

## **Open Space Resource Plan - Kennett Township**

### **1.0 Overview and Background**

#### 1.1 Open Space Considerations

Conservation of open space as well as responsible development are both key elements in township planning. Kennett Township resides in southern Chester County where extensive growth in population is well recognized. The challenge to the township is to balance the desire for more development to meet growth with the important criterion to maintain an effective level of natural resources and related open space. The Comprehensive Plan of 2004 contains several sections that describe and define various aspects of the benefits and needs for open space in the township. Included in these descriptions are parts of chapters 10, 11, 12, 13 and 16 which serve as important references in open-space planning.

In general, the purposes of conservation of land in Kennett Township are:

- a) Preservation of areas for recreation or education of township citizens;
- b) Protection of natural habitat of fish, wildlife, plants and similar ecosystems;
- c) Preservation of open space including woodlands, watersheds and farmland, for either scenic enjoyment or when preservation is pursuant to a defined conservation policy of the township;
- d) Preservation of historically important land area or certified historic structure.

#### 1.2 Act 153 (Senate Bill 1320)

This act authorizes the State (PA), counties and local government units (i.e. townships) to preserve, acquire or hold land for open space uses. The intent of the legislation is to preserve open space, in or near populated areas, to conserve natural resources, including farm land, forests and water supply as well as meet needs for recreation, preserve historic sites and scenic aesthetics. Under the provisions of the act, townships can enact local income taxes, which must be passed by referendum, for the purpose of funding open space initiatives. Kennett Township initiated a local tax of 0.25% of earned income in 2005 for this purpose as defined for open space benefits in Act 153.

#### 1.3 Assistance for Open Space Planning - Kennett Township

The Board of Supervisors has ultimate responsibility for all approvals of open space proposals. In order to assist the Board in this decision making process, a Land Conservation Advisory Committee was founded in February of 2009. The open space resource plan, required by Act 153, defines the charter of the Advisory Committee and serves as a complement to the Comprehensive Plan of the township issued in 2004 or a successive update.

## **2.0 Land Conservation Advisory Committee (LCAC)**

### **2.1 Role and Mission**

The role of the LCAC is to advise the Board of Supervisors via both input from other township commissions/committees and their own independent situational evaluations in the continuing development of open space planning. Specifically, this Committee acts in direct support and assistance to the Board of Supervisors for deciding open space actions at the request of the Board of Supervisors. The mission of the LCAC is to:

- a) aid in ensuring that open space land within the township is both identified and prioritized in terms of resource values on an ongoing basis;
- b) advise the Board of Supervisors as to the quality and value of land parcels considered for easement or acquisition by the Township;
- c) provide an impartial assessment of such parcels opposite criteria established by the Township for land conservation including Township ordinances to determine potential viability for development;
- d) at their request, assist Supervisors in evaluation of funding options for conservation of proposed open space parcels.

### **2.2 Scope of Operation**

At the request of the Board of Supervisors, the LCAC defines and recommends open-space actions that can be taken by the Supervisors based on comprehensive reviews of proposals for open space consideration within the township. The reviews include interaction with representatives of the proposal and organizations involved with funding as well as members of land trusts where applicable.

The LCAC interacts and communicates with other township entities on considerations for open space planning. This group includes the Planning Commission, Zoning Officer, Environmental Advisory Committee and Historical Commission. A close working relationship is established with the Resource Coordinator for the township who directly assists the LCAC in

defining a conservation valuation map to help guide future open space planning on parcels of land with desirable open-space consideration.

The LCAC may interact with other local township groups specifically working on open space planning as well as conservation organizations involved with open space policy as an advisory body in requested support of the Supervisors; the LCAC has no direct decisional authority in this involvement. The LCAC also coordinates with potential efforts on greenway projects and trail development as related to open space plans.

The LCAC meets in open session with the Board of Supervisors when presenting final recommendations on a proposal for open space conservation that involves taking of title by the Township. The Board of Supervisors then announces their decision on such an open space proposal at an advertised public meeting. In general, the Board of Supervisors will make public all declarations of open space at either a public meeting or other communication venue at their discretion.

### **3.0 Elements of Plan**

#### **3.1 Definition of Open Space Opportunities – Kennett Township**

In 2005 the Township adopted the Resource Prioritization Report which documented and classified certain natural resources within the township including woodlands, watersheds, etc. This report serves as an initial guide for planning for open space considerations based on resource valuation and related important elements such as woodland linkage. The Summary of High Value Resources (map # 11) from the RPR delineated a composite of resource values for land in the township that serves as a guide in judging the potential for conservation of open-space parcels in the township.

In the first quarter of 2009, the Board of Supervisors initiated the position of Resource Coordinator with the charter to aid in the development of conservation considerations for open space in the Township. The Resource Coordinator had the expressed mission to first define restricted, developed and residual (i.e. open but not restricted) land within the Township. The output of this definition is the Designated and Open Land Map (Appendix 4.1). The term designated includes both restricted and developed properties. The second step in the process was to define open-space conservation valuations based on analysis of residual properties in terms of contained natural resources, scenic views, possible public access and linkage to existing protected sites. These valuations of current open-space areas are represented on a Conservation Valuation Map (Appendix 4.2) which is an overlay of the

High Value Resources Map from the RPR onto the Designated and Open Land Map. Both maps are computer based and updatable as new data on land conservation evolve.

The overlay provides a guide to judging relative value of open-space areas in the township. Parcels of open-space land that are situated in areas of high value resources are desirable candidates for conservation. In general, several factors enter into the decision on conservation for a proposed parcel including the personal knowledge of the specific parcel in question by members of both the BOS and LCAC. These factors taken in total delineate the course of action on any proposal.

