
CHAPTER
SEVEN

CRITICAL LANDS PROTECTION STRATEGY

OBJECTIVES

- 1) Compile a Geographic Information System (GIS) database of lands already identified for protection in the Peconic Estuary watershed by various levels of government.
- 2) Apply the PEP criteria developed to achieve water quality and habitat protection goals for the Peconic Estuary to land available for development in the Peconic Estuary watershed.
- 3) Determine the degree to which Community Preservation Fund (CPF) plans address PEP watershed management needs.
- 4) Identify additional parcels, not on CPF protection lists, appropriate for estuarine and watershed protection, satisfying the PEP land prioritization criteria.
- 5) Estimate funding needed for land protection, quantify benefits (where feasible), and evaluate funding sources available for that protection.
- 6) Involve a broad cross section of stakeholders in the process.
- 7) Accelerate land protection in the Peconic Estuary.
- 8) Coordinate protection recommendations, to the extent possible, with the protection recommendations of the Pine Barrens and special groundwater protection area initiatives.
- 9) Integrate and coordinate the PEP Critical Lands Protection process with Smart Growth and Sustainable Development tools, initiatives, and ordinance modifications, etc. to assist communities in assigning development to appropriate areas.
- 10) Develop a strategy for the management of underwater lands which preserves and enhances the region's critical natural resources.



MEASURABLE GOALS

The PEP's measurable goals with respect to critical lands protection include:

- Develop a systematic, watershed-wide evaluation and identification of lands in need of protection with respect to estuarine management concerns and evaluate the funding available for that protection.
- Integrate and coordinate the PEP Critical Lands Protection process with related land use initiatives and ordinance modifications affecting the Peconic Estuary.



INTRODUCTION

This chapter represents the Peconic Estuary Program's strategy for developing a Critical Lands Protection Plan, a recommendation that arose from the public comments of the September 1999 draft Comprehensive Conservation and Management Plan (CCMP). The Critical Lands Protection Plan (CLPP) will ultimately evaluate the land available in the Peconic Estuary Study Area and identify priorities for protection with respect to estuarine management concerns. It is the intent of the Critical Lands Protection Plan to prioritize the available land "through the lens" of habitat and water quality protection. In the reality of acquiring/preserving land, other factors including drinking water, public access, and upland habitats and species, among others come in to play. The Critical Lands Protection Plan is not designed to be the sole reference for land protection in the Peconic region. However, it will be a useful tool for State and local agencies that make land acquisition decisions in part on estuarine considerations.

Rationale for Land Protection-

Ever-increasing development is consuming open space and natural habitat, and stressing watersheds and natural communities. At the current rate of development, nearly two-thirds of our remaining open space and farmland will be lost forever and developed within the next ten years. As is documented in other parts of this CCMP, the pressures development can place on the estuary include:

- loss of natural habitat;
- increased amounts of fertilizers and pesticides from lawns;
- petroleum spills and leaks from underground oil storage tanks;
- septic system inputs; and,
- road runoff.

The loss of natural habitat to development fragments natural communities leading to their eventual decline. Contaminants migrate into ground and surface waters, leading to the decline and death of aquatic communities, including shellfish and finfish. Increased development also brings increased traffic, congestion, and air pollution.

It is not prudent or economically feasible to acquire or protect all of the remaining land available for development in the estuary. Although drawbacks to land protection exist, there is ample justification that land acquisition has significant environmental and public benefits.

Environmental Benefits of Land Protection include:

- preservation of concentrated or unique species or natural communities;
- control of total nitrogen loads;
- protection of watersheds and surface water quality; and,
- protection of groundwater recharge areas.



Public Benefits of Land Protection include:

- aesthetic values that contribute to our quality of life including economic benefits from tourism and resort homes;
- limiting development costs related to traffic congestion and infrastructure investments (water mains, septic and sewer systems, schools and fire departments, electric and telephone lines);
- protection from erosion and flooding-related damages, and other physical hazards;
- drinking water protection;
- increasing public access and recreational opportunities;
- economic compensation to landowners who sell their property for open space and enhanced economic values to the nearby property owners and the community; and,
- protection of productive finfish and shellfish habitats for recreational and commercial purposes.

Drawbacks to Land Protection include:

- reduces the tax base available to a municipality;
- reduces the supply of land available for additional housing and businesses; and,
- possible increase in property values, thereby increasing housing costs and property taxes, which could “squeeze out” low income residents.

Public Willingness to Preserve Land

The public has a strong attachment to the environmental and amenity resources of the Peconic Estuary System, even if they do not use the resources directly. In response to an inquiry of willingness to support undeveloped land preservation and estimating the monetary value that the survey responses implied, the public would spend at least \$14.0 thousand per acre for undeveloped land, using a 25-year time horizon and a seven percent discount rate in 1995 dollars. The \$14.0 thousand per acre underestimates the actual value the public would be willing to pay because the survey solely focused on the values for protecting “undeveloped lands”; it did not incorporate the value to the public with respect to drinking water protection, critical habitat/species concerns, and estuarine protection. The survey was carried out in August 1995, polling 968 year-round and seasonal residents of the East End of Long Island.

The intrinsic values of many natural resources are difficult, if not impossible, to measure. Attempts have been made to measure elements of value, however. For example, the economic value of eelgrass, intertidal salt marsh, and sand/mud bottoms was estimated, based on the value of the fish, shellfish, and bird species that these ecosystems help “produce” (EAI, 1999). The results suggest an asset value per acre of approximately \$12.4 thousand for eelgrass, \$4.3 thousand for salt marsh, and \$786 for mud flats, using a 25-year time horizon and a seven percent discount rate in 1995 dollars.

