

MEMORANDUM

TO: Agency Board
FROM: Kristin Thomas, Associate Planner
DATE: September 27, 2012

FOR AGENDA: October 4, 2012

SUBJECT: Recommendation to the CT OPM regarding the draft State POCD

The Office of Policy and Management (OPM) is receiving comments on the Draft 2013-2018 State Plan of Conservation and Development (POCD) through October 5, 2012. The State POCD consists of a comprehensive statement of the development and resource management policies for the state. State statute requires that any state agency wishing to use state or federal funds for certain actions must be consistent with the POCD. The draft Locational Guide Map is used to demark general areas of conservation and development according to the state's priorities but is not a determining force on whether or not a project or action will be deemed consistent with the plan. For your reference, the draft plan and map can be viewed here:

<http://www.ct.gov/opm/cwp/view.asp?a=2990&q=467686>

Agency staff have compiled comments on the draft plan and map to submit to OPM. Staff found several issues within both documents, including inaccurate map data, flawed and inconsistent conservation and development policies, and oversight on environmentally-critical areas that should be deemed conservation areas.

On that basis, it is my

RECOMMENDATION

that your Board

Endorse the attached document regarding staff comments on the State Draft Plan of Conservation and Development.

Attachment: CCRPA Comments on State Draft POCD

CCRPA Comments on State Draft POCD and Locational Guide Map

Plan of Conservation and Development Comments

- The text of the draft POCD does not place a priority on preserving open space areas that are contiguous to existing preserved open space. All else equal, large, contiguous parcels are more efficient to manage and provide greater environmental benefits and ecosystem services than smaller, scattered parcels. Preservation of contiguous tracts and corridors of open space should be a priority. Undeveloped land that is adjacent or proximate to existing, preserved open space should be considered a Priority Conservation Area (PCA).
- The text fails to mention preserving resources of scenic or recreational value. Major ridgelines and trail systems, such as the Metacomet Ridge and the Appalachian and New England Trails, should be considered for the PCA.
- Under the first Growth Management Principle, the following State Agency policy is listed: promote urban areas as centers for arts, entertainment and culture, while also supporting community-based agriculture and historic preservation. Urban area is an unnecessarily broad term. Instead, it is recommended that the terms “downtown” or “town center” should be used. These terms focus development in the core of a community instead of spreading it out over a potentially large area. Civic activities and government businesses should also be included in the list of activities to be promoted in urban centers. In addition to the existing criteria for Priority Development Areas (PDAs), development in downtowns, town centers, and transit hubs should be prioritized.
- While the text recognizes a host of criteria that render an area appropriate for conservation or development, the text fails to prioritize areas that meet several conservation or development criteria above areas that only meet one or two. In other words, the map treats a Census block that is served by one bus a day the same as one that is served by a rail line every half hour, twenty buses a day, and has existing sewer and water. This failure to distinguish among varying intensities of the suitability of conservation or development, rather than just whether conservation or development is suitable at all, does not promote the varied types of development that the State and region needs; it is, frankly, a recipe for sprawl. If the State is to thrive in the 21st century, it must focus its efforts on downtowns, town centers, and transit hubs—places that grow up, rather than out, and that give residents and workers the option to walk, bike, and ride transit rather than drive. In terms of the plan, it is recommended that areas meeting six development criteria should not be treated the same as those meeting one but

rather given priority. The map should reflect this by differentiating the PDA into varying levels of intensity. This would encourage investments to be made where populations and existing services and infrastructure are the greatest.

- On a related note, State agencies are required to determine if an action is consistent with the POCD, but no guidelines are provided regarding how to make that determination. The gradation of PDAs suggests that consistency would be determined by summing the number of development factors a project area possesses. The plan text, however, treats all PDAs equally (whether it meets one criterion or four). A project may be consistent with the plan's goal of concentrating development in areas with sewer service but inconsistent with the plan's goal of supporting transit-oriented development. How a State Agency determines which factor is more important is left to its own judgment. This is especially important when multiple investment sites are possible, since, in the absence of conservation criteria, only one development criterion must be met for a site to be considered a PDA. When presented with multiple sites, State agencies do not have to pick the best or the one meeting the most development criteria; they need only select a site that meets at least one development criterion. The failure to adequately count the presence of multiple criteria in site selection may yield suboptimal development patterns. To address this, it is recommended that the plan mandate or recommend that State agencies give sites that satisfy more criteria preferential treatment over those that meet fewer or just one.
- The plan does not speak to site design, only site selection. While location may be the most important factor in planning, site design also makes a difference in the relationship of a site to the built and natural environment. All else equal, priority should be given to development that is environmentally-sound. Among others, factors that may be considered include minimizing impervious surfaces, promoting mixed use, and avoiding development locations where polluted storm water would run into nearby waterways. Additional prioritization could also be given to projects which seek to go above and beyond the industry standards (e.g. employing green technology and site design standards).

