

**New York City Department of Environmental Protection
Bureau of Water Supply**

**Proposed Modifications to the Long-Term Land Acquisition Plan
2012-2022**

April 2018

*Prepared in accordance with Section 4.2 of the NYSDOH
2017 Filtration Avoidance Determination*



Prepared by: DEP, Bureau of Water Supply

2017 FAD Deliverable:

If warranted based on the updated Town Level Assessments and comments received, modify the 2012-2022 Long-Term Land Acquisition Plan and submit to NYSDOH for approval. Such a submission may include recommendations for modifications to the solicitation and funding milestones for the core Land Acquisition Program (LAP).

I. Introduction

The 2007 Filtration Avoidance Determination (FAD) required the New York City Department of Environmental Protection (DEP) to apply for a new Water Supply Permit (WSP) in 2010 as a successor to the City's first WSP issued in 1997. As a prelude to that permit application, and pursuant to a FAD requirement for the Land Acquisition Program (LAP), DEP prepared and submitted in September 2009 a Long-Term Land Acquisition Strategy (Long-Term Plan) covering the period from 2012 to 2022. This Long-Term Plan describes the City's proposed approach to land acquisition under the successor WSP, including a refocused solicitation strategy and several new program components. Concurrently, and in support of the new WSP, DEP issued a Final Environmental Impact Statement (FEIS) on the "Extended New York City Watershed Land Acquisition Program" in December 2010.

Pursuant to the FEIS, the WSP authorized DEP and its partners to acquire no more than 105,043 acres in the West of Hudson (WOH) watershed through 2025. The FEIS concluded that the acquisitions authorized by the WSP were not expected to result in potential significant adverse socioeconomic conditions in the WOH watershed. This conclusion was supported by, among other things, projections of acreage to be acquired through LAP in 20 towns that were chosen for in-depth evaluation, along with assessments of the impacts of such projected acquisitions on the supply of developable land in watershed towns. However, the FEIS did not assume limitations on the number of acres to be acquired in any given town, nor did the WSP impose such limitations.

During stakeholder negotiations leading up to the 2017 FAD, watershed communities identified one town (Delhi) where acquisitions by DEP and the Watershed Agricultural Council (WAC) together had exceeded the FEIS assumptions about the projected acres to be acquired through 2025, and were approaching the projected figures in several other towns. As a result of subsequent discussions on this topic, DEP agreed to temporary limits on LAP outgoing solicitation in eight towns, as detailed in the "Third Supplement to the December 2010 Agreements Among West of Hudson Watershed Stakeholders: Commitments Relating to the 2017 FAD" (2017 Side Agreement). Pursuant to those same discussions and the 2017 Side Agreement, DEP issued updated Town Level Assessments in April 2017 for 21 WOH towns. The purposes of those Assessments were to (a) update the methodology employed in the FEIS, and (b) evaluate the projected effect of continued land acquisition on the supply of developable land in those towns between 2017 and 2025. Table 1 (attached to the end of this deliverable) summarizes the results of the 2017 Town Level Assessments.

In response to the 2017 Town Level Assessments, DEP received comments and data analyses from numerous watershed stakeholders including Delaware County, the Catskill Watershed Corporation (based on analyses conducted by Chazen Company), Greene County Soil and Water District, and several individual watershed towns.

As a whole, these comments and reports supported DEP's methodology concerning the definition of developable land, but differed in their assessment of DEP's findings and conclusions regarding the effect of future LAP acquisitions on the supply of developable land available to sustain future community growth, and in their recommendations for modifications to LAP. While some stakeholders have urged only small, targeted adjustments to DEP's acquisition criteria and methods, others have proposed more fundamental changes to LAP, including replacement of core LAP acquisitions with a rental program aimed at riparian property.

DEP recognizes that the National Academies of Science, Engineering, and Medicine will be convening an Expert Panel to conduct a comprehensive review of the City's overall Watershed Protection Strategy to be issued in 2021; that process may result in further adjustments to LAP solicitation goals, acreage, and methods. Consistent with the recommendations of several stakeholders, DEP will look to the results of this review before making major or long-term changes to the Long Term Plan and will incorporate any such proposed changes into its 2023-2033 Long-Term Land Acquisition Plan to be issued in 2022.

