

# **Open Space Report**

**Prepared by the Scarsdale Conservation Advisory Council**

**March 27, 2004**

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## **1. Introduction**

### **Open space for a healthy and beautiful community**

Open space exists in many forms in the developed, suburban setting of the Village of Scarsdale. Large open tracts for passive or active use are vitally important. So are small open spaces, both public and private. All these open spaces provide physical and psychological relief from the concentration of densely-settled neighborhoods and the intensity of commercial areas. Open spaces provide settings for a healthy community life. Open spaces shape the environmental aesthetics of the Village. Open space also contributes to the protection of the quality of our air and water.

### **Need for a Plan of Action**

Open space is continuously lost as development of the Village progresses. Once developed, open space is lost forever. Therefore, the Village must have a plan of action to ensure that the open spaces of Scarsdale are recognized, preserved, improved and increased. The Conservation Advisory Council (CAC) has prepared this Open Space Report as starting point. The Council recommends that the Board of Trustees use this Report to establish a mandate for creating Scarsdale's first Open Space Plan. Adapting an Open Space Plan immediately is a necessary step to maintain and further enhance the beauty of Scarsdale, and to protect environmental quality, before it is too late.

### **Preliminary Steps**

The Conservation Advisory Council presents these observations based on its years of working to document all open space in the Village. The CAC has prepared an Open Space Inventory illustrating major open spaces in the Village (copy attached). This inventory is now being integrated into the Village's property database and will become the basis for further research and proposals. These are important preliminary steps.

### **Open Space Plan**

It is time to move to a more pro-active approach. This Report offers suggestions on how to protect, preserve, and increase open spaces. We believe that decisions on using existing open space in the Village should be made, based on sound principles of land use, with an eye to the future, and not just in a piecemeal fashion as individual proposals arise. This document establishes the need for an Open Space Plan. This Plan assures that open space is not just an afterthought. As residents, we should determine where growth and development take place based on our desire to protect our open spaces, rather than allowing the development process to lead the way. The Open Space Plan will help us re-think our priorities.

### **New beginning**

It is imperative that this Report be the beginning of a new plan of action. In the past, there have been calls for action and acknowledgements of the importance of open space, but there has been little official mandate for this to happen. This Report recommends that the Board of Trustees establish this mandate. A dedicated Open Space Committee should be established. Its mission must be clear and recognized, its near term goals obtainable, and its long term goals sustainable. This is the new beginning. Let's get started!

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## 2. Background

The governance of open space has long been a goal of the Village. While the Village has not yet embraced an official open space plan, the necessity of a plan and the consistent implementation of its goals are clearly important.

**The Comprehensive Plan**, Scarsdale, New York, by Buckhurst Fish & Jacquemart, Inc., October 1994 (“Comprehensive Plan”) is instructive. The Comprehensive Plan identifies a variety of general goals to preserve Scarsdale’s physical and social character. The Comprehensive Plan addresses open space in three ways:

**1. Scale of Development:** The Comprehensive Plan identifies preservation of the Village’s existing scale of development. Development of open spaces is the antithesis of maintenance of open space. Therefore, “scale of development” directly impacts open space in the Village, and the sense of open space in and around a particular development.

**2. Village in the Park:** The Comprehensive Plan references maintenance of the “Village in a Park” atmosphere. The open space, trees, and landscaping all contribute to “Village in a Park” atmosphere. Thus, maintenance and governance of these open spaces are a significant goal of the Comprehensive Plan.

**3. Open Space Plan:** In view of these and other goals, the Comprehensive Plan recommended creation of an Open Space Plan (the “Plan”). Such a Plan must ensure that open spaces meet the needs of each neighborhood and the Village as a whole. The Open Space Plan must balance the types and uses of open spaces in the Village, including passive and active uses. The Open Space Plan must encourage linkage of open spaces in the Village to promote their use and effectiveness. The Plan should help maintain an appropriate scale of development. The Plan must help sustain the “Village in the Park” character. Finally, the Open Space Plan must preserve natural and environmental features.

