

**OPEN SPACE
AND LAND
CONSERVATION
CHAPTER**



OPEN SPACE AND LAND CONSERVATION

Hampton has virtually no land that has not been touched or altered in some way by human occupation. Nevertheless, there are large areas of acreage which are currently undeveloped that can be termed open space. By general definition, open space might be defined as land which has not been built upon or which has no development upon it at present. Open spaces include beaches, estuaries, tidal and fresh water marshes, streams, ponds, forests, and historically significant lands. By a less strict definition, open space may also include farms, playing fields, reclaimed town dumps, or storm water retention areas. The value of open space to a community is diverse. Open space may provide some or all of the following benefits: scenic beauty, wildlife habitat, aquifer protection, buffer zones between developed areas, flood control, recreation opportunities, forestry, and agriculture. In this chapter, open space is therefore land which the town believes is worthy of protection from development.

To be of continuing value to a community, the open spaces must have some sort of legal protection which guarantees the integrity of the open space. Although there is a cost to the town in acquiring and preserving open space (and the cost should not be minimized), the ultimate benefits outweigh the costs. Because it maintains the livability of the community, preserved open space enhances property values throughout the town. Although open space generates little tax revenue, it requires less in municipal services: no roads, sewers, or schools, little demand on fire and police. The preservation of open space should be seen as an asset to the town, an investment in the future which will pay dividends in future tax revenue from the increased value of adjacent property and the quality of life for its citizens.

Except for wetlands protection, the town has no overall open space or land conservation policy. In fact, instead of developing a policy of land conservation and open space protection, many town ordinances and practices create an economic environment which promotes further development. Setting minimum standards for construction and development, and taxing land on its highest and best use tend to promote development. It is the nature of a community to provide more housing for its own young people, who wish to live in their hometown as adults. It is also the nature of a community to offer housing for new residents. Unfortunately, the virtues of the community, such as open space, which make it a desirable place to live can be threatened by the number of people who are attracted to those virtues.

From many points of view, Hampton is at a time when the protection of open space must be undertaken immediately or else little undeveloped land will remain worthy of preservation. For many years, development in Hampton was primarily in those sections of town with well-drained soils, desirable land, and the presence of the

sewer system. With most of that land now occupied, developers are working in difficult areas, those with more marginal soils, adjacent to wetlands and aquifers, or with more difficult slopes. Many of these areas had been considered as open space because they were too expensive or difficult to develop compared to other available land. These marginal lands are now being developed, especially where extension of sewer and water lines into these areas has made development possible.

Long term trends in open space are evident when some types of open land are studied. Farmland is one type of open space whose trend is clearly adverse. In 1908, 142 Hampton men called themselves farmers; Hampton now has only one working farm. Once considered to be a farming community, Hampton saw the decline of agriculture as economics doomed the small farm in this region. Farmers either sold their land for development or just stopped farming and allowed their fields to grow into woodlands. Relatively few open fields now remain in Hampton; conversely, many woodlands are interspersed with stonewalls, evidence that the town was much more open in years past.

Another trend can be seen when studying the history of tidal wetland as open space. Although several hundred acres are owned by the town, state agencies, or private environmental organizations and are set aside for conservation purposes, the development of the tidal wetlands is prohibited. This preserves some 1,300 acres of land although these wetlands are divided by a railroad track and two major highways. Major filling adjacent to Hampton Beach has destroyed many acres of the marshes. However, through the efforts of the Hampton Conservation Commission and the New Hampshire Wetlands Board, both of which are enabled by state statute, further filling of marshes has been prohibited, a significant step in protecting open space.

If Hampton desires to retain what unprotected open space remains, then a concerted effort must be made by citizens and town officials to carry out a plan for land protection. An example of how this protection can begin occurred as a result of the 1987 town meeting when several warrant articles were approved relating to forest preservation and open space protection. A sum of \$75,000 was appropriated for land acquisition and placed in the Conservation Commission accumulation fund. In 1991, the accumulation fund was used to purchase the Perkins farm on Barbour Road. Another article authorized the town to create and manage a town forest. Two other articles designated the Timber Swamp area and the historic Twelve Shares area (the land bounded by Mill, Barbour, and Woodland roads and the North Hampton town line) as areas worthy of protection. As important as these articles were for the town, they nevertheless were passed without benefit of an overall open space plan and to date nothing further has happened in protecting Twelve Shares and Timber Swamp.