Pending the Expert Panel's work, DEP has sought to address two important community concerns:

- LAP should reduce acquisition of developable land near population centers and centralized service areas to avoid constraining potential future development; and
- In towns that have approached FEIS acquisition projections, LAP should shift focus toward properties that contain greater surface water criteria.

In response to these concerns, DEP proposes modifications to the core LAP solicitations as detailed in the 2012 to 2022 Long-Term Plan. These proposed modifications will enable DEP to maintain a robust solicitation strategy in keeping with the 2017 FAD and do not include any revisions to the solicitation acreage requirements in the 2017 FAD.

The specific proposed modifications to core LAP solicitation are presented in Section II, a discussion of how these modifications will be implemented is in Section III, and the implications for the Long-Term Plan are provided in Section IV. Potential next steps are outlined in Section V.

II. Modifications to Core LAP Solicitation

DEP proposes to implement the following stepped limitations on LAP acquisitions and solicitations:

1. Revise Natural Features Criteria (NFC) limits in Priority Areas 2, 3 and 4:

- a. Raise the minimum Surface Water Criteria (SWC) needed for acquisition (not solicitation) from 7% to 15% for properties that do not adjoin City land.**

Note: The provisions of Special Condition (SC) 9(a)(3) of the WSP regarding the presence of steep slopes on at least 50% of a property would continue to qualify a property for acquisition, regardless of the percent SWC.

- b.** Within a half-mile zone around the 1997 hamlet designated areas, raise the minimum SWC needed for acquisition to 30%.

Note: The 30% SWC minimum would apply to the entirety of any LAP fee or conservation easement acquisition which contains land within the half-mile buffer zone. The provisions of SC 9(a)(3) of the WSP regarding the presence of steep slopes on at least 50% of a property would continue to qualify a property for acquisition, regardless of the percent SWC.

- c.** If LAP has acquired either 60% of the FEIS projection since 2010, or more than 2,000 acres since 2010, the minimum SWC would be raised to 50% within the half-mile zones around the 1997 hamlet designated areas. This proposal would currently include the towns of Andes, Walton, Delhi, Middletown, Roxbury, Kortright, Bovina and Windham.

Note: In affected towns, the 50% SWC minimum would apply to the entirety of any LAP fee or conservation easement acquisition which contains land within the half-mile buffer zone. As detailed in SC 9(a)(3), the presence of 50% steep slopes on a property would continue to qualify a property for acquisition, regardless of the percent SWC. DEP will update the cumulative acres acquired in each municipality annually through December, and will provide written notice of the updated figures to the FAD regulators, the signatories to the 2017 Side Agreement, and the affected towns by January 31. For purposes of compliance with Proposal 1(c), DEP will use the appraisal date to determine whether acquisitions within the half-mile buffer zone will adhere to the 30% (proposal 1(b)) or 50 % threshold.

During discussions with watershed stakeholders on the above Proposals 1(b) and 1(c), it was suggested that a fixed-radius buffer might be too rigid for certain communities, in which case buffers designed by a town could be considered as an alternative. DEP is amenable to this approach, and therefore proposes to use the fixed half-mile buffers until such time that a zone that is more reflective of community planning and infrastructure concerns can be negotiated with interested communities through a process that would involve stakeholder discussions and concurrence of the FAD regulators.

- 2. Designated Areas:** Offer each WOH town the ability to designate up to 100 acres of new land that would be off limits to LAP acquisition. Within a given county, interested towns could reallocate these 100 acres. For example, Town A might use 50 acres while Town B might use 150 acres.

