

Town of North Salem Open Space Report

A. BACKGROUND

In 2006, the Town of North Salem received a grant from the New York State Department of Environmental Conservation (NYSDEC) Hudson River Estuary Program to prepare an open space study as part of its on-going Comprehensive Plan process. The Town Board appointed a volunteer Open Space Committee (OSC) whose task was to prepare a study on existing and potential open spaces within the Town. This study will also be presented to the Comprehensive Plan Committee for its consideration in the context of the overall Comprehensive Plan and to the Town Board for its approval.

A primary goal of the Town's ongoing planning and development review is – in all areas of Town – to continue to preserve and protect the integrity of existing open space areas and to encourage the preservation of additional property that contributes to the integrity of the Town's community character. The mission of the OSC is to assist the Town in achieving this goal by defining, inventorying, and evaluating priority open space resources and to recommend and promote a plan for the protection of these resources.

The OSC conducted a comprehensive inventory of existing designated open spaces and scenic viewsheds which was then combined with an inventory of environmental features, agricultural properties, recreational resources, and historic resources to create a composite map which the OSC used to identify potential open spaces which should be preserved or set aside to accomplish the following overall goals and objectives:

- Maintain the rural character of the Town by protecting, for example, the visible field/meadow/woods lands that help define the Town's rural character; including active agricultural uses;
- Preserve visual and scenic character, including the viewsheds along public thoroughfares, scenic roadways, and from neighborhoods;
- Preserve scenic topographic features;
- Provide trails and/or open spaces for recreational uses including walking, hiking and horseback riding;
- Protect ecologically significant/sensitive lands such as steep slopes and wetlands;
- Preserve and enhance animal and plant habitats;
- Preserve historic landscapes, historic roads, and lands with historic structures;
- Connect open space areas;
- Establish linkages within developed neighborhoods; and
- Protect the quality and quantity of public-use water resources including watersheds, aquifer recharge zones, lakes, and streams.

The OSC also identified the following specific objectives with respect to several of the goals:

PRESERVE VISIBLE/SCENIC LAND AND LANDSCAPES

1. Identify lands that visually contribute to desirable community and open space character, including those along scenic roadways.
2. Identify land available for open “pockets” and linkages within developed neighborhoods.
3. Ensure publicly accessible and visible open spaces in all areas of Town.
4. Preserve visible open field/meadow lands that define the Town’s rural character.
5. Preserve historic landscapes and lands with historic structures.

PRESERVE ECOLOGICALLY SIGNIFICANT LAND

1. Engage in a separate natural resource inventory to identify ecologically significant areas, important as habitat for plants and animals, and identify existing and potential Critical Environmental Areas (CEAs) and significant topographic features.
2. Identify and characterize a list of parcels for future conservation that help to protect the quality and quantity of public use of water resources including watersheds, aquifer recharge zones, lakes and streams.
3. Identify contiguous forest areas.
4. Identify and prioritize a list of parcels for future conservation including, or in the vicinity of, significant wetland areas.

CONNECT IMPORTANT OPEN SPACE AREAS

1. Identify connections between ecologically important parcels as part of the Town’s involvement in the Eastern Westchester Biotic Corridor.
2. Pursue connections between existing open space areas.
3. Collaborate with surrounding municipalities in open space protection (i.e. identify contiguous open space areas).
4. Identify pedestrian linkages and wildlife corridors and contiguous forest areas.
5. Expand protected land area contiguous with existing protected open spaces.

ENHANCE EXISTING OPEN SPACE AREAS

1. Discuss improvements to Mountain Lakes Camp with Westchester County.
2. Provide walking trails on preserved parcels.
3. Educate residents about existing open space areas and recreation possibilities.
4. Develop parking and better public access to trails and open space.
5. Work with Department of Parks and Recreation to enhance existing recreation areas.

This report summarizes the work of the OSC and is presented to the Town's Comprehensive Plan Committee for its consideration. In addition to the graphic inventory of open spaces and environmental features contained in the mapping for this study, a set of tables summarizes the inventory developed by the OSC. This report also includes a number of possible tools for open space preservation for consideration by the Comprehensive Plan Committee and/or the Town Board.

B. METHODOLOGY

Starting in January 2007, the OSC began meeting to develop a set of goals and objectives for the OSC, criteria for identifying open spaces, and initial inventories and maps of existing and potential open spaces. AKRF, a planning consulting firm, assisted the OSC in these actions. The OSC met approximately eight times during 2007 and approximately eight times during 2008.

