

# **TOWN OF WASHINGTON, CONNECTICUT**

## **OPEN SPACE PLAN**

**March 1, 2002**

**(Revised: June 10, 2003)**

**(Revised: August 6, 2003)**

### **CONSERVATION COMMISSION**

**Ruth Alex  
Betsy Corrigan  
Jack Field, Outgoing Chair  
Linda Frank  
Joe Gitterman  
Pam Osborne, Secretary**

**Phillip Markert  
Susan Payne, Chair  
Linda Potter  
Dirk Sabin  
Bob Williams**

# TOWN OF WASHINGTON, CONNECTICUT

## OPEN SPACE PLAN

### Table of Contents

|   |             |
|---|-------------|
| <b>I. <u>Executive Summary</u></b>  | Pages 3-8   |
| <b>II. <u>Introduction</u></b>  | Pages 9-10  |
| ■ Background  |             |
| ■ Purpose   |             |
| <b>III. <u>Objectives</u></b>   | Pages 11-13 |
| <b>IV. <u>Strategies for Preserving Open Space</u></b>  | Pages 14-19 |
| ■ Permanent   |             |
| ■ Temporary   |             |
| <b>V. <u>Considerations for Future Open Space</u></b>   | Pages 20-21 |
| ■ By Functional Criteria (natural resource preservation, recreation, farming, etc)                                    |             |
| ■ Geographical relationship (corridors, “connectivity”, greenways) with map   |             |
| <b>VI. <u>Implementing the Open Space Plan</u></b>  | Pages 22-25 |
| ■ Funding Strategies and Goals  |             |
| ■ Summary Table   |             |
| ■ Approval Process  |             |
| ■ Actions by Town Required  |             |
| <b>VII. <u>Appendices</u></b>   |             |
| A. Open Space Steering Committee “Final Report”, February, 2000   |             |
| B. Ad Hoc Conservation Committee’s “Natural Resource Inventory”, November, 2000, with descriptive narrative and Maps. |             |
| C. Report by Ruth Alex -- Survey of Towns Using “Open Space” PA 490, March, 2001                                      |             |

# TOWN OF WASHINGTON, CONNECTICUT

## OPEN SPACE PLAN

### I. EXECUTIVE SUMMARY

#### Background

In the 1993 Plan of Development for the Town (POD), the Conservation, Open Space and Agricultural Land Use Plan (Section 1) was described as the plan that “identifies resources worthy of preservation, serves as the foundation for all other sections of the POD, and is used by the Conservation Commission (CC) as the basis for the Comprehensive Open Space Plan”.

The charge of the 1993 POD to the CC was to develop an Open Space Plan which would “identify resources worthy of preservation”, respect “the concept of tying the growth in population to the physical character and capacity of the land”, and support the community’s principal objective “to maintain Washington’s rural character”.

The Open Space Steering Committee (OSSC) (Appendix VIIA) provided the CC with guidance and recommendations for preparation of the Open Space Plan. The Natural Resource Inventory (NRI – Appendix VIIB) identified 12 separate, mostly natural, resources “worthy of protection plus further recommendations”.

#### Objectives

“Open Space” is defined as “*land permanently preserved for agriculture, forestry, recreation, wildlife habitat, natural resources conservation, maintenance of community character or as undeveloped land.*”

As of the end of 2001, 4,229 of the total of 24,768 acres of land in the Town, or 17%, were so defined, and the Natural Resource Inventory (NRI) called these Category I parcels. The long term objective for this Category recommended by the OSSC, and adopted by the CC, was 30% by 2015. This translates into 7430 acres of permanently preserved land, an increase of 3200 acres (an average of 229 acres per year) over the 15 year period. The overall State goal, for comparison, is 21% by 2023.

Many recent studies have reported that growth of development (single family housing) results in more rapid growth in the cost of services by the Town than in tax revenues. (Ref. Sec. IV. Growth Issues, p. 40 in the NRI Report—Appendix VIIB). For this reason, an aggressive objective for growth of Open Space land acreage is seen to work for, rather than against, the Town goal of restraining growth of costs and tax rates.

The following summarizes the NRI categorizations of Town land acreage as of end of 2001:

|   | <u>Acres</u>  | <u>%</u>    |
|---|---------------|-------------|
| Category I – Open Space (permanently preserved)                     | 4,229         | 17.0        |
| Category II – Unprotected parcels currently considered “open space” | 1,001         | 4.0         |
| Category III – Temporarily protected under PA 490 (farm/forestry)   | <u>8,187</u>  | <u>33.0</u> |
| Sub-total categorized   | 13,417        | 54.0        |
| Unclassified (all other)  | <u>11,351</u> | <u>46.0</u> |
| Total Town  | 24,768        | 100.0       |

Implicitly, there is also the qualitative goal of increasing, in the mix of lands in Category I, the percentage of those that protect the highest priority individual natural resources. Under the general heading of “natural resource preservation”, the top priorities (see Sec. V of this report) are:

1. Land used for farming and forestry
2. Surface and sub-surface water resources-- including wetlands, streambelts and natural drainage systems and watersheds
3. Contiguity of open space – linkages with existing open space corridors, wildlife habitat and pedestrian greenways
4. Unique and significant natural features--scenic vistas, ridgelines, scenic roads

Under the heading of “community (rural) character preservation”, the focus will be on enhancement of historic districts, village centers and lands used for housing diversity, recreation, churches, and graveyards.

Thus, future Open Space additions will be targeted to protect critical natural resources as well as to meet other community goals, including those essentially aesthetic and recreational.

### **Strategies for Permanent Preservation**

The following are strategies, in descending order priority, to which resources will be allocated to achieve the above Open Space objectives:

1. State purchase of development rights under State Farm Preservation statutes
2. Conservation Easements (providing permanent preservation as Open Space)
3. Fee Simple ownership of Open Space by land trusts and/or the Town
4. Deed restriction of development rights by private owners
5. Acquisition of properties and/or conservation easements by the Town under Planning Commission Sub-Division “set-aside” regulations

Each of these strategies is discussed in Section IV of this Plan.

## **Strategies for Temporary Preservation**

PA 490, while providing only temporary preservation, is hugely important in the overall conservation of the Town's resources and assets by protecting and encouraging land use for farming and forestry. Currently, 2775 acres are being farmed under PA 490 plus 5472 acres of forestry. This total of 8187 acres principally creates much of "the rural character of the Town". The cost to the Town of this program in year 2000 was \$915,487 (approx. 1.8 mils) in reduced tax revenues. The PA 490 property tax incentive to farm and forest is open ended but with a penalty if the farm/forestry operation is discontinued in less than 10 years. There is no penalty after 10 years.

