

# SECTION 5

## **INVENTORY OF LANDS OF CONSERVATION AND RECREATION INTEREST**

The previous sections of this Plan have identified areas within the Town of Whately that are significant for their cultural, scenic, or ecological values. This information is helpful for understanding the character of Whately and for outlining issues which may be of particular interest in open space and recreation planning decisions. This next section provides an inventory of existing undeveloped land containing these significant values. It identifies public and private parcels, current land use, the degree of protection, as well as existing land management practices.

Open space is generally defined as undeveloped land. In Whately, open space includes large tracts of forested land, open upland ridge line views, streams and wetlands, agricultural fields, scenic views, and significant historical structures and landscapes. These natural resources and landscapes are what make Whately unique. The appearance of Whately, its “sense of place”, and the condition of the town’s natural resources will not remain untouched by development without active stewardship and thoughtful planning. Planning for the protection of Whately’s “green infrastructure will enable the town to proactively manage growth, protect wildlife habitat, ensure the integrity of drinking water supplies, continue to provide residents and visitors with a variety of outdoor recreation opportunities, and, at least in part, provide for residents’ livelihoods.

In an Open Space and Recreation Plan, the focus is on undeveloped land, which is valued by residents because of what it provides: actively managed farm and forestland, wildlife habitat, protection and recharge of groundwater, public access to recreational lands and trail systems, important plant communities, structures and landscapes that represent the community’s heritage, flood control, and scenery. The term “natural resource” describes the biological and physical components of an ecosystem that people depend on for their existence and, for some, their livelihood. These components are air, surface and ground water, wood fiber, soil nutrients, vegetation, fisheries, and wildlife. Recreational facilities can include open space, parks, and developed areas like tennis courts and swimming pools. Open space and recreation plans typically identify areas of undeveloped land that contain precious natural and recreational resources and prioritize them for protection.

Open space can be protected from development in several ways that differ in the level of legal protection they provide, the method by which they are protected, and by the type of landowner. When land is considered to be “protected,” it is intended to remain undeveloped in perpetuity. This level of protection is ensured in one of two ways: (1) ownership by a state conservation agency, a not-for-profit conservation land trust, or the

local Conservation Commission; or (2) attachment of a conservation restriction or similar legal mechanism to the deed.

Land is considered to be protected from development when it is owned by the Commonwealth of Massachusetts and managed by a state conservation agency, including the Department of Fish and Game (DFG) or the Department of Conservation and Recreation (DCR). Land is also considered protected when it is owned by a town and is under the authority of the Conservation Commission, or when it is owned by a land trust for conservation purposes.

Private landowners can also protect their properties through the attachment of a conservation restriction (CR). A CR is a legally binding agreement between a landowner (grantor) and a holder (grantee)—usually a public agency or a private land trust—whereby the grantor agrees to limit the use of his/her property by forfeiting interests in the land (development being one type of interest) for the purpose of protecting certain conservation values. The conservation restriction may run for a period of years or in perpetuity and is recorded at the Registry of Deeds. Certain income, estate or real estate tax benefits may be available to the grantor of a conservation restriction.

There are several types of conservation restrictions. Some protect specific resources, such as wildlife habitat or farmland. Actively farmed land with prime soils or soils of statewide importance may be eligible for enrollment in the state's Agricultural Preservation Restriction (APR) Program. Adopted by the State Legislature in 1977, the Agricultural Preservation Restriction Program (APR) ensures the permanent protection of large blocks of farmland by making it economically feasible for farmers to keep farming. Administered by the Massachusetts Department of Agricultural Resources (DAR), this program offers farmers the difference between the "fair market value" and the "agricultural value" of their land. In exchange, a permanent deed restriction is placed on the property, which precludes uses that may harm the agricultural viability of the land. The farmer continues to own the land and can sell it, but only for agricultural uses.

The development of any parcel of land that is in the APR Program, protected with a conservation restriction, owned by a state conservation agency, or owned by a land trust or a town for conservation purposes, would require a vote by two thirds of the State Legislature as outlined in Article 97 of the Amendments to the Massachusetts State Constitution. For the purposes of this Open Space and Recreation Plan, cemeteries will also be considered to be protected from development.

