

New York State Department of Agriculture and Markets

**GUIDANCE DOCUMENT SERIES
FARMLAND PROTECTION IMPLEMENTATION GRANT PROGRAM****Appraisals for Conservation Easements****GD # 6*****Overview***

An appraisal determines the value of the conservation easement and is one of the documents that NYSDAM requires prior to the disbursement of funds. The appraisal is one of the most important documents as it sets the value of the easement. Therefore, an independent, high quality appraisal is a program requirement. Appraisals will be reviewed by the Department prior to the disbursement of funds.

Background

NYSDAM recommends that an appraisal be the basis of the value of the conservation easement presented in the application for FPIG funds. While this requires an outlay of funds prior to knowing whether the project will be funded, it greatly improves the accuracy of the proposed budget and offers the landowner a realistic estimation of the proposed purchase price early in the process. However, appraisals aren't required at the time of application.

Appraisals must be prepared by a New York State Certified General Real Estate Appraiser certified by the New York State Department of State Division of Licensing Services. All appraisals must adhere to the Uniform Standards of Professional Appraisal Practice (commonly known as USPAP). Appraisals should be before and after appraisals that consider the value of the property both before and after the imposition of the conservation easement. The minimum standard is a Summary Appraisal Report, however NYSDAM will accept a Self-Contained Appraisal Report¹. NYSDAM recommends that appraisers should be familiar with the valuation of conservation easements. All appraisals will be carefully reviewed by NYSDAM and may be reviewed by outside appraisers.

Elements of an Appraisal

The exact contents of appraisals may vary depending upon the appraiser doing the work. However, all appraisals submitted to NYSDAM for completed FPIG projects must contain the basic elements listed below.

USPAP requires that that appraisal identify the "client" or that person or entity that engages the appraiser. In the case of FPIG projects, the Client should be the county or town applicant for the project or a land trust that has been identified in a Memorandum of Understanding with the municipality. USPAP also requires the appraiser to list "intended users"; NYSDAM, any involved land trust and the landowner should be listed as intended users. USPAP requires a written description of the scope of work of the appraisal. A sample scope of work is included at the end of this Guidance Document.

¹ A Summary Report may not be sufficient to meet IRS standards.

It is important that the actual easement and land plan proposed for the property are incorporated into the appraisal. The appraiser must have a copy of the proposed easement to ensure that the specifics of the individual appraisal are reflected in the valuation. If there are changes to the easement or land plan subsequent to the appraisal report being completed, a letter from that appraiser addressing the easement changes and its impact on value will be required.

The appraisal should list a summary of the qualifications of the appraiser. The effective date of the appraisal must be within three years of closing on the conservation easement or a letter of update from the appraiser will be required by NYSDAM. NYSDAM may require an update if it determines that market conditions require it.

The appraisal process can be initiated after preliminary approval of the draft easement and land plan by NYSDAM. In some cases, the survey reveals significant acreage discrepancies between the proposed land plan and surveyed boundaries of the property that may impact the appraisal. The appraisal can be finalized after the receipt of the final survey. There may be increased costs associated with this process.

Alternatively, appraisals can be done on a per acre basis recognizing that there are often differences between the tax map acreage and the final surveyed acres. For example, the appraiser may conclude that the easement is valued at \$1,000 per acre based on 100 tax map acres. When the survey is complete, if the actual acreage is 102.7, the appraised value of the property would be 102.7 times \$1,000 or \$102,700. However, if the difference between the tax parcel acreage and the surveyed acreage is significant (greater than 10%) NYSDAM may require that the appraiser confirm that the per acre value is still accurate and whether the comparable sales used to determine the appraised per acre value need any adjustment based on size.

The appraisal should address whether there is any reasonable expectation of enhancement of value of other property owned by the seller or a related person as outlined in Section 1.170A-14 of the Treasury Regulations relating to easement valuation. If there is a reasonable expectation of enhancement, the appraised conservation easement value should be reduced by the amount of the increase in the value of the other property.

