

VI. Open Space Preservation Options

An effective open space preservation program involves much more than the efforts of local government. Citizen “buy-in” is critical. Understanding on the part of the construction industry is very helpful. Land conservancy involvement is beneficial for the management of land committed to conservation easements. And other levels of government play a role as a funding partner and/or regulatory entity for natural resources protection.

Just as there are many stakeholders and participants involved in open space preservation, there are a variety of tools and strategies that may be used to protect open space and natural resources. These strategies can run the gamut, from passive options such as volunteer land donations to aggressive strategies such as bonding for land acquisition.

What follows is a summary of some of the more commonly used tools for open space preservation. This does not imply that all of these strategies should be employed in Glenville, but rather these are included to educate readers of the various options available to a community for open space protection. In Chapter IX – “Recommended Actions,” we will further refine and select those options that are best-suited to Glenville, given results of public input and local budgeting and staffing considerations.

Preservation Options

Zoning Techniques

1. Land Conservation Zoning: A zoning category/district that significantly limits both the types and density of land uses that can be built within the district. Land conservation zoning is applied in a variety of locations and over a variety of land- forms, with common application over wetlands, flood plains, steep slopes, and critical aquifer recharge zones. In Glenville, land conservation zoning has been in place since 1978, primarily as a means to direct development away from wetlands and flood plains.

2. Planned Unit Development: A development proposal that is planned and built as a whole in a single operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements. Typically, planned unit developments (PUDs) are permitted only through a change of zoning. Also, PUDs typically afford flexibility in terms of layout, setbacks, building heights, etc., in exchange for the dedication of significant and meaningful amounts of open space within the project site. The Town of Glenville Zoning Ordinance includes detailed provisions for PUDs.

3. Site Plan Approval: A development review process, typically performed by a municipality's Planning Board, which allows for considerable oversight of development by the municipality. Unlike an "as-of-right" use, site plan uses are held to certain standards articulated in the zoning ordinance, where focus is often on items such as building layout, parking, internal traffic circulation, pedestrian amenities, landscaping, etc. This is a very common review process that is applied frequently in Glenville.

4. Overlay Districts: A zoning technique whereby a second zoning "layer," with attendant regulations, is superimposed over an underlying zoning district, usually in recognition that certain geographic areas possess a quality or qualities worthy of special attention. Overlay districts are commonly used in historic areas and in environmentally-sensitive regions, to ensure that new development does not erode the quality of the unique area that the overlay district is designed to protect. The Town of Glenville employs an overlay zoning district in the Town Center area, where certain uses that might otherwise be allowed are prohibited (i.e. automotive uses), and where specific design and architectural standards have been adopted to promote an attractive built environment and to incorporate pedestrian features.

5. Bonus/Incentive Zoning: A zoning technique whereby the developer is afforded bonuses or incentives for incorporating some type of desired development into their projects. The bonus or incentive usually comes in the form of an increased allowable density or number of units. The most common methods used to achieve these bonuses are either providing affordable housing or other public amenity. However, bonuses can be tailored to achieve a wide variety of desired amenities, including such things as the creation of public parks or playgrounds or the preservation of open space above and beyond what would normally be called for by the zoning.

6. Floating Zones: Floating zones are zoning districts that are described in a zoning ordinance but have not necessarily been included on the zoning map. The zone "floats" over the community until it is affixed to a particular area through an amendment to the zoning map. Typically, floating zones are placed over areas where there are unique and/or common characteristics, such as an historic district or perhaps an area where flood plains, steep slopes or wetlands limit land development.

Subdivision Regulations

7. Cluster Development: Typically a subdivision technique that allows the reviewing municipality to mandate the concentration of new homes in specific areas on a site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally sensitive features. Within the built portion of a cluster subdivision, the density is greater than what would normally be allowed by the existing zoning regulations. However, the overall

density of development on the entire site typically does not exceed that which is allowed by zoning.

8. Conservation Subdivision Design: A form of residential development, usually in a rural setting, that is characterized by compact lots and common open space, where natural features of land are maintained to the greatest extent possible. Conservation subdivision design is meant to minimize the visual impacts of new housing development while preserving natural features such as stream courses, hills and ridges, tree lines, etc.