Numerous other benefits of open space were determined and quantified including the public’s willingness to pay for additional travel to access cleaner waters resulting from open space. A



recreational survey found that swimming was the most popular water-based activity within the Peconic Estuary and accounted for 42 percent of all the water-based recreation trips that year. Using travel cost model estimates, the public was found to be willing to pay \$8.59 per swimming trip above and beyond the amount they actually spend to engage in the activity. (Note: The PEP is not recommending the public's willingness to pay be translated into any new or increased fees at public recreation areas.)

Swimming use was found to be dependent on the public's perception of the water quality. A benefit-cost analysis was used to simulate hypothetical, uniform improvements in water quality. A ten percent uniform improvement in water quality in each bay would increase the estimated number of annual swimming trips by 151 thousand and would add a yearly benefit of \$1.3 million. This is an increase of about 11 percent in use and in benefits. Most of the benefits (\$754 thousand) are due to hypothetical improvements in water clarity (as measured by Secchi depth). If the ten percent hypothetical water quality improvement were maintained for 25 years, this improvement would have a present value of \$15.1 million, using a seven percent discount rate and 1995 dollars. This number represents the change in asset value for swimming due to the quality improvement, all else remaining the same. Thus, if the cost of preserving land and other policies to improve water quality did not exceed \$15.1 million over the same period, it is a good investment of scarce resources.

Open space has a significant, positive effect on nearby property values. A property value analysis was conducted for the Town of Southold by applying the hedonic method to a database comprised of GIS parcel coverage data and real estate sales data from 1996. A parcel of land adjacent (or within 25 ft.) to open space was found to have, on average, a 12.83 percent higher per-acre value than a similar parcel located elsewhere. To illustrate the impacts of open space to property values, it can then be estimated that a hypothetical contribution of a parcel of approximately ten acres of open space would increase adjoining property values by \$410,907. For this illustration, if the ten acres of undeveloped property could be protected for less than \$410,907, the benefits would be greater than the costs. Note that even if the property to be protected costs more than \$410,907, the benefits may still exceed the costs. This is because not all the benefits of open space are captured in the hedonic analysis (*i.e.*, general amenity benefits enjoyed by all local residents, regardless of the location of their homes) and, since the study, real estate values have drastically increased in all towns, some more dramatically than others.

Population and Land Use in the Peconic Watershed

The population of eastern Suffolk County continues to grow. While the five eastern towns of Suffolk County comprise eight percent of Suffolk County's total population, the year-round population has steadily grown since 1960 (SCPD, 1997). From 1960 to 1995 the population in eastern Suffolk increased by 67 percent. Tourism and the presence of summer homes increase the population during the summer months. It is estimated that the population in the five eastern towns nearly triples during peak seasonal times, expanding from the 1990 year-round figure of 106,593 up to 289,000 during peak seasonal times (an increase of 171 percent).

The population growth continues to stress the natural resources of this region. While the population in eastern Suffolk increased by 67 percent from 1960 to 1995, the number of year-round households increased 118 percent. Thus, the growth of housing has outpaced population growth (SCPD, 1997).

Forty percent of the acreage in the Peconic Estuary watershed was subject to development in 1995 (SCPD, 1997). If open space programs were not implemented and all 40 percent were developed at



low density residential land uses, the current total nitrogen loads to the western estuary, South Fork, and Shelter Island would more than double, as compared with existing conditions (SCDHS, 1999) assuming that typical lawn care practices continue and there is no change in septic system technology. Given the region's growing population and the significant increase in the rate of development in the last five years, the need for protecting open space and undeveloped land is further underscored.

The ownership pattern of underwater lands in the open bays has to a major extent been the result of past oyster ground management activities (SCPD, 1997). The Suffolk County Planning Department inventoried over 121,000 acres of underwater lands in the Peconic/Gardiners Bay system, contiguous bays and tidal creeks, and the bottom of the Peconic River above the head of the tide (SCPD, 1997). The majority of the area (54 percent) is owned by New York State while Suffolk County has control over roughly 25 percent of the underwater lands. About seven percent of the bottom (8,659 acres) is controlled by the towns or Town Trustees. Villages own only 27 acres and more than 11,000 acres are privately held.

The title and exact locations of many underwater land parcels have become clouded. The titles to underwater parcels that are held jointly by Suffolk County and private interests and to parcels that have unknown owners need to be clarified. In some instances, reference points on adjacent uplands that were used a century ago to locate underwater land parcels are no longer in existence. Boundary disputes are likely to arise in the future as well. Unless addressed and resolved, these issues will hamper development of management plans for the marine portion of the Peconic Estuary.

Recreational Use and Value of the Watershed

The Peconic watershed is used by our residents, second homeowners, and visitors for a vast amount of recreational activities. A PEP-funded recreational survey estimated that in 1995:

- 127,762 people took some 3.3 million swimming, boating, fishing, or shellfishing outings; and
- 156,184 people engaged in about 5.2 million beach use, bird watching, wildlife viewing, or hunting trips.

Swimming and beach use were the most popular activities, followed by bird and wildlife viewing, boating, and fishing (EAI, 1999). Shellfishing and hunting had the fewest estimated number of trips. Activities such as hiking/walking and bicycling were not included in the estimates of recreational activity.

Outdoor recreation is enormously valuable to the Peconic Estuary users. The unpaid benefit individuals receive, on average, from a recreational trip (e.g., consumer surplus) was estimated using a travel cost model (EAI, 1999). The estimated values per recreational trip ranged from \$49.83 for viewing birds and wildlife to \$8.59 for swimming (in 1995 dollars). Fishing and boating values per trip fall within that range at \$40.25 and \$19.23, respectively.

The total annual benefit from each recreational activity can be estimated by multiplying the average consumer surplus for an activity by the estimated total number of trips to engage in that activity over the year. Viewing birds and wildlife was the most valued of the activities studied on a total annual benefit basis (\$27.3 million). Of the water-based activities, recreational fishing was the most highly valued (\$23.7 million). Boating and swimming had annual values of \$18.0 million and \$12.1 million, respectively.