Anticipating the goals of the Open Space Plan, the Comprehensive Plan made recommendations on large tracts, small tracts, and preservation of natural resources. As to large tracts, including Golf Courses and Boulder Brook, the Comprehensive Plan recommended that rights of first refusal and amendments to zoning and land use regulations be thoroughly investigated and implemented, consistent with the goals of the Open Space Plan. As for small tracts, the Comprehensive Plan recommended an update of the inventory of Village-owned property.

The Comprehensive Plan also recommended that the Council on Environmental Conservation (now called the Conservation Advisory Council or “CAC”) and the Planning Board prepare an Open Space Plan. This Plan was to include an acquisition plan identifying particular parcels, an evaluation of current administration of open spaces, a continuation of set asides or recreation fees for developers of open space, and dedication and easements by property owners. As for natural resources, the Comprehensive Plan suggested the review and remapping of wetlands, review of wetland regulations, institution of stream regulations, designation of sensitive areas as critical environmental areas, and inclusion of sensitive areas in the open space inventory.

**New Start:** The open space aspirations of the Comprehensive Plan have yet to be realized. While some background work has been accomplished, most of the forward-looking components are not in place. It is the intent of this report to make a new start to create and implement an Open Space Plan, while remaining consistent with goals and policies of the Village as constituted in the Comprehensive Plan.

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## 3. Objectives

### **A. Preserve and Increase Dedicated Open Space:**

The preservation of Scarsdale's character as a "Village in the Park," must be a paramount goal of the Village. This requires the Village to recognize, maintain, and expand the open space which creates this "Village in the Park" environment.

Unlike our neighbors in northern Westchester, most privately-held, "buildable" parcels in Scarsdale have already been developed. Because of the lack of open spaces available for preservation, the current inventory of undeveloped parcels and areas requires even greater care and consideration than in other communities. Even designated small open spaces remain significant to keeping the character of Scarsdale and its neighborhoods. A small playground, an undeveloped area along a well-traveled road, or a modest nature study area: each lends a sense of openness, provides an area for recreation, enhances the character of a neighborhood, and contributes to a sense of community pride and spirit. For this reason, the Village must identify and preserve its open spaces.

The Village must also acquire additional open spaces through purchase or conservation easement. The Village might consider creation of an open space fund, financed through an assessment, fees collected by the building department, or other methods. The success of such funds in other communities is well-documented.

### **B. Maintain/Increase active recreation space**

There are three major objectives in the Open Space Plan for active recreation spaces:

- 1) Identify, improve and preserve existing fields;
- 2) Use new technologies to expand usage
- 3) Identify parcels suitable for more recreational fields.

Other parts of the Scarsdale Community, particularly the Town and Village Community Club (TVCC) and The Parks and Recreation Council (PRC), have done a great deal of work on this subject. The CAC recommends that the playing fields have suitable buffer zones, on-site parking and proper environmental considerations for storm water management and erosion control. The CAC also advocates non-toxic procedures for turf management.

The CAC recommends the continued refinement and improvements to major recreation centers, including Boulder Brook/Crossways, the Middle School, and the High School/Butler Woods. These are areas of intense use and existing infrastructure. These facilities should be constantly reviewed for ways to improve their use, such as better drainage and installation of synthetic turf. Increased efficiencies in these areas will help relieve the pressure to develop passive sites into more active sites.

Long-term consideration should be given to the possibility that large facilities/properties, such as the Boulder Brook Stable and private country clubs, may become available for acquisition. These properties are the only large parcels remaining in Scarsdale. Procedures for their acquisition should be put in place now, before development proposals are received (as was shown in the Bonnie Briar decision).

The CAC believes it is necessary to recognize the importance of natural open space and to determine a balance between active playing fields and passive recreation areas.

