

Open Space and Farmland Preservation

East Rockhill Township's open space resources include areas containing rural residential, vacant, agricultural, and park and recreational land uses. Approximately 68 percent of the total land area falls within these four land use categories. A significant portion of this area may not be protected from future development. In the resident survey distributed as part of the comprehensive planning process, over 90 percent of the respondents indicated that East Rockhill Township officials should acquire key open space areas, wildlife corridors, and trail linkages. Subsequently, the preservation of significant open space resources is an important issue in the minds of many residents.

This chapter examines the type, nature, and extent of the township's open space resources and identifies potential preservation strategies and techniques that may be appropriate for implementation in East Rockhill Township. Open space resources can be classified in three categories: permanently protected lands, other lands that are temporarily protected, and unprotected lands. Permanently protected lands include areas that are more likely to be preserved due to its ownership, such as publicly-owned lands (e.g., parks or vacant lands) and lands owned by nonprofit conservation organizations or homeowners' associations. In March 1998, the township acquired land for a municipal golf course, adding to its network of recreational facilities (to be discussed in the next section).

Other lands that are afforded temporary protection include areas of open space or partial open space use. However, these property owners reserve the right to develop the land in the future (under the parameters of the underlying zoning). These areas include properties enrolled in preferential tax assessment, agricultural security areas, school facilities and the Perkasio Borough Authority land (containing wellheads).

Other unprotected lands include any vulnerable resources that do not have an inherent mechanism in place that would discourage or prevent land from being developed or being impacted from the development in the future. This includes a significant portion of the township's existing natural, historical, and scenic resource lands.

Permanently Protected Lands

The following provides a brief description of all permanently protected open space lands. The permanently protected lands comprised approximately 1,019 acres or about 12 percent of the total area in the township.¹ The location and extent of these lands are illustrated in Figure 5.

State-Owned Lands

The Commonwealth of Pennsylvania owns significant land in East Rockhill in the form of State Parkland and State Gameland. Nockamixon State Park is located within portions of East Rockhill, Haycock, Nockamixon, and Bedminster townships. The park is located in the northeastern portion of the East Rockhill Township and contains facilities for a

¹ The acres shown for both the Permanently Protected Lands and Other Lands are accurate as of September 2004, when the data for these resources were compiled.

variety of activities including hiking, biking, horseback riding, swimming, boating, fishing, and picnicking. There is approximately 388 acres of state parkland within the township.

The East Rockhill is also the site of State Gameland No. 139. Located between Hill and Rockhill roads, this land is open to the public for hunting during prescribed seasons. The total area of State Gameland No. 139 is about 131 acres. Therefore, the total acreage of State Park and State Gameland in the township is approximately 519 acres.

County-Owned/Leased Land

Bucks County actually owns only a one-quarter acre parcel adjacent to Nockamixon State Park, containing a radio tower. However, the county leases an 8-acre parcel from the State. This is the site of the Weisel Youth Hostel located on Richlandtown Road adjacent to Nockamixon State Park. Facilities include overnight accommodations for up to 20 persons, available to members of the Hosteling International American Youth Hostel and all Bucks County residents and groups. Facilities include a kitchen and meeting/social rooms, mill pond for fishing and skating, and hiking in nearby Nockamixon State Park and Tohickon Creek. The total acreage of county owned and leased land is 8.25 acres.

Township-Owned Lands

The Willard H. Markey Centennial Park located on Ridge Road contains 92 acres with facilities that include soccer fields, football fields, multi-purpose fields, volleyball courts, play equipment, a pavilion, picnic areas, tennis courts, a recently constructed skateboard park, and a golf driving range.

In 1998, East Rockhill acquired a 107-acre tract of land along Ridge Road, just west of PA Route 313. Obtained through Bucks County Open Space Program funds, it is the largest, single property preserved in East Rockhill Township. This site has been approved by the Bucks County Open Space Program Board for use as a golf course. In February 2002, the township purchased an additional 33 acres of land adjacent to the open space tract. The site is to be developed into a regulation 18-hole public course complete with clubhouse and driving range and is scheduled to open in the fourth quarter of 2006.

