

# Chapter 4: Implementation Program

Implementing the recommendations contained within this Open Space Plan will require leadership, new programs, new sources of revenue, and a partnership between the public and private sectors in Wake County. Wake County will need to define an appropriate internal structure for managing the emerging open space program. It will be necessary for County government to assume a leadership position with respect to stewardship of open space resources, and work in collaboration with municipalities, state and federal agencies and non-governmental organizations to implement this program. The County and its municipal partners will need to establish new sources of funding to carry out the objectives of this plan. The County will not be able to accomplish the recommendations of this Plan acting alone. County government will need to build upon the partnerships already begun with municipal governments (Partners for Open Space and the Environment - POSE) and join with private sector land conservation organizations, landowners and businesses to accomplish the goals of the Plan.

One of the primary goals of the Plan is to introduce a methodology and process for selecting and prioritizing land for conservation and preservation. Appendix F of this report describes in detail the process that is recommended for use by County staff to prioritize land for open space protection. This prioritization process has as its core value the protection of land for water supply and flood management purposes. Put another way, land that serves to keep our surface and subsurface waters clean and potable, and which at the same time can absorb and mitigate the impacts of flooding, is the highest rated open space land.

The process used for this Plan combines Human Resource Needs and Natural Resource Needs to form a matrix for decision making. Under human resource needs water supply watersheds, waters that support recreation, groundwater recharge lands, parkland and greenways are the principal components. For natural resource needs, rare and threatened species, significant natural heritage areas and soils are the principal components. Using Geographic Information System (GIS) data from a variety of public and private sources, a macro-level analysis has been conducted to select areas of the county that would receive the highest level of prior-

## Overview

## Prioritization Process

ity for open space acquisition strategies. With the macro level of analysis complete, attention can be directed to identifying parcels within the priority areas of the county that would best serve the county's open space needs.

A second level of evaluation identifies more site specific features of the landscape, including land coverage (forested lands receive the highest rating), land use, the presence of streams and wetlands, hydric soils and lands regulated by Federal Emergency Management Agency (FEMA) for flood abatement. In addition, parcels of 50 acres and larger were queried from the Wake County GIS data. A scoring system was devised to rank properties within priority areas of the county. From this scoring, a list of properties has been developed and will be further evaluated by the County for future actions.

Using these methods, this plan makes recommendations for the highest priority lands found within the highest ranked subwatersheds in Wake County. Approximately 27,000 acres have been identified through this process for targeted acquisition. Given an average value of \$20,000 an acre, a budget of \$600 million (2002 dollars) would need to be raised, over the life of the open space acquisition efforts (estimated at 25 years), to purchase the targeted open space identified by this plan.

A variety of methods, other than outright purchase of land, can be employed by Wake County to protect the open space that has been defined for protection within this Plan. The following offers a listing of techniques and methods most commonly used for open space protection, conservation and preservation.

### **I. Methods for Acquisition of Land through Management**

Management is a method of conserving the resources of a specific open space parcel through either an established set of policies called Management Plans, or through negotiated agreements or easements with private property owners.

#### **Management Plans**

Management plans are prepared for County-owned lands. Management plans should identify valuable resources; determine compatible uses for the parcel; determine administrative needs of the parcel, such as maintenance, security and funding requirements; and recommend short-term and long-term action plans for the treatment and protection of the resources.

### **II. Methods for Acquisition of Land through Regulation**

A second method of protecting land is through government regulation. Regulation is defined as the government's ability to control the use and development of land through legislative powers. Regulation of land is not regarded as permanent protection, and should be coupled with the other protection measures. The following types of development ordinances

## Strategies for Acquisition of Land for Open Space

are regulatory tools that can meet the challenges of projected suburban growth and development and, at the same time, conserve and protect open space resources.

### **Dedication/Density Transfers**

Also known as incentive zoning, this mechanism allows open spaces to be dedicated to the County for density transfers on the development of a property. The potential for improving or subdividing part or all of a parcel of real property, as permitted by the County land use development laws, can be expressed in dwelling unit equivalents or other measures of development density or intensity. Known as density transfers, these dwelling unit equivalents may be relocated to other portions of the same parcel or to contiguous land that is part of a common development plan. Dedicated density transfers can also be conveyed to subsequent holders if properly noted in transfer deeds.