### **C. Maintain/Increase Passive Recreational Open Space**

In contrast to the ball-fields, tennis courts, tracks and backboards of active recreation areas, passive recreational open space is usually "unimproved" and feels more natural. The use of such space is defined by the user's imagination: green fields to fly a kite, to play an informal game of catch, to picnic or to lie in the sun. Forested areas can be used for strolling or bird watching or hunting for mushrooms. Streams are

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made to be followed, to gather the dried seedpods that collect in the fall along the banks. The occasional bench still honors the “unimproved” character of the open space, enabling wanderers to rest or read or picnic in comfort. Such spaces for the imagination are vital for the citizen and for the community.

## **D. Protection of Wetlands, Streams and other Ecologically Significant Features**

Wetlands occur where groundwater is near or at the surface, saturating the soil and root zone of plants growing there. Wetlands perform many important environmental functions, such as removing excess nutrients from water that flows through them and improving water quality. Wetlands help with flood and storm control, with erosion and sedimentation control, and with water quality maintenance. A Village ordinance helps to protect wetlands and control encroachment and other degradations that may occur. All wetlands are part of a larger watershed best protected and managed through inter-municipal watershed planning.

Stream corridors must be protected, as any inappropriate development can affect water quality, destroy scenic areas, and lead to flooding. Streams need vegetated buffers to protect them. Stream bank protection plays an important part in ensuring the health of a stream. Many stream banks in Scarsdale are eroded and need stabilization. Homeowners play a large role in protecting streams running through private property and they need education about how best to do so. Mowing grass on lawns stretching to the edge of a stream and using fertilizers on these lawns is exactly the wrong approach. The Village should be involved in efforts to teach homeowners how to become good stewards of their properties, particularly when these involve running water.

## **E. Preserve and Increase Buffers between Public and Private Areas**

Buffer zones are open spaces that separate areas adjacent to growth and development such as roads or municipal facilities. By establishing and encouraging preservation of buffer zones, planners can reduce noise levels and safety hazards. Buffer zones can act as links to other open spaces, parklands and schools. Even if close to residential areas or publicly- owned space, buffers in the form of unmown grass, trees and shrubs can support a diversity of wildlife. Buffer zones of all sizes contribute to the “Village in the Park” character of Scarsdale. The Village should make every effort to understand, maintain and increase such buffer zones between public and private lands.

## **F. Preserve and Create Focal Points**

Focal points are visual and/or functional areas, most valuable in heavily- trafficked areas (both vehicular and pedestrian) and help define a neighborhood or community. Open-space focal points take many forms, such as a single large tree, a graceful grove, a community garden at the intersection of several streets, a large green park edging a commercial area, or a formally landscaped sitting area which is an oasis surrounded by busy streets.

Scarsdale has many focal points within the texture of the Village center, intersecting streets and private properties. These focal points may be man-made, natural or a combination, such as the railroad station entry on East Parkway, the Bronx River Preserve and Chase Park. The character of the focal points establishes some of the character of the Village. Many focal points with a feeling of a natural setting help us feel that we really do live in a “Village in the Park”.

One such point with a high degree of natural character is at the intersection of Post and Fenimore Roads. A large part of the edges of these roads has been preserved as open space, both tended and wild. This point on Post Road reinforces our “Village in the Park” aesthetic. In fact, this spot may be considered as the unofficial entrance into the “Village in a Park” after the very different aesthetic of White Plains just to the north. With increased Village attention to the edges of Post Road as it travels south toward town hall, we can imagine how this entire stretch of a major traffic artery might feel like a passage through a suburban woods.

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Understanding, developing and preserving similar spots in Scarsdale will strengthen the character of the “Village in the Park”. With careful zoning and/or other conserving designations, a string of focal points can be made or preserved throughout the Village, thus insuring the continued character of Scarsdale.