Locational Guide Map (LGM) Comments

- What is the data source for the existing preserved open space layer in the map? The latest publicly available version of DEEP's Protected Open Space Mapping project is incomplete and completely lacks data for many municipalities, including all of CCRPA's. This is a problem, as errors and omissions in the map could result in open space—and adjacent land—being designated as 'Balanced Growth' or 'Priority Development' areas.

An example of this is the Sessions Woods Wildlife Management Area in the Town of Burlington. The property directly north of this area is currently preserved open space. However, the map does not show it as such. To allow for corrections, it is recommended that OPM update the

existing, preserved open space layer as newer and better data become available. While OPM understandably may not have the resources to update the preservation status individual parcels, it should accept statewide and regional submissions of new data from DEEP and the RPOs.

- “Existing or planned sewer or water service” are included as a criterion for Priority Development Areas. The word “planned” in this context is problematic because, over the course of the years, countless plans have been issued. (E.G., consider the State’s numerous canceled highway plans.) By including the word “planned” without any limitations on its definition, any sewer or water extension ever planned—even ones long since abandoned as imprudent or undesirable—could be used to justify inclusion in a PDA. To avoid this, it is recommended that the language read “existing or currently planned sewer or water service” or “sewer or water service that currently exists or to whose construction the State or municipality has committed.”
- The LGM includes several major watercourses and bodies in the PDA or Balanced Growth Area. Hammonasset Beach State Park is an example. While the park itself is depicted as existing, preserved open space, the beach is marked as a Priority Development Area. The plan should not support but discourage development in/on rivers, lakes, ponds, flood plains, beaches, and tidal areas. To reflect this, all major watercourses and bodies should be reclassified from Priority Development and Balanced Growth Areas to Priority Conservation Areas.
- The map labels portions or the entirety of many lakeside communities in the state (including Bantam Lake, Bolton Lake, Coventry Lake, Fall Mountain Lake, Lake Pocotopaug, and Lake Plymouth) as Priority Development Areas or Balanced Growth Areas because of existing sewer infrastructure. (See Map 1 in Appendix A for examples.) Many of these systems were installed to address water quality issues caused by high levels of lakeside development (pollution of the lake water by septic systems). While the sewer systems have addressed the water quality problems, additional development in these areas could degrade lake water by increasing surface runoff from impervious surfaces into the lake. The plan should not set back decades of progress in these communities by promoting unsustainable development. A solution would be to create a buffer zone around sizable bodies of water across the state, excluding them from Priority Development Areas and Balanced Growth Areas. The same method could be used to protect flood plains critical to flood control, agriculture, and species habitat, such as The Great Meadows in Wethersfield and Glastonbury. This area is currently marked as a Balanced Growth Area.
- The use of Census blocks as the minimum mapping unit for PDAs, particularly in rural parts of the state, where blocks are much larger, can produce bizarre development scenarios—in some cases, lakes are literally sliced in two, with one marked as conservation and the other as development (or balanced growth). Bantam Lake exemplifies this: while the part in Litchfield is shown as a preservation area, the portion of Bantam Lake in Morris is designated as a balanced growth area (see Map 1 in Appendix A).

- Because development areas are based on Census blocks, they are contiguous. However, conservation areas are based on features of interest. As a result, many of them are not only discontinuous, but they are also full of holes. This makes them hard to interpret and may result in nonsensical plan and funding determinations, e.g., a forest may be denoted as a conservation area *except* for a one-acre clearing in the middle of it. This is not speculation—CCRPA staff have identified countless such anomalies.

In addition, conservation areas are heavily influenced by forest cover; pastures and meadows are not included. As a consequence, farm-heavy areas—the places in the state where people live the most from the land and the economy has the most to lose from development—are *not* indicated for conservation.

There are two possible solutions to these problems. The first solution is to use 250-acre blocks of *undeveloped* (instead of *forested*) land as the basis for conservation areas. This would ensure that farmed areas are treated equally to forested ones. Given that most of the forests that the map targets for preservation were farms as little as fifty years ago, this is not unreasonable—farms, unlike developed areas, can easily revert to forest (and thus should be deserving of similar protection). Given that the state is losing existing forest, if preservation of the state's tree canopy is a goal, protection of potential future forests is critical. (It should also be noted that meadows and pastures are also worthy of preservation in their own right—they serve as critical habitat for a variety of wildlife but are vanishing across the state.)