East Rockhill Township has also acquired 63.8 acres along the East Branch of the Perkiomen Creek as part of the Country Hunt Subdivision. This area will provide a stream corridor preservation, walking path, and greenway preservation. This tract currently contains a walking trail that is connected with a trail system in the Perkasio/Sellersville boroughs to the west, and to a planned walking trail as part of the Valley Green Subdivision.

Other open space associated with residential developments that were dedicated to the township is as follows: Pines at Pennridge (15.5 acres), Creek View (2.4 acres) and Valley Green or Cedarbrook Crossing (23.0 acres). The total acreage of land owned by the township is about 336.7 acres.

Township-Owned Lands with Conservation Easement

The township recently acquired three parcels located along Three Mile Run Road. One parcel is located adjacent to Willard Markey Park, and the other two parcels are located on the northwest side of Three Mile Run Road. While owned by East Rockhill, two of the three parcels (TMP#s 12-9-92-1 and 12-9-157) are protected by a joint conservation easement held by the Bedminster Land Conservancy. The easement agreement stipulates that these two lots not be further subdivided or developed for residential use. Instead, the parcels must be used for educational purposes only, with no buildings to exceed 10,000 square feet. The agreement for the other parcel (TMP#12-9-93) has not been formally accepted yet, but is intended to be restricted to passive recreational purposes. These parcels form a contiguous land holding that may be used to provide a trail network into Willard Markey Park. The total acreage of these lands is 87.8 acres.

Other Lands with Conservation Easements

There are other lands in the township that are not owned by the township, but contain conservation easements. The Musselman farm is located at the corner of Schwenk Mill and North Fifth Street. This property consists of 60 acres and contains a conservation easement held by Heritage Conservancy. The agreement stipulates that no residential activities (with exception of existing dwelling unit) are permitted on the site. The Wismer subdivision located adjacent to Blooming Glen Road also contains a 7-acre conservation easement that is held by East Rockhill Township. In total, there is about 67 acres of land that contain conservation easements on land not owned by the township.

Other Lands

The following provides a brief description of other lands containing a temporary covenant or restrictions from development. These lands comprise approximately 2,173 acres or about 26 percent of the total area in the township. The location and extent of these lands are illustrated in Figure 5.

Lands with Preferential Assessment

Numerous residents within the township have registered their properties with the county under the preferential assessment programs. Bucks County has entered into voluntary covenants with owners who have valuable open space resources (e.g., farmland, forested areas, water resources) in order to preserve open space. Consequently, the property is assessed by the county at the fair market value (or at less than its highest and best use). As a result, the property owner is afforded a significant savings through preferential property tax assessment as an incentive to maintain the land as open space. Until recently, there were two acts that were available to land owners for preferential assessments. At the end of 2003; however, Act 515 Lands (Pennsylvania Open Space Covenant Act of 1966) was terminated but participants were allowed to convert their properties into the sister program known as Act 319. If they elected to do so, applicants had to satisfy more stringent Act 319 requirements.

Act 319 Lands (Pennsylvania Farmland & Forest Land Assessment Act of 1974)—This legislation, also known as the “Clean and Green Act,” is available to landowners for the following uses: agricultural use,

agricultural preserve, and forest preserve. Under this program, soil classification and yield per acre determine a property's individual assessment. Enrollment in this program is continuous unless dissolved by the landowner or eligibility requirements are not met.

Lands covenanted under Act 319 are considered only temporarily protected because the property owners have the right to terminate the agreement at any time. However, as a result, the property owner must pay a penalty in the form of rollback taxes (i.e., the difference between the preferential assessment value and the fair market or development value) and accumulated interest (i.e., 7 years for Act 319). Although covenanted lands are only temporarily protected, it shows a willingness of landowners to maintain their properties in open space. Commitment into Act 319 program is an example of a local grassroots action that should be considered in the overall comprehensive planning process. In total, there are 74 parcels totaling about 1,616 acres covenanted under Act 319 within the township.

Agricultural Security Areas

Similar to lands covenanted under the preferential assessment programs, enrollment into an Agricultural Security Area (ASA) suggests a significant commitment by property owners for ongoing farmland preservation. The ASA program was created by the Agricultural Security Area Law (Act 43 of 1981) to protect the agricultural industry from increasing development pressure. ASAs are intended to promote more permanent and viable farming operations by strengthening the farmers' sense of security in their right to farm.