## **G. Create an Agricultural Center**

Scarsdale might dedicate an area of open space as an agricultural center (AgCenter). Since many properties in Scarsdale are small and/or very shady, residents do not have the chance to cultivate their land except as landscaped yards. An AgCenter allows residents to cultivate small plots of land for flowers and vegetables. Ideally, an AgCenter provides exposure to sunshine and water, a storage facility, shared tools, common social area, a lavatory and even a place to sell produce. The Ramsey Farm property is a good example of this kind of site. If available, the Farm would be a prime purchase by the Village.

The more urbanized our environment, the more we must work to maintain some link with agriculture. Growing our own food or watching others do it provides a vital link between our daily lives and the world that provides for us. Schools can use some of the plots for class projects and study. The AgCenter would give Scarsdale residents a chance to experience small-scale farming and help maintain a connection to the earth.

## **H. Monitor Future Developments**

There is a character to Scarsdale, often called the “Village in a Park”. Public and private properties contribute to this character, which has been developing for nearly a century. As pressure increases to develop all property in Scarsdale to its fullest potential, we must keep in mind that continued development can easily create a significant change in the character of the Village.

Monitoring proposed changes to the physical attributes of each property, as well as enforcing the Village laws on conservation, will help preserve the physical character of Scarsdale. Combining the current laws, creating an Open Space Plan, and continuing the vigilance of the Village’s Land Use Boards will help the Village monitor and, to some degree, control changes to the physical character of the town.

## **4. Methods of Acquisitions & Incentives**

A variety of methods exist to give communities and property owners maximum flexibility in disposition of open space, with the goal of preserving existing open spaces to the greatest extent possible. Owners may transfer all the property rights to the community. They may also transfer only certain rights, as to the use of the property. The following ideas apply to parcels that become either public property or remain private with restriction of use.

### **A. Publicly Owned**

#### **Sale and Purchase**

The most straightforward of the available techniques for the preservation of open space is the Village’s purchase of the property in question from the property owner. Such a transfer allows the town to gain full control of the property and allows public use and access, consistent with community standards.

The long term cost associated with transfer of ownership is removal of the property as a taxable premise. The community loses not only the use of tax money paid for the property but also the “income” generated thereby ever after. The property may become a burden on the community, which is responsible for the associated maintenance and costs.

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## **Donation**

As an alternative, the owner may donate his property to the community. He may also bequeath it in his will. In such circumstances, the community avoids payment of all or part of the cost of acquisition. The property owner obtains certain proportionate tax benefits relative to the donation.

## **Condemnation or Eminent Domain**

Transfer of property may be accomplished by means other than a sale or donation. If the property meets certain criteria, a community may acquire the property through condemnation or eminent domain.

## **Right of First Refusal or Purchase Option**

Where a current transfer is not feasible, a right of first refusal or purchase option agreement may be entered into with a property owner. This insures that the town has the ability to buy a piece of property when and if the owner decides to sell it, even when the owner is not currently interested in selling to the community. This is a very useful option with properties of particular interest.

## **Transfer of Development Rights**

Transfer of development rights is another way to preserve open space. This transfer may be occasioned by a property owner "donating" the right to build or develop a parcel in exchange for a tax credit. This functions like a tax-deductible donation. The benefit to the property owner is reduction of taxes. The benefit to town is retention of the character of the parcel; at the same time, ownership and maintenance of the parcel continues to be the owner's.

## **Special Benefits Districts**

Another technique of creating and maintaining open space is the creation of special benefit districts. These districts can be formed to:

1. Purchase parcels in a particular neighborhood or area which defines the district.
2. Maintain parcels in a particular neighborhood or area which defines the district.

The costs to purchase and/or maintain open space in a special benefits district may be shared by the district and the Village with the exact formula for each special district to be worked out with that district and the Village. The Scarsdale Downtown Business Improvement District is an example of such a district with the intent of maintaining and improving the Business District.