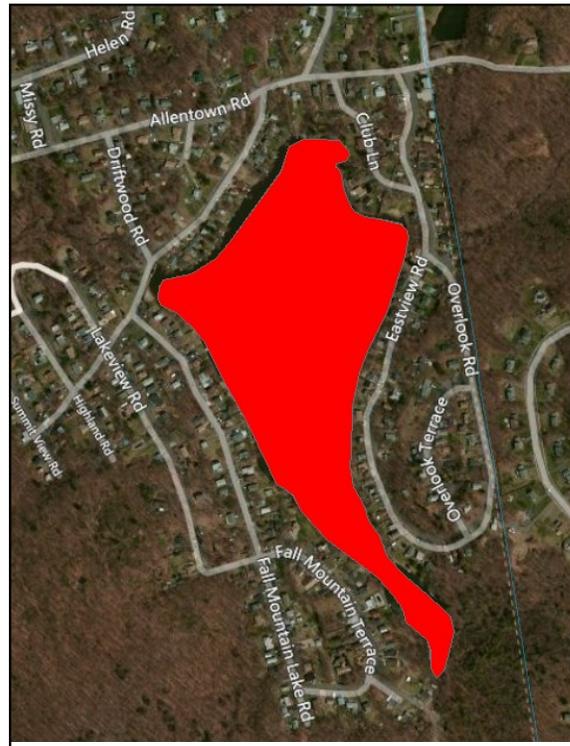
A complementary or alternate solution would be to eliminate small holes from conservation areas. This would simplify interpretation of the map, make conservation areas more workable, and ultimately improve the validity of the mapping approach. (Some of these areas are likely to be meaningless artifacts produced by imprecision in the GIS layers used as a source.) Map 2 in Appendix A illustrates the problem. Holes in PCAs of up to 100 acres are shown in red. As the map shows, towns with many fields or farms have more holes; Lebanon, the number one farming town in the state, may have the most holes of all. Filling these holes (by designating them as PCAs) could benefit the interpretability of the map and conservation efforts in meadow and pasture-rich towns such as Lebanon without greatly altering the balance of conservation and development across the state. (Eliminating holes of up to 100 acres would increase the total PCA by less than 2 %.)

Appendix A : Maps

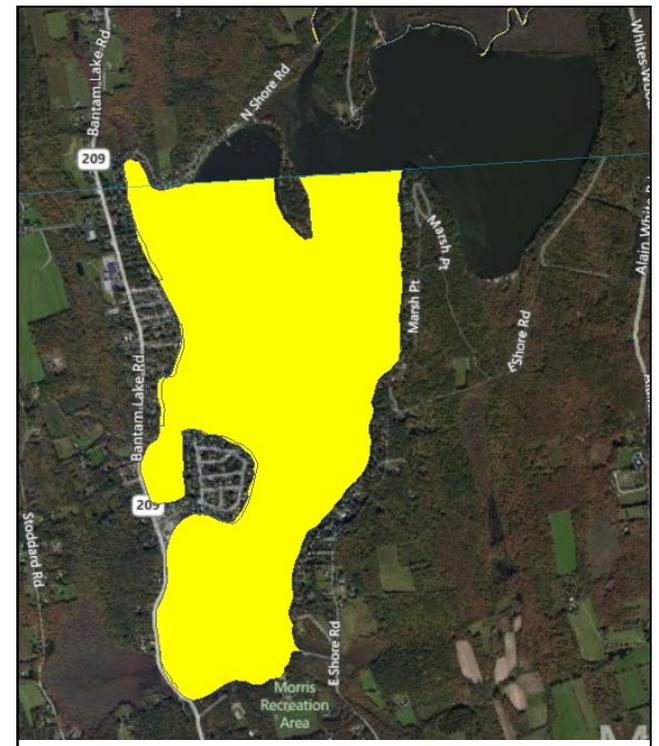
Map 1: CT Water Bodies Marked as Priority Conservation Areas or Balanced Growth Areas



Lake Plymouth is marked as both a Priority Development Area and a Balanced Growth Area.



