

Town of Simsbury

933 HOPMEADOW STREET

SIMSBURY, CONNECTICUT 06070

OPEN SPACE STEWARDSHIP AND POLICES WORK GROUP

Monday, June 24, 2019

8:30 A.M.

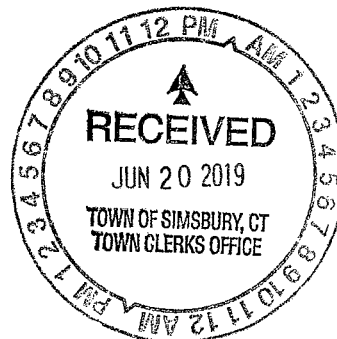
Main Meeting Room, Town Hall, 933 Hopmeadow Street

SPECIAL MEETING AGENDA

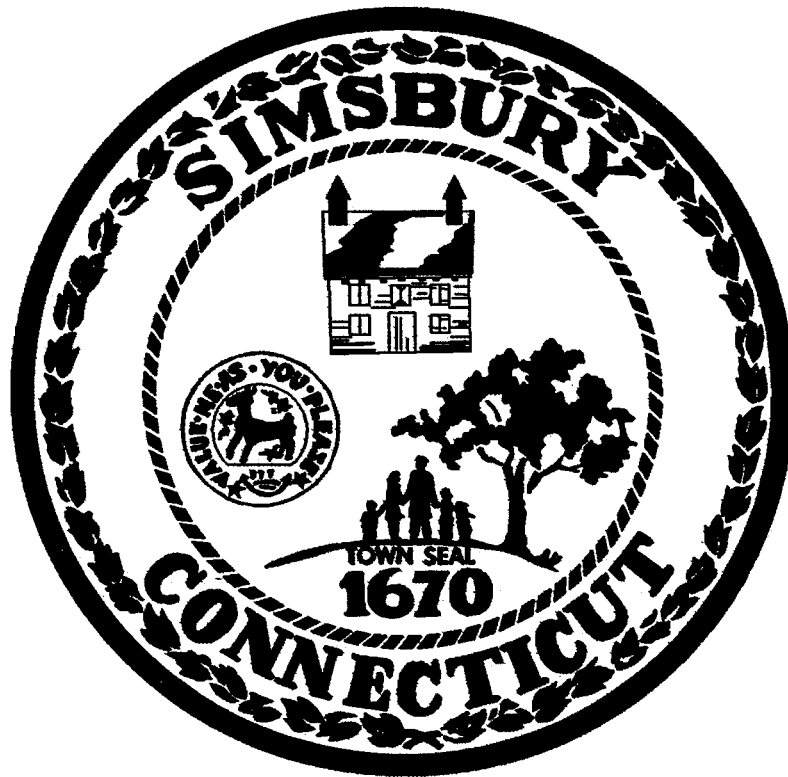
Call to Order

1. Discuss Open Space Stewardship and Policies
2. Next Steps

Adjournment



Town of
Simsbury, Connecticut



Open Land Preservation Subcommittee
Report to the Board of Selectman

April 26, 1999

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**Addendum B - Acquisition and Funding Alternatives for Open Land
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- 1. Strategic Uses of Estate Planning Techniques,
prepared by Austin D. Barney, III**
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- 1. Report of Purchase of Development Rights Subcommittee
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- 4. Public Act 98-157, concerning Protected Open Space and Watershed
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- 5. Staff Memo of October 20, 1998 re: Open Space Acquisition Goals as
stated in the Plan of Development 1994**

VI. List of Resources

All reports and publications used as resources by the subcommittee are available in the Planning Department - A reference list is included in the report.
Minutes of meetings are available in the Town Clerk's Office.

Letter of Transmittal

April 23, 1999

Town of Simsbury
Board of Selectmen
933 Hopmeadow Street
Simsbury, CT 06070

Honorable Members of the Board of Selectmen:

The Town of Simsbury began formal efforts to address the issue of open land preservation by establishing the Purchase of Development Rights Subcommittee on October 29, 1996, to determine whether a policy regarding the acquisition of development rights or land to preserve open space would be in the best interests of the Town. That subcommittee proposed the following policy, which was adopted by the Board of Selectmen unanimously on June 9, 1997:

“The preservation and conservation of wholly or substantially developable agricultural, forest and other natural lands by either the purchase of development rights or outright land purchase is fiscally beneficial, compatible with the 1994 Plan of Development, and will be an unending enhancement to the quality of life in Simsbury. The long-term sound fiscal planning of the program is to promote balanced growth while preserving essential rural elements of our community.”

On February 9, 1998, the Board of Selectmen established a second Purchase of Development Rights Subcommittee, which later changed its name to the Open Land Preservation Subcommittee. The Committee has enclosed the results of its efforts to assist the Town in establishing a program to support the policy adopted in 1997.

Thank you for your timely consideration of our report.

Respectfully submitted,

THE OPEN LAND PRESERVATION SUBCOMMITTEE

Helen K. Peterson, Chairman
Austin D. Barney, II
Richard A. Davis, Jr.
Garrett J. Delehanty, Jr.
Candace V. Fitzpatrick
Ernest B. Gardow

Mary Margaret Girgenti
David A. Horowitz
John Romano
Jeffrey M. Siegel
Helene W. Wade

EXECUTIVE SUMMARY

A. Procedures and methods used to conduct activities

1. The Subcommittee met regularly, approved a Mission Statement and developed a "check list of assignments".
2. Each Subcommittee member selected assignments, conducted research and produced reports to present to the committee.
3. Relevant materials and documents were collected, reviewed and placed on file in the Planning Department. A resource list is attached.
4. The Subcommittee posted its agendas, conducted its business and formulated its reports by roundtable discussions and draft preparations.
5. Documents were developed and are presented as Addenda to the proposed Open Land Preservation Program

B. Conclusion

The subcommittee considers its foremost responsibility is to provide the BOS with a PROGRAM to implement the Policy, as adopted by the BOS on June 9, 1997. The findings resulted in the OPEN LAND PRESERVATION PROGRAM presented in this report.

C. Recommendations

By unanimous vote, the Subcommittee recommends the following actions.

1. That the Board of Selectmen accept the Report recommending the establishment of the Open Land Preservation Program presented by the Subcommittee, and move to forward it to the Planning Commission pursuant to CT Statute 8-24, as well as the Conservation Commission, Board of Finance and Town Attorney for review.
2. That the Board of Selectmen adopt an ordinance titled A FUND for Open Space Acquisition, pursuant to CT General Statutes, Section 7-131r. (Addendum I)
3. That the Board of Selectmen move to appoint the Open Land Preservation Subcommittee, to administer the recommendations proposed in this Program.

**Open Land Preservation Program Subcommittee
Mission Statement - Draft May 14, 1998**

To develop a process enabling the acquisition of development rights and/or fee simple interest in properties in order to implement the policy adopted by the Board of Selectmen on June 9, 1997 as follows:

The preservation and conservation of wholly or substantially developable agricultural, forest and other natural lands by either the purchase of development rights or outright land purchase is fiscally beneficial, compatible with the 1994 Plan of Development, and will be an unending enhancement to the quality of life in Simsbury. The long-term sound fiscal planning of this program is to promote balanced growth while preserving essential rural elements of our community.

To this end the Open Land Preservation Program Subcommittee suggests the following:

1. Propose an ordinance to fully authorize the town to undertake this program, pursuant to state statutes, including the creation of a land preservation fund.
2. Begin a coordinated education effort to promote public understanding of the program.
3. Encourage the gifting of Development Rights and/or fee simple whenever possible.
4. Identify means to fund the land preservation fund.
5. Establish objectives, categories and criteria for land review.
6. Establish and maintain an updated vacant land index.
7. Create a prioritized list of land parcels for consideration.
8. Identify the step-by-step process by which interested parties are to participate in program.
9. Establish guidelines and methodology for negotiating acquisition and gifting transactions.
10. Determine role of town Board, Commission or agency in program.

OPEN LAND PRESERVATION PROGRAM

Introduction

In 1996 and 1998, respectively, the Town of Simsbury Board of Selectmen appointed a subcommittee to study and develop a policy for Open Land Preservation. Both subcommittees analyzed the problem of dwindling open land and the resulting negative impacts upon the Town. Based upon the finding of these subcommittees, the OPEN LAND PRESERVATION PROGRAM was developed which recommends that the Board of Selectmen (1) establish an Open Land Preservation Program Subcommittee to maintain the program and all related activities, as determined; and (2) establish a Fund for Open Land Acquisition.

The fact that preservation of open space is fundamental to the well being of the Town is acknowledged in the Town's Plan of Development [1983 and 1994], and more recently in the policy adopted by the Board of Selectmen on June 9, 1997 as follows:

The preservation and conservation of wholly or substantially developable agricultural, forest and other natural lands by either the purchase of development rights or outright land purchase is fiscally beneficial, compatible with the 1994 Plan of Development, and will be an unending enhancement to the quality of life in Simsbury. The long term sound fiscal planning of this program is to promote balanced growth while preserving essential rural elements of our community.

Simsbury is now in the final stages of development of previously unused parcels and our residents are calling for the preservation of open land, one of the most important and irreplaceable resources of the Town. The results of such preservation will forever distinguish Simsbury as a community that values its natural resources and respects its Town's heritage.

While conservation, well being and community character are often cited as reasons for acquiring open space, a most convincing and important rationale is the avoidance of the costs of municipal services associated with residential development. In a recent study of eleven southern New England communities by Southern New England Forest Consortium, (see Resources.) each Town spent \$1.14 in the provision of services for each \$1.00 received in property taxes. Commercial/industrial properties cost \$0.43 in the provision of services for each \$1.00 received in taxes. In contrast, open space - which does not have the negative impacts of increased traffic and noise pollution typical of commercial/industrial properties - cost \$0.42 in the provision of services for each \$1.00 received in property taxes. This study concluded "Southern New England's open spaces provide fiscal relief for taxpayers, as well as providing quality of life amenities."

A 1994 study by the Trust for Public Land entitled "The Effects of Development and Land Conservation on Property Taxes in Connecticut Towns," (see Resources.) further confirmed that growth and development in Connecticut, while they expand the tax base, do not result in lower property taxes.

Statewide studies show that 70% of residents regard open space as important factors in the quality of their lives and two-thirds (2/3) advocate spending more money to protect them.

In reviewing these respective studies, the Subcommittee concludes that:

- ◆ Simsbury spends more money on residential services than it receives in taxes from residential development.
- ◆ Agriculture remains an important part of the local and regional economic base, providing significant employment and products with wide distribution.
- ◆ Combined open space of all categories enhances and protects the community's property values.
- ◆ Simsbury must plan for growth while balancing the needs for development, residential and otherwise, with strategies to protect open space.

This Open Land Preservation Program increases Simsbury's ability to achieve its goal regarding open space.

Organization

- (1) The Board of Selectmen shall establish a FUND FOR OPEN SPACE ACQUISITION, pursuant to Connecticut General Statutes, Section 7-131r (Addendum A).
- (2) The Board of Selectmen shall be guided by established Selection Criteria in its selection or rejection of land for acquisition. The purpose of Selection Criteria is to ensure that over time the properties acquired will achieve the program's goal, a balanced vision of economic growth and preservation of open land.
- (3) To administer the Open Space Program, the Subcommittee recommends the appointment of the Open Land Preservation Subcommittee to consist of the First Selectman and two (2) other representatives to be determined.

This Subcommittee shall work with Town staff and the Board of Selectmen to identify land for the program, to solicit potential sellers, and to negotiate transactions to be recommended for approval.

It is anticipated that the Subcommittee will seek out local individuals who have demonstrated experience in relevant professional areas as needed.

- (4) The Conservation and the Planning Commissions shall provide the Subcommittee an annual report with a prioritized list of undeveloped properties whose inclusion would contribute to a substantial degree to the success of this program.
- (5) The Board of Finance shall meet with the Subcommittee quarterly to exchange information and to assist in identifying available funds or funding capability for ongoing acquisitions.

If a property meets established Selection Criteria, priority may be given to undeveloped land that becomes unexpectedly available.

Other Activities and Duties

The Subcommittee, with the assistance of Town staff, shall:

- ◆ Explore and update funding and acquisition alternatives. (Addendum B)
- ◆ Maintain an updated VACANT LAND INDEX and MAP with pertinent related information. (Addendum C)
- ◆ Use its best efforts to maintain its general goal.
- ◆ Establish and maintain a set of direct and simple criterion as a tool to assess the parcels considered for acquisition as they relate to the Program's major priorities. (Addendum D)
- ◆ Review and analyze all open land presently owned by the Town and, using the criteria established within this Program, consider such land for protection consistent with the Program's goals and intent.
- ◆ Review requests for land acquisition by all other Town governmental/agency bodies.
- ◆ Undertake any other actions that may reasonably enhance the Town's ability to acquire open land.
- ◆ Undertake the responsibility for publicizing the Program and establish the tools and methods for educating landowners and the public. (Addendum E)
- ◆ Incorporate all other documents related to the preservation of all categories of open land adopted by the Board of Selectmen to date into the Program.

Nothing herein shall prevent the Open Land Preservation Program Subcommittee from holding Executive Sessions pursuant to and within the purview of the Connecticut Freedom of Information Act, as amended from time to time.

→ Agree on policy w/ Bd of Finance
for land proceeds to go to other
land purchases. And in trades.

FUND FOR OPEN LAND ACQUISITION AND PRESERVATION

Establishment; purpose.

In recognition that open space land, whether undeveloped land or underdeveloped land, is a valuable resource to the town, important to the general welfare of town residents and that the opportunity to preserve land in such state through fee simple acquisition and/or purchase of development rights may occur on an irregular basis, a fund is hereby established for the purpose of acquisition and preservation of such land.

Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

Agriculture shall mean the production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to (i) forages and sod crops, (ii) grains and seed crops, (iii) dairy animals and dairy products, (iv) poultry and poultry products, (v) livestock including beef cattle, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding or grazing of any and all of such animals, (vi) bees and apiary products, (vii) fur animals, (viii) aquaculture, (ix) trees and forest products, (x) fruits of all kinds, including grapes, nuts and berries, (xi) vegetables, (xii) nursery, floral, ornamental and greenhouse products, or (xiii) lands devoted to a soil conservation or forestry management program.

Appropriation shall mean a legal authorization granted by the Board of Selectmen and Board of Finance to make expenditures and to incur obligations for specific purposes.

Development rights shall mean any rights or combination of rights to develop, construct on, or otherwise improve land.

Fund shall mean an account established solely for the purposes of the acquisition of development rights or fee simple purchase of undeveloped or underdeveloped land.

Types of Land to be Considered for Acquisition and Preservation.

The types of undeveloped or underdeveloped land, or development rights with respect to such land, to be considered by the Board of Selectmen for acquisition wholly or partially with monies from the fund must be land or development rights the ownership of which would be consistent with the general purposes of this article, and may be land or development rights which will tend to:

- (a) have or contribute to the protection of significant scenic, topographic,

- conservation or wilderness value based on the characteristics of the land; or
- (b) have or protect significant historical archeological value based on the character of the land and/or improvements thereon; or
 - (c) contribute towards the preservation of agriculture or promote conservation of agricultural land in Simsbury; or
 - (d) protect streams, water supply or wetlands; or
 - (e) promote the preservation of forest land; or
 - (f) enhance passive recreation opportunities; or
 - (g) promote orderly development of Simsbury.

Existing Improvements or Further Consistent Development.

The acquisition of undeveloped land or underdeveloped land, or development rights related thereto, is not intended to prohibit the further development of such land provided that such development is consistent with the public purpose described in the preceding section for which such land or development rights are purchased and provided that such development is permitted in writing by the Board of Selectmen.

Approval and Administration.

Determination that a particular parcel of land or development rights thereto is to be acquired with monies in the fund shall be made by the Board of Selectmen and Board of Finance. Referral to the Planning Commission shall be made pursuant to Connecticut General Statute 8-24. The fund shall be administered by the Finance Director.

Public Hearings.

- (a) The Board of Selectmen shall hold one or more advisory public hearings regarding the acquisition of a particular parcel of land, or the development rights thereto.
- (b) When a public hearing is to be held, the Board of Selectmen shall cause notice to be published at least 7 days prior to said public hearing in a newspaper having substantial, continuous circulation in town.

Funding.

- (a) In preparing the annual town budget, the Board of Selectmen shall consider additions to the fund as part of its capital improvement program. The town shall also investigate on a continuing basis the availability of any state and federal money available for land acquisition and development rights.
- (b) Contributions to the fund shall be accepted from individuals, corporations, associations, partnerships and any other legal entities. Said contributions shall be used exclusively for the herein stated purposes of the fund.

ACQUISITION AND FUNDING ALTERNATIVES FOR OPEN LAND PRESERVATION

The Subcommittee explored a number of potential sources of funding to acquire open space or development rights. All of these funding sources may have value as part of a "tool kit" of approaches available to the Town to achieve its objectives.

1. Subdivision Open Space Dedication. Since 1978, the Planning Commission, through its subdivision Regulations, have required that 20% of the total land area of the subdivision be dedicated as public open space. That regulation has produced over four hundred acres of open space land for the Town. The legal basis for the regulation is State enabling legislation that permits the dedication of open space land to benefit the future residents of the residential area. While the sizes of these parcels vary, the average probably exceeds ten acres. In addition, the same regulation has produced over two hundred acres of conservation easement land. This land can in some cases be utilized by the public if specified in the approval. In any case the conservation easements provide natural areas that would otherwise be used up as excess land in lots. Frequently they are used to protect fragile natural areas such as wetlands, waterways or forested land.

1b. Zoning Open Space Dedication. The 1994 Plan of Development Policy 1 stated: "Continue to require the dedication of open space in new residential development and expand the concept to include commercial and industrial developments." Objective A under Policy I states: "Encourage amending the Zoning Regulations to provide for the dedication of land as open space in the design and re-design of commercial and industrial developments." This approach may require additional enabling legislation.

1. Payments of fee in lieu of open space. Under State statute, the Planning Commission may be empowered to authorize a sub-divider to pay a fee into an Open Space Trust Fund administered by the Town, in lieu of providing open space. To allow this alternative, appropriate regulations must be adopted. An example is set out in the "Proposed Ordinance to Establish an Open Space and Agricultural Land Preservation Fund" reviewed by the Subcommittee. The Subcommittee concluded that adoption of such an ordinance is desirable and recommends that this ordinance be forwarded to the Planning Commission for their action. This ordinance would give the Planning Commission an approach to use in appropriate cases. There will be a number of smaller subdivisions where there is no adjoining open space and any open space designated would be isolated and of little or no utility. In some cases, accepting these orphaned parcels of open space would be undesirable since they leave the Town with a maintenance and liability obligation. In those cases a fee payment would be preferred and the proceeds could be applied to acquire more suitable open space. In any event, the Planning Commission would never be obligated to accept payment in lieu of open space dedication.