Estimated asset values for recreational activities in the Peconic Estuary System range from \$318 million for bird watching and wildlife viewing to \$141 million for swimming. The estimated asset value is \$276 million for recreational fishing and \$210 million for boating. These figures were estimated using a seven percent discount rate, a time horizon of 25 years, and 1995 dollars. It was assumed that the estimated value rates remain the same over the 25-year period.

Great Peconic Bay was the most popular waterbody in the Peconic Estuary System for recreational activity, accounting for 28 percent of the recreational trips in the Peconic Estuary System, while Flander's Bay is the least frequently used with eight percent. Great Peconic Bay is the most popular location for swimming (30 percent), fishing (29 percent), and boating (25 percent). Gardiners Bay is the most popular location for shellfishing, accounting for 33 percent of all the shellfishing trips in the Peconic Estuary System.

Overall, the residents and visitors of eastern Long Island enjoy a plethora of access points and activities from edges of roads, marinas, and public beaches. Even though the survey revealed that some parts of the estuary are more frequented than others, all bay areas are cherished by the residents in the Peconic system.

Non-Recreational Use and Value of the Watershed

Resource-related businesses play an important role in the Peconic Estuary watershed. Specific uses include commercial fishing, aquaculture, agriculture, fish processing, marinas, ship building and repair, bait and tackle shops, hotels, ferries, petroleum product transfer stations, and educational facilities. The estuary also receives sewage treatment plant effluents as well.

A conservatively low estimate of 1,149 establishments (24 percent of those in the Peconic watershed) were estuarine dependant in 1993 (EAI, 1996). A quarter of the establishments were marine-related (marinas, boating, commercial fishing) while the rest of the establishments included in the study were tourism-related (hotels, motels, restaurants, retail, etc.). More than 7,300 people are employed in these businesses (twenty percent of the employment in the region), with a combined annual income of more than \$127 million.

Tourism in the region is based on the water quality of the Peconic Estuary and agriculture. Farmland is an important component of the "sense of place" felt by many of the residents on the East End, who enjoy the rural quality of the area and shopping at numerous local farm stands. A survey of 968 residents, second homeowners and tourists in 1995 revealed that the public's overall priority for land protection was protecting farmland. The survey responses imply that the public would be willing to spend \$74.5 thousand per acre of farmland protection, using a 25-year time horizon and a seven percent discount rate in 1995 dollars (EAI, 1999).

Criteria for Land Protection Priorities

The dual goals of water quality and habitat protection in the PEP drive the choice of criteria for land acquisition priorities in the Peconic Estuary.



Proposed criteria for determining priorities for protection include:

- PEP Critical Natural Resource Areas (CNRAs). These areas contain multiple regional attributes of ecological significance as described in **Chapter 4** of this Plan.
- New York State Natural Heritage Program element occurrences. The NYS Natural Heritage Program has identified locations of particular ecological significance, including areas containing rare, threatened, and endangered species.
- United States Fish and Wildlife Service (USFWS) 1994 National Wetlands Inventory. The USFWS 1994 National Wetlands Inventory catalogued the freshwater and tidal wetlands in the area.
- Source control of nitrogen, bacteria, and toxics. The PEP recognizes that protection of parcels within a 1000-foot boundary from freshwater streams and bay coastlines, and parcels in the groundwater contributing area to nitrogen-stressed subwatersheds, may help manage the inputs of nitrogen, pathogens, and toxics into the estuary.

Using GIS and available information about the watershed, the CLPP Work Group has developed the following coverages (assemblages of spatial information):

1. PEP Watershed Boundary;
2. Suffolk County Tax Map Base;
3. PEP Land Available for Development (minus agricultural land available for development);
4. PEP Critical Natural Resource Area boundaries;*
5. New York State Natural Heritage Elements;*
6. U.S. Fish and Wildlife Service National Wetland Inventory — 1994;*
7. PEP Groundwater Water Contributing Areas to Nitrogen Stressed Subwatersheds;*
8. 1000 foot boundary from freshwater stream and bay coastlines;*
9. Community Preservation Fund Project Plan parcels from the five East End towns;
10. Protected lands (includes Federal, State, County, town, village parks, and privately owned conservation lands); and,
11. Suffolk County Greenways proposed acquisition parcels.

* If land is available for development, these criteria are factors that contribute to its “criticality.”

The acquisition or purchase of development rights on farmland was not chosen as a criterion for the PEP Critical Lands Protection Plan. The CLPP Work Group recognizes that protection of farmland is the highest priority of locally adopted Community Preservation Fund plans. There are, however, options, tools, and techniques that can be incorporated into acquisition efforts to decrease the nitrogen and biologically harmful chemicals that reach the Peconic Estuary from farmland. The PEP Agricultural Nitrogen Management Work Group is addressing these issues.



Means of Achieving Land Protection

There are many funds and programs available for land protection in the Peconic watershed. While several are noted in CCMP **Chapter 9** (CCMP Financing), there are programs within them specific to land acquisition as well as other funding sources that warrant mention here.

New York State Land Acquisition Programs

New York State Open Space Conservation Plan: Released in 1998 by the New York State's Department of Environmental Conservation and the Office of State Parks, Recreation, and Historic Preservation, this is the current State-wide plan for open space acquisition and protection. The plan identifies sites that are priorities for protection and preservation of farmland, historic and archaeological resources, water quality, natural and scenic environments, and open space/recreational opportunities. This plan is being updated with the assistance of regional advisory committees, with public hearings scheduled on a draft updated plan in the winter of 2001.

