

CHAPTER 5

INVENTORY OF LANDS OF CONSERVATION AND RECREATION INTEREST

Open space in the Deerfield River Watershed consists of forests, farms, parks, river corridors, and recreation areas under both private and public ownership and management. This chapter provides a summary of all lands in the watershed that provide wildlife habitat, agricultural and forest products, watershed protection, scenic landscapes and recreational opportunities and which enjoy some level of protection from development.

In general terms, “open space” is defined as undeveloped land. In an Open Space and Recreation Plan, the focus is on undeveloped land with some level of protection from development that also contains aspects, resources, or services of the landscape valued by local residents including: actively managed farm and forestland, wildlife habitat, protection and recharge of groundwater, public access to recreational lands and trail systems, important plant communities, structures and landscapes that represent the community’s heritage, flood control, and scenery. The term ‘natural resource’ describes the biological and physical components of an ecosystem that people depend on for their existence and for some, their livelihood. These components include air, surface and ground water, soil nutrients, vegetation including wood fiber, fisheries, and wildlife. Recreational facilities can include forests, fields, parks, and developed areas like tennis courts and swimming pools. Open space and recreation plans typically identify areas of undeveloped land that contain precious natural and recreational resources so that when an opportunity to protect land becomes available to the town, it can efficiently focus limited funds to protect values most important to residents. This watershed-wide plan seeks to identify regionally significant resources that are also important to conserve for current and future generations.

Open space can be protected from development in several ways that differ in the level of legal protection they provide, the method by which they are protected, and by the type of landowner. When land is considered to be “protected” it is intended to remain undeveloped in perpetuity. This level of protection is ensured in one of two ways: 1) ownership by a state conservation agency, a not-for-profit conservation land trust, or the local Conservation Commission, or 2) attachment of a conservation restriction or similar legal mechanism to the deed.

Land is considered to be “protected” from development when it is owned by the Commonwealth of Massachusetts and managed by a state conservation agency, including the Department of Fish and Game (DFG) or the Department of Conservation and

Recreation (DCR). Land is also considered “protected” when it is owned by a town and is under the authority of the Conservation Commission, or when it is owned by a land trust for conservation purposes.

A conservation restriction is a legally binding agreement between a landowner (grantor) and a holder (grantee) - usually a public agency or a private land trust; whereby the grantor agrees to limit the use of his/her property by forfeiting interests in the land (development being one type of interest) for the purpose of protecting certain conservation values. The conservation restriction may run for a period of years or in perpetuity and is recorded at the Registry of Deeds. Certain income, estate or real estate tax benefits may be available to the grantor of a conservation restriction.

There are several types of conservation restrictions. Some protect specific resources, such as wildlife habitat, or farmland. Active farmland with Prime soils or soils of Statewide Importance may be eligible for enrollment in the state’s Agricultural Preservation Restriction (APR) Program. The APR program purchases the development rights and attaches a restriction to the deed, which legally bars development, keeping land “permanently” available for agriculture.

The development of any parcel of land that is in the APR Program, protected with a conservation restriction, owned by a state conservation agency, or owned by a land trust or a town for conservation purposes, would require a vote by two thirds of the State Legislature as outlined in Article 97 of the Amendments to the Massachusetts State Constitution. For the purposes of this Open Space and Recreation Plan, cemeteries are also considered to be protected from development.

This “protection” conveyed by Article 97 does have its limits. The State Legislature has voted to release this protection at the request of local communities, so that conservation land can be used for schools, roads, economic development, or other public projects not related to resource protection. Reforms have been proposed to make this process more difficult.