2. Gifts. The proposed Ordinance provides for acceptance of gifts of both money and land into an open space fund. As part of our open space initiative we should encourage gifts and bequests. We should develop ways to recognize donors, perhaps along the lines of the engraved bricks used to fund the town hall clock, and consider ways to recognize major donations through plaques, renaming public space, etc.

3. Insurance, Trusts, etc. There are a number of creative ways to structure arrangements with potential sellers of land or development rights. These alternatives are based on tax and estate planning techniques which use tax benefits to reduce the cost of gifts to the donor, or make purchases less expensive in a sales context. In effect, creative tax planning allows these tax benefits to fund a portion of the transaction cost. Town staff should keep these possibilities in mind in dealing with land owners, and should have access to appropriate professionals for expert guidance in these matters.

4. Trade. The Town may trade a town-owned parcel with limited open space utility for a privately held parcel with greater utility. We should do an inventory to determine if we have any Town-owned land which would be "expendable" in a trade. This approach may improve the location and quality of Town open space.

5. State Sponsored Programs. The State of Connecticut operates a number of open space acquisition programs which may be available in conjunction with Federal Programs to provide matching funds for the acquisition of open space areas. Typically these programs will provide 40 to 50 percent of the total cost of acquisition. These include the Department of Agriculture Farmland Preservation Program, Recreation and Natural Heritage Program administered by DEP and the Protected Open Space and Watershed Land Acquisition Program. (PA 98-157) also administered by DEP.

6. Annual Appropriations. In times of fiscal surpluses, the Town can appropriate funds out of current budgets. There may also be opportunities to reallocate funds appropriate for other purposes but not used.

7. Trust for Public Land funding. The Trust for Public Land offers funding assistance. For example, under a lease/purchase program, towns which do not wish to bond but would rather pay yearly out of regular budget funds for a parcel can obtain TPL funding. The TPL finance lease/purchase is funded with Certificates of Participation sold on the private securities market to investors interested in tax free vehicles by the trustee bank. After the term of the lease purchase arrangement the land becomes property of the town.

7a. Other Non-profit Sources of Funds. The American Farmland Trust in Washington D.C. partnership with local groups in the purchase of open land. They deal exclusively with the preservation of farmland. The Nature Conservancy, Connecticut Chapter would be involved in the preservation of such natural features as traprock ridges, or other large unique natural features or habitats.

8. Bonding program. The town may issue bonds to raise funds for open space purchases, to be repaid over a period of years. The bonding authorization could allow an immediate funding of a specific amount, or an authorization of future issuances to be timed as needed. This allows creation of an immediate pool, providing credibility to the program. Without a clear funding mechanism, landowners may be skeptical of the Town's ability to finance purchases and may feel dealing with developers is a more reliable route. It matches the expenditures to the period in which the benefit is received, both in the benefits of the open space and in avoided infrastructure and maintenance costs.

9. Simsbury Land Conservation Trust. This local non-profit group could serve as a partner in a joint application for funding under the programs listed above. In addition, it operates its own program to encourage private owners to dedicate land for preservation.

**Strategic Uses
Of
Estate Planning Techniques
and
Life Insurance
in
Land Conservation**

By

Austin D. Barney, II

STRATEGIC USES OF ESTATE PLANNING TECHNIQUES
AND
LIFE INSURANCE IN LAND CONSERVATION
Austin D. Barney, II

I. The Problem

- A. The Federal Estate Tax is the most confiscatory tax in America.
1. Currently, the lowest estate tax is 34% and, together with the confiscatory tax against transfers to grandchildren, can peak at the rate of 80%.
 2. Within a couple, the first to die can pass their entire estate to their spouse tax free – under the 100% marital deduction. The federal tax is levied at the second death, the reason for “second-to-die” life insurance, which pays at the second death in whichever order death occurs.
 3. Tax on amounts above the unified credit (today’s equivalent to passing \$650,000 in value of property, increasing to \$1 million per person incrementally).

<u>Property Value</u>	<u>Federal Estate Tax</u>
\$ 250,000	34%
\$ 1,000,000	45%
\$ 2,000,000	49%
\$ 3,000,000	55%
\$10,000,000	60%

- B. The Estate Tax must be paid, with a few exceptions, within nine months of the date of death. An estate that consists of increasingly valuable land and other liquid assets means higher estate tax costs, which can leave the landowner without liquidity to pay the taxes – State and Federal.
- C. What The Estate Tax Problem Means for a Landowner:
1. One’s estate and one’s land will not be conserved for future generations and will not be protected against development and exploitation if forced sale for taxes is required. There will not be enough time for a benign buyer to get organized and funded.

2. An opportunity is lost to future generations to continue family stewardship of the land.
3. One's land will be, in essence, confiscated to pay the tax. To meet the nine-month tax collection deadline, a forced liquidation, invariable at a loss, will be necessary.

II. One of The Solutions: The Strategic Use of Life Insurance

A. Liquidity, land preservation, and transfer through life insurance.

1. Life insurance is the most effective way of supplying needed dollars (liquidity!) at the exact time of need to meet the federal estate tax obligation and estate settlement costs; available funds will assure that land and/or development rights (if a market exists) will not have to be sold at the owner's death.
2. The derived insurance dollars, in the form of death proceeds, can be free from federal income and estate tax if owned by an Irrevocable Life Insurance Trust.
3. The sizable death benefit from life insurance may be purchased for pennies on the dollar in the form of premium payments; particularly in conjunction with an Irrevocable Life Insurance Trust.
4. Risk and economic leverage – a strategy to convert a small portion of one's taxable estate assets into a large amount of non-taxable cash (premium payments which become death proceeds) in order to pay estate taxes – allows for the availability of cash at the exact time when needed (at the second death), thus allowing tax-free transfers of land at no cost to one's heirs.
5. When coupled with an Irrevocable Life Insurance Trust one gets additional tax leverage which makes the purchase of life insurance even more cost effective and maximizes the use of discounted dollars. Tax leveraging is achieved by using available annual exclusions and unified credits against gift transfer taxes to (1) shield current and subsequent transfers to the trust from the gift tax, and (2) organize the Irrevocable Life Insurance Trust in such a way that no part of the insurance proceeds will be subject to estate tax in the insured's estate or the estate of the spouse.

6. In a 55% estate tax bracket, it takes \$2,222,222 of taxable dollars to provide \$1,000,000 of net liquidity to heirs, while an Irrevocable Life Insurance Trust needs only \$1,000,000 on a tax-free basis to achieve the same result. At the second death of two spouses, when the estate tax is due, cash is available from the Trust to pay the estate tax. The net effect is that heirs receive 100% of the estate since the estate tax is paid with tax-free cash provided by the life insurance purchased at a greatly reduced cost.
7. As well, life insurance can create a generation skipping land stewardship fund, allowing other inherited liquid assets to be income producing for lifestyle requirements.

B. Land Stewardship and Charitable Gifting

1. One can gift to a land preserving non-profit or public entity development rights, the fee simple interests, or both in a property. These gifts can be made at death or during life. The advantage of the latter is use of the charitable income tax deduction – not available at death.
2. To preserve one's heirs interest, the value of the donated interest can be replaced to one's heirs in the form of estate tax-free life insurance. If only development rights are donated, the wealth replacement trust could be established to "steward" the property which would continue to be owned by the family.
3. One can gift an insurance policy to a non-profit or public entity alone or with a piece of land to create a stewardship fund for the land or for non-specific stewardship purposes. Land is expensive to own and manage. Such funds are mandatory for the non-profits or public entities to fulfill their long-term responsibilities to care for the properties.
4. Land gifts can be made directly or through a form of the Charitable Remainder Unitrust if sale is contemplated or liquidity is to be derived from operations on the land, partial sale of the property, or through gifts of liquid assets. Income can be derived for the donor and other parties for their lives, with the trust assets passing to charity(ies) at the specified death. Again, life insurance can be purchased to make heirs "whole" on an estate and income tax free basis by replacing the value of the gifted property to the heirs in an irrevocable trust.

Let's be More Specific:

Let's think about the landowner – what is their perspective – their need regarding land protection? How can we accommodate their needs while fulfilling the public's need for land protection?

1. Basic Estate Planning

- a. How the federal estate tax works: allows charitable gifts to be subtracted at death before determining the net taxable estate value - tax is determined off Net Taxable Estate.
- b. When – must be paid within 9 months, with allowances for farms and businesses.
- c. How can we make gifts tax-free?
 - Annual exclusions (\$10,000/person/year)
 - Unified Credit (growing to \$1,000,000 per person, usable during life or at death)
- d. What are the landowners concerns?
 - Preservation? Partial? All? How?
 - Is the price the highest I can get?
 - Inheritance? If I gift, do I rob my heirs?
 - Can I have lifetime use? (Fear of loss of control)
 - Can my children have life use?
 - In fact, what are the family's objectives? How do they balance family inheritance responsibilities with their desire/value to preserve land?
- e. The charitable deduction (0 Tax) – usable mostly up to 30% of one's AGI for the year of the gift and five years thereafter.

2. Basic Land Preservation Strategies

- a. The bundle of landowner rights
- b. Separation of the right to develop from the bundle
- c. Valuing the land with the right to develop and without: the difference is the value of the right to develop the land

- d. Development right can be gifted or sold without affecting land ownership which can stay with the family
- e. Bargain sale – fair market value minus price sold for = value of “gift” to (tax) qualified buyer (town, land trust)
- f. Partial gift or sale of the property is an option. Part now, rest at death
- g. Living gift or sale and/or testamentary (at death)
- h. Town can construct deal with seller combining use of direct cash payment with payment of life insurance premiums which are much less than the value of the death benefit (ie., fair market value)

3. Basic Gifting Structures in Estate Planning

- a. Why gift anything? To remove it from one’s taxable estate. To create a legacy. To benefit the public.
- b. How about my heirs interest? They would have only received 45% of value or less after the capital gains and estate taxes! **ANSWER:** Replace value of the gift (pre or post tax value is donor’s decision) with life insurance owned by an Irrevocable Life Insurance Trust (ILIT). 100% of the insurance proceeds after the stipulated death are transferred to heir’s income and estate tax free. The premium is paid by use of one’s annual exclusions, “gifting” dollars to the ILIT for the trustee to by life insurance on the donor(s) live(s).
- c. Some tax tools with which to gift:
 - Bequest property via will
 - Charitable Remainder Unitrust (CRUT)
 - Net Income with Makeup Charitable Remainder Unitrusts (NIMCRUT)
 - Family Limited Partnership (FLP) (minority discounts)
 - Qualified Personal Residential Trusts (QPRTS) (if personal primary residence)
 - Wealth Replacement Trusts (tax free life insurance replaces value of gift or provides town money to purchase land and care for it)

4. Quandary

Is it better for a landowner to have their land bought by the town or gift it to the town and replace the gift’s value to their heirs with a wealth replacement trust?

Assumption: Primary reason for wanting high sale price is for heirs’ inheritance.

The Comparison

A. The Sales Approach (No Planning)

1.	Original/inherited value	\$ 250,000
2.	Today's fair market value	<u>1,500,000</u>
	Net capital gain	1,250,000
	Capital gains tax (20%)	<u>250,000</u>
	Net value to family	1,000,000
	At death, estate tax	<u>.55</u>
	Estate Tax	550,000
	Net sale value to heirs	450,000
	Plus basis	<u>250,000</u>
	Heirs total value	700,000 (47%)
	<u>Total taxes paid</u>	\$ 800,000 (53%)

B. Some Gift Approaches (With Planning)

1. Use of a Charitable Remainder Unitrust (CRUT)
 - a. Fair market value today: \$1,500,000
2. Gift of property to CRT: \$1,500,000
3. Charitable deduction: depending on age/income – usable in year of gift and five (5) year carry forward (positive value to donor)
4. Charitable trust now owns land
 - a. Trust can sell land or Devel. Rights (assume value at 33%) without capital gains tax – all proceeds reinvested
 - b. Donor could have Trust gift Devel. Rights to town and the trust sells the property later to the town. Trust would net \$1,000,000 after gifting Devel. Rights to town. Net value (above) assumed to \$1,000,000 @ 8% payout, providing \$80,000 retirement income (taxable) to donor and family for lives indicated. Income tax offset in part by charitable deduction.
 - c. In either case donor could leave fee interest of land at last of spouse's deaths to town having gotten several living benefits from it.

C. Bargain Sale

Donor family gets appraisals of \$1,500,000 for the land but decides to sell to the town for \$1,000,000. They can take the difference in value, \$500,000, as a charitable deduction, usable up to a certain percent of the Adjustable Gross Income (AGI) for the year of the gift and five years thereafter.

D. Outright Gift

The donor family could give the property outright to the town a) either in part or in full or b) part during their life and the balance at death or c) at full or partial value or d) with lifetime uses or not or e) by gifting development rights to the town and fee interests to the family. Any or all of the above approaches can be offset in value to the heirs with full value life insurance owned by an irrevocable life insurance trust.

E. To Replace Gifted Value for Heirs

To offset the possible loss of inheritance for the couple's heirs as reflected in B, C, and D above, the couple buys a second to die life insurance policy on their lives, payable to their heirs, for \$1,500,000 and have the policy owned by an irrevocable life insurance trust. The heirs receive the insurance proceeds completely tax-free from the Trust at the parent's second death. The premium is paid for in part from the tax savings from the gift (charitable deductions), and in part from the enhanced cash flow from the Trust. The town could offer to pay for the insurance as part of its "deal" to purchase the property, paying dimes on the dollar for the value of the tax-free insurance proceeds to the families next generation.

THE NET RESULTS:

Left to the Heirs

\$1,500,000 by GIFTING (from insurance trust)

or

\$450,000 by OUTRIGHT SALE

WHICH IS BETTER FOR THE HEIRS?

WHICH IS BETTER FOR THE TOWN?

IN SUMMARY

There are many ways to financially transfer land for preservation to the town or preservation group which can also benefit the donor family. The town needs to think openly and (privately) discuss with the landowners their needs and help them with education on the estate planning options. This objective can be partly achieved by offering the services of an estate planning "swat" team of local experts to help frame ideas for landowners, and the use of several educational outlets in town to make the many options known and appreciated by landowners.

MEMORANDUM

Addendum B, 2

TO: Helen K. Peterson, Board of Selectmen, Town of Simsbury

RE: Charitable Gift of Life insurance on Conservation Property

FROM: Robert M. DeCrescenzo, Town Attorney
Charlotte Mitchell, Esq.

DATE: October 22, 1998

As we understand it, a resident of Simsbury owns a piece of property which she/he wishes to donate to the Town, and which the Town wishes to acquire. A representative of the Town has suggested that the Town take out a life insurance policy on the resident, the proceeds of which would be used to purchase the property at its fair market value upon the death of the resident.

Assumptions made are as follows:

1. The resident is insurable;
2. Either the town uses municipal funds to pay the premiums on the life insurance policy, or the resident makes gifts to the Town of approximately for the premium each year;
3. The resident has an estate valued for federal death tax purposes at \$650,000 or more (taxable estate for federal purposes includes solely owned property under the resident's control - stocks, bonds, cash, retirement, assets, insurance policies, real property - joint property, on any property over which the resident has control);
4. The resident wishes to leave the property to the Town;
5. The resident does not wish to disinherit family members as a result of the gift;
6. The Town wishes to receive the property;
7. The Resident's family does not want the property. Tax Consequences to the Resident, if insurance proceeds are used to purchase the property from his/her estate.

If the Town maintains a policy insuring the life of the Resident, then upon the Resident's death, the Town could use the policy proceeds to purchase the property from the Resident's estate. This proposal would require a codicil (amendment) to the Resident's will, giving the Town the right of first refusal to purchase the property from the Resident's Estate. It would also

require an agreement between the Resident and the Town, stating that the Town must use the insurance proceeds to purchase the property.

If the Resident and the Town entered into such an agreement, there is no benefit to the Resident from an estate tax point of view. Either the property is at its fair market value as of date of death or the cash used to purchase the property would be in the Resident's taxable estate. So if the Resident's estate pays death taxes in the 50% bracket, and the sales price is the property is \$200,000, the Resident's estate (and his/her family would pay \$80,000 of the cash purchase price to the IRS.

Alternative Solutions with Tax Advantages

1. Life Insurance Trust: The Resident could consider establishing an irrevocable (can't change your mind) trust to hold a life insurance policy with a face value of equal to or more than the fair market value of the property. Assuming that the trust meets the administrative requirements for life insurance trusts, the insurance proceeds should be out of the Resident's estate for tax purposes. So the Resident could leave the insurance proceeds to his/her family by means of the trust and pay no estate taxes to the IRS.

2. Donate the Property to the town During Lifetime: If the Resident donates the property now, the Town would have what it wants and the Resident would receive a current income tax deduction equal to the fair market value of the property as of the date of the gift (using a professional appraisal to set the value). The property is out of the Resident's estate for tax purposes.

3. Donate the Property to the Town by Will: The Resident could also give the property to the Town in his/her will. The Resident's estate would receive a charitable deduction equal to the date of death value of the property (perhaps more than its current value). The Resident would forfeit the current income tax deduction.

4. Give a Conservation Easement in Perpetuity to the Town: The Resident could put a conservation Easement on the property for which he/she would receive a current income tax deduction. The property would still be in the Resident's estate, although at a reduced value because of the Easement.

These options can be used in combination if the needs of the prospective donor require it. For example, it would be possible to combine an insurance trust with either an outright gift, a conservation easement, or a gift by will.

We suggest keeping each of these alternatives as options to meet the particular needs of a specific donor. The next step is to develop each of these tools in greater detail to meet the goals of the town Open Space Committee or the Board of Selectmen. We are available to meet at your convenience to move forward on this project.