It should be understood that there is an overlap of the acreage referred to in this report as Category I (permanent Open Space) and Category III (PA 490). Some permanently preserved land is farmed and much farmed land is not permanently preserved. The two strategies have the same goal of preserving farming, and they provide landowners with viable options to contribute to preservation of "the rural character of the Town" in a manner consistent with pursuit of their personal objectives.

State statutes enable towns to offer tax relief under PA 490 for "open space", in addition to farming and forestry. As recommended by the OSSC, the CC evaluated this alternative for Washington and concluded that PA 490 for "open space", if temporary, would be counterproductive to permanent preservation. Better use of the funds it would cost would be for tax relief on parcels under conservation easement (and/or parcels with deed restriction of development rights) as incentive for the permanent preservation that those measures provide.

## **Implementation Plan**

Allocation of Town resources to Open Space strategies and competing POCD strategies for Housing, Commercial and Industrial, Transportation, and Municipal Facilities ultimately will be made by a Town Meeting based on recommendations from the Planning Commission and the Boards of Selectmen and Finance.

## **Funding Strategies and Goals**

Subject to adjustments necessary in the context of trade-offs within the overall POCD, the CC proposes the following funding strategies for implementation of the Open Space Plan:

1. Steep Rock Association will continue its present strategies, using its own resources, to accumulate and manage Category I Open Space. Assuming "normal" growth of 1-2%/year, this is estimated to yield 900-1000 acres of additional Category I parcels by 2015, about 1/3 of the 3200A needed to meet the overall Town objective of 30%.

2. Accumulation of land under Conservation Easement (CE) by Steep Rock will accelerate if/when the Town provides property tax relief for CE's not already under PA 490. Some new CE's will come from PA 490 land when non-farming landowners are unable to find farmers to use their land under PA 490; most will come from properties in the 11,393 acres of land in the Town not now in Categories I, II, and III. This will be the key strategy to achieve the overall goal of 30% of the Town permanently preserved by 2015.

The Goal for this strategy is to bring another 1500 acres into Category I by 2015, an average of 100 acres per year. The cost, if the property tax relief incentive were equal to the average PA 490 incentive of \$112 per acre per year when applied to parcels under CE in 2000, would be about \$130,000 per year when applied to the present 1162 A under CE, or about 0.26 mil based on the year 2000 Grand List. This would grow to \$306,000 by year 2015 as the 1500A of additional CE is added, or about 0.3 mil if the Grand List grows by 2% per year until 2015. These cost "guesstimates" are probably high, since some portion of both existing and new CE's will have already been under PA 490. The CC believes that something less than the full PA 490 incentive would still provide adequate incentive to reach the goal of 2500A of CE's by 2015.

3. Public (federal, state and town) funds may be added from time to time for acquisition in fee simple of land for Open Space and/or purchase of development rights when there are compelling opportunities for natural resource conservation. Like Meeker Swamp, such projects will involve both public and private cost sharing with the Town share being approved project-by-project within the Town's Non-Recurring Capital Budget process. The Goal for this strategy is 500A by 2015. The cost to the Town, realizing that in today's (2003) market, 500A might be valued at \$4.5-7.5 million. With a 1/3 share for the Town, its cost might be \$1.5-2.5 million total, an average of \$100,000 to \$170,000 per year over a 15 year period, being equal to about 0.2 to 0.3 mils per year.
4. The Town will acquire other Open Space by fee simple and/or CE through its Planning Commission "set aside" regulations and on occasion if Steep Rock declines to accept responsibility for a property. Based on the rate of sub-division applications over the past 5 years (an average of about 6 per year, the Goal for this strategy is 20-25 A/yr, or about 250 A by 2015. Possible costs associated with this strategy will be baseline documentation, annual monitoring, maintenance, and enforcement.

In cases of "pay-in-lieu" of Open Space set aside, such funds should be committed to a Town "Open Space Fund". This Fund could be supplemented by private contributions and, if approved by Town governmental processes, also from Town general revenues (a la Roxbury). Its intended uses, exclusive of Implementation Strategies 1-3 above, would be mainly for public education, "seed money" for project development, and monitoring and maintenance of properties for which the Town is responsible.

| <u>Summary</u>                                | <u>Acres</u>  | <u>% of<br/>Town</u> | <u>Cost (Town Funds)</u> |             |
|---|---------------|----------------------|--------------------------|-------------|
|   |               |                      | <u>Avg \$/yr</u>         | <u>Mils</u> |
| <b>Town total acreage</b>                     | <b>24,768</b> | <b>100</b>           | --                       | --          |
| <b>Town objective for Open Space by 2015</b>  | <b>7,430</b>  | <b>30</b>            | --                       | --          |
| <b>Present (End of 2000) Open Space</b>       | <b>4,229</b>  | <b>17.1</b>          | --                       | --          |
| Strategy 1 -- Steep Rock "normal" growth      | 900           | 3.6                  | 0                        | 0           |
| Strategy 2 -- Incentive for cons. easem'ts    | 1,500         | 6.1                  | 130,000                  | 0.2*        |
|   |               |                      | 306,000                  | 0.3**       |
| Strategy 3 -- Land purchases (public/private) | 500           | 2.0                  | 140,000                  | 0.2         |
| Strategy 4 -- PC "set aside" regulations      | <u>250</u>    | <u>1.1</u>           | <u>0</u>                 | <u>--</u>   |
| <b>Total -- Year 2015</b>                     | <b>7,379</b>  | <b>30.0</b>          | <b>446,000</b>           | <b>0.5</b>  |

\* **First year (2000 Grand List)**

\*\* **Year 2015, assuming 2%/yr growth of Grand List from 2000**

**Note:** Numbers in the above tabulation are very approximate and intended only to indicate the principle of how a 0.5 mil per year commitment of Town funds might be allocated to the different strategies.

### **Actions Required to Implement this Plan**

1. The Open Space Plan must be explained carefully to the various official bodies of the Town and to the Townspeople as an integral part of the development of the 2003 Plan of Conservation and Development.
2. The process for development of the 2003 POCD must address the total needs of the Town and come to some judgment of priorities and allocation of (mainly the financial) resources of the Town among its many needs.
3. For this Open Space Plan, as a part of the POCD, three steps are needed to enable implementation:
  - The Town must decide first if it will commit to financial support of the Open Space Plan, as a part of the POCD, to the extent of 0.5 mil per year (approx. \$300,000 in 2003), or whatever other amount it may select.