### **Negotiated Dedications**

The County may ask a landowner to enter into negotiations for certain parcels of land that are deemed beneficial to the protection and preservation of specific stream corridors. The County may ask for the dedication of land for open spaces when landowners subdivide property (a minimum size would be determined). Such dedications would be proportionate to the relationship between the impact of the subdivision on community services and the percentage of land required for dedication as defined by the US Supreme Court in *Dolan v Tigard*.

### **Fee-in-Lieu**

To complement negotiated dedications, a fee-in-lieu program may be necessary to serve as a funding source for other land acquisition pursuits of the Open Space Plan. Based on the density of development, this allows a developer the alternative of paying money for the development/protection of open spaces in lieu of dedicating land for open spaces. This money is then used to implement open space management programs or acquire additional open space lands.

### **Reservation of Land**

A reservation of land does not involve any transfer of property rights but simply constitutes an obligation to keep property free from development for a stated period of time. Reservations are normally subject to a specified period of time, such as 6 or 12 months. At the end of this period, if an agreement has not already been reached to transfer certain property rights, the reservation expires.

### **Buffer/Transition Zones**

This mechanism recognizes the problem of reconciling different, potentially incompatible land uses by preserving open spaces that function as buffers or transition zones between uses. Care must be taken to ensure that use of this mechanism is reasonable and will not destroy the value of a property.

### **Overlay Zones**

An overlay zone and its regulations are established in addition to the zoning classification and regulations already in place.

### **Subdivision Exactions**

An exaction is a condition of development approval that requires a developer to provide or contribute to the financing of public facilities at his own expense. For example, a developer may be required to set aside open space on-site as a condition of developing a certain number of units because the development will create need for new parks or will harm existing parks due to overuse. The mechanism can be used to protect or preserve open space which is then dedicated to the County. Consideration should be given to including open space development in future exaction programs.

### **III. Methods for Protection of Open Space through Acquisition**

A third method of protecting open spaces is through the acquisition of property. A variety of methods can be used to acquire property for open space purposes.

#### **Donation/Tax Incentives**

The County agrees to receive full title to a parcel of land at virtually no cost. In most cases, the donor is eligible to receive federal and state deductions on personal income, as previously described under conservation easements. In addition, property owners may be able to avoid inheritance taxes, capital gains taxes and recurring property taxes.

#### **Fee Simple Purchase**

This is a common method of acquisition where a local government agency or private open space manager purchases property outright. Fee simple ownership conveys full title to the land and the entire “bundle” of property rights including the right to possess land, to exclude others, to use land and to alienate or sell land.

#### **Easements**

Easements are the conveyance of property rights in which the County receives less than full interest in a parcel of land in order to protect a valuable resource. The purpose of these agreements is to establish legally binding contracts or a mutual understanding of the specific use, treatment and protection that these open space lands will receive. Property owners who grant easements retain all rights to the property except those which have been granted by the easement. The property owner is responsible for all taxes associated with the property, though the taxes can be lower because the value of the property will be lower without the right to develop. Easements are generally restricted to certain portions of property, although in certain cases an easement can be applied to an entire parcel of land. Easements are transferable through title transactions, thus the easement remains in effect in perpetuity. Three types of easements are:

### Conservation Easements

This type of easement generally establishes permanent limits on the use and development of land to protect the natural resources of that land. Dedicated conservation easements can qualify for both federal income tax deductions and state tax credits. Tax deductions are allowed by the Federal government for donations of certain conservation easements. The donations may reduce the donor's taxable income.

### Preservation Easements

This type of easement is intended to protect the historical integrity of a structure or important elements of the landscape by sound management practices. Preservation easements may qualify for the same federal income tax deductions and state tax credits as conservation easements.

### Public Access Easements

Right of public access easements provide the general public with the right to access and use a specific parcel of property. Both conservation easements and preservation easements may contain clauses for the right of public access and still be eligible for tax incentives.

### **Easement Purchase**

This mechanism is the fee simple purchase of an easement. Full title to the land is not purchased, only those rights granted in the easement agreement. Therefore the easement purchase price is less than full title value.

### **Purchase/Lease Back**

The County or private land conservation organization can purchase a piece of land and then lease it back to the seller for a specified period of time. The lease may contain restrictions regarding the use and development of the property.

