

TOOLS FOR OPEN SPACE PROTECTION

Guidance and Options for Local Governments



JUNE 2005

A Report Prepared by the Clermont County Planning Commission's
Open Space Committee



Clermont County Department of Community Planning & Development
2379 Clermont Center Drive Batavia, Ohio 45103



BOARD OF COUNTY COMMISSIONERS
CLERMONT COUNTY, OHIO

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June 10, 2005

To: Township Trustees, Clermont County, Ohio
Honorable Mayors of Incorporated Cities & Villages, Clermont County, Ohio

From: Clermont County Dept. of Community Planning

RE: TOOLS & OPTIONS FOR OPEN SPACE PROTECTION (JUNE 2005)

Dear Honorable Elected Officials,

The Clermont County Planning Commission hereby presents the report completed by the Planning Commission's Open Space Committee, entitled *Tools & Options for Open Space Protection*. This report contains information regarding the preservation and protection of Open Space. Moreover, the report contains suggestions and potential strategies that are currently available to those local governments choosing to engage in Open Space preservation efforts.

It must be stressed that the *Tools & Options for Open Space Protection* document is **not** a regulatory document, nor can it be classified as an Open Space Plan. Rather, this report has been prepared and made available to local governments throughout Clermont County so as to provide an additional resource for those undertaking Open Space preservation. Please find the report presented herein, for your consideration and further use.

If you have any questions, please feel free to contact Cory Wm. Wright with the Clermont County Department of Community Planning & Development at (513) 732-7610 or via email at cwright@co.clermont.oh.us.

Sincerely,

Cory Wm. Wright
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CHAPTER I:
INTRODUCTION TO OPEN SPACE TOOLS & OPTIONS

TOOLS FOR OPEN SPACE PROTECTION

Tools for Open Space Protection has been created to provide local governments with:

- ❖ An objective process that can be used to identify land areas with current and potential open space attributes;
- ❖ Guiding principles to compare the relative value of multiple open space parcels; and
- ❖ A compilation of available tools which can be used to protect open space.

The information contained in this document focuses on the importance of considering open space values in land use planning in addition to focusing on providing tools for local governments to use to achieve this end, if they so choose. Activities such as zoning, subdivision regulations, and identification of parkland for purchase should all be conducted in a manner that includes a context-specific consideration of open space. As with all land use management activities, final land use decisions are based upon an evaluation of many community and development policy issues. It should be recognized that open space is only one of many considerations.

The Clermont County Planning Commission has chosen to compile program concepts and make these tools available to local governments so that they can make choices that are best suited to preserving open space within their community.

THE INTENDED AUDIENCE

This document is appropriate for use by local governments wishing to consider open space in land use management planning. These may include Clermont County government operations, local governing bodies such as townships or municipalities with an interest in preserving open space. This process can be modified, as necessary, to fit local desires or preferences, regarding types of open space to target for protection or preferable tools to protect open space.

Ideally, the tools in this document should provide an excellent starting point for local governments or nonprofits to utilize in their natural resource planning and management efforts.

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THE DEFINITION OF OPEN SPACE

Open space is a general term that can encompass many natural and cultural resources. Given the diversity of land uses that can function as open space, numerous definitions exist. Generally speaking though, open space can be defined as follows:

OPEN SPACE - That portion of the land or of a project site which has not been developed for permanent habitation or occupation, and which is deemed to be worthy of some type of preservation in either its natural or quasi-improved state for ecological, historical, or passive and/or active recreational purposes, or left in its cultivated state to preserve agricultural, forest, or urban greenbelt areas.

Further distinction should be made between passive and active types of recreational open space. Active recreational open space is characterized by repeated and concentrated use of the land at prescribed places. Examples would include lands with some type of improvement upon them that encourage active forms of recreation (i.e. running, walking, sports, etc.). Passive open space is characterized as the preservation of natural resource areas - this typically includes steep slopes, riparian corridors, wetlands, woodlands, and other environmentally sensitive areas. For planning purposes, land that achieves any of the following objectives could be considered as open space:

- ❖ Promotion of stewardship values
- ❖ Improvements in air quality
- ❖ Noise control
- ❖ Preservation of land management options for the future
- ❖ Maintenance of rural character
- ❖ Protection of cultural or historical resources
- ❖ Conservation of natural resources including forests sensitive areas
- ❖ Improvement in water quality
- ❖ Enhancement of aesthetic value
- ❖ Increased recreational opportunities
- ❖ Flood Mitigation
- ❖ Enhanced property values

Some examples of open space include, but are not limited to parks, sports fields, stream corridors, wetlands, forests, steep slopes, trails, golf courses and driving ranges, public building campuses, road and utility right of ways, natural preserves, crop land and pastures, wellfields, common areas located in

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Planned Unit Developments (PUD's), agricultural buffers, stormwater control basins, landfills, cemeteries, suburban yards, flood plains, gravel pits, fairgrounds, undeveloped areas as buffer zones, historical or cultural resource areas and surface water bodies.

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CHAPTER II:
THE IMPORTANCE OF OPEN SPACE PRESERVATION

THE SEARCH FOR BALANCED GROWTH IN CLERMONT COUNTY

Clermont County has and will continue to experience significant levels of population growth. Between the years 1970-2000, Clermont County experienced an 86.6% increase in population. This kind upward trend in population growth will most likely continue into the 21st Century, as Clermont County is expected to experience an additional 37.7% increase in population between the years 2000 to 2030 (Roemaker, 2005). In the Clermont County March-April 2000 Land Use Planning Survey, 64.8% of the population stated that they felt development was "very important" to the county's future economic health (University of Cincinnati, 2000). Attitudes toward open space and environmental impacts from land use decisions were also assessed in this survey. Interestingly, citizens expressed a strong desire to balance development with protection of land uses that are typically considered open space.

To review the excerpted results of this survey as they pertain to open space, please refer to ATTACHMENT P. As the survey results will clearly indicate, open space is an important topic among residents residing in Clermont County.

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TRADITIONAL BENEFITS OF OPEN SPACE PRESERVATION

Many benefits are traditionally associated with open space preservation efforts. The following benefits are just a few of the many that come to mind when discussing open space preservation:

1. Maintain the character of a community

Open space preservation efforts have traditionally focused on the importance of preserving rural character and valuable natural resources as desirable for maintaining and improving a community's standard of living.

2. Create a balance between economic development and open space preservation efforts

Economic development and open space preservation are complementary pursuits that warrant careful consideration. Recognition of the impacts change has on each is essential.

3. Protect environmentally sensitive areas and significant natural features

Restricting the building in floodplain areas or on unstable slopes, managing stream banks and stream flows, protecting surface water and groundwater, and protecting view sheds from being destroyed are but a few of the environmental protection functions of open space preservation.

4. Promote the economic development advantages of open space preservation

Communities with open space areas often see increased property values to reflect this asset. Employers, when choosing among competing locations for placement of business, will consider the quality of life of the area as a necessary component of employee recruitment and retention.

5. Enhance the quality of life by providing active and passive recreational opportunities

The enjoyment opportunities of the outdoors are enhanced through the creation of and protection of open space.

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ECONOMIC BENEFITS OF OPEN SPACE PRESERVATION

Tensions have long existed between those who advocate land use plans conducive to maximum development and those who maintain that any further development is an encroachment upon our natural resources. This debate between development advocates and conservationists might lead some to conclude that a community must sacrifice one goal to achieve the other. As development pressures increase, local and regional decision makers face tough policy decisions about how to properly balance the demands of development advocates, conservationists, and residents within communities.

Turning "Greenspace into Greenbacks"

When development and conservation are properly balanced through the utilization of open space preservation tools, everyone benefits through enhancements in quality of life and infrastructure cost savings. Open space policies often result in increased property values and in turn, increased tax revenues. Increased tax revenues can lead to an improvement in the overall quality of life for a community. Essentially, when decision makers take action to preserve open space, they begin the process of converting "*greenspace into greenbacks*" for their community.

Open Space Benefits the Entire Community

The benefits derived from open space are not limited to individual property owners or corporations. Rather, the careful preservation of open space results in social and economic benefits for the entire community. For instance, man-made concrete spillways, dams, retaining walls, and other infrastructure improvements are often used to address issues like flood control and soil erosion. However, well preserved forests and wetland areas can also be preserved or restored to achieve the same effects at lower costs. This reduction in cost stems from the fact that the existing open space is already there to serve as natural infrastructure.

Open space also results in community-wide benefits by aiding in the preservation of valuable and scarce resources. For instance, trees, wetlands, and other passive open spaces can function as natural wastewater treatment plants. Automobiles generate numerous kinds of pollutants, including oil and other noxious substances that are deposited onto paved surfaces. These harmful substances eventually make their way into the environment. Preserved

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open spaces can help filter many of these harmful substances from our water supply. Passive open spaces - when coupled with innovation and practical application - can also be used to control soil erosion and reduce and/or eliminate potential flood impacts.

Open Space Reduces Infrastructure Costs

Properly planned and preserved green corridors function in the same manner that manmade improvements do, and at a much cheaper cost. This impact relates to air pollution removal costs, as well as annual stormwater management costs. Green areas with well-preserved forests in the Greater Cincinnati Metro Area alone save communities hundreds of millions of dollars annually.

"It is evident that the tree canopy in the Cincinnati region is critical to the ongoing health and well-being of its residents - to the level of well over \$240,000,000 per year by a pure dollar measure."

Green Umbrella - the Regional Greenspace
Alliance of Ohio, Kentucky, and Indiana

As mentioned earlier, trees and groundcover reduce the need for extensive storm sewer systems, because they reduce the rate at which water runs into collection facilities. This reduction in runoff lessens the impact that any given storm would have upon the community. The storm water savings from the existing canopy in the Greater Cincinnati Metro region amount to more than \$102,000,000. Additionally, the annual air pollution removal savings resulting from the green canopy in the Greater Cincinnati Area amounts to nearly \$138,000,000. These figures represent the total amount of money that local communities in the region would need to pay per year to mitigate stormwater runoff if the existing 30% of green canopy in the Cincinnati region were replaced with impervious surfaces.

A Method for Examining Economic Impacts

One valuable method of examining the economic impact that open space preservation has upon a community is a Cost of Community Services study. COCS studies are fiscal (rather than purely economic) studies designed to examine the amount of tax revenue a particular parcel in a specific land use might generate and compare that value to the cost of providing essential

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services to that land use. COCS studies express their findings in terms of median cost of community services per dollar of revenue raised. Some critics have noted that it is difficult to generalize upon COCS studies because each community is unique. However, this criticism has lost a considerable amount of credibility as an increasing number of communities have completed these studies.

Traditionally, residential development was thought to benefit communities because it elevated tax revenues. However, lower density suburban residential development typically consumes more land than compact residential development or agricultural uses. Consequently, communities end up expending more tax dollars to provide services to each parcel of a residential subdivision than they would to the residents of a large farm. COCS studies also indicate that residential development requires expensive public services that typically are subsidized by commercial and industrial land uses.

Project Cost Examples

COCS studies across the country have exposed the link between open space preservation and COCS savings for communities. Natural lands are, by far, the least costly lands to provide services to, as a compilation of COCS studies indicate. For example, preserved greenbelts, agricultural lands, and all other working open spaces reported a national median cost per dollar revenue generated of \$ 0.36. Conversely, aggregated residential land uses were much more expensive to communities. For every tax dollar generated by the residential sector, communities nationwide reported a median expenditure of \$ 1.15. The nationwide difference in median cost per dollar revenue generated favored open space by \$ 0.84 (Freedgood, 2002).

Open Space Comes in Many Forms

Recent surveys among prospective home buyers also indicate that purchasers are demanding more open space as they seek to improve their quality of life. Open spaces, tree-lined corridors, riverside greenbelts, natural parks with pathways, and wooded areas provide the residents of communities with ample opportunities to recreate and escape the stress of daily life. Any open space connector linking parks, nature preserves, cultural features, or historic sites with each other and with populated areas ultimately enhance well-being. These

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"greenways" are just one form of open space that can link active and passive recreational amenities.

Open Space Preservation - Property Values and Tax Revenues

Homeowners often experience economic benefits from natural open space in the form of increased property values. A study in Boulder, Colorado concluded that when all other variables were held equal, the value of properties nearest preserved greenbelts were 32 percent higher than those located over one half mile away. The Cox Arboretum in Dayton, Ohio accounted for an estimated 5 percent of residential selling prices in that community. Increased property values ultimately lead to increased property tax revenues. Increased tax revenues can enhance the ability of local governments to provide both necessary and discretionary amenities which might otherwise be impossible to fund.

Open Space Means Better Business

Open space is also crucial to the success of businesses within a community. Businesses rely increasingly upon attracting skilled labor and professionals in order to operate efficiently and effectively. Since jobs are no longer characterized as being place-specific, employees now take many quality-of-life issues into consideration when making decisions about employment opportunities. Today, employees consider amenities as a major factor in a decision to relocate. Harvey Young, Georgia Greenspace Program Coordinator, asserts that a young professional might take the recreational opportunities that exist within an area into consideration before deciding on where to live and work. Many communities need to understand that their skilled people may be seeking quality of life, not just employment.

Open Space as a Business Attractor

Increasingly, employers seek out communities with amenities that raise the quality of living for employees. Open space is one such amenity. In fact, corporate CEO's say that quality of life for employees is the third-most important factor in deciding where to locate a business, behind access to domestic markets and availability of skilled labor (Kelly & Zeiper, 2000). Furthermore, numerous studies indicate that quality of life issues are a key factor in a business choosing to relocate.

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Open Space and Tourism-Oriented Businesses

Open space also attracts tourism-oriented business, thus providing unique business opportunities for local and regional entrepreneurs. Open space can mean jobs, which ultimately result in increased tax revenues for local governments. These jobs, in turn, provide employment opportunities to the residents of a given community. In addition to providing new jobs, open space-oriented businesses function as consumers as well. Consequently, the preservation of open space and the arrival of open space related businesses can stimulate a region's economy. For example, the East Bay Regional Park District in Oakland, California is estimated to stimulate around \$254 million annually in purchases related to the park, \$74 million of which is spent in the local East Bay economy,

Difficult Times Require Creative Solutions

Increasing competition in the global marketplace has also forced many domestic companies to streamline their expenses. Companies now struggle to pay for rising energy costs, utility services, and increased employee benefits while maintaining a well-manicured corporate image. If open space can lessen the financial burden on communities, it can also help to lower the costs associated with maintaining traditional American industrial complexes and office parks. For example, a company preserves an old growth forest near its main building, thereby reducing the amount of pavement and manicured lawn on that site. By reducing pavement area, the company lessens the bill it must pay every few years to resurface and seal that parking lot. Companies that provide walking paths can promote physical activity among employees, thus reducing potential health care expenditures. Put simply, open space can save businesses substantial amounts of cash.