This protection conveyed by Article 97 does have its limits. The state legislature has voted to release this protection at the request of local communities, so that conservation land can be used for schools, roads, economic development, or other public projects not related to resource protection. Reforms have been proposed to make this process more difficult. It is important for local advocates of conservation to be vigilant of attempts to remove the protection status from open space in the Town of Whately.

The Farmland Assessment Act was enacted by the State Legislature in 1973. Parcels enrolled in Massachusetts Chapter 61 tax abatement programs created by this Act are considered to be “temporarily protected” from development. This program offers landowners reduced local property taxes in return for maintaining land in productive forestry, agricultural or recreational use for a period of time. These “chapter lands” provide many public benefits, from maintaining wildlife habitat and recreational open space to sustaining rural character, and local forest and farm-based economic activity. Another benefit of the Chapter 61 programs is that they offer towns the opportunity to protect land. When a parcel that has been enrolled in one of the Chapter programs is proposed for conversion to a use that would make it ineligible for the program, the town is guaranteed a 120-day waiting period during which it can exercise its right of first refusal to purchase the property. The right of first refusal can be sold to, or given to, a land trust which can often respond much more quickly than the Town can. It is important for the Town of Deerfield not to consider land under Chapters 61 (forest), 61A (farm), or 61B (recreation) as permanently protected. At the same time, the value the program offers to the Town should not be disregarded.

Land in Massachusetts owned by towns or water districts may be considered to have “limited protection” from development. If a town-owned parcel of land is under the legal authority of the Select Board, rather than the conservation Commission, it is considered to have limited protection from development. The parcel could be called a wildlife sanctuary or a town forest, but may not have the long-term protection afforded by Conservation Commission lands. In this case, converting a town forest to a soccer field or a school parking lot could be decided by the Select Board or Town Meeting. A parcel of land used for the purposes of water supply protection is considered in much the same way. Unless there is a legal restriction attached to the deed or if the deed reads that the land was acquired expressly for water supply protection, the level of protection afforded these types of parcels varies depending on the policies of each community. In most cases, the water district would be required to show the Massachusetts Department of Environmental Protection just cause for converting the use of the land. However, this is not an insurmountable hurdle. The Town of Athol recently took their surface drinking water supplies off-line after developing a productive well field. A change in land use around the reservoir from water supply protection to active recreational use may occur.

The portion of the total land area in Whately that is protected as open space is summarized in Table 5-1. It is divided into two main sections based on type of ownership: private and public. Within each of these major categories, parcels are differentiated by use (farm or forestland), by ownership and management, and by level of protection: protected, temporary, and limited (*see Open Space Map at the end of this section*).

Approximately 6,812 acres in Whately are open space with some level of protection from development. This represents nearly 52 percent of the total land area of the town (13,227 acres). Land protected in perpetuity represents just 18 percent of the land in Whately with some level of protection, and only 9 percent of the town’s total acreage. What these figures demonstrate is that, while farm and forestland is being converted to other more

intensive land uses, only a small percentage is currently protected from these development pressures.

The inventory which follows in Sections A and B lists parcels by private, public and non-profit ownership and then by protection status: protected, temporary, limited or unprotected. These types of open space are identified on the Open Space Map found at the end of this chapter.

**Table 5-1: Summary Areas of Farmland and Forest Open Space by Ownership and Level of Protection from Development in Whately**