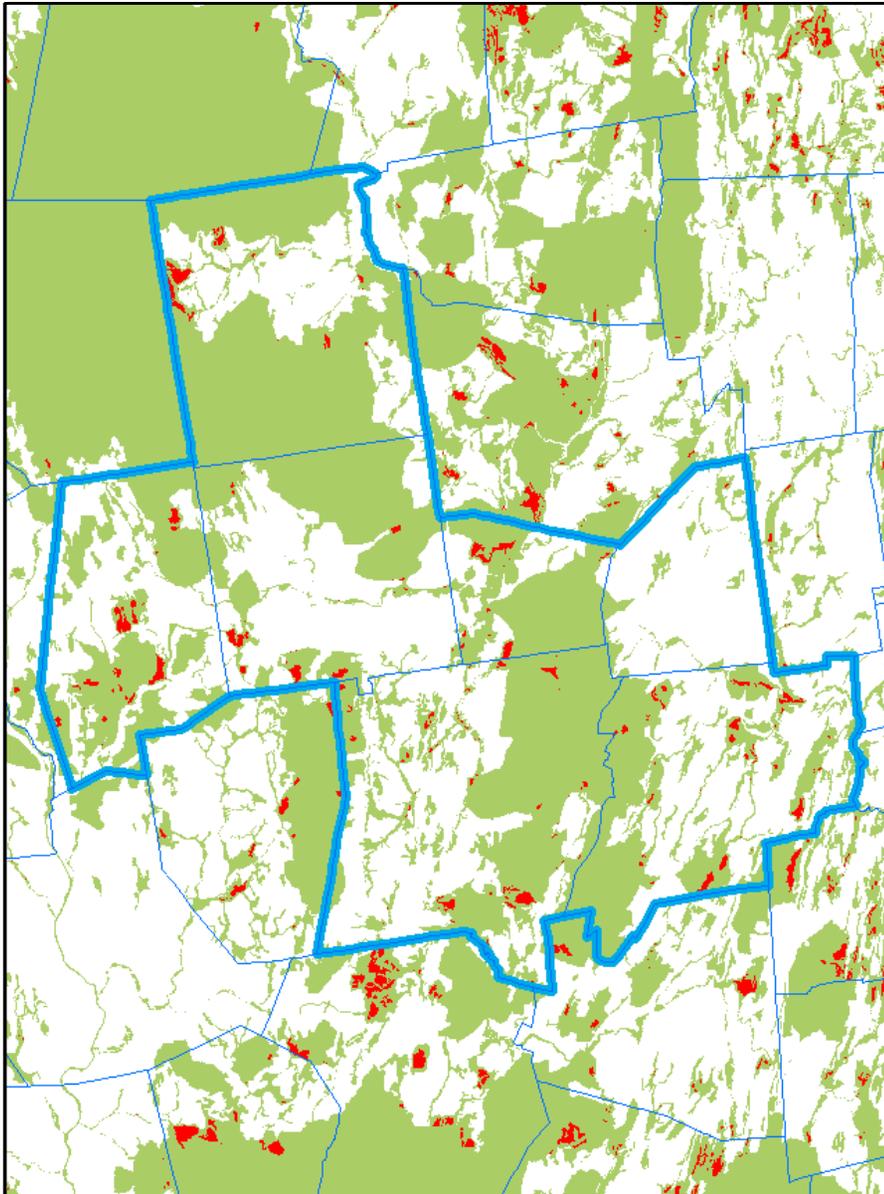
Fall Mountain Lake, in Plymouth, is marked as a Priority Development Area.



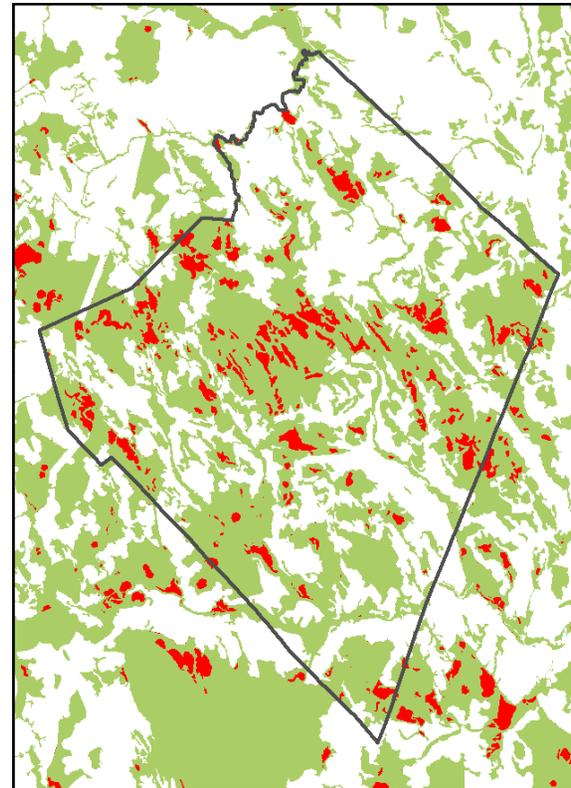
Bantam Lake is marked as a Balanced Growth Area in Morris and a Preservation Area in Litchfield (unmarked northern portion of lake).