### **Bargain Sale**

A property owner can sell property at a price less than the appraised fair market value of the land. Sometimes the seller can derive the same benefits as if the property were donated. Bargain Sale is attractive to sellers when the seller wants cash for the property, the seller paid a low cash price and thus is not liable for high capital gains tax, and/or the seller has a fairly high current income and could benefit from a donation of the property as an income tax deduction.

### **Option/First Right of Refusal**

A local government agency or private organization establishes an agreement with a public agency or private property owner to provide the right of first refusal on a parcel of land that is scheduled to be sold. This form of agreement can be used in conjunction with other techniques, such as an easement, to protect the land in the short term. An option would provide the agency with sufficient time to obtain capital to purchase the property or successfully negotiate some other means of conserving the open space resource.

## Stewardship Program

### **Purchase of Development Rights**

A voluntary Purchase of Development Rights (PDR) program has been established in Wake County and could be used to protect agricultural lands. PDR involves purchasing the development rights from a private property owner at a fair market value. The landowner retains all ownership rights under current use, but exchanges the right to develop the property for cash payment.

### **Condemnation**

The practice of condemning private land for use as open spaces is viewed as a last resort policy. Using condemnation to acquire property or property rights can be avoided if private and public support for the Open Space Program is present. Condemnation is seldom used for the purpose of dealing with an unwilling property owner. In most cases, condemnation for open space purposes has been exercised when there has been absentee property ownership, when title to the property is not clear, or when it becomes apparent that obtaining the consent for purchase will be difficult because there are numerous heirs located in other parts of the United States, or in different countries.

### **Wake County Voluntary Agricultural District Program**

In September 2002, the Board of Commissioners enacted a new ordinance that will provide for the voluntary preservation and protection of farmland from non-farm development, recognizing the importance of agriculture to the economic and cultural life of the county. Under this ordinance, the Wake Soil and Water Conservation District Board of Supervisors will serve as an Agricultural Advisory Board to provide advice to the Board of Commissioners on the program. Primarily, the Board will advise the Commissioners on the establishment and modifications of qualified farmland to the district, projects programs or issues effecting the agricultural economy as related to the districts, and perform specific tasks assigned by the Commission.

With potentially thousands of acres of new open space being acquired, protected, conserved and preserved in the future, Wake County will need to increase its land management operations and programs to keep pace. To accomplish this, a land stewardship program should be established within County government, and in partnership with municipalities, state and federal agencies and non-governmental organizations. An "ecosystem approach" should be adopted to accomplish future management objectives. The ecosystem approach will encourage natural and low-cost land management techniques. This approach will understand the natural and inherent values of individual properties and manage these properties accordingly so that the ecological systems are protected and enhanced.

To accomplish this program, County government may need to add new staff positions in future years. To keep the costs of the program affordable, the County may need to partner with other public and private sector

organizations that have similar missions and objectives. Additionally, a volunteer coordinator could work with private sector groups to both adopt open space parcels and establish programs that make use of the youth in the county.

An Urban Forestry Program should also emerge within County government that can begin to quantify and manage the forest canopy throughout the County. This program should be conducted in partnership with like minded organizations, including the North Carolina Urban Forest Council, NC State University and the State of North Carolina. Further information about the stewardship program can be found within Appendix E of this report.

In November 2000, Wake County voters approved a \$15 million bond to acquire open space as a way to mitigate the effects of growth and protect the environment. While the \$15 million bond is a significant achievement for the community, it represents a fraction of the future financial needs for open space conservation. If Wake County is to develop a viable Open Space Program, it will need greater funding for parcel acquisition and continued financing for stewardship and program implementation.

Wake County and its municipal partners need a broad base of funding to support open space protection. This plan envisions a "funding quilt" that will combine a variety of sources in support of the open space program. These sources will come from local, state, federal, and private sectors. In Appendix D of this document, a more thorough review of potential financing strategies is provided and includes a variety of federal, state and local government and private funding options. Appendix D also addresses how other communities are financing their open space systems.

Wake County will need to fully evaluate its options and develop a funding strategy that can maximize local resources, leverage outside funding, and sustain an Open Space Program. A successful funding strategy will need to account for the administration of the Plan, the acquisition of parcels or easements, and the management and maintenance of properties in the open space system.

