



OPEN SPACE

A central task of the Kent Conservation Commission is the inventory of open spaces—both protected and unprotected—and the provision of recommendations to town government on the acquisition and best use of open space. Open space can be defined as undeveloped acreage. It can include park land, forest, old fields, farmland, marshes and open water.

Why Open Space Protection?

Open spaces are an essential element in the character of Kent. The identification and quantification of such spaces is central to developing land conservation strategies on the local and regional level. Protecting open spaces provides many benefits and can focus on a range of objectives. Any short list would include the following:

- Maintain the rural, scenic and historic character of the town.
- Maintain the viability of agriculture, by allowing active farm — whether fulltime or part-time mini-farm — to flourish, and in so doing protect prime farmland soils, open vistas and early successional habitats.
- Prevent urban/suburban sprawl along major roadways; keep the gateways to the village open and the village center well-defined.
- Preserve specific areas and buildings of historic or cultural significance within a suitable context.
- Discourage the fragmentation of open space and of large forested areas.
- Enhance the values of already protected open space by adding to it.
- Provide for functional linkages between open spaces to create recreational greenways and allow wildlife migration.
- Protect critical habitat for wildlife and vegetation; protect threatened, endangered and special concern species and communities.
- Protect prime natural and scenic features, including the Housatonic River's spectacular setting.
- Protect wetlands, watercourses and floodplains.
- Protect aquifers and groundwater.
- Limit water runoff, soil erosion, siltation and pollution.
- Provide and enhance recreational opportunities for residents and visitors, including trails and public river and lake access.
- Put less strain on town services and thereby keep local property taxes within a range affordable to a diverse community.
- Provide solitude and privacy undisturbed by the noise of traffic and other human activities so as to provide an intimate familiarity with nature.

Protected Open Space in Kent

Kent is a rural town. According to the 2000 Federal census, Kent has a population density of 58 people per square mile, placing Kent at 161—near the bottom—in the density rankings of Connecticut's 169 towns. Kent currently has 10,450 acres of protected open space, which is 32.9% of its 31,800 acre surface area. Of these, 8,390 acres, or 26.4%, are owned outright by a conservation organization (land trusts, CT DEP, National Park Service) and kept in their mostly natural

state or managed for forestry, wildlife, farming or non-intensive recreational uses. The other 2,060 acres, or 6.5%, are not owned by such entities but their uses are restricted by permanent conservation easements.

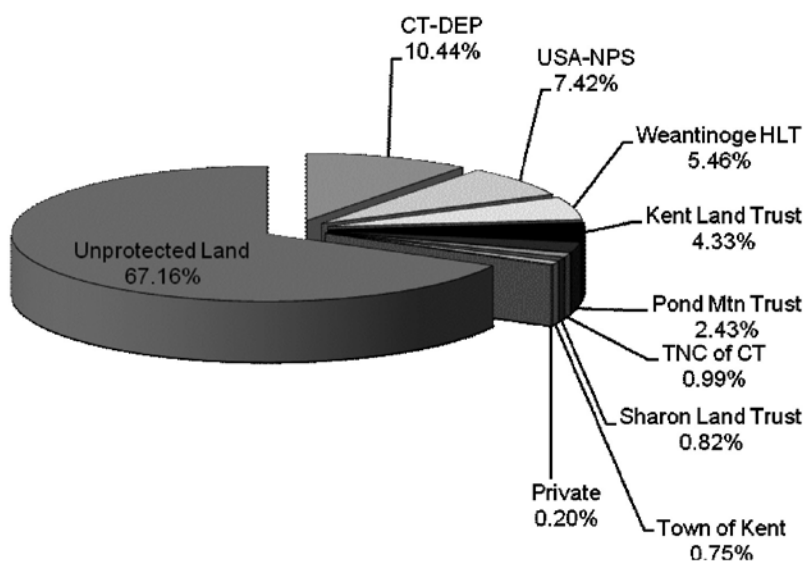
Conservation easements are legal restrictions on the use of the land and are part of the deed of ownership. While leaving the land in private ownership, development and subdivision are disallowed or restricted, and the land has to be kept in its natural state or as managed open space in perpetuity. The terms of the easement provide for monitoring of compliance by the entity that holds the easement. A qualified non-profit such as a land trust or a public agency can either buy or be given a conservation easement. The grantor (owner) keeps the use of the property, does not have to allow public access, and pays the property taxes. He or she can, however, take a tax deduction for the loss in property value resulting from the easement and can sell the land with its deed restrictions intact.