	Acres	% Of Total Land Area
<b>PRIVATELY OWNED OPEN SPACE</b>		
<b>Farmland</b>		
<i>Protected by Agricultural Preservation Restriction</i>	295	2%
<i>Temporarily Protected Farmland under Ch. 61A</i>	2,796	21%
<b>Forestland</b>		
<i>Protected by Conservation Restriction</i>	85	0.6%
<i>Temporarily Protected Forestland</i>		
Chapter 61	1,192	9%
Chapter 61B	541	4%
Smith College	216	1.6%
<b>Other Protected Land</b>		
Private Cemetery	1	0.0%
<b>TOTAL PRIVATELY OWNED OPEN SPACE WITH SOME LEVEL OF PROTECTION</b>	<b>5,126</b>	<b>39%</b>
<b>PUBLICLY and QUASI-PUBLICLY OWNED OPEN SPACE</b>		
<b>Forestland</b>		
<i>Protected by State Conservation Agencies</i>		
Department of Fish and Game	780	6%
Department of Conservation and Recreation	42	0.3%
<i>Limited Protection by Other Organizations</i>		
Town Water Districts	15	0.1%
City of Northampton	749	5.7%
<b>Land with Limited Protection &amp; Owned by Town of Whately</b>	<b>95</b>	<b>0.7%</b>
<b>Other Protected Land</b>		
Public Cemeteries	5	0.04%
<b>TOTAL PUBLICLY AND QUASI-PUBLICLY OWNED OPEN SPACE WITH SOME LEVEL OF PROTECTION</b>	<b>1,686</b>	<b>13%</b>
<b>TOTAL OPEN SPACE WITH SOME LEVEL OF PROTECTION</b>	<b>6,812</b>	<b>52%</b>

Source: Whately Master Plan, 2004; Town of Whately Assessor's Dept., 2006

## **A. PRIVATE PARCELS**

Approximately 75 percent of the undeveloped land with some degree of protection in Whately is privately owned. Most of this land is owned by private individuals and nearly two-thirds of it is in agricultural use. Privately owned parcels contribute to the amount of open space in Whately through deed restrictions, conservation easements and tax abatement programs. However as mentioned above, these programs offer varying degrees of protection. For instance, lands under the Farmland Assessment Act (various Chapters of 61) can be taken out of the program at the landowner's will while lands enrolled in the Agricultural Preservation Restriction (APR) Program or with other conservation restrictions are protected in perpetuity. This category also includes a 216-acre parcel owned by Smith College that surrounds its Observatory and is considered to have limited protection from development.

### **A.1 Protected Private Parcels**

Since the intention of the APR program is to attain a fair distribution of lands throughout Massachusetts, priority is given to areas suffering from intense development pressure. Throughout the State, 131 municipalities now have land in the program. In Whately, 295 acres are protected in perpetuity under this program. This represents only 2 percent of the Town's total acreage, while just over 20 percent of land in Town is currently used for agricultural purposes. In order to ensure that Whately's agricultural heritage is preserved, the town must continue to look for opportunities to protect farmland as development pressures mount. The permanently protected private parcels also include the 85-acre Graves Farm Wildlife Sanctuary owned by the Massachusetts Audubon Society and a 1-acre private cemetery.

**Table 5-2: Privately Owned Land Protected from Development in Whately**

<b>Status</b>	<b>Owner</b>	<b>Name/Location</b>	<b>Map/ Parcel</b>	<b>Acres</b>
<b>CR</b>	Massachusetts Audubon Society	Graves Farm Wildlife Sanctuary	1 0 1	85.01
	South Deerfield Cemetery Association	420 Long Plain Rd.	32 0 28	1.00
<b>APR</b>	Olynik Lucille H / Olynik Steven J	100 River Road	14 0 20	33.18
<b>APR</b>	Jackson David F	East side of River Rd	14 0 24	9.60
<b>APR</b>	Helstowski Wanda R	East side of River Rd	21 0 34	11.00
<b>APR</b>	Maiewski Paul R	East side of River Rd	21 0 35	10.79
<b>APR</b>	Helstowski Wanda R	132 River Rd	21 0 39	20.00
<b>APR</b>	Bauer John	212 Long Plain Rd	21 0 6	24.21
<b>APR</b>	Nourse Timothy M / Mary C	East side of Long Plain Rd	26 0 20	17.00
<b>APR</b>	Nourse Timothy M / Mary C	East side of Long Plain Rd	26 0 29	9.33
<b>APR</b>	Nourse Timothy M / Mary C	East side of Long Plain Rd	26 0 35	38.83
<b>APR</b>	Sadoski Gerald P	West side of River Rd	27 0 25	12.00
<b>APR</b>	Sadoski Gerald P	284 River Rd	27 0 26	6.10
<b>APR</b>	August Robert M / Nancy H	East side of North St	31 0 7	75.70