9. Deed Restrictions: Clauses in a deed limiting the future uses of property. Deed restrictions may impose a vast variety of limitations and conditions. For example, they may limit the density of buildings, dictate the types of structures that can be erected, prevent the cutting or removal of vegetation, or prevent buildings from being used for specific purposes.

10. Land Set-Aside: Land set-aside refers to the mandatory designation of land within a residential development for park, playground or open space uses. In Glenville's case, the Planning and Zoning Commission may require the set-aside of ½ acre for every new 10 residential building lots or ¼ acre for every 10 new apartment or condominium units. In-lieu-of land set-aside, the Planning and Zoning Commission can assess a fee of \$1,000 per new residential lot or \$400 for each new apartment/condominium. This money can then be used to acquire park, playground or open space property.

Tax Benefit Options

11. Conservation Easements: A conservation easement is a legal agreement between a landowner and a land trust or government agency that permanently limits the uses of the land in order to protect its conservation values. It allows one to continue to own and use the land and to sell it or pass it on to heirs. Landowners whose land is restricted by a permanent conservation easement shall be allowed a credit for 25% of the allowable school district, county and town real property taxes on such land. Tax credits per year cannot exceed \$5,000.

12. Agricultural Districts: A geographical area which consists predominantly of viable agricultural land. Agricultural operations within the district are the priority land use and are afforded benefits and protections to promote the continuation of farming. Districts don't preserve farmland, rather districts provide benefits that help make and keep farming a viable economic activity, thus helping to keep the farm in operation. A landowner of seven acres or more that produces a minimum of \$10,000 annually, or an owner of less than seven acres which produces a minimum of \$50,000 annually, on average, in the proceeding two years from the sale of crops, livestock, or livestock products, is eligible to receive an agricultural assessment.

13. Forest Tax Law: Provides participating landowners a use value assessment in return for keeping the land in forest production. In order for a landowner to receive a property tax based on its forest value, the landowner must harvest timber as required in an approved forest management plan for the property.

Purchase and Transfer of Development Rights

14. Purchase of Development Rights (PDR): PDR is a strategy where a landowner voluntarily offers to sell the rights to develop his/her land. The buyer of the development rights, which is typically a governmental agency or land conservancy, pays the landowner the difference between the value of land as currently used (typically agricultural or undeveloped) and the value of the land as developed for “highest and best use,” which is typically residential, but it can be commercial. The development rights are thereby extinguished, and the owner commits his/her land to a conservation easement, which is made part of the deed. The landowner retains ownership of the parcel in this arrangement.

15. Transfer of Development Rights (TDR): TDR is a program that is often seen as an alternative to the more expensive (PDR) program. Under TDR, development rights are freely transferable among private parties or between a private party and a public agency at market price. It works by the designation of an area or district for low density development, or the “sending area” where development rights are negotiated, purchased and transferred to the higher density area or the “receiving area.” The developer, in order to build in the higher density area, must first purchase development rights within the lower density area that will equal the development value in the receiving area. For TDR to be effective there must be sufficient demand for development right purchases.

Other Options

16. Land Donation: There really is no simpler and effective method for open space preservation than to donate open space property to a governmental agency or land conservancy. And if the donating individual wants to be 100% sure that the land being donated remains as open space, they can mandate such through a deed restriction. The Town of Glenville has benefited on occasion from land donations. The 370 acres that comprise Sanders Preserve is the most notable example.

17. Land Acquisition: The Town can secure funding from general obligation bonds in order to purchase open space property. Such bonds are a means of raising cash for projects that won’t provide direct sources of revenue but will serve the entire community. Typically a bond program is put to a vote by the Town’s residents to determine if there is public support for the program.

18. Critical Environmental Area (CEA) Designation: Through the State Environmental Quality Review Act (SEQRA), municipalities can designate specific geographic areas that are highly sensitive or possess unique qualities. While this does not guarantee protection of the CEA from development or use, this designation ensures that most land development or use proposals are given additional scrutiny during the SEQRA process for the development or use proposal. The Town of Glenville has never designated any CEAs, but good candidates would include the Town's well field and primary recharge zone, the Village of Scotia's well field and primary recharge zone, and Wolf Hollow.