Protected Land Inventory

Numerous parcels in Hampton are already preserved as protected open space. A list of protected open space and conservation land larger than two acres is provided below in Table 1 and is also depicted on the Open Space and Land Conservation Map included in this chapter.

The New Hampshire Fish and Game Department owns seven parcels of land in Hampton totaling 238 acres. Six of the lots are included in Table 1, but one parcel of approximately 169 acres is not listed because it is located in the tidal marsh area and its exact location and dimensions are unknown. The NH Fish and Game land is shown on the map as parcels 30 through 33.

The Society for the Protection of New Hampshire Forests has obtained ownership to eighteen small parcels of land in the salt marshes comprising over 60 total acres. Eight of the parcels are listed in Table 1, but ten were not included because their exact location in the marsh is unknown. The eight lots are mapped as six parcels numbered 24 through 29.

In addition, the Audubon Society of New Hampshire owns nine parcels scattered throughout the salt marsh totaling approximately 36 acres. None of these parcels are mapped on the Town's tax maps due to inaccurate information about their location. Therefore, they are not listed in Table 1 or shown on the Open Space and Land Conservation Map.

Most of the protected land is owned by the Town of Hampton. Some parcels were obtained through tax collectors' deeds and others were purchased by the Conservation Commission. A total of 29 lots owned by Hampton are included in Table 1 and shown on the map. As mentioned earlier, one of the most recent acquisitions of conservation land by the Conservation Commission was in 1991 when the Perkins land on Barbour Road was purchased. Located in the Twelve Shares area of Town, the land actually consists of four separate parcels totaling 26.15 acres. The land has frontage on Barbour Road and extends almost to the North Hampton town line. A Victory Garden has been installed to allow residents to grow their own vegetable gardens. The Conservation Commission has established a committee to study other possible uses for the site. Hiking and nature trails are two possibilities.

**Table 1
Hampton Open Space and Conservation Land**

Index #	Tax Map #	Owner	Acres	Description/Location
1	124-1	Hampton School District	32.8	Batchelder Park/Towle Farm Rd.-pond and trails
2	199-2	UNH	26.5	Abuts Taylor River & east of I-95
3	75-4	Hampton	5	Twelve Shares Wall/so. of Munsey
4	108-39	Hampton	2	Giles Swamp/between Fairfield & RR
5	181-31	Hampton	20 ±	Between Hutchinson Rd. & Meadow Pd.
6	251-1	Hampton	15 ±	Tidal wetlands west of Mill Creek
7	247-1	Hampton	6	Tidal wetlands east of RR tracks
8	281-1	Hampton	5.75	North of Island Path
9	281-48	Hampton	5 ±	Tidal wetlands S of Island Path
10	240-2	Hampton	12 ±	Tidal wetlands NE of Nudds Canal
11	226-1	Hampton	3.8	Abuts Lafayette Rd. to the west
12	216-1+1A	Hampton	2.7	Landing Brook S of traffic circle
13	187-2 201-1 201-2 201-4	Hampton	6.5 4.5 3 ± 4 ±	Tidal wetlands that abuts Drakes River and is south of Drakeside Road
14	200-2	Hampton	2 ±	Tidal wetlands between parcels #2 + #13
15	16-1	Hampton	8	Bashby Rd. north of Route 51
16	98-1	Hampton	50	Boulter's Cove near N. Hampton TL
17	98-07,29	Hampton	2.6	W of Rt. 1A near Huckleberry Lane
18	76-15	Hampton	5.85	Ice Pond area S of Munsey Drive
19	96-20-11	Hampton	5.11	Abuts Woodland Rd./Great Gate Dr