Members of the OSC are:

- Amy Rosmarin, Chair & Town Board Liaison
- Martin Aronchick, Deputy Chair
- Bill Butler
- Patricia Carey
- Lynn DeGregorio
- Barbara Jacobi
- John Roach
- Elaine Sweeney

Cynthia Curtis, Planning Board Chairwoman, attended the meetings and provided valuable information on specific parcels and previous planning initiatives. Gloria Stein, North Salem Open Lands Foundation Administrator, also attended meetings.

Using Geographic Information Systems (GIS) maps prepared by AKRF from Westchester County GIS data, supplemented by Town information, the OSC identified existing scenic resources and environmental features that contribute to the open space inventory. To identify scenic viewsheds throughout Town, teams of OSC members drove up and down each road in Town and visited high traffic public spaces. To ensure consistency, each quadrant was visited by two different teams at different times. The OSC member field information was then integrated into GIS maps to further delineate the Town's scenic resources.

A separate committee, the Historic Preservation Committee, conducted an inventory of all the historic (or potentially historic) structures, sites, and roads within the Town. This map was provided to AKRF for inclusion in the overall Open Space Study. The Recreation Committee provided a map inventory of recreational resources.

C. OPEN SPACE INVENTORY

The Town of North Salem occupies an area of approximately 14,976 acres or 23.4 square miles. The Town is generally characterized by residential land uses, open space, and agricultural land covering a rolling topography of wooded hillsides, stream corridors, and pastures. Small pockets of commercial uses and residential neighborhoods in the hamlet areas that include Croton Falls, Purdys, Peach Lake, and Salem Center complement the rural character of the community. Open space and parks, undeveloped land, and agricultural land together make up the predominant land use in the Town with approximately 61 percent of the total land area.

The Town's Open Space inventory comprises a composite of the different types of environmental features or land uses including: hydrography, topography, protected open spaces, agricultural lands, scenic areas, historic sites, and recreational properties. The following series of maps identifies the individual components of the Open Space inventory while a composite shows all of the categories together to show how much land within the Town of North Salem is included in the inventory.

HYDROGRAPHY

The Town's network of streams, rivers, and lakes (including New York City's Croton River and Titicus River and Reservoir), combined with the numerous wetlands throughout the Town, create a unifying backdrop around which different land uses are arrayed. These bodies of water create a component of the Town's rural character and are essential elements of certain scenic viewsheds. The wetlands also form a critical element in the Town's ecological reserve providing not only water quality filtration but also areas of high ecological diversity and productivity that provide habitat and foraging grounds for a wide variety of species.

Surface hydrology (streams, lakes, and reservoirs) data were obtained from Westchester County. The New York State Department of Environmental Conservation (NYSDEC) delineates and regulates wetlands of 12.4 acres or more in size. Data on NYSDEC wetlands were also obtained from Westchester County. In addition, a second set of data for wetlands was obtained from the United States Fish & Wildlife Services' National Wetland Inventory. This set of data is based on aerial reconnaissance and review of soil and vegetation patterns and shows approximate areas of wetlands and their type. These data do not comprise a complete inventory of wetlands, but do show areas where wetlands are likely to be found.

Finally, the Federal Emergency Management Agency (FEMA) floodplain boundaries were obtained and mapped. Since floodplains often coincide with wetlands boundaries there may be areas of overlap between the two features.

TOPOGRAPHY

According to the Soil Survey, the Town of North Salem lies within the New England Uplands/Hudson Highlands physiographic province. Generally the topography of North Salem consists of many small, steep hills and ridges bisected by streams and narrow river valleys. Elevations range generally from nearly 1,000 feet above sea level in the southeast corner of the Town to approximately 200 feet above sea level along the rail-line near Purdys Station. Steep hills tend to decrease in height from east to west and slope down from the north and the south toward the Titicus River and Titicus Reservoir, which form a narrow-to-broad east-west valley across the approximate center of the Town.

From the topographic data supplied by Westchester County, calculations of areas of steep slopes can be made and those areas mapped. The Planning Board is currently working on a draft of Steep slope legislation for the Town Code to prevent potential damage to the slopes and excessive soil erosion. Steep slopes are categorized as either 15 to 25 percent or greater than 25 percent. Both categories are mapped.