Of the many funding options that are possible, the following strategies were identified by the Wake County Blue Ribbon Committee in 2006 as recommended options:

- 1) Apply for matching funds from federal, state and local municipal governments.
- 2) Request matching funds from corporate and private donors.
- 3) Conduct fund raising in partnership with philanthropic organizations.
- 4) Use tools, such as Bargain Sale, to obtain open space at less than fair market value.
- 5) Work with Wake County Schools to partner on school and open space projects, maximizing the return on public dollars invested.

## Funding and Financing the Open Space Program

## Implementing the Open Space Program

- 6) Provide more economic incentives for developers to conserve open space, thereby reducing the demand on public funds.
- 7) Work with farmers and working lands owners to conserve open space.

Implementation of the Wake County Open Space program has been on-going for years, but began in earnest in 1999 with the acquisition of key parcels of land. After the completion of the 2003 Consolidated Open Space Plan, the County began to implement elements of the Plan by first focusing its efforts on 9 key corridors and watersheds. As of May 2006, the County has made progress in conservation of open space, adding an estimated 3,200 acres to its open space program. The following provides a snapshot of this success within the nine priority corridors:

- 1) Neuse River Corridor - 145.11 acres protected at a cost of \$1,805,724
- 2) Little River Corridor - 183.76 acres protected at a cost of \$1,270,259
- 3) Lowery Creek Corridor - 164.57 acres protected at a cost of \$1,357,935
- 4) Beaver Creek Corridor 109.36 acres protected at a cost of \$2,650,460
- 5) Cedar Fork Corridor 107.13 acres protected at a cost of \$780,003
- 6) Hominy Creek Corridor 7.69 acres protected at a cost of \$38,280
- 7) Steep Hill Creek Corridor 125.82 acres protected at a cost of \$527,540
- 8) Swift Creek Corridor 178.81 acres protected at a cost of \$770,852
- 9) Marks Creek Corridor 359.02 acres protected at a cost of \$3,980,000

## Action Plan

Building on the momentum of the 2000 and 2004 Bond Referendum, Wake County has been undertaking definitive actions necessary to protect and conserve open space. The following pages contain a list of activities which Wake County may undertake in future years. In Fiscal Year 2011, it is recommended that this Open Space Plan be updated to reflect changes in the program. The purpose of the action plan listing is to define a program of activity necessary to implement the recommendations provided within this Plan.

Recommendations are divided into several key areas of activity:

1. Policy and Program Activities
2. Land Acquisition Activities
3. Stewardship Activities

The Wake County Open Space Program is envisioned as a series of interconnected programs and activities, best summarized by the graphic model below. With all of these interrelated parts working together, Wake County will be successful in its goal to balance growth and development with the protection of its valuable and irreplaceable green infrastructure. If the recommendations of this plan are followed, Wake County will have positioned itself as a community for the 21st Century. The proper balance of open undeveloped land and developed land will have been achieved. The protection of land and water resources will ensure that the county has sustainable development, and remains a desirable place to live, work and raise a family.