Status	Owner	Name/Location	Map/ Parcel	Acres
APR	Grybko John A Jr / Lena R Grybko	East side of River Rd	33 0 4	4.20
APR	John G Savage Realty Corp	East side of River Rd	33 0 5	13.00
APR	Ring Shirley M / Warger Tammy	East side of River Rd and Sugarloaf Ext	33 0 7	9.70
	<b>TOTAL PROTECTED PRIVATE LAND</b>			<b>380.65</b>

Source: Town of Whately Tax Assessors' Records, April 2006.

## A.2 Parcels With Limited Protection

Chapter 61, 61A and 61B enables qualifying forest, farm, and recreational lands to be taxed at their use value rather than full market value so as to promote their conservation. Chapter 61 applies to forested parcels of ten or more contiguous acres that are managed under a 10-year forest management plan. Chapter 61A parcels must be at least five contiguous acres, must be “actively devoted” to agricultural or horticultural uses, and must earn at least \$500 in annual gross sales. Chapter 61B lands are a minimum of five acres and are devoted to open space or recreational uses. According to assessor’s records for 2006, Whately contains 1,192 acres in Chapter 61, 2,796 acres in Chapter 61A, and 541 acres in Chapter 61B. Combined, these Chapter lands represent 88 percent of the privately owned open space in the Town of Whately.

Tax abatement programs offer some benefits to those interested in preserving the rural character of a community. Landowners are required to notify certain Town boards by certified mail if they intend to sell these lands or discontinue the forested or agricultural use. Not only is the Town granted the right of first refusal if a landowner sells or converts the classified land to another use, but a penalty in the form of either a conveyance tax or a roll back tax is assessed. Unfortunately, while this program does offer financial incentives to continue these open space uses, it does not guarantee that lands will be permanently maintained in their current state. If a landowner is presented with an attractive offer from a developer, a Town can often do little unless there is an active program in place to acquire land. Between 2004 and 2006, a total of nearly 74 acres were rolled out of Chapters 61A and 61B to make way for new development in Whately. Nonetheless, when combined with other protection tools, tax abatement programs can be an effective method of preserving open spaces.

In addition to the Chapter lands owned by private individuals, Smith College also owns land around the Observatory located in Whately that is considered to have limited protection from development. This land equals 216 acres, or approximately 2 percent of the total privately owned open space in Whately.

## **B. PUBLIC AND NON-PROFIT PARCELS**

Publicly owned protected open space equals approximately 75 percent of all of the open space that has some level of protection in town. Less than half of this land is permanently protected from development and most of it is owned by the Massachusetts Department of Fish and Game. The town owns several cemeteries which are considered to be permanently protected. In addition, the water districts serving Whately and the Northampton Department of Public Works own land surrounding their water sources in town. These are generally considered to have limited protection from development. The town also owns a number of properties that contribute to open space resources. For the most part, these properties are considered to have limited protection from development. While these properties do not comprise a significant portion of Whately’s total acreage, they do play an important role in satisfying wildlife and community needs. The following inventory includes the significant public and semi-public lands in town and highlights their potential as conservation or recreation areas. These are divided into permanently protected parcels and parcels with limited protection.