Funding Open space Preservation Initiatives

When decision-makers discuss open space preservation initiatives, the main concern is funding. Given the costs of land acquisition, and the fact that many types of open space require some maintenance, communities often falter in the quest to pay for open space. However, many options for funding are available. For example, the State of Georgia recently passed an initiative providing \$30 million in funding to growing counties for the preservation of open space. A local alternative to this would be an open space or parks levy. Communities can also secure bonds for the preservation of public space. This

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is accomplished through the use of TIF's, or Tax Increment Financing, a process whereby municipalities are able to issue bonds for reinvestment in revitalization districts. The bonds are then repaid using the additional property tax revenue generated by the improvement. It is crucial to remember that open space ultimately pays for itself by generating additional tax revenues, attracting jobs and businesses, through reducing infrastructure investment.

Private funding can also be used to preserve open space. Land trusts and alliances, local land alliances and coalitions, and citizen or neighborhood groups can all contribute to funding the preservation of open space. In addition to these private sources of funding, developers could lessen development impacts if they were given the option to donate a certain percentage of land area within a development to local governments for open space preservation purposes in exchange for reasonable incentives.

Developers can also be encouraged to cluster developments in such a manner as to promote conservation and to maintain the integrity of existing open space. In the interest of preserving open space, Homeowner's Associations could be assessed a fee for the maintenance of any open space abutting their property. In any event, municipalities should not be expected to bear the entire financial burden of open space preservation, especially since every resident living in the community will enjoy the benefits that it provides.

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CHAPTER III:
TOOLS TO IDENTIFY AND INVENTORY OPEN SPACE

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GEOGRAPHIC INFORMATION SYSTEMS MODELING

A Geographical Information Systems (GIS) model was developed by Clermont County GIS staff to assist in the identification of actual and potential open space. The open space model incorporated information regarding soils, topography, natural resource features such as wetlands or streams, vacant land, preexisting open space parcels, and governmentally owned open space parcels. It is important to note that this model functions as a tool that allows for the selection of parcels after desired open space characteristics have been identified.

Clermont County GIS System

The Clermont County GIS Department now offers over twenty-five electronic layers of geographic information communities can use to plan and evaluate potential opportunities for open space preservation. These materials are available in a hard copy version as a CD ROM. The CD ROM version enables the user, whose computer is loaded with the appropriate software, to change/combine information layers as well as click on and zoom in on a specific site. The diversity of layers available permits users to customize the mapping materials to suit their needs for local open space initiatives. The following items are representative of the many detailed mapping materials that can be created by layering the digitized geographic information to create composite mapping materials.

Public and Private Park Properties

An important step in the process of preserving open space is to determine those land areas that have already been set aside as park properties. The Public and Private Park Map identifies these properties.

Natural Heritage Buffer Sites

Natural Heritage site data, obtained from the Ohio Department of Natural Resources, provides users with a detailed inventory and location of endangered species of flora and fauna. For example, Running Buffalo Clover is an endangered plant that developers need to know so they can avoid destruction of this protected species.

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Stream Buffers

Utilizing stream buffer requirements specified in the recently revised Clermont County Subdivision Regulations, individuals using this graphic data set can identify the location of buffers for intermittent streams and buffers associated with major stream areas. It is these transition areas that need to be considered as part of land development decisions.

Conservation Districts

The GIS mapping materials can identify soil types and topographic conditions that are either incapable or unsuitable for construction activities as defined by the Clermont County Subdivision Regulations. They can also identify specific locations in Clermont County that pose unique hazards for a proposed site if improperly altered. It is on these sites for which open space conservation efforts may be most appropriate.

Conservation Buffer Districts

This mapping data set identifies specific locations throughout the County where topographic features and soil conditions are sensitive to alteration associated with subdivision development and road building. All construction activities in these conservation buffer districts may require special use, design and engineering restrictions. Attributes found in these Conservation Buffer Districts include:

- Tributary drainage buffers
- Flood fringe and shorelines
- Excessively shallow depth to seasonal high water tables
- Moderate to steep slope and erosion hazards

Wetland Buffers

Utilizing data from the Ohio Department of Natural Resources, this GIS layer identifies wetland sites within Clermont County with an optional buffer distance of 250' surrounding each identified site. As with other areas of transition, the identification of wetland buffer areas is critical when used in an evaluation of new or expanded development. However, this 250' buffer is not regulatory - rather, this is a recommended buffer only, and may be modified to accommodate the needs of the individual user(s).

Government Property Evaluation

County and other local governments can play a critical role in the protection of open space by maintaining open space on their properties and by considering open space with respect to zoning and property acquisitions. It is important to

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evaluate the property currently owned by the county to identify open space in areas such as well fields, wastewater treatment plants, or other land uses that may not be initially thought of as open space.

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Clermont County GIS Mapping Samples

The maps presented on the following pages illustrate the types of GIS mapping products available at the Clermont County GIS Department. In this sample, the user is designing the layout of a Planned Unit Development.

Map 1

This map establishes the geographic relationships a proposed Planned Unit Development property has with the site's physical characteristics, existing infrastructure and community land use policy. Specifically, Map 1 indicates the relationship between riparian zones, wetlands, and also indicates buffer zones of various widths surrounding these features. Buffer distances can be adjusted by users to identify areas that are best suited for preservation on the open space overlay.

Map 2

Map 2 utilizes additional digitized information delineating soil-based, conservation districts and illustrates the site's relationship to these areas of exceptional sensitivity.

Map 3

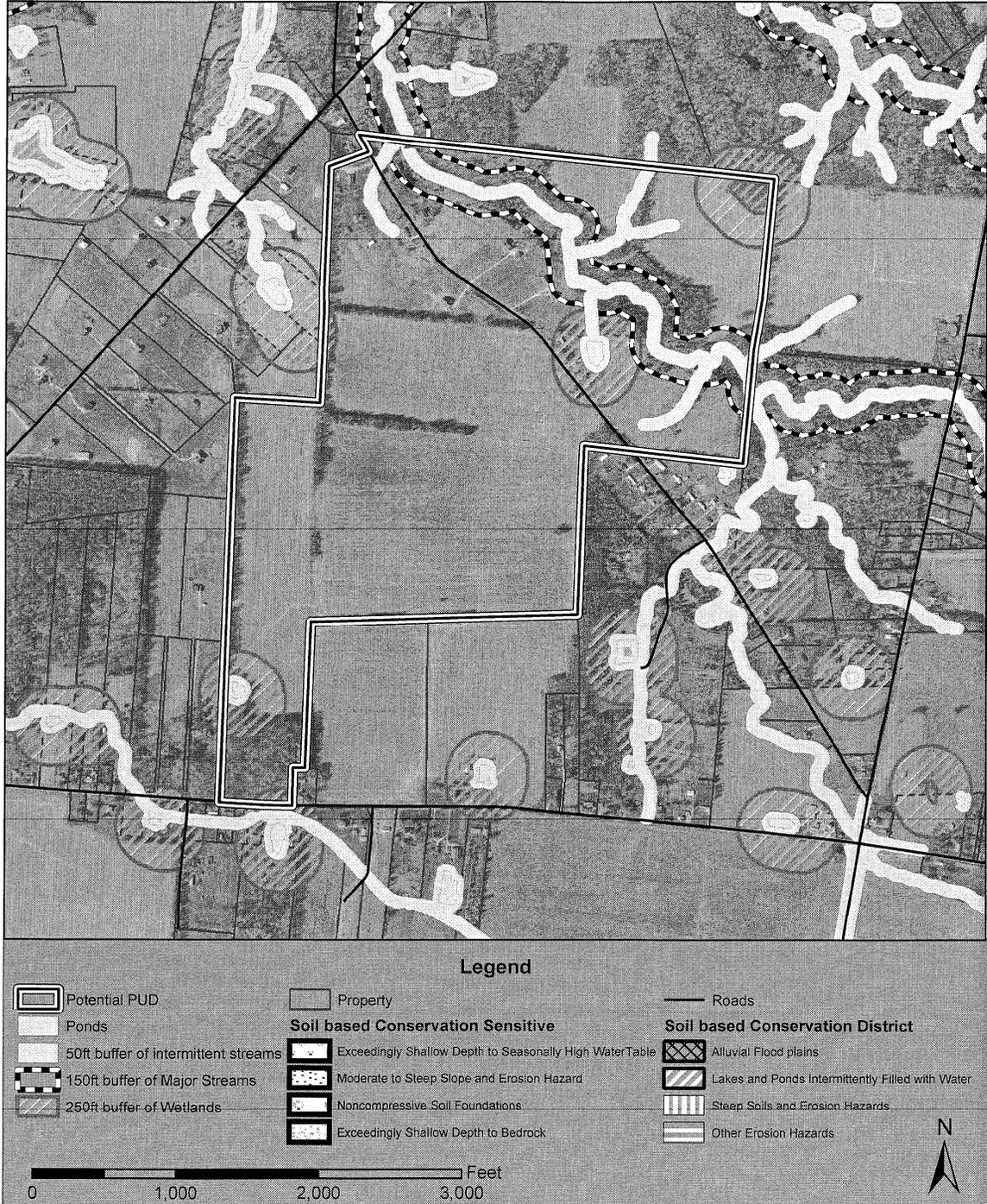
Map 3 utilizes other digitized soil-based information delineating soil based, conservation sensitive buffer areas and also clearly demonstrates the extent to which the site is impacted by these sensitive areas.

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MAP 1

STREAMS, WETLANDS, & BUFFER AREAS

Potential PUD Development

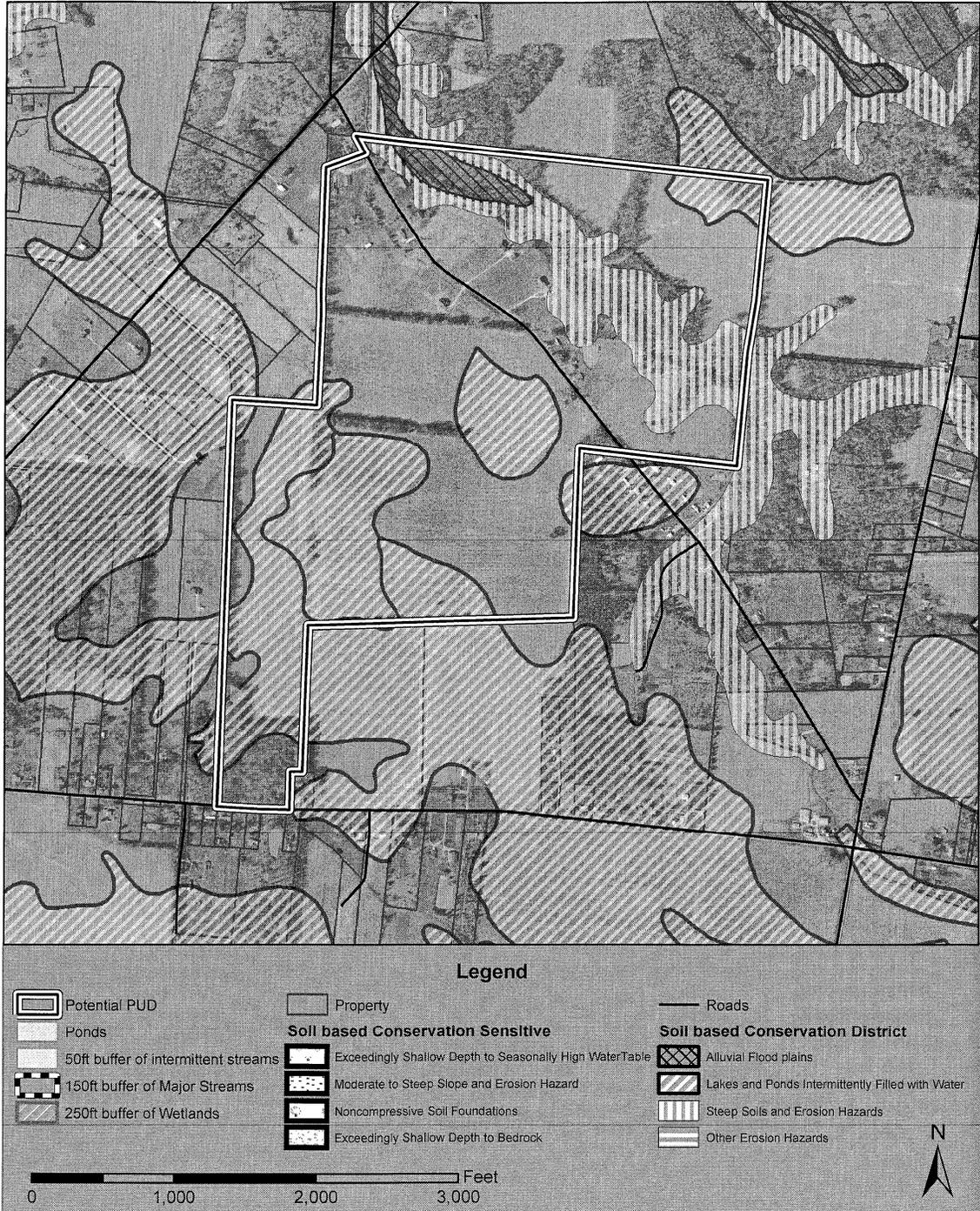


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MAP 2

CONSERVATION DISTRICTS

Potential PUD Development

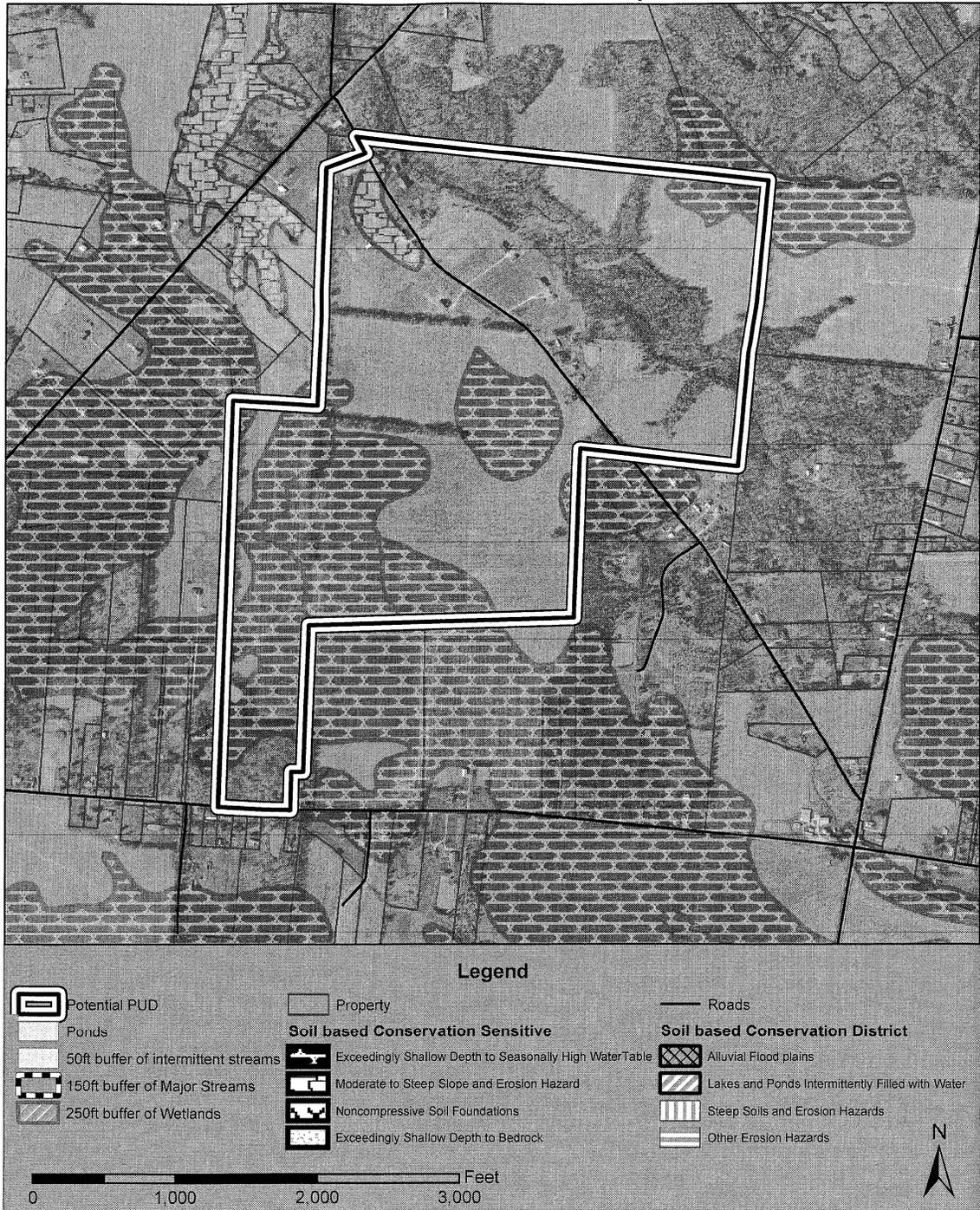


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MAP 3

CONSERVATION SENSITIVE BUFFER DISTRICTS

Potential PUD Development



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Requesting Additional GIS Information