Appraiser Qualifications

At minimum, the appraisal must be completed by a NYS Certified General Real Estate Appraiser following USPAP guidelines. However, entities are encouraged to use an appraiser that has achieved a higher level of appraisal experience such as having membership professional appraisal organizations such as in MAI, (Member Appraisal Institute) or American Society of Farm Managers and Rural Appraisers. The appraiser must have specific conservation easement appraisal training and experience appraising conservation easements and farm properties.

In addition, the appraisal must be independent. USPAP includes ethics rules that appraisers must carefully follow. NYSDAM will not accept an appraisal where the appraiser or appraisal firm has any interest in the Property being appraised.

Appraisal Process

NYSDAM encourages local entities to develop specific instructions to appraisers setting forth how the appraisal will be prepared. The appraisals for NYSDAM should be “before and after” appraisals and landowner and local entities may need to meet other standards such as those set forth in 170(A)-14 of the tax code (for charitable contribution). A separate appraisal report may be required for the IRS purposes.

Appraisal Review

NYSDAM will carefully review all appraisals to ensure that the appraisal reflects the land plan and proposed conservation easement. In addition, NYSDAM may require an additional review if the appraisal is performed by the same entity that holds the mortgage on the Property.

Conclusion

The appraisal is the basis of a considerable state investment. Appraisals must be performed by qualified individuals and must be supported by comparables sales. Land trust and municipalities are encouraged to seek out qualified appraisers experienced in conservation easement appraisals to complete this work.

Samples and additional guidance available online:

USPAP www.appraisalfoundation.org

NYSDOS Licensing <http://www.dos.state.ny.us/lcns/realestate/index.html>

Treasury Regs. 1.170A-14 http://www.access.gpo.gov/nara/cfr/waisidx_03/26cfr1v3_03.html

Sample scope of work for appraisals – provided by NYSDAM

Appraisal Checklist

- Was the appraisal completed by a New York State Certified General Real Estate Appraiser?
- Does the appraisal adhere to USPAP standards?
- Is the appraisal of the “before and after” method?
- Does the appraisal list the municipality or land trust as the “Client” and NYSDAM, the land trust and the land owner as the “intended users”?
- Does the appraisal include a copy of the proposed conservation easement and land plan?
- Does the appraisal include a summary of the qualifications of the appraiser?
- Is the effective date of the appraisal within three years of closing the project?
- Is the appraisal independent?
- Does the appraiser have a potential Conflict of Interest with the project (i.e. mortgage holder?)
- Does the appraisal address enhancement value, if applicable?

For more information contact: Dave Behm, Farmland Protection Program Manager
518-457-2713 david.behm@agmkt.state.ny.us



Town of Clifton Park

Planning Department

One Town Hall Plaza | Clifton Park, New York 12065 | (518) 371-6054 | FAX: (518) 371-1136

June 14, 2022

To: Professional Appraisers

Re: **Request for Quote for Appraisal for a Permanent Conservation Easement Project**
NYS Department of Agriculture & Markets FPIG Project C00360GG
2018 Saratoga County Farmland Protection and Open Space Grant
Lands of Juliette and Kurt C. Swartz, Maple Hill Farm, 110 Ashdown Road, Town of Clifton Park
Tax Parcel #263.-2-8.1

The Town of Clifton Park is requesting a quote for a professional appraisal of the Lands of Juliette and Kurt Swartz, Tax Parcel #263.-2-8.1, for the purpose of the Town considering the purchase of development rights and the securing of a deed of permanent conservation easement on this property. The property owners live in a farmhouse and farm buildings on the same property. The town is seeking to secure the permanent conservation easement on the remaining, developable, unprotected portion of this property by buying any remaining development rights beyond this one house and farm buildings, so that the lot will be permanently protected from any further development, and be available for farming and agricultural activities, per the proposed Conservation Easement.