- Decision is then required to allocate the total amount selected between the strategy of land acquisition (via the Land Acquisition Fund) and the strategy of tax abatement to provide incentives for private permanent protection of open space from development through conservation easement. The allocation in the above table is the recommendation of the CC, whereas the OSSC had recommended, in the absence of the concept of a tax abatement strategy for CE's, that the entire amount be dedicated to the Land Acquisition Fund.
- Procedures for managing and authorizing use of these funds, in either case or both cases, will have to be developed and the necessary enabling Town ordinances must then be approved by a Town meeting.
- The Boards of Selectmen and Finance should also establish mechanisms that provide for rapid response by the Town (including a Town meeting, if needed) to opportunities for purchase of land for Open Space if it offers compelling benefits in conservation.

# **TOWN OF WASHINGTON, CONNECTICUT**

## **OPEN SPACE PLAN**

### **II. INTRODUCTION**

In the 1993 Plan of Development for the Town of Washington (POD), five specific areas of planning were identified:

- The Conservation, Open Space, and Agricultural Land Use Plan
- The Housing Plan
- The Commercial and Industrial Plan
- The Transportation Plan
- The Municipal Facilities Plan

The Conservation, Open Space and Agricultural Land Use Plan was described as the plan that “identifies resources worthy of preservation, serves as the foundation for all other sections of the Plan, and is used by the Conservation Commission as the basis for the Comprehensive Open Space Plan ... required by Connecticut General Statutes”.

When Conservation was under the aegis of the Inland Wetlands and Conservation Commission, work was begun by an Ad Hoc Conservation Committee to “identify resources worthy of preservation”. Early in the year 2000, after creation by the Town of a separate Conservation Commission (CC), the Ad Hoc Conservation Committee was transferred to the new Commission. The Committee’s work culminated in publication in November, 2000, of a report entitled “Natural Resource Inventory Report and Recommendations”. (A copy is attached as Appendix VIIB).

In this report, 12 separate “(natural) resources worthy of preservation” were identified and inventoried geographically on computerized, individual maps (one map for each resource) of the Town:

- Geology
- Ridgelines
- Slopes
- Rivers, Brooks, Lakes and Ponds
- Aquifers and Wetlands
- Soil Types
- Farmland and Woodland
- Wildlife Habitat and Listed Species
- Archaeological, Historical, and Architectural Resources
- Open Space
- Recreational Land (Active and Passive)
- Scenic Roads, Scenic Areas and Vistas

In the “Open Space” section of this report, Open Space was specifically identified in three categories: I Permanently Protected Parcels, II Unprotected Parcels currently considered as Open Space, and III Land temporarily protected under the PA 490 program. This inventory has been the data base used by the CC as it developed this Open Space Plan.

Meanwhile, before formation of the separate CC, and before the work of the Ad Hoc Conservation Committee was completed, the Town formed an Open Space Steering Committee (OSSC). This committee was charged with “developing recommendations concerning the preservation of open space in Washington” as a guide to development of the Open Space Plan. The final report of the OSSC was issued February 29, 2000, The CC unanimously approved incorporation of this report into its Open Space Plan. It is included in its entirety as Appendix VIIA and its recommendations are the guides for this OS Plan.

Thus, the 1993 Plan of Development of the Town, the Open Space Steering Committee, and the Natural Resources Inventory Report (also in its entirety in Appendix VIIB) have all provided important input and recommendations to the new Conservation Committee as it has proceeded to develop this Open Space Plan.

### **Purpose**

The general purpose of the Open Space Plan is to contribute to the direction and validity of the Town’s land use and development policies. As such, it should become a part of the 2003 Town Plan of Conservation and Development.

The specific goal is to define Town objectives for permanent preservation of Open Space as an important contribution to the broad Town goal of preserving “the rural character of the Town”. To achieve those objectives, the Open Space Plan will also define strategies to which resources will be committed to achieve the objectives.

Therefore, the Open Space Plan will focus on analyses of the inventory of the Town’s natural resources, in terms of specific parcels, criteria for establishing priorities and options for permanent preservation as Open Space, and actions the Town must plan to achieve the Open Space objectives.

Key to the success of the Open Space Plan will be public understanding and acceptance of the objectives, the strategies and the resource commitments required. Landowner rights and interests will be meticulously respected and will be an essential ingredient of all implementation plans.

# TOWN OF WASHINGTON, CONNECTICUT

## OPEN SPACE PLAN

### III. OBJECTIVES AND GOALS

According to the 1993 Plan of (Conservation) and Development of the Town (POD), it “clearly emerged (that) the community’s principal objective was *“to maintain Washington’s rural character”*.”

“This objective (was) identified as being the Town’s farming heritage, pastures, stone walls, fields and barns, single family residences dispersed through Town, pastoral open spaces, rural road system, lack of suburban style subdivisions, identifiable community centers and the friendly and neighborly attitudes of the townsfolk”.

The first sub-section of the POD was “The Conservation, Open Space and Agricultural Land Use Plan”. The “foundation” objectives of this section were *“to identify resources worthy of preservation”* .....*and to support “the concept of tying (balancing) the growth in population to the physical character and the capacity of the land”* and to support of the community’s principal objective of maintaining “Washington’s rural character”.

“Open Space” was defined by the OSSC, and is now accepted by the CC, as *“land permanently preserved for agriculture, forestry, recreation, wildlife habitat, natural resources conservation, maintenance of community character or as undeveloped land.”*

In its “Final Report” ” dated February 29, 2000, the OSSC recommended an objective *“to increase the amount of permanently preserved open space in Washington to 30% within the next 15 years.* This was in the context of an overall State objective of 21% by year 2023. This “top down” goal for Washington would mean that approximately 7430A total, and 3200A additional (to the end of 2001 level of 4229A), would be required by year 2015.

Many recent studies have reported that growth of development (single and multiple family housing) results in more rapid growth in the cost of services by the Town than in tax revenues. (Ref. Sec.IV, Growth Issues, p.40, in the NRI Report – Appendix VIIB). The OSSC report stressed the importance of an aggressive Open Space objective as a tool in managing growth of housing development to the extent possible consistent with the companion goal of encouraging balanced population diversity and growth. Open Space is commonly viewed with public access and “passive recreation” objectives, but in Washington, simple protection of land from development is also key.

The Steep Rock Association has been active in preserving Open Space since the early 1960’s, and its programs are producing an average growth rate of Open Space acreage of about 1-2%, or about 60 A, per year. This rate, if continued, would produce 900 A of additional Open Space by 2015, less than one third of the OSSC goal.