In addition to the many layers available that pertain to open space, the following layer files represent just some of the electronic information that the Clermont County's GIS Department offers to interested parties:

- ❖ Property Lines
- ❖ Zoning
- ❖ Topographic Contours
- ❖ Soils
- ❖ Water Lines
- ❖ Sewer Lines
- ❖ Township Boundaries
- ❖ School Districts
- ❖ Streams
- ❖ Wetlands
- ❖ Aerial Photos
- ❖ Survey Monuments
- ❖ Roadways

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CHAPTER IV:
TOOLS FOR PROTECTING OPEN SPACE

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TOOLS FOR PROTECTING OPEN SPACE

A variety of tools are available to local governments in Clermont County who wish to undertake open space preservation initiatives. Generally speaking, there are two groups of tools that can be used in open space initiatives:

- 1) Voluntary & Incentive-Based Programs
- 2) Regulatory Programs.

VOLUNTARY & INCENTIVE-BASED PROGRAMS

Voluntary incentives programs are designed to facilitate landowner decisions to protect open space and are, by definition, those where participation is not mandated or required. The incentive aspects of the program are often financial to help fund activities that an individual may not be able to afford otherwise or promote activities where compensation may help to increase desired outcomes.

Conservation and Agricultural Easements

A conservation or agricultural easement is a commonly used tool to protect open space values at the level of an individual property. In general terms, such an easement is a voluntary agreement made by a landowner to limit activities on an identified area of land. When an individual owns a piece of property, he or she actually owns a number of rights associated with the property such as the right to use, occupy, rent, or develop the land. An easement is a legally binding agreement whereby the landowner voluntarily chooses to sell or donate some of these property rights to a group that will hold them for a specified period of time. A monetary value is then assigned to each easement, which is determined based upon the difference between the highest unrestricted use of the property and land value after the easement restrictions are in place. Purchased easements involve direct compensation, whereas donated easements often result in income and estate tax deductions for the property owner.

ATTACHMENT E provides the relevant statutory language relative to Conservation and Agricultural Easements as provided in Chapter 5301 of the Ohio Revised Code. The statute specifies the types of legal easements available and grants authority for governmental or other organizations to hold easements. A survey was also conducted as a component of regional planning activities in order to identify potential holders of agricultural and conservation

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easements in Clermont County However, no results have been compiled as of yet and the results and subsequent directory are a work-in-progress (ATTACHMENT F).

Conservation Easements

Conservation easements are "voluntary legal agreements between a landowner and a land trust or local government agency that allow landowners to limit or prohibit development on their property" (Land Protection Toolbox, 2001). They are typically used to protect natural resources such as riparian areas, wetlands, steep slopes, forests, or other unique natural areas. Protection of these areas occurs by the agreement to not develop these areas or conduct activities that may endanger the specific natural resource values of these areas. *Conservation easements* require that land is retained in its natural state and only allow for agricultural activities if the activities do not conflict with the identified purpose of the conservation easement. For additional information on *conservation easements*, see the table in ATTACHMENT H₁.

Advantages of donated or purchased *conservation easements* include: "permanent protection of land from development pressures, landowners may receive income, estate, and property tax benefits, at minimal cost to local units of government, and land remains in private ownership and on the tax rolls". (Land Protection Toolbox, 2001) Disadvantages of donated or purchased conservation easements include: "tax incentives may not provide sufficient compensation for landowners, and there is little local government control over the actual areas that are protected" (Land Protection Toolbox, 2001).

Agricultural Easements

Agricultural easements are voluntary, legal agreements that prohibit activities which would unduly interfere or prevent agricultural activities on subject properties. Chapter 5301 of the Ohio Revised Code establishes provisions for Agricultural easements. Restrictions on the land can include limitations on the number of new residential buildings and commercial enterprises that may prevent the property from being utilized predominantly for agricultural purposes. They are usually one aspect of a larger farmland preservation program and can be used in conjunction with other land use planning tools such as Current Agricultural Use Valuation (CAUV) taxation reductions or agricultural districts. For additional information on agricultural easements, see the table in ATTACHMENT H₂.

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Advantages of donated or purchased *agricultural easements* include: "permanent protection of land from development pressures, landowners may receive income, estate, and property tax benefits, at minimal cost to local units of government, and land remains in private ownership and on the tax rolls". (Land Protection Toolbox, 2001) These easements can also be attractive to the agricultural community because they allow landowners to cash in on the equity of the land that is derived from the right to develop it. Permanent easements can also significantly reduce estate taxes to allow for passing of the farm to the next generation.

Transfer of Development Rights

Transferred Development Rights are enabled by local ordinances that create *sending areas*, or preservation areas, and *receiving areas* where communities encourage additional growth and development. Landowners in the sending area receive development right credits, which they can sell in exchange for not developing their land. Real estate developers, speculators, or the local government can then purchase the development right credits and use them to increase existing or planned densities in the receiving areas. (Land Protection Toolbox, 2001)

Advantages of *transfer of development rights* programs include: "permanent protection of land from development pressures, landowner is paid to protect land, landowner may receive estate and property tax benefits, local government can target locations effectively, and land remains in private ownership and on the tax rolls". Disadvantages of purchase of development rights programs include: "complex to manage, receiving area must be willing to accept higher densities, and successful programs typically require a strong real estate market." (Land Protection Toolbox, 2001)

USDA Conservation Programs

There are many available programs to protect natural resources through the USDA for both farmers and non-farmers. These programs target protection of riparian areas, wetlands, and wildlife habitats. The 2002 Farm Bill gave a significant increase in funding and increased acreage caps for conservation programs over past bills. There is approximately \$17 billion in available funding through the year 2007.

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Although it is generally thought that one must be an agricultural producer to participate in USDA programs, the Wetland Reserve Program (WRP) and Wildlife Habitat Incentive Program (WHIP) have opportunities for non-producers to receive technical assistance and cost-share payments in specified circumstances. Programs such as the Conservation Reserve Program (CRP) are limited to land that has been farmed three of the last six years and to producers that meet certain income requirements. For additional information on USDA conservation programs, see the table provided in ATTACHMENT G.

Clean Ohio Bond Fund Program

For the years 2001 to 2005, the Clean Ohio Bond Fund has a total of \$400 million dollars available for open space and watershed protection (\$37.5 million per year), farmland preservation (\$6.25 million per year), recreational trails (\$6.25 million per year) and Brownfield clean-ups (\$50 million per year). While this program is time-limited, there are significant opportunities for county and other local governments to obtain needed funding for open space conservation. Acceptable projects to pursue from this funding source include:

- ❖ Habitat protection for rare, threatened or endangered species
- ❖ Wetland or other unique natural resources
- ❖ Preservation of streamside forests and other unique waterway features
- ❖ Comprehensive open space planning
- ❖ Easements to protect stream corridors
- ❖ Agricultural easements
- ❖ Environmental education
- ❖ Pedestrian or bicycle trails
- ❖ Reduction of nonnative, invasive plant or animal species

For additional information on Clean Ohio Bond Fund programs, see the tables provided in ATTACHMENT I₁ & ATTACHMENT I₂.

Notes:

REGULATORY OPTIONS FOR OPEN SPACE PRESERVATION

In contrast to voluntary programs, regulatory programs involve local or county-level regulations that specify land uses or acceptable activities as necessary to protect public resources, safety, or health. Zoning ordinances and subdivision regulations are examples of regulatory options that can be used by residents and local governments for the preservation of open space.

Zoning Regulations

Enabling legislation in Ohio provides cities, villages, townships, and counties with the option of establishing zoning ordinances which control how land is utilized within a community (Chadbourne, 2000). Essentially, zoning identifies whether property can be developed as residential, commercial, industrial, or agricultural. Zoning ordinances also regulate specific development densities within the applicable district. Several types of zoning methods can be utilized to accomplish open space preservation efforts, including the following examples:

Agricultural Zoning

Agricultural zoning is one type of zoning that can be utilized to designate areas where farming is the primary land use and encourages agricultural activities. In agricultural zoning ordinances or resolutions, control over the number of residential dwellings in a district is established by specifying a minimum lot size that corresponds to the amount of land needed to support a farm. Densities will vary with the type of farming within the district, or zone. Other factors may enter within the final formula, but the permitted uses within an agricultural zone should be consistent with viable farming alternatives.

Cluster Development Zoning

Cluster development zoning, or cluster development, is one form of open space planning authorized under "Planned Unit Development" regulations. It concentrates houses on smaller parcels of land, while the additional land that would have been allocated to individual lots becomes shared space by all homeowners in the subdivision. Clustered housing offers both environmental and economic opportunities beyond traditional subdivisions. A greater amount of open space and sensitive lands can be preserved because less cleared land, rough grades, cut roads, fine grades, and planted lawns are needed. In addition, shorter utility hookups are possible, and some common walls on attached or semi-attached homes can reduce additional building materials.

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Conservation Development Zoning

Conservation District Zoning is used to implement a type of cluster development zoning that emphasizes conservation of specific, sensitive attributes potentially impacted by a development project - such as rural character, visual quality, trails, flood plains, storm water and waste water management, roads, slopes, groundwater, wells, buffers, wetlands, farmlands, habitats, natural landscaping, woodlands, stream channels, and viewsapes - a conscious effort needs to be made to screen and to protect those areas by directing or clustering development away from those resources.

Large Lot Zoning

Large lot, or low residential zoning, is by far the most popular type of zoning technique for the protection of open space. Large Lot Zoning can require exceptionally large lot sizes in certain areas of Counties and Townships. Some Counties that control zoning are experimenting with lot sizes in excess of twenty (20) acres. It is thought that by discouraging development and thinly spacing housing the open character of an area can be retained. Such zoning does preserve open space for backyard recreation and does minimize housing density. When used alone, however, large-lot zoning is normally ineffective in maintaining the open space character of an area or in providing open space for active recreation or conservation.

Overlay Zoning

Overlay Zoning is used to provide protection to specific natural and cultural resources that are not explicitly safeguarded under existing zoning regulations. As the name implies, overlay zones are placed over top of existing zoning regulations. The first step is to inventory natural and cultural features of the community. Local planners can then map out the environmentally sensitive or culturally significant areas.

Planned Unit Development Zoning

Planned Unit Development (PUD) allows property owners to rezone their property to PUD standards and no longer be subject to previously applicable zoning regulations. This provides opportunities for more flexible site design, housing locations, localized commercial outlets, open space, and generally greater creativity than possible with conventional zoning. A more detailed discussion of the use of Planned Unit Development Zoning in the management of open space can be found under "Managing Open Space Protection Efforts."

Notes:

Thirteen of the fourteen townships in Clermont County have enacted and enforce their own zoning regulations. Washington Township in the southern portion of the County is the single exception. Refer to ATTACHMENT K for contact information.

Clermont County Subdivision Regulations

Unlike zoning ordinances, subdivision regulations direct the actual physical layout and design of property at the time it is initially developed. Commercial, Industrial, and Residential Subdivision Regulations define the space requirements for easements, buffering, open space, and a variety of site protection requirements. The Clermont County Subdivision Regulations govern plats and subdivisions involving lands situated within the unincorporated areas of the County. Included are specific design standards that protect the environment and preserve open space. Several sections of the subdivision regulations can be used to support open space preservation initiatives. Each topic presented below discusses the various ways that the Subdivision Regulations assist in the effort to preserve open space and protect environmentally sensitive areas throughout Clermont County:

Conformity to Development Plans and Zoning

No final plat of land within an area where zoning is in effect shall be approved by the Clermont County Planning Commission unless it conforms to local zoning requirements. If the PUD regulations of the Township of jurisdiction require open space and that PUD plan has been approved by the Township, no development will be permitted that is contrary to the approved PUD plan. This type of clause can be found throughout the subdivision regulations of numerous counties in the State of Ohio. This section is most effectively utilized in conjunction with Township-specific zoning requirements.

Capability and Suitability of Lands and Soils

Applicants who propose to subdivide lands that have been identified as being impacted by Conservation Districts and/or Conservation Buffer Districts are required to provide an impact statement that describes the extent of encroachment, the proposed alterations, and the environmental impacts resulting improvements to the project site. Although developers are encouraged to set aside these areas as open space, special development techniques are often identified as being necessary to preserve these sensitive areas. Special development requirements usually include Wetlands Assessments and/or Geotechnical Reports being conducted for the project site.

Notes:

Conservations District Lands and Soils Include:

- ❖ Tributary drainage system
- ❖ Alluvial plains
- ❖ Flood plains
- ❖ Lakes and ponds intermittently filled with water
- ❖ Quarries and gravel pits
- ❖ Bedrock escarpments
- ❖ Steep slopes and erosion hazards
- ❖ Wetlands

Conservation Sensitive Buffer Districts Lands and Soils Include:

- ❖ Tributary drainage buffers
- ❖ Flood fringe and shorelines
- ❖ Excessively shallow depth to seasonal high water table
- ❖ Moderate to steep slope and erosion hazards

Although the areas identified in the regulations are somewhat unique to Clermont County, counties like Hamilton County, Ohio have adopted general site protection standards for subdivisions. Additionally, the subdivision regulations of many counties contain specific buffering requirements and other special regulations to deal with development in environmentally sensitive areas. In fact, Franklin County, Ohio has adopted an entire article devoted to development occurring within environmentally sensitive areas. These regulations include site protection standards that go far beyond soil and slope identification because they address specifically forested area and wetland protection. Consult the *Franklin County Subdivision Regulations* for more details.

