Program to provide a price safety net for dairy producers. A monthly direct payment is made to dairy farm operators if the monthly Class I price in Boston (Federal Order 1) is less than \$16.94 per cwt. Payments are to be made on up to 2.4 million pounds of milk per year per organization (based on 2001 U.S. average data, which is the production from about 132 cows).

ENVIRONMENTAL QUALITY INCENTIVES PROGRAM

Environmental Quality Incentives Program (EQIP) was reauthorized in the Farm Security and Rural Investment Act of 2002 (Farm Bill) to provide a voluntary conservation program for farmers and ranchers that promote agricultural production and environmental quality as compatible national goals. EQIP offers financial and technical help to assist eligible participants install or implement structural and management practices on eligible agricultural land.

For Additional Information...
www.nrcs.usda.gov/programs/eqip/

EQIP offers contracts with a minimum term that ends one year after the implementation of the last scheduled practices and a maximum term of ten years. These contracts provide incentive payments and cost shares to implement conservation practices. Persons who are engaged in livestock or agricultural production on eligible land may participate in the EQIP program. EQIP activities are carried out according to an environmental quality incentives program plan of operations developed in conjunction with the producer that identifies the appropriate conservation practice or practices to address the resource concerns. The practices are subject to NRCS technical standards adapted for local conditions. The local conservation district approves the plan.

EQIP may cost share up to 75 percent of the costs of certain conservation practices. Incentive payments may be provided for up to three years to encourage producers to carry out management practices they may not otherwise use without the incentive.

CONSERVATION RESERVE ENHANCEMENT PROGRAM (CRP)

CRP is a USDA program that has run in the U.S. since 1985. In Wisconsin 600,000 acres have been taken out of agriculture production to decrease erosion, enhance water quality, and establish wildlife habitat in the 13 years since its inception. Under the program, a farmer volunteers to take land out of production for a period of 10 or 15 years and is paid annual rental payments and cost share assistance to establish long term, resource conserving covers on eligible farmland.

For More Information...
www.fsa.usda.gov/dafp/cepd/crp.htm

The Commodity Credit Corporation (CCC) makes annual rental payments based on the agriculture rental value of the land, and it provides cost share assistance for up to 50 percent of the participant's costs in establishing approved conservation practices. Participants enroll in CRP contracts for 10 to 15 years.

The CCC through the Farm Service Agency (FSA) administers the program. The Natural Resources Conservation Service, Cooperative State Research and Education Extension Service, state forestry agencies, and local Soil and Water Conservation Districts provide program support. At the end of that contract period the farmer can sell the land, put it back into production basically whatever they want to do.

Local Agricultural Protection Tools Agricultural Plan

The primary issue-concern with farmland preservation in Black Creek is that individual farmers faced with development pressures, retirement needs, and a worsening farm economy, seemay view the sale of their land for development, as an attractive financial opportunity. Moreover, there seems to be an endless supply of urban dwellers that want to fulfill their dream of living in the "country."

A variety of tools are available to local governments and farmers to preserve prime agricultural lands. These include Wisconsin's Farmland Preservation Program (Chapter 91, Wis. Stats.), various Natural Resource Conservation Service and WDNR programs, and the purchase or transfer of development rights, among others. These tools are most effective in communities where farming will remain a primary land use over time. Successful farmland preservation efforts are dependent upon the support of local farmers and their ability to pursue new markets to sustain operations over time.

The Village and Town do not want to see all farmland lost to this pattern of development. Likewise, residents are not interested in finding their rural roadsides lined with homes. This will destroy the rural, open, scenic quality of the community.

This situation will present a challenge in the future. Fortunately, there are many methods to protect farmland. Several of the major options are highlighted below.

SUSTAINING FARMLAND AND NATURAL AREAS IN A GROWING COMMUNITY

Given the projected rate of population growth in the Town, there is a moderate concern about the impact the future development may have on open space and agriculture. Preservation of natural resources and farmland is important to sustaining the local economy, maintaining wildlife habitat, and providing the ‘green infrastructure’ (e.g., wetlands and floodplains for stormwater management, scenic areas, etc.) necessary in recharging groundwater and reducing the impact of flood events. They are also important landscape features contributing to the area’s high quality of living.