### **B.1 Protected Public Parcels**

**Table 5-3: State-Owned Parcels that are Protected from Development in Whately**

<b>Owner</b>	<b>Name/Location</b>	<b>Map &amp; Parcel</b>	<b>Acres</b>	<b>Current Use</b>	<b>Condition</b>	<b>Recreation Value</b>	<b>Public Access</b>
Department of Conservation & Recreation (DCR)	Sugarloaf Brook, east side of River Rd, on CT River	27 0 24-2	7.62	Adjacent to ballpark	Good	Medium to High	Yes
DCR	East side of River Road, near CT River	27 0 24-3	5.93	Adjacent to ballpark	Good	Medium to High	Yes
DCR	Off of River Road	33 0 8-1	28.70	Indian	Medium	None	No
Department of Fish and Game (DFG)	Whately Wildlife Management Area	16 0 18-1	17.00	Open—hiking, birding etc	Good	High	Yes
DFG	Whately Wildlife Management Area	16 0 18	258.00	Open—hiking, birding etc	Good	High	Yes
DFG	Off Grass Hill Rd.	9 3	20.00	Open	Good	Medium	Yes
DFG	Off State Rd.	12 23	22.90	Open	Wet	Medium	Yes
DFG	Off Christian Lane	20 3	17.00	Open	Wet	Medium	Yes
DFG	Great Swamp, W/S State Rd.	25 16	6.60	Open	Wet	Medium	Yes
DFG	Great Swamp	25 23	8.60	Open	Wet	Medium	Yes
DFG	Great Swamp, E/S State Rd.	25 30	20.00	Open	Wet	Medium	Yes
DFG	Great Swamp, E/S State Rd.	26 6	6.60	Open	Wet	Medium	Yes
DFG	Great Swamp, E/S State Rd.	26 8	8.60	Open	Wet	Medium	Yes
DFG	Great Swamp, Off North Rd.	31 15-1	24.00	Open	Wet	Medium	Yes
DFG	Great Swamp, Off State Rd.	32 18	9.50	Open	Wet	Medium	Yes
DFG	Great Swamp, Off State Rd.	32 20	19.30	Open	Wet	Medium	Yes
DFG	Great Swamp	25 0 10	13.00	Open	Wet	Medium	Yes
DFG	Great Swamp	25 0 14	9.40	Open	Wet	Medium	Yes

Owner	Name/Location	Map & Parcel	Acres	Current Use	Condition	Recreation Value	Public Access
DFG	Great Swamp	25 0 15	6.80	Open	Wet	Medium	Yes
DFG	Great Swamp	25 0 18	24.60	Open	Wet	Medium	Yes
DFG	Great Swamp	25 0 19	8.60	Open	Wet	Medium	Yes
DFG	Great Swamp	25 0 36	13.62	Open	Wet	Medium	Yes
DFG	Great Swamp	25 0 8-1	45.00	Open	Wet	Medium	Yes
DFG	Great Swamp	31 0 1	52.97	Open	Wet	Medium	Yes
DFG	Great Swamp	31 0 11-2	93.00	Open	Wet	Medium	Yes
DFG	Great Swamp	31 0 11-3	8.76	Open	Wet	Medium	Yes
DFG	Great Swamp	31 0 6	17.00	Open	Wet	Medium	Yes
DFG	Great Swamp	32 0 15	12.50	Open	Wet	Medium	Yes
DFG	Great Swamp	32 0 16	9.00	Open	Wet	Medium	Yes
DFG	Great Swamp	35 0 4	12.80	Open	Wet	Medium	Yes
DFG	Mill River, Christian Lane	39 0 29	14.70	Open	Wet	Medium	Yes
<b>TOTAL PROTECTED STATE LAND</b>			<b>822.10</b>				

Source: Town of Whately Tax Assessors' Records, April 2006.

The public lands in Whately that are protected in perpetuity from development consist mostly of state-owned lands held by the Department of Fish and Game (DFG) and the Department of Conservation and Recreation (DCR). As shown in Table 5-3 above, DFG owns the vast majority of these lands (approximately 95%). Overall, these state-owned lands account for just over 6 percent of the total land acreage in Whately. In addition, the town owns a number of cemeteries that also provide open space and recreation opportunities for the town's residents, which are detailed in Table 5-4.

**Table 5-4: Town-Owned Cemeteries**

Owner	Name/Location	Map and Parcel	Acres
Town of Whately Cemetery	Cemetery on Webber Rd	17 0 23	2.33
Town of Whately Cemetery	Christian Lane Cemetery	21 0 14	1.03
Town of Whately Cemetery	Chestnut Plain Cemetery	39 0 28	2.09
<b>TOTAL TOWN-OWNED CEMETERY LAND</b>			<b>5.45</b>

Source: Town of Whately Tax Assessors' Records, April 2006.