The amount of land permanently preserved as Open Space through the new Sub-division Regulation of the Planning Commission for “Open Space set-aside” would be a minimum of 15% of the total acreage of new Sub-division applications approved. The average rate of new Sub-division approvals over the past 5 years has been 6.6 per year. If it is assumed that the average acreage per approval is 20, the total acreage involved is about 130 per year. 15% of this, as permitted in the PC “set aside” regulations, is 20A per year, or about 300A over the 15 year period. This suggests a Goal for this strategy of 250A by 2015.

These two strategies, in combination, should not be expected to yield more than about one third of the OSSC goal of 3200 A additional Open Space by 2015.

Thus, the key thrusts of this Open Space Plan are to determine: First, if additional strategies can be devised to fill the “strategic gap” of about 2000A by 2015, and Second, how that acreage could be designed for the best overall protection of the natural resources identified in the NRI.

Under the general heading of Unprotected Properties, the NRI defined Category II as Unprotected Parcels currently considered “Open Space” (e.g., schools, parks and recreation areas, golf courses, churches/cemeteries, Town properties, etc.). Town records show 1001 acres (4% of the Town total) of such parcels. Category III is land temporarily protected under PA 490 for farming and forestry, of which there are 8,162 acres (33% of the Town total). The total of land in the three Categories is 13,392 acres, or 54% of the Town total.

The following summarizes the NRI categorizations of Town land acreage at end of 2001:

|   | <u>Acres</u>  | <u>%</u>    |
|---|---------------|-------------|
| Category I – Open Space (permanently preserved)                     | 4,229         | 17.0        |
| Category II – Unprotected parcels currently considered “open space” | 1,001         | 4.0         |
| Category III – Temporarily protected under PA 490 (farm/forestry)   | <u>8,162</u>  | <u>33.0</u> |
| Sub-total categorized   | 13,392        | 54.0        |
| Unclassified (all other)  | <u>11,376</u> | <u>46.0</u> |
| Total Town  | 24,768        | 100.0       |

Within the remaining 46% of land, there are properties “deed restricted” from development, and land that is not developable, such as wetlands, steep slopes and the poorest soil classifications of the Zoning Commission. It is conservatively estimated that Washington townspeople are looking at more like 70% of the Town that “feels like open space”. In that perspective, the objective of 30% being permanently preserved Open Space is viewed as being ambitious yet reasonably modest.

Gaining public understanding and acceptance of the plan will be challenging, because the public is accustomed to living in an environment approaching 70% open space, even though only 17% is now permanently preserved. Therefore, the public will not readily perceive the urgency for expenditures to almost double the present permanently preserved portion.

As this Open Space Plan is natural resources based, it is an implicit goal to provide the additional Open Space selectively to protect the Town's natural and other resources. In order of priority, the following are identified and those most critical:

1. Lands used for Farming and Forestry
2. Surface and Sub-surface Water Resources, especially “stratified drift aquifers” and including wetlands, streambelts and natural drainage systems
3. Wildlife Habitat – critical or threatened
4. Unique and Significant Natural Features – scenic vistas, ridgelines, scenic roads
5. “Connectivity”, or linking, of permanently protected Open Space areas
6. Archaeological and Historical
7. Recreations Areas – passive and active

The concept of “Open Space” encompasses any, or any combination, of these resources.

Thus, Open Space additions will be targeted to protect critical natural resources as well as to meet aesthetic and recreational objectives. Certain parcels may also present opportunities to connect with already existing Category I parcels or to contribute to corridors of Open Space and greenways. Town investment in the acquisition of the 238A Meeker Swamp area, for example, was driven much more by the objective of permanently preserving farmland, aquifers, wetlands, and scenic vistas than to provide passive recreation. In addition, it filled a large gap in the corridor between Hidden Valley and Lake Waramaug.

# TOWN OF WASHINGTON, CONNECTICUT

## OPEN SPACE PLAN

### IV. STRATEGIES FOR PRESERVING OPEN SPACE

Much has been written by both governmental and non-governmental experts to define “Open Space”. The 1993 Washington Plan of Development says “*Open Space Resources are generally land, wetlands or water areas in a natural state, or if no longer in a natural state, are cultivated or otherwise maintained as open space*”. It goes on to say “Open space resources include: Productive (farming, forestry) and Recreation Lands, Water, Drainage, Habitat, Aesthetic, and Historic Resources.

The Open Space Steering Committee (OSSC), in year 2000, wrote: “*Open Space shall consist of land permanently preserved for agriculture, forestry, recreation, wildlife habitat, natural resources conservation, maintenance of community character or as undeveloped land*”. For its purposes in preparing an Open Space Plan for the Town, the Conservation Commission (CC) has chosen this definition.

Nevertheless, the CC has found that when discussing strategies for preserving Open Space, and particularly when testing strategies against the “umbrella objective” of the 1993 Plan of Development “to preserve the rural character of the Town”, some confusion still exists. Such confusion usually results from the distinction between the “permanent preservation” provided for in the definition, “temporary” protection (e.g., land owned by schools, parks, golf courses, churches etc.), and also “temporary protection under PA 490. The “Natural Resource Inventory” (Appendix A) usefully clarified these distinctions under the headings of “Category I, II, and III”.

In the discussion of strategies that follow, these distinctions were made.

### STRATEGIES FOR PERMANENT PRESERVATION (In order of priority)

#### State Purchase of Development Rights

The Town, in year 2000, had 502 acres of permanently preserved farmland as a result of this strategy. This is the most advantageous strategy as it is focused on enabling farmers to continue farming (the key to “rural character”) and with the least cost to the Town. This strategy was supplemented in years 2000 and 2001 by a federal land trust act providing a one year-at-a-time allocation of federal funds for such projects, although this Town has not yet been able to participate in this federal program.

The Town needs to be alert for opportunities to employ this strategy, but it is the view of the CC as one to be pursued but not counted upon in establishing goals in the Open Space Plan.

### **Conservation Easements**

At the end of year 2000, 1162 A in the Town were under Conservation Easements (CE's) to the Steep Rock land trust and thereby are permanently preserved as Open Space.

This widely used strategy provides landowners one time tax relief on income taxes, but no ongoing relief from Town property taxes. This strategy is a win/win for the Town, as it permanently preserves the Open Space without any cost to the Town. However, it is a losing strategy for landowners, who have forfeited the development potential of their land for only a onetime income tax credit without any ongoing property tax relief. It may be argued that the marketability and value of a property is greater with its "excess acreage" owned, under CE, than as a property with less excess acreage. However, this argument is countered by the much higher tax burden on the property with the excess acreage owned in the absence of any consideration of the property's development value, or lack thereof. A new owner, particularly one who expects to become a long term resident, soon comes to realize the advantage of donating the land to a land trust instead of paying taxes on land under CE that is valued at the same assessment as if it were developable.