Note: Towns would be able to designate whole tax parcels, or partial parcels provided the configuration of the un-designated portion remaining would meet town subdivision requirements. Designated parcels would not need to be contiguous. The towns would be

able to designate parcels on a rolling basis (no deadline for passing a resolution). Upon receipt of a municipal resolution pursuant to this proposal, DEP will refrain from soliciting or ordering any appraisal of the designated lands from that point forward. In the event that a property has had an appraisal ordered prior to receipt of the resolution by a municipality, DEP may complete the appraisal, make the offer, and acquire the affected property if that offer is accepted.

- 3. Solicitation Method:** Limit DEP to incoming solicitations in a town once 100% of the FEIS projection is reached, or in which more than 4,000 acres have been acquired since 2010. This proposal would currently include Andes, Delhi and Walton.

Note: DEP will update the cumulative acres acquired towards these goals annually through December, and will provide written notice of the updated figures to the FAD regulators, the signatories to the 2017 Side Agreement, and the affected towns by January 31. Limitations on outgoing solicitation would take effect upon such notice for that and ensuing program years.

In the context of ongoing discussions with stakeholders about a variety of matters pertaining to LAP, as discussed in Section V below, DEP is open to considering adjustments to Proposal 3 which would consider the proportion of all protected lands (including those owned by the State and certain other third parties) in certain communities, while also factoring in the need to identify zones such as Priority Area 1 and Areas of High Focus that might be exempted from such limitations.

- 4. WAC Farm and Forest Easement Programs / Streamside Acquisition Program (SAP) / New York City-Funded Flood Buyout Program (NYCFFBO):** Acres acquired under these satellite programs would count toward the FEIS projection and acreage threshold limits listed in Proposals 1(c) and 3, but the revised SWC minimums and revised solicitation constraints would only apply to core LAP acquisitions (fee and conservation easements). In other words, acreage acquired by WAC / SAP / NYCFFBO would continue to follow current SWC, not the revised criteria listed above, even once core LAP is limited by the revised limitations.

III. Implementation of Modified LAP Core Solicitation Procedures

DEP's proposed modifications to core LAP solicitation can be implemented using existing program and database tools. Annual solicitation is managed by DEP through its internal Watershed Lands Information System (WaLIS) database, which incorporates state-of-the-art GIS technology to guide and track solicitation efforts. Specific capabilities that will facilitate implementation of new solicitation procedures include:

- 1. GIS-overlays for SWC are updated in real-time.** Properties that have been solicited are represented spatially in the GIS, enabling staff to view real-time information regarding the percent coverage of SWC on each property. Using this capability, solicitation reports will be revised to incorporate the revised thresholds, also taking into account adjacency to City land, proximity to 1997 designated area buffers, and limitations by towns based on acquisitions since 2010.

2. **Parcel-specific design support.** Using WaLIS, DEP is able to configure proposed subdivisions so that revised thresholds for SWC would be met upon acquisition of a given property. The GIS allows DEP to determine the percent SWC accurately and quickly, providing critical support to this complex task.

IV. Modifications to the Long-Term Plan

DEP's proposed modifications to core LAP solicitation are generally consistent with the Long-Term Plan, though in some cases these modifications will shift DEP's emphasis on how and where the Long-Term Plan strategies are implemented. For example, DEP's proposed modifications will somewhat change the characteristics of properties to be acquired (by raising the minimum thresholds for SWC) and location of those properties within many towns (by increasing SWC thresholds for properties in close proximity to 1997 hamlet designated areas). In addition, solicitation in a few towns where significant acquisitions have occurred since 2010 (currently Delhi, Andes, and Walton) will be reduced. The specific strategies detailed in the Long-Term Plan, and how they are consistent with or might be impacted by these modifications, are discussed below:

1. **Areas of Focus:** Since 2010, DEP has placed extra emphasis in its core LAP solicitation on certain sub-basins based on their proximity to reservoir intakes and/or lower levels of protected land (Areas of High Focus) and on certain reservoir basins based on the overall level of protection and contribution to future supply. The Areas of High Focus are shown in Figure 1. DEP has largely been successful in increasing the proportion of core LAP acquisitions occurring in these areas since 2010.