New York's Clean Water State Revolving Fund (CWSRF): This fund provides low-interest rate loans to municipalities to carry out projects that reduce or prevent water pollution. As the loans are repaid, money is available to be used again for new loans. The CWSRF program, in existence since 1990, has made over \$4.3 billion in loans. The CWSRF program funds projects involving construction of wastewater facilities that reduce or prevent point-source water pollution. Projects that reduce nonpoint source pollution are also eligible for CWSRF financing. Such projects include restoration of riparian vegetation, wetlands and other waterbodies; land purchase or conservation easements for water quality protection such as for wellheads or watersheds; and certain EPA designated estuary projects, such as aquatic habitat restoration and protection.

New York State Environmental Protection Fund (EPF): This fund provides approximately \$30 million per year for open space preservation. It is funded primarily through real estate transfer taxes. Decisions regarding the use of these funds are made according to the New York State Open Space Conservation Plan.

New York State Clean Water/Clean Air Bond Act: This Bond Act provides \$150 million for State Open Space conservation projects undertaken by either the NYS Department of Environmental Conservation or Office of Parks, Recreation, and Historic Preservation and farmland preservation projects administered by the Department of Agriculture and Markets. An additional \$50 million is dedicated to municipal parks and historic preservation projects administered through Office of Parks, Recreation, and Historic Preservation; this also includes funds for land acquisition.

Suffolk County Land Acquisition Programs

Farmland Preservation: This program, the first of its kind in the United States, was created in 1977 for the purpose of acquiring development rights to working farms. The easement acquired eliminates all development rights other than those necessary for agricultural production, and establishes oversight and approval of new farm structures with the County Farmland Committee. Since the inception of the program, approximately \$40 million in general obligation bonds have been spent by Suffolk County to preserve 7,000 acres of farmland.

Open Space: This program was created in 1986 and funded through general obligation bonds initially at \$60 million. Subsequent appropriations have raised expenditures to \$84 million. Approximately 5,000 acres have been acquired by the County to date. It is designed to acquire lands under



development pressure that cannot be clustered, rezoned, or partially developed. Lands acquired are managed generally as passive open space.

Drinking Water Protection: This program is funded with one-quarter cent of the sales tax, which has been generating approximately \$35 million annually depending on the economy. The County has acquired 12,000 acres, mostly in the Pine Barrens. Since the inception of the program in 1987, over \$220 million has been spent on acquisitions. The program was set to expire in 2001, but has been reauthorized (see “Sales tax extension program” below). The program has three components:

- 12.5.A** requires that acquisitions must relate directly to drinking water supply anywhere in Suffolk County, generally in one of the Special Groundwater Protection Areas (SGPAs). There are seven designated SGPAs within the deep aquifer recharge areas of Suffolk County. The bulk of the money continues to pay for debt service on acquisitions made in the 1989-91 time frame.
- 12.5.D** is a revenue sharing component based on population and is set aside by each town. The towns can elect to spend all or a portion on landfill costs, but Brookhaven and the five eastern towns are still requesting their yearly shares be spent on land acquisition.
- 12.5.E** is the residuary or leftover, which voters in 1996 mandated be spent totally for land acquisition. It is divided into two segments: one-third goes to the four western towns and Shelter Island on a population basis and can be spent to acquire any properties which are authorized by the County Legislature; two-thirds goes to the other, or so-called Pine Barrens towns, on an undifferentiated basis to be spent on Drinking Water-related parcels.

Sales tax extension program: This program, authorized by referendum in 1999, extends the 1/4% sales tax starting in 2001 and ending in 2013. The program will be funded annually depending on the economy and sales tax revenues. It is divided into the following five separate and dedicated accounts:

- **Sewer rate relief** (projected total \$300 million over life of program);
- **Tax relief** (projected total \$270 million over life of program);
- **Farmland** for the continued purchase of development rights (projected total \$62 million over life of program);
- **Drinking Water and Open Space** for land acquisitions, including the Peconic Estuary and the South Shore Estuary Reserve (projected total \$114 million over life of program); and,
- **Water Quality** to fund wetland cleanups and rehabilitation, stormwater runoff cleanups, demonstration projects, and other environmental improvements (projected total \$95 million over life of program).

Community Greenways: Authorized by referendum in 1998, this program is funded at \$62 million over the life of the program. In 1999, the County Legislature authorized the Open Space component (\$20 million) principally for drinking water protection parcels, stream tributaries, greenbelt, and habitat enhancement, which comprises about 1,000 acres scattered throughout Suffolk County. Parcels have been targeted for acquisition and negotiations are proceeding. Individual authorizations are also proceeding for lands to be used for Active Recreation (\$20 million available), where the County buys the land and a town, village or community group is required to design, build, and



maintain the recreation improvements. Golf courses are specifically excluded. In early 2000, the Legislature authorized the Farmland component (\$20 million), for the purchase of development rights to active farms anywhere in the County, provided another level of government commits to 30 percent of the cost of acquisition. This program should be able to preserve another 2,000 acres of farms. Two million dollars are set aside for the construction of a natural history interpretive center.

Land Preservation Partnership: This funding program from general obligation bonds calls for the acquisition of land for various purposes, not including active recreation, in partnership with a town or village primarily. All associated costs are split 50-50, and the land can be divided or held in common ownership as the partners choose. Development rights and conservation easements can also be acquired under this program, funded thus far at approximately \$9 million in County dollars.

Review of tax lien properties for environmental value: The Suffolk County Planning Department reviews all tax lien parcels for environmental evaluation after the redemption period has expired to determine if the County should retain these parcels for open space/park/municipal purposes or sell them at auction. This procedure was first initiated by Suffolk County nearly 15 years ago. In 1999 alone, Suffolk County transferred over 350 acres to its Department of Parks, Recreation and Conservation.