Thus, in the absence of Town property tax relief, this strategy is becoming obsolete, as landowners become more aware of the advantage of actually donating the land to a land trust while retaining exclusive access. Counterproductively for the Town, this incentive for donation of land leads to removal of such land entirely from the tax rolls.

Under State statutes, landowners who give CE's to towns for permanent preservation of Open Space may "petition" the town for relief on its property taxes. Although the CC believes there has been no legal challenge of the Town on this point to date, it expects that, as Steep Rock becomes the de facto land trust for the Town of Washington, such challenges will come and are viewed by the CC as likely to be successful in the long term.

A disadvantage of the CE strategy is that it tends to produce a "patchy" network of Open Space properties that, while manageable, are difficult to monitor and maintain. The principal long term focus of strategies to expand Open Space should be on preserving farming, meadows, cleared land and forests. It should be oriented along corridors, greenbelts, larger tracts, and those that contain important Natural Resources, as described in the year 2000 Natural Resource Inventory of the Ad Hoc Conservation Committee (Appendix VIIA)

The Goal for this strategy is to bring another 1500 acres into Category I by 2015, an average of 100 acres per year. The cost, if the property tax relief incentive were equal to the PA 490 incentive of \$112 per acre per year, when applied to parcels under CE in 2000, would be about \$133,000 per year, less than 0.3 mil on the year 2000 Grand List. As the 1500A of additional CE was added, this cost would grow to 306,000 by year 2015. The CC believes that something less than the PA 490 incentive would be sufficient incentive to attract conversions to CE's.

### **Fee Simple Ownership**

At the end of year 2000, a total of 2,349 A of Open Space in the Town was owned outright by land trusts – 106 A by Weantinogue Heritage and 2243 A by Steep Rock.

These totals include the 238A Meeker Swamp property that was acquired in 2000. After the owner's discount, the price was \$1.5 million. It was funded by \$450,000 State, \$500,000 Town, and \$550,000 from Steep Rock and other private contributions. This project was unique in Washington in three respects: 1.) The property was available at a significantly discounted (from market value) price, 2.) It was the largest ever project jointly funded by State, Town of Washington, and private interests, and 3.) It was focused on a property that contained an unusual combination of clearly defined and critical natural resources, so it had a compelling conservation objective.

The Meeker Swamp project suggests a strategy for further acquisitions of large blocks of Open Space, especially when there is short lead-time, wherein a consortia of high income taxpayers may take advantage of federal tax laws by purchasing a property at close to fair market value. The consortium would continue farming either by extending the right to the seller or by renting to another farmer. After a year or more, based on subdivision development value, they would then donate the land or its development rights to the land trust (Steep Rock), take a sizeable tax deduction, and continue to have the land farmed, having retained the farming rights in the transfer. If possible, a small number of building lots should be set aside to increase the housing stock in the Town and to pump some cash into the transaction.

The overall result to the Town, in addition to permanent preservation of the Open Space, could be tax positive because homes built on the set aside lots would have a higher tax basis than the land if it were continued to be farmed under PA490. The key to success would be to have in place a consortium of individuals who have the interest, the resources, the tax reduction opportunity, and the capability to react quickly when and if such opportunities arise.

However, the bulk of properties protected through this strategy at the present time were acquired from individual, private donations, and this is more nearly typical. This is a high priority strategy as it provides permanent preservation of Open Space, and the conservation objectives of Steep Rock are well aligned with those of the Town. It will be critical for Steep Rock and the Town to continue to work closely to apply mutually agreed criteria as opportunities for future acquisitions are developed and/or present themselves.

The OSSC clearly saw that the “Meeker Swamp” strategy could not be counted on as the principal means to reach the targeted 3200 A of Open Space additions by 2015 required to meet its 30% objective. That would require almost one such acquisition each year. There is no way to forecast how many, of what size, or when such opportunities might arise again. However, for planning purposes, the CC decided on a Goal for this strategy of 500A (two additional “Meeker Swamps”) over the 15 year period. Opportunities will occur from time to time, and it will be important that the Town be well prepared to act swiftly, if necessary, when the opportunity involves properties with compelling conservation benefits. Like Meeker Swamp, the criteria for Town involvement would be limited participation (e.g., one third each of State, Town, and private funds) and compelling opportunity for resource conservation.

### **Deed Restrictions**

A final strategy for permanent preservation of Open Space is the use of Deed Restrictions on properties that are required and accepted from time to time by individual land owners for a variety of reasons. A problem with this method is that it is difficult to ascertain what properties are subject to this type of restriction, and there is no organized recording of such actions. Often, adjoining property owners will be familiar with such restrictions, but such connections with the property will soon be lost after one or two transfers of the property.

The CC views this as a valid and valuable strategy and will undertake to develop a system to identify and to establish records of such restrictions. Data on deed restrictions in the Town is very limited. This Open Space Plan does not count on this strategy for any contribution toward its overall objectives.

**Planning Commission Sub-division Regulations** include provisions to require developers to set aside a minimum of 15% of land being sub-divided as permanently preserved Open Space. The PC has wide discretion under these regulations to use any, or any combination, of the above strategies. In addition, there is provision for developers (currently at the option of the developers, but evolving toward the option of the Planning Commission) to “pay-in-lieu” of Open Space set-asides in certain situations.

These regulations are constructive as a means to force a dialogue on Open Space issues between developers and the Planning Commission on all sub-division applications. They also provide the PC wide latitude to require applicants to buffer developments from roadways and to provide a measure of protection of important natural resources on the properties involved. However, the overall Open Space acreage so preserved does tend to be “patchy”, difficult to monitor and administer, and not necessarily tied in with broader Open Space “corridor” goals.

There is limited experience with this strategy to suggest any kind of a goal for its contribution to the Open Space Plan objectives. However, for reference, the PC processed an average of 6.6 sub-division applications per year over the past 5 years. If it were assumed that the average pre-division acreage was 20-25A, 15% of which would be open space “set-aside”, a goal for this strategy of about 20A per year, or 250A by 2015 is suggested. Clearly, the value of this PC regulation is more for purposes of conservation of natural resources than accumulation of Open Space acreage.

## **STRATEGIES FOR TEMPORARY PRESERVATION**

### **Current PA 490 Program**

CT Statute PA490 contributes importantly, though temporarily, to the “rural character” objective by encouraging farming and forestry in the Town. This works in two ways: 1. Farmers/foresters receive abatement of property taxes on their own land, and 2. Farmers receive the further advantage of gaining free use of land belonging to individual(s) not engaged in farming, who receive property tax abatement thereby. In concept, landowners who do not farm have incentive to work out an arrangement with a farmer to maintain their land in farm use. In year 2000, 2,775A were farmed under PA 490, and 5472A were classified as PA 490 forestland, a total of 8162 A.