ECOLOGICAL RESOURCES

The Eastern Westchester Biotic Corridor (EWBC) was identified through a partnership between the Metropolitan Conservation Alliance (a program of the Wildlife Conservation Society) and

the towns of North Salem, Lewisboro, Bedford, and Pound Ridge. A study¹ released in 2002 provides a framework for conservation planning within these communities and a set of baseline data from which the communities can make further studies or implement various protection plans. The study noted that the Town of North Salem makes a unique contribution to the biodiversity within the EWBC in the form of grassland habitat associated with agricultural lands. Within this habitat several avian (bird) species were identified that use the grasslands for breeding. Properly managing these grasslands, many of which are on privately held parcels, can ensure the preservation of these species and their role in the regional EWBC. In addition, two clusters of amphibian and reptile biodiversity were identified: 1) the Crook Brook wetlands and Turkey Hill, and 2) the area south of Peach Lake.

The EWBC encompasses much of the eastern portion of the Town of North Salem. Potentially viable habitats also exist in many other portions of the Town, particularly north and south of Titicus Reservoir. The lands south of the Titicus Reservoir are contiguous with the “Titicus Greenway” of Lewisboro, which represents an opportunity for intermunicipal conservation efforts.

In 2009 the Town extended its study area to the central section of Town to include property north and south of the Titicus Reservoir.

The Town of North Salem is currently working with the other three partner communities to develop specific zoning mechanism that recognize the biodiversity value of the EWBC.

PROTECTED LANDS

A number of parcels within the Town are already considered protected spaces by virtue of their ownership or use. Lands owned by different governmental agencies are considered protected against future development as are lands owned by not-for-profit open space or conservation organizations. This network of protected lands serves as the framework for considering potential new open spaces.

Open spaces included in the category of Protected Lands include:

Town of North Salem

The Town owns several parcels of land that are not considered parks or formal open space, but that do contribute to the general character of the Town. These parcels include the parcel occupied by Town Hall, the Cable Barn, and the location of the annual Christmas tree. Formal public parks or open spaces include:

- Volunteer’s Park – a 13-acre park with a soccer field, baseball field, basketball court, and children’s play area
- Joe Bohrdrum Park – a 20-acre park with a soccer field, two baseball fields, tennis and basketball courts, and children’s play area
- Purdy’s Ridge – a 66-acre open space parcel for which the North Salem Open Land Foundation holds a conservation easement and assists in maintain the network of walking trails

¹ Miller, N.A. and M.W. Klemens. 2002. Eastern Westchester Biotic Corridor. MCA Technical Paper No. 4, Metropolitan Conservation Alliance, Wildlife Conservation Society, Bronx, New York.

Westchester County

Westchester County's 1,000-acre Mountain Lakes Park covers a large portion of the southeastern section of the Town. This park provides hiking and jogging trails and ice skating, as well as the Town's summer camp program along with other County programming.

Land Trust Properties and Conservation Easements

There are three active not-for-profit land trusts that own land and/or conservation easements on properties within the Town: Bedford Audubon Society, North Salem Open Land Foundation, and Westchester Land Trust. North Salem Open Land Foundation owns approximately 24 parcels with approximately 645 acres much of which is available for hiking, cross-country skiing, and horse-back riding. Bedford Audubon owns an approximately 210-acre contiguous tract comprising five tax parcels west of Delancey Road between Titicus Road and Hardscrabble Road.

The Town, the Open Land Foundation, and the Westchester Land Trust hold several conservation easements on 29 parcels in Town covering approximately 160 acres.

Private Open Spaces

Open spaces need not be publicly owned in order to be protected from future development or disturbance. A number of privately owned parcels were identified as part of the Town's open space network. Some of these properties are the open spaces surrounding residential lots created during the subdivision process (e.g., Whip Mill Lane). Others are conservation easements entered into by property owners for either conservation or tax purposes. Another set of privately owned open spaces is associated with community homeowners' associations such as around Peach Lake and Lake Hawthorne and the two golf courses (Salem Golf Club and Pequenaconk Country Club).