As shown in Figure 1, the Areas of High Focus are located in the Towns of Tompkins, Masonville, Walton, Colchester, Andes, Bovina, Roxbury, Prattsville, and Lexington. Based on current levels of acquisition, Proposal 3 will limit LAP's ability to send outgoing solicitation letters to properties in the portion of the Loomis Brook sub-basin located in Walton, as well the Fall Clove and Tremper Kill sub-basins located in Andes. The two latter sub-basins in particular have already seen a significant increase in the percentage of protected land since 2010 as a result of these designations. LAP will continue acquisitions in these areas through owner-initiated solicitation.

Beyond the limitations on outgoing solicitation in Proposal 3, the changes in SWC thresholds contained in Proposals 1(a), 1(b) and 1(c) will not alter DEP's ability to continue acquisitions in these Areas of Focus; rather they will ensure that continued acquisitions in these areas will focus on properties with higher proportions of water-rich features.

2. **Property-Type Strategies:** The proposed modifications to core LAP solicitation are consistent with three strategies from the Long-Term Plan regarding specific types of properties for which DEP would seek to increase acquisition during the 2012 to 2022 timeframe:
 - a. **Parcels Adjoining previously-acquired City Land** – Proposal 1(a) directly reinforces the existing strategy to increase and encourage the acquisition of land

adjoining other City-owned properties. This strategy seeks to build on existing City-owned natural areas that promote water quality protection, with a focus on increased ecosystem protection through acquisitions which include wetlands, stream buffers and/or forests. In addition, this strategy can reduce fragmentation and parcelization of the landscape and enhance existing recreation areas.

- b. Smaller Vacant Parcels in proximity to SWC** – Proposals 1(a) and 1(b) reinforce DEP’s strategy of acquiring properties with a high proportion of SWC, especially the increased thresholds for properties in and around hamlet designated areas. This strategy is also supported by continued implementation of the pilot SAP in the Schoharie basin. Additionally, DEP has received positive comments regarding its proposal to increase SWC thresholds to 30% or 50% in proximity to 1997 hamlet designated areas.
- c. Conservation Easements** – Since 2010, DEP has revised its conservation easement selection policy to focus on larger properties with significant water quality protection features. This policy is fully consistent with the increased SWC thresholds proposed in Proposals 1(a) and 1(b).

3. Solicitation Procedures: The solicitation strategies contained in the Long-Term Plan are also compatible with the proposed modifications to core LAP solicitation:

- a. Continue to Solicit Significant Properties throughout the Catskill/Delaware System** – The City’s commitment to a robust solicitation effort throughout the Catskill/Delaware System remains in effect. Solicitation of significant properties East of Hudson and in the highly-protected WOH basins will continue and DEP will continue to meet the solicitation requirements set forth in the 2017 FAD.
- b. Variable Solicitation Schedules** – Changes to DEP solicitation intervals by location (more frequent for High Focus Areas) and response type (i.e. non-responders vs. not interested owners) have proven instrumental in focusing core LAP solicitation on areas and property types most worthy of acquisition. In 2018, DEP will refine its solicitation strategy to accommodate modifications contained in Proposals 1(a), 1(b), and 1(c). For example, while acquisition of properties with less than 30% SWC near 1997 hamlet designated areas will be precluded, DEP may decide to increase the frequency of solicitation for the remaining eligible properties with more than 30% SWC.
- c. Owner-Initiated Contacts** – The Long-Term Plan recognized that owner-initiated solicitations have a historically high success (eventual acquisition) rate, which is due to the owner’s demonstrated motivation to sell. Proposal 3 retains this important tool, thereby allowing such motivated landowners to engage with DEP through the core LAP.

V. Conclusion and Next Steps

Pursuant to the 2017 FAD, DEP’s specific proposals to modify core LAP solicitation are being submitted via this deliverable for approval by the NYS Department of Health. Upon such approval, and consistent with the 2017 Side Agreement, DEP will modify core LAP solicitation and acquisition in accordance with these new procedures, which will replace and supersede the current limitations on outgoing solicitations outlined in the 2017 Side Agreement.