Map #13 shows the geographical distribution of protected open space in Kent. The list and piechart below shows the breakdown of permanently protected areas in Kent by percentage as of January 2009. The Open Space Index in the Appendix G lists all protected parcels by owner name and size.

	<i>Acres Owned In Fee</i>	<i>(%) Of Town Area</i>	<i>Acres (%) Under Easement</i>	<i>Total % Of Town Area</i>	<i>Acres Of Overlapping And Limited Easements*</i>	<i>Total Acreage Managed</i>
<i>CT-DEP</i>	3,220	(10.13)	100 (0.31)	10.44	372+278	3970
<i>USA-NPS</i>	2,333	(7.34)	27 (0.08)	7.42	423	2783
<i>Weantinoge HLT</i>	594	(1.87)	1,143 (3.59)	5.46	0	1737
<i>Kent Land Trust</i>	754	(2.37)	624 (1.96)	4.33	151	1529
<i>Pond Mtn Trust</i>	774	(2.43)	0 (0)	2.43	0	744
<i>TNC of CT</i>	303	(0.95)	13 (0.04)	0.99	758	1074
<i>Sharon Land Trust</i>	125	(0.39)	137 (0.43)	0.82	0	262
<i>Town of Kent</i>	240	(0.75)	0 (0)	0.75	0	240
<i>Private</i>	46	(0.14)	18 (0.06)	0.20	0	64
<i>Totals</i>	8,389	(26.38)	2,062 (6.48)	32.86	*	12,403
	<i>Acres</i>	<i>%</i>	<i>Acres %</i>	<i>%</i>		<i>Acres</i>

* Overlapping easements are conservation easements on land owned by another protecting entity. Limited easements are easements that allow multiple building sites or are not permanent. Neither is included in the percentages, or total protected acres.

**Total % of Permanently Protected Area in Kent by
Entity (as of 1/1/09)**



Litchfield County as a whole has about 20% protected open space. What pushes Kent well above that average is having the Appalachian Trail corridor running through town as well as substantial tracts of state-owned forest and park lands. Additionally, Kent benefits from the efforts of several land trusts and from the many dedicated landowners willing to protect their own or neighboring lands to the benefit of the town. Examples of such neighborhood efforts are found along Geer Mountain Rd. in South Kent, in Kent Hollow, and atop Skiff Mountain.

Agencies in Protection

Many agencies protect Kent's open spaces. *The National Park Service* (NPS) has bought lands for the Appalachian Trail west of the Housatonic River, beginning in 1980. In some instances it has used its right of eminent domain against unwilling sellers to secure a continuous protected trail. It now owns outright more than 2,300 acres. The NPS has also acquired conservation easements or development rights on land within the trail's view shed, about 450 acres, mostly on land that has since been bought by the state and that lies across the river on the eastern side.



The Connecticut Department of Environmental Protection manages state parks for recreational use, state forests for forestry, hunting and watershed protection, and wildlife management areas where maintaining and improving wildlife habitat is the primary goal. These include Macedonia State Park, Kent Falls State Park, Lake Waramaug State Park, Wyantenock State Forest, and the Housatonic River Wildlife Management Area in North Kent. The DEP is also entrusted with the management and protection of the Schaghticoke Indian Reservation. The DEP owns a small parcel that provides a boat launch and right of way to Hatch Pond, and has other rights of way to Leonard Pond and South Spectacle Lake. In total, the state, through DEP, owns more than 3,200 acres.

