

Chapter 11:

Local Open Space Planning and Conservation



Open space is land that is not intensively developed. It can include land important for agriculture, recreation, and scenery as well as natural areas. Open space planning and inventory is important to conserving land because it allows a community to take stock of its resources and determine its priorities. By planning, you will know that limited resources will be used wisely, conserving the land that is most important to your community.

As of 2007, sixteen percent of the Hudson Valley—about 640,000 acres—had been permanently conserved by the state, local government, and nonprofit conservation organizations.

Hudson Valley communities have acquired significant amounts of land, typically with recreational amenities such as ball fields and picnic areas. While they are an important public resource, parks that are largely covered with turf grass do not conserve natural areas and wildlife. Local governments can help conserve wildlife by complementing their traditional acquisitions with more natural areas and by maintaining some native vegetation in existing municipal parks.

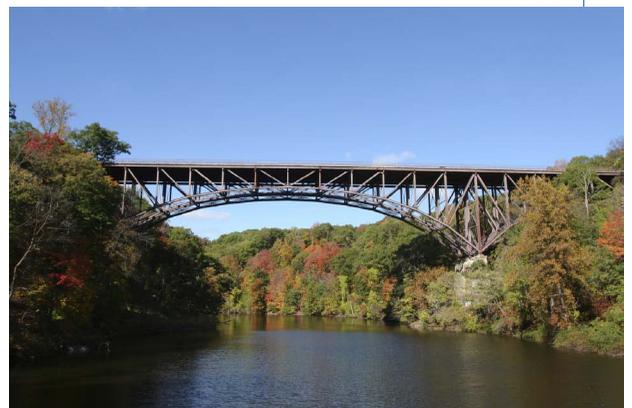
Although public-land acquisition techniques are stressed here, the importance of the actions of private property owners in protecting nature should not be overlooked, and should be encouraged by local governments. One way private landowners can enhance habitat on their property is to enroll in state and federal conservation programs, such as cost-share programs for habitat enhancement practices, easement purchases for wetlands, property-tax relief for working farm and forest owners, and land stewardship for threatened and endangered species. Land trusts are private organizations that conserve land and can be another very useful source of assistance and information for private landowners. For a list of local land trusts, see Appendix 3.

How Can Local Open Space Conservation Be Used to Protect Natural Areas and Wildlife?

Open space conservation is an important part of natural area and wildlife conservation because it protects habitats. Each habitat is home to hundreds of species, and habitat protection is essential to protecting wildlife. Acquisition programs can be used with other preservation programs to link existing or future natural areas into a network of habitats useful for wildlife. As the area of protected land and water increases, the variety of habitats that are protected increases as well, which leads to the protection of more wildlife species.

Smart Growth Strategies

Communities in the Hudson Valley are doing a great deal to identify and protect their valuable open space. Several excellent publications are available to help communities with open space planning. All provide more detail than can be included here. The actions summarized below are described in much greater detail in New York State Department of State 2004.



Open Space Inventories

An open space inventory identifies lands that meet criteria set by the community for their open space value. To protect nature, identify lands and waters with significant habitat, using information in Chapter 4. It is also important to identify lands that adjoin high-quality habitat and existing protecting lands. For example,

an inventory might identify areas in your community that have high value for habitat, scenery, or farmland potential. When the inventory is complete, it can also be used help steer growth in your community toward less environmentally sensitive areas.

Open Space Plans

An open space plan outlines a community's priorities, justification, and strategy for conserving land. Sites that meet multiple objectives—such as water-resource protection, habitat protection, and passive recreation—might be your community's highest priority for conservation. Justification can include benefits of natural areas to the human community. An open space plan is best used to conserve natural areas and wildlife when the resources have been identified throughout the municipality, so natural areas can be connected across property boundaries.

The New York State Open Space Plan

New York State revises its open space plan every three years. Staff from the state's Department of Environmental Conservation and the Office of Parks, Recreation, and Historic Preservation lead regional open space committees, who develop the priority projects for the state. Priority projects are the basis for state land purchases.

Conserving Open Space

The tools and strategies that communities can adopt to conserve land listed below may be used alone or in combination. Local governments can also conserve significant amounts of open space by using their authority to direct development to those locations that already have public infrastructure and on a site level by locating structures on the least sensitive parts of a property. Land that is purchased by or donated to a municipality can be managed in accordance with local natural area and wildlife conservation goals.

Voluntary Land-preservation Agreements

A conservation easement is a voluntary legal agreement whereby private landowners agree to limit uses of their land, most often development potential. The agreements are permanent, yet highly flexible, and designed to meet the needs of the landowner and easement holder. In New York, perpetual easements may be held by the state, municipalities, and qualified nonprofits, such as land trusts. Lands with conservation easements remain in private ownership and on the tax rolls.

Dedications/Donations: A Tool to Conserve Sites

Municipalities and land trusts can accept property or easement donations from landowners. This can be accomplished in a number of ways and arrangements

can be made to accommodate the needs of the property owner. Donors may qualify for tax benefits under certain circumstances and conditions.