Open Space

Every applicant is encouraged to provide open space for various functions including but not limited to the protection of plant and wildlife habitat, providing or preserving community identity, and providing recreation. The area of each parcel of open space designated for active and passive recreational purposes shall be of such dimensions as to be functionally usable to the dwelling units they are intended to serve. Key provisions of this section include the following statements:

- ❖ An applicant may designate lands as open space for the provisions of parks, play grounds, squares, nature areas, other recreational facilities, storm water retention & detention, or other appropriate use.
- ❖ As a general principle, undisturbed open space should be left in its natural state. A developer may make certain improvements such as the cutting of trails for walking or jogging, or the provision of picnic areas, etc.

Notes:

- ❖ Where the Planning Commission has adopted a master plan for the construction of parks, schools, and other public improvements pertaining to the parcel to be subdivided, the Planning Commission shall require the incorporation of such facility into the subdivision design, provided such actions do not constitute a taking without compensation as defined by O.R.C Section 711.10.

As is the case in most adopted subdivision regulations throughout the State of Ohio, this section simply encourages open space to be preserved and identifies potential options for open space dedication. This section also recognizes that the most effective way to secure open space areas within new developments is to ensure that County subdivision regulations and Township PUD regulations go hand-in-hand. More importantly, this provision recognizes the importance of a well-conceived master plan.

Open Space Ownership

The key requirement is ensuring that these open space use and maintenance provisions are included on the Record Plat. This vehicle again provides a generally effective mechanism that ensures that open space is preserved for the specified (and usually approved) use. Ownership and maintenance may be provided by any number of groups, as indicated in the subdivision regulations. These clauses are typical throughout the State of Ohio, as they are yet another way to clarify where the burden of maintenance of open space lies. Again, these requirements are most effective when utilized in conjunction with specific open space-oriented zoning requirements of the applicable Township.

Flood Plains

These provisions generally prohibit development in Flood Plains unless the developer makes *substantial* improvements to the project site. Such improvements would have to mitigate potential flood damages to residential, commercial, and/or industrial properties, and also reference the Clermont County Flood Damage Reduction Regulations. Such clauses are typical throughout county subdivision regulations in the State of Ohio.

The most effective regulatory component of this provision is the fact that this section allows the Planning Commission to require easements along the banks of streams to protect the floodway from encroachment by development. The Planning Commission can, in essence, protect riparian areas through mandating conservation easements. Franklin County, Ohio has developed more extensive regulations pertaining to development within flood plains, including

Notes:

"Watercourse Protection Area" regulations to protect areas surrounding significant drainage features including stream banks and other riparian zone areas.

Special Developments

This portion of the Subdivision Regulations is meant to allow for flexibility in the design of subdivisions so as to promote and preserve significant environmental, cultural, or historical areas. This provision permits modifications of the requirements to the degree necessary to achieve positive outcomes like open space preservation, cluster development, and the like.

This provision can be utilized in a variety of ways. For instance, developers can propose reduced street widths to save dense or mature woodlands present on that site. Street layout can be altered so as to follow the topography of the site. Curb and Gutter and Sidewalk requirements could be waived if such modifications are a component of an overall conservation development plan. The key is to reward positive conservation-oriented outcomes with a modification of strictly applied design standards. Most times, these modifications are sought in the Large Lot and Five Acre Plus developments located in more rural parts of Clermont County. However, PUD's often propose similar design standard modifications as well.

Planned Unit Developments

It is the intent of the Clermont County Subdivision Regulations to accommodate creative and imaginative Community and Planned Unit Developments and to permit utilization of those innovations in land development which are in the best interests of Clermont County. This provision recognizes that each Township has unique physical characteristics. Moreover, this section recognizes that each jurisdiction possesses unique development goals relative to preservation and protection of valuable natural lands. This portion of the regulations also provides Planned Unit Development guidelines for the single unzoned Township that is situated within Clermont County.

The section regulating PUD's recognizes that some areas of the County may have identified a need for public parks, whereas other areas may desire the creation of greenbelts that link various neighborhoods. As with many other sections of the subdivision regulations, this section is best utilized when applied in conjunction with a well-conceived set of Township PUD regulations. Also, counties throughout the State of Ohio such as Licking County and Franklin County have adopted similar provisions within their Subdivision Regulations.

Notes:

The Clermont County Subdivision Regulations are available online at www.co.clermont.oh.us/planning. A hard copy version of these regulations can also be purchased by contacting the Department of Community Planning and Community Development at (513) 732-7213.

Notes:

Water Management and Sediment Control Regulations

The Clermont County Board of Commissioners have adopted the Water Management and Sediment Control Regulations for Clermont County, Ohio to establish management and conservation practices which will abate soil erosion and degradation of the waters of the State from sediment caused by non-farm, earth-disturbing activities. The following objectives are just some of the additional objectives sought by the W.M.S.C. Regulations:

Reduce Development Impact Downstream

Eliminate or minimize downstream flooding, erosion, and sedimentation damages caused by development and other earth disturbing activities.

Control Stormwater Runoff and Pollution

Eliminate or reduce damage to receiving streams which may be caused by increases in the volume of the runoff entering the streams or by the sediment and pollutants contained in the storm water runoff.

Design of Stormwater Management Systems

Establish a basis for the design of storm water management systems to protect the current and future rights of property owners and help assure the long term adequacy of the storm water management systems that will be required.

Strict adherence to these regulations can only help to promote and enhance water quality while aiding and controlling stormwater runoff associated with new forms of development. New development involving a specified amount of earth-moving activities will be subject to these regulations. Detailed information concerning the Clermont County Water Management and Sediment Control program can be found at www.co.clermont.oh.us/building

Notes:

CHAPTER V:
PRACTICAL APPLICATIONS OF OPEN SPACE
PRESERVATION

PLANNED UNIT DEVELOPMENTS IN CLERMONT COUNTY

For over thirty years, local governments in Ohio have been using Planned Unit Development (PUD) regulations as a tool to develop quality residential communities with recreational amenities and permanently preserved open space. Because of its inherent flexibility, this tool has become very popular with both developers and local governments. Townships in Clermont County are no exception to this trend. As of 2003, there were 25 Planned Unit Developments in Clermont County that contain more than 625 acres of passive open space - this number continues to grow as residential development increasingly seeks to preserve open space areas in exchange for increased design flexibility. This strategy of "clustering" lots in certain areas effectively "trades" density on one portion of the site in exchange for preservation of valued natural resources like forests, wetlands, or other types of sensitive lands. In Townships with zoning, the Board of Township Trustees has the final authority to approve or disapprove a PUD.

Township PUD regulations typically require a minimum percentage of land be set aside as recreational land or permanent open space. Generally speaking, the open space requirements encompass a significant portion of the site. However, care should be exercised when developing open space requirements so as to permit variety in the types of open spaces that can be preserved. This percentage varies from Township to Township depending upon the specific PUD regulations enacted within the Township of jurisdiction, as provided below:

<u>Township PUD Open Space Requirements (2003)</u>				
Township	% Open Space Required	Requires HOA	Requires Conservation Easement	Strong Purpose Statement to Protect Environment
Batavia	20**	Yes	No	Yes
Goshen	25	No	No	No
Jackson	20-40*	Yes	No	Yes
Miami	20	No	No	Yes
Pierce	20-40*	No	Yes	Yes
Stonelick	15	No	No	Yes
Union	20	No	No	No
Total				

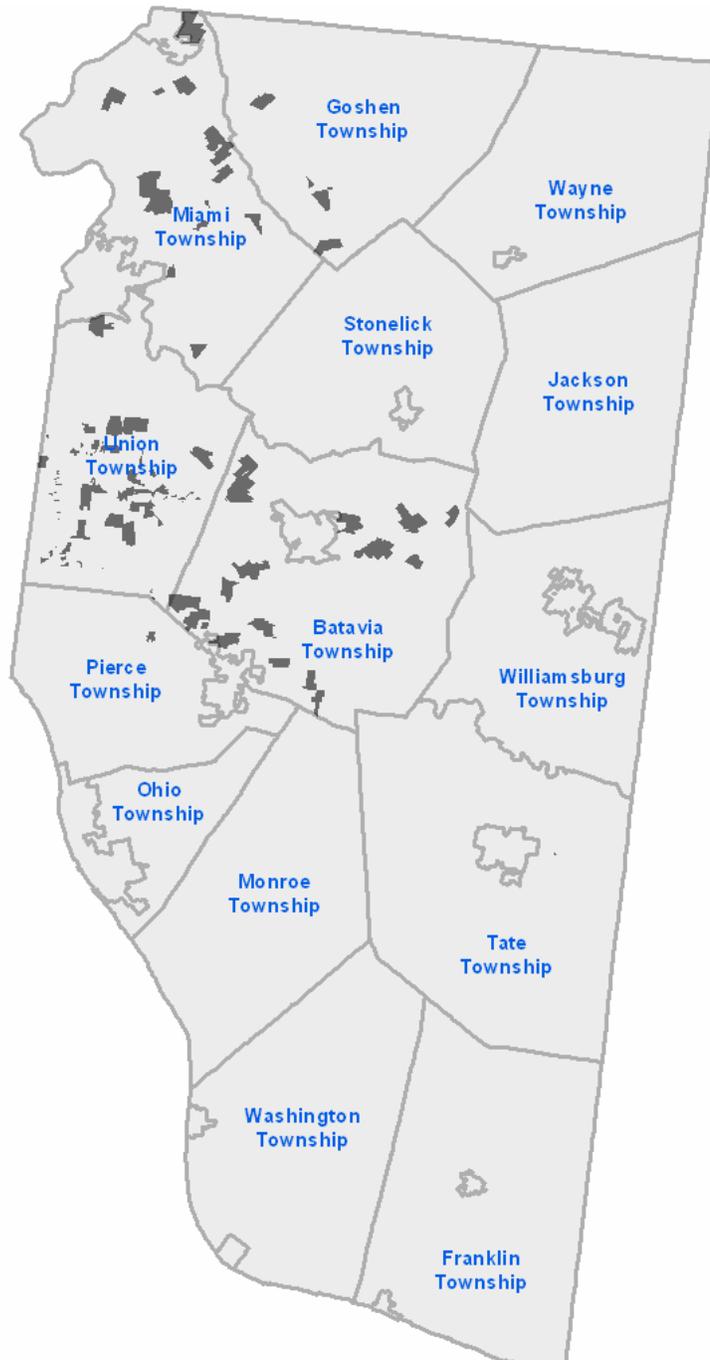
* 20% for multi-family development; 35% for single-family development with sewer; and 40% for single-family development with on-site wastewater treatment

** In addition to the required 20% open space all land with slopes greater than 20% must also be set aside as permanent open space.

Notes:

This map also provides a thumbnail sketch as to the various locations of approved PUD's situated throughout Clermont County.

Current PUD's in Clermont County (March, 2005)



Notes:

Specific examples of effective PUD Regulations include Jackson Township's PUD requirements - these regulations require a naturally vegetated buffer be placed along streams and rivers that meet identified criteria summarized in ATTACHMENT L & ATTACHMENT M. Batavia Township has identified priority planning issues to guide development of their Growth Management Plan. Specifically, the Plan identifies specific community planning concerns, including the goal of "protecting the quality and natural integrity of the East Fork Little Miami River . . . and of the stream corridors in the Township." The second community planning concern is to "preserve and protect environmentally sensitive areas and the overall water and land quality of the Township." Each example serves as a reminder that open space preservation efforts can be implemented through effectively written PUD Regulations.

Notes:

ALTERNATIVE MAINTENANCE AGREEMENTS

In order to ensure the land designated as open space remains in its originally dedicated state, the land is usually deeded to the new community's Homeowners Association (HOA). In subdivisions with dedicated open space, the HOA is charged with monitoring and protecting the open space from encroachment. HOA's have the authority to levy fees from the property owners within the community in order to raise the necessary funds to carry out their duties, which often include maintenance of open space areas. The most important thing to remember is that local governments have no authority to enforce the private covenants and restrictions of a planned community. Any resident of a community with an HOA also has the ability to take action to enforce the regulations of the community. However, the responsibility usually falls to the Board of Directors.

Oftentimes, Homeowner Associations become inactive or disband over time because the upkeep of passive open space differs from traditional neighborhood recreational amenities. When Homeowner Associations become defunct, the most common impact on the dedicated passive open space is the encroachment by adjoining property owners. Adjoining property owners often perceive the passive open space to be part of their own property and will compromise the preserved areas with trash, junk, yard waste, or even accessory structures like utility sheds.

In order to protect open space within PUD's, an alternative to Homeowner Association ownership and/or management of common open space should be considered. One such alternative is requiring the passive open space be placed in a conservation easement. In this instance, the Homeowner's Association would still own the property, but another entity would ensure the long-term maintenance of the open space. Under the terms of an Agreement between the developer and the holder of the easement, the holder would have the power to take enforcement action should the terms of the easement be violated. This is only one type of alternative approach to the traditional Homeowner's Association. Detailed information on Conservation and other types of easements can be found in ATTACHMENT H₁ & ATTACHMENT H₂.

Notes:

MODEL ZONING REGULATIONS

If a Township finds benefit in requiring conservation easements on dedicated passive open space in Planned Unit Developments, then a zoning amendment will be necessary to update the Township's PUD regulations. For model text that could be inserted into existing PUD regulations to achieve open space preservation, please refer to ATTACHMENT O:

Notes:

STREAM CORRIDOR PROTECTION EFFORTS

Stream corridors represent an important and unique category of open space. Clermont County citizens and public officials have begun to recognize these areas as critical to meeting citizen desires for open space and recreational amenities. For example, many of the local vision statements developed for the Ohio 32 Corridor Plan identified streamside areas as valuable open space that provides important amenities to residents. Additionally, River Sweep continues to provide an opportunity for county residents to show their support by supplying labor and materials during the clean-up. An amazing 280 participants provided 980 volunteer hours to remove trash from the East Fork of the Little Miami River and Harsha Lake at East fork Lake State Park in 2003.

Beyond Aesthetics and Recreation

Stream corridors are part of the environmental infrastructure of an area and can sometimes provide services more cheaply or effectively than human designed and engineered solutions. Stream corridors can be utilized in lieu of man-made infrastructure to achieve the following objectives:

- ❖ Reduction of peak flows in rivers and streams during rain events
- ❖ Reduction in magnitude of flooding and associated property damage
- ❖ Reduction in streamside bank erosion
- ❖ Protection of Water Quality
- ❖ Prevention of damage to critical infrastructure like bridges and roadways
- ❖ Reduction of sediment in streams and reservoirs
- ❖ Reduction of nutrients and pesticides in streams and reservoirs
- ❖ Protection of aquatic and terrestrial habitats
- ❖ Provision of recreational and open space areas
- ❖ Infrastructure repair and replacement savings to Local Governments
- ❖ Ability of waterways to sustain long-term growth trends

Many of these items are crucial not only to the enhancement of quality of living, but more importantly, are critical components relating to the long term sustainability of the region. This includes promoting healthy living environments that all of us can enjoy for years and years to come.