The Connecticut Department of Agriculture bought an agricultural easement on the Lorch farm in Cornwall in 2003 under its Purchase of Development Rights program, which seeks to protect prime farmland areas. This purchase included 18 acres that fall on the Kent side of the town line.

The Town of Kent received the more than 200-acre Emery Park from the Emery Family as a gift in 1959-1962 to be used for recreation and open space protection. It also owns a 6.6 acres park off Swift's Lane and Kent Commons.

Non-profit private land trusts have received land ownership and easements through donations or through purchases and bargain sales (at less than the appraised value) with various combinations of state and federal grants and local fund raising. These include Pond Mountain Trust, the Nature Conservancy, Weantinoge Heritage, the Kent Land Trust and the Sharon Land Trust.

Pond Mountain Trust was created specifically to take ownership of the Hopson Farm in 1966. In the 1980s Pond Mountain was given adjoining lands by the Nature Conservancy and others. In 1993 the National Park Service bought some of this land as part of a rerouting of the Appalachian Trail. Pond Mountain Trust now owns about 775 contiguous acres and runs a small farm operation.

The Connecticut Chapter of the Nature Conservancy owns 303 acres known as the Iron Mountain Preserve on Ore Hill. The original donation—257 acres—was made in 1974 by Annabel Irving; additional gifts totaling 26 acres were made by neighbors Brigitta Lieberman and Joseph Gitterman thereafter. In 1991 Vilma Kurzer, whose property adjoined the southern edge of the preserve, added another 20.3 acres. The Nature Conservancy also holds with the DEP in undivided shares easements on three parcels owned by the Aquarion Water Company. Still other small parcels that the Nature Conservancy originally received have since been passed to Pond Mountain Trust, the National Park Service, and the Kent Land Trust.

Weantinoge Heritage is a regional land trust based in New Milford and the largest land trust in Connecticut. It has protected over 7,000 acres in Northwestern Connecticut since its founding in 1965. Weantinoge received its first gift in Kent in 1973 and now owns 594 acres in Kent, most notably the 191-acre Cobble Preserve along Cobble Rd. It holds easements on 1,143 other acres.

The Kent Land Trust has protected independently, or partnered with other groups in protecting, many other parcels. At the end of 2008 it protects through ownership or easement 1,625 acres, of which 1,529 are in Kent. The organization evolved from Citizens for Controlled Growth, formed in 1989 in response to a subdivision proposal for the former Kent Girls School campus on Skiff Mountain. KLT received its first conservation easement in 1990 and its first ownership in 1996 in a farm parcel west of Rte. 7 South. In the next several years it secured more highly visible acreage along Rte. 7 South, creating the Southern Gateway to the village.

In 2003, as a result of the efforts of the Skiff Mountain community working with the Trust for Public Lands, the Kent Land Trust and the Sharon Land Trust accepted approximately 442 acres on Skiff Mountain from the Kent School Corporation. The land had previously been slated for subdivision and development. Nearly \$1.2 million was raised by the



Skiff Mountain community enabling the Trust for Public Land to successfully secure an open space grant from the CT DEP for the remainder of the purchase cost. The use of DEP Open Space grants for these purchases obligates the land trusts to act as stewards of the parcels and to manage them as resources for public recreation.

Subdivision regulations, following state-enabling statutes, allow local planning commissions to require that up to 15% of the acreage in a subdivision be dedicated as protected open space

with public access. This open space may be managed by a homeowners' association—as is the case of the Stone Fences development along Rte. 341 East, the Spooner Hill Estates and Studio Hill Extension—or it may be donated to a land trust, as happened with the 50-lot St. John's Peak development. An alternative option is that the developer pays the town a fee of up to 10 percent of the fair market value of the property before subdivision, the sum to be used for future town open space acquisition. To date Kent has not exercised the fee-in-lieu of open space option.