LAND INDEX - PROPERTY OWNERS

<u>Index No.</u>	<u>Owner's Address</u>		
		41	Sara Green Brewer 41 Notch Road West Simsbury
12	Frank Sottle, Trustee 19 Vining Drive Simsbury West Simsbury	42	John Buck, Harriet Anderson & Eleanor Wolf 18 Shoddy Mill Road Glastonbury
19	Judith Lieberman 91 Old Farms Road West Simsbury	45	Richard Calafiore 22 Hoskins Road Simsbury
20	Quincy P. & Barbara Beach 138 Terry's Plain Road Simsbury	47	John & Doris Cannon 125 Westledge Road West Simsbury
21	Kenneth M. & Barbara K. Kearns 33 Lucy Way Simsbury	49	Sabrina Capellano 90 Riverside Road Simsbury
23	P.A. Begin, et al 358 West Mountain Road West Simsbury	52	The Village Water Co. Drake Hill Mall Simsbury
25	Barbara Behrens 82 Westledge Road West Simsbury	54	Elnora H. Case 42 East Weatogue Street Simsbury
27	Helen Benson 88 Hedgehog Lane West Simsbury	56	The Village Water Company.
31	Erika J. Boehm 153 Great Pond Road Simsbury	57	Simsbury Land Conservation Trust
		58	Cathles Family Corporation 61 Highridge Road West Simsbury
		60	Russell & Kenneth W Palmer 371 West Mountain Road Simsbury

61	Nord & Nevin Christensen 6 Shingle Mill Road West Simsbury	80b	Culbro Corporation
		80c	Culbro Corporation
63	Church of St. Catherine of Sienna of Simsbury, Corp 265 Stratton Brook Road West Simsbury	80d	Culbro Corporation
		80e	Culbro Corporation
		80f	Culbro Corporation
67	Giuseppa C. Cialfi 355 West Mountain Road West Simsbury	80g	Culbro Corporation
		81a	Culbro Corporation
68	Cliffside Country Club 140 Nod Road Simsbury	81b	Culbro Corporation
		82c	Culbro Corporation
69	Cliffside Country Club	82d	Culbro Corporation
70	Lamp, Inc., Sheryl Oken 22 Wintonbury Drive Simsbury	82e	Culbro Corporation
		87	Margaret F. Curtiss 158 Firetown Road Simsbury
73a	The Master's School, Inc. P.O. Box 143 West Simsbury	88	Andrew Yakemore Simsbury
73b	The Master's School, Inc.		
73c	The Master's School, Inc.	93a	Culbro Corporation P.O. Box 480 Bloomfield
73d	The Master's School, Inc.		
75	Lynn F. Swan 162 Old Farms Road Simsbury	99	Leslie Dewey 51 Terry's Plain Road Simsbury
79a	Culbro Corporation P. O. Box 480 Bloomfield	100	Leslie Dewey
		101	Richard L. Mahoney, Trustee 10 North Main Street West Hartford
80a	Culbro Corporation		
80a	Culbro Corporation		

102	Casimir Dombkowski, et al 107 Cliffmore Road West Hartford	119	Tim & Janet Ellsworth 116 East Weatogue Street Simsbury
103	Ralph & Vicki Tate 26 East Weatogue Street Simsbury	121	Robert & Claudett Engvall 180 Westledge Road West Simsbury
104	Mary C. Dowling 168 Westledge Road West Simsbury	123	Ensign Bickford Realty Co. One Old Mill Lane Simsbury
105	Brian Foley 76 Hartford Road	125	Ensign Bickford Realty Co.
107	Matthew & Dorothy Duksa 165 Cedarwood Lane Newington	126	Ensign Bickford Realty Co.
109	William & Norma D. Duschaneck - 25 Holcomb Street Simsbury	128	Simsbury Land Conservation Trust P.O. Box 634
110	Althea Elliot 304 Firetown Road Simsbury	129	Town of Simsbury
112	John E. Ellsworth Estate 120 East Weatogue Street Simsbury	130	Ensign Bickford Realty Co.
113	John E. Ellsworth Estate	131	Ensign Bickford Realty Co.
114	Benny Delbon & Jeff Hayes	135	Louis Epstein 25 East Weatogue Street Simsbury
115	Louis Epstein	136	Louis Epstein
116	The R. H. Chidsey Company 9 Flintlock Ridge Simsbury	144	Delphine C. Fiora Canton
118	Donna M. Caldeir 2 East Weatogue Street Simsbury	149	M.L. & E.A. Yakemore 44 Fox Den Road Simsbury
		150	Neil, Noel, & Norris Christensen 6 Shingle Mill Road West Simsbury

151	Bernard & Alice Francis 40 Holcomb Street Simsbury	177	George Hall 180 Old Farms Road West Simsbury
153	Michael & Haimet Sullivan 111 East Weatogue Street Simsbury	178	Joseph L. Hall, III et al 83 Terry's Plain Road Simsbury
154	Stanton & Nancy Wolfe 109 East Weatogue Street Simsbury	179	Joseph L. Hall, III et al
154a		180	Joseph L. Hall, III et al
155	Franca Gabrielle 331 Bushy Hill Road Simsbury	187	Connecticut Light & Power P.O. Box 2010 Simsbury
158	Bourg & Shaw T.F. Garrity, Jr. P.O. Box 610 West Simsbury	188	Connecticut Light & Power
161	Whitney Gillette 167 Farms Village Road Simsbury	188a	Connecticut Light & Power
163	Girard Brothers Corporation P.O. Box 581 Simsbury	189	Connecticut Light & Power
164	Girard Brothers Corporation	191	Connecticut Light & Power
165	Girard Brothers Corporation	209	Edmund J. Holcomb 68 Hartford Road Weatogue
167	Henry & Ann Glover 70 King Phillip Road Simsbury	213	Leland Holcomb 106 Hartford Road Simsbury
168	Henry & Ann Glover	214	Leland Holcomb
169	Henry & Ann Glover	216	R & R Assoc c/o Gideon Rutenberg 693 Bloomfield Ave Bloomfield
		218	Homesite Realty, Inc. c/o Frank Mancini 19 Shadow Lane Elmwood

225	Douglas & Marjorie Johnson 46 Ichabod Road Simsbury	266	Frederick A. & Alina McNutt 178 Great Pond Road Simsbury
226	Elizabeth M.G. Johnson c/o Gersten & Gersten 234 Pearl St Hartford, CT 06103	276	Joan & Jeffrey Messenger 107 West Mountain Road West Simsbury
229	Kevin Dowling	277	Metacon Gun Club P.O. Box 186 Avon
230	Kevin Dowling	278	Gloria & Robert Michaud 38 Case Street North Canton, 06059
232	Pauline Johnson 289 Simsbury Road West Granby, 06090	279	John Antonucci 11 Woodchuck Hill Road Canton, 06019-2132
233	Aero Turbine Intl. 17C Herman Drive Simsbury	285	Virginia Mortimer 44 Pinnacle Mountain Road Simsbury
235	Joseph Kasulis et al P.O. Box 3024 Talcottville	286	David & Beverly Payne 184 Westledge Road West Simsbury
240	Maria V. Kilbourn 85 Hoskins Road Simsbury	287	Donald Paine 190A Bushy Hill Road Simsbury
251	Nancy Levin 135 Westledge Road West Simsbury	294	J.C. & Sevastian Pestretto 125 Stratton Brook Road Simsbury
255	Susan Byer 145 Terry's Plain Road Simsbury	300	Barbara Behrens 14 Windmill Drive Granby, 06035
258	Peter M. Luzzi 40 Riverside Road Simsbury	302	Joseph Fisher & Linda Luch 345 West Mountain Road West Simsbury
263	Lisa Wilson 76 Hartford Road Simsbury		

303	Marianne B. Reiffenheiser Watch Tower Road Darien, CT 06820	327	Leland G. Holcomb P.O. Box 197 Weatogue
		329	Deborah A. Reynolds & Gail Pease 9 Kelsey Place Bloomfield 06002
306	John & Allen Roberts c/o J. Curtis Roberts 714 Tolland Stage Road Tolland, 06084	331	Michael Sponzo, et al 280 Carriage Way Windsor 06095
307	Anna Mary Roderick 100 Quarry Road Simsbury	338	Cynthia M. Stiglitz 115 East Weatogue Street Simsbury
308	Garrity Brothers of Simsbury P.O. Box 610 West Simsbury	354	Wallace Talcott 199 Westledge Road West Simsbury
312	Madeline D. Salster 100 Riverside Road Simsbury	355	Evelyn Tolomea & Ann Davis 108 Wadhams Road Bloomfield
314	Wil & Yvonne Schaefer 2 Quarry Road Simsbury	356	Mark & Diane Tracy 34 Old Farms Road West Simsbury
317	Louis Epstein 25 East Weatogue Street Simsbury	366 (a&b)	Village Water Company Simsbury
319	Folly Farm Associates 75 Hartford Road Simsbury	367	Village Water Company
321	Mary Louise Hawley 278 Old Farms Road Simsbury	368	Village Water Company
326	Simsbury Coon Club Edward Lachmayer Treasurer 142 Farms Village Road Simsbury	374	Richard & Madeline Wagner 153 Old Farms Road Simsbury
		375	Helen & Marion Walker 44 Massaco Street Simsbury

376a	The Ethel Walker School 230 Bushy Hill Road Simsbury	404	Maurice E. Yandow, Jr. & William A. Yandow 34 River View Avon 06001
376b	The Ethel Walker School		
376c	The Ethel Walker School	405	Maurice E. Yandow, Jr. & William A. Yandow
377	Water Bureau of Metropolitan District P.O. Box 800 Hartford	408	Oliver & Robert Tuller, estate of 261 Old Farms Road West Simsbury
384	Gail Hohengarten 24 Ferry Lane Simsbury	409	Oliver & Robert Tuller, estate of United Bank & Trust Co 740 Hopmeadow Street Simsbury
386	Alice Irene Welden 54 Farms Village Road Simsbury	410	Oliver & Dorothy Tuller Fleet Bank 255 Farms Village Road
389	Herman Westerberg 470 Hopmeadow Street Simsbury	411	Oliver Tuller & estate of Robert Tuller
390	Westminster School		
390a	<u>Simsbury</u>	412	Oliver Tuller & estate of Robert Tuller
		413	Oliver Tuller & estate of Robert Tuller
396	Janet & Donald Carville 276 Nod Road Avon 06001		
397	Janet & Donald Carville		

SELECTION CRITERIA FOR PROTECTION OF OPEN LAND

General Comments

We believe that a set of direct and simple criteria, with broad based acceptance and consistent application, is vitally important in maintaining public support for the Open Space Acquisition and Preservation Program and in maintaining credibility of this program among various public and private funding sources.

Weighting: Each of seven criteria is weighted from 25% to 5%. Size and Developability are given the most weight because the subcommittee determined that the first priority of this program is to remove developable lots from the market, since this will provide the highest economic payback to the taxpayers' money. The highest non-economic priorities, reflecting both the town's desires as well as the focus of potential matching funds programs, are 1) to preserve and encourage agricultural production and 2) to protect environmentally valuable land. Both of these criteria are given a high rating of 15% each, but significantly less than the 25% each for Size and Developability.

After these four primary objectives, we include a Context criteria designed to favor a parcel that contributes to the public value of adjacent land over one that does not. For instance, a 20 acre field adjacent to another 20 acre field, might be an example of the whole being worth more than the parts. Another example would be a prospective 10 acre cornfield providing a buffer between conservation land and residential development.

Finally, we assign a positive weighting of 5% to land with historic factors and a 5% weight to property with low ownership costs.

We settled on a small number of criteria for simplicity and so as not to dilute the focus on what we believe should be the program's major priorities.

Scoring: Within each criteria, we have tried to create a scoring system that best captures these priorities. The ratings reflect parameters and factors 1) that we feel are most pertinent to each of the criteria, 2) that we are most likely to encounter in assessing potential purchases, and 3) which correspond to criteria of the various matching fund programs with which we are likely to work. Within each criteria, we multiply the rating times the weighting to derive a Sub Total Criteria Score. The sum of the seven criteria sub totals creates a Total Score which is then used to compare the subject property with other proposals.

Size: This criteria measures land area only, regardless of its developability or other features. The median rating (reflecting 15 to 24 acres) should provide a third or so of the Total Score and is therefore, along with Developability, the major criteria.

Developability: This criteria reflects the number of homes a parcel will support and thus considers land area as well as limiting factors such as zoning, wetlands, slope, open space requirements, setbacks, etc. The median rating (reflects 15-19 homes) should provide an additional third or so of the Total Score. Together with Size, these two criteria are expected to make up half to two thirds of the Total Score of a typical property accepted for this program. The existence of these two criteria, weighted as they are, should ensure that the parcels with the most potential homesites are the ones that receive the highest Total Scores.

Agricultural Land: The criteria for Agricultural Land does not get into soils type, slope, etc. that are often used in similar evaluations but simply considers land that is currently being farmed or that was fairly recently farmed. We simplified this process because of the relative scarcity and current rapid loss of farmland in Simsbury and because of the relatively similar levels of productivity found in these fields in this town. The median rating for this criteria, when it applies, is expected, in most cases, to provide 15-20% of the property's Total Score.

Environmental Value: Within the Environmental criteria, "endangered, threatened or special concern species" is defined by the Connecticut Department of Environmental Protection. In most cases, we anticipate simply checking the DEP's Natural Diversity Data Bank in determining whether or not to include this item in our rating for a given property. An exception might be that if such a species has been recorded on an adjacent or nearby property with similar characteristics, then we might consider including it in the evaluation of the subject land. A "unique geological feature" would be sizable, unusual and easily recognizable such the esker at Elcy Way. For purposes of this evaluation, this line item would not include ridges since ridgeline is covered by its own line item. Wetland and ridgeline habitats are both of significant ecological value and both are at risk. Wetlands throughout the town are continually being partitioned and encroached upon in order to increase the economic value of adjacent property and economic value makes the remaining ridge parcels particularly vulnerable. We anticipate that it will be an uncommon property in which this criteria contributes more than one line item or more than 15-20% to the Total Score.

Context: This criteria essentially consists of two parts, 1) whether a property extends, expands or provides a meaningful buffer to a natural feature already protected on adjacent or nearby land and 2) whether a property is a meaningful part of one of three specific elements of the town's character. These three elements are included because each is at risk and because the loss of any one would significantly diminish this town's unique and pleasurable sense of place. Simsbury has attempted to preserve its natural ridgeline vistas in the past with specific legislation, the scattering of open fields throughout the town is important in maintaining its rural, agricultural character as well as the rich diversity of its natural habitat, and the open space within and adjacent to the town's village centers along with their historic mix of building styles is essential to their unique character. A parcel should be rated for open fields under this criteria only when it is adjacent to woods or other non-field habitat or development. Context is an important criteria and, when it applies, is likely to account for 10-15% of the Total Score.

Historical Significance: We anticipate that the Simsbury Historical Society can provide advice and/or recommendations regarding this criteria. Examples where this criteria might apply would

be a parcel such as the 15 acre Land Trust field at the corner of Goodrich and Terry's Plain Roads where the town's colonial militia trained (historical event) and Dewey's flower farm where numerous native American artifacts have been found (archaeological site). An example of a parcel critical to an historic designation would be a situation where in approving a district, a state or federal commission specifically referred to a field, stonewalls or waterway as a factor in its decision. We expect this criteria, when it applies, to contribute less than 10% to the Total Score.

Ownership Costs: In most cases we expect this criteria to provide a Sub Total Score of .25. However, should there be a front-end capital cost such as tree or building removal, or a significant ongoing maintenance cost such as extensive or ongoing brush cutting, then the Sub Total Score could be less. This criteria will almost always account for less than 10% of the Total Score.

NOTE: We strongly recommend that this set of criteria be viewed as one of a number of possible tools and that its use be reassessed periodically.

SELECTION CRITERIA FOR PROTECTION OF OPEN LAND

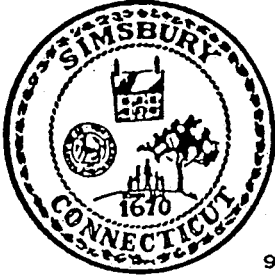
	<u>CATEGORY</u> <u>SCORE</u> (Yes/No)
Proposed Open Land Use Complies with Plan of Development?	
<u>25%</u> Size Rating: 5 if more than 50 acres, 4 if 25 to 49 acres, 3 if 15 to 24 acres, 2 if 10 to 14 acres, 1 if 9 or less acres	Sub Total _____
<u>25%</u> Developability Rating: 5 if suitable for 25 or more homes, 4 if for 20-24 homes, 3 if for 15-19 homes, 2 if for 10-14 homes, 1 if for 3-9 homes	Sub Total _____
<u>15%</u> Contributes to Preservation of Agricultural Land a _____ currently produces a crop or pasturage, or b _____ capable of producing with little preparation Rating: 5 if applies to more than 75% of parcel, 3 if between 50% and 74%, 1 if less than 50%	Sub Total _____
<u>15%</u> Environmental Value a _____ endangered, threatened or special concern species b _____ unique geological features c _____ wetland habitat (wet meadow, swamp, marsh or bog) d _____ ridgeline habitat Rating: 3 if a) applies, 3 if b) applies, 3 if either c) or d) is 25% or more of parcel	Sub Total _____
<u>10%</u> Context Within Adjacent Parcels a _____ parcel expands adjacent lands' public value b _____ stream or waterway extends through subject parcel c _____ parcel contributes to ridgeline vista, visual mix of field and woods, or visual integrity of village centers Rating: 5 if a) or b) applies, 3 if more than 50% of c) applies	Sub Total _____
<u>5%</u> Historical Significance a _____ site of historical event or activity b _____ archaeological site c _____ parcel critical to historic designation Rating: 5 if one or more of a), b) or c) applies	Sub Total _____
<u>5%</u> Potential Ownership Costs Rating: 1 if high, 3 if low, 5 if none	Sub Total _____
	Total Score <u> </u>

METHODS OF EDUCATION - LANDOWNERS AND PUBLIC

Information regarding this program will be disseminated to the community using appropriate mechanisms of communication including the print, local access TV and the video media, as well as seminars presented to relevant community groups. In addition to generic presentations, there will be targeted contacts with identified property owners.

The tasks for community education will include but not be limited to the following:

- preparation of a program summary to be shared with property owners and interested parties from the general community.
- collaboration by the Open Land Preservation Subcommittee and the First Selectman who will personally contact appropriate property owners to introduce the program and its benefits for both the community and property owner.
- creation of a file on relevant properties and property owners documenting contacts concerning the program or materials sent and maintaining periodic contact as deemed appropriate.
- use of media and other public forums for public education about program



Enclosure 1

Town of Simsbury

933 HOPMEADOW STREET

February 20, 1997

P.O. BOX 495

SIMSBURY, CONNECTICUT 06070

The Honorable Mary A. Glassman
First Selectman
Town of Simsbury
933 Hopmeadow Street
Simsbury, CT 06070

Re: *Report and Recommendations of the Purchase of Development Rights
Subcommittee*

Dear Ms. Glassman:

We respectfully submit the following report of the Purchase of Development Rights Subcommittee to the Board of Selectmen. As per our charge, we have studied the consequences and methods of the purchase of development rights or the outright purchase of developable properties in the community and have submitted a policy and procedures for the Board's consideration in order to implement such a program. We have defined the term "developable" as land having an economic value derived by the owner's ability to develop that land.

Our research indicates that key purchases of development rights or outright purchase of wholly or substantially developable lands within our town will be a fiscally beneficial means to balance future growth with the strong interest in retaining our rural heritage.

Thank you for your consideration of our findings.