Index #	Tax Map #	Owner	Acres	Description/Location
20	92-2, 3, 4, & 6	Hampton	26.1 5	Perkins land purchased by Con.Com. in 1991, north of Barbour Road
21	59-6	Hampton	17	12 shares area/N of Barbour Rd.
22	60-11	Hampton	7.5	12 shares area/N of Barbour Rd.
23	229-2-6	Hampton	11.3	Landing Rd. S of Rt.51 - donated
24	116-1A	SPNHF	4.5	Abuts Wild Rose Lane
25	167-11A	SPNHF	2	Shaw Marsh/at Meadow Pd/High St
26	195-2	SPNHF	1.5	Mace Pasture/west of Meadow Pond
27	234-1 + 2 222-119	SPNHF	14.9 1.26	Tidal marsh south of Winnacunnet Rd. and west of Route 1A
28	273-33	SPNHF	3.8	Tidal wetlands south of Glade Path
29	245-11	SPNHF	4	Spring Marsh/east of parcel #27
30	237-3	NH Fish & Game	3.5	Tidal marsh west of RR tracks
31	251-2	NH Fish & Game	2	Tidal marsh/abuts Mill Creek + Rt.51
32	215-2 227-1	NH Fish & Game	50 10.6	Tidal marsh that abuts Route 1 and RR tracks, S of traffic circle
33	273- 15,16	NH Fish & Game	8	Tidal marsh south of Glade Path
34	250-1	Hampton	4	Tidal marsh north of Blind Creek
35	248-1	Hampton	7	Tidal marsh west of Nudds Canal
36	75-1	Hampton	4	Twelve shares/West of Munsey Dr.
37	17-1	Hampton	16	North of Rte 51/West of I-95 interch
38	151-8	Hampton/Kahn	2.33	North of High St., near Ocean Blvd.
39	998-196	Hampton	5	Tidal wetlands NW of Nudds Canal
40	165-002	Hampton/Dunn	6	Abuts Bonnie Lane, from Pratt

Note: SPNHF = Society for the Protection of NH Forests, TL = Town line
Source: Town of Hampton Tax Assessor records.

Since 1990, the Conservation Commission has received several donations of land from developers as part of their subdivision plans. A parcel in the Woodland Road area was donated as part of the subdivision for Downer Drive. The 5.11 acre parcel has frontage on both Woodland Road and Great Gate Drive, and is largely wetlands that are adjacent to Nilus Brook. The second parcel donated by a developer was a 11.31 acre lot abutting Landing Road. A large portion of the lot contains tidal wetlands. Additionally a 5.85 acre parcel that includes Ice Pond (a.k.a. Lamprey Pond) was tax-deeded to the Town in 1991. The lot was part of the subdivision that created Munsey Drive. This area is part of the headwaters for Nilus Brook, which feeds Old Millpond. A six-acre parcel abutting Bonnie Lane was donated in 1994 by the Pratts. This parcel is within the recharge area for the Hampton Water Works Company's Ryder's well. In 1994 the town was deeded a 29.8 acre parcel of land from the Oaks of Hampton Realty Trust. This land, which is mostly wetland associated with the Meadow Pond basin, was part of a large subdivision between High Street and Winnicunnet Road, and has frontage on Lawrence Court.

Objectives for Open Space and Land Conservation in Hampton

There need to be goals, organization, policy, and continuity to achieve open space conservation. It is expected that the town will pay fair market value for land to be acquired for open space purposes. The following are suggested as a means to open space conservation.

1. Because open space preservation requires planning and negotiating skills, a thorough knowledge of the town and its land use trends, and an understanding of land use regulations, it is general recommendation of the Master Plan that a town planner be hired. While Hampton has a planning board, composed of elected and appointed members, this board spends most of its time responding to proposals for development, and little time actually planning. Similarly, the Conservation Commission has spent most of its time responding to dredge-and-fill permits, rather than working on approaches to conservation. A town planner would assist the Planning Board in its planning objectives, and work with other boards, town officials, and town employees in carrying out a coordinated and planned approach to growth by taking a proactive position instead of our current reactive position on development.
2. Produce a natural resources inventory. Such an inventory forms the basis for determining areas and features of the town which merit protection. Among other details, it would map forest areas, delineate wetlands, and indicate areas of unique character in need of protection. One important decision is the designation of prime wetlands, those wet areas of the community, which,

because of their unspoiled character, size, fragility, or uniqueness, merit special consideration for protection. The New Hampshire Wetlands board has to give special consideration on fill permits for prime wetlands.