Kent's current Zoning and Subdivision Regulations allow so-called Conservation Developments by special permit, as an alternative to conventional subdivisions. In these cases development is concentrated on a section of the land and a minimum of 40 percent of the total area is preserved as open space, to be donated to a land trust. This option has been used in the Conboy Flats/Clover Farm/Saddle Ridge development along Rte. 7 South.

Unprotected Open Space

As of January 2009, the town contains 60 parcels larger than 100 acres (belonging to 44 owners), 83 parcels between 50 and 100 acres and many more between 20 and 50 acres in size. Twenty-two of the parcels over 100 acres and 27 of the parcels between 50 and 100 acres are protected. The rest are not. Some of these large unprotected parcels are undeveloped; others may currently accommodate one house or a few buildings, with most of the land undeveloped. These parcels now provide many of the same environmental benefits as protected parcels, but their future status is unsure.

Many large parcels fall under the Connecticut Public Act (PA) 490 designation. PA 490 was created as a way to sustain agriculture and forestry and to discourage the loss of open space. The act allows towns to tax active farmland, managed forest land larger than 25 acres, and certain other open space land at their current use value as opposed to their fair market (developed) value. In return landowners have to commit to this program for a minimum of 10 years, or pay a

prorated conveyance tax penalty if they develop or sell the land within that time. This provides a major incentive to keep large parcels undeveloped, at least temporarily.

Without “use value” taxation benefits many landowners would be forced to sell or subdivide their land to be able to pay their property taxes. Since both productive and unmanaged open space cost a town a lot less in services than they generate through property taxes (as shown in many studies), even under the PA 490 taxation, town balance sheets do not suffer. It can be argued that protection of open space not only raises the standard of living in and the desirability of a town, but it also helps to keep the tax rate down because it eliminates the costs of new government services, including schools, water, trash removal, policing and fire protection. For detailed studies on this subject see the Trust for Public Land’s “Costs of Open Space vs. Developed Land Uses” bibliography at www.tpl.org.

To see the distribution of PA-490 lands in Kent see Map #14. The map over-represents the PA-490 coverage somewhat, as many of the parcels shown actually include several acres of developed, non 490-land. These could not be separated out on the map, but are not counted into the numbers below. In 2007 Kent had 1,995 acres (6.4 percent) listed as farmland, 17,242 acres (55.6 percent) as forestland, and 481 acres (1.5%) as open space land under PA-490 designation.

In Kent any vacant parcel of land in the residential zones, or any vacant portion of a parcel in excess of five acres, is eligible to be classified as open space for taxation purposes. With the tax rate for open space being much higher than for farm or forestland, and not much lower than for other vacant or excess acreage, little land in Kent has been classified as such.

Map #14 also shows the distribution of institutional lands: lands owned by private schools, utility companies, golf courses, summer camps, hunting clubs and the like. These lands together occupy about 4,600 acres, or 14.5%, of the town’s total acreage. They typically have large land holdings with concentrations of buildings, some intensively used land, and significant areas of lightly used land that functions as open space in many ways.

A list of institutional and private land owners holding 150 acres or more, and the open space status of their lands as of Jan. 1, 2009, appears in the Table of Largest Landowners in Kent, on the following page. The data is taken from the Town of Kent Grand List 2008, updated tax parcel maps, deeds, and surveys.

Funding Open Space Protection

The Connecticut State Legislature has provided through enabling statutes the means for municipalities to set aside monies for the outright purchase of land or the purchase of easements on land. The land may be acquired to maintain open space, to build affordable housing and to conserve productive agricultural soils. At the same time governors and state legislatures, and present, have committed to increasing the amount of protected open space (not including federal lands) in the state to 21% by 2023. The DEP has two programs for funding open space protection: The Recreation and Natural Heritage Trust Program and the Open Space and Watershed Land Acquisition Grant Program. The former leads to ownership by the DEP; the latter serves municipalities and nonprofit land conservation organizations who take ownership. Parcels have to meet specific criteria as listed in the DEP’s “Green Plan, Guiding Land Acquisition and Protection...207-2012.”