The Town of Clifton Park would like a summary appraisal of the property to establish the current market value of the lands of interest for purchase/sale; and to establish the market value of the conservation easement (development rights value) based on an understanding of the market value of the fee interest before and after the transfer of a conservation easement for the land. This appraisal report must include "before and after" values and meet current standards for appraisals per NYS Department of Agriculture and Markets (NYS DAM). The Town was awarded a NYS Department of Agriculture and Markets FPIG Round 16 grant and a Saratoga County Farmland/Open Space Grant towards the PDR project, so this appraisal will be utilized for not only negotiations with the landowners but also for grant award purposes. The appraisal will be reviewed by not only the Town but also NYS DAM.

The Town and NYS DAM require the appraisal to be completed by an independent, qualified, New York State Certified General Real Estate Appraiser certified by the New York State Department of State Division of Licensing Services. Preferably, the selected appraiser will have a higher level of appraisal experience such as being a professional member of the Member Appraisal Institute (MAI), or the American Society of Farm Managers or Rural Appraisers. The selected appraiser will have experience with the valuation of conservation easements, such as conservation easement appraisal training and experience appraising conservation easements and farm properties. The summary appraisal must be conducted and adhere to the Uniform Standards of Professional Appraisal Practice (USPAP) standards. The appraisal should be before and after appraisal that considers the value of the property both before and after the imposition of the conservation easement. The minimum standard for the requested appraisal is a Summary Appraisal Report. The appraisal must list the Town of Clifton Park as the "Client," and NYS DAM and the landowners as the "intended users."

The completed appraisal report should also address whether there is any reasonable expectation of enhancement of value of other property owned by the seller, or a related person as outlined in Section 1.170A-14 of the Treasury Regulations relating to easement valuation. If there is a reasonable expectation of enhancement, the appraised conservation easement value should be reduced by the amount of the increase in the value of the other property.

A professional CE boundary survey, the Deed of Conservation Easement document (that has received Conditional Preliminary Approval from NYS DAM) and the conservation easement site plan is available and will be provided for this appraisal review.

Attached please find the Conservation Easement Site Plan showing the proposed location of the permanent conservation easement.

Please provide us with your fee and an estimate of your period for conducting this summary appraisal.

We kindly ask for your response with your interest and quote by June 28 at 5 p.m. The town would like to authorize the work for the selected consultant in July 2022.

Thank you kindly for your consideration of this project. We look forward to hearing from you.

Sincerely,



Jennifer Viggiani
Open Space Coordinator

Cc: Tom McCarthy, Esq., Town Attorney

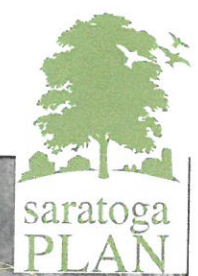
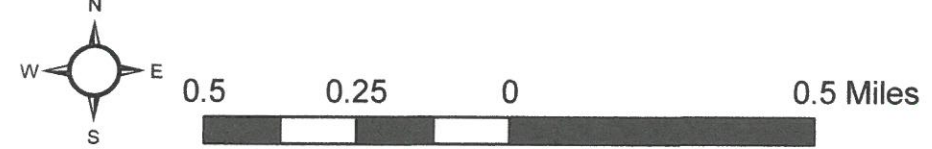
Attachments:

- Conservation Easement Site Plan
- New York State Department of Agriculture and Markets: Guidance Document Series GD #6: Appraisals for Conservation Easements (Final-revised 9/29/2009)