Land in Massachusetts owned by towns or water districts may be considered to have limited protection from development. If a town-owned parcel of land is under the legal authority of the Select Board rather than the Conservation Commission, it is considered to have limited protection from development. The parcel could be called a wildlife sanctuary or a town forest, but not have the long-term protection afforded by Conservation Commission lands. In this case, converting a town forest to a soccer field or a school parking lot could be decided by the Select Board or at Town Meeting. A parcel of land used for the purposes of water supply protection is considered in much the same way. Unless there is a legal restriction attached to the deed or if the deed reads that the land was acquired expressly for water supply protection, the level of protection afforded these types of parcels varies depending on the policies of each community. In most cases, the water district would be required to show the Massachusetts Department of Environmental Protection just cause for converting the use of the land. However, this is

not an insurmountable hurdle. The Town of Athol recently took their surface drinking water supplies off-line after developing a productive well field. A change in land use around the reservoir from water supply protection to active recreational use may occur.

Table 5-1: Approximate Summary Area Figures for Open Space in the Deerfield River Watershed by Ownership and Level of Protection from Development

PRIVATELY OWNED OPEN SPACE	Acres	% Of Total Land Area in the Watershed
<i>Protected by Agricultural Preservation Restriction</i>	5,480	3%
<i>Protected by Conservation Restriction</i>	1,323	1%
<i>Temporarily Protected</i>		
Chapter 61	21,983	10%
Chapter 61A	20,568	9%
Chapter 61B	4,455	2%
TOTAL PRIVATELY OWNED OPEN SPACE WITH SOME LEVEL OF PROTECTION	53,809	24%
PUBLICLY OWNED OPEN SPACE AND QUASI-PUBLICLY OWNED LAND (INCLUDES NON-PROFIT CONSERVATION ORGANZATIONS AND LAND TRUSTS)		
<i>Protected by State Conservation Agencies</i>		
Department of Conservation and Recreation – Division of State Parks and Recreation (DCR)	36,014	16%
Department of Fish and Game – Division of Fisheries and Wildlife and Environmental Law Enforcement (DFWELE)	1,345	1%
<i>Protected by Non-Profit Conservation Land Trusts</i>	1,430	1%
Other Lands		
<i>Cemeteries</i>	226	0.1%
<i>Land with Limited Protection Owned by Towns</i>	2,450	1%
<i>Land with Limited Protection Owned by Water and Fire Districts</i>	1,708	1%
TOTAL PUBLICLY OWNED OPEN SPACE WITH SOME LEVEL OF PROTECTION	42,175	19%
TOTAL OPEN SPACE WITH SOME LEVEL OF PROTECTION	96,984	44%

Source: Town Open Space and Recreation Plans Town Assessor’s Records and Maps, 2003; and MassGIS Open Space data, 2004.

Parcels enrolled in Massachusetts Chapter 61 tax abatement programs are considered to be “temporarily protected” from development. This program offers landowners reduced local property taxes in return for maintaining land in productive forestry, agricultural or recreational use for a period of time. These “chapter lands” provide many public benefits, from maintaining wildlife habitat and recreational open space to sustaining rural character, and local forest and farm-based economic activity. Another benefit of the Chapter 61 programs is that they offer towns the opportunity to protect land. When a

parcel that has been enrolled in one of the Chapter programs is proposed for conversion to a use that would make it ineligible for the program, the town is guaranteed a 120-day waiting period during which it can exercise its right of first refusal to purchase the property.

Approximately 44 percent of the total land area in the Deerfield River Watershed (including the portions of several towns that are outside of the watershed) is comprised of open space with some level of protection from development. The total land area of the watershed in Massachusetts is 221,813 acres or 347 square miles. The watershed boundary runs through the towns of Savoy, Ashfield, Conway, and Deerfield. It is beyond the scope of this plan to calculate the acreage figures per category for only those lands that are within the watershed boundary. To compare acreages of open space and land use types for the watershed, we therefore include the total number of acres in each open space category (e.g. protected, temporary and limited protection) for each town (in its entirety) that has a significant portion of its total land area within the watershed. The portion of the total land area that is considered as open space in this section is summarized in Table 5-1. It is divided into two main sections based on type of ownership: private and public. Within each of these major categories, parcels are differentiated by ownership and management, and by level of protection: “protected,” limited, and temporary.