Despite these efforts, the rate at which the state has funded acquisitions and easements has not been sufficient to serve that goal. Given the rapid rate at which the state is losing open space to development, a stepped up effort by the state and the local communities is urgently needed. Protection of open space in Kent would seem to need prioritization as a town policy.

In 2004 the Kent Board of Selectmen created a Land Acquisition Exploratory Committee (LAEC) to identify the future land needs of the town and to recommend possible solutions to acquiring such properties. The LAEC conducted a number of studies, held a public forum and circulated a survey to gather the views of the community. The survey produced a disappointing number of responses but indicated a high degree of support among respondents for a municipal land



Kent's Largest Landowners

<i>Owner</i>	<i>Total Acreage</i>	<i>Number of Parcels</i>	<i>Protected Acreage</i>
State of Conn. DEP	~3220	31	all
USA National Park Service	~2333	~29	all
Preston Mountain Club	~1290	2	0
Kent School	~1165	25	0
Pond Mountain Trust	~774	7	all
Kent Land Trust	754	25	all
Weantinoge Heritage LT	594	33	all
Rock Cobble Farm (A. Bass)	479	24	6
Kent Hollow LP (Rehnberg)	438	11	0
Schaghticoke Reservation	~278 or 400	1	0?
De la Renta, O.	323	5	46
The Nature Conservancy of CT	303	4	all
South Kent School	~300	8	0
Kallstrom, A, H, K, S L, B, B, C	~295	11	0
Town of Kent (excl. roads)	~287	11	~ 240
Iron Mtn. Property (A.Gund)	266	6	165
Arnold, W.	262	7	64
Avian, R. & M. Keller	252	7	0
FirstLight Hydro Generating Co.	~250	5	0
Yang, M. & T	246	1	0
Harrison, R. & J.	241	3	124
Kane, K.S	~235	7	0
Kenmont & Kenwood, L.Albin	~228	6	0
Campland (R.Malizia, Camp K-K)	202	3	0
Beard Farming Co. (D. Vagts)	222	4	0
Ministry of the High Watch	216	3	0
Willow Brook Farms	205	5	0
Kissinger, H. & N.	189	4	0
Irving, I.	183	1	0
Wilsea, N.	~175	3	0
Kane, W. & M.	~168	3	0
Zarin, R. & L.	164	4	103
Camp Leonard Leonore (V. Fink)	155	4	0
Fink, V. & P. & G. & L.	145	5	0
Preston, J. & F.	153	16	90
Bull's Bridge Golf Club	152	2	45
Roberts, Salvarezza, et al.	151	1	0
Olson, A. & M.	150	2	0
Casey, J. & D. & A. & G.	147	10	0
Kent Associates (Casey)	78	7	0

acquisition fund, with particular support for farms and agricultural lands, critical watersheds, affordable housing, and wildlife habitat and travel ways as preferred criteria for such land acquisition.

In its follow-up report the Committee remarked, “Preparing for future town needs can save considerable cost and controversy. The location of parcels that would suit the town’s needs or fit into its goals of conservation is only one consideration. Preparation of the sources of funding for land acquisition is of ... equal importance. ... Advance planning is key to avoiding decisions made in a ‘crisis’ mode or risking the chance of missing a timely opportunity.”

The LAEC found that at least 30 Connecticut municipalities currently have some state-sanctioned method of funding such acquisitions. It cited as particularly relevant the examples of Roxbury (since 2001), Sherman (2003) and Washington (2003).