For properties to be eligible for enrollment into an ASA, the aggregate total of the properties must be a minimum of 250 acres in viable farmland, and the zoning district in which these properties are located must permit agricultural uses. Individual parcels comprising a designated ASA must be at least 10 acres in area and at least 50 percent of which contains Class I-IV soils. Respective property owners must petition the township supervisors in order to gain approval into the program. Consequently, once enrolled into an ASA, farmers gain the following benefits:

- Protection from municipal nuisance ordinances which restricts odors and noise in a community;
- Protection from governmental acquisitions of land through condemnation or eminent domain; lands proposed for such action within a ASA must first be approved by Agricultural Lands Condemnation Approval Board;
- Enrollment into the county's easement purchase program requires previous establishment of properties in ASA.

East Rockhill has not established an ASA program. However, there are 10 parcels in the township totaling 194.6 acres that are enrolled in Hilltown Township's ASA program.

Agricultural Conservation Easements

In May 1989, the Bucks County Commissioners appointed a nine-member board to develop and oversee a county farmland preservation program. The Bucks County

Agricultural Land Preservation Program (BCALPP) seeks to acquire agricultural conservation easements on viable farmland within the county.

An agricultural conservation easement secured through acquisition is a legally binding document that is filed in the land records with the deed of a farm property, restricting its use substantially to agricultural and directly associated uses. As an easement in gross, restrictions are binding upon the owners and future owners, carrying with the land. A conservation easement allows a landowner to protect his farmland for agricultural uses while retaining private ownership of the farm.

The BCALPP compensates farmers for the difference between the fair market value (development value) and the agricultural value of their land. To be eligible for this program, the following criteria must be satisfied for eligibility:

- Size restriction: 50 acres (minimum)
- Location: within agricultural security area
- Soil criteria: at least 50 percent Class I-IV soils
- Harvest criteria: at least 50 percent harvested cropland/pastureland
- Plan approval: approved U.S.D.A. Soil Conservation Plan in effect

Once a farm is accepted into the program, the property owner may sell or convey a conservation easement and receive cash for the respective development rights. The easement is placed in perpetuity. As of February 2003, approximately 6,530 acres of agricultural land in Bucks County (consisting of 60 farms) have been preserved through the BCALPP. In East Rockhill Township, there are no properties that are protected under this program. However, several properties may be eligible for future designation.

School Facilities

Public school facilities in East Rockhill include Pennridge High School and The Robert B. Deibler Elementary School. Pennridge High School campus is located at the corner of Blooming Glen Road and North Fifth Street and totals 141.4 acres. The school facility is currently undergoing a major redevelopment and expansion plan, but once construction is completed in 2006, the inventory of recreational facilities will include a football field, two soccer fields, two baseball fields, and six tennis courts. The Robert B. Deibler Elementary School contains 12 acres and is located on Schwenk Mill Road. The site includes softball and baseball fields and playground equipment.

The Upper Bucks Christian School (and Bethel Baptist Church) is a private facility located on Rockhill Road, containing 27.6 acres. There is a soccer field, a baseball field and 2 playgrounds on the site.

Lastly, the Bucks County Community College—Upper County Campus located adjacent to the Glenwood Village Shopping Center consists of 14.4 acres and does not contain recreational facilities. The total land area for school facilities is about 195.4 acres.

Perkasie Borough Authority Lands

The Perkasie Borough Authority (PBA) currently owns four parcels in East Rockhill Township. On another parcel that is owned by East Rockhill Township, PBA has exclusive easement rights on the property. On two of these parcels, PBA operates three active wells, one test well, and one well that is in the process of being developed. These wells provide public water supply to both Perkasie Borough and East Rockhill Township. The total land area of PBA sites within the township is approximately 167 acres.

Township Open Space Plan

As East Rockhill Township experienced large population growth and significant conversion of vacant and agricultural land into residential use, it recognized the need to establish a working plan for the preservation and use of the remaining open space within the municipality. The Board of Supervisors created the Open Space Task Force to address these concerns. In 1998, the Task Force prepared the *East Rockhill Township Open Space and Recreation Plan*. In addition to identifying existing sites, the plan also inventoried unprotected and potentially vulnerable resources and earmarked specific areas for immediate acquisition and future consideration for purchase and/or conservation easements.