Watershed Lands

The New York City Department of Environmental Protection (NYCDEP) owns lands surrounding the Titicus Reservoir and along the Croton River that forms the Town's western boundary. These lands are considered buffers to the Titicus Reservoir and rivers leading to the Muscoot Reservoir and are protected from development by the City's Watershed Rules & Regulations. It should also be noted that NYCDEP owns a strip of land along the north side of Titicus Road as well as on the south side of Mills Road and, thus, NYCDEP regulates access to private property north and south of the Titicus Reservoir. Existing NYCDEP regulations limit the number of residential households on these properties generally to one, but in a few cases up to four, which would minimize the number of new house lots that could be built on these parcels should the current owners seek to subdivide them.

AGRICULTURAL LANDS

Agricultural land uses occupy approximately 2,320 acres (16 percent) of land in North Salem. Active agricultural operations include primarily horse farms, orchards, and a few other types of farm operations such as cattle farms, hayfields and vineyards.

New York State Agricultural District boundaries were obtained from Westchester County. Lands and land use within an Agricultural District are governed by the Agricultural Districts Law, which provides protection for farmland and farm businesses through several measures including

right-to-farm provisions to protect against nuisance complaints and the enactment or administration by local government of laws that unreasonably regulate farm operations.

Current farm uses, both within and outside of the Agricultural District, were also identified by the Town and mapped.

It should be noted that, the parcels mapped are not necessarily parcels that receive tax exemptions as part of the State agricultural exemption program. Parcels that receive an agricultural exemption need not be located within an agricultural district and parcels within the agricultural district do not necessarily receive the benefits of agricultural exemption.

SCENIC RESOURCES

Scenic corridors, viewsheds and roadways are those areas that provide benefits to viewers based on characteristics of the natural setting. Defining and quantifying those benefits can be challenging because of their subjective nature; however, a positive emotional reaction to viewsheds can be triggered by specific features of the landscape. Some of these features include:

- Areas with views of exceptional landscape – hills, fields, wooded areas, waterbodies, ridgelines, historic structures, and stone walls.
- Areas with varied landscape – juxtaposition of different natural features; juxtaposition of natural and manmade features; areas with distinct views of foreground, middleground and background.
- Natural areas that provide the opportunity to see unique wildlife such as wooded trails, fields, wetlands, and water bodies.
- Visual buffers – views that hide homes and buildings and give a rural feel to a town.

Scenic America, a non-profit organization dedicated to enhancing the visual character of communities throughout the United States, defines “scenic quality” as:

...the heightened visual experience derived from the view of natural and manmade elements of the visual environment...The characteristics of the landscape are strikingly distinct and offer a pleasing and most memorable visual experience. All elements of the landscape--landform, water, vegetation, and manmade development--contribute to the quality of the corridor's visual environment. Everything present is in harmony and shares in the intrinsic qualities.

From these attempts to objectively define what is scenic, it is clear that a positive human reaction plays a large role in determining what areas or views qualify as scenic. Landscapes and natural settings may be pretty or pleasing without offering a “heightened visual experience;” it is important, therefore, to define those scenic areas that stand out as possessing qualities that provoke a strong positive reaction in a viewer.

The Town of North Salem has a fortunate problem when it comes to determining areas that are scenic in that most of the Town is characterized by beautiful scenery. Rolling hills, mature tree cover along roads, narrow roads sometimes with allées of trees, historic houses, open fields, stone walls, horse farms, streams and waterbodies are just some of those features that give North Salem its scenic character. It is from this baseline level of beauty that one must begin to determine which areas are truly noteworthy in the Town and which provide a demonstrable public benefit.

The OSC members developed an inventory of important scenic road-derived and high traffic public space-derived viewsheds. A viewshed is an area that is noted for its scenic character. The OSC also identified scenic roads that add to the character of the Town. It should be noted that, while much of the Town of North Salem can be considered scenic, the roads identified are those that possess unique characteristics by virtue of the particularly lovely visual quality of the natural environment and/or built environment through which they pass and/or their longer viewsheds.

The following roads are considered particularly scenic in quality:

- Baxter Road
- Bogtown Road
- Cat Ridge Road
- Delancey Road
- Grant Road (Route 121)
- Hardscrabble Road – Between Daniel Road and June Road
- Hunt Lane
- June Road
- Keeler Lane
- Mills Road
- Nash Road – the unpaved section
- Norton Road
- Titicus River Road
- Titicus Road (Route 116) – including its intersection with Route 22
- Turkey Hill
- Vail Lane
- Wallace Road

To complement the OSC's drive-through identification, AKRF used the 3D Analyst capability of ArcView (the GIS tool used for the mapping of open spaces) and then adjusted for a corrected limiting view, to map the viewsheds along the roads. In addition, where the OSC had identified important views from public spaces and from established neighborhoods, those locations were mapped. Views from private properties that are designated historic resources were not mapped at this time. It should be noted that 3D Analyst did not pick up visibility of lands as they slope down and away from the viewpoint and that these areas might still be considered visually sensitive.