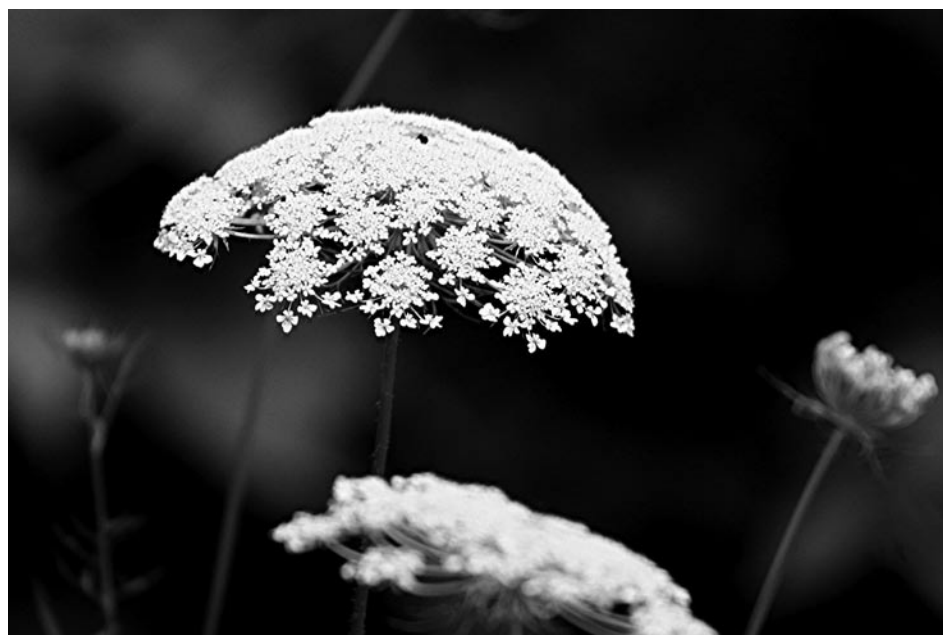
Roxbury’s voters endorsed its plan following the presentation of a build-out analysis. The analysis showed the potential for greater development in town given existing unprotected open space. It also projected the cost-of-services (additional schools, roads, social services, recreational needs, etc. to serve and expanding population) if such development continued. Roxbury now sets aside an amount not to exceed 0.5 mill, which to date has been pegged at a set-aside of \$100,000 per annum for land acquisition.

Washington, following a slightly different path, voted to set aside \$150,000 each year for the first three years

and \$50,000 in the most recent year. In addition, Washington voters have approved the creation of a separate fund for affordable housing.

Sherman had the most development pressure of the three towns in recent years (a population increase of 75% in the last 25 years) and added 1/4 to 1 mill to its property tax rate annually for several years. In June 2007 the town decided instead to pass a bond issue for \$3.5 million for the sole purpose of land acquisition.

Still other methods of building a municipal acquisition fund include charging development impact fees or real estate transfer fees, by collecting



fees in lieu of open space set aside paid by a subdivision developer and by outright donations. Even having a relatively small amount of money in the town coffers for such purposes can be very important to meeting these goals: it serves as seed money to pay for options, upfront expenses and to leverage state and federal grants and land trust efforts. Kent’s LAEC strongly recommended that Kent create such a town fund, but to date no action has been taken.

Other Tools for Open Space Protection

In addition to acquiring property, open space can also be protected through good land use regulations. Conservation developments and subdivision open space set-asides have been mentioned. Wetlands and watercourses and the adjoining riparian zones receive some protection under the Inland Wetlands and Watercourses Act, administered by the Kent Inland Wetlands Commission.

The Planning and Zoning Commission limits development in floodplains and on slopes steeper than 25% and regulates development on ridgelines. The Torrington Area Health District through its septic system regulations can limit development on shallow and poorly drained soils. Siting development so that it does the least damage to natural, cultural and scenic resources should be central in each development proposal and land review.

1990 OPEN SPACE PLAN AND TOWN CHARACTER STUDY

In 1990 Linda Cardini, director of Northwestern Connecticut Council of Governments, wrote an Open Space Plan for Kent at the request of the Conservation and Inland Wetlands Commission. This plan inventoried and assessed the open space resources of the town and made recommendations for their protection, use and future acquisitions.