Sincerely,

THE PURCHASE OF DEVELOPMENT RIGHTS SUBCOMMITTEE

Candace V. Fitzpatrick, Co-Chair
Ernest B. Gardow
David A. Horowitz
George T. Neu
Richard G. Prager

Helen K. Peterson, Co-Chair
Robert W. Heagney
Richard A. Miller
William J. Nowak
Marilyn J. Tyszka

Len Tolisano, Town Planner (Staff Liaison)

TOWN OF SIMSBURY

PURCHASE OF DEVELOPMENT RIGHTS SUBCOMMITTEE REPORT AND RECOMMENDATIONS

The Purchase of Development Rights Subcommittee was established by the Board of Selectmen on October 29, 1996 to determine whether a policy regarding the acquisition of development rights or land to preserve open space would be in the best interests of the Town of Simsbury. The committee has defined "developable" as land having an economic value derived by the owner's ability to develop that land. The cost of development rights is determined by subtracting the sum of the parcel urbanization potential and costs from the expected market price.

INTRODUCTION

Simsbury is a former agricultural town which experienced rapid growth in the late 1960's and 1970's. Overall, Simsbury's population grew from 4,822 in 1950 to 22,066 in 1995 (U.S. Census Bureau). Simsbury remains a popular destination for inter- and intra- state relocation for several reasons. It is widely regarded as having one of the best public education systems in Connecticut. Simsbury is also recognized as offering an excellent quality of life, having retained some of the best features of its rural heritage including working farms and tobacco fields. In 1996, *Connecticut Magazine* named Simsbury the "Best Town" in the 20,000-50,000 population category, based on a combination of factors such as education, quality of life, and the strength of the local economy.

The people of Simsbury have a long history of commitment to protecting the Town's rural atmosphere, preserving open space, and providing facilities for outdoor recreation, as evidenced in the Town Plans of Development of 1969, 1983, and 1994. The State Department of Environmental Protection ("DEP") has established a general guideline of one acre of open space per each 75 persons in the population. (1994 POD pp. 4-8). Although Simsbury currently exceeds this standard with town-owned *and* state-owned open space, a recent increase in residential development has stimulated public interest in maintaining Simsbury's open space acreage to population ratio. Equally important is the preservation of farmland and the retention of agriculture as a part of our local and regional economic base. Other communities in Connecticut, such as North Branford, South Windsor, Woodbridge, Fairfield, Cheshire and Goshen have succeeded in implementing a variety of methods to increase their open space holdings. (see attached Trust for Public Land letter dated 12-6-96). In addition, our research generated articles about communities in Oregon, New York, New Jersey and Colorado-- all facing the same challenge.

THE SUBCOMMITTEE'S MISSION AND RESEARCH

At the Subcommittee's initial meeting, the following Mission Statement was adopted:

The Purchase of Development Rights Subcommittee will study the consequences and methods of the purchase of development rights and/or the outright purchase of properties in the community. The Subcommittee will suggest those policies which address the following concerns:

1. The fiscal responsibility of purchasing development rights and/or the outright purchase of properties in the community.
2. The consistency with the Plan of Development adopted by the Simsbury Planning Commission in 1994.
3. The preservation and conservation of agricultural, forest, and other natural lands.
4. The preservation of the local and regional economic base.
5. The enhancement of the quality of life in Simsbury through balanced growth.

The Subcommittee will outline suggested procedures using the resources of the town and any other available public or private sector sources. The Subcommittee will then make recommendations to the Board of Selectmen for program implementation by March 1, 1997.

The Subcommittee, before its initial meeting, was given extensive reading materials to review (see attached "available material" list). In addition, Deborah Brighton from Ad Hoc Associates, Salisbury, Vermont and Julie Iffland from the Trust for Public Land made presentations to the Subcommittee. Ad Hoc Associates is a consulting firm which specializes in rural planning. The Trust for Public Land is a national non-profit organization that acts as an intermediary between communities and landholders to facilitate the purchase and sale of land or development rights. Four of the Subcommittee's more significant references were: *Impact of Residential Development on Public School Student Population 1995-1999, Simsbury, Connecticut- H.C. Planning Consultants, Inc., [February 24, 1995]*; *Fiscal Impact of Single Family Residential Development, Simsbury, Connecticut 1995-1999- H.C. Planning Consultants, Inc., [October, 10, 1995]*; *The Effects of Development and Land Conservation on Property Taxes in Connecticut Towns -- prepared by Ad Hoc Associates for The Trust for Public Land, [May 1995]*; and *the Town of Simsbury 1994 Plan of Development*.

According to the 1994 Plan of Development, there are 6,082 acres of undeveloped land in town: 3,147 acres are residentially zoned, with a possible number of single family housing lots (R15-R180) equaling 1,358. This number excludes Westminster, Ethel Walker, Master's Schools;

Hopmeadow and Tower Ridge Golf Courses, with property residentially zoned that would add at least an additional 763 lots. (1994 POD pp. 3-17) Between 1990 and 1994, new home construction in Simsbury averaged sixty-four new single family homes per year. (H.C. Planning Associates, "Impact of Residential Development on Public School Student Population, Simsbury, CT, 1994-1999," pg. 7.) H.C. Planning Associates bases its conclusions on that figure remaining constant. Chung has concluded that tax yield from new residential development, even high-end sales, will ultimately create a tax burden. The study projects a shortfall by the year 2010 of \$1.9 million from anticipated development. This could translate into a tax increase on the average household of \$400 per year. The report further concludes: "The search for a viable (growth) policy may include...the acquisition of development rights..."

The conclusions found in "The Effects of Development and Land Conservation on Property Taxes in Connecticut Towns," Ad Hoc Associates, page 1, [May 1995] are as follows: First, the tax bill on the median-value house is, on average, *higher* in towns that:

- have larger tax bases
- have more residents
- have more employment
- have more retail sales
- have more commercial, industrial, and utility taxable property value
- are more densely populated
- have a low percent of their land in undeveloped forest

[Note: Study conclusions have a less than 5% probability of random occurrence.]

The study further states that "although there are certainly exceptions, the tax bills are generally highest in the towns that are most developed and lowest in the towns that are most rural."

In addition to the consultants' conclusions that the purchase of development rights is fiscally beneficial, the Subcommittee noted other facts and observations in its deliberations. According to results of the 1993 Simsbury Chamber of Commerce survey, 62% of residents responding selected Simsbury as a place to live because of its "education system," 47% because of its "rural character," 33.6% because of its "small town feeling," and 29.8% because of its "New England atmosphere" (1993 Simsbury COC Survey, p. 2). Furthermore, the recent public approval of the purchase of 154 acres east of Iron Horse Boulevard (the "Baker Property") indicates potential support for further conservation. The committee also notes that our near capacity public school system will be a major burden to taxpayers if it is unable to keep pace with demand. The H.C. Planning Associates studies referenced above do not take into account capital expenses associated with building new schools.

CONCLUSION:

While the Subcommittee recognizes the benefits of "pure land acquisition," we also recognize the town must deal with other financial requirements and constraints. The Subcommittee's research has identified the benefits associated with preserving developable properties:

1. The purchase of development rights is a fiscally beneficial community development strategy.
2. The purchase of development rights provide a means to retain agricultural and natural uses of land.
3. While retaining tax revenue, the town avoids maintenance expenses of ownership.
4. Development rights are less expensive than outright purchase.

RECOMMENDATIONS

Based on the Development Rights Subcommittee mission statement and our studies, we suggest the following policy for adoption by the Board of Selectmen:

The preservation and conservation of wholly or substantially developable agricultural, forest, and other natural lands by either the purchase of development rights or outright land purchase is fiscally beneficial, compatible with the 1994 Plan of Development, and will be an unending enhancement to the quality of life in Simsbury. The long-term sound fiscal planning of this program is to promote balanced growth while preserving essential rural elements of our community.

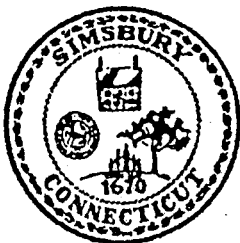
In order to implement the proposed policy the Subcommittee recommends that the Board of Selectmen:

1. Adopt ordinances as necessary to fully authorize the town to undertake this program pursuant to state statutes, including the creation of a land preservation fund.
2. Identify means to fund the land preservation fund.
3. Identify an appropriate board or commission to create an objective system for review of undeveloped parcels and create a prioritized list for consideration. Those who are responsible for identifying prospective properties should work closely with the Planning Department to identify parcels which may change from one category to another, thereby becoming more or less valuable to the landholder or the town.
4. Develop the procedure by which the interested parties are to conduct the transaction.

The Subcommittee understands that this report will need to be studied and discussed by the Board of Selectmen. The Subcommittee's research file is available for review in the Planning Department. The members of the Subcommittee thank the Board of Selectmen for its interest in this issue and appreciate being given the opportunity to serve the Town in this important area.

Respectfully submitted,

The Purchase of Development Rights Subcommittee



Town of Simsbury

933 HOPMEADOW STREET

P.O. BOX 495
06070

SIMSBURY, CONNECTICUT

Mary A. Glassman, First Selectman

TO : Board of Finance

FROM : Mary A. Glassman, First Selectman

DATE : January 12, 1999

RE : Establishing an Agricultural Land Preservation Fund

In recognition of the need to maintain and preserve agricultural land for farming and food producing purposes (and adjacent pastures, woods, natural drainage areas and open space), the Connecticut General Assembly enacted a state-wide program for the preservation of such natural resources. Pursuant to Connecticut General Statutes Chapter 422a, the State may solicit, from owners of agricultural land, offers to sell the development rights to such land. The Commissioner of Agriculture may then acquire such rights based on a number of factors (probability of sale for nonagricultural purposes; current productivity of land and likelihood of continued productivity; suitability of land for agricultural use; degree such acquisition would contribute to the preservation of the agricultural potential of the state; cost of acquisition; degree to which acquisition would mitigate damage due to flood hazards, etc.).

In conjunction with this effort, Connecticut General Statutes Section 7-131q enables municipalities, by vote of its legislative body, to establish a special fund (Agricultural Land Preservation Fund) for the acquisition of development rights of agricultural land and for expenditures incurred for the preservation of agricultural land provided (1) the development rights have been voluntarily offered for sale to the municipality by the owner; and (2) the land has been designated for preservation purposes by the municipality in an open space plan, municipal plan of development or farmland preservation plan.

In an effort to combine these resources in the name of agricultural land preservation, representatives from the Department of Agriculture met with me and forwarded the attached cooperative agreement for consideration. On February 10, 1997, the Board of Selectmen authorized the execution of a Cooperative Letter of Agreement for the Joint Purchase of Development Rights between the State of Connecticut, Department of Agriculture and the Town of Simsbury. At that time, the Board altered the language therein to reflect that "the Town understands that an agricultural preservation fund would

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be required..." Following a review of the amendment by the State Attorney General, said amendment was rejected and the has now State requested the Town execute the original unaltered agreement, which requires the establishment of an Agricultural Land Preservation Fund. Once established, there is no requirement to maintain a Fund balance until such time a property is jointly acquired.

This Agreement will put the Town in a position, upon a receipt of an offer to sell development rights for agricultural land, to apply to the Commission of Agriculture for inclusion in the statewide preservation program. If the project is approved by the State, the cost of acquisition will not be borne solely by the Town, but will be shared jointly between the State and the municipality. In addition, all closing and surveying costs associated with the conveyance would be borne solely by the State.

Again, neither the execution of this Agreement – as authorized by the Board of Selectmen, nor the establishment of an Agricultural Land Preservation Fund, required that municipal funding be in place. Such funding must be in place only once an offer has been made and the State has agreed to participate in the project.

Therefore, pursuant to the Resolution adopted unanimously by the Board of Selectmen on January 11, 1999 (copy attached), the Board hereby requests that the Simsbury Board of Finance take any and all actions necessary to establish said Fund.

As always, please contact me directly with any questions.

ATTACHMENTS.

Town of Simsbury

RESOLUTION

WHEREAS, the Town of Simsbury desires to enter into a Cooperative Agreement with the State of Connecticut, Department of Agriculture under the authority of the Connecticut General Statutes, Chapter 422a, Agricultural Lands, Section 22-26cc(e), and

WHEREAS, Connecticut General Statutes Section 22-26cc authorizes the Commissioner of Agriculture to purchase development rights easements in agricultural lands to maintain and preserve agricultural land for farming and food production purposes, and

WHEREAS, The State of Connecticut, Department of Agriculture and the Town of Simsbury have mutual interests in preventing the conversion of agricultural lands to nonagricultural uses, and

WHEREAS, the Town of Simsbury has a policy in support of farmland preservation in the following forms:

1. A policy statement in the plan of development which supports farming and farmland preservation,
2. An open space plan, which designates farmland for preservation, purposes,
3. A municipal farmland preservation plan, and

WHEREAS, through action of the Board of Selectmen and the Board of Finance, the Town is establishing an agricultural preservation fund, and

WHEREAS, the State of Connecticut, Department of Agriculture, pursuant to Connecticut General Statutes Section 22-26cc et seq., administers the farmland preservation program, through regulations pursuant to Connecticut General Statutes Section 22-26gg for Agricultural Lands Preservation as deemed necessary to carry out the purposes of Connecticut General Statutes Chapter 422a, and

WHEREAS the State of Connecticut, Department of Agriculture and the Town of Simsbury, which town has taken steps to establish an agricultural Land Preservation Fund established pursuant to Connecticut General Statutes Section 7-131q, have agreed to combine their resources to assure that such areas are protected from conversion to non-agricultural uses, and

WHEREAS, the Town of Simsbury desires to enter into a Cooperative Letter of Agreement for the Joint Purchase of Development Rights with the Department of Agriculture.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Town of Simsbury desires to participate in the state farmland preservation program; and
2. Pursuant to General Statutes §7-131q et seq., the Simsbury Board of Selectmen hereby establishes an Agricultural Land Preservation Fund for the purposes set forth in the General Statutes; and
3. The Simsbury Board of Selectmen hereby requests that the Simsbury Board of Finance take any and all actions necessary to establish said fund; and
4. Upon favorable recommendation of the Simsbury Board of Finance, the Board of Selectmen will adopt an ordinance in a form prescribed by the provisions of General Statutes §7-131q to carry out the purposes of this Resolution enabling the Town of Simsbury to participate in the state farmland preservation program; and
5. Upon final approval by the Board of Finance establishing the fund and the passage of the ordinance, the First Selectman is hereby authorized to execute any and all contracts and agreements with the State of Connecticut Department of Agriculture or any other agency of cognizance necessary to carry out the purposes of this Resolution, specifically including the Cooperative Agreement.

ADOPTED: January __, 1999.



STATE OF CONNECTICUT
DEPARTMENT OF AGRICULTURE



December 15, 1998

The Honorable Mary A. Glassman
First Selectman, Town of Simsbury
933 Hopmeadow Street
Simsbury, CT 06070

Dear Mary Glassman:

The Attorney General's Office *did not approve* the 'Cooperative Letter of Agreement for the Joint Purchase of Development Rights, between the State of Connecticut, Department of Agriculture and the Town of Simsbury'.

I am enclosing another copy of the Cooperative Letter of Agreement (CLA). The original indicated on page 1 that there was an understanding an agricultural fund would be required. On page 2 it was indicated an agricultural land preservation fund had been established pursuant to Connecticut General Statutes (CGS) Sec 1-131q. These discrepancies resulted from changes in the document initialed by you and Commissioner Ferris. It was also requested that a Resolution and the Certificate of Incumbency of the signatories signing on behalf of the municipality be included.

Additionally, comments regarding your town's draft ordinance (dated 11-10-98) fund for open space acquisition and preservation are being provided. For purposes of the Connecticut Department of Agriculture entering into a CLA with your municipality, you should meet the requirements of CGS Sec 22-26cc(e), and the municipality's payment must be from a fund established pursuant CGS Sec 7-131q. CGS Sec 7-131q requires that a fund be established for the preservation of agricultural land. An ordinance establishing such a fund should indicate that it is for the preservation of agricultural land, and not merely for the preservation of agriculture.

Our legal counsel indicated these items were lacking in the draft ordinance submitted for review.

Once I have received the endorsed CLA, I will resubmit it to the Attorney General's Office for approval. A copy of the approved CLA will be sent to your office. Thank you for your patience and preservation program interest.

Sincerely,

Joseph J. Dippel, Director, Farmland Preservation Program

cc: Len Tolisano
enclosures

RECEIVED

OFFICE OF THE ATTORNEY GENERAL

765 Asylum Avenue, Hartford, CT 06105

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e-mail: ctdeptag@po.state.ct.us

**COOPERATIVE LETTER OF AGREEMENT FOR THE JOINT PURCHASE OF
DEVELOPMENT RIGHTS BETWEEN THE STATE OF CONNECTICUT,
DEPARTMENT OF AGRICULTURE AND THE TOWN OF SIMSBURY.**

This Cooperative Agreement, is entered into by and between the State of Connecticut, Department of Agriculture, acting by and through Shirley Ferris, its Commissioner of Agriculture pursuant to Connecticut General Statutes (CGS) Section 4-8, and the Town of Simsbury, also referred to herein as the 'municipality', for the joint acquisition and ownership of development rights to agricultural land, pursuant to Connecticut General Statutes Chapter 422a Agricultural Lands. For purposes of this Cooperative Agreement, the term "Parties" refers collectively to the State of Connecticut, Department of Agriculture and the Town of Simsbury.

I. AUTHORITY.

This Cooperative Agreement is entered into by the State of Connecticut, Department of Agriculture under the authority of the Connecticut General Statutes, Chapter 422a, AGRICULTURAL LANDS, Section 22-26cc(e).

II. BACKGROUND AND PURPOSE.

Conn. Gen. Stat. 22-26cc authorizes the Commissioner of Agriculture to purchase development rights easements in agricultural lands to maintain and preserve agricultural land for farming and food production purposes.

WHEREAS, the State of Connecticut, Department of Agriculture and the Town of Simsbury, have mutual interests in preventing the conversion of agricultural lands to non-agricultural uses, and

WHEREAS, the Town of Simsbury, has a policy in support of farmland preservation in a form either as:

1. A policy statement in the plan of development which supports farming or farmland preservation, or
2. An open space plan which designates farmland for preservation purposes, or
3. A municipal farmland preservation plan, and

WHEREAS, The Town has an agricultural preservation fund, and

WHEREAS, the State of Connecticut, Department of Agriculture, pursuant to Connecticut General Statutes Section 22-26cc et seq., administers a farmland preservation program, and has established regulations pursuant to Conn. Gen. Stat. Sect. 22-26gg for

Agricultural Lands Preservation and deemed necessary to carry out the purposes of CGS Ch 422a, therefore the State of Connecticut, Department of Agriculture and the Town of Simsbury, which town has an Agricultural Land Preservation Fund established pursuant to CGS Section 7-131q, have agreed to combine their resources to assure that such areas are protected from conversion to non-agricultural uses.