HISTORIC RESOURCES

The Town's Historic Preservation Commission developed an inventory of the historic resources and sites throughout the Town. That inventory identified Town of North Salem Historic Landmarks, houses of historic interest, barns or silos of historic interest, churches, cemeteries, historic sites where no structure remains, historic roads (Baxter is currently the only designated Historic Road), and other historic resources such as mile markers, stone chambers, and natural phenomena (Balanced Rock). The Historic Preservation Commission also identified the following potential historic districts:

- Juengstville
- Croton Falls

- Purdys
- Salem Center
- North Salem Hamlet
- Mill Hollow
- Keelerville
- Grants Corner

RECREATION RESOURCES

The Town's Recreation Committee developed an inventory of the recreation facilities throughout the Town. The Recreation Committee is in the process of developing a long range recreation master plan which when completed will augment the attached Recreation map. One important feature of this plan will be identification of important open space linkages.

COMPOSITE ENVIRONMENTAL FEATURES

A Composite Map showing the various resources including wetlands, waterbodies, slopes, scenic viewsheds, parks, historic resources, recreational resources, and dedicated or protected open spaces was prepared by AKRF and reviewed by the OSC. This map was helpful in identifying potential new open spaces where linkages could be created between existing open spaces, viewsheds or historic resources that could be preserved, or important ecological resources to be protected. Following discussion of the Composite Map, the OSC created a map of Open Space Opportunities.

OPEN SPACE OPPORTUNITIES

The Community Preservation Fund Advisory Board was appointed in 2009 to develop and recommend a community preservation and open space plan. This plan, which is being built upon the information in this report, will be used to identify potential open space opportunities and the necessary strategies to obtain them.

D. TOOLS FOR OPEN SPACE PROTECTION

A number of regulatory and non-regulatory tools are available to a municipality to protect open spaces. Regulatory approaches rely on the Town Code to direct land development activities and protect environmental resources. Non-regulatory approaches rely on acquiring interests in open space.

NON-REGULATORY APPROACHES

Fee simple acquisition is the most common means of protecting open space as parks, nature preserves, greenways, etc. Land acquisition normally entails a landowner selling (or giving) a piece of property to a municipality or a conservation organization. This results in the passage of ownership from one party to another.

In contrast, a conservation easement is a method whereby a landowner conveys certain specific ownership rights to the municipality or organization. With a conservation easement, the landowner, by a deed-like document, permanently conveys certain ownership rights (for example, the landowner's right to develop houses or cut trees, etc.) that effectively protect specific open space qualities of the land. The land, however, stays in private ownership, so the landowner continues to enjoy and pay taxes on it, although they cannot, for example, further

develop it or impair its open space or conservation values. The recipient of the easement – the Town or a conservation organization – does not “own” the land and they can only exercise the rights that the landowner conveyed to them.

A mechanism for instituting a conservation easement program is for the Town to establish a purchase of development rights (PDR) program. With a PDR program, the Town could target specific sorts of open space, such as farmland, and cooperatively develop easement acquisitions designed to meet the needs of farmers and to preserve the key attributes of farm properties. These attributes could include scenic quality, water resources, and, of course, productive agricultural soils. Acquiring land outright or acquiring conservation easements typically, but not always, requires a payment of some sort. Particularly charitable landowners can donate land or the easements. In some cases the value of the donation can create tax benefits to the donor. Landowners can also choose to sell their land or their easements at less than market value, and in some cases the difference between the sale price and the appraised market value could be used as the basis for certain tax benefits. Understanding how these benefits work for an individual landowner depends on dozens of factors. The Town attorney and professionals associated with nonprofit conservation groups such as the North Salem Open Lands Foundation, Westchester Land Trust, The Nature Conservancy, Trust for Public Land, Scenic Hudson, and the Open Space Institute could potentially assist in discussing these matters with landowners.