Consistent with recent stakeholder discussions, DEP is committed to continuing a conversation with watershed stakeholders about the scope of future LAP activities. As noted above, Proposals 1(b), 1(c), and 3 incorporate the potential for refinements based on further discussions and town-specific information. Moreover, while the 2017 FAD identifies the Expert Panel as the primary vehicle to evaluate LAP progress and future strategies leading up to DEP’s submission of new ten-year Long-Term Plan in 2022, a number of additional FAD deliverables which will be submitted prior to issuance of findings by the Expert Panel will involve further discussion among the stakeholders. In particular, the following FAD deliverables will involve ongoing discussion over the next two years, potentially resulting in other modifications to core LAP solicitations:

- June 2018 Report on exploring a program to protect Farms in Transition.
- June 2018 Submit an evaluation of the New York City-Funded Flood Buyout Program.
- June 2018 Submit a progress report on a workgroup to assess opportunities to use potentially-developable LAP-acquired fee lands to facilitate relocation of development out of floodplains.
- March 2019 Submit a proposed approach to provide payments or incentives to increase participation by landowners in SAP.

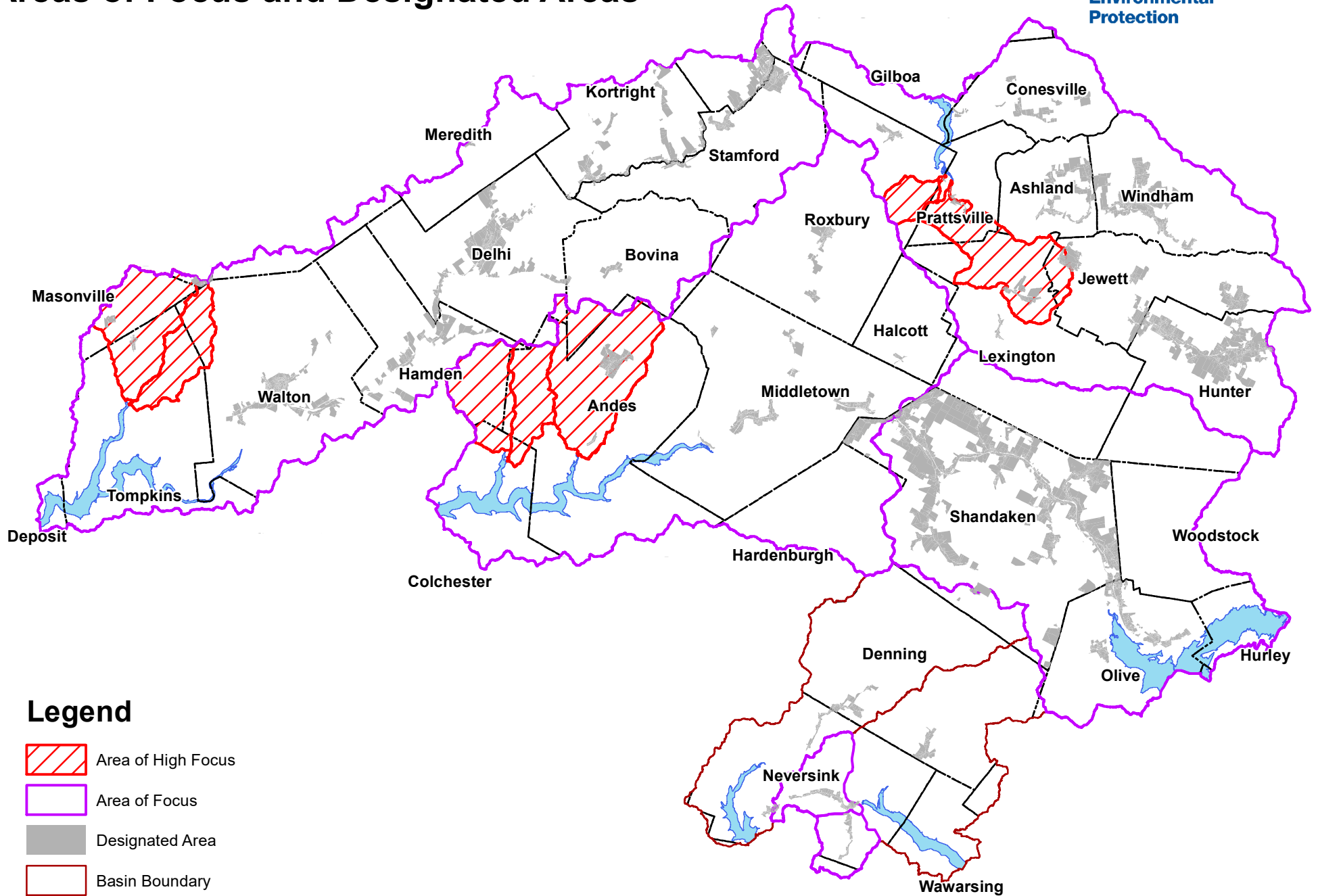
In sum, DEP believes that the proposed modifications, based on the results of the 2017 Town Level Assessments and stakeholder discussions, represent a thoughtful and incremental approach to refining the LAP program to focus on the most important properties for watershed protection.