Effective Stream Corridor Protection Options

Many different methods can be utilized to preserve the stream corridors that currently exist in Clermont County. Through a combination of one or more of these options, a community can protect, preserve, and manage its stream

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corridors, thus accomplishing many of the above-mentioned goals. Of course, these strategies are by no means comprehensive, as individual communities can be creative so as to balance the trade-offs that come with choosing to protect the corridors of their existing streams.

Stream Corridor Management Strategies:

The policy making process for a corridor management strategy will need to be held on a local level. As communities strive for a balance between natural resource concerns, fiscal responsibility, and private property rights, they should determine the services they wish to provide through a stream corridor management program. Once desired services have been identified, the type and amount of corridors to meet service needs as well as the appropriate means to implement the accepted local policy can be determined. The development of stream corridor management strategy would explicitly identify these tradeoffs and allow for a public conversation about appropriate levels of protection.

Establishment of Corridor Widths:

The services provided by a stream corridor are dependent upon the width of the corridor relative to river and stream drainage systems and the vegetation present in the respective corridors. When the width of the protected river or stream corridor includes the natural floodplain area, this corridor width maximizes the flood prevention and erosion services provided. Widths less than the natural flood plain area still provide valuable services but the services may be provided at a reduced level. ATTACHMENT L & ATTACHMENT M outline the services provided by stream corridors of various widths and vegetation types. This overview allows local decision-makers to readily identify the types of stream corridors they need to accomplish specific water quality enhancement goals.

Federal, State & Local Educational Programs:

The designation of the Little Miami River, which flows along 13.5 miles of the county's western border, as a National and Wild and Scenic River as well as also being named Ohio's first State Scenic River has helped to increase the general public's understanding of this valuable river resource. For additional information on the Little Miami River and the role of state and national recognition in river protection, see ATTACHMENT N. Additionally, local governments can play key roles in educating the public as to the importance of preserving and protecting stream corridors by supporting non-profit organizations seeking to engage the public in on-gong educational efforts. These organizations, with the support of

Notes:

local governments, offer educational information to citizens and local governments on the value of water resources in the county.

Proper Infrastructure Design and Maintenance:

There can be significant cost savings for local governments that facilitate protection of stream corridors. As an example, even minimal reductions in infrastructure damage from high flows could have significant fiscal benefits. Flooding from storms during 2003 caused considerable damage across the county. Storms in Miami Township caused roadside creeks to undercut roads and erode road shoulders. Damage to Dry Run and Sugar Creek roads alone was estimated to be over \$200,000. Damage from the same storm caused a collapse of the Belfast-Owensville Road Bridge. The infrastructure replacement cost was estimated at approximately \$300,000. Infrastructure that is designed in harmony with these kinds of stream corridors could have helped to reduce damages from the flooding, thus freeing up much needed funds that these local governments could have used to address other critical needs. However, this scenario emphasizes that natural disasters cannot be entirely prevented, nor can their effects be entirely mitigated by environmentally friendly infrastructure design.

The East Fork Watershed Collaborative:

The East Fork Watershed Collaborative (EFWC) is an organization consisting of representatives from the four counties (Brown, Clermont, Clinton and Highland Counties) within the East Fork Little Miami River watershed. The EFWC's mission is to protect and enhance the biological, chemical and physical integrity of the East Fork Little Miami River and its tributaries by developing Watershed Plans that address specific stream corridor-related issues. These issues currently include drainage, flooding, log jams, stream bank erosion, water quality, drinking water source protection, habitat protection, recreation, and others to be identified. The following goals and objectives are currently areas that the EFWC is working towards as a part of its on-going efforts:

- ❖ Inventory the current state of stream corridors countywide and develop comprehensive recommendations to protect and restore corridors
- ❖ Develop model stream corridor management language for consideration by townships, municipalities, and the county
- ❖ Provide technical assistance and outreach to townships, municipalities, and the county departments to assist them in managing, protecting, and restoring stream corridors
- ❖ Provide opportunities for public education and involvement in protection and restoration efforts

Notes:

- ❖ Help facilitate the process by which landowners may voluntarily protect stream corridors including the solicitation of grant monies to pay for permanent conservation efforts

Currently, the East Fork Watershed Collaborative is working toward the development and implementation of Watershed Plans for specific areas in order to address water quality and quantity issues identified by Ohio Environmental Protection Agency and local Collaborative participants. Currently, the EFWC has completed the Lower East Fork Watershed Plan and has begun implementation efforts. The EFWC is also currently working on finalizing draft versions of the Headwaters Watershed Plan and Harsha Lake Tributary Watershed Plan - the public stakeholder review process has been completed for these plans already. At a later date, the EFWC will begin to develop separate Watershed Plans for both the Middle East Fork Region and for Stonelick Creek watersheds. The ongoing development of these plans is quite important because these plans have the potential to open up multiple funding options for various projects throughout the region.

The EFWC can only be successful in their efforts to develop an effective Watershed Plan through the provision of continued cooperation, participation and support of local jurisdictions. The EFWC can continue to identify strategies and opportunities for the protection of stream corridors as part of their comprehensive planning process for the East Fork Little Miami Watershed.

Notes:

CLOSING REMARKS

In closing, it should be noted that all the materials, ideas, and objectives presented in this document are meant to be utilized as tools for local governments deeming it appropriate to engage in open space preservation efforts. None of the elements contained in this document should be perceived as a recommendation to engage in open space planning, nor should this document be taken as an official County-wide Open Space Plan. Rather, it is the hope of the Clermont County Planning Commission and the Open Space Committee that communities will be able to take the tools presented herein and apply them to suit their individual needs.

Notes:

ATTACHMENTS

ATTACHMENT A

RESOLUTION OF CLERMONT COUNTY PLANNING COMMISSION AUTHORIZATION OF OPEN SPACE COMMITTEE ACTIIVTIES

WHEREAS, the Clermont County Planning Commission is authorized under Chapter 713.23 of Ohio Revised Code to "make studies, maps, plans, recommendations and reports concerning the physical, environmental, social, economic and governmental characteristics, functions, services, and other aspects of the region or county"; AND

WHEREAS, the duties of the Planning Commission further include, but are not limited to "...preparing the plans, including studies, maps, recommendations and reports on: regional goals, objectives, opportunities, and needs; the general pattern and intensity of land use and open space; general locations and extent of areas for conservation and development of natural resources and control of the environment..."; AND

WHEREAS, the duties of the Planning Commission further include "...reviewing, evaluating, and making comments and recommendations on proposed and amended comprehensive land use, open space, transportation and public facilities plans, projects, and implementing measures of local units of government; and making recommendations to achieve compatibility in the region..."; AND

WHEREAS, seventy eight percent of residents surveyed by the Cincinnati Institute for Policy Research for the Land Use Planning Survey in April, 2000 believes that environmental impact to the community is "very important" when making land use decisions; AND

WHEREAS, the majority of the voters in Clermont County, in the November 2000 general election, approved passage of Issue I (The Clean Ohio Fund) which established \$400,000,000 statewide over the next four years for the preservation and restoration of green fields and brown fields; AND

WHEREAS, the Ohio-Kentucky-Indiana Council of Governments has authorized the Regional Greenspace Initiative to make recommendations for the preservation of green space on a regional basis; AND

WHEREAS, the input of local constituents is critical to the accurate development of this regional plan which has the potential to impact Clermont County; AND

WHEREAS, the Vision 32 Land Use Plan has identified the development of an open space plan for Clermont County as an action item; NOW THEREFORE BE IT RESOLVED that the Clermont County Planning Commission creates a standing committee to define, inventory, evaluate and make recommendations for preservation strategies for open space in Clermont County; AND FURTHER BE IT

RESOLVED that this committee shall be comprised of at least two members of the Clermont County Planning Commission with additional representation to come from representatives of the agriculture, education, business and industry, parks and recreation, units of government, citizens, and include broad geographical representation from throughout the county, AND FURTHER BE IT

RESOLVED, that the work of this committee shall commence upon passage of this resolution.

ATTACHMENT B

THE OPEN SPACE COMMITTEE: HISTORY IN BRIEF

During 2001, the Clermont County Community Planning and Development Staff initiated the development of the Open Space planning group to examine the options available to protect open space in Clermont County. This countywide group was an outgrowth of the Vision 32 action item for an open space preservation plan for areas within the State Route 32 corridor. The group was made a Standing Committee of the Clermont County Planning Commission in early 2002 (see ATTACHMENT A).

The Clermont County Open Space Committee has a diverse membership with participants coming from the Clermont County Planning Commission, agriculture, education, business, industry, parks and recreation, citizens, and the villages and townships of Clermont County. A list of Committee Membership and their affiliations is included on the next page.

The goal of the Open Space Committee is to produce:

- ❖ A comprehensive open space document that provides a definition and process to evaluate open space, and identifies land use tools to preserve open space, including potential funding sources and incentive programs;
- ❖ A Geographical Information Systems (GIS) model relating to open space with multiple data layers, to be achieved through cooperation with the Clermont County GIS Department; and
- ❖ Defined strategies to promote and preserve Open Space.

ATTACHMENT C

CLERMONT COUNTY OPEN SPACE COMMITTEE MEMBERSHIP

Name	Affiliation
Richard Hoffman	Clermont County Realtor and Builder
Judy Squire	Jackson Township Zoning Commission
Jim Penrod	Jackson Township Zoning Commission and Member of Tri-Township Collaborative
Paul Berringer	Supervisor, Clermont County Soil and Water Conservation District (CCSWCD)
George Cummings	District Conservationist, Natural Resources Conservation Service (NRCS)
Jay Dorsey, PhD	Watershed Coordinator East Fork Little Miami River, CCSWCD
Chris Clingman	Director, Clermont County Park District and Member of District NRAC
Joshua Hamaker	Clermont County GIS Department
Tom Yeager	Director, Clermont County Water and Sewer District
Louis Ethridge, AICP	Planner, Clermont County Department of Community Planning and Development
Stephanie Hines	Agriculture and Natural Resources County Agent, OSU Extension, Clermont County
Larry Fronk, AICP	Community Development Director, Miami Township
Mark Day	Clermont County Water and Sewer District
Paul Braasch	Clermont County Office of Environmental Quality
Archie Wilson	Batavia Township Trustee
Cory Wright	Planner, Clermont County Department of Community Planning and Development
Becky Ploucha	Renaissance New Richmond
Bob Proud	Clermont County Commissioner
Tom Ryther	Regional Greenspace Alliance
Sandy Meyer	Cincinnati Nature Center Volunteer
Rex Parsons	Batavia Township Administrator

ATTACHMENT D

APPROPRIATE OPEN SPACE RESOURCES

The Open Space Committee conducted a dot-assignment exercise in August 6, 2003 to determine open space land types worthy of public expenditure to protect. Each member was provided 24 dots and instructed to place one dot on each land type for which public monies should be used to protect. Members were not allowed to put more than one dot on any land use and were free to place no dots on any land use. Results of the exercise are provided below.

TYPES OF "OPEN SPACE" FOR WHICH IT IS APPROPRIATE TO EXPEND PUBLIC RESOURCES TO PROTECT

1. Stream Corridors	(17)
2. Forests	(15)
3. Parks	(14)
4. Flood Plains	(13)
5. Well Fields	(13)
6. Trails	(12)
7. Nature Preserves	(12)
8. Wetlands	(11)
9. Steep Slopes	(11)
10. Crop Land/Pastures	(11)
11. Agricultural Buffers	(11)
12. Stormwater Control Basins	(7)
13. Common Areas Located in PUD's	(7)
14. Road and Utility Right of Ways	(4)
15. Sports Fields	(4)
16. Public Building Campuses	(1)
17. Land Fills	(0)
18. Cemeteries	(0)
19. Suburban Yards	(0)
20. Gravel Pits	(0)
21. Golf Courses/Driving Ranges	(0)

ATTACHMENT E

STATUTORY AUTHORITY FOR EASEMENTS IN OHIO REVISED CODE (O.R.C. CHAPTER 5301)

§ 5301.67 Definitions.

Text of Statute

As used in sections [5301.67](#) to [5301.70](#) of the Revised Code:

(A) "Conservation easement" means an incorporeal right or interest in land that is held for the public purpose of retaining land, water, or wetland areas predominantly in their natural, scenic, open, or wooded condition, including, without limitation, the use of land in agriculture when consistent with and in furtherance of the purpose of retaining those areas in such a condition, or retaining their use predominantly as suitable habitat for fish, plants, or wildlife; that imposes any limitations on the use or development of the areas that are appropriate at the time of creation of the conservation easement to achieve one or more of those purposes; and that includes appropriate provisions for the holder to enter the property subject to the easement at reasonable times to ensure compliance with its provisions.

(B) "Agriculture" means those activities occurring on land devoted exclusively to agricultural use, as defined in section [5713.30](#) of the Revised Code, or on land that constitutes a homestead.

(C) "Agricultural easement" means an incorporeal right or interest in land that is held for the public purpose of retaining the use of land predominantly in agriculture; that imposes any limitations on the use or development of the land that are appropriate at the time of creation of the easement to achieve that purpose; that is in the form of articles of dedication, easement, covenant, restriction, or condition; and that includes appropriate provisions for the holder to enter the property subject to the easement at reasonable times to ensure compliance with its provisions.

(D) "Homestead" means the portion of a farm on which is located a dwelling house, yard, or outbuildings such as a barn or garage.

§ 5301.68 Grant of conservation or agricultural easement.

Text of Statute

An owner of land may grant a conservation easement to the department of natural resources, a park district created under Chapter [1545](#) of the Revised Code, a township park district created under section [511.18](#) of the Revised Code, a conservancy district created under Chapter [6101](#) of the Revised Code, a soil and water conservation district created under Chapter [1515](#) of the Revised Code, a county, a township, a municipal corporation, or a charitable organization that is authorized to hold conservation easements by division (B) of section [5301.69](#) of the Revised Code, in the form of articles of dedication, easement, covenant, restriction, or condition. An owner of land also may grant an agricultural easement to the director of

ATTACHMENT E

agriculture; to a municipal corporation, county, or township; or to a charitable organization described in division (B) of section [5301.69](#) of the Revised Code. An owner of land may grant an agricultural easement only on land that is valued for purposes of real property taxation at its current value for agricultural use under section [5713.31](#) of the Revised Code or that constitutes a homestead when the easement is granted. All conservation easements and agricultural easements shall be executed and recorded in the same manner as other instruments conveying interests in land.

§ 5301.69 Who may acquire easement; procedure for acquiring and supervising.