Town Community Preservation Fund Project Plans

In November 1998, the voters of the five East End Towns approved a referendum that added a two percent tax to real estate transfers in their communities. Revenues generated by the tax go into a Community Preservation Fund in the Town in which the transaction occurred for the purpose of protection and acquisition of open space and historic properties. In each of the Town's Community Preservation Fund Project Plans, parcels have been identified for protection through fee simple acquisition or other means such as conservation easements.

When the program was conceived, it was estimated the transfer tax would generate approximately \$10 million annually until the year 2010 when the program either expires or is renewed. After the first several months of tax receipts, it appears that \$10 million is an underestimate of the potential amount generated by this program. For instance, the total revenue generated by all five towns in the year 2000 exceeded \$35 million. This total reflects a robust real estate market. Fluctuations in the economy may affect future Community Preservation Fund revenues.

Agencies and Organizations that Protect Land

It may appear from the above noted funding sources that more than enough dollars exist to achieve any set of protection objectives. However, land values are high and escalating, and competing demands on these funds are so great that efforts to prioritize are necessary.

The agencies, communities, and organizations that call upon and expend these funding sources are numerous, staffed with professionals, and actively involved in protecting land in the Peconic Estuary. Land acquisition/protection is occurring now in the absence of a plan that is solely focused on regional estuarine and land management concerns.

In fact, almost any reduction in density of certain areas of the watershed will have a positive effect on the natural community. But with limited funds available, it is incumbent on the community of the Peconic Estuary to seek out the best means by which collective resources can be spent for the greatest benefit to the watershed. The CLPP is intended to provide this guidance.



All of the organizations acting on behalf of land acquisition are either represented on the CLPP Work Group or will be contacted in the stakeholder input process. They include the following:

- United States Fish & Wildlife Service;
- New York State Department of Environmental Conservation;
- Suffolk County Department of Planning;
- The Nature Conservancy;
- Group for the South Fork;
- North Fork Environmental Council;
- Peconic Land Trust;
- Southold Town;
- Riverhead Town;
- Southampton Town;
- East Hampton Town;
- Shelter Island Town;
- Brookhaven Town;
- Village of Dering Harbor;
- Village of Greenport;
- Village of North Haven; and,
- Village of Sag Harbor

Types of Protection Tools Available

In addition to the many sources of funds available to protect land in the Peconic Estuary, there are also many tools available to the organizations and agencies who complete the transactions that protect the land. These include many creative approaches, some of which are described below:

- *Fee Simple Acquisition* — Outright purchase of full title to land at fair market value;
- *Purchase of Development Rights* — Landowner sells all or part of a property's development rights to a municipality or non-profit conservation organization, while still retaining ownership and the right to certain land uses such as farming;
- *Transfer of Development Rights* — Landowner sells all or part of a property's development rights and transfers those development rights to another parcel of land within the same Groundwater Management Zone or sells the development rights to other landowners whose property can support increased density in the same Groundwater Management Zone;



- *Conservation Easements* — Conservation easements are restrictions landowners voluntarily place on their property that legally bind the actions of present and future owners. Easements are used to preserve wildlife habitat, open space, agricultural land, or the historic features of a building while allowing the landowners to continue owning and using the property. Easements can provide tax advantages and/or tax abatement provided that easement is long term or perpetual;
- *Bargain Sale* — Sale/conveyance of title to land or development rights to a charitable organization at less than fair market value;
- *Outright Land Donation* — Donation by a landowner of all or partial interest in a property;
- *Option* — An option signed between a property owner and a conservation organization that provides temporary protection for a parcel while allowing the organization to secure funding for the parcel's acquisition;
- *Right of First Refusal* — A right of first refusal granted to a conservation organization or agency that allows the agency to be notified when a parcel of land is being considered for purchase by another party;
- *Like-kind Land Exchange* — A tax-free transaction whereby a public agency or a non-profit conservation organization exchanges like-kind developable land with property identified for protection;
- *Tax-exempt Installment Sale* — A long-term contract to sell property or associated development rights negotiated between the landowner and municipality and/or non-profit organization, providing significant tax relief;
- *Management Agreements* — An agreement between a property owner and another agency, such as a non-profit conservation organization, on how the property will be managed. For example, a management agreement on a parcel of farmland could state that buffer areas of native vegetation be maintained at the border of active farmland for the purpose of reducing nitrogen runoff to an adjacent water-body;
- *Limited Development/Reduced Density* — Property that is subdivided at a reduced density to better protect open space. Limited development plans can provide tax advantages, reduced infrastructure building costs, and enhanced marketability; and,
- *Clustering* — Land subdivision/proposed development that is clustered on a portion of property to protect open space.

MANAGEMENT ACTIONS

The management actions make use of available information, resources, and public opinions to help decision-makers choose protection priorities that have the greatest benefit for the most critical areas of the watershed.

Within the CCMP, some steps within the actions have been identified as priorities, as indicated under the step number. The PEP will seek to implement priority actions in the near term. Priorities may be either new or ongoing, commitments, or recommendations. Completing some priority actions does not require any new or additional resources, because they are being undertaken through "base



programs" or with funding that has been committed. In other cases, in order to complete the priority actions, new or additional resources need to be secured by some or all of the responsible entities.

**CRITICAL LANDS PROTECTION PLAN
MANAGEMENT ACTIONS**

- CLPP-1 Develop a PEP "Critical Lands" Map and List Based on Applying the PEP Criteria.
- CLPP-2 Continue to Refine the CNRA Boundaries with Results of the Work from the PEP Natural Resources Subcommittee.
- CLPP-3 Estimate Funds Needed for Land Protection, to Quantify Benefits (Where Feasible) and Evaluate Funding Sources Available for that Protection.
- CLPP-4 Prepare the PEP Critical Lands Protection Plan Report.
- CLPP-5 Accelerate Land Protection in the Peconic Estuary.
- CLPP-6 Identify a Process for Using Smart Growth Tools, Sustainable Development Initiatives, and Ordinance Modifications, etc. to Assist Communities in Assigning Development to Appropriate Areas.
- CLPP-7 Develop a Strategy for the Management of Underwater Lands Which Conserves and Enhances the Region's Critical Natural Resources.