The plan outlined the following five objectives to be accomplished through the township's open space preservation program.

- Preservation of Rural Character and Environmental Integrity
- Controlled Development Areas
- Preservation of Forested Vistas
- Preservation of Stream Corridors and Floodplains
- Provide Recreational Facilities and Parks

Proposed implementation strategies include preservation tools both currently utilized by the township as well as new and innovative techniques to be added to municipal ordinances.

- **Increase Ordinance Requirements.** At this time, Section 27-1905 of the zoning ordinance authorizes the Board of Supervisors to require a fee in lieu of dedication where it is impractical to set aside recreation land as required. The amount of payment for a fee in lieu of such land is determined by multiplying the number of dwelling units by the fees adopted by resolution by the Board of Supervisors. It is recommended that the township investigate the feasibility of instituting open space requirements and a corresponding fee in lieu option for residential developments within the subdivision and land development ordinance.
- **Create a Transfer of Development Rights Ordinance.** A method of exchanging development rights among property developers to increase development density and protect open space.

- **Promote Use of Conservation Easements.** Private property owners place conservation easements on their properties restricting all or a portion of the property from development.
- **Acquisition by State and County Governments.** Encourage agencies that currently own areas within the township to consider other parcels suitable for ownership.

The *East Rockhill Township Open Space and Recreation Plan* serves as a valuable benchmark analysis of the open space preservation practices and opportunities within the municipality. During the past ten years, the township has acquired several tracts of open space. Recently, the township targeted six properties for preservation purposes. Representatives from the Heritage Conservancy have also been working with township officials to preserve these properties located through various means such as acquisition of conservation easements and development rights or outright purchase. One of the properties is the Sheard's–Clymer's Grist Mill site. Heritage Conservancy has submitted the Pennsylvania Historic Resource Survey form to the Pennsylvania Historic Commission and will determine if the grist mill site is eligible for the National Register for Historic Places. A successful open space preservation program will rely heavily upon continued long-term planning considerations of undeveloped park and open space sites and changing needs of the community.

Natural Areas Program

In June of 1999, an inventory was undertaken to identify and rank the most significant natural areas remaining in Bucks County, including those in East Rockhill. This survey, titled *Natural Areas Inventory of Bucks County*, provides guidance for implementation of the natural areas protection component of the Bucks County Open Space Initiative. The individual site evaluation to determine the significance of natural areas is based upon 13 criteria addressing biological, ecological, hydrological, and geological components. Sites were assigned one of four levels of importance.

- Priority 1—areas that have statewide or countywide significance based on uniqueness or exceptionally high quality of natural features.
- Priority 2—areas that have countywide or statewide significance based on the overall quality and the diversity and importance of the resources.
- Priority 3—areas that have local or countywide significance that may contain small or degraded resources.
- Priority 4—areas that have biological or ecological resources that are important at the local level.

East Rockhill Township contains the following priority sites as identified in the *Natural Areas Inventory*. (See Figure 6.)

Quakertown Swamp – Priority 1 Site

Quakertown Swamp is the largest freshwater inland wetland in southeastern Pennsylvania. The swamp encompasses nearly 518 acres bordering Bog Run, a tributary to Tohickon Creek and lies within East Rockhill, West Rockhill, and Richland townships. Located near the dormant Rockhill Quarry, it provides a critical wildlife habitat and is a natural plant community for numerous wetland species ranging from open water to shrub swamp, cattail marsh, tussock sage marsh, and swamp forests. More than 74 bird species nest in the swamp, which also provides habitat for a variety of reptiles and amphibians. The area is largely undisturbed, and at an elevation of 840 feet, its heavily forested areas and steep slopes make the area abundant with aesthetic views and scenery.

The Quakertown Swamp has been awarded several distinctions for its natural significance. In 1996, the Bucks County Audubon Society designated the Quakertown Swamp as an Important Bird Area. The Pennsylvania Game Commission recognized the area as a significant habitat for nesting and migrating waterfowl. The United States Fish and Game Commission has also acknowledged the swamp as an important wetland area within Pennsylvania.