Table 1: 2017 Town Level Assessments, Remaining Developable Land by Town






		A	B	C	D	E	F	G
				B/A		D/A	A-(B+D)	F/A
Town	County	Available Developable Acres, as of 1/1/2017	Projected Acres of City & WAC FE Developable Land Acquired 2017-25	% of 2017 Developable Land Acquired through 2025	Projected Acres of Residential Demand for Developable Land, 2017-25	% of 2017 Developable Land Needed for Residential Demand through 2025	Developable Land Acres Remaining after LAP & Residential Demand in 2025	% of 2017 Developable Land Remaining in 2025
Andes	Delaware	3,445	697	20.2%	163	4.7%	2,585	75.0%
Bovina	Delaware	2,313	686	29.7%	39	1.7%	1,588	68.7%
Delhi	Delaware	3,061	487	15.9%	141	4.6%	2,433	79.5%
Hamden	Delaware	3,226	364	11.3%	309	9.6%	2,553	79.1%
Kortright	Delaware	2,090	268	12.8%	115	5.5%	1,707	81.7%
Meredith	Delaware	3,199	587	18.3%	67	2.1%	2,545	79.6%
Middletown	Delaware	4,639	799	17.2%	285	6.1%	3,555	76.6%
Roxbury	Delaware	3,670	599	16.3%	108	2.9%	2,963	80.7%
Stamford	Delaware	931	248	26.6%	140	15.1%	543	58.3%
Walton	Delaware	4,449	861	19.4%	217	4.9%	3,371	75.8%
Ashland	Greene	1,652	173	10.5%	207	12.5%	1,272	77.0%
Halcott	Greene	622	113	18.2%	14	2.3%	495	79.6%
Hunter	Greene	2,459	339	13.8%	229	9.3%	1,891	76.9%
Jewett	Greene	2,490	284	11.4%	227	9.1%	1,979	79.5%
Lexington	Greene	1,455	343	23.6%	173	11.9%	939	64.5%
Prattsville	Greene	1,318	189	14.3%	98	7.4%	1,031	78.2%
Windham	Greene	1,816	139	7.7%	300	16.5%	1,377	75.8%
Conesville	Schoharie	584	108	18.5%	139	23.8%	337	57.7%
Neversink	Sullivan	3,243	556	17.1%	173	5.3%	2,514	77.5%
Denning	Ulster	953	403	42.3%	43	4.5%	507	53.2%
Olive	Ulster	631	169	26.8%	116	18.4%	346	54.8%
21 Town Totals:		48,246	8,412	17.4%	3,303	6.8%	36,531	75.7%

Figure 1

West-of-Hudson Watershed Areas of Focus and Designated Areas



Legend

-  Area of High Focus
-  Area of Focus
-  Designated Area
-  Basin Boundary
-  Town Boundary