A special benefits district may be established when parcels are available for donation or other transfer beside sale, but the Village is not in a position to undertake the cost of maintenance and/or purchase. These types of districts benefit the Village and neighborhood by preserving open spaces, but a portion of the cost (either to buy or maintain) the parcels is borne by the people who benefit most by proximity to the parcels. This is an efficient method of preserving open space because those who undertake the greatest burden receive the most benefit.

## **Development Credits**

Another option for gaining open space is to give development credits to developers who do not develop a property to the maximum extent permissible. The credit encourages the developer not to do a "max build out" in a particularly important or sensitive area, even if they have the legal right to do so. Instead, the development credit could be applied to a less sensitive location allowing the developer to reallocate his rights while the Village preserves an important open space. The credit may be structured so that it is for a percentage of the reduced "build out" and limited in use, so that the Village is not simply creating oversized structures in another area. The benefit to the town is an overall retention of open space by allowing a portion of usable space to be transferred. A tax incentive can also be given to developments retaining more open space on a particular lot.

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## B. Private or Non-Profit Ownership

### **Sale to Non-Profits**

A property may also be sold to another public agency, land trust or other non-profit, private organization. The owner receives the benefit of the purchase price. The community receives the benefits associated with preserving open space. The town may lose some of the tax income, but it will also be relieved of the obligation to maintain the space. A non-profit may be able to fund and achieve a purchase or accept a donation more expediently than the community.

The drawback of purchases by non-profit organizations is that the town will not own the property. While the public may rely on the non-profit to preserve the property, it must be considered that the community may not have a voice in the disposition and use of the property, and may not be able to prevent future transfer

### **Conservation Easements**

The alternative to full transfer of a particular property by a property owner is that an owner may transfer certain rights in the property either by conservation easement or donation with a retention of rights. A conservation easement is the ceding of certain rights, i.e. development or building rights, to the town or to a nonprofit agency. In return, the property owner receives a tax benefit for the donation and pays fewer taxes relative to the reduced rights of the property.

Similarly, an owner may transfer property but retain rights to use the property during his lifetime or for a specified period of time. After the time period, the balance of the property rights automatically extends to the community or nonprofit, which is the new owner of the property.

## 5. Open Space Fund for Acquisitions

We recommend that The Village establish an Open Space Fund. The money in the Fund will be dedicated to purchase and maintain open spaces. All the following methods may be implemented simultaneously:

### **A. Dedicated Open Space Tax**

Annual tax levied against all residents to be used for the purchase of new open space. This requires a referendum (which has been voted for in at least eleven Westchester municipalities). With approx. 5,500 households in Scarsdale, a \$100 OS tax will provide \$550,000 per year. The CAC will help maintain a list of recommended open spaces for acquisition. An annual report from the Village will be reviewed by the CAC to determine if funds have been properly collected, saved and used.

### **B. Special Assessment Districts**

These districts are specific Village areas in which the neighbors wish to guarantee the creation, preservation and/or enhancement of one or more features of their neighborhood. Usually, members of a district contribute their own funds for the desired purpose. We recommend that the Village make a greater effort to publicize this type of preservation.

### **C. Sub-division Tax**

Developers seeking to create a sub-division will be required to contribute to the OS Fund. Although there are not a lot of sub-divisions proposed in Scarsdale, a contribution of a few thousand dollars per lot will add substantial sums to the OS Fund.

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## **D. Fines**

Some Village ordinances try to control the quality of the environment. Offenders of these ordinances will be required to make a contribution to the Open Space Fund for such transgressions as removing trees without a permit, not following erosion control requirements for construction sites, dumping, encroachment upon Village property, and inappropriate use of leaf blowers. Creating public awareness of these fines will make the average resident more vigilant about monitoring and reporting illegal activities.

## **E. Grants**

The State and Federal governments offer many grant programs to acquire and maintain open space.