CLPP-1. Develop a PEP “Critical Lands” Map and List Based on Applying the PEP Criteria.

Addresses Critical Lands Protection Plan Objectives 1, 2, 3, 4, and 6.

The identification of all parcels meeting the criteria for protection with respect to estuarine land management concerns can be facilitated by using GIS (for criteria, see pages 7-8). Following the production of a draft map illustrating these parcels, the CLPP Work Group will meet with each town within the Peconic Estuary Study Area to discuss the draft map and list of parcels. Meetings with town and village elected officials, planning and natural resource staff, and additional stakeholders will be an opportunity for the merits of each parcel to be considered individually.

Input from each town will be incorporated into the final list and map of recommended protection priorities for the CLPP.

The town-by-town meetings will be held in 2001.

Steps

- CLPP-1.1 Identify parcels currently recommended for acquisition in the Peconic Estuary
Priority by various levels of government. (i.e., CPF lists).
- CLPP-1.2 Finalize GIS data coverages that allow selection of parcels within the watershed.
Priority
- CLPP-1.3 Develop a draft map of parcels (for discussion) selected for protection with respect to
Priority estuarine management concerns.
- CLPP-1.4 Hold town-by-town meetings with town officials to discuss individual parcels.
Priority
- CLPP-1.5 Incorporate suggestions from the towns and develop a final map illustrating parcels
Priority recommended for protection with respect to estuarine management concerns.
- CLPP-1.6 Incorporate suggestions from the towns and develop a final list of parcels recommended
Priority for protection with respect to estuarine management concerns.



Responsible Entities

- CLPP-1.1 Suffolk County Planning Department (SCPD) (lead) and five East End towns
- CLPP-1.2 SCPD (lead), CLPP Work Group, and Suffolk County Department of Health Services (SCDHS), PEP Program office
- CLPP-1.3 SCPD (lead), PEP Program Office, and CLPP Work Group
- CLPP-1.4 The Nature Conservancy (TNC), PEP Program Office (co-leads), SCPD, CLPP Work Group, five East End towns, and villages
- CLPP-1.5 SCPD (lead), TNC, PEP Program Office, and CLPP Work Group
- CLPP-1.6 TNC (lead), SCPD, PEP Program Office, and CLPP Work Group



CLPP-2. Continue to Refine the CNRA Boundaries with Results of the Work from the PEP Natural Resources Subcommittee.

Addresses Critical Lands Protection Plan Objective 2.

Steps

CLPP-2.1 Continue to refine the CNRA boundaries with results of the work from the PEP Natural Resources Subcommittee.
Priority

Responsible Entities

CLPP2.1 NYSDEC, PEP Natural Resources Subcommittee (co-leads), CLPP Work Group, and SCPD, and PEP Program Office



CLPP-3. Estimate Funds Needed for Land Protection to Quantify Benefits (Where Feasible) and Evaluate Funding Sources Available for that Protection.

Addresses Critical Lands Protection Plan Objective 5.

Once the parcel list is generated, there is comparable sales data available to estimate the costs of purchasing, in whole or in part, the parcels. It is then necessary to determine the gap, if any, between the cost of protection and the funds available to achieve it. This analysis must be set in the context of how these funds might be spent on other competing acquisition priorities, such as farmland and non-PEP open space lands. Thus based on prior patterns of acquisition funding, the PEP will assume that the future revenue stream will be similar for purposes of developing finance plans and cost estimates. Finally there are methods available to evaluate the benefits of land protection to the community and the neighborhoods in which it occurs.

Steps

CLPP-3.1 Determine the costs of acquisition efforts if particular parcels were purchased.

Priority Determine the additional cost if all parcels were purchased.

CLPP-3.2 Assess the funding gap between needed protection and available funding sources.

Priority

CLPP-3.3 Analyze and estimate the economic benefits of land acquisition to the community as a

Priority whole and to the neighborhood in which protected land is located.

Responsible Entities

CLPP-3.1 TNC, Suffolk County, and towns (co-leads)

CLPP-3.2 TNC, Suffolk County, and towns (co-leads)

CLPP-3.3 PEP Program Office (lead) Consultant EIA, Inc., Group for the South Fork (GSF), and TNC



CLPP-4. Prepare the PEP Critical Lands Protection Plan Report.

Addresses Critical Lands Protection Plan Objectives 1, 2, 3, 4, 5, and 6.

The Critical Lands Protection Plan will be the culmination of evaluating the land available for development in the Peconic Estuary Study Area. The Plan will document the PEP's priorities for protection "through the lens" of habitat and estuarine water quality protection. Estimates of the funds needed for this protection and possible funding sources will be identified.

Steps

CLPP-4.1 Prepare the PEP Critical Lands Protection Plan report.

Priority

Responsible Entities

CLPP-4.1 TNC (lead), PEP Program Office, SCPD, SCDHS, NYSDEC, USFWS, and EPA



CLPP-5. Accelerate Land Protection in the Peconic Estuary.

Addresses Critical Lands Protection Plan Objective 7.

With abundant available funds for land acquisition and a robust real estate market, it may be essential for the public sector to hire more people to work on acquiring land for preservation. This work is time intensive and manpower dependent. The shortage of qualified staff can delay or stall the pace of land acquisition.

To assist in purchasing land while it is still undeveloped and before realized sources of public funding become available, the New York State Environmental Facilities Corporation (“EFC”) can offer below market rate financing, including zero percent short-term loans and 50 percent subsidized long-term loans for implementing National Estuary Program CCMPs, such as the Peconic Estuary.