Numerous studies have been conducted investigating the wetland's diverse natural communities. In 2000, the Heritage Conservancy published the *Quakertown Swamp Resource Protection Plan*, which explains the importance of the swamp, and attempts to encourage landowners and municipalities to preserve the land so that the swamp can be maintained as a complete site. Because many private landowners hold properties encompassing the wetland, Quakertown Swamp is extremely vulnerable to the impacts of land use and development.

The Heritage Conservancy recommends a combination of land protection techniques to preserve and maintain the Quakertown Swamp. Several options include: acquisition in fee simple, placement of deed restrictions, acquisition of easements or development rights, and voluntary preservation by individual landowners. Innovative zoning and regional land management strategies should also be investigated. Heritage Conservancy notes that interagency cooperation is essential in establishing protection guidelines to ensure the permanent protection of this resource.

The Quakertown Swamp Resource Protection Plan is a component of the Heritage Conservancy's Lasting Landscapes initiative. Lasting Landscapes first identifies and maps significant environments that contain a critical mass of both natural and historic resources, and then works to develop and implement maintenance and protection strategies. To fulfill its mission the Heritage Conservancy also coordinates the Quakertown Swamp Partnership, consisting of federal, state, municipal and local agencies, landowners, and concerned citizens.

Haycock Mountain and Nockamixon State Park – Priority 1 Site

Nockamixon State Park and State Game Lands 157 make up the largest expanse of protected open space in Bucks County with over 7,000 acres. The southwestern portion of Nockamixon State Park is located in East Rockhill Township. Open year-round, the

park's primary attraction is its 1,450-acre lake. The park also contains varied habitats including forests, old fields, rocky streams, and forested wetlands.

Rock Hill – Priority 2 Site

Rock Hill rises to a height of 850 feet above sea level, approximately 300 feet above the surrounding landscape. It includes extensive forested slopes and abundant evidence of past quarrying, including an abandoned quarry pit on its southern face. Rock Hill has been identified as an outstanding scenic geologic feature of Pennsylvania (Geyer and Bolles 1979). As an integral part of the continuous forested band that stretches across Upper Bucks and Montgomery Counties, it should be protected from deforestation and fragmentation.

Agricultural Preservation Zoning

Farming in the Pennridge Area enjoys a rich heritage. The area has contained a large farming community since the first settlers arrived in the early 1700s. By 1750, the settlers had developed their farms and prospered to the extent that they could sell some of the produce. This arable land shaped the area's agrarian past, its architectural heritage, and the pattern of many of its villages. Beyond its historical value, farmland is a productive resource, contributing to the local economy and providing scenic open space valued by residents. Moreover, farmland opens opportunities as additional attractions such as pick-your-own harvesting, hay rides, educational tours, and recreational activities (i.e., batting cages and miniature golf). As of 1990, agriculture remained a primary land use in the Pennridge Area using almost 26 percent of the land area.

Because of the presence of active, productive farms in the East Rockhill, a primary goal of this comprehensive plan is to promote the preservation of prime agricultural land. Agricultural preservation zoning, also known as effective agricultural zoning, is one approach that municipalities can use to limit the conversion of farmland into nonagricultural uses. It focuses on permitting landowners to subdivide a limited number of residential lots from their property based on a minimum acreage necessary for a viable farm unit.

Agricultural Preservation Initiatives

In 1995, Bedminster Township officials initiated the preparation of an update to the township's comprehensive plan. The plan set the stage for agricultural preservation and the need for implementation techniques such as zoning revisions. Natural resource protection and preservation was considered important since more development was expected to occur in the township. Over 80 percent of the soil in the township was determined to be prime or secondary agricultural preserves. Additional action was deemed appropriate to preserve these agricultural areas, particularly the local Agricultural Security Area properties. The existing ordinance did not assist in this preservation effort.