Therefore, the parties agree to enter into this Cooperative Letter of Agreement for The Joint Purchase of Development Rights.

III. TOWN APPLICATION REQUIREMENT.

The Town of Simsbury, will provide to the Commissioner of Agriculture the following:

1. An applicant who has voluntarily offered the sale of development rights which original application to sell development rights is signed and dated by the owner(s).
2. Copies of local assessor map of the property offered and local land record deed references, survey of the property if available, soils maps of the property, and a soil conservation plan prepared by the USDA, Natural Resources Conservation Service, and a description of agricultural operation including commodities produced and acreage planted.
3. A document identifying and recommending for preservation the applicant's agricultural lands in the municipal farmland preservation plan, or municipal plan of development or open space plan, copies of which shall also be presented by the municipality to the Commissioner of Agriculture.
4. The identity of the committee or agent designated by the municipality with the authority to negotiate to purchase development rights.

IV. STATE EVALUATION OF THE APPLICATION.

- A. The Commissioner of Agriculture shall evaluate projects pursuant to the state purchase of development rights program as set forth in CGS Section 22-26cc, and regulations set forth in Section 22-26gg.
- B. Projects approved for acquisition by the Commissioner shall be appraised to determine development rights values.
- C. Projects rejected shall be ineligible for joint development rights purchase. The Commissioner shall notify the municipality of projects which have been rejected. Such notification shall include the reasons for rejection.

V. AGREEMENT FOR JOINT PURCHASE.

- A. The Commissioner and the municipality shall enter into an agreement with each other prior to the joint purchase of development rights for a specific parcel of property, once the value of the development rights has been determined. Such agreements shall specify the following:
1. Maximum contribution for joint purchase of development rights to be made by the state,
 2. Maximum contribution for joint purchase of development rights to be made by the municipality,
 3. The commitment of the municipality to place its contribution to jointly purchase development rights in an escrow account until such time development rights are conveyed to the state and municipality or until such time it is determined that development rights cannot be conveyed from the applicant,
 4. That the contribution from the state is dependent upon approval of the State Properties Review Board and the State Bond Commission,
 5. That the state may pay the reasonable closing and survey costs involved with the conveyance of development rights,
 6. The representative of the municipality authorized to negotiate with the project applicant for purchase of development rights,
 7. The owner of the subject property and closing date and acquisition price,
 8. A procedure for the adjustment of price based on A-2 survey acreage adjustment, and
 9. That the agreement and all transactional documents shall be subject to the approval of the Attorney General.
 10. The deed shall also contain such provisions as the Commissioner deems necessary to fulfill the purposes of the United States Department of Agriculture, Federal Farmland Protection Program, consistent with the laws of the State, imposed as a condition for the receipt of federal funds.
- B. Agreements are to be signed by the Commissioner and the municipality's chief elected officer, treasurer, and chairman of the municipal body or commission, if any, responsible for farmland preservation planning.

VI. NEGOTIATIONS WITH THE APPLICANT.

- A. The Commissioner, or his designee, shall be the chief negotiator for the purchase of development rights for the project.
- B. Only the municipality's designated negotiator shall be involved in negotiations with the seller in addition to the Commissioner or his designee.

C. Contracts for purchase of development rights shall be on a form provided by the Commissioner. Such contracts shall include:

1. State's contribution,
2. Municipalities' contribution,
3. Any requirements that must be met before conveyance of development rights may take place,
4. Commissioner's signature,
5. Municipalities' negotiator's signature,
6. Closing date, identification of parties and acquisition price, and
7. A provision that the contract and all transactional documents shall be subject to the approval by the Office of Policy and Management and the Attorney General.
8. The purchase offer agreement may be withdrawn anytime prior to acceptance by the applicant. Purchase agreements may be revised and resubmitted if both the Commissioner and the town's negotiator agree.
9. The deed shall also contain such provisions as the Commissioner deems necessary to fulfill the purposes of the United States Department of Agriculture, Federal Farmland Protection Program, consistent with the laws of the State, imposed as a condition for the receipt of federal funds.

VII. CONVEYANCE OF DEVELOPMENT RIGHTS.

- A. At time of purchase, the applicant shall give, on a form provided by the State, a warranty deed conveying marketable title in and to the development rights of the property, naming the state and the municipality jointly as grantees. Obtaining necessary land surveys, title certificate, and any title insurance shall be the responsibility of the Commissioner.
- B. Deeds shall be recorded in the land records of the municipality. Surveys shall be placed on file in said municipality.

VIII. ENFORCEMENT OF RESTRICTION.

- A. The Commissioner and the municipality shall cooperate in the monitoring of the development rights restrictions placed on a project. The restriction shall be enforceable solely by the Commissioner of Agriculture.
- B. On site inspections of the project for compliance of restrictions shall be done by the Commissioner or his agent. The designated agent of the municipality shall be notified prior to on site inspections and may accompany the Commissioner or his agent during such inspection.

IX. DETERMINATION OF ACREAGE AMOUNTS OR ARABLE LAND.

Determination of acreage amounts of arable land including prime and important farmland present at the time of purchase of development rights and adjustments due to construction of residence and farm buildings made after the sale of development rights to the state:

- A. The Commissioner shall determine the acreage or arable lands and prime and important farmland soils present at the time of purchase of development rights by the State and the municipality. Aerial photographs, property surveys, soil surveys, and on-site inspections may be used to determine acreage. The Commissioner shall notify the owner and the municipality of the acreage determination prior to purchase.

IT WITNESS WHEREOF, the following authorized representatives of the State of Connecticut, Department of Agriculture and the Town of Simsbury, have executed this Cooperative Agreement.

THE STATE OF CONNECTICUT, DEPARTMENT OF AGRICULTURE:

Shirley Ferris
By: Shirley Ferris, Commissioner
State of Connecticut, Department of Agriculture

12-15-98
Date

THE TOWN OF SIMSBURY:

Mary A. Glassman
By: Mary A. Glassman, First Selectman
Town of Simsbury

12/21/98
Date

By: Treasurer

Date

By: Chairman of Conservation or Preservation Commission

Date

Approved as to form:

Associate Attorney General

Date

HOME | SEARCHSubstitute House Bill No. 5034

PUBLIC ACT NO. 98-157

AN ACT CONCERNING OPEN SPACE AND WATERSHED LAND ACQUISITION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 23-78 of the general statutes is repealed and the following is substituted in lieu thereof:

Any moneys authorized for the program may be expended with matching funds from: (1) Private contributions of cash or securities, in an amount not less than [twenty] FIFTEEN per cent; (2) moneys from a federal matching program, subject to the limitations of applicable federal and state laws, in an amount authorized by said federal program; (3) contributions of real property, or interest therein, that serves recreational and natural heritage land acquisition needs of the department as determined by the commissioner; (4) municipal contributions of cash or securities, in an amount not less than [twenty] FIFTEEN per cent, PROVIDED CONTRIBUTIONS FROM MUNICIPALITIES, NONPROFIT ENTITIES AND WATER COMPANIES SHALL BE DERIVED FROM A SOURCE OTHER THAN STATE GRANT MONEYS OBTAINED FROM THE OPEN SPACE AND WATERSHED LAND ACQUISITION GRANT PROGRAM; or (5) any combination thereof. Contributions of land or interest in land shall be valued, for purposes of this section, in the amount of their appraised value.

Sec. 2. Subsection (a) of section 12-498 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) The tax imposed by section 12-494 shall not apply to: (1) Deeds which this state is prohibited from taxing under the constitution or laws of the United States; (2) deeds which secure a debt or other obligation; (3) deeds to which this state or any of its political subdivisions or its or their respective agencies is a party; (4) tax deeds; (5) deeds of release of property which is security for a debt or other obligation; (6) deeds of partition; (7) deeds made pursuant to mergers of corporations; (8) deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock; (9) conveyance of an interest in real property pursuant to a decree of the Superior Court under section 46b-81, 49-24 or 52-495; (10) certificates of devise or distribution; (11) transfers for no consideration between parents and children; (12) an assignment, with no consideration, of any interests, present or future, vested or

contingent, in real property which endure for a period of time and the termination of which is not fixed or ascertained by a specific number of years; (13) an assignment, with no consideration, of the unexpired portion of a term or estate for life or of a term or estate for years; (14) transfers made by a corporation affiliated with the corporation to which such transfer is made, provided both of such corporations are exempt from taxation pursuant to paragraph (2), (3) or (25) of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, and provided further such corporations are affiliated in such manner that (A) either corporation in such transaction owns or controls either directly or indirectly not less than one hundred per cent of the capital stock of the other corporation or (B) either corporation in such transaction is owned or controlled either directly or indirectly by interests which own or control either directly or indirectly not less than one hundred per cent of the capital stock of the other corporation; (15) transfers made by a corporation which is exempt from taxation pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, to any corporation which is exempt from taxation pursuant to said paragraph (3) of said Section 501(c); (16) transfers made on or after July 1, 1992, to any nonprofit organization which is organized for the purpose of holding undeveloped land in trust for conservation or recreation purposes; (17) transfers between spouses; [and] (18) transfers of property for the stadium facility site, as defined in section 32-381 or the practice facility site, as defined in section 32-381; AND (19) LAND TRANSFERS MADE ON OR AFTER JULY 1, 1998, TO A WATER COMPANY, AS DEFINED IN SECTION 16-1, PROVIDED THE LAND IS CLASSIFIED AS CLASS I OR CLASS II LAND, AS DEFINED IN SECTION 25-37c, AFTER SUCH TRANSFER.

Sec. 3. Section 7-131d of the general statutes is repealed and the following is substituted in lieu thereof:

(a) THERE IS ESTABLISHED THE PROTECTED OPEN SPACE AND WATERSHED LAND ACQUISITION GRANT PROGRAM. THE PROGRAM SHALL PROVIDE GRANTS TO MUNICIPALITIES AND NONPROFIT LAND CONSERVATION ORGANIZATIONS TO ACQUIRE LAND OR PERMANENT INTERESTS IN LAND FOR OPEN SPACE AND WATERSHED PROTECTION AND TO WATER COMPANIES, AS DEFINED IN SECTION 25-32a, TO ACQUIRE AND PROTECT LAND WHICH IS ELIGIBLE TO BE CLASSIFIED AS CLASS I OR CLASS II LAND, AS DEFINED IN SECTION 25-37c, AFTER ACQUISITION. ALL LANDS OR INTERESTS IN LAND ACQUIRED UNDER THIS PROGRAM SHALL BE PRESERVED IN PERPETUITY PREDOMINANTLY IN THEIR NATURAL SCENIC AND OPEN CONDITION FOR THE PROTECTION OF NATURAL RESOURCES WHILE ALLOWING FOR RECREATION CONSISTENT WITH SUCH PROTECTION AND, FOR LANDS ACQUIRED BY WATER COMPANIES, ALLOWING FOR THE IMPROVEMENTS

NECESSARY FOR THE PROTECTION OR PROVISION OF POTABLE WATER.

(b) GRANTS MAY BE MADE UNDER THE PROGRAM TO MATCH FUNDS FOR THE PURCHASE OF LAND OR PERMANENT INTERESTS IN LAND WHICH PURCHASE MEETS ONE OF THE FOLLOWING CRITERIA: (1) PROTECTS LAND IDENTIFIED AS BEING ESPECIALLY VALUABLE FOR RECREATION, FORESTRY, FISHING, CONSERVATION OF WILDLIFE OR NATURAL RESOURCES; (2) PROTECTS LAND WHICH INCLUDES OR CONTRIBUTES TO A PRIME NATURAL FEATURE OF THE STATE'S LANDSCAPE, INCLUDING, BUT NOT LIMITED TO, A SHORELINE, A RIVER, ITS TRIBUTARIES AND WATERSHED, AN AQUIFER, MOUNTAINOUS TERRITORY, RIDGELINES, AN INLAND OR COASTAL WETLAND, A SIGNIFICANT LITTORAL OR ESTUARINE OR AQUATIC SITE OR OTHER IMPORTANT GEOLOGICAL FEATURE; (3) PROTECTS HABITAT FOR NATIVE PLANT OR ANIMAL SPECIES LISTED AS THREATENED OR ENDANGERED OR OF SPECIAL CONCERN, AS DEFINED IN SECTION 26-304; (4) PROTECTS A RELATIVELY UNDISTURBED OUTSTANDING EXAMPLE OF A NATIVE ECOLOGICAL COMMUNITY WHICH IS NOW UNCOMMON; (5) ENHANCES AND CONSERVES WATER QUALITY OF THE STATE'S LAKES, RIVERS AND COASTAL WATER; (6) PRESERVES LOCAL AGRICULTURAL HERITAGE; OR (7) IN THE CASE OF GRANTS TO WATER COMPANIES, PROTECTS LAND WHICH IS ELIGIBLE TO BE CLASSIFIED AS CLASS I LAND OR CLASS II LAND AFTER ACQUISITION. THE COMMISSIONER MAY MAKE A GRANT UNDER THE PROGRAM TO A DISTRESSED MUNICIPALITY OR A TARGETED INVESTMENT COMMUNITY, AS DEFINED IN SECTION 32-9p, FOR RESTORATION OR PROTECTION OF NATURAL FEATURES OR HABITATS ON OPEN SPACE ALREADY OWNED BY THE MUNICIPALITY, INCLUDING, BUT NOT LIMITED TO, WETLAND OR WILDLIFE OR PLANT HABITAT RESTORATION OR RESTORATION OF OTHER SITES TO A MORE NATURAL CONDITION, OR REPLACEMENT OF VEGETATION, PROVIDED THE TOTAL AMOUNT OF GRANTS TO SUCH MUNICIPALITIES FOR SUCH PURPOSES MAY NOT EXCEED TWENTY PER CENT OF THE TOTAL AMOUNT OF GRANTS MADE IN ANY FISCAL YEAR.

(c) NO GRANT MAY BE MADE UNDER THE PROGRAM FOR: (1) LAND TO BE USED FOR COMMERCIAL PURPOSES OR FOR RECREATIONAL PURPOSES REQUIRING INTENSIVE DEVELOPMENT, INCLUDING, BUT NOT LIMITED TO, GOLF COURSES, DRIVING RANGES, TENNIS COURTS, BALLFIELDS, SWIMMING POOLS AND USES BY MOTORIZED VEHICLES, PROVIDED TRAILS OR PATHWAYS FOR PEDESTRIANS OR NONMOTORIZED VEHICLES SHALL NOT BE CONSIDERED INTENSIVE DEVELOPMENT; (2) LAND WITH ENVIRONMENTAL CONTAMINATION OVER A SIGNIFICANT PORTION OF THE PROPERTY PROVIDED GRANTS FOR LAND REQUIRING REMEDIATION OF ENVIRONMENTAL CONTAMINATION MAY BE MADE IF REMEDIATION WILL BE COMPLETED BEFORE ACQUISITION OF THE LAND OR ANY INTEREST IN THE LAND AND AN ENVIRONMENTAL ASSESSMENT APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION HAS BEEN COMPLETED AND NO ENVIRONMENTAL USE RESTRICTION APPLIES TO THE LAND; (3) LAND WHICH HAS ALREADY BEEN COMMITTED FOR PUBLIC USE; (4) DEVELOPMENT COSTS, INCLUDING, BUT NOT LIMITED TO, CONSTRUCTION OF BALLFIELDS, TENNIS COURTS, PARKING LOTS OR ROADWAYS; (5) LAND TO BE ACQUIRED BY EMINENT DOMAIN; OR (6) REIMBURSEMENT OF IN-KIND SERVICES OR INCIDENTAL EXPENSES

ASSOCIATED WITH THE ACQUISITION OF LAND. THIS SUBSECTION SHALL NOT PROHIBIT THE CONTINUATION OF AGRICULTURAL ACTIVITY, THE ACTIVITIES OF A WATER COMPANY FOR PUBLIC WATER SUPPLY PURPOSES OR THE SELLING OF TIMBER INCIDENTAL TO MANAGEMENT OF THE LAND WHICH MANAGEMENT IS IN ACCORDANCE WITH APPROVED FOREST MANAGEMENT PRACTICES PROVIDED ANY PROCEEDS OF SUCH TIMBER SALES SHALL BE USED FOR MANAGEMENT OF THE LAND. IN THE CASE OF LAND ACQUIRED UNDER THIS SECTION WHICH IS DESIGNATED AS A STATE PARK, ANY FEES CHARGED BY THE STATE FOR USE OF SUCH LAND SHALL BE USED BY THE STATE IN ACCORDANCE WITH THE PROVISIONS OF TITLE 23 OR SECTION 22a-27h.

(d) Any municipality or group of contiguous municipalities may apply to the Commissioner of Environmental Protection for a grant-in-aid of a program established to preserve or restrict to conservation or recreation purposes the use of open space land. Such grant shall be used for the acquisition of land, or easements, interests or rights therein, or for the development of such land, or easements, interests or rights therein, for purposes set forth in THIS section, [7-131c,] or both, in accordance with a plan of development adopted by the municipal planning commission of the municipality within which the land is located. Any application for a grant-in-aid relating to land located beyond the territorial limits of the applying municipality shall be subject to approval of the legislative body of the municipality within whose territorial limits the land is located. A municipality applying for aid under [sections 7-131c to 7-131k, inclusive] THIS SECTION, may designate its conservation commission as its agent to make such application.