In the future, as there are fewer farmers available, landowners who do not farm will likely have to “compete” for available farming capacity, leading to payment of farmers to farm their land.

The temporary aspect of PA 490 is mitigated by a “penalty” provision that requires payment of back taxes if the qualifying practice is halted in less than 10 years. Historically, this provision has rarely been invoked. After the 10 year “penalty period”, landowners, without penalty, have four options: 1.) To continue to have it farmed under PA490 (with the tax abatement); 2.) To retain ownership and discontinue farming (forgoing the tax abatement); 3.) To donate the land to a land trust with a provision to retain exclusive access; or 4.) To sell the land for development or other permitted uses.

The first option is the most popular and is win/win for the farmer and the landowner, but reduces revenues to the Town. However, the second will become more prevalent as fewer farmers are available to farm under PA 490. In this situation, the landowner is likely to allow the land to overgrow and revert to “jungle”, and thereby, farmland is lost unless a new incentive is provided to maintain the land in “farm-like” condition. The third option meets the Town goal of permanent preservation of the land as Open Space, but has the negatives of taking the property off the tax rolls and, again, exposing it to reversion to “jungle”, since land trusts probably do not have the resources to maintain the land in farm-like condition. The fourth option will occur more frequently as pressures for development increase and land values rise further, providing landowners greater incentive to sell the land for development.

A different situation occurs when land being farmed under PA490 is already under conservation easement. If the landowner becomes unable to find a farmer to “farm” the property, his options are limited to: 1.) Donating the land to a land trust or to the Town, or 2.) Continuing to pay full tax rate while either abandoning the property to the “jungle” or paying additionally for its maintenance in farm-like condition. This is a lose/lose scenario for the landowner and the Town.

Considering the 8,247 total acreage currently under PA 490 (one third of the total Town land area), PA490 is clearly a vital program for preserving “productive use” Open Space and should continued to be encouraged, even though its benefits are not guaranteed to become permanent. A “bonus” from this strategy is that it provides time (a “window of opportunity”) for Town and/or private interests to become acquainted with landowners and their objectives and possibly to negotiate arrangements for permanent preservation of the land in farm or forestry.

Please refer to Appendix VIIC, which summarizes results of a survey by Ruth Alex of 26 towns in Litchfield County for their practices in the use of PA 490.

### **PA 490 for Open Space**

CT statutes enable towns to grant PA 490 tax abatement benefits for land retained as Open Space, not farmed or forested, but Washington has not used the program for this purpose. The OSSC recommended that the CC research the pros and cons of this strategy.

A survey of the 26 towns comprising Litchfield County was conducted and 23 replies were obtained (Ref. Appendix E, Section 7). 12 have Open Space PA 490; 11 do not. Among those who use the program, there is no consistent pattern of (size or otherwise) for qualification, and the loss of tax revenues from the program ranges from less than \$40,000 per year each from Roxbury, Bridgewater, and New Milford to \$434,000 and \$535,000 for Woodbury and Warren, respectively. For comparison purposes, Washington’s loss of revenues from its current Farm and Forest programs under PA490 was about \$915,000 in year 2000 – equivalent to about 1.7 mils in tax rate on the 2000 Grand List.

Qualitatively, the CC concluded that a strategy of “open space” PA 490, in addition to existing farming/forestry PA 490 for Washington, would not only be a major additional loss of revenue for only temporary protection of open space, but it would actually work against the strategies of Conservation Easements and Fee Simple donations of Open Space land, both of which provide permanent preservation. The lost revenues it would cost could be put to more effective use as incentives for conservation easements.

Potentially, PA490 for Open Space could be used effectively by Washington if one of the qualifying criteria were to be that the property be under permanent protection from development, presumably by conservation easement or deed restriction. Of course, this would not be used if the property were already receiving tax abatement for farming or forestry. However, there are other enabling statutes (e.g., CGS 7-131B) for tax abatement for conservation easements and deed restrictions that forego development rights.

# TOWN OF WASHINGTON, CONNECTICUT

## OPEN SPACE PLAN

### V. CONSIDERATION FOR FUTURE OPEN SPACE

Open space is “*land permanently preserved for agriculture, forestry, recreation, wildlife habitat, natural resources conservation, maintenance of community character or as undeveloped land.*”

#### Open Space/Natural Resource Preservation Goal of 25%

Open Space Preservation Objectives\*:

- Preservation of farming and farmlands
- Protection of rivers/streams, wetlands, lake, major groundwater resources
- Protection of watershed resources
- Contiguity of open space; specifically linkages of existing open space parcels and the long term goal of regional corridors for both wildlife habitat and pedestrian greenways
- Ridgeline conservation
- Protection of wildlife habitats
- Protection of forests/woodlands

The single most important feature of Washington’s *rural character* is farmland. Much of the existing, perceived open space (30%) is NOT permanently protected such as PA 490 land. (To the committee, rural character means being able to see some “undeveloped greenery” from any point in town.)

#### Community (Rural) Character Goal of 5%

**In addition to *open space*, the character of the community is enhanced by land set aside for active recreation, historic districts, village center improvements, graveyards and housing diversity.**

Community Character Preservation Objectives\*:

- Preserve historic districts
- Enhance village centers
- Plan for housing diversity
- Meet active recreation needs

\* Long-term land use goal is to balance conservation/preservation objectives with development for the most desirable use of land in the Town of Washington.

Total Goal: **permanently preserve 30%** or 7,400+acres by 2015

The Plan: A springboard for public debate

- Broad-brush map of *multiple-natural resource preservation corridors* to capture the convergence of multiple natural resources, rivers/streams, some scenic areas and some farmland.
- Overlay map of prime farmland soils and existing farms (Needs to be produced.)
- After broad-based community input specific targets can be set.

Criteria for parcel evaluation (based on physical characteristics):

1. Size (quality of size rather than mass/small parcel could be critical) - 1 point per acre
2. Agricultural (cleared, open farmland, rural character) -0-50 points
3. Natural state (unbuilt, undeveloped) meadow, field, woodlands mosaic -0-50 points
4. All water resources (wetlands, streams/rivers, lakes, swamps, vernal pools) -0-50 points
5. Habitats (flora and fauna) -0-50 points
6. Cultural (archaeological, historic) -0-50 points
7. Aesthetics (scenic/viewsheds/ridgelines et. al.) -0-50 points
8. Contiguity to existing permanently preserved open space -0-50 points

Committee Caveats:

1. Housing diversity is essential to our *quality of life* and community character. Varying housing densities, diverse architecture and a variety of structural scales are defining elements of the New England landscape.
2. Isolated or stand-alone parcels of open space (regardless of size) can greatly enhance the rural character of an area, neighborhood, village center, densely developed area,
3. Though not equally valuable from a perspective of natural resource protection, all land in Washington is worthy of preservation.