Text of Statute

(A) The director of natural resources, the board of park commissioners of a park district created under Chapter [1545](#) of the Revised Code, the board of park commissioners of a township park district created under section [511.18](#) of the Revised Code, the board of directors of a conservancy district created under Chapter [6101](#) of the Revised Code, the board of supervisors of a soil and water conservation district created under Chapter [1515](#) of the Revised Code, the board of county commissioners of a county, the board of township trustees of a township, or the legislative authority of a municipal corporation may acquire conservation easements in the name of the state, the district, or the county, township, or municipal corporation in the same manner as other interests in land may be acquired under section [307.02](#), [307.18](#), [505.10](#), [505.261](#) [505.26.1], 511.23, 717.01, 1501.01, 1515.08, 1545.11, or 6101.15 of the Revised Code. Each officer, board, or authority acquiring a conservation easement shall name an appropriate administrative officer, department, or division to supervise and enforce the easement.

(B) A charitable organization may acquire and hold conservation easements if it is exempt from federal taxation under subsection 501(a) and is described in subsection 501(c) of the "Internal Revenue Code of 1954," 68A Stat. 3, 26 U.S.C. 1, as amended, and organized for any of the following purposes: the preservation of land areas for public outdoor recreation or education, or scenic enjoyment; the preservation of historically important land areas or structures; or the protection of natural environmental systems. Such a charitable organization also may acquire and hold agricultural easements subject to the limitation that it may do so only on land that is valued for purposes of real property taxation at its current value for agricultural use under section 5713.31 of the Revised Code or that constitutes a homestead when the easement is granted.

ATTACHMENT F

EASEMENT HOLDER SURVEY

In conjunction with the Little Miami River Partnership and the East Fork Little Miami River Collaborative, the Open Space group conducted a survey to identify willing easement holders throughout the Little Miami River Watershed. Counties in the watershed are Clermont, Brown, Butler, Clark, Clinton, Greene, Hamilton, Highland, Madison, Montgomery, and Warren. The Little Miami River Partnership continues to work on the development of a directory of potential easement holders and the types of easements they wish to obtain. This information will eventually be compiled for the entire Little Miami River Watershed. The directory and associated database should easily permit users to conduct county-specific queries. The following is a copy of the survey that was conducted:

Little Miami River Watershed Land Protection Survey

Please complete and return in postage-paid envelope by October 1, 2002.

Please return to: Little Miami River Partnership
777 Columbus Avenue, Suite 7
Lebanon, Ohio 45036

Name of Organization: _____

Address: _____

Web Page Address: _____

Phone: _____ Fax: _____ Email: _____

Contact Person: _____

Executive Director: _____ Board President: _____

Name of person completing survey: _____ Phone _____

Number of paid staff _____ volunteer staff _____

In which of the following counties would be interested in holding easements?

___	Butler	___	Hamilton
___	Brown	___	Highland
___	Clark	___	Madison
___	Clermont	___	Montgomery
___	Greene	___	Warren

In which of the following watersheds would you be interested in holding easements?

___ Entire Little Miami River Watershed
___ Upper Little Miami River Watershed

ATTACHMENT F

- _____ Lower Little Miami River Watershed
- _____ East Fork Little Miami River Watershed
- _____ Caesar Creek Watershed
- _____ Todd Fork Watershed
- _____ Other Individual Watersheds Outside Little Miami River Watershed
- _____ Please list here: _____

Is your organization: public _____ private _____ not for profit _____
Year organization founded _____ Annual operating budget _____
If membership supported, how many members do you have _____

1. The mission statement of our organization is:

2. Number of acres protected or preserved by our organization:

Acres protected by easement _____
Acres owned in fee simple _____
Acre managed or monitored in addition to above _____

Types of land you prefer to protect (check all that apply)

- _____ Wetlands
- _____ Watersheds
- _____ Forests
- _____ River Corridors
- _____ Hillside Areas
- _____ Wildlife Habitat
- _____ Trails
- _____ Greenways
- _____ Urban Land
- _____ Other _____

3. Which tools do you use now or plan to utilize to protect land, please check all that apply:

- _____ Outright Purchase
- _____ Outright Donation of Land
- _____ Agricultural Conservation Easement
- _____ Purchase of Land to be Resold to Another Conservation Organization
- _____ Donated Conservation Easement
- _____ Purchased Conservation Easement
- _____ Other

ATTACHMENT F

4. If you hold easements now, please check all that apply:

- We have adopted and follow Land Trust Alliance's Standards and Practices.
- We have 501(c)3 status.
- We have an easement stewardship fund (i.e., funding for post-purchase care and enforcement of easement).
- We would consider holding easements outside our geographical area.
- We monitor our easements at least once per year.

5. If your organization **does not** hold easements, please check all that apply:

- We plan to hold easements in the future.
- We are awaiting our 501(c)3 status prior to taking easements.
- We do not have the financial resources to hold and monitor easements.
- We do not plan to hold easements in the future.
- Other - please explain: _____

6. How do you maintain records of easement location and boundaries (e.g., paper maps, Geographical Information Systems coverage, etc.)?

7. Do you feel you need additional assistance in marketing your easement acquisition program?

- Yes No

(Optional) Are there any specific program marketing areas that you feel you need additional assistance?

If you are aware of other easement holding organizations that are not included on the attached list of survey recipients please note their name and phone number or address so we can send them a survey soon.

Thank You For Your Help!

ATTACHMENT G

PRESERVATION OPTIONS SUMMARY

United States Department of Agriculture (USDA) and Complementary State of Ohio
Conservation Programs Information Table (July 23, 2002)

For additional information, see the USDA web page at:

<http://www.nrcs.usda.gov/programs/farmland/2002/products.htm>

Program	Description	Administrating Agency
<p><u>Conservation Reserve Program (CRP)</u></p>	<p>Voluntary program to provide technical assistance, cost share and rental payments for conservation easements on riparian areas or for managing surface runoff moving to riparian areas. Easements relevant to open space planning efforts will likely be riparian buffers, grassed waterways, well head protection areas, and filter strips. Easements are temporary in duration.</p> <p>Land must currently be, or have recently been, in agricultural use and producer must meet Farm Services Agency requirements.</p>	<p>Farm Service Agency (FSA) of United States Department of Agriculture (USDA)</p> <p>First contact for program should be Natural Resources Conservation Service (NRCS) staff at county Soil and Water Conservation District office or Ohio State University Extension</p>
<p><u>Wetland Reserve Program (WRP)</u></p>	<p>Voluntary program to provide technical assistance and cost-share to restore and protect wetlands on private property. Temporary and permanent conservation easements are available and length of easement determines level of program benefits. The Wetland Reserve Piggyback Program through Ohio Department of Natural Resources should also be considered for use with the Wetland Reserve Program. The landowner and NRCS develop a plan for the restoration and maintenance of the wetland.</p> <ul style="list-style-type: none"> • <i>Permanent Easement.</i> USDA will pay 100% of the restoration costs and will pay up to the agricultural value of the land. • <i>30-Year Easement.</i> USDA will pay 75 percent of what would be paid for a permanent easement and 75 percent of the restoration costs. 	<p>Farm Service Agency (FSA) of United States Department of Agriculture (USDA)</p> <p>First contact for program should be Natural Resources Conservation Service (NRCS) staff at county Soil and Water Conservation District office or Ohio State University Extension</p>

ATTACHMENT G

PRESERVATION OPTIONS SUMMARY [Continued]

<p><u>Wetland Reserve Program (WRP)</u></p>	<ul style="list-style-type: none"> • 10-year agreement to maintain the restoration. No land use payment is provided. • <i>Restoration Cost-Share Agreement.</i> USDA will pay 75 percent of the cost of restoring a wetland in exchange for a minimum 10-year agreement to maintain the restoration. No land use payment is provided. <p>To be eligible for WRP, land must be restorable and be suitable for wildlife benefits. This includes:</p> <ul style="list-style-type: none"> • Wetlands farmed under natural conditions; • Farmed wetlands; • Prior converted cropland; • Farmed wetland pasture; • Farmland that has become a wetland as a result of flooding; • Rangeland, pasture, or production forestland where the hydrology has been significantly degraded and can be restored; • Riparian areas which link protected wetlands; • Lands adjacent to protected wetlands that contribute significantly to wetland functions and values; and <p>Previously restored wetlands (Conservation Reserve Program [CRP] land is eligible if it meets WRP requirements).</p>	<p>Farm Service Agency (FSA) of United States Department of Agriculture (USDA)</p> <p>First contact for program should be Natural Resources Conservation Service (NRCS) staff at county Soil and Water Conservation District office or Ohio State University Extension</p>
<p><u>Wetland Reserve Piggy-Back Program</u></p>	<p>Voluntary State of Ohio program to complement the Wetland Reserve Program (WRP) to provide additional incentive payments for establishment of riparian corridors in conjunction with existing WRP projects or existing wetlands and for protection of other types of wetlands.</p>	<p>Ohio Department of Natural Resources</p> <p>First contact for program should be Natural Resources Conservation Service (NRCS) staff at county Soil and Water Conservation District</p>

ATTACHMENT G

PRESERVATION OPTIONS SUMMARY [Continued]

<p><u>Wildlife Habitat Incentive Program (WHIP)</u></p>	<p>Voluntary program to develop and improve wildlife habitat on private lands. Provides both technical assistance and cost-share payments (up to 75% of installation costs) to help establish and improve fish and wildlife habitat.</p> <p>It is a statewide competitive program where participants must apply for funding. Technical assistance is provided to prepare a wildlife habitat development plan, which is then followed as part of the agreement.</p> <p>This is a temporary conservation easement program and agreements generally last from 5 to 10 years. Participants do not have to be an agricultural producer or have agricultural lands.</p>	<p>Farm Service Agency (FSA) of United States Department of Agriculture (USDA) with technical support from Ohio Department of Natural Resources</p> <p>First contact for program should be Natural Resources Conservation Service (NRCS) staff at county Soil and Water Conservation District office or Ohio State University Extension</p>
<p><u>Environmental Quality Incentives Program (EQIP)</u></p>	<p>Voluntary program to receive financial and technical help to install or implement structural and management conservation practices on eligible agricultural land. It is a statewide competitive program where participants must apply for funding. Eligible practices can include: nutrient management, manure management, integrated pest management, wildlife habitat management, or development of a comprehensive nutrient management plan. Limited funding is also available for Conservation Innovation Grants. production are eligible to apply.</p>	<p>Farm Service Agency (FSA) of United States Department of Agriculture (USDA), Natural Resources Conservation Service</p> <p>First contact for program should be Natural Resources Conservation Service (NRCS) staff at county Soil and Water Conservation District</p>

ATTACHMENT H₁

CONSERVATION EASEMENT

<p><u>General and Legal Definition</u></p>	<p>Voluntary, legally binding agreement that limits the land to specific uses and development to residential, commercial, or industrial land uses is prohibited. Additional conditions may be placed on easement depending upon unique conservation needs of land and/or willingness of landowner.</p> <p>Ohio Statutory Definition (O.R.C. 5301.67 (A)) - a right or interest in the land that is held for the public interest for the purpose of retaining land, water, wetland areas predominantly in their natural, scenic, open, or wooded condition including, without limitation, the use of land in agriculture when consistent with and in furtherance of the purpose of retaining those areas in such a condition, or retaining their use as predominantly as suitable habitat for fish, plants, wildlife; that imposes any limitations on the use or development of those areas that are appropriate at the time of creation of the conservation easement to achieve those purposes; and that includes appropriate provisions for the holder to enter the property.</p>
<p><u>Length of Time for Which Conservation Easement Can Be Specified</u></p>	<p>Temporary or Permanent</p> <p>However, most federal and state tax deductions are lost if the easement is not permanent.</p>
<p><u>Holders of Conservation Easement</u></p>	<p>Through O.R.C. 5301.68 and 69, the following entities may acquire or accept conservation easements:</p> <ul style="list-style-type: none"> • Ohio Department of Natural Resources, • Park District created under O.R.C. 1545 or Township Park District created under O.R.C. 511.18, • Conservancy District created under O.R.C. 6101, • Soil and Water Conservation District created under O.R.C. 1515, or • county, township, municipal corporation, or charitable organization that is authorized to hold conservation easements by division (B) of O.R.C. Section 5301.69.
<p><u>Fed. & State Programs for Permanent Conservation Easements</u></p>	<p>Wetland Reserve Program offers option of permanent conservation easement, Clean Ohio bond fund money for cost share and associated application process (See Table F.3 for Clean Ohio Table),</p>
<p><u>Fed. & State Programs for Temporary Conservation Easements</u></p>	<p>USDA Conservation Programs such Conservation Reserve Program (CRP), Wetland Reserve Program, Wildlife Habitat Incentive Program, Environmental Quality Incentive Program</p>

ATTACHMENT H₂

AGRICULTURAL EASEMENT

<u>General and Legal Definition</u>	<p>General Definition: Voluntary legal agreements restricting development on farmland, with the land remaining on the tax rolls and under private ownership and management. Easements may be sold or donated as part of a purchase of development rights arrangement.</p> <p>Ohio Statutory Definition (O.R.C. '5301.67(B)) - a right or interest in land that is held for a public purpose to retain use of land predominantly in agriculture; that imposes any limitations in the use or development of the land that are appropriate at the time of the creation of the easement to achieve that purpose and that includes appropriate provisions for the holder to enter the property.</p>
<u>Length of Time for Agricultural Easement is in Place</u>	<p>Permanent or fixed number of years</p> <p>Note: Individual holders and some funding sources may not accept non-permanent easements. Additionally, the ability to claim a federal tax deduction is compromised if the easement is not permanent.</p>
<u>Agricultural Land Requirements</u>	<p>Land and associated agricultural activities must be eligible and enrolled in Current Agricultural Use Valuation (CAUV) program (O.R.C. 5713.31) when easement is granted.</p>
<u>Programs for Agricultural Easements</u>	<ol style="list-style-type: none">1) Ohio Department of Agriculture with Clean Ohio bond fund money for cost share and associated application process (See Table F.4 for Clean Ohio Agricultural Easement information)2) Ohio Department of Agriculture as grantee of easement and no cost-share money available3) Other programs such as those operated by land trusts, local governments, etc.