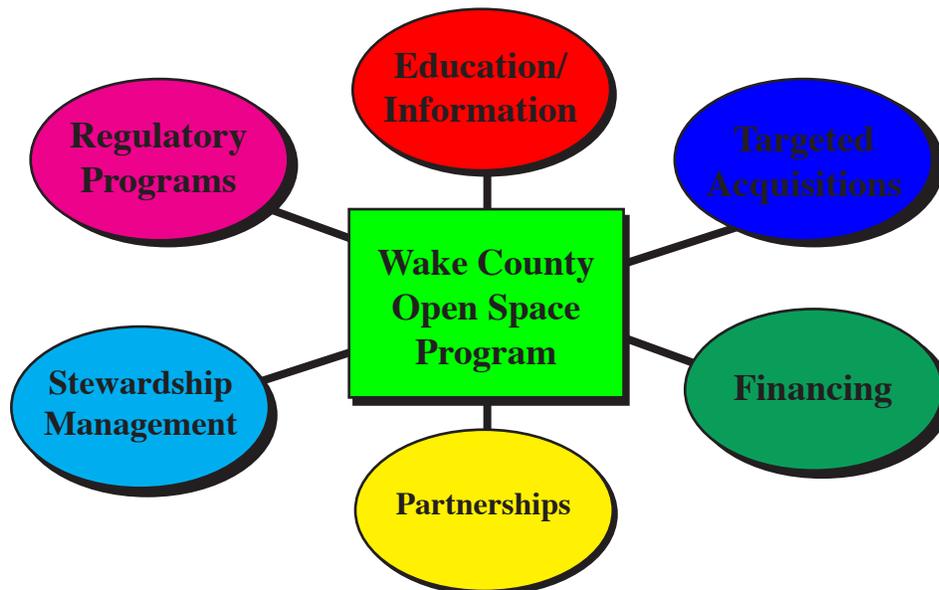
## Fiscal Year 2007

### Policy and Program Activities

- OSAPAC reviews goals for open space protection based on recommendations of the Wake County Blue Ribbon Committee.
- Modify partnerships with municipal governments to break these into two separate tiers. Tier one communities might include Raleigh and Cary. Tier two communities could include the other municipalities within the County.
- Partner with state and federal agencies, and non-profits, and make the open space program more transparent and accessible to potential funding partners.
- Work with OSAPAC to establish a marketing program for the open space program.

### Land Acquisition Activities

- Complete acquisition of priority parcels as described in Open Space Plan.
- Formalize acquisition policies for priority one watershed parcels as defined within the Plan.
- Expand GIS database to incorporate priority one parcel information defined within the Plan.



## Five-Year Program of Action

- Refine the highest ranked parcels within priority one watersheds to streamline acquisition strategy.

#### Stewardship Activities

- Survey county-owned open space properties in accordance with recommendations in the Plan.
- Establish a Youth Corps program for county teenagers.

## Fiscal Year 2008

#### Policy and Program Activities

- Adopt Conservation Subdivision Design as part of the subdivision regulations for the county. Encourage municipal governments to accomplish the same.
- Convene a task force comprised of municipal officials and work with the Wake County delegation to the NC General Assembly to define new funding opportunities for the county and municipal governments.

#### Land Acquisition Activities

- Continue acquisition of #1 ranked parcels within priority one watersheds.
- Use GIS to refine # 2 and # 3 ranked priority parcels identified within priority one watersheds.
- Catalog and map new county land dedications that are derived from new regulatory programs.
- Expand GIS data to incorporate priority one parcels identified through refinement work.
- Map new lands that fall within the newly defined boundaries of the stream buffer program
- Notify landowners of new stream buffer regulations and the location of stream buffer boundary lines.

#### Stewardship Activities

- Employ new Stewardship Coordinator
- Map and sign new county lands acquired during fiscal year.
- Stewardship coordinator to institute county-wide stewardship program aligned with watersheds.

## Fiscal Year 2009

### Policy and Program Activities

- Implement county and municipal funding program to generate funds to support open space program.

### Land Acquisition Activities

- Acquire # 2 and # 3 ranked parcels within priority one watersheds.
- Refine # 1 ranked parcels within priority two watersheds.
- Catalog and map new county land acquisitions and dedications.
- Map new lands that fall within the newly defined boundaries of the revised regulated floodplains.
- Notify landowners of new floodplain regulations and the revisions to flood boundary lines.

### Stewardship Activities

- Employ biologist.
- Employ urban forester. Establish Wake County Urban Forestry program.
- Map and sign new county lands acquired during fiscal year.
- Complete promotional video that explains County Open Space Program. Air program on community access television channels.

## Fiscal Year 2010

### Policy and Program Activities

- Have OSAC sponsor an open space conference in partnership with municipal governments and non-profits to present “State of Open Space.”

### Land Acquisition Activities

- Acquire # 1 ranked parcels located within priority two watersheds.
- Refine # 2 and # 3 ranked parcels within priority two watersheds.
- Catalog and map new county land acquisitions and dedications.
- Map all forested areas of county using satellite imagery and GIS.
- Work with municipal governments to identify additional open space needs.

#### Stewardship Activities

- Map and sign new county lands acquired during fiscal year.
- Host open space and environmental educational fair for middle school and high school students to define benefits of open space protection.
- Produce and distribute promotional video to define County open space program.

## Fiscal Year 2011

#### Policy and Program Activities

- Begin update of the 2006 Revised County Open Space Plan.

#### Land Acquisition Activities

- Acquire # 2 and # 3 ranked parcels identified within priority two watersheds.
- Expand GIS data base to catalog lands identified through acquisition process.

#### Stewardship Activities

- Map and sign new county lands acquired.