Open Space Inventory Subcommittee members:

- George Blake
- Betsy Corrigan
- Patte Doran
- Bill Fairbairn
- Jack Field
- Rod Funston
- Elaine Luckey
- Ecton Manning
- Phil Markert
- Susan Payne
- Dirk Sabin
- Steve Solley
- Edwin Whitehead

# TOWN OF WASHINGTON, CONNECTICUT

## OPEN SPACE PLAN

### **VI. IMPLEMENTATION PLAN**

#### **Funding Strategies and Goals**

Allocation of Town resources to Open Space strategies and competing POD strategies for Housing, Commercial and Industrial, Transportation, and Municipal Facilities ultimately will be made by a Town Meeting based on recommendations from the Planning Commission and the Boards of Selectmen and Finance.

Subject to adjustments necessary in the context of trade-offs within the overall POD, the Conservation Commission proposes the following strategies to implement the Open Space Plan:

1. Steep Rock Association will continue its present strategies, using its own resources, to accumulate and manage Category I Open Space. Assuming “normal” growth of 1-2%/year, this is estimated to yield 900-1000 acres of additional Category I parcels by 2015, about 1/3 the amount needed to meet the overall objective of 3200 acres total.
2. Accumulation of land under CE by Steep Rock will accelerate when/if the Town provides property tax relief for conservation easements not already under PA 490. Some new CEs will come from PA 490 land when non-farming landowners are unable find farmers to use their land under PA 490. Most will come from parcels in the 11,393 acres of land in the Town not now in Categories I, II, and III. This will be the key strategy to achieve the overall goal of 30% of the Town permanently preserved by 2015.

The Goal for this strategy is to bring another 1500 acres into Category I by 2015. The cost of the strategy, if the property tax relief incentive were equal to the PA 490 present incentive of about \$112 per acre per year, would be about \$133,000 per year in the first year (as a result of picking up already existing 1162A of CE's), about 0.2 mil on the year 2000 Grand List.

By year 2015, the cost of the 1500A of conservation easements added by this strategy, at the rate of addition of \$112 per acre per year, will increase the total to \$306,000, or about 0.3 mils if it is assumed that the Grand List will continue to grow at a rate of about 2% per year.

These “guestimate” numbers are high to the extent that there is overlap of both existing and new land under CE and under PA 490. For example, if a parcel has 50 A under PA 490, 10 of which is under CE, those 10 A will not add cost to the CE strategy.

The CC believes that even if the property tax break for land under CE were somewhat less than the PA 490 incentive of \$112 per acre, there would still be a strong incentive for owners of land not under PA 490 to offer CE’s.

3. Public (Federal, State, and Town) funds may be added from time to time for Fee Simple acquisition of land for Open Space and/or purchase of development rights when there are compelling opportunities for conservation. Like Meeker Swamp, such projects will involve both public and private cost sharing and would be approved project-by-project within the Town’s Non-Recurring Capital Budget process. The Goal for this strategy is 500 acres by 2015. The cost to the Town, realizing that in today’s market, 500A might be valued at \$4.5-7.5 million, with a 1/3 share for the Town, might be \$1.5-2.5 million total, an average of \$100,000 to \$170,000 per year, being equal to about 0.2 to 0.3 mils per year.
4. The Town will acquire other Open Space by Fee Simple and/or CE through its Planning Commission “set aside” regulations. Also, on occasion when Steep Rock may decline to accept responsibility for a property, the Town may choose to pick it up. Over the past five years, there has been an average of 6.6 sub-division applications to the Planning Commission. If it is assumed that these applications involve an average of 20A each, then 120-130A per year are exposed to the open space “set aside” regulation, which provides for a minimum of 15% of that total acreage to be set aside. From this, a Goal for this strategy of 250 acres, or 20-25 acres per year by 2015 was adopted.

Because this strategy inherently will produce small, random “patches” of Open Space, it is viewed as not being a major factor in the overall Open Space Plan. However, from a conservation standpoint, it is an important tool for the Planning Commission to provide for buffer areas and to encourage planners and builders to work around sensitive natural resources (such as wetlands). Possible costs associated with this strategy will be baseline documentation, annual monitoring, maintenance and enforcement.

In cases of “pay-in-lieu” of Open Space set aside, such funds should be committed to a Town “Open Space Fund”. This Fund could be supplemented by private contribution and, if approved by Town governmental processes, from Town general revenues. Its intended uses, exclusive of Implementation steps “1.” through “3.” above, would be mainly for public education, “seed money” for project development, and monitoring and maintenance of properties for which the Town is responsible.

| <u>Summary</u>                                | <u>Acres</u>  | <u>% of<br/>Town</u> | <u>Cost (Town Funds)</u> |             |
|---|---------------|----------------------|--------------------------|-------------|
|   |               |                      | <u>Avg \$/yr</u>         | <u>Mils</u> |
| <b>Town total acreage</b>                     | <b>24,768</b> | <b>100</b>           | --                       | --          |
| <b>Town objective for Open Space by 2015</b>  | <b>7,430</b>  | <b>30</b>            | --                       | --          |
| <b>Present (End of 2000) Open Space</b>       | <b>4,229</b>  | <b>17.1</b>          | --                       | --          |
| Strategy 1 -- Steep Rock "normal" growth      | 900           | 3.6                  | 0                        | --          |
| Strategy 2 -- Incentive for cons. easements   | 1,500         | 6.1                  | 130,000                  | 0.2*        |
|   |               |                      | 306,000                  | 0.3**       |
| Strategy 3 -- Land purchases (public/private) | 500           | 2.0                  | 140,000                  | 0.2         |
| Strategy 4 -- PC "set aside" regulations      | <u>250</u>    | <u>1.1</u>           | <u>0</u>                 | <u>--</u>   |
| <b>Total -- Year 2015</b>                     | <b>7,379</b>  | <b>30.0</b>          | <b>446,000</b>           | <b>0.5</b>  |

\* **First year (2000 Grand List)**

\*\* **Year 2015, assuming 2%/yr growth of Grand List from 2000**

**Note:** Numbers in the above tabulation are very approximate and intended only to indicate the principle of how a 0.5 mil per year commitment of Town funds might be allocated to the different strategies.