Several approaches to agricultural preservation were examined from a land use regulatory standpoint. Input was provided from the local farming community, agricultural extension service, the county agricultural preservation board, and the conservation district on how

certain approaches would affect the farming industry, the development rights of landowners, and the natural resources in the township. As a result of this work, the township officials, in August 1996, adopted revisions to the zoning ordinance that included a set of agricultural protection standards as a backbone for regulating development in a new Agricultural Preservation (AP) zoning district.

Since 1995, various municipalities have adopted agricultural preservation zoning that is similar to Bedminster Township, including East Rockhill, New Britain, Warwick, and Plumstead townships. Several others have begun analyzing the technique and its potential benefits.

Agricultural Preservation in East Rockhill Township

In East Rockhill, approximately about 9 percent of the land area is in active farmland. There are currently 20 agricultural properties totaling over 700 acres. In 2000, East Rockhill Township adopted the AP—Agricultural Preservation District. The AP district is located in the southeastern corner of the township and corresponds to soils classified as Prime Farmland and Additional Farmland of Statewide Importance.

Section 27-500 of the East Rockhill Township Zoning Ordinance establishes the Agriculture Preservation (AP) District intended to promote farming as a primary use. While limited residential uses are permitted, the standards and regulations of the ordinance are intended to provide an incentive for the preservation of open space and agriculture. Within the agricultural protection standards, area and dimensional requirements are applied according to the size of the parcel or tract: sites containing less than 10 acres and sites containing 10 acres or more. The minimum lot area for a parcel of land less than 10 acres is 80,000 square feet. For tracts of land containing 10 acres or more, a minimum lot area of 32,000 square feet is required, but a larger lot area may be necessary to accommodate on-lot sewage disposal systems. A site analysis must be performed that is based upon the net buildable site area. This includes protection of 40 percent of Prime Farmland and Farmland of Statewide Importance. The nonbuildable site area (the area composed of portions of the site protected from development in accordance with environmental performance standards) is subtracted from the base site area (the total site area minus street and utility rights-of-ways or lands that are not contiguous or previously designated open space) resulting in the net buildable site area. Proposed lots and development must be located on the portion of the tract situated outside the nonbuildable site area. All residential lots are required to have a minimum building envelope of 7,500 square feet to provide sufficient area and flexibility for the location of the building, driveway, parking, and other improvements and site alteration while meeting the natural resource protection and minimum setback requirements. The building envelope can include woodlands, steep slopes, and agricultural soil areas that are not part of the nonbuilding site area.

The ordinance requires that all preserved farmland meet certain minimum standards so that the land is suitable for continued agriculture use. Ordinance provisions also allow farmers to maintain an existing farmhouse and accessory buildings as well as build a new

house and accessory buildings on the protected land as long as the lot size is 10 acres or more.

Court Decisions

Recently, the courts have shown their support for agricultural preservation. In April 2001, the Commonwealth Court affirmed a lower court's ruling that upheld Bedminster Township Zoning Hearing Board's decision to deny C&M Developers' validity challenge to the AP zoning district. C&M Developers appealed the decision to the Pennsylvania Supreme Court.

On November 1, 2002, the Supreme Court reversed the Commonwealth Court's order affirming the Zoning Hearing Board's decision and declared the township's amended zoning ordinance constitutionally invalid. However, the Supreme Court seems to have upheld the regulatory purpose and intent of agricultural preservation zoning. In summary, the decision does not appear to have an issue with the purpose and intent of the AP district. The court decision focused on the "one good acre" and nonbuildable area provisions. The underlying issue appears to be the basis for the required minimum one-acre lot size as it relates to agricultural preservation.

In response to the Supreme Court's decision regarding the appeal by C&M Developers, township officials filed a self-cure in December of 2002. In the first quarter of 2003, the AP district regulations were amended to make appropriate revisions to satisfy the opinion of the court. This includes reducing the minimum lot size from one acre to 32,000 square feet and removing the requirement that certain natural resource are prohibited from being included within the minimum lot area. The building envelope was reduced from 20,000 to 7,500 square feet, but for uses with on-lot sewage disposal systems, a minimum contiguous area of 3,000 square feet in addition to the 7,500-square-foot building envelope must be provided. Also, the maximum intrusion within the Prime Farmland and Farmland of Statewide Importance was increased from 30 to 40 percent (narrative to be revised based upon ultimate AP district revisions).