(e) AT CLOSING, A PERMANENT CONSERVATION EASEMENT, AS DEFINED IN SECTION 47-42, SHALL BE EXECUTED FOR ANY PROPERTY PURCHASED WITH GRANT FUNDS, WHICH CONSERVATION EASEMENT SHALL PROVIDE THAT THE PROPERTY SHALL REMAIN FOREVER PREDOMINANTLY IN ITS NATURAL AND OPEN CONDITION FOR THE SPECIFIC CONSERVATION, OPEN SPACE OR WATER SUPPLY PURPOSES FOR WHICH IT WAS ACQUIRED PROVIDED ANY IMPROVEMENTS OR CHANGES TO THE PROPERTY SHALL BE SUPPORTIVE OF SUCH CONDITION OR PURPOSES. THE PERMANENT CONSERVATION EASEMENT SHALL BE IN FAVOR OF THE STATE ACTING THROUGH THE COMMISSIONER OF ENVIRONMENTAL PROTECTION, OR HIS DESIGNEE, WHICH MAY BE A MUNICIPALITY OR A LAND CONSERVATION ORGANIZATION. IN THE CASE OF LAND ACQUIRED FOR WATER SUPPLY PROTECTION, A WATER COMPANY MAY HOLD AN EASEMENT IN CONJUNCTION WITH THE STATE OR A NONPROFIT ENTITY TO PROTECT THE WATER SUPPLY. SUCH PERMANENT CONSERVATION EASEMENT SHALL ALSO INCLUDE A REQUIREMENT THAT THE PROPERTY BE MADE AVAILABLE TO THE GENERAL PUBLIC FOR APPROPRIATE RECREATIONAL PURPOSES, THE MAINTENANCE OF WHICH RECREATIONAL ACCESS SHALL BE THE RESPONSIBILITY OF THE GRANTEE PROVIDED SUCH ACCESS SHALL NOT BE REQUIRED FOR LAND WHICH WILL BE CLASSIFIED AS CLASS I OR CLASS II LAND BY A WATER COMPANY IF SUCH ACCESS IS INCONSISTENT WITH THE PROVISION OF PURE DRINKING WATER TO THE PUBLIC. AN EXCEPTION TO THE PROVISION

OF PUBLIC RECREATIONAL ACCESS MAY BE MADE AT THE DISCRETION OF THE COMMISSIONER OF ENVIRONMENTAL PROTECTION WHEN PROVISION FOR PUBLIC ACCESS WOULD BE UNREASONABLY DETRIMENTAL TO THE WILDLIFE OR PLANT HABITAT OR OTHER NATURAL FEATURES OF THE PROPERTY OR, FOR LAND WHERE DEVELOPMENT RIGHTS HAVE BEEN PURCHASED, WOULD BE DISRUPTIVE OF AGRICULTURAL ACTIVITY OCCURRING ON THE LAND. ANY INSTRUMENT CONVEYING AN INTEREST IN LAND LESS THAN FEE WHICH INTEREST IS PURCHASED UNDER THIS SECTION SHALL PROVIDE FOR THE PERMANENT PRESERVATION OF THE LAND AND PUBLIC ACCESS CONSISTENT WITH THE LAND'S USE OR PROTECTION AND WITH ANY RESTRICTIONS PRESCRIBED BY THE DEPARTMENT OF PUBLIC HEALTH IN ORDER TO PROTECT A PUBLIC DRINKING WATER SOURCE.

Sec. 4. Section 7-131e of the general statutes is repealed and the following is substituted in lieu thereof:

[(a) Open space grants-in-aid shall be approved by the Commissioner of Environmental Protection.

(b) Said commissioner shall prescribe an application form and may require supporting maps, data, title searches and appraisals as he so determines.

(c) All applications shall be approved by local planning agencies and conservation commissions, where they exist, prior to submission. All applications shall be submitted to the regional planning agency, if any, whose area of operation includes the location of the land for which open space grant-in-aid is requested. The regional planning agency shall study the application and render an advisory report of its findings and recommendations thereon to the applicant who shall submit such regional planning agency report with its application to the commissioner. The regional planning agency shall have thirty days to render such report. If it fails to report or if there is no regional planning agency, the applicant shall so note to the commissioner. The regional planning agency may designate its executive committee to act for it under this section or may establish a committee for this purpose.]

(a) GRANT AWARD DECISIONS UNDER THE PROGRAM ESTABLISHED UNDER SECTION 7-131d, AS AMENDED BY SECTION 3 OF THIS ACT, SHALL BE MADE BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION AT LEAST SEMIANNUALLY. ALL COMPLETE AND ELIGIBLE GRANT APPLICATIONS SHALL BE ACTED UPON BY THE COMMISSIONER AS SOON AS PRACTICABLE. A SINGLE PROJECT MAY RECEIVE A GRANT IN MORE THAN ONE GRANT CYCLE, SUBJECT TO FUTURE AVAILABILITY OF FUNDS AND SUBJECT TO THE LIMITATIONS SET FORTH IN THIS SECTION AND SECTIONS 23-78, AS AMENDED BY SECTION 1 OF THIS ACT, 12-498, AS AMENDED BY SECTION 2 OF THIS ACT, AND 7-131d, AS AMENDED BY SECTION 3 OF THIS ACT. UP TO TWO PER CENT OF THE GRANT FUNDS MAY BE USED FOR ADMINISTRATIVE EXPENSES INCLUDING, BUT NOT LIMITED TO: (1) CONTRACTORS TO ASSIST THE DEPARTMENT OF ENVIRONMENTAL PROTECTION IN THE REVIEW AND EVALUATION OF GRANT PROPOSALS AND BASELINE DATA COLLECTION FOR CONSERVATION

EASEMENTS; (2) APPRAISALS OR APPRAISAL REVIEWS; AND (3) PREPARATION OF LEGAL AND OTHER DOCUMENTS. ADMINISTRATIVE EXPENSES MAY NOT BE USED FOR STAFF SALARIES. NOT LATER THAN SEPTEMBER 1, 1998, THE COMMISSIONER SHALL DEVELOP WRITTEN GUIDELINES AND A RANKING SYSTEM FOR CONSISTENCY AND EQUITY IN THE DISTRIBUTION OF GRANT AWARDS UNDER THIS PROGRAM BASED ON THE CRITERIA LISTED IN SUBSECTIONS (b) AND (c) OF SECTION 7-131d, AS AMENDED BY THIS ACT. CONSISTENT WITH SUCH CRITERIA, ADDITIONAL CONSIDERATION SHALL BE GIVEN TO: (A) PROTECTION OF LANDS ADJACENT TO AND COMPLEMENTARY TO ADJACENT PROTECTED OPEN SPACE LAND OR CLASS I OR CLASS II WATER COMPANY LANDS; (B) EQUITABLE GEOGRAPHIC DISTRIBUTION OF THE GRANTS; (C) PROXIMITY OF A PROPERTY TO URBAN AREAS WITH GROWTH AND DEVELOPMENT PRESSURES OR TO AREAS WITH OPEN SPACE DEFICIENCIES AND UNDERSERVED POPULATIONS; (D) PROTECTION OF LAND PARTICULARLY VULNERABLE TO DEVELOPMENT INCOMPATIBLE WITH ITS NATURAL RESOURCE VALUES INCLUDING THE PROTECTION OF A PUBLIC WATER SUPPLY SOURCE; (E) CONSISTENCY WITH THE STATE'S PLAN OF CONSERVATION AND DEVELOPMENT; (F) MULTIPLE PROTECTION ELEMENTS, SUCH AS WATER QUALITY AND SUPPLY PROTECTION, SCENIC PRESERVATION AND FARMLAND PRESERVATION; (G) THE EXTENT TO WHICH THE PRESENCE OF ALREADY CONSTRUCTED BUILDINGS OR OTHER MANMADE IMPROVEMENTS DIMINISH OR OVERSHADOW THE NATURAL RESOURCE VALUE OF A PROPOSED ACQUISITION, OR ITS VALUE RELATIVE TO ITS COST; AND (H) PRESERVATION OF FOREST LANDS AND BODIES OF WATER WHICH NATURALLY ABSORB SIGNIFICANT AMOUNTS OF CARBON DIOXIDE.

(b) THERE IS ESTABLISHED A NATURAL HERITAGE, OPEN SPACE AND WATERSHED LAND ACQUISITION REVIEW BOARD TO ASSIST AND ADVISE THE COMMISSIONER IN CARRYING OUT THE PROVISIONS OF SECTIONS 7-131d TO 7-131g, INCLUSIVE, AND SECTIONS 23-73 TO 23-79, INCLUSIVE, AS AMENDED. UPON ESTABLISHMENT OF THE REVIEW BOARD AND SELECTION OF A CHAIRMAN UNDER THIS SECTION, THE REVIEW BOARD (1) SHALL PROVIDE COMMENTS ON SELECTION CRITERIA, POLICIES AND PROCEDURES; (2) SHALL PROMOTE PUBLIC PARTICIPATION; AND (3) SHALL PROVIDE GUIDANCE AND CONDUCT REVIEW OF STRATEGIES FOR LAND PROTECTION, INCLUDING STRATEGIES UNDER SECTION 23-8, AS AMENDED; (4) SHALL REVIEW AND EVALUATE GRANT AWARD POLICIES AND PROCEDURES; AND (5) MAY PROVIDE COMMENTS ON ANY APPLICATION FOR FUNDS NOT LATER THAN FORTY-FIVE DAYS AFTER SUCH APPLICATION IS SUBMITTED TO THE CHAIRMAN. UPON ESTABLISHMENT OF THE BOARD, THE COMMISSIONER SHALL TAKE SUCH COMMENTS INTO CONSIDERATION IN MAKING ANY DECISIONS REGARDING SUCH GRANTS.

(c) THE REVIEW BOARD SHALL CONSIST OF TWENTY MEMBERS AS FOLLOWS: (1) THE CHAIRPERSONS AND RANKING MEMBERS OF THE BONDING SUBCOMMITTEE OF THE JOINT STANDING COMMITTEE OF THE GENERAL ASSEMBLY HAVING COGNIZANCE OF MATTERS RELATING TO FINANCE, REVENUE AND BONDING; (2) ONE MEMBER OF THE JOINT STANDING COMMITTEE OF THE GENERAL ASSEMBLY HAVING COGNIZANCE OF MATTERS RELATING TO THE ENVIRONMENT, APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND ONE MEMBER OF THE JOINT

STANDING COMMITTEE OF THE GENERAL ASSEMBLY HAVING COGNIZANCE OF MATTERS RELATING TO PLANNING AND DEVELOPMENT, APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE, EACH OF WHOM SHALL BE EX OFFICIO MEMBERS OF THE BOARD; (3) THE SECRETARY OF THE OFFICE OF POLICY AND MANAGEMENT, OR HIS DESIGNEE; (4) A REPRESENTATIVE OF THE BUSINESS COMMUNITY AND A PERSON EXPERIENCED IN ISSUES RELATING TO ACCESS TO PUBLIC FACILITIES BY PERSONS WITH DISABILITIES, APPOINTED BY THE GOVERNOR; (5) ONE REPRESENTATIVE FROM AN INVESTOR-OWNED WATER UTILITY, APPOINTED BY THE MINORITY LEADER OF THE SENATE; (6) ONE REPRESENTATIVE FROM A MUNICIPAL WATER UTILITY, APPOINTED BY THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES; (7) ONE REPRESENTATIVE FROM A REGIONAL WATER UTILITY, APPOINTED BY THE MINORITY LEADER OF THE SENATE; (8) ONE REPRESENTATIVE WHO IS A REALTOR OR ATTORNEY WITH A MINIMUM OF FIVE YEARS EXPERIENCE IN REAL ESTATE TRANSFERS, APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES; ONE REPRESENTATIVE WITH A MINIMUM OF FIVE YEARS EXPERIENCE IN THE CONSTRUCTION INDUSTRY OR LAND DEVELOPMENT, APPOINTED BY THE PRESIDENT PRO TEMPORE OF THE SENATE; (9) TWO REPRESENTATIVES OF INTEREST GROUPS PRIMARILY CONCERNED WITH THE CONSERVATION OF RIVER WATERSHED REGIONS, APPOINTED ONE EACH BY THE MAJORITY LEADERS OF THE HOUSE OF REPRESENTATIVES AND THE SENATE; (10) THREE REPRESENTATIVES FROM NONPROFIT ORGANIZATIONS PRIMARILY CONCERNED WITH ENVIRONMENTAL PROTECTION OR NATURAL RESOURCE CONSERVATION WITH A MINIMUM OF FIVE YEARS EXPERIENCE IN LAND CONSERVATION AND ACQUISITION, APPOINTED ONE EACH BY THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT PRO TEMPORE OF THE SENATE; AND (11) ONE CHIEF ELECTED OFFICIAL OF A TOWN WITH A POPULATION LESS THAN TWENTY THOUSAND AND ONE CHIEF ELECTED OFFICIAL OF A TOWN WITH A POPULATION GREATER THAN TWENTY THOUSAND, APPOINTED BY THE GOVERNOR. THE MEMBERS, OTHER THAN THE MEMBERS DESCRIBED IN SUBDIVISIONS (1), (2) AND (3) OF THIS SUBSECTION, SHALL SERVE TERMS OF THREE YEARS PROVIDED THE TERMS OF THE MEMBERS DESCRIBED IN SUBDIVISIONS (4) TO (8), INCLUSIVE, OF THIS SUBSECTION WHO ARE APPOINTED IN THE YEAR AFTER THE EFFECTIVE DATE OF THIS ACT SHALL EXPIRE ON OCTOBER 1, 1999, AND FURTHER PROVIDED THE TERMS OF THE MEMBERS DESCRIBED IN SUBDIVISIONS (5) TO (9), INCLUSIVE, OF THIS SUBSECTION SHALL EXPIRE ON OCTOBER 1, 2000. THE BOARD SHALL ELECT A CHAIRMAN FROM AMONG ITS MEMBERS AND SHALL MAKE SUCH ELECTION ON OR BEFORE OCTOBER 1, 1998. MEMBERS OF THE BOARD SHALL SERVE UNTIL REAPPOINTED OR REPLACED.

(d) ANNUALLY, ON OR BEFORE FEBRUARY FIFTEENTH, THE BOARD SHALL SUBMIT A REPORT REGARDING GRANT AWARDS MADE IN THE PREVIOUS CALENDAR YEAR AND ANY FINDINGS AND RECOMMENDATIONS REGARDING THE OPEN SPACE AND WATERSHED LAND ACQUISITION PROGRAM TO THE GENERAL ASSEMBLY.

(e) THERE IS ESTABLISHED AN OPEN SPACE AND WATERSHED LAND ACQUISITION ACCOUNT WITHIN THE GENERAL FUND WHICH SHALL CONSIST OF ANY FUNDS

REQUIRED OR ALLOWED BY LAW TO BE DEPOSITED INTO THE ACCOUNT INCLUDING, BUT NOT LIMITED TO, GIFTS OR DONATIONS RECEIVED FOR THE PURPOSES OF SECTION 7-131d, AS AMENDED BY SECTION 3 OF THIS ACT. INVESTMENT EARNINGS CREDITED TO THE ASSETS OF THE ACCOUNT SHALL BECOME PART OF THE ASSETS OF THE ACCOUNT. ANY BALANCE REMAINING IN THE ACCOUNT AT THE END OF ANY FISCAL YEAR SHALL BE CARRIED FORWARD IN THE ACCOUNT FOR THE FISCAL YEAR NEXT SUCCEEDING. PAYMENTS FROM THE ACCOUNT SHALL BE MADE UPON AUTHORIZATION BY THE COMMISSIONER OF ENVIRONMENTAL PROTECTION. NEITHER THE PROCEEDS OF ANY GENERAL OBLIGATION BONDS OF THE STATE NOR THE INVESTMENT EARNINGS OF ANY SUCH PROCEEDS SHALL BE DEPOSITED IN THE ACCOUNT. THE COMMISSIONER OF ENVIRONMENTAL PROTECTION MAY USE FUNDS IN THE ACCOUNT FOR PURPOSES OF SECTION 7-131d, AS AMENDED BY SECTION 3 OF THIS ACT.

Sec. 5. Section 7-131g of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Subject to the provisions of sections 7-131c to 7-131k, inclusive, the Commissioner of Environmental Protection may (1) where a federal grant is also made, approve grants to municipalities in an amount not to exceed one-half of the nonfederal share of open space land acquisition or development costs, (2) where a federal rehabilitation or innovation grant is made to a municipality under the Urban Park and Recreation Recovery Act of 1978 (P.L. 95-625, 92 Stat. 3538), approve a grant to such municipality not to exceed fifteen per cent of the total project cost of such development or rehabilitation and (3) where a federal grant is not made, may approve grants to municipalities in [an amount not to exceed forty per cent of such land acquisition or development costs] ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

[(b) The cost of land, for determination of a state grant hereunder, shall be determined by one or more appraisals made or obtained by the state and shall not include incidental costs, such as surveying and closing costs or costs of development thereof. When a municipality receives a gift of land as a portion of the total value of the property, the appraised value of said gift of land shall be subtracted from the nonfederal share for determination of a state grant. Such information as may be required for determination of any such grant with respect to development costs shall be submitted in accordance with regulations prescribed by said commissioner.

(c) Any application for a grant-in-aid under sections 7-131c to 7-131k, inclusive, which was received and approved by the Commissioner of Environmental Protection prior to July 1, 1978, shall be administered in accordance with the terms and conditions of the open space statutes in effect prior to that date.]

(b) THE COMMISSIONER OF ENVIRONMENTAL PROTECTION MAY MAKE GRANTS UNDER THE OPEN SPACE AND WATERSHED LAND ACQUISITION PROGRAM TO: (1) MUNICIPALITIES FOR ACQUISITION OF LAND FOR OPEN

SPACE UNDER SUBDIVISIONS (1) TO (6), INCLUSIVE, OF SUBSECTION (b) OF SECTION 7-131d, AS AMENDED BY SECTION 3 OF THIS ACT, IN AN AMOUNT NOT TO EXCEED FIFTY PER CENT OF THE FAIR MARKET VALUE OF A PARCEL OF LAND OR INTEREST IN LAND PROPOSED TO BE ACQUIRED; (2) MUNICIPALITIES FOR ACQUISITION OF LAND FOR CLASS I AND CLASS II WATER SUPPLY PROTECTION UNDER SUBDIVISION (5) OF SUBSECTION (b) OF SAID SECTION 7-131d, IN AN AMOUNT NOT TO EXCEED SIXTY-FIVE PER CENT OF SUCH VALUE; (3) NONPROFIT LAND CONSERVATION ORGANIZATIONS FOR ACQUISITION OF LAND FOR OPEN SPACE OR WATERSHED PROTECTION UNDER SUBDIVISIONS (1) TO (6), INCLUSIVE, OF SUBSECTION (b) OF SAID SECTION 7-131d, IN AN AMOUNT NOT TO EXCEED FIFTY PER CENT OF SUCH VALUE; (4) WATER COMPANIES FOR ACQUISITION OF LAND UNDER SUBDIVISION (7) OF SUBSECTION (b) OF SAID SECTION 7-131d, IN AN AMOUNT NOT TO EXCEED FORTY PER CENT OF SUCH VALUE PROVIDED IF SUCH A COMPANY PROPOSES IN A GRANT APPLICATION THAT IT INTENDS TO ALLOW ACCESS TO SUCH LAND FOR RECREATIONAL USES, SUCH COMPANY SHALL SEEK APPROVAL OF THE COMMISSIONER OF PUBLIC HEALTH FOR SUCH ACCESS; AND (5) DISTRESSED MUNICIPALITIES OR TARGETED INVESTMENT COMMUNITIES, AS DEFINED IN SECTION 32-9p, FOR ACQUISITION OF LAND FOR OPEN SPACE UNDER SUBDIVISIONS (1) TO (6), INCLUSIVE, OF SUBSECTION (b) OF SAID SECTION 7-131d, IN AN AMOUNT NOT TO EXCEED SIXTY-FIVE PER CENT OF SUCH VALUE OR FOR PERFORMANCE OF WORK IN THE RESTORATION, ENHANCEMENT OR PROTECTION OF RESOURCES IN AN AMOUNT NOT TO EXCEED FIFTY PER CENT OF THE COST OF SUCH WORK. APPLICANTS FOR GRANTS UNDER THE PROGRAM SHALL PROVIDE A COPY OF THE APPLICATION TO THE CHAIRPERSON OF THE REVIEW BOARD ESTABLISHED UNDER SECTION 7-131e, AS AMENDED BY SECTION 4 OF THIS ACT. THE BOARD SHALL PROVIDE COMMENTS TO THE COMMISSIONER ON PENDING APPLICATIONS AS IT DEEMS NECESSARY.