### Approval Process

The Open Space plan will be presented and explained to the public in one or more sessions, and probably modified to accommodate input received during the dialogue. One step in this communication process may be a referendum to determine if there is a willingness to commit Town funds in support of a conservation and open space plan, and if so, to what extent. The CC has concluded that this dialogue should not be engaged until it can be done in the context of the overall Town POCD, because it believes such judgments can be made only with an understanding of the trade-offs between all the needs of the Town (especially Housing) and the match-up of the combined needs with available resources.

A final Open Space Plan, with the recommendations and endorsements of the Town Boards of Selectmen and Finance, will ultimately be presented at a Town Meeting for approval, either separately or as an integral part of the Town POCD. Along with other sections of the POCD, the Open Space Plan would then be entered into the General Administration and Non-Recurring Expense budgeting process of the Town on a year-to-year basis.

### **Actions by Town Required**

For this Open Space Plan, as a part of the POCD, three steps are needed to enable implementation:

- The Town must decide first if it will commit to financial support of the Open Space Plan, as a part of the POCD, to the extent of 0.5 mil per year (approx. \$300,000 in 2003), or any other amount it may select
  
- Decision is then required to allocate the total amount selected between the strategy of land acquisition (via the Land Acquisition Fund) and the strategy of tax abatement to provide incentives for private permanent protection of open space from development through conservation easement. The allocation in the above table is the recommendation of the CC, whereas the OSSC had recommended, in the absence of the concept of a tax abatement strategy for CE's, that the entire amount be dedicated to the Land Acquisition Fund
  
- Procedures for managing and authorizing use of these funds, in either case or both cases, will have to be developed and the necessary enabling Town ordinances must then be approved by a Town meeting
  
- The Boards of Selectmen and Finance should also establish mechanisms that provide for rapid response by the Town (including a Town meeting, if needed) to opportunities for purchase of land for Open Space if it offers compelling advantages in conservation.

## **TOWN OF WASHINGTON, CT**

### **OPEN SPACE PLAN**

#### **VII. APPENDICES**

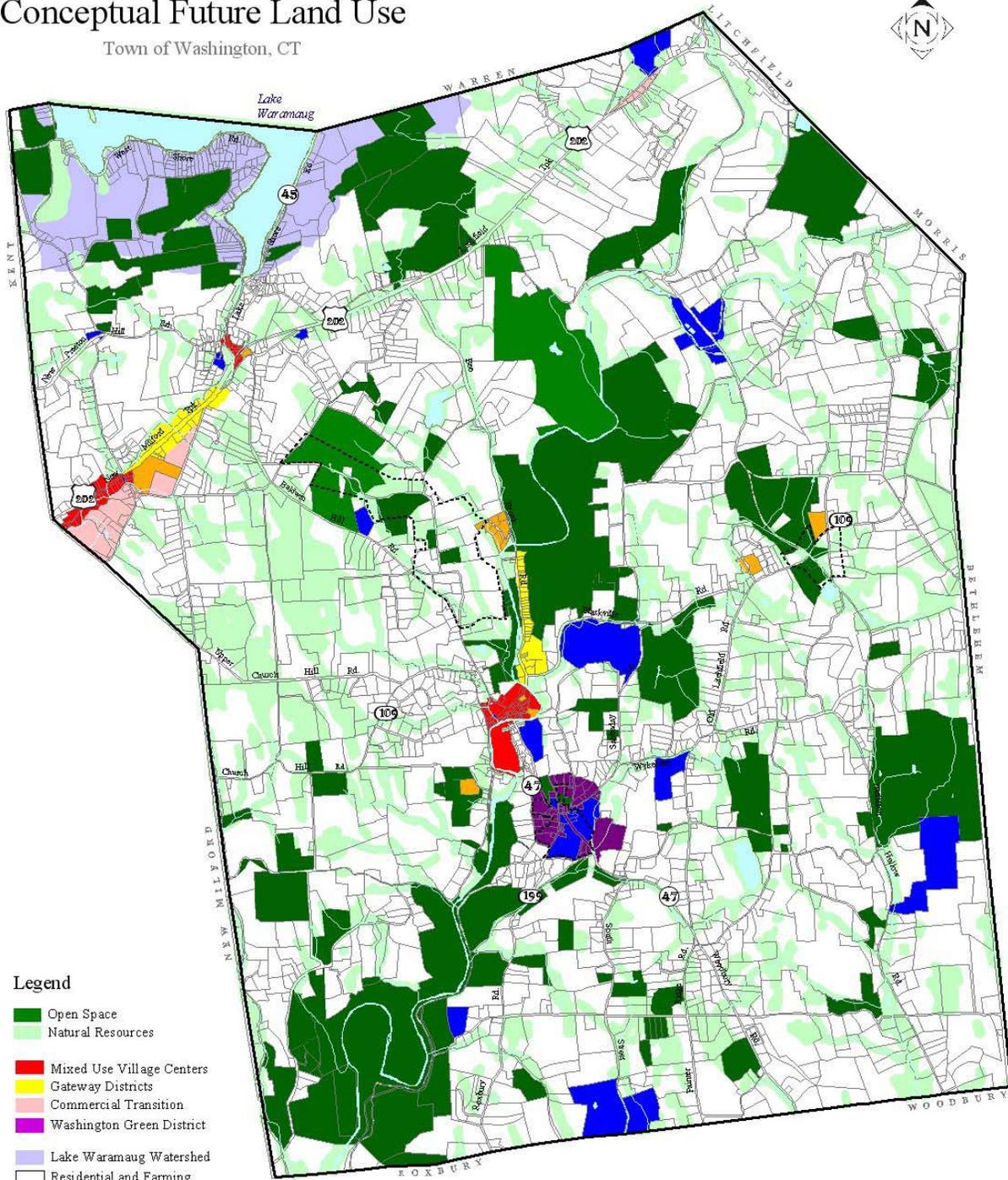
The documents in Appendices VIIA and B are not included in this distribution because most recipients of this report already have their own copies. Complete copies of these documents, if needed, may be obtained from Pam Osborne, Land Use Office, 868-0423.

Similarly, documents which detail the current inventory of permanently preserved Open Space (Category I), unprotected parcels currently perceived as “Open Space” (Category II), and parcels currently under PA 490 temporary protection (Category III) are available through the Town Land Use office.

Ruth Alex’s survey report (Appendix VIIC) on the PA 490 programs of 26 towns in Litchfield County is included in entirety.

# Conceptual Future Land Use

Town of Washington, CT



## Legend

- Open Space
- Natural Resources
- Mixed Use Village Centers
- Gateway Districts
- Commercial Transition
- Washington Green District
- Lake Waramaug Watershed
- Residential and Farming
- Multi-Family Housing
- Community Facility/Institutional
- Historic District
- Water and Watercourses

0 5000 Feet