Traditional municipal open space acquisition programs rely on paying for land, and there are many ways to raise municipal funds for acquisitions. Among the methods in place in New York State include general obligation bonds; devoting budget surpluses to dedicated open space acquisition funds; special capital appropriations; and increasing property taxes by a set percentage (e.g., one-half of one percent) as a revenue source for a dedicated capital fund.¹ Another way is to levy a fee on real estate transactions – a real estate transfer tax – through which funds are generated solely by the purchasers of real estate. The Hudson Valley Community Preservation Act of 2007 allows towns and cities in Westchester and Putnam counties to establish a real estate transfer tax and a dedicated community preservation fund for acquiring land for open space, parks, historic preservation, the protection of exceptional views, and farmland protection, among other permitted uses. A town or city that implements such a fund must appoint a five- to seven-member advisory board with specific expertise in conservation or land preservation activities and must prepare a community preservation project plan that lists every project that the community plans to undertake using the community preservation fund. Such a plan must be updated at least once every five years.

REGULATORY APPROACHES

ZONING

A town’s Zoning Code is the principal means of regulating land development and consists of a Zoning Map that identifies various Zoning Districts within the town, and the Zoning Code that contains specific regulations pertaining to permitted uses and dimensional standards that apply within each Zoning District. Zoning techniques that can help preserve open space and community character include overall restrictions on residential density (typically through a

¹ The Trust for Public Land specializes in municipal open space finance programs, and their web site (www.tpl.org) contains several documents and studies that provide case studies and ideas for creative and successful open space programs.

mandated minimum lot size for residential properties); setbacks from roadways to structures; “net-out” provisions that require environmentally sensitive lands from being deducted from gross lot area in the calculation of the permitted number of residential lots allowed on a parcel; and overlay zones that provide additional protection to environmental features (such as a stream-corridor or wetland overlay), historic resources, or scenic corridors or viewsheds.

No one of these techniques alone can successfully protect open space. Zoning must be considered as part of the implementation of a well-considered comprehensive plan that looks at the overall pattern of development within the town and is usually best combined with certain of the non-regulatory techniques described above.

SUBDIVISION

Subdivision regulations have typically been used to define the process by which a property owner can divide the property into smaller properties for residential (or commercial) development. Traditional subdivision regulations dictate that lots of a minimum size (according to the Zoning District) be created and identify the specific technical information and procedures to be followed as well as certain design standards to be met during construction of common improvements such as roads and stormwater infrastructure. A more up-to-date approach, called Conservation Subdivision Design¹, breaks from the traditional practice of dividing a large lot into smaller parcels strictly to comply with the minimum lot sizes mandated by the Zoning. Instead, the primary and secondary elements of the landscape that are worthy of preservation as well as the goal of preservation of large, contiguous areas of open space governs the process. Primary conservation areas would typically include wetlands, steep slopes, floodplains, and sensitive habitat; secondary conservation areas would include cultural elements such as open fields, hedgerows, stone walls, and historic structures. The process of creating a Conservation Subdivision Design begins with mapping the primary and secondary conservation areas, identifying the land to be preserved as permanent open space, then locating house lots and roads according to how they can fit into the context of the conservation areas and preserved land. Finally, lot lines are drawn to create ownership patterns. The ownership of the preserved land can fall to any number of different parties. The homeowners in the subdivision could own the land as part of a Homeowners Association (similar to the way condominium owners own a share of the common space on a property) or the land could be deeded over to the Town or a third-party conservation organization. Conservation easements may also be applied to the open space depending on the ownership to ensure long-term protection of the land and/or public access.

The Town currently has provisions within the Zoning Code (§250-17, “Average Density”) that allows the Planning Board to modify the minimum lot area requirements; lot width; front, side, and rear yard setbacks; and street frontage for residential subdivisions. Another provision (§250-18, “Permitted number of dwellings, lot size, ...”) provides for possible bonuses in the number of residential lots permitted should the land owner agree to the preservation of prime agricultural land, the preservation of the site’s natural features, the preservation of an historic area or historic site, or the provision of moderate-income housing units. Where the Planning Board determines

¹ Conservation Subdivision Design has also been referred to as “cluster” subdivision. However, cluster development under older regulations has often resulted in poor design and inadequate open space protection because of the lack of specific techniques for approaching the landscape. The newer Conservation Subdivision Design is based on a stronger set of principles and a more informed approach to land development.

that such an average density (or cluster) development will be feasible and appropriate, the Planning Board can approve minimum lot sizes to be reduced for single-family detached dwellings to no less than 1/2 acre for the R-4 district (in which 4-acre lots are normally required) and no less than 1/4 acre for the R-2 district (in which 2-acre lots are normally required). These provisions give the Planning Board a great deal of flexibility and control in the land development process and empower the Town to protect many of the natural features identified in this inventory.