-  N
-  CT Town Boundary
-  Priority Development Areas
-  Balanced Growth Areas

Map 2: Conservation Area Gaps

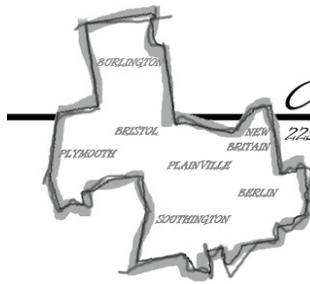


Gaps (shown in red) in the Priority Conservation Areas in the CCRPA Region.



Gaps (shown in red) in the Priority Conservation Areas in Lebanon.

-  Lebanon Town Boundary
 -  CT Town Boundary
 -  CCRPA Region Boundary
 -  Priority Conservation Areas (original from OPM)
 -  Priority Conservation Areas (holes up to 100 acres filled)
-  N



MEMORANDUM

TO: Agency Board
FROM: Timothy Malone, Associate Planner
DATE: September 25, 2012

FOR AGENDA: October 4th, 2012

SUBJECT: Proposed legislation regarding fees in lieu of sidewalks

Sidewalks are a vital part of a safe and accessible transportation system. For these reasons, municipalities are empowered to require sidewalks within new developments. However, this authority does not extend to connecting roads, and municipalities have few options to pay for sidewalks on existing roads other than issuing bonds or relying on special assessments. As a consequence, sidewalks have often been installed where they are not needed (e.g., on a quiet cul-de-sac) but remain absent where they are needed the most (e.g., along the busy road the cul-de-sac links to). To address this situation, we have developed proposed legislation empowering municipalities to collect fees in lieu of sidewalk installation. This legislation would be similar to provisions allowing payments in lieu of open space. Our proposal would give municipalities a new tool for securing funding for this vital piece of infrastructure, without imposing burdensome regulations on developers. It would provide flexibility for municipalities and developers within the existing regulatory framework.

On that basis, it is my

RECOMMENDATION

that your Board

Endorse the attached proposed legislation regarding fees in lieu of sidewalks.

Attachment: Proposed Sidewalk Legislation

Proposed Sidewalk Legislation

Sidewalks are a vital part of the transportation system. They provide safe routes for pedestrians, especially children, the elderly, and the disabled—a critical need, given the 373 pedestrians killed (and thousands injured) on Connecticut streets from 2000 to 2009. By limiting the number of pedestrians in the roadway, sidewalks also improve traffic flow (and thus benefit drivers).

For these reasons, municipalities are empowered to require sidewalks within new developments. However, this authority does not extend to connecting roads, and municipalities have few options to pay for sidewalks on existing roads other than issuing bonds or relying on special assessments. As a consequence, sidewalks have often been installed where they are not needed (e.g., on a quiet cul-de-sac) but remain absent where they are needed the most (e.g., along the busy road the cul-de-sac links to).

To address this situation, municipalities should be empowered to collect fees in lieu of sidewalk installation. We propose legislation similar to provisions allowing payments in lieu of open space. It would:

- Impose **no new costs** on developers
- Permit municipalities to accept a fee in lieu of required sidewalk installation
- Require said fees be deposited into an account to be used for sidewalk installation
- Limit the fee to no more than the installation cost that would have been incurred
- Allow municipalities to provide incentives to developers opting to pay the fee

Sample language is included below, to be added to C.G.S. Section 8.25 of Chapter 126:

Such regulations shall also provide that the commission may require the provision of sidewalks when, and in places, deemed proper by the planning commission, which sidewalks shall be shown on the subdivision plan. Such regulations may, with the approval of the commission, authorize the applicant to pay a fee to the municipality in lieu of installing the totality of, or a portion of, required sidewalk infrastructure. Such payment will not exceed the estimated cost that would be incurred by the developer to install sidewalks, or portion thereof, onsite. Such payments shall be deposited into a fund to be used for the installation or maintenance of sidewalks or multi-use trails in locations that are deemed appropriate by the governing body of the municipality.

The regulations may also provide for incentives for developers who choose to pay the fee in lieu of sidewalks, such as a reduced fee. Such incentives shall require a two-thirds majority vote of the commission.