A. Privately Owned Parcels

Approximately 56 percent of the undeveloped land with some degree of protection in the watershed is privately owned. Most of this land is owned by individuals and is either forested or in use for agriculture. There are many advantages to private ownership of open space for residents in the watershed. Privately owned open space contributes to the towns’ tax bases. When used for farming or forestry, these lands also generate revenue, jobs, food, and forest products. Some landowners allow access to their property for recreational purposes. Finally, owning land gives people a sense of place. This is particularly true of residents whose families have owned land within the watershed for generations. Land ownership encourages a sense of community and helps contribute to community and regional stability over time.

According to land use data, there are approximately 240,200 acres in forest, farmland, and in wetlands combined. About 43,000 acres, or 18 percent, are owned by public entities while the rest, or 82 percent, are under private ownership. Of the 196,200 acres of privately owned, undeveloped land in the watershed, 24 percent are in the Chapter 61 tax abatement programs (61, 61A, or 61B). Only 4 percent of privately owned open space in the watershed has been protected from development in perpetuity.

The main disadvantage of relying on private ownership of land as a means of sustaining public values like access to conservation areas, hiking trails, and habitat is that they can be more easily converted to other uses than land that is publicly-owned, if they are not

already protected from development. Some landowners acquire land specifically for the purposes of development, but others are forced to sell property due to circumstances beyond their control. Aging, the death of a parent or spouse, financial needs of family and rising costs or declining profits of farming are common reasons why landowners decide to put their property on the market. The high value of land for residential development is both a powerful incentive to sell property, and a formidable obstacle to people who might otherwise want to buy it for other purposes.

This section provides a summary of community inventories of privately owned lands in the watershed and discusses the value of this land for conservation and recreation. Privately owned land provides many public benefits, but it is important to respect the property rights of landowners.

Privately Owned Agricultural Land

Farmland, not including farm woodlots and sugar maple stands, constitutes approximately 13 percent of the total amount of privately owned open space in the watershed. Approximately 22 percent of the watershed's farmland acreage is "protected" by the Agricultural Preservation Restriction (APR) Program. Overall, there are approximately 5,480 acres in the APR Program in the Deerfield River Watershed. These restrictions are overseen by the Massachusetts Department of Agricultural Resources.

Land enrolled in Chapter 61A is considered to be "temporarily protected." In some cases, farmland enrolled in Chapter 61A abuts "protected" land. Conversion of even a small percentage of this land to residential uses could affect the viability of farming on the remainder. Location of new homes in proximity to active agricultural operations often results in conflict between new residents and farmers over the noise, dust, and odors that are part of normal agricultural practices. Increased commuter traffic on roads in agricultural areas also makes it difficult for farmers to move their equipment between fields. There are approximately 20,568 acres of land enrolled in the Chapter 61A program as of 2003.

Much of the land enrolled in Chapter 61A also abuts rivers and streams. While agriculture can have negative impacts on water quality, these impacts can be reduced or avoided through the use of best management practices. When best management practices are used, agriculture can be compatible with watershed protection, because it keeps the land open, while development results in conversion of land to impervious surfaces, with negative impacts on water quality.

Agricultural lands enrolled in the Chapter 61A program offer much value to towns, even if the farmlands are only "temporarily protected." First, the agricultural parcels often contain prime farmland soils, which should be conserved for continuing use. These privately owned open spaces also contribute to a town's tax base and generate revenue,

employment, and food products. In addition, some landowners may allow access to their property for recreational purposes, like hiking or snowmobiling. Most Chapter 61A landowners take pride in their land, while practicing good stewardship. They help to define a sense of place for towns in the watershed and contribute to community and regional stability over time.