### 3.2 Conservation of Open Space Options

Several options are available to a land owner who is seeking to preserve land for open space opposite development opportunities.

#### a) Donation – Easement

This option is most beneficial to the township since no capital funding is required. The land owner donates the easement either to a land trust or, in some cases, the township with specified restrictions for open space. The receiving entity is responsible for maintenance of the easement and must monitor it annually. The owner/donor normally attains both an income and estate tax benefit from the donation as well as a reduction in real estate taxes.

Easements on either the total property or a portion of the property can also be willed by the owner to a land trust or the township. The ongoing management of the easement when enacted follows the same requirements as stated for donation.

#### b) Easement – Purchase

In this case, a land owner agrees to conserve by easement either a portion or all of his/her property. The owner is compensated by an agreed upon purchase price for the easement with the county and/or the township. Restrictions as to the future use of the land are delineated within the purchase agreement (non-development is a key element). The land owner retains rights of ownership except for the rights specifically restricted under the terms of the easement.

#### c) Fee Simple Purchase

Land owners can sell their property to a government unit (state functionality, county or township) via a fee simple contract. The government unit then sets restrictions on the use of the property for open-space purposes. The purchase must be reviewed at an open meeting of the public before the purchase action. Properties acquired under this option must be offered for resale by the government unit within two years after acquisition, per Act 153, Section 6. The defined restrictions are part of the resale condition.

### 3.3 Funding of Open Space Conservation

The Township has in place a prioritization and resource valuation system which is the fundamental basis for funding. This rating system for land parcels is also a requirement for open space initiatives under Act 153. The rating system takes into account historical values from previous open space financial actions.

The open space income tax fund is specifically designated for meeting financial commitments of the township defined by agreements either for easements or fee simple purchase. General funds may be used at the discretion of the Supervisors to supplement the income tax fund for open space activities. The open space tax fund records are maintained as a statement of public record. Additionally, at the Board of Supervisor's discretion, newly generated open space taxes may be used to reimburse the General Fund for monies advanced to fund open-space purchases.

Chester County under the Landscapes 21<sup>st</sup> Century Fund provides financial resources needed to implement managed growth within the county. Three programs in place for funding include:

- a) Farmland Preservation (has not been used in Kennett Township);
- b) Preservation Partnership (qualified conservation organizations)
  - create trails, greenways, open space and nature conservation projects that provide substantial public benefits with particular attention to public access;
- c) Municipal Park Grants (municipalities/townships)
  - create trails, greenways, open space in park projects that meet all standards and incentive criteria (Act 153)

All of these programs have specific guidelines and generally require 50% matching funds from the township and/or land trust. Land trusts are often the recipient of grant funding and become the custodian of the open space

defined by the grant.

The Pennsylvania Department of Natural Resources (DCNR) also can fund grants for acquisition of open space for public benefit such as recreation and trail establishment. These grants are targeted at open space parcels with ready access to the public. Agricultural preservation is not funded by these grants.

### 3.4 Policies and Procedures – Open Space Proposals for Kennett Township

All proposals for open space consideration by the township must be submitted to and approved by the Board of Supervisors (BOS). At the request of the BOS, the LCAC will review all aspects of a new proposal including funding options in order to make a recommendation on the merits of the proposal to the BOS.

As the initial step in the process for considering an open-space proposal to the township, it is recommended that the owner meet with the BOS to initially review the potential interest of both the owner and township to proceed with a procedural application. This discussion does not require any formal documentation prior to meeting. The purpose is to permit both parties to mutually judge that there is a reasonable basis for the proposed property to be a viable candidate for open-space conservation. The procedure for application will also be reviewed by the township with the owner to facilitate the process if mutually desired.

#### Procedure for Application

- 1) The requesting organization (e.g. landowner and/or land trust) submits both an Application Form (Appendix 4.3) and completed KT Land Preservation Criteria Form (Appendix 4.4) to the BOS used to judge the value of the subject property to the township;
- 2) The submitting party (organization) submits to the BOS a valid real estate appraisal setting forth the value based on best use of the property and separately, its easement value. The BOS also requires an engineering sketch drawing be submitted detailing:
  - a) lot layout justifying the value established as best use;
  - b) denotation of percolation tests to establish the boundaries of primary and secondary drain fields for each lot and well location on each lot.

The engineering sketch drawing must comply with current Kennett Township ordinances on subdivision and land development.

- 3) After the submission of all information set forth above by the submitting party, the BOS will do its own evaluation which includes a review by the LCAC and endeavor to reach a decision within a reasonable period of time as to its interest in funding any part of the cost for the proposed subject property;
- 4) If it is agreed that the BOS will fund all or a portion of an easement cost, a final draft of the easement document is then submitted by the party in question to the BOS for final review and approval. The BOS will endeavor to make its decision on funding in less than 30 days;
- 5) If it is agreed that the BOS will fund all or a portion of a purchase on a fee simple basis, an Open Space Management Plan must be additionally submitted by the requesting party/organization to the BOS for review and approval. This plan must include a forward annual cost estimate to support the requirements of the management plan. Additionally, a draft of all closing documents must be submitted to the BOS. The BOS will endeavor to make its decision within a reasonable period of time.

Once a decision has been reached on an open space proposal, notification will follow the guidelines delineated in section 2.2.

#### **4.0 Appendix**

- 4.1 Designated and Open Land Map
- 4.2 Conservation Valuation Map
- 4.3 Application Form – submission of proposed open space parcel
- 4.4 Land Preservation Criteria Form