LOCAL ENVIRONMENTAL REGULATIONS

A Town may also adopt various environmental regulations to protect local environmental features such as wetlands, stream corridors, and steep slopes. While the United States Army Corps of Engineers regulates certain wetlands that are considered “waters of the United States” and the New York State Department of Environmental Conservation (NYSDEC) regulates wetlands 12.4 acres or more in size, a local community can adopt a local wetlands law that would protect wetlands of any size and character. Because of limitations of regulatory oversight at both the federal and state levels, local wetland laws can ensure a higher level of protection and a more consistent application of regulations than reliance on the federal and state agencies. A local wetlands law might, for instance, be able to identify and protect important wetlands such as vernal pools that may be considered isolated wetlands (and, thus, not subject to federal review) and too small for protection by NYSDEC.

The Town of North Salem regulates watercourses and wetlands in accordance with Chapter 107 of the Town Code, “Freshwater Wetlands.” The Town's Code recognizes watercourses as streams, brooks or clearly defined drainage channels for which there is substantial evidence of running water persisting for more than three months a year, and “... all other bodies of water, natural or artificial, which are fed by, or have surface discharge to, a wetland or another water course.” Freshwater wetlands are recognized by the Town on the basis of specific soils types and/or soil drainage (i.e., poorly drained, or very poorly drained soils), and/or the predominance of wetland plants as indicated by vegetation types described in the Code. The Town regulates a wetland buffer area that generally extends upland for a distance of 100 feet around the outer limits of Town wetlands. Because the Town Code identifies wetlands on the basis of the drainage characteristics of soils or the dominance of wetland vegetation, wetlands delineated by Town standards are likely to encompass a greater area of wetlands than would be delineated by State or Federal standards.

Steep slope regulations are typically applied during the site plan and subdivision review process and may restrict the amount of disturbance to a slope to minimize the potential for soil erosion and slope failure. Typically, disturbance to a slope of 15 percent is considered a threshold for regulatory review and a permitting process is required to consider disturbance to a slope between 15 and 25 percent. In many rural communities, undeveloped land is oftentimes located in areas where steep slopes and wetlands predominate: these are the lands that were once considered too difficult to develop and so were left alone. With current construction practices, more challenging lands are now subject to development pressures. The Town of North Salem Planning Board is currently working on draft legislation for steep slopes that will be transmitted to the Town Board for review and adoption. Adopting local environmental controls on wetlands, stream corridors, and steep slopes will help to minimize disturbance to these fragile environmental features.

The Town's existing Code includes Chapter 189, “Land Excavation, Filling, and Tree Removal,” requires a permit for certain grading and tree removal activities. Within that Chapter,

the Town requires that any modified slope be no greater than 15 percent and that top soil be retained and replaced on the disturbed land to ensure proper regrowth of vegetation to maintain the stability of the slope.

NEW YORK CITY WATERSHED RULES & REGULATIONS

The Town of North Salem is located within one of New York City's drinking water supply watersheds. New York City adopted a set of Watershed Rules & Regulations that serve to control land development activities within the watershed through regulation of wastewater disposal practices and stormwater management. In addition to review by the Town's Planning Board, applications for land development within the Town of North Salem must also be reviewed by the New York City Department of Environmental Protection (NYCDEP) for the adequacy of the stormwater pollution protection plan (SPPP), erosion and sediment control plan (ESC), and septic system. The Watershed Rules & Regulations contain certain mandated setbacks to streams and waterbodies and prohibitions on new impervious surface areas within those setbacks. Waivers to the regulations are possible; but are carefully scrutinized by NYCDEP.¹

HISTORIC PRESERVATION

The Town Historic Preservation Commission has identified an extensive inventory of historic sites, structures, and districts. A number of these sites have either been listed on the State and National Register of Historic Places or are considered eligible for listing. Chapter 130 of the Town Code, "Landmarks and Historic Preservation," establishes the powers of the Historic Preservation Commission in reviewing and approving Certificates of Appropriateness for any proposed alterations (or demolitions) to designated local landmarks. This local control is essential to protection of historic properties as simply designating a property on the State and National Register of Historic Places does not safeguard the resource. Only local protection will accomplish that.