Privately Owned Forested Land

Approximately 88 percent of all undeveloped land in the watershed is forest (211,400 acres). Of this total, about 42,000 acres are owned by public entities, which means that there are 169,400 acres of forest in private ownership. Of this amount, 26,438 acres of forest, or 16 percent, are in one of the tax abatement programs (Chapter 61 or 61B, though some forest is also in the Ch.61A program as well) and only 1,323 acres of forest, or 1 percent, are “protected” from development.

Land in the Ch.61 Forestland and the Ch. 61B Recreational Open Space Classification and Taxation Programs have short term or temporary protection. There are no public grants awarded as a result of the Program, however, the owner agrees not to change the land’s use for ten years while paying reduced property taxes during that time period.

Privately owned forestlands offer many values to communities and are important resources for several reasons. First, many forested lands are in large parcels with a low degree of fragmentation, so wildlife and plant habitats that need larger forested home ranges are conserved. When these forestlands are protected from development, they also help to conserve and provide clean water, air, and healthy wildlife populations. Forest soils have a high infiltration capacity, so they absorb moisture and permit very little surface runoff. Once absorbed, water is released gradually so flooding is reduced during large rain events and streamflow is maintained during low water months. Forests recycle nutrients instead of allowing them to pass into waterways, so that water quality is maintained over time. Because forest soils are absorptive, soil erosion is reduced and fish habitat is protected. Chapter 61 lands are managed for forest products, which result in employment of loggers, foresters, and local mill workers, income for landowners, and the availability of locally grown wood for flooring, furniture making, and firewood. Many forested lands also provide recreational value for watershed residents and tourists. The Chapter programs help to encourage the retention of forests and fields and thus help to preserve the character of the rural landscapes in the watershed.

B. Publicly Owned Parcels

Publicly owned protected open space equals approximately 44 percent of all of the undeveloped land with some level of protection in the watershed and 19 percent of the basin’s total land area. The towns own approximately 2,450 acres of open space, most of which are considered to be of limited protection from development. There are also about

226 acres in cemeteries, which are typically considered protected from development. The Massachusetts Department of Conservation and Recreation (DCR), Division of State Parks and Recreation manages approximately 36,014 acres in the watershed and the Division of Fisheries and Wildlife (DFW) oversee 1,023 acres, which means the Commonwealth of Massachusetts is the largest single landowner in the watershed (*see Table 5-2*).

Within the Deerfield River watershed, State Forests and Wildlife Management Areas are predominantly in the western third of the basin in Massachusetts, though Colrain and Conway also contain large areas of State Forests. Because towns do not consistently receive full-value payments-in-lieu-of-taxes from the State, they may not be as receptive to more public open space ownership. This is one reason why discussion of an extension of the Green Mountain National Forest into Western Massachusetts has focused on the use of conservation restrictions instead of having a federal agency acquiring land in fee. In addition, the protection of privately owned land could preserve public access for light recreation via a well-designed conservation restriction and still allow for the land to remain on the local property tax rolls.

Table 5-2: State Owned Land in the Deerfield River Watershed: Towns with at Least Five Percent of the Total Acreage

Town	State Forest / Wildlife Management Area Name(s)	Acres	Percentage of Total State DCR and DFWELE Land Acreage in Watershed Towns	Percentage of Total Land Acreage in Town
Savoy	Savoy Mountain State Forest, Mohawk Trail State Forest, Windsor State Forest	12,103	32%	57%
Hawley	Mohawk Trail State Forest, Kenneth Dubuque Memorial State Forest	7,900	21%	41%
Florida	Savoy Mountain State Forest and Monroe State Forest	5,209	14%	34%
Colrain	H. O. Cook State Forest, Catamount State Forest, Catamount Wildlife Management Area	2,690	7%	10%
Monroe	Monroe State Forest	2,626	7%	38%
Conway	South River State Forest, Conway State Forest and Poland Brook Wildlife Management Area	2,295	6%	10%
Charlemont	Mohawk Trail State Forest	1,900	5%	11%

Source: Town OSRPs, Assessor's Records and Maps, 2003.