ATTACHMENT I₁

CLEAN OHIO FUND CONSERVATION EASEMENTS

<u>Clean Ohio Fund Description</u>	<p>In November of 2000, Ohio voters approved a bond fund that included \$25 million dollars for farmland preservation over 4 years. This program provides cost-share funding for up to 75% of the price of development rights for an individual farm. The remaining cost can be provided by local governments, nonprofit organizations or can be provided by landowner through the donation of this value.</p> <p>Eligible applicants are: all local units of government, park and joint recreation districts, conservancy districts, soil and water conservation districts, and nonprofit organizations.</p> <p>Applications are submitted to the Ohio Public Works Commission's Natural Resource Assistance Council for District 10. There will likely be two application periods in each year.</p>
<u>Eligible Activities</u>	<p>Program priorities include preservation of high quality wetlands and other scarce natural resources, preservation of streamside forests, natural stream channels, and easements to protect stream corridors, eligible projects also include preservation of open space and planning for open space</p>
<u>Length of Time for Which Tool May Be Specified</u>	<p>Conservation easements funded through Clean Ohio money must be permanent.</p>

ATTACHMENT I₂

CLEAN OHIO FUND AGRICULTURAL EASEMENTS

<u>Clean Ohio Fund Description</u>	<p>In November of 2000, Ohio voters approved a bond fund that included \$25 million dollars for farmland preservation over 4 years. This program provides cost-share funding for up to 75% of the price of development rights for an individual farm. The remaining cost can be provided by local governments, nonprofit organizations or can be provided by landowner through donation.</p> <p>In this agricultural easement program, an applicant (local government or charitable organization) applies for the easement on behalf of the landowner. The applicant assumes responsibility for monitoring and enforcing the easement.</p>
<u>General and Legal Definition of Agricultural Easement</u>	<p>General Definition: Voluntary legal agreements restricting development on farmland, with the land remaining on the tax rolls and under private ownership and management. Easements may be sold or donated as part of a purchase of development rights arrangement.</p> <p>Ohio Statutory Definition (O.R.C. '5301.67(B)) - a right or interest in land that is held for a public purpose to retain use of land predominantly in agriculture; that imposes any limitations in the use or development of the land that are appropriate at the time of the creation of the easement to achieve that purpose and that includes appropriate provisions for the holder to enter the property.</p>
<u>Length of Time for Agricultural Easement is in Place</u>	<p>All agricultural easements purchased with Clean Ohio bond money must be permanent.</p>
<u>Agricultural Land Requirements</u>	<p>Land and associated agricultural activities must be eligible and enrolled in Current Agricultural Use Valuation (CAUV) program (O.R.C. 5713.31) when easement is granted</p>

ATTACHMENT I₂

CLEAN OHIO FUND AGRICULTURAL EASEMENTS [CONTINUED]

<p><u>Local Government Responsibilities in Application and Post-Application process</u></p>	<p>If the applicant, local governments may choose to provide the local 25% cost-share money for easement purchases. A resolution or ordinance in support of the application must be provided. The County Auditor's office must verify that the property is in Current Agricultural Use Valuation (CAUV) and, if appropriate, that the property is in an Agricultural District. The County Engineer can provide technical assistance to the applicant to verify distances are accurate on the application and the County Recorder provides the most current deed reference information. The County Recorder must also note the easement on the record of deeds. If county or other local government is the holder of the easement, they are responsible for monitoring and enforcement of deed restriction.</p>
<p><u>Funding Sources and Authorities for Local Cost Share Funding</u></p>	<p>The Board of County Commissioners (O.R.C. ' 133.60(B)) and the legislative authority of a municipal corporation, board of county commissioners of a county or board of township trustees of a township (O.R.C. ' 133.61) may issue bonds for the acquisition of agricultural easements. The Board of County Commissioners may levy a retail sale tax to provide additional revenue for the acquisition, supervision, and enforcement of agricultural easements held by the county (O.R.C. ' 5739.026(9)). The county's general fund would also be a source of funding.</p>
<p><u> Holders of Agricultural Easement</u></p>	<p>Ohio law (O.R.C. 5301.68) limits holders to:</p> <ul style="list-style-type: none"> • Ohio Department of Agriculture, • Soil & Water Conservation Districts,* • municipal corporations, counties, townships, and • 501(c)(3) charitable organizations. <p>To hold easements, charitable organizations must be organized for any of the following purposes: the preservation of land areas for public outdoor recreation or education, or scenic enjoyment; the preservation of historically important land areas or structures; or the protection of natural environmental systems.</p> <p><i>*Note: Legislation passed in the Spring of 2005 now permits Soil and Water Conservation Districts to hold agricultural easements, just as any other land trust or local unit of government. This new legislation also permits SWCD's to be recipients of Clean Ohio Funds during future funding rounds (2006 and beyond).</i></p>

ATTACHMENT J₁

PURCHASE OF DEVELOPMENT RIGHTS

<u>Definition</u>	Rights for residential, commercial, and industrial development of land are purchased or donated There is no legal definition provided in the Ohio Revised Code.
<u>Length of Time for Which Tool May Be Specified</u>	Permanent
<u>Current Programs & Administrators to Implement Tool</u>	There are no current local governments within Ohio using this tool although there is growing interest. Note: Townships may have authority for transfer of development rights program through Senate Bill 223 (January 2000). The bill discusses agricultural and conservation easements but not development rights specifically.
<u>Holder of Easement</u>	Holder could be a local government with authority to hold easement, nonprofit organization (e.g., land trust), or any other group with administrative and legal authority to hold easement.
<u>Needed Resources to Implement Tool</u>	Will need process which records and maintains information regarding sales of development rights, Should be included within property records and zoning, Coordination of county and township governments would need to be defined.
<u>Potential Funding Sources</u>	General Funds, Grant Sources

ATTACHMENT J₂

TRANSFER OF DEVELOPMENT RIGHTS

<u>Definition</u>	Rights for residential, commercial, and industrial development of land are transferred to other parcels which have been specifically identified to receive them. There is no legal definition provided in the Ohio Revised Code.
<u>Length of Time for Which Tool May Be Specified</u>	Permanent
<u>Current Programs & Administrators to Implement Tool</u>	There are no current local governments within Ohio using this tool although there is growing interest. Note: Townships may have authority for transfer of development rights program through Senate Bill 223 (January 2000). The Bill discusses agricultural and conservation easements but not development rights specifically.
<u>Holder of Development Rights</u>	In a Transfer of Development Rights program, development rights are transferred or moved to specifically designated receiving areas. The holder is the owner of the receiving area land that is allowed to develop or to develop at a higher density. There is no "holder" of development rights in the traditional sense: the parcel that the rights are transferred to may only build on that parcel. It also may be possible to "bank" credits and use a market mechanism to distribute them among developable or receiving areas.
<u>Potential Funding Sources</u>	General Funds, Grant Sources

ATTACHMENT K

MUNICIPAL AND TOWNSHIP ZONING ADMINISTRATORS - 2005

Amelia Village	Kerry Schulze	753-4747
Batavia Village	Bob Stewart	732-2020
Bethel Village	Ron Dunn	734-0630
Chilo Village	George Seale	876-3131
Felicity Village	Jerry Ross	876-0107
Loveland Village	Jerry Stoker	583-3045
City of Milford	Jeff Wright	248-5093
Moscow Village	David Elmer	553-6870
Neville Village	Ted Bowling	876-9026
New Richmond Village	Dave Kennedy	553-4146
Newtonsville Village	Shandra Doughman	625-0741
Owensville Village	Paul McEvoy	732-0585
Williamsburg Village	Lynn Tetley	724-6107
Batavia Township	Denise Kelley	732-3921
Franklin Township	Gloria and John Ulrich	876-2077
Goshen Township	Megan Thompson	722-3400
Jackson Township	Bruce Privett	625-1800
Miami Township	Gloria Condelles	248-3731
Monroe Township	Danni Speigel	734-6462
Ohio Township	Les Smith	753-0010
Pierce Township	Donna Cann	752-6787
Stonelick Township	Lee Ottaway	732-0273
Tate Township	George Eckert	734-0618
Union Township	Ken Geis	752-1741
Wayne Township	Greg Snider	625-8124
Williamsburg Township	Yvonne Malott	724-5529

ATTACHMENT L

IMPLEMENTING STREAM CORRIDOR PROTECTION MEASURES

The following are suggestions for further information on how Ohio communities have implemented stream corridor protection measures as well as boilerplate stream buffer ordinance language provided by the U.S. EPA. The inclusion of these materials within this document does not imply endorsement by the Clermont County Planning Commission. They are provided as a starting point for communities to consider:

Jackson Township Planned Unit Development (PUD) Language

Riparian buffers shall border both sides of all rivers and streams, including intermittent rivers and streams. This buffer shall be comprised of three zones as described in the table below. Major rivers and streams shall be protected by all three zones. Intermittent rivers and streams require the streamside zone and outer zone as a minimum.

Riparian Buffers, All Rivers and Streams
(intermittent streams included)

<u>Characteristic</u>	<u>Streamside Zone</u>	<u>Middle Zone</u>		<u>Outer Zone</u>
<u>Width</u>	Minimum of 25 feet plus wetlands and critical habitats	<u>Slope (%)</u> 0 to < 15 15 to 25 >25	<u>Depth in Feet</u> 50 75 100	25 minimum setback from structures
<u>Vegetative Target</u>	Undisturbed mature forest. Reforest if necessary	Managed forest, some clearing allowed		Forest encouraged, but usually turf grass
<u>Allowable Uses</u>	Very restricted, e.g., flood control, utility right of way, footpaths	Restricted, e.g., some recreational uses, bike paths, tree removal by permit		Unrestricted e.g., residential uses including lawns, garden, compost yard waste

ATTACHMENT M

STREAM CORRIDOR CHARACTERISTICS TABLE

Description of Corridor Characteristics
Needed to Meet Identified Service Goals

Management Goal	Characteristics of Corridor to Protect Goal
Sediment Control	Depending on slope, ranges from 15 to 100 feet, Can be grass or forested Note: Must be augmented by impervious surface management and on-site sediment control
Limiting Total Nitrogen (Nitrate, Nitrite) Entry into Surface Water	Depending on local conditions, 50 to 100 feet
Limiting Phosphorous Entry into Surface Water	Effective sediment controls also contribute to reductions in sediment-bound phosphorous into surface water, Some reduction in dissolved phosphorous from corridor
Aquatic Habitat	35 to 100 feet native forested buffer - provides stream temperature control, inputs of larger woody debris for nutrients
Wildlife Habitat	300 feet for optimal protection of diverse terrestrial riparian wildlife (forest interior species) Native forest vegetation
Minimize Magnitude of Flooding	Width dependent upon area of the watershed and natural floodplain area of river

(Adapted from: Wengler, S.J. 1999)

ATTACHMENT N

EXAMPLES OF SUCCESSFUL ZONING, OVERLAY, & PUD ORDINANCES

Hell Branch Overlay District, Columbus Ohio

The City of Columbus has an ordinance delineating an overlay district to protect Hellbranch Run, a tributary of the Big Darby Creek watershed. The stated purpose of the district is to "safeguard public health, safety, and welfare through the use of reasonable and practicable development standards" in portions of the Hell Branch watershed. The ordinance emphasizes protection of natural features during development to assure that "development design and activities will not impair the ability of riparian areas" to provide explicitly identified services. Stream corridor widths for protection are determined by the drainage area and specific standards are provided regarding establishment of vegetation.

The ordinance can be found at:

http://ordlink.com/codes/columbus/_DATA/TITLE33/index.html.

**The overlay section can be found by scrolling down to "3372 Planning Overlay" and then to "3372.701" to "3372.710."

Summit County, Ohio Ordinance

Summit County Council adopted a Riparian Setback Ordinance (Legislation #2002-154) that requires a modest setback for newly constructed buildings along all streams within unincorporated areas of the county. Setback widths are determined by the drainage area of the stream, with a minimum setback width of the 100-year floodplain.

The ordinance can be found at:

<http://www.co.summit.oh.us/council/pdfs/legislation/2002/2002-154.pdf>.

A fact sheet provided additional background information can be found at:

<http://www.summitswcd.org/riparianfactsheet.pdf>

ATTACHMENT N

U.S. EPA Aquatic Buffer Model Ordinance

Effective buffer ordinances provide guidelines for buffer creation and maintenance and should require:

- ❖ Buffer boundaries to be clearly marked on local planning maps
- ❖ Maintenance language that restricts vegetation disturbance and soil disturbance
- ❖ Tables illustrating buffer width adjustment by percent slope and type of stream
- ❖ Direction on allowable uses and public education

Each of the 10 sections of the model ordinance provides suggested language or technical guidance designed to create the most effective stream buffer zones possible. Much of the model is based on Baltimore County, Maryland's regulations for the protection of water quality, streams, wetlands, and floodplains. In certain sections, additional features and language judged to enhance the protective measures and functions of the proposed stream buffer have been added.

The model ordinance is available at:

<http://www.epa.gov/owow/nps/ordinance/mol1.htm>.

The Little Miami River Ecosystem

The Little Miami is a premier river ecosystem flowing along 13.5 miles of Clermont County's western border. Home to 84 fish species and 36 freshwater mollusks, this 105 mile long river has been designated as "exceptional warmwater habitat" by placing it in the top 10% of rivers in Ohio from an ecological perspective.

Efforts to preserve this forested river corridor have been underway for close to 40 years. Public and private organizations have focused conservation efforts along the valley to restore water quality and preserve forested habitat, to conserve wildlife, scenic vistas, and other environmental and recreational values. The Clermont County Park District, Little Miami Inc., the City of Loveland, Izaak Walton League, and the Boy Scouts of America are among the organizations preserving sections of the Little Miami riverfront forest and hillsides.

The river has been recognized for its "outstanding remarkable values" by being included into the National Wild and Scenic River System, and similarly the State of Ohio has honored this natural corridor as Ohio's first State Scenic River. These designations are designed to afford the Little Miami an additional level of review for projects funded with public monies.

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The Little Miami's aquifer has been designated by the U.S. EPA as a Sole Source Aquifer to afford additional protection for this precious source of public water supply.

In November 2003, the Audubon Society also designated the Little Miami Scenic River as an Important Bird Area (IBA). Audubon's IBAs provide important essential bird habitat and include sites that birds use during their nesting season, during the winter and/or while they are migrating. The Little Miami Scenic River corridor provides habitat to 235 bird species and ranks second as an IBA statewide.

ATTACHMENT O

MODEL ZONING REGULATIONS

NATURAL RESOURCE PROTECTION AREAS & CONSERVATION EASEMENTS

Regulations for Preserving Passive Open Space

The resource protection standards are intended to preserve valuable and unique natural resources which contribute to the ecological well-being and character of the community, and to prevent damage to the environment and the public health, safety and welfare that may result from loss of vegetation, hillside slippage, flooding, erosion or inappropriate site development.

The applicant is required to identify the natural resources present at the subject site, the limitations they pose to development and the requirements that the resource protection areas not be built upon, altered or disturbed by development.

All resource protection areas identified on the subject site shall be properly notated on the plans and shall be designated as permanent open space and be made an integral part of the required open space in accordance with the provisions of this Chapter.

The plans must also indicate Conservation Easements will be placed over all the natural resource protection areas. The applicant must provide a copy of the Conservation Easement Agreement and must indicate who will hold the Easement. The Conservation Easement must be held by a local government jurisdiction or a conservation oriented non-profit organization other than the proposed PUD Homeowner's Association.