Another means of increasing the rate at which land is protected is provided by “public benefit” or “current use” property taxation methods. In such programs, property tax relief is given on land containing one or more “sensitive areas,” such as public access, extra surface water buffer, habitat restoration area, or scenic or conservation easements. The incentive functions by establishing a “current use taxation” property tax assessment that is lower than the “highest and best use” assessment level that usually applies. The reduction in taxable value ranges from 50 percent to 90 percent for the portion of the property in “current use.” Penalties for withdrawal from the program are necessary to limit conversions after receiving tax relief. This concept could also be employed in valuing property for New York estate tax purposes.

Finally, income tax credits offer a much greater dollar amount compared to income tax deductions, and thus a greater incentive to give. This is a very effective and high-leverage land protection tool. A tax credit program in North Carolina revealed that for every \$1 of tax credit given, \$8 worth of land was protected. This type of program is especially useful in higher tax states like New York where the benefits of tax credits are more valuable and where land prices are high and rapidly escalating.

Steps

- CLPP-5.1 Increase staff at the town and County level to meet the need for more and faster land acquisitions.
- CLPP-5.2 Secure zero percent short-term financing through the NYS EFC for land protection measures.
- CLPP-5.3 Develop a “Public Benefit” or “Current Use” ranking system for assessment of property taxes.
- CLPP-5.4 Create a State income tax credit program for qualified charitable gifts of land for conservation purposes.



Responsible Entities

CLPP-5.1 Five East End towns and Suffolk County (co-leads)

CLPP-5.2 TNC, all towns, and Suffolk County (co-leads)

CLPP-5.3 TNC, GSF, and all town tax assessors (co-leads)

CLPP-5.4 TNC, GSF, and State Legislature (co-leads)



CLPP-6. Identify a Process for Using Smart Growth Tools, Sustainable Development Initiatives, and Ordinance Modifications, etc. to Assist Communities in Assigning Development to Appropriate Areas.

Addresses Critical Lands Protection Plan Objectives 8 and 9.

Smart Growth activities can benefit homeowners and developers as well as farmers and conservationists by encouraging compact development in areas already developed and leaving open space and farmland alone. Smart Growth and “neo-traditional villages” keep residential and commercial development “clustered” in one area, thus reducing the pressure to develop into surrounding open space and farmland (“sprawl”). Keeping future development “clustered” also makes it easier to affect future nitrogen and pesticide reduction strategies, on the assumption that economies of scale prevail if houses are closer together.

The Suffolk County Planning Commission has just released the report entitled “Smart Communities Through Smart Growth: Applying Smart Growth Principles to Suffolk County Towns and Villages” (Suffolk County Planning Commission, 2000). This document should be integrated with the recommendations of the CLPP. The Suffolk County Planning Commission is in the process of integrating the principles of Smart Growth into its Zoning and Subdivision Guidebook.

Government-sponsored incentive programs currently available include the State Quality Communities program and the Federal Livable Communities program. There are also several private foundations offering grants to create and implement Smart Growth policies.

Steps

CLPP-6.1 Review local ordinances to allow incorporation of Smart Growth initiatives.

CLPP-6.2 Implement Smart Growth initiatives.

Responsible Entities

CLPP-6.1 Towns (lead), and SCPD

CLPP-6.2 Towns (lead), and SCPD



CLPP-7. Develop a Strategy for the Management of Underwater Lands Which Conserves and Enhances the Region's Critical Natural Resources.

Addresses Critical Lands Protection Plan Objective 10.

Steps

CLPP-7.1 Develop a strategy for the management of underwater lands which conserves and enhances the region's critical natural resources.

Responsible Entities

CLPP-7.1 Suffolk County and PEP Program Office (co-leads), NYSDEC, and PEP Natural Resources Subcommittee



BENEFITS OF MANAGEMENT ACTIONS

The most significant benefits of the management actions are not easily quantified. If the actions are successfully implemented, the benefits are manifested in such terms as quality of life, a thriving recreational fishery, clean water in which to recreate, and a healthy and diverse ecosystem. Economic analyses can and will quantify some of these benefits, such as enhanced property values and successful commercial fisheries harvests. But the most significant benefit is the protection of an irreplaceable asset that will only become more expensive to obtain and may not even be obtainable if action is not taken to protect it now.

COSTS OF MANAGEMENT ACTIONS

The total cost of implementing the acquisition recommendations remains to be determined. It is in fact a management action to assess this cost and evaluate whether funds exist to meet it or whether a gap exists that needs to be filled. There are additional costs associated with the following (to be funded by in-kind matches):

- stakeholder input meetings;
- GIS analysis, map production, and distribution; and,
- economic analyses.

The total cost of all actions proposed for critical lands protection is \$292,500 in new one time costs; this estimate does not include cost estimates for land protection (including acquisition). (See “Action Costs” in **Chapter 1** for an explanation of how these costs were determined.)

CRITICAL LANDS PROTECTION ACTIONS SUMMARY TABLE

Table 7-1 provides the following summary information about each of the actions presented in this chapter.

Status

An action’s status is designated in the table by either an “R” for “Recommendation” or a “C” for “Commitment.” Actions that are commitments are being implemented because resources or funding and organizational support is available to carry them out. Actions that are “recommendations” require new or additional resources by some or all of the responsible entities. “O” refers to ongoing activities; “N” indicates new actions.

Timeframe

This category refers to the general timeframe for action implementation. Some actions are ongoing or nearing completion; implementation of other actions is not anticipated until some time in the future.



Cost

Information in the cost column represents the PEP’s best estimate of the costs associated with action implementation. “Base Program” means that no new or additional funds will be needed outside of the responsible entity’s operating budget to implement the action. Where additional funding is needed, resources to implement an action may be expressed in dollar amounts or work years or both. One full time equivalent employee or “FTE” is estimated as costing \$75,000 per year, which includes salary, fringe benefits and indirect costs. The “Action Costs” description in both **Chapter 1** and **Chapter 9** provides an expanded explanation of base programs and action costs.