EXCLUSIVE AGRICULTURAL FARMLAND PRESERVATION ZONING³

~~Zoning is a tool that use been used to regulate land uses across the country for more than 80 years. Wisconsin was one of the first states in the country to authorize zoning for rural areas. The Town of Black Creek Zoning Ordinance includes exclusive and general agricultural districts to protect farmland areas. Additional information about zoning is provided in the Existing Land Use Chapter. Nearly the entire Town is zoned Exclusive Agricultural. Rezoning a parcel out of Exclusive Agricultural is challenging, as it requires Town, County and State approval. In the past, applications have been denied. For the *entire* Town of Black Creek to eliminate Exclusive Agricultural Zoning approval would be required by the Town, County and State. In addition, the Town would be responsible for paying back to the state (in a lump sum payment not over a series of years) several million dollars in penalties for the tax credits issued by the state. This would require a significant increase in local taxes.~~



Under the Farmland Preservation Program (Chapter 91, Wis. Stats.) administered by the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP), local governments may choose to adopt and have certified a farmland preservation zoning ordinance to ensure that landowners covered by the ordinance are eligible to claim farmland preservation tax credits. The credits are applied against tax liability on an annual basis. Tax credit amounts are as follows:

- \$5.00 per eligible acre for farmers with a farmland preservation agreement signed after July 1, 2009 and located in an agricultural enterprise area.
- \$7.50 per eligible for farmers in an area zoned for farmland preservation.
- \$10.00 per eligible for farmers in an area zoned and certified for farmland preservation and in an agricultural enterprise area, with a farmland preservation agreement signed after July 1, 2009.

Certification of a zoning ordinance must be obtained through application to DATCP. Landowners must be residents of Wisconsin and their agricultural operations must meet the following criteria:

1. Acres claimed must be located in a farmland preservation area identified in a certified county farmland preservation plan. Eligible land includes agricultural land or permanent

³ Source: Wisconsin Department of Agriculture, Trade, and Consumer Protection, Farmland Preservation website, 2015.

undeveloped natural resource areas or open space land that is in an area certified for farmland preservation zoning, and/or is located in a designated agricultural enterprise area and under a farmland preservation agreement.

2. Claimants must have \$6,000 in gross farm revenue in the past year or \$18,000 in the past three years. Income from rental receipts of farm acres does not count toward gross farm revenue. However, gross farm revenue produced by the renter on the landowner's farmland can be used to meet this eligibility requirement.
3. Claimants must be able to certify that all property taxes owed from the previous year have been paid.
4. Farmers claiming farmland preservation tax credits must certify on their tax form that they comply with state soil and water conservation standards. New claimants must also submit a certification of compliance with soil and water conservation standards that has been issued by the county land conservation committee.

The Town of Black Creek participates in the Farmland Preservation program. The Town's zoning ordinance was certified By DATCP under Chapter 91 in April of 2014 and adopted by the Town Board.

BUILDING PERMIT LIMITATIONS

~~Some communities seek to restrict residential development in rural areas by limiting the number of building permits issued each year. This has the effect of directing development to Villages and Cities without similar limitations. Under this approach a community would establish an annual limit for new housing development. This limit could be based on historic building trends or anticipated population growth (as described in the Community Profile Chapter). This limit could apply to housing development in areas zoned General Agricultural. It could also be expanded to include other areas zoned Residential Single Family, Residential Two Family and Residential Multiple Family.~~

LAND TRUSTS

Another option available to landowners seeking to protect natural areas and farmland is through the activities of land trusts. Land trusts provide landowners with advice on protection strategies that best meet the landowner's conservation and financial needs. Land trusts accept lands donated by landowners for conservation purposes. Land trusts can also work with landowners to establish *conservation easements* (see [below](#) ~~box at right~~). The Northeast Wisconsin Land Trust is an

WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a **voluntary legal agreement** between a landowner and a land trust or government agency that limits present and future development of a parcel.

Under a conservation easement, the **landowner retains ownership** of the land (within the terms of the easement—i.e. only for farmland or natural space, not for development) and the land trust takes the responsibility for protecting the land's conservation values.