(c) FOR PURPOSES OF THIS SUBSECTION, THE FAIR MARKET VALUE OF LAND OR INTEREST IN LAND SHALL BE DETERMINED BY ONE OR MORE APPRAISALS SATISFACTORY TO THE COMMISSIONER AND SHALL NOT INCLUDE INCIDENTAL COSTS, INCLUDING, BUT NOT LIMITED TO, SURVEYING, DEVELOPMENT OR CLOSING COSTS. THE COMMISSIONER MAY CONSIDER A PORTION OF THE FAIR MARKET VALUE OF A DONATION OF LAND BY AN ENTITY RECEIVING A GRANT AS A PORTION OF THE MATCHING FUNDS REQUIRED UNDER THIS SUBSECTION. NO OTHER FUNDS MADE AVAILABLE BY THE STATE MAY BE USED BY A POTENTIAL GRANTEE AS MATCHING FUNDS UNDER THE PROGRAM.

(d) TO THE EXTENT THERE IS A BALANCE OF BONDS AUTHORIZED BUT NOT ALLOCATED BY THE STATE BOND COMMISSION ON OR AFTER JULY 1, 1998, PURSUANT TO ANY BOND ACT FOR THE PURPOSES OF (1) THE RECREATION AND NATURAL HERITAGE TRUST PROGRAM ESTABLISHED UNDER SECTIONS 23-73 TO 23-79, INCLUSIVE, AND (2) THE MUNICIPAL OPEN SPACE GRANT PROGRAM ESTABLISHED UNDER SECTIONS 7-131c TO 7-131g, INCLUSIVE, AS AMENDED, THE STATE BOND COMMISSION SHALL AUTHORIZE THE ISSUANCE OF SUCH BALANCE ONLY FOR THE PURPOSES DESCRIBED IN SECTION 23-74, AS AMENDED BY SECTION 11 OF THIS ACT, AND SECTIONS 23-75 AND 7-131d, AS AMENDED BY SECTION 3

OF THIS ACT, AND IN TWO SUBSTANTIALLY EQUAL INSTALMENTS ONE IN EACH HALF OF THE FISCAL YEAR COMMENCING WITH THE FISCAL YEAR ENDING JUNE 30, 1999.

Sec. 6. (NEW) On or before the tenth day of each month, the Commissioner of Environmental Protection shall submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to finance, revenue and bonding and to the State Bond Commission which report shall provide information on any acquisition of land or interest in land completed in the previous month by the state, a municipality, water company or nonprofit organization using funds authorized for the Open Space and Watershed Land Acquisition Program established under section 7-131d of the general statutes, as amended by section 3 of this act, and the Recreation and Natural Heritage Trust Program established under sections 23-73 to 23-79, inclusive, of the general statutes.

Sec. 7. Section 25-32d of the general statutes, as amended by section 3 of public act 97-314, is repealed and the following is substituted in lieu thereof:

(a) Each water company as defined in section 25-32a and supplying water to one thousand or more persons or two hundred fifty or more consumers and any other water company as defined in said section requested by the Commissioner of Public Health shall submit a water supply plan to the Commissioner of Public Health for approval with the concurrence of the Commissioner of Environmental Protection. The concurrence of the Public Utilities Control Authority shall be required for approval of a plan submitted by a water company regulated by the authority. The Commissioner of Public Health shall consider the comments of the Public Utilities Control Authority on any plan which may impact any water company regulated by the authority. The Commissioner of Public Health shall distribute a copy of the plan to the Commissioner of Environmental Protection and the Public Utilities Control Authority. A copy of the plan shall be sent to the Secretary of the Office of Policy and Management for information and comment. A plan shall be revised at such time as the water company filing the plan or the Commissioner of Public Health determines or at intervals of not less than three years nor more than five years after the date of initial approval. [Any water company which is subject to the requirements of subsection (b) of section 16-50c which submits a revision of any such plan regarding land use and ownership shall provide notice that such a revision has been made and is available at such company which notice shall be by certified mail, return receipt requested, to each private, nonprofit land-holding organization that would be entitled under said subsection to notice of the sale, lease or other disposition of any land affected by such revision.]

(b) Any water supply plan submitted pursuant to this section shall evaluate the water supply

needs in the service area of the water company submitting the plan and propose a strategy to meet such needs. The plan shall include: (1) A description of existing water supply systems; (2) an analysis of future water supply demands; (3) an assessment of alternative water supply sources which may include sources receiving sewage and sources located on state land; (4) contingency procedures for public drinking water supply emergencies, including emergencies concerning the contamination of water, the failure of a water supply system or the shortage of water; (5) a recommendation for new water system development; (6) a forecast of ANY future land sales, AN IDENTIFICATION WHICH INCLUDES THE ACREAGE AND LOCATION OF ANY LAND PROPOSED TO BE SOLD, SOURCES OF PUBLIC WATER SUPPLY TO BE ABANDONED AND ANY LAND OWNED BY THE COMPANY WHICH IT HAS DESIGNATED, OR PLANS TO DESIGNATE, AS CLASS III LAND; (7) provisions for strategic groundwater monitoring; and (8) an analysis of the impact of water conservation practices and a strategy for implementing supply and demand management measures.

(c) The Commissioner of Public Health, in consultation with the Commissioner of Environmental Protection and the Public Utilities Control Authority, shall adopt regulations in accordance with the provisions of chapter 54. Such regulations shall include a method for calculating safe yield, the contents of emergency contingency plans and water conservation plans, a process for approval, modification or rejection of plans submitted pursuant to this section, a schedule for submission of the plans and a mechanism for determining the completeness of the plan. The plan shall be deemed complete if the commissioner does not request additional information within ninety days after the date on which the plan was submitted or, in the event that additional information has been requested, within forty-five days after the submission of such information, except that the commissioner may request an additional thirty days beyond the time in which the application is deemed complete to further determine completeness. In determining whether the water supply plan is complete, the commissioner may request only information that is specifically required by regulation. THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE DEPARTMENT OF PUBLIC UTILITY CONTROL, IN THE CASE OF ANY PLAN WHICH MAY IMPACT ANY WATER COMPANY REGULATED BY THAT AGENCY, SHALL HAVE NINETY DAYS UPON NOTICE THAT A PLAN IS DEEMED COMPLETE TO COMMENT ON THE PLAN.

(d) ANY WATER COMPANY, WHEN SUBMITTING ANY PLAN OR REVISION OR AMENDMENT OF A PLAN AFTER THE EFFECTIVE DATE OF THIS ACT WHICH INVOLVES A FORECAST OF LAND SALES, ABANDONMENT OF ANY WATER SUPPLY SOURCE, SALE OF ANY LANDS, OR LAND RECLASSIFICATION, SHALL PROVIDE NOTICE, RETURN RECEIPT REQUESTED, TO THE CHIEF ELECTED OFFICIAL OF EACH MUNICIPALITY IN WHICH THE LAND OR SOURCE IS LOCATED, THE NATURE CONSERVANCY, THE TRUST FOR

PUBLIC LAND AND THE LAND TRUST SERVICE BUREAU AND ANY ORGANIZATION ON THE LIST PREPARED UNDER SUBSECTION (b) OF SECTION 16-50c, AS AMENDED BY THIS ACT. SUCH NOTICE SHALL SPECIFY ANY PROPOSED ABANDONMENT OF A SOURCE OF WATER SUPPLY, ANY PROPOSED CHANGES TO LAND SALES FORECASTS OR ANY LAND TO BE DESIGNATED AS CLASS III LAND IN SUCH PLAN. SUCH NOTICE SHALL SPECIFY THE LOCATION AND ACREAGE PROPOSED FOR SALE OR RECLASSIFICATION AS CLASS III LAND, IDENTIFY SOURCES TO BE ABANDONED AND SHALL BE PROVIDED NO LATER THAN THE DATE OF SUBMISSION OF SUCH PLAN OR REVISION. SUCH NOTICE SHALL INDICATE THAT PUBLIC COMMENT ON SUCH PLAN OR REVISION SHALL BE RECEIVED BY THE COMMISSIONERS OF PUBLIC HEALTH AND ENVIRONMENTAL PROTECTION NOT LATER THAN SIXTY DAYS AFTER THE DATE OF NOTICE. THE COMMISSIONER OF PUBLIC HEALTH SHALL TAKE SUCH COMMENT INTO CONSIDERATION IN MAKING ANY DETERMINATION OR APPROVAL UNDER THIS SECTION.

Sec. 8. Section 16-50c of the general statutes, as amended by section 2 of public act 97-314, is repealed and the following is substituted in lieu thereof:

(a) Whenever any public service company, as defined in section 16-1, except a water company, owning any contiguous area of unimproved real property containing three acres or more, intends to sell, lease or otherwise dispose of such land, or a portion thereof, except to the state, the United States or a municipality, such company shall first notify in writing, by certified mail, return receipt requested, the Department of Public Utility Control, the Commissioner of Public Health, the Commissioner of Environmental Protection and the chief executive officer or officers of the municipality in which such land is situated, of such intention to sell, lease or otherwise dispose of such land, and no agreement to sell, lease or otherwise dispose of such land may be entered into by such public service company except as provided in this section. The department shall approve or disapprove the disposition of such unimproved property pursuant to subsection (a) of section 16-43, AS AMENDED BY SECTION 9 OF THIS ACT, not more than one hundred fifty days after said department has received notice pursuant to this section and failure to take action within such period shall be deemed to constitute approval. The department shall hold a hearing on all such land transactions in which the acquisition cost of the parcels involved or the transfer consideration is in excess of [twenty] FIFTY thousand dollars. The hearing shall be held in the municipality where such land is located. If such land is located in more than one municipality the department shall determine in which municipality the hearing shall be held. If the hearing is scheduled for more than one day or continues for more than one day the department may reconvene the hearing at the offices of the department. The municipality in which such land is situated shall be a party to all proceedings before the department involving such land brought pursuant to sections 16-50b to 16-50e, inclusive.

The Department of Public Utility Control may, by order, exempt from the provisions of this subsection and sections 16-50d and 16-50e any sale, lease, transfer or other disposition of land by a public service company, other than a water company, to another public service company if such sale, lease, transfer or other disposition of land is related to a plan of divestiture or other corporate reorganization approved by the department.

(b) On or before January 1, 1998, and on or before January first of each year thereafter, [the Nature Conservancy, the Trust for Public Land, the Land Trust Service Bureau and] any private, nonprofit land-holding organization may provide in writing to the Department of Public Utility Control its mailing address and a list of the municipalities in this state in which [it owns land] SUCH ORGANIZATION MAY OWN LAND OR ANY MUNICIPALITY ADJACENT TO SUCH MUNICIPALITIES which address is suitable for the purpose of receiving notice of the sale, lease or other disposition of water company land as provided in this section. On or before February 1, 1998, and on or before February first of each year thereafter, said department shall publish and make available to every water company, as defined in section 16-1, a list setting forth for THE NATURE CONSERVANCY, THE TRUST FOR PUBLIC LAND, THE LAND TRUST SERVICE BUREAU AND each private, nonprofit land-holding organization which has provided such information, such organization's mailing address and the municipalities in which [such organization owns land] SUCH ORGANIZATION MAY OWN LAND AND THE ADJACENT MUNICIPALITIES. SUCH LIST SHALL BE VALID UNTIL JANUARY THIRTY-FIRST OF THE FOLLOWING CALENDAR YEAR AND ANY CHANGES IN INFORMATION TO BE INCORPORATED IN THE FOLLOWING YEAR'S LIST SHALL BE SUBMITTED TO THE DEPARTMENT OF PUBLIC UTILITY CONTROL ON OR BEFORE JANUARY FIRST FOR INCLUSION ON THE LIST TO BE PUBLISHED ON FEBRUARY FIRST. Whenever, ONE HUNDRED TWENTY DAYS AFTER THE EFFECTIVE DATE OF THIS ACT, any water company, as defined in section 16-1, owning any contiguous area of real property containing three acres or more, intends to sell, lease or otherwise dispose of such land, or a portion thereof, such company shall, [first] NOT LATER THAN NINETY DAYS PRIOR TO OFFERING SUCH LAND FOR SALE OR OTHERWISE NEGOTIATING WITH OR NOTIFYING ANY OTHER POTENTIAL PURCHASER, OR ANY AGENT OF A POTENTIAL PURCHASER, (1) notify in writing, by certified mail, return receipt requested, the Department of Public Utility Control, the Commissioner of Public Health, the Commissioner of Environmental Protection, any water company, as defined in section 25-32a, with an existing or potential source of supply or service area in any municipality in which such land is situated, any water company, as defined in said section 25-32a, with an existing or potential source of supply or service area in a contiguous municipality, the chief executive officer or officers of the municipality in which such land is situated, the

Nature Conservancy, the Trust for Public Land, the Land Trust Service Bureau and any private, nonprofit land-holding organization set forth on the list published annually by the Department of Public Utility Control pursuant to this section which organization has [its mailing address or owns land in either the municipality in which such water company land is situated or in any contiguous municipality] INDICATED TO THE DEPARTMENT THAT IT MAY OWN LAND IN THE MUNICIPALITY IN WHICH THE LAND IS LOCATED OR IN AN ADJACENT MUNICIPALITY provided such notice shall inform recipients [that any significant terms and conditions of such sale, lease or other disposition and] OF INFORMATION PERTAINING TO THE ACREAGE AND LOCATION OF THE LAND TO BE SOLD, LEASED, OR OTHERWISE DISPOSED OF AND SUCH NOTICE SHALL STATE THAT ADDITIONAL INFORMATION, INCLUDING a map of the property, are available at the company AND FURTHER PROVIDED, FOR ANY APPLICATION SUBMITTED TO THE DEPARTMENT OF PUBLIC UTILITY CONTROL FOR DISPOSITION OF SUCH LAND WITHIN TWO YEARS AFTER SUCH NINETY-DAY PERIOD, NO FURTHER NOTICE SHALL BE REQUIRED, and (2) provide further public notice by causing a notice to be published in a newspaper of general circulation in the municipalities where such water company land is situated not more than forty-five days nor less than thirty days before and not more than thirty days after filing an application for approval with the department of such intention to sell, lease or otherwise dispose of such land. Such public notice shall be published in a display form that shall serve substantially to notify the public of the availability of the property and shall be published in print no smaller than ten-point type size. IF A RECIPIENT OF NOTICE UNDER THIS SUBSECTION ENTERS INTO A CONTRACT TO PURCHASE SUCH LAND, THE CLOSING ON THE SALE SHALL TAKE PLACE NOT LATER THAN TWELVE MONTHS AFTER THE CONTRACT IS ENTERED INTO UNLESS THE PERIOD FOR CLOSING IS EXTENDED BY MUTUAL AGREEMENT OF THE PARTIES TO THE CONTRACT. No agreement to sell, lease or otherwise dispose of such land may be entered into by such water company except as provided in this section. Any private, nonprofit land-holding organization which is considering acquiring the interest in the land which the water company intends to sell, lease or dispose of, must identify itself as a potential acquirer by giving written notice to the Department of Public Utility Control and to the water company by certified mail, return receipt requested, not more than ninety days after the water company files an application for approval. The department shall approve or disapprove the disposition of such property pursuant to subsection (a) of section 16-43, AS AMENDED BY SECTION 9 OF THIS ACT, not more than one hundred fifty days after its receipt of an application for such sale, lease or other [disposal] DISPOSITION pursuant to this subsection and failure to take action within such period shall be deemed to constitute approval. The department shall hold a hearing on all such land transactions in which the

acquisition cost of the parcels involved or the transfer consideration is in excess of [twenty] FIFTY thousand dollars. The hearing shall be held in the municipality where such land is located. If such land is located in more than one municipality the department shall determine in which municipality the hearing shall be held. If the hearing is scheduled for more than one day or continues for more than one day the department may reconvene the hearing at the offices of the department. An application shall not be filed with the department until the Commissioner of Public Health issues a permit pursuant to section 25-32. The municipality in which such land is situated shall be a party to all proceedings before the department involving such land brought pursuant to sections 16-50b to 16-50e.

(c) IF, BY THE END OF THE NINETY-DAY PERIOD FOR WRITTEN NOTICE UNDER SUBDIVISION (1) OF SUBSECTION (b) OF THIS SECTION, NO RECIPIENT OF SUCH NOTICE HAS ENTERED INTO AN AGREEMENT OR OPTION TO ACQUIRE THE LAND, THE WATER COMPANY MAY OFFER THE LAND FOR SALE, LEASE OR OTHER DISPOSITION TO ANY PERSON. ANY SUCH RECIPIENT OF NOTICE, UPON ENTERING INTO A CONTRACT WHICH PROVIDES FOR AN OPTION TO ACQUIRE SUCH LAND, SHALL PAY REASONABLE CONSIDERATION FOR SUCH OPTION WITH DUE REGARD FOR THE MARKET VALUE OF THE LAND. SUCH CONSIDERATION SHALL BE APPLIED, WITHOUT INTEREST, AS A CREDIT AGAINST THE PURCHASE PRICE IF THE OPTION IS EXERCISED. ANY SUCH CONSIDERATION SHALL NOT BE REFUNDABLE UNLESS THE DEPARTMENT DISAPPROVES THE DISPOSITION OF SUCH LAND.

Sec. 9. Section 16-43 of the general statutes is repealed and the following is substituted in lieu thereof:

(a) A public service company shall obtain the approval of the Department of Public Utility Control to directly or indirectly (1) merge, consolidate or make common stock with any other company, or (2) sell, lease, assign, mortgage, except by supplemental indenture in accord with the terms of a mortgage outstanding May 29, 1935, or otherwise dispose of any essential part of its franchise, plant equipment or other property necessary or useful in the performance of its duty to the public, provided (A) a public service company other than a water company may sell, lease, assign, mortgage or otherwise dispose of real property with an appraised value of fifty thousand dollars or less without such approval, and (B) a water company supplying water to more than five hundred consumers may sell, lease, assign, mortgage, or otherwise dispose of real property, other than public watershed or water supply lands, with an appraised value of fifty thousand dollars or less without such approval. The department shall not accept an application to sell watershed or water supply lands until the Commissioner of Public Health issues a permit pursuant to section 25-32. The condemnation by a state department, institution or agency of any land owned by a public service company shall be subject to the provisions of this subsection. On

February 1, 1996, and annually thereafter, each public service company shall submit a report to the Department of Public Utility Control of all real property sold, leased, assigned, mortgaged, or otherwise disposed of without the approval of said department during the previous calendar year. Such report shall include for each transaction involving such property, without limitation, the appraised value of the real property, the actual value of the transaction and the accounting journal entry which recorded the transaction.