## **F. Naming Rights**

There are many places that the Village can sell or rent naming rights, including small parks, memorials, park benches, public gardens and sports facilities. Annual fees will all go into the OS Fund. The Village may also solicit contributions for maintaining open spaces and give public credit at individual sites.

## **G. FAR Bonus**

There may be special circumstances where increased floor area added to a house will not be noticeable to any neighbors. In such cases, the homeowner will contribute to the OS Fund in order to build this extra "non-impact" floor area.

## **H. Permit Fees**

The Village may charge permit fees for private use of Village property. This fee will include a contribution to the Open Space Fund.

## **6. Special Recommendations**

### **A. Open Space Committee**

This report strongly recommends that a permanent Open Space Committee be formed to:

- 1) Finalize an Open Space Plan, together with other Village groups such as the Planning Board and Land Use Committee, and present the final Plan to the Board of Trustees for ratification.
- 2) Assist the Board of Trustees in the adaptation and implementation of the Open Space Plan.
- 3) Create groups of interested volunteers to implement the approved recommendations of the Open Space Plan. Sub-groups may be formed to pursue different parts of the program, including buffers, connectors, focal points and, most importantly, acquisitions of additional open space.
- 4) Assist the Village in updating the Village property database.
- 5) Recommend appropriate studies and request funds as required for professional studies.

This Open Space Committee should be set up immediately. The CAC will give leadership to this group in its formative stage and on an ongoing basis.

### **B. Special Acquisitions or Improvements**

These properties have special attributes, making them attractive for purchase and/or improvements. The Open Space Committee should study:

#### **D) Large Private Sites**

Quaker Ridge Country Club

- Zoning change to recreational use
- Proximity to Weinberg, Crossways Complex, and the remaining Winston property.

Fenway Country Club

- Zoning change to recreational use

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## Ramsey Farm

- Village to get right of first refusal or purchase/condemn
- Also consider zoning change
- Possible AgCenter

## Winston Property

- Zoning change to recreational use

## Boulder Brook Riding Academy

- Confirm current right of first refusal
- Consider offering purchase or condemnation

## **2) Board of Education Properties**

High School/Scout Field and adjacent woods

High School/Dean Field/Harwood Park

Middle School playing fields

Quaker Ridge Elementary School property

- Maximize efficiency and consider expansion while respecting natural features

## **3) Village Properties**

### Carman Road

- Deed to adjoining owners
- Sell property rights to adjoining properties
- Enhance access for the community

### George Field Park & Red Maple Swamp

- Preserve and maintain
- Increase awareness of natural areas

### RR Right-of-Way

- Connect to White Plains Greenway
- Connect to possible Heathcote By-Pass Greenway
- Improve & maintain area

### Heathcote By-Pass

- Consider new walkway from RR Right of Way to 5 Corners.

### Crossway

- Develop new playing field (already approved)

### Christie Place

- Consider open spaces while planning for other uses like parking and retail.

## **C. Other Acquisitions**

Properties in this category are mostly privately- held lots and parts of lots, which may have important open space consequences. There is no definitive list at this time. The CAC recommends that the Village complete its improvements to its property database. These improvements include information gathered by the CAC in the process of creating the Open Space Inventory & Map. Once up and running, the database can be used as a tool to categorize:

- 1) Lots double the size of minimum building lots;
- 2) Adjacent lots that, when combined, produce enough area for sub-division;
- 3) Lots adjacent to existing open spaces;
- 4) Lots with connective walkway possibilities and/or adjacencies to schools;
- 5) Lots or parts of lots which may be used as buffers or focal points;
- 6) Lots with significant natural attributes.

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## **7. References**

The Open Space Map prepared by the Conservation Advisory Council is available at Village Hall.

The Open Space Inventory is currently being input into the Village's property database.

"Local Open Space Planning Guide" from NY State.

The "Comprehensive Plan" dated October 1994 is available at Village Hall.