The types of site-specific natural resources that need to be identified and protected and the preferred method of protection are as follows:

1. Flood plains: The 100-year flood plain and areas of special flood hazard areas as identified by the Federal Emergency Management Agency, and, in accordance with all applicable State and Clermont County regulations.
2. Water Courses: Natural streams, ravines and drainage ways, which may or may not have been identified in the Federal Emergency Management Agency Maps. Any alternations of these site resources shall meet the provisions of appropriate Clermont County regulations.
3. Lakes and Ponds: No development or diversion of existing year-round bodies of water shall be permitted.
4. Steep Slopes: Site areas where the land surface is inclined from a horizontal plane twenty percent (20%) or greater characterized by increased runoff, erosion, sedimentation, and slippage hazards if disturbed by construction activities. In order to prevent slippage, loss of vegetation and erosion, the majority of steep slope areas shall not be disturbed through the stripping of vegetation or grading. The following standards should guide the protection of steep slopes:
 - a. Steep Slopes of 20% to 30%:
 - One hundred percent (100%) of such resource protection areas shall remain undeveloped when they are incorporated into the open space system for the "PUD" project, in accordance with this section.
 - Seventy percent (70%) of such resource protection areas shall remain undisturbed and shall be incorporated into the open space system.

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- b. Steep Slopes of Greater than 30%:
 - One hundred percent (100%) of such resource protection areas shall remain undeveloped when they are incorporated into the open space system for the “PUD” project, in accordance with this section.
 - Eighty-five percent (85%) of such resource protection areas shall remain undisturbed and shall be incorporated into the open space system.

Development of steep slopes should be done with caution, and excavation and alteration of the ground should be minimized. When steep slopes are being proposed for development, the Zoning Commission may require specific performance standards to be applied to the development in order to mitigate impacts.

5. Woodland Areas: Areas or stands of trees (measured canopy to canopy) covering an area greater than one-quarter (1/4) acre in which:
 - a. The majority of the trees are young canopy (4”-16” tree caliper), or
 - b. The majority of the trees are fifteen (15) feet in height or greater and form at least a twenty percent (20%) canopy cover.
 - c. Any grove of trees without regard to a minimum area consisting of mature canopy (16” and greater tree caliper).
6. All development should be planned, designed and constructed so that existing healthy trees and vegetation are preserved to the maximum extent possible, according to the following:
 - a. Young Canopy Woodland: No more than sixty percent (60%) should be cleared.
 - b. Mature Canopy Woodland: No more than thirty percent (30%) should be cleared.

Ownership and Management of Open Space

Ownership of the open space – A homeowner’s association representing the residents of the PUD shall own the open space unless an agreement is reached with the Township, park district or other conservation entity that would transfer ownership to that entity. If ownership is retained by the homeowner’s association, membership in the association shall be mandatory and automatic for all residents. The Homeowner’s Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the open space and any facilities located thereon shall be borne by the homeowner’s association. The homeowner’s association shall be responsible for correcting any violations cited by the holder of the conservation easement.

Management Plan – The applicant shall submit a management plan that allocates the responsibility and guidelines for the maintenance of the open space and any facilities located thereon, including provisions for on-going maintenance and long-term capital improvements.

The applicant shall provide estimates of the cost, and staffing requirements for the maintenance of the open space; provide evidence of insurance; and outline the means of funding such activities. The management plan must provide details on how the plan will be enforced.

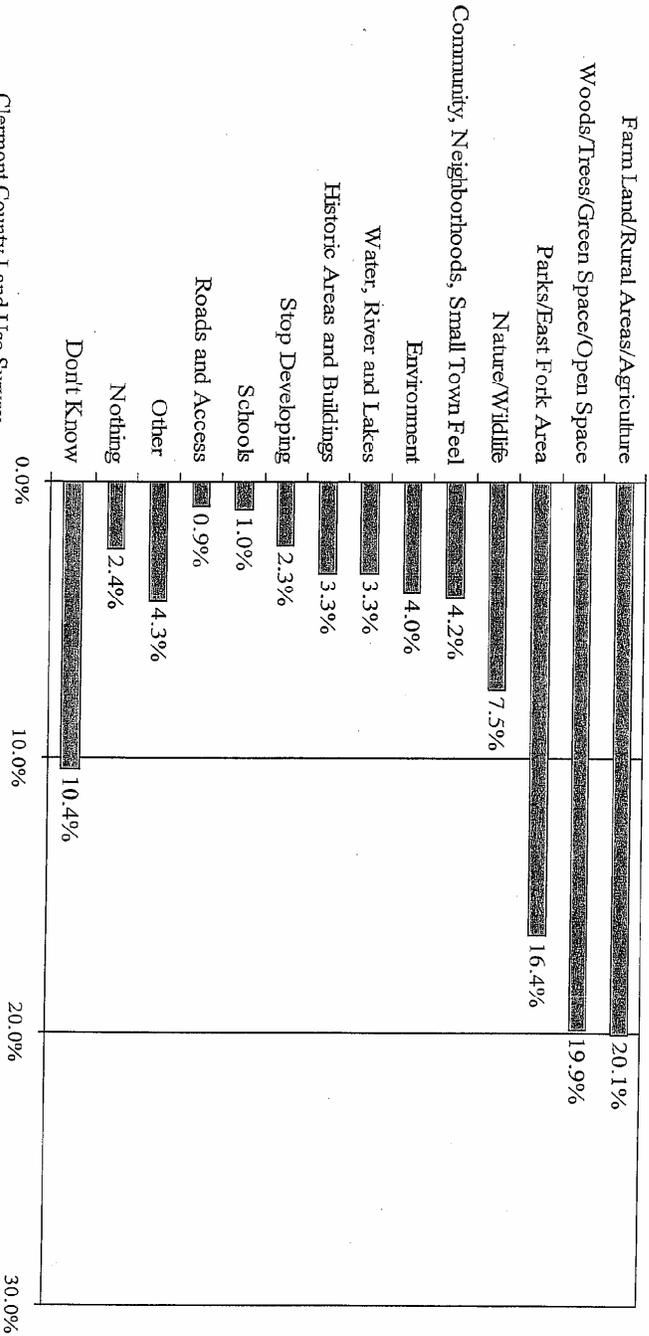
The Township Zoning Commission must approve any changes to the management plan.

In the event the party responsible for the maintenance of the open space fails to maintain all or any portion in a reasonable order and condition, the Township may assume responsibility for its maintenance and may enter the premise and take corrective action. The cost of such action shall be charged to the homeowner’s association or to the individual properties that make up the homeowner’s association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties within the PUD.

**UNIVERSITY OF CINCINNATI LAND USE PLANNING SURVEY
MARCH-APRIL, 2000 EXCERPTED SURVEY RESULTS**

“Now, thinking about land use planning for the future of Clermont County, what quality or aspect of the county do you think is most important to be preserved?”

Chart 2.4



Clermont County Land Use Survey
March – April, 2000
Institute for Policy Research
University of Cincinnati

(N=1053)

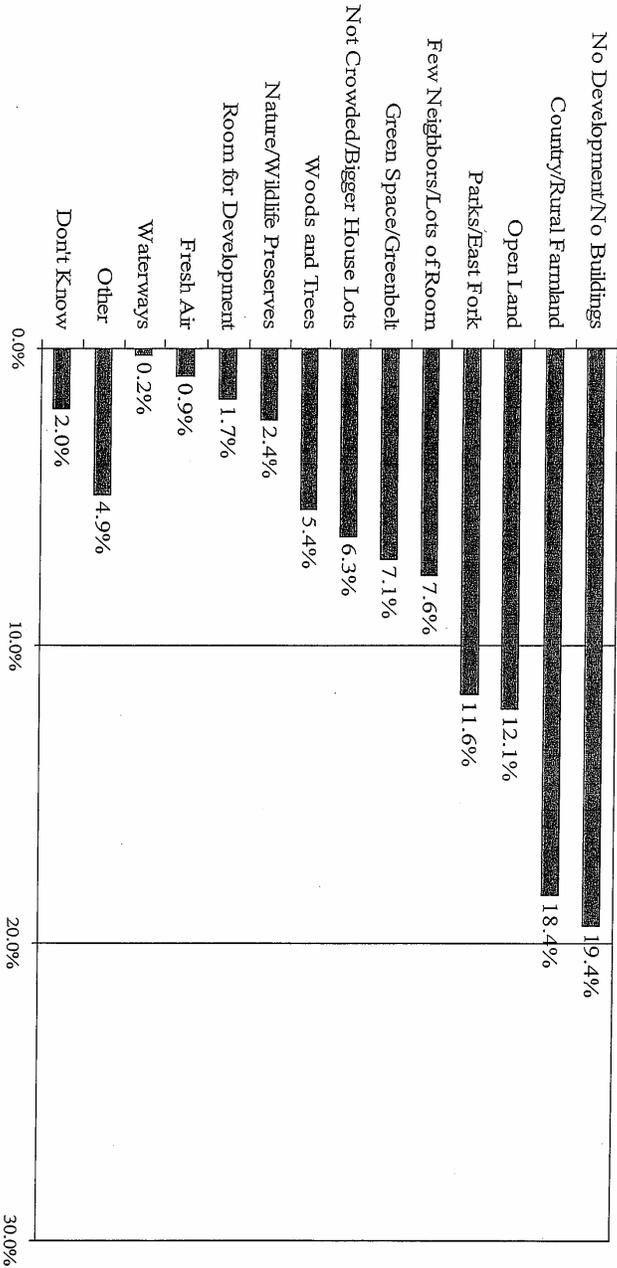


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UNIVERSITY OF CINCINNATI LAND USE PLANNING SURVEY MARCH-APRIL, 2000 EXCERPTED SURVEY RESULTS

“Now, thinking about the phrase ‘open space’ . . . what does ‘open space’ mean to you?”

Chart 3.1



Clemmont County Land Use Survey
March – April, 2000
Institute for Policy Research
University of Cincinnati

(N=1056)

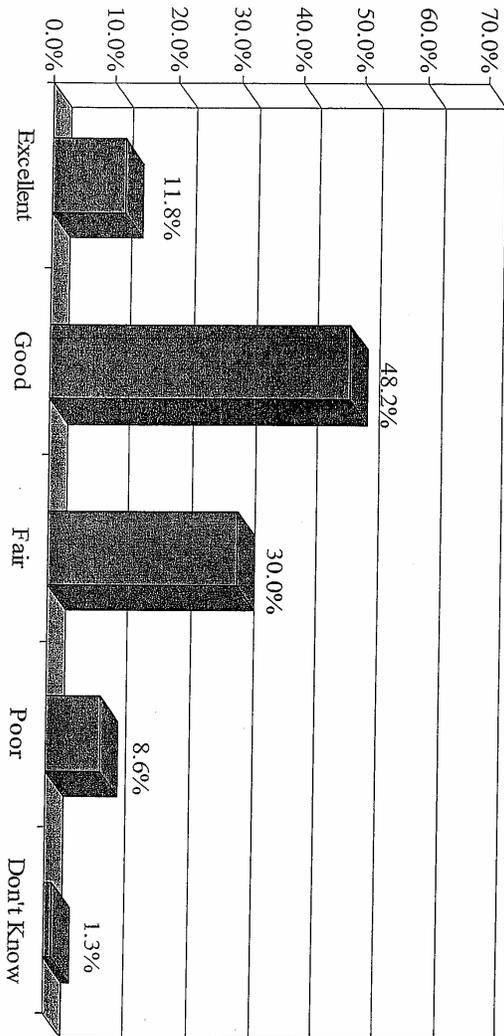


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UNIVERSITY OF CINCINNATI LAND USE PLANNING SURVEY MARCH-APRIL, 2000 EXCERPTED SURVEY RESULTS

Chart 3.2

“And, how would you rate the availability of open space in
Clermont County . . . excellent, good, fair or poor?”



Clermont County Land Use Survey
March – April, 2000
Institute for Policy Research
University of Cincinnati

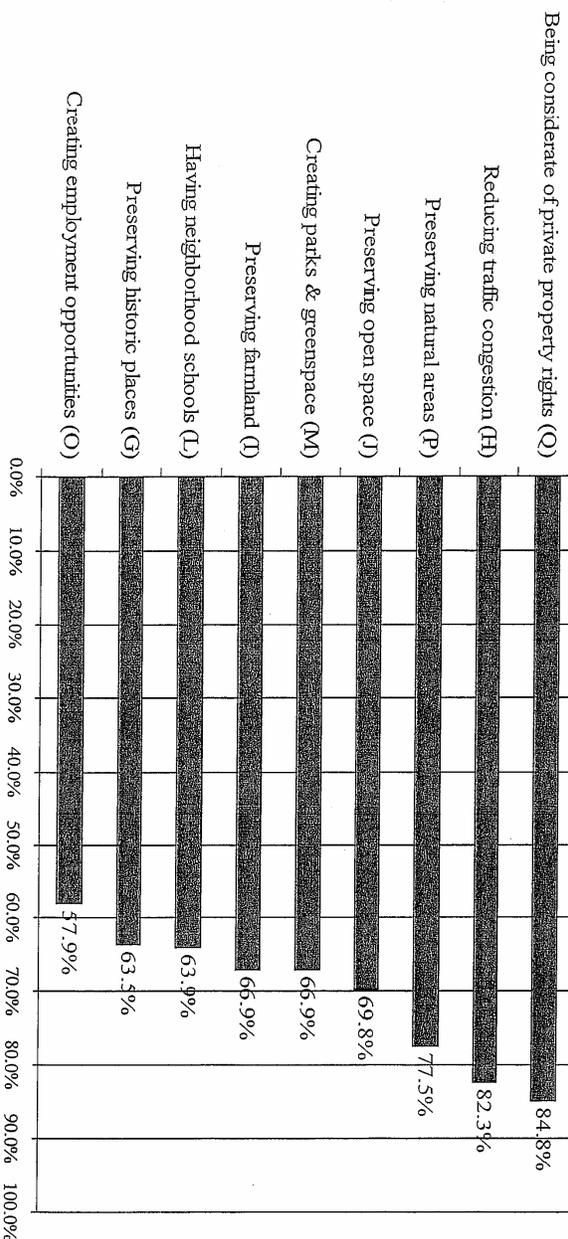
(N=1047)



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UNIVERSITY OF CINCINNATI LAND USE PLANNING SURVEY MARCH-APRIL, 2000 EXCERPTED SURVEY RESULTS

Chart 4.1
“Now thinking about land use planning in Clermont County, please tell me how important each of the following issues are to you. How important is ...”
(Percent responding “Very Important.”) Chart 1 of 2



Clermont County Land Use Survey
March – April, 2000
Institute for Policy Research
University of Cincinnati



ATTACHMENT Q

RESEARCH MATERIALS & SUGGESTED READING

- Chadbourne, Mary M. and Joseph H. "Common Ground - A Practical Guide to Protecting Rural and Urban Land." *A Handbook for Making Land Use Decisions*, Third Edition. Chadbourne & Chadbourne, Inc. Chagrin Falls, Ohio.
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Wengler, S.J. 1999. "A review of the scientific literature on riparian buffer width, extent and vegetation." Athens: Institute for Ecology Office for Public Service and Outreach, University of Georgia.

Wengler, S.J. and L. Fowler 2000. "Protecting stream and river corridors: Creating effective local buffer ordinances." Athens: Institute for Ecology Office for Public Service and Outreach, University of Georgia.