Donated conservation easements that meet federal tax code requirements can provide significant **tax advantages** to landowners because their land will be taxed as undevelopable land, which is a much lower rate than developable land.

example of a local land trust serving the area. ~~For more information visit: <http://www.newlt.org>.~~

Conservation Easements

A conservation easement is a voluntary legal agreement between a landowner and a land trust or government agency that limits present and future development of a parcel. Under a conservation easement, the landowner retains ownership of the land (within the terms of the easement, i.e. only for farmland or natural space, not for development) and a land trust or similar organization assumes the responsibility for protecting the land's conservation values.

Donated conservation easements that meet federal tax code requirements can provide significant tax advantages to landowners since their land will be taxed as undevelopable land, which is a much lower rate than developable land. Qualified easements may also generate charitable contribution deductions for income and transfer tax purposes.

LOCAL AGRICULTURAL COMMITTEE

The Town of Freedom has an Agricultural Committee to respond to concerns and or complaints of rural residents pertaining to farming operations. This committee includes local farmers and other residents. As a policy, if a farm operation is adhering to required ordinances and standard operating procedures, the Agricultural Committee will not interfere with said farming operation. Black Creek should consider establishing a similar committee. This may become particularly important as development pressures mount in the future in areas along the common Town/Village boundary and as farmers struggle to find ways to maintain the value of their land in farming (e.g. pursuing specialty farming).

CONSERVATION/CLUSTER SUBDIVISIONS

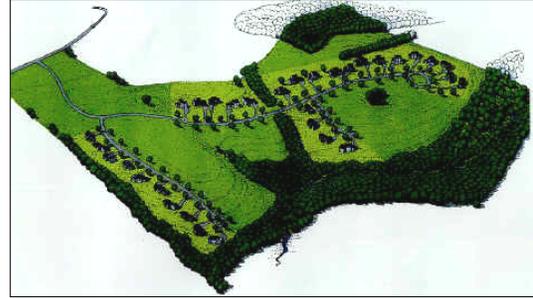
~~Yet another method to protect farmland, while minimizing conflicts with residential development, is conservation or cluster subdivisions. Conservation subdivision designs encourage the preservation and protection of open space, natural areas and farmland resources. In a conservation subdivision, homes are "clustered" together on smaller lots so that a greater proportion of the land is protected from development.~~

- Typically, a conservation subdivision will require at least 50% of a site be protected from further development.
- Protection and maintenance of the conserved area can be accomplished through a conservation easement with an appropriate conservation organization, land trust, homeowners association or government body, or through deed covenants.
- The areas to be conserved must be protected indefinitely.
- The land designated for protection should either be left as natural habitat, open space, or farmland.
- In conservation subdivisions, the development of walking and bicycle trails is encouraged, particularly to provide limited access to protected natural areas.

The Town of Black Creek Zoning Ordinance includes provisions for cluster subdivision development in the Town consistent with the description provided above. At this time, the Village does not have a similar ordinance provision. The Village may want to consider this opportunity, particularly for areas on the far outer edges of the Village adjacent to wetland areas and primary farm areas.

SPECIALTY FARMING

On average, close to 3,000 acres of productive farmland are lost to development in the U.S. each day. Adapting to survive, many farmers have embraced a new paradigm that focuses on agricultural models custom-fit to changing markets and filling local niche markets with specialty produce and value-added products. Specialty (or niche) farming provides an alternative to conventional agricultural practices, particularly for smaller farmers attempting to compete with larger operations. The movement seems to be working.



HOW IS A CONSERVATION/CLUSTER SUBDIVISION CREATED?

1. **Develop a Yield Plan.** This plan essentially shows how many homes could be developed if a traditional subdivision layout were used.
2. **Identify Primary And Secondary Conservation Areas.** Primary conservation areas include: poor soils, steep slope, wetlands, waterways and floodplains that are not conducive to development. Secondary conservation areas include other areas of local importance targeted for protection (i.e. farmland, woodlands, scenic views, etc.).
3. **Locate the Home Sites.**
4. **Include Roads, Sidewalks and Trails.**
5. **Draw the Lot Lines.** This is usually the first step in a traditional approach.