Table 7- 1. Critical Lands Protection Strategy Actions.

Action	Responsible Entity	Timeframe	Cost	Status
CLPP-1	Develop a PEP “Critical Lands” Map and List Based on Applying the PEP Criteria. (Objectives 1, 2, 3, 4, and 6)			
CLPP-1.1 Priority	Identify parcels currently recommended for acquisition in the Peconic Estuary by various levels of government. (i.e., CPF lists)	SCPD (lead) and five East End towns	2001	SCPD: Base Program C/N
CLPP-1.2 Priority	Finalize GIS data coverages that allow selection of parcels within the watershed.	SCPD (lead), CLPP Work Group, SCDHS, PEP Program Office	2001	SCPD – 0.1 FTE C/N
CLPP-1.3 Priority	Develop a draft map of parcels (for discussion) selected for protection with respect to estuarine management concerns.	SCPD (lead), PEP Program Office, CLPP Work Group	2001	Included in Step 1.2 C/N
CLPP-1.4 Priority	Hold town-by-town meetings with town officials to discuss individual parcels.	TNC, PEP Program Office (co-leads), SCPD, CLPP Work Group, five East End towns, villages	2001	EPA – 0.05 FTE NYSDEC – 0.05 FTE SCDHS – 0.05 FTE Towns – 0.05 FTE each SCPD – 0.05 FTE TNC – 0.05 FTE C/N
CLPP 1.5 Priority	Incorporate suggestions from the towns and develop a final map illustrating parcels recommended for protection with respect to estuarine management concerns.	SCPD (lead), TNC, PEP Program Office, CLPP Work Group	2001	SCPD – 0.1 FTE TNC – 0.05 FTE C/N
CLPP 1.6 Priority	Incorporate suggestions from the towns and develop a final list of parcels recommended for protection with respect to estuarine management concerns.	TNC (lead), SCPD, PEP Program Office, CLPP Work Group	2001	Included in Step 1.5 C/N

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Table 7-1. Critical Lands Protection Strategy Actions. (continued)

Action	Responsible Entity	Timeframe	Cost	Status	
CLPP-2	Continue to Refine the CNRA Boundaries with Results of the Work from the PEP Natural Resources Subcommittee. (Objective 2)				
CLPP-2.1 Priority	Continue to refine the CNRA boundaries with results of the work from the PEP Natural Resources Subcommittee.	NYSDEC and PEP Natural Resources Subcommittee (co-leads), CLPP Work Group, SCPD, PEP Program Office	2000-2001	Base Program	C/O
CLPP-3	Estimate Funds Needed for Land Protection, Benefits (Where Feasible) and Evaluate Funding Sources Available for that Protection. (Objective 5)				
CLPP-3.1 Priority	Determine the costs of acquisition efforts if particular parcels were purchased. Determine the additional cost if all parcels were purchased.	TNC, Suffolk County, towns (co-leads)	2001	Base Program	C/N
CLPP-3.2 Priority	Assess the funding gap between needed protection and available funding sources.	TNC, Suffolk County, towns (co-leads)	2001	Base Program	C/N
CLPP-3.3 Priority	Analyze and estimate the economic benefits of land acquisition to the community as a whole and to the neighborhood in which protected land is located.	PEP Program Office (lead) Consultant EIA, Inc., GSF, TNC	2001	\$30,000 NEP Grant	C/N
CLPP-4	Prepare the PEP Critical Lands Protection Plan Report. (Objectives 1, 2, 3, 4, 5, and 6)				
CLPP-4.1 Priority	Prepare the PEP Critical Lands Protection Plan report.	TNC (lead), PEP Program Office, SCPD, SCDHS, NYSDEC, USFWS, EPA	2001	Base Program	C/N

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Table 7-1. Critical Lands Protection Strategy Actions. (continued)

Action	Responsible Entity	Timeframe	Cost	Status	
CLPP-5	Accelerate Land Protection in the Peconic Estuary. (Objective 7)				
CLPP-5.1	Increase staff at the town and County level to meet the need for more and faster land acquisitions.	Five East End towns, Suffolk County (co-leads)	2001	To be Determined.	R
CLPP-5.2	Secure zero percent short-term financing through the NYS EFC for land protection measures.	TNC, all towns, Suffolk County (co-leads)	2001	Base Program	R
CLPP-5.3	Develop a "Public Benefit" or "Current Use" ranking system for assessment of property taxes.	TNC, GSF, all town tax assessors (co-leads)	2001	To be determined	R
CLPP-5.4	Create a State income tax credit program for qualified charitable gifts of land for conservation purposes.	TNC, GSF, State Legislature (co-leads)	2000-2001	Base Program	R
CLPP-6	Identify a Process for Using Smart Growth Tools, Sustainable Development Initiatives, and Ordinance Modifications, etc. to Assist Communities in Assigning Development to Appropriate Areas. (Objectives 8 and 9)				
CLPP-6.1	Review local ordinances to allow incorporation of Smart Growth initiatives.	Towns (lead), SCPD	2000-2001	To be determined	R
CLPP-6.2	Implement Smart Growth initiatives.	Towns (lead), SCPD	2000-2001	To be determined	R
CLPP-7	Develop a Strategy for the Management of Underwater Lands Which Conserves and Enhances the Region's Natural Resources. (Objective 10)				
CLPP-7.1	Develop a strategy for the management of underwater lands which conserves and enhances the region's natural resources.	Suffolk County and PEP Program Office (co-leads), NYSDEC, PEP Natural Resources Sub-Committee	2001	To be determined	R