Purchase: A Tool to Conserve Sites

A public entity also may choose to purchase property from a willing seller. The landowner may sell the land outright at fair market value to an agency, or it may be sold at a bargain price, which may provide tax benefits for the seller. Development rights can also be purchased, resulting in land protected from development by a legal agreement, but the land remains on the tax rolls.

Easement-purchase programs are usually called purchase of development rights (PDR) programs. In this case, a landowner is compensated for the difference between the fair market value of the land and its potential development value. The state's farmland protection program has successfully used this technique to help preserve viable agricultural lands.

“Open space conservation is a one-time investment that can boost property values and swell tax coffers long after the land is paid for. And in survey after survey, home buyers identify nearby open space and trails as among the top features in choosing a home.”

(Lerner and Poole 1999)

Transfer of Development Rights: A Tool to Conserve Landscapes

A municipality or group of municipalities can conserve significant landscapes using Transfer of Development Rights. New York State allows municipalities to use this technique to “protect the natural, scenic, or agricultural qualities of open lands, to enhance sites and areas of special character or special historical, cultural, aesthetic, or economic interest or value and to enable and encourage flexibility of design and careful management of land in recognition of land as a basic and valuable natural resource.” The area a community or region wants to conserve is called a “sending district.” Here, the development rights of a property are purchased from willing sellers, allowing



landowners to continue to use their land. These development rights can then be used in a “receiving district,” areas a community or region has determined are best for development. A generic environmental impact statement can be used to evaluate the impacts of increased development in the receiving district.

Funding Open Space Conservation

Though purchasing land and development rights can be expensive, a number of funding mechanisms and sources are available to governments. Grants are available through the New York State Department of Environmental Conservation, New York Office of Parks, Recreation, and Historic Preservation, and the Federal Land and Water Conservation Fund. Private and nonprofit conservation agencies can provide technical assistance or may acquire land and easements that meet their needs. Local governments can use their taxing and bonding authority for the matching funds often required by public and private funders. From 2000 to 2006, Hudson Valley residents in twenty-two municipalities voted to allocate \$113 million for open space conservation.

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Summary of Benefits

Acquiring and managing more natural areas can provide important benefits to communities.

- Open space, public lands, and parks are amenities highly valued by residents, and are attractive to families and businesses looking to relocate.
- Protected areas and parks can add to the community’s economy by providing destinations for active and passive recreation and other tourist activities.
- Open space preservation can help avoid expensive legal battles associated with regulatory protection measures while reimbursing landowners for the economic and other benefits the open space will bring the community.
- Most acquisition measures protect land in perpetuity.

Local Examples

Partnering with Land Trusts

After the Wildlife Conservation Alliance’s Metropolitan Conservation Alliance completed their Eastern Westchester Biotic Corridor report in April 2002, Westchester Land Trust went to work helping the Towns of Pound Ridge, Lewisboro, and North Salem implement the report’s recommendation to protect key lands for conserving lands for at-risk wildlife. The land trust is working with landowners to conserve vital lands for the corridor. It has protected 800 acres through donation and purchase, and is also managing land trust–owned property for natural areas and wildlife, including invasive species control and wetland restoration.

Prioritizing Open Space

The Town of Philipstown, located in the Hudson Highlands, has thousands of acres of intact forests. After completing a community-visioning process, Philipstown 2020, the town updated their comprehensive plan. An open space subcommittee identified open space lands and categorized them by function: community character, public health, habitat, and recreation. The open space work group used biological information from the New York Natural Heritage Program, The Nature Conservancy, Putnam County, and the Rutgers University Remote Sensing Department. The inventory and analysis further refined the community’s natural-resource goals and identified ways to reach those goals. The open space/natural resource process received funding through a grant from the U.S. Forest Service and Regional Plan Association as part of the New York/New Jersey Highlands Regional Study.

Orange County Open Space Plan

The Orange County Planning Department developed an open space plan with biological diversity as a priority. With input from The Nature Conservancy, the Wildlife Conservation Society, and others, the planning department developed maps of areas important for plants and animals, forests, and aquatic systems, then identified corridors to connect them. The county has established a \$20 million fund to support the plan’s implementation.

Tax-delinquent Property

Tax-delinquent property offered at auction is another way local governments can acquire valuable habitat. In Albany County, staff at the Office of Natural Resources review all properties before they go on the auction block. Environmentally sensitive land along the Normanskill Creek, a tributary of the Hudson River Estuary, was removed from the auction list and transferred to the Mohawk-Hudson Land Conservancy in 2003.

Resources

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- Lerner, S., and W. Poole. 1999. *The Economic Benefits of Parks and Open Space: How Land Conservation Helps Communities Grow Smart and Protect the Bottom Line*. Trust for Public Land. San Francisco, Calif.
- New York State Department of State. 2004. *Local Open Space Planning Guide*. New York State Department of State and New York State Department of Environmental Conservation Albany, N.Y.
- Plunkett, K. [ed.] 2003. Open Space Preservation. *Starting Ground Series*. Pace University Land Use Law Center. White Plains, N.Y. www.law.pace.edu/landuse.