Maple Hill Farm - Context Map

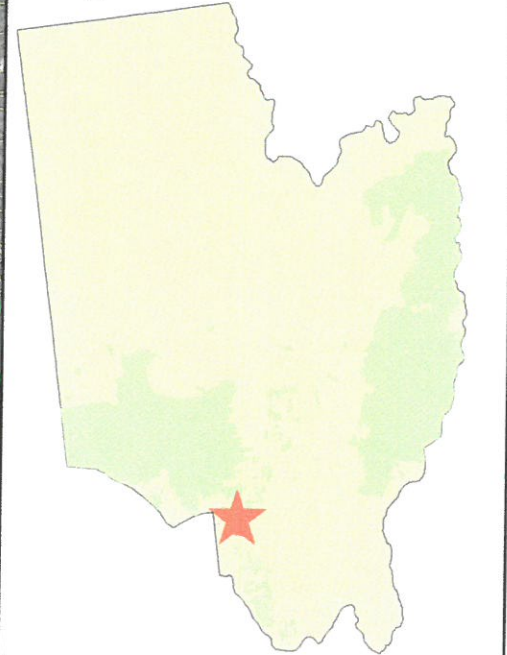
~72.9 Acres

Town of Clifton Park, Saratoga County, NY

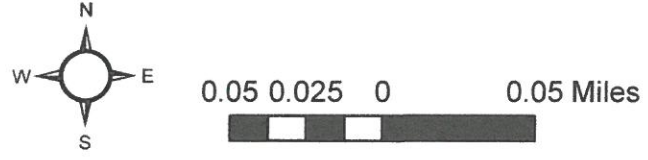


- Maple Hill Farm
- Farmstead Area: 3.1 Acres
- Protected Lands
- Saratoga County Tax Parcels 2017

Saratoga County Agricultural Districts



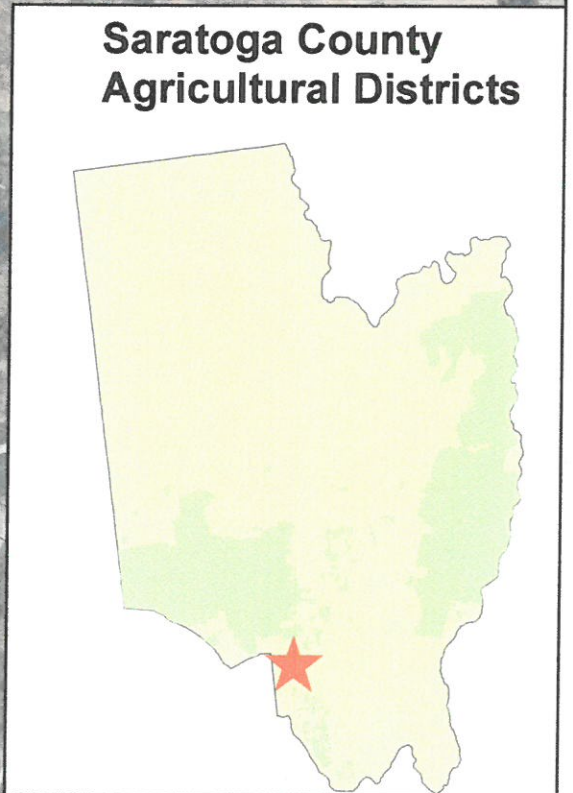
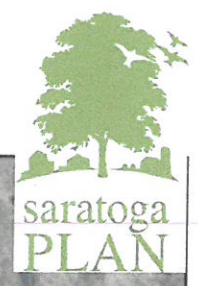
*Right to designate a 3 acres Rural Enterprise Area in the future, location to be determined.



Maple Hill Farm - Detail Map

~72.9 Acres

Town of Clifton Park, Saratoga County, NY



*Right to designate a 3 acres Rural Enterprise Area in the future, location to be determined.

Town of Clifton Park, Saratoga County, NY

Maple Hill Farm

The 73-acre Maple Hill Farm is located in the Town of Clifton Park on two busy roads. It produces beef using rotational grazing and maple syrup from its woodlands, as well as small fruit. There is an area on the western end of the property that is recovering vegetation since beaver activity abated, the property bounded beyond that by an active rail line (it is a culvert on the rail line that was previously dammed by beavers).

A 3-acre Farmstead Area surrounding existing farm buildings and residence on Ashdown Road is proposed. It is a flat area with easy access and accommodates all residential, processing, and retail needs, with room for expansion.

A 3-acre Rural Enterprise Area to be designated in the future is proposed. This will allow additional retail should a future owner ever desire a farmstand on either of the bounding roads to capture the heavy commuter traffic flow. The current owners have no intention of developing a REA during their tenure.

The scale of the proposed use areas is proportionate to the overall size of the farm and its tillable acreage.

There are no exclusions.



SARATOGA PLAN

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