3. Reinstitute the Conservation Commission's land protection accumulation fund with an annual budget allocation of at least \$75,000. Base the use of this fund on a set of guidelines and a list of protection priorities. Guidelines might include such aspects as a distribution of open space throughout the town, a list of specific places needing protection, and a commitment to working with landowners who wish to protect their land.
4. With the assistance of a town planner and the natural resources inventory, create a comprehensive open space protection plan with the following objectives:
 - a. Create an open space preservation committee with a responsibility for developing the protection plan, for recommending land for protection, and for working with land owners interested in protecting their land.
 - b. Seek ways to preserve existing farm lands west of I-95.
 - c. Develop a public canoe access to the Taylor River west of I-95.
 - d. Create a small boat access to Hampton River and the marshes near the original, historic Hampton Landing.
 - e. Create non-motorized walking and bike trails to connect various existing and future town-owned properties. Especially suggested are walking trails adjacent to the tidal marshes and along Taylor River.
 - f. Increase the number of parks and playing fields, especially in those areas of town where none now exist.
 - g. Create a management plan for existing town-owned property.
 - h. Evaluate the zoning ordinance to consider revisions to provide open space protection. Possible zoning changes include cluster zoning or backland development.
 - i. Create a town forest, possibly in the Twelve Shares section, to be managed by the Conservation Commission according to best management practices.

- j. Preserve natural features in the heavily developed parts of town, such as small parks and playgrounds. These areas are particularly valuable in pedestrian oriented parts of Hampton such as the downtown and beach.

Funding Sources

Town funds for establishing a substantial open space preservation program can be justified by using a percentage of the income from the Beach Land Trust Fund. Hampton's first settlers determined that the land we know as Hampton Beach was so important that it was to be owned in common by the townspeople. About the time this land was no longer needed for its natural resources, the town determined that it had economic value for seasonal housing and recreation. The town, at the turn of the century, decided to retain ownership of the land, but to lease it for other housing and businesses. More recently it was determined to sell the land and to place the income from the sales in a trust fund to provide long-term income for the town; i.e., used to offset taxes.

Lost in the debate over the creation of this fund was the consideration of the original use of the land in question. Originally this land was open space, intended by the first settlers to remain as such forever. Once built upon, it was no longer open space and little consideration was given to using some of the money generated from this lost open space to the protection of other open space in the community. Since this trust fund was established by vote of the town and an act of the state legislature, any changes would be difficult, controversial, and time-consuming. Nevertheless, it would be appropriate to designate some percentage of the income from this fund annually toward open space protection. In allowing the beach lands to be developed, the town gave up its heritage of open space in return for economic return. Some of this money should be used to provide future open space to make up for the loss in the past.

Preservation Techniques for Consideration

It is assumed that the preservation of open space in Hampton will require the expenditure of public money, whether from town, state, or federal sources. While land purchases may require substantial one-time funds, such expenditures should be considered against continuing expenses of developed property.

There are many ways of working with private landowners to secure protection of desirable land. Among the options are the following:

1. Land may be purchased outright at a fair price.

2. Conservation or development rights might be purchased, a technique which allows the landowner to continue ownership while providing permanent protection for the land. These techniques may offer tax benefits to the seller.
3. Rights of first refusal may be purchased, thereby allowing the town the option of purchasing the land some time in the future at a price equal to a bonafide offer from another party.
4. A bargain sale of the property for less than its fair market value saves the town money and offers tax deductions to the seller.
5. Landowners may also donate outright to the town or an organization, a technique which was used to preserve hundreds of acres of the tidal marshes.
6. Discuss with landowners ways to amend the zoning ordinance to encourage the preservation of open space and not promote the division of large tracts of land.