The 1990 plan, along with an accompanying “Town Character Study” by Michael Everett of Everett Clarke Holleran, Land Planners, contains a great deal of information and recommendations, which for the most part are still valid. We do not have the space to restate their findings but the studies should be considered as extensions of Kent’s NCRI and are available for further reading at Town Hall Land Use Office. The study recommendations were adopted by the town as amendments to the 1989 Town Plan of Development Update and the 2000 Plan of Conservation and Development.

The 1990 Open Space Plan listed the then-protected open spaces: 1,696 acres by the National Park Service, 3,363 acres by CT-DEP, 99 acres by the Town of Kent and 1,911 acres by land trusts, for a total of 7,069 acres or 22.8% of the total acreage of the town.

The Town Character Study identified 20 “Town Character Areas” that best exemplify the cultural-historic and scenic landscapes of Kent. They are shown on Map #12 “Scenic and Cultural Resources”:

- Housatonic Valley Meadows: the open fields along the Housatonic River and Rte. 7, defining the northern and southern gateways to Kent Village
- Bull’s Bridge hamlet and gorge area
- Geer Mountain panorama
- Lower Treasure Hill Rd. panorama
- Tobin Farm area on Skiff Mountain
- Cobble Brook Valley
- Kent Hollow Farm area
- West Aspetuck/Beardsley Rd. area
- Kent Falls area
- Upper Treasure Hill area
- Ore Hill/Peet Hill roads panorama
- Skiff Mountain fields
- Pond Mountain area
- Appalachian Trail
- River Rd.
- Schaghticoke Rd.
- Macedonia Brook Valley
- Kent Village
- Flanders hamlet
- East Kent hamlet

The Open Space Plan assigned top priority for protection to the first six areas listed. In addition, the plan gave high priority to the acquisition of a new town beach area at one of Kent’s lakes or ponds. Some progress has been made toward protecting many of the Town Character areas; but they remain among the prime targets for further protections.

By January 2009 Kent’s protected open spaces had grown by 2,200 acres. The main parcels added were the “Southern Gateway” lands along Rte. 7 just south of the village, the Housatonic River Wildlife Management Area along Rte. 7 North, and former Kent School land on Skiff Mountain.

RECOMMENDATIONS

1. Keep protection of open spaces a high priority, especially in Town Character areas, in areas adjoining or connecting existing protected open space, in and around confirmed and critical habitats, along major streams, lakes and ponds, in wetlands, in agricultural areas and where good public recreational opportunities exist.
2. Establish a Municipal Land Acquisition Fund as recommended by the Land Acquisition Exploratory Committee. Funds should also be made available for the subsequent management of acquired lands, for example removal of invasives and periodic mowing.
3. Encourage neighborhood-scale rather than parcel-by-parcel open space protection and management efforts to achieve the greatest results.
4. Permit greater and earlier involvement and input from the Conservation Commission in P&Z deliberations regarding open space set asides or fee-in lieu options in a proposed subdivision.
5. Review and update the 1990 Open Space Plan with special emphasis on revisiting its recommendations and incorporating the new information collected in this *Natural and Cultural Resources* report.

REFERENCES:

- American Farmland Trust (2007) "Fact Sheet: Cost of Community Services"
(www.farmlandinfo.org/documents/277757/COCS_09-2007.pdf)
- Connecticut Department of Environmental Protection (2007) *The Green Plan: Guiding Land Acquisition and Protection in Connecticut 2007-2012* (www.ct.gov/dep/openspace)
- Everett, Michael and Linda Cardini (1990) *Kent, CT Town Character Study & Open Space Plan*
- Kent Planning & Zoning Commission (1995) *Zoning Regulations for the Town of Kent, CT*, www.kentct.org
- Kent Planning & Zoning Commission (1995) *Subdivision Regulations for the Town of Kent, CT*, www.kentct.org
- Land Acquisition Exploratory Committee (October 2007) Report to the Board of Selectmen
- Land Records, Town of Kent