(b) A public service company shall obtain the approval of the Department of Public Utility Control to (1) issue any notes, bonds or other evidences of indebtedness or securities of any nature, (2) lend or borrow any moneys for a period of more than one year for any purpose other than paying the expenses, including taxes, of conducting its business or for the payment of dividends, or (3) amend any provision of an indenture or similar financial instrument if such amendment would affect the issuance or terms of any such notes, bonds or other evidences of indebtedness or securities. The department shall approve or disapprove each such issue or amendment within thirty days after the filing of a written application for such approval unless the applicant agrees to an extension of time. If not disapproved within said thirty days or within such extension, such issue shall be deemed to be approved. The department shall not require a company to issue its common stock under terms or conditions not required by the general statutes. The provisions of this subsection shall apply to a community antenna television company only with regard to any noncable communications services which the company may provide.

(c) Any managerial service contract made by a public service company shall be voidable on order of the department, but may be enforced as between the parties unless disapproved.

(d) Any water company selling land that at any time has been in the water company's rate base shall use the net proceeds from the sale of such land for capital projects which improve or protect the water supply system or for the acquisition of land to protect a water supply source. In the case of a water company required to file a water supply plan pursuant to section 25-32d, AS AMENDED BY SECTION 7 OF THIS ACT, the capital projects or acquisition shall be consistent with such plan.

(e) For the purposes of rate making, the department shall use an accounting method for the economic benefits of sales of land [for which the Commissioner of Public Health has issued a permit pursuant to sections 25-32, 25-37c and 25-37d] BY A WATER COMPANY, AS DEFINED IN SECTION 16-1, that at any time has been in the water company's rate base that equitably allocates all of the economic benefits of any such sale between the ratepayers and the shareholders of the company. Any such allocation shall be based on the facts of each application for sale and the department may, except as otherwise provided in this subsection,

allocate all of the economic benefits of any such sale to either the ratepayers or the shareholders. The department shall allocate the economic benefits of any such sale of water company land which promotes a perpetual public interest in the use of land for open space or recreational purposes, AS DEFINED IN SECTION 10 OF THIS ACT, substantially in favor of a water company's shareholders [, with regard to any such land sold by the company when at least twenty-five per cent of such land is to be used for open space or recreational purposes] IF NOT LESS THAN TWENTY-FIVE PER CENT OF THE AREA OF SUCH LAND IN THE SALE IS TO BE USED FOR OPEN SPACE OR RECREATIONAL PURPOSES AND shall ALLOCATE UP TO ONE HUNDRED PER CENT OF THE BENEFITS TO THE SHAREHOLDERS IF ONE HUNDRED PER CENT OF THE LAND IN THE SALE IS TO BE USED FOR OPEN SPACE OR RECREATIONAL PURPOSES. The department shall determine how much more than a majority of such benefits shall be allocated to the shareholders based on the extent to which part of the land is for open space or recreational purposes. [For the purposes of this subsection, "open space or recreational purposes" is defined as in subsection (f) of section 16-50d.] ANY SUCH LAND DESIGNATED FOR OPEN SPACE OR RECREATION SHALL NOT BE REQUIRED TO BE PART OF OR CONTIGUOUS TO THE CLASS III LAND WHICH IS SUBJECT TO THE SALE IN ORDER TO BE CONSIDERED IN THE DETERMINATION OF THE ALLOCATION OF BENEFITS PROVIDED SUCH NONCONTIGUOUS LAND IS (1) CONSISTENT WITH THE STATE OR LOCAL PLAN FOR OPEN SPACE AND RECREATION IN THE MUNICIPALITY IN WHICH IT IS LOCATED, OR (2) IS ADJACENT TO EXISTING PROTECTED OPEN SPACE, OR (3) CREATES A LINKAGE BETWEEN TWO OR MORE PARCELS OF PROTECTED OPEN SPACE AND FURTHER PROVIDED ONLY HALF OF THE ACREAGE WITHIN SUCH NONCONTIGUOUS LAND DESIGNATED FOR OPEN SPACE OR RECREATIONAL PURPOSES SHALL BE COUNTED TOWARD THE PERCENTAGE USED IN DETERMINING WHETHER THE TWENTY-FIVE PER CENT MINIMUM REQUIREMENT IN THIS SECTION IS MET. SUBSTITUTION OF NONCONTIGUOUS LAND TO MEET THIS REQUIREMENT SHALL NOT BE PERMITTED IF SUCH LAND TO BE SOLD TOGETHER WITH ANY CONTIGUOUS CLASS III LAND FROM WHICH THE WATER COMPANY HAS DIVIDED OR SUBDIVIDED IT FOR SALE IS MORE THAN ONE HUNDRED FIFTY ACRES AND IS CONTIGUOUS TO LAND PROTECTED AS OPEN SPACE, FOREST LAND OR FARMLAND DESIGNATED UNDER SECTIONS 12-107c TO 12-107e, INCLUSIVE, OR CLASSIFIED AS WATER COMPANY LAND, ANY OF WHICH, IN COMBINATION WITH THE LAND TO BE SOLD, IS MORE THAN FIVE HUNDRED ACRES. THE DEED FOR ANY NONCONTIGUOUS LAND USED IN ANY SUCH DETERMINATION SHALL CLEARLY INDICATE THAT THE LAND IS HELD FOR THE PUBLIC INTEREST IN PERPETUITY.

Sec. 10. (NEW) For purposes of subsection (e) of section 16-43 of the general statutes, as amended by section 9 of this act, "open space or recreational purposes" means public parks or forests or natural areas, including, but not limited to, reservoirs and water company land, which are preserved predominantly in their natural scenic and open condition which may allow for

camping; hiking; forestry; fishing; wildlife or natural resource conservation.

Sec. 11. Section 23-74 of the general statutes is repealed and the following is substituted in lieu thereof:

There is hereby created the recreation and natural heritage trust program to: (1) Acquire land that represents the ecological diversity of Connecticut, including natural features such as riverine, montane, coastal and geologic systems or other natural areas, on behalf of the state, in order to ensure the preservation and conservation of such land for recreational, scientific, educational, cultural and aesthetic purposes, (2) acquire land of unusual natural interest as additions to the system of parks, forests, wildlife and fishery management areas, natural areas and dedicated natural area preserves in the state for the beneficial use and enjoyment of the public, (3) acquire land identified as essential habitat for endangered and threatened species pursuant to the program established under section 26-305, [and] (4) OFFSET CARBON DIOXIDE PRODUCED THROUGH COMBUSTION OF FOSSIL FUELS BY PRESERVING LANDS THAT NATURALLY ABSORB IT, AND [(4)] (5) establish a stewardship account to provide for the maintenance, protection and management of lands acquired pursuant to the provisions of sections 23-73 to 23-80, inclusive, and of the species that inhabit them.

Sec. 12. Section 25-33k of the general statutes is repealed and the following is substituted in lieu thereof:

No source of water supply shall be abandoned by a water company without a permit from the Commissioner of Public Health. In his decision the commissioner shall consider the water supply needs of the water company and shall consult with the Commissioner of Environmental Protection, the Secretary of the Office of Policy and Management and the Department of Public Utility Control. The Commissioner of Public Health shall grant a permit upon a finding that the source shall not be needed by such water company for present or future water supply and, in the case of a water company required to file a water supply plan under section 25-32d, that such abandonment is consistent with a water supply plan filed and approved pursuant to said section. No permit shall be granted if the commissioner determines that the source would be necessary for water supply by the company in an emergency OR THE PROPOSED ABANDONMENT WOULD IMPAIR THE ABILITY OF THE COMPANY TO PROVIDE A PURE, ADEQUATE AND RELIABLE WATER SUPPLY FOR PRESENT AND PROJECTED FUTURE CUSTOMERS. As used in this section, a future source of water supply shall be considered to be any source of water supply necessary to serve areas reasonably expected to require service by the water company for a period of not more than fifty years after the date of the application for a permit under this section.

Sec. 13. Section 7-131f of the general statutes is repealed and the following is substituted in lieu thereof:

In making grants-in-aid for open space land acquisition or development FROM OUT OF FUNDS AUTHORIZED BEFORE THE EFFECTIVE DATE OF THIS ACT, the Commissioner of Environmental Protection shall: (a) Seek to achieve a reasonable balance among all parts of the state in the relative adequacy of present areas devoted to recreational and conservation purposes and the relative anticipated future needs for additional areas devoted to recreational and conservation purposes; (b) give due consideration to the special park requirement needs of urban areas; (c) wherever possible, give priority to land which will be utilized for multiple recreational and conservation purposes; (d) give due consideration to coordination with the plans of departments of the state and regional planning agencies with respect to land use or acquisition and (e) give primary consideration to the needs of municipalities that have formed local housing partnerships pursuant to the provisions of section 8-336f.

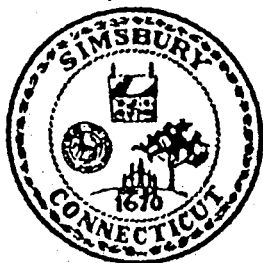
Sec. 14. (a) Sections 7-131c and 23-80 of the general statutes are repealed.

(b) In codifying the provisions of this act, the Legislative Commissioners shall delete the reference to section 7-131c that appears in section 22a-9 of the general statutes and the reference to section 7-131c that appears in sections 12-107a and 12-107b of the general statutes.

Sec. 15. This act shall take effect July 1, 1998.

Approved May 18, 1998

TOP



933 HOPMEADOW STREET

P.O. BOX 495

SIMSBURY, CONNECTICUT 06070

Town of Simsbury

William S. Voelker, AJCP

Director of Community Planning & Development

To: Helen Peterson

From: Bill Voelker *WV*

Date: October 20, 1998

Re: Open Space Information

I reviewed the Plan of Development regarding open space acquisition, and there is no specific statement of a goal on a percentage basis. It does discuss a general goal of maintaining as much as possible using population density as a guide. The 1992 density was 11.2 residents per acre of all town open space. The average for towns with a population between 20,000 and 30,000 was 43.3 persons per acre. The Department of Environmental Protection has a goal of 75 persons per acre. We are obviously well ahead of these standards and second only to Ridgefield at 9.7 persons per acre in this category. We should at least attempt to maintain the current density ratio, especially as the base population grows.

The Plan breaks out open space lands by category and I have listed them below with acreage and percentage of the total town acreage.

CATEGORY	ACREAGE	% OF OPEN SPACE ACREAGE	% TOWN ACREAGE
Private/Quasi-Public (Open Space)	1626.1	33%	8%
State Owned Open Space	1346.3	28%	7%
Town Owned Open Space	755.7	15%	4%
Private/Quasi-Public (Recreation)	508.1	10%	2%
Public School Recreation	159.4	3%	<1%
Town Owned Recreation	491.1	10%	2%
TOTAL	4,877	100%	24%

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Open Space and Recreation Land Inventories - 1994

The following lists are inventories of open space lands and recreation facilities in Simsbury. The grid locations in the left column match with the grids on Map 4-1 for Open Space (except for subdivision open space parcels); and Map 4-2 for Recreation.

Open Space Lands

Grid Location Map 4-1	Estimated Acreage	Ownership/Name	Function/Activities
	1626.1	PRIVATE/QUASI-PUBLIC	(except for subdivision open space)
A-F, 2-3	965.0	McLean Game Refuge	Passive recreation, hiking trails
A-8, B-7	35.8	Simsbury Reservoir	Conservation, watershed land
A, B-11	16.7	Simsbury Fish and Game Club	Conservation, fishing, hunting
B-11, 12	31.1	Coon Club	Conservation, natural area
C-2, 3	10.9	Simsbury Land Conservation Trust	Conservation, 5 parcels
C-13-15, D-14-15	420.0	Ethel Walker School	Passive recreation, x-ctry skiing
H-I, 18-19	146.6	Metropolitan District Commission	Conservation, natural area
	1346.3	STATE OWNED OPEN SPACE	
B-F, 11-14	31.4	Town Forest Road	Passive recreation/bike path
B-13	80.0	Massaco State Forest	Conservation, hiking trails
C, D-12	19.4	State Sand Bank	Sand pit, some natural area
D-E, 5-6	327.8	Great Pond State Park	Picnicking, hiking trails
D-E, 11-12	138.5	Stratton Brook State Park	Hiking, swimming, picnicking
F-18, 19	65.0	Nod Brook Wildlife Sanctuary	Conservation, natural area
G-14	56.0	Pinchot Sycamore Tree Area	Conservation, natural area
G-17	12.5	State Police Area	Small arms ranges, some natural area
H-I, 7-9	202.0	Simsbury State Wildlife Mgmt Area	Conservation, natural area, hunting/fishing
H-16-19, I-17	262.0	Talcott Mountain State Park	Passive rec., hiking trails, Heublein Tower
I-11-16, J-9-11	138.9	Penwood State Park	Passive rec., hiking trails
K-3	16.0	Connecticut State Park	Passive rec.
K-4	16.0	State of Connecticut lands	Conservation of ridgeline
	755.7	TOWN OWNED OPEN SPACE	(except for subdivision Open Space)
A-11, 12	147.7	Onion Mountain Park	Passive rec., hiking trails
C-10	22.6	Farms Village area	Conservation
C-12-16	43.7	Town Garage and Sand Bank	Sand pit and open space, Town Forest Rd
C, D-13	125.0	Area from Ethel Walker School	Conservation, hiking trails
D-18	60.8	Old Meadow Road area	Conservation, passive rec
E-11	40.0	Darling-Hilles, Ensign Mem. Forest	Conservation, passive rec
G-10	40.2	Belden Forest	Conservation, passive rec., hiking trails
G-15	3.3	Pinchot Sycamore Tree Area	Conservation, picnic area
H-10, 11	5.0	Drake Hill Park (5.0 acres rec.)	Mix of active and passive recreation areas
H, I-18	43.1	Stafford Road area	Conservation, natural area
I-2-4, J-3-4	91.9	Town Farm	Conservation, agriculture
I-5, 6	23.3	Farmington Riv. near Tariffville	Conservation, natural area
I-6-7, J-7	52.1	Pharos Farm, Pattison Estate	Conservation, agriculture, play fields
J-5	21.7	Wardell-St. Johns	Conservation, natural area
J-10	35.5	Darling Wildlife Sanctuary	Conservation, natural area

Use Map 4-1 to find grid location.

Source: Simsbury Culture, Parks, and Recreation Department

Figure 4-7

Recreation Lands and Facilities

Grid Location Map 4-2	Estim. Acreage	Ownership/Name	Function/Activities
	506.1	→ PRIVATE/QUASI-PUBLIC	
A-4	7.0	Hop Brook Tennis Club	Active rec., tennis courts
E-F, 9-10	328.1	Hopmeadow Country Club	Active rec., golf
G-18, 19	134.1	Tower Ridge Country Club	Active rec., golf
H, I-5	20.0	Int'l Skating Ctr of Connecticut	Ice Skating, ice hockey
H-8	9.0	St. Mary's School	Playground equipment
H-18	10.0	Metacon Gun Club	Active rec., indoor/outdoor target ranges
	159.4	→ PUBLIC SCHOOL REC. AREAS	
B-12	12.1	Tootin' Hills School	Baseball field, playground equipment
E-16	20.2	Latimer Lane School	Baseball field, playground/playscape
F-8	35.0	Henry James Memorial School	Tennis courts, multi-use fields
F-10	46.2	Simsbury High School	Tennis courts, multi-use fields, running track
G-5	20.8	Squadron Line School	Basketball courts, multi-use fields, playscape
G-9	20.6	Central School	Playground/playscape, multi-use fields
K-3	4.5	Tariffville School	Playground/playscape, multi-use fields
	491.1	→ TOWN OWNED FACILITIES	
A-15	19.0	West Mountain Park	Fields, basketball, picnicking, playgrounds
B-C, 13-14	41.3	Town Forest	Fields, swimming, picnicking, trails, playgrounds
C-8, 9	86.8	Meadow Pond	Fields, swimming, picnicking, trails, playgrounds
C-D, 8-9	235.5	Simsbury Farms Rec. Complex	Fields, courts, picnic, trails, playground, skating
F-16	8.0	Weatogue Park	Fields, playgrounds
G-9	30.0	War Memorial Park	Fields, picnicking, swimming
G-9	1.5	Schultz Park	Urban park, benches, picnicking, garden areas
H-10, 11	5.0	Drake Hill Pk (5 acres open sp.)	Fields, play areas
I-6, J-6	40.0	Curtiss Park	Fields, picnicking
J-K, 2-3	24.0	Tariffville Park	Tennis, boat launch, fields, garden areas

Use Map 4-2 to find grid location.

Source: Simsbury Culture, Parks, and Recreation Department

Figure 4-8

Conclusions

- As of 1994, the State of Connecticut has acquired two-thirds of the open space needed to accomplish their goal of 320,000 acres by the year 2000. It is acknowledged that they will probably not accomplish this goal in the time originally allotted, although the DEP continues to acquire land for preservation.
- In a statewide survey conducted in 1992,
 - about two-thirds of state trail users state that they use the trails most for hiking, just over 8% use the trails for bicycling.
 - almost half of those polled have used state parks within the past year.
 - the two most popular recreational activities in warm weather are swimming and bicycling.
- Land acquired by the Town of Simsbury is now the largest type of open space there is in town. It also increased by the largest percentage since 1981.

LIST OF RESOURCES

- ❖ Fund Ordinances, Open Space Preservation Plans from Towns including:
 - Goshen Ordinance
 - North Branford
 - Cheshire
 - Glastonbury Code
 - Fairfield Plan
 - South Windsor Plan
- ❖ CT General Statute - 22-26 gg-1a
- ❖ The Trust for Public Land - Tools and Strategies, regarding assistance available to municipalities
- ❖ Public Act 490
- ❖ H.C. Chung Reports
- ❖ The Effects of Development and Land Conservation on Property Taxes in Connecticut Towns, prepared by Ad Hoc Associates, Salisbury, VT
- ❖ Cost of Community Services in Southern New England, prepared by Southern New England Forest Consortium, Inc.
- ❖ Recreation and Natural Heritage Trust Program
- ❖ CCM - Miscellaneous Memorandums