Chapter 131, "Historic Road Preservation," empowers the Historic Preservation Commission to identify local historic roads. Historic roads are further defined in the Code as either aesthetic (scenic) routes, engineered routes, or cultural routes:

- **Aesthetic Routes** — These represent historic roads for which the primary rationale for development was the design and provision of a specific visitor experience. Aesthetic routes, such as parkways and park roads, have historically been intensively designed and developed for the purpose of leisure, recreation and commemoration. They typically follow the natural topography of the region. They are roads for which the alignment and details are key to the experience. Special materials, planting, lighting, well-preserved stone walls, rock outcrops, historic buildings and even building facades contribute to the character of these roads. Alterations to any component of these roads will significantly impact the historic integrity of the resource.

¹ It should also be noted that the Town of North Salem is required to develop a Stormwater Management Program (SWMP) to comply with the Clean Water Act Phase II Stormwater Regulations for Municipal Separate Storm Sewer Systems (MS4s) as implemented by NYSDEC. Under the Town's SWMP, the Town is required to create a number of programs to minimize pollutant loading to the reservoirs from land development and other activities.

- **Engineered Routes** — Roads designed for a specific transportation goal, such as the movement of people, goods and services, represent the largest category of roads. They will have a documented origin or authorization and construction date. These are roads that may have been developed to open isolated areas to commerce, link the nation or simply serve our communities - roads for which the aesthetic experience was often secondary. Their alignment and detail are important in their representation of technology and culture. Many City grid patterns and our first transcontinental highways are typical of this category.
- **Cultural Routes** — These routes evolved through necessity or tradition. While these roads may have a documented date of origin, they were developed without the intensive engineering and design practices associated with aesthetic and engineered routes. These may be routes that have evolved from Native American trails, colonial post roads or simply from convenient connections between villages.

In considering which roads are historic, the Commission uses the following criteria:

- (1) Roads on which events occurred that have made a significant contribution to, are identified prominently with or which represent the broad cultural, political, economic, military or social history of the Town, and from which an understanding and appreciation of the larger patterns of our American heritage may be gained;
- (2) Roads associated with the lives of persons nationally or locally significant in the history of the United States, or that figured prominently in nationally significant events;
- (3) Roads significantly associated with an important historical event that represent some great idea or ideal of the American people;
- (4) Roads that embody the distinguishing characteristics of a specific type of construction, or a notable design representing the work of a master builder or engineer, or the travel routes of a specific civilization;
- (5) Roads that have produced information by shedding light upon historical periods over large areas of the Town of North Salem.

Chapter 131 also includes provisions that direct the Town Board in reviewing applications for modifications to designated historic roads and issuing a Certificate of Appropriateness.

SCENIC RESOURCES

Similarly, the Town can adopt a scenic road or viewshed regulation that would serve to protect the public views of or from the identified scenic resources in the Town. Limitations on grading or tree cutting within the viewsheds or around the scenic resources as well as regulations on alterations to stone walls or other cultural features could be included.

STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA)

The State Environmental Quality Review Act (SEQRA) provides broad authority for any Town board reviewing a development application to consider potential environmental impacts and methods for avoiding, minimizing, or mitigating such impacts. Typically, the Planning Board will serve as “Lead Agency” and will conduct the environmental review of an application for land development (site plan approval or subdivision approval). The Planning Board may consider potential impacts to identified open spaces, historic resources, scenic viewsheds, or

North Salem Open Space Report

environmentally sensitive areas, among other issues. Where projects are determined to potentially result in one or more significant environmental impacts, the Board must require that an environmental impact statement be prepared. In other cases, environmental review would require preparation of an environmental assessment form along with detailed technical studies. When a significant adverse environmental impact is identified, the applicant is required to evaluate possible means for mitigating the impact through changes to the project design or off-site improvements that would avoid or minimize the impact. Careful and comprehensive application of SEQRA provides the Town with an excellent tool for protecting open spaces and environmentally sensitive resources.

APPENDICES

Land Use and Zoning

Hydrology

Topography

Protected Lands

Agricultural Uses

Viewsheds

Historic Inventory

Composite

Recreation