## **B.2 Public Parcels with Limited Protection**

The Town owns a total of 95 acres which contributes to the undeveloped land with limited protection, as shown in Table 5-5 at the end of this section. These properties include the 33-acre Tri-Town Beach District, the 10-acre baseball diamond, and the 7-acre open space surrounding the Dickinson Library. All municipal park and conservation areas and programs in Whately are being evaluated for accessibility for people with disabilities as part of this plan. The results of this evaluation are included in Appendix B: ADA Access Self-Evaluation.



**Table 5-5: Town-Owned Land with Limited Protection in Whately**

Owner	Location	Map and	Acres	Current Use	Condition	Recreation Value	Public Access	Type of Grant	Zoning	Description	Degree of Protection <sup>1</sup>	Management Agency <sup>2</sup>
Whately Town Of	Off E/S of Long Plain Rd	6 0 43	1.00	Open	avg	low	No	purchase	Res/ag	Previous dump site	Not developable	Town
Whately Town Of	Off E/S of Long Plain Rd	6 0 41	4.71	Open	avg	low	No	purchase	Res/ag	Previous dump site	Not developable	Town
Whately Town Of	Off E/S of Chestnut Plain Rd	5 0 42	1.50	waterwell	good	low	No		Res/ag	well site	complete	ConCom, Water Commissioners?
Whately Town Of	Off E/S of Chestnut Plain Rd	5 0 35	3.71	waterwell	good	low	No	purchase	Res/ag	well site	complete	ConCom, Water Commissioners?
Whately Town Of	Off E/S of Chestnut Plain Rd	5 0 19-1	3.51	waterwell	good	low	No	purchase	Res/ag	well site	complete	ConCom, Water Commissioners?
Whately Town Of	W/S of Chestnut Plain Rd	39 0 31-1	0.56	Adj cemet	good	low	yes	donated	Res/ag	future burial sites by deed	complete	Cemetery Commission
Dickinson Library	202 Chestnut Plain Rd	39 0 22	7.00	library	good	med	yes	?	Res/ag	town library	complete	Town, Library Trustees
Whately Town Of	Off N/S of Haydenville Rd	38 0 6	1.00	Water twr	avg	none	no	purchase	Res/ag	water tower	complete, no frontage	Water Commission

<sup>1</sup> The information for Degree of Protection was compiled by the Whately Assessors Office based on some limited data available in their files and general knowledge of the town. The town does not currently maintain Degree of Protection data for each of the town-owned parcels.

<sup>2</sup> The information for Management Agency was compiled by the Whately Assessors Office based on some limited data available in their files and general knowledge of the town. The town does not currently maintain Management Agency data for each of the town-owned parcels.

Owner	Location	Map and	Acres	Current Use	Condition	Recreation Value	Public Access	Type of Grant	Zoning	Description	Degree of Protection <sup>1</sup>	Management Agency <sup>2</sup>
Old Town Pound	N/S of Haydenville Rd	38 0 3	0.04	open	good	low	Yes		Res/ag	old town animal pound foundation	not developable	Town
Whately Water Dist.	Off S/S of Haydenville Rd	36 0 6	6.00	water	good	low			Res/ag	well site	complete	Water District, probably not Town-owned
Whately Town Of	Off of State Rd	32 0 9-1	3.50	open	poor	low	yes	Taxtkg	Res/ag	undeveloped land in Great Swamp	not developable	Town
Tri-Town Beach Dist.	End of Old State Rd	32 0 48	33.00	swim	good	high	yes	Commnw	Res/ag	recreational	not developable	Tri-town Beach Commission
Baseball Diamond	E/S of River Rd	27 0 24-1	10.33	rec	good	high	yes	COG	Res/ag	recreational	not developable	Town, Recreation Commission
Whately Town Of	W/S of Long Plain Rd	26 0 26	10.40	school	good	med	yes	Purchase	Res/ag	elementary school	complete	Frontier Regional School District
Whately Town Of	Corner of I-91 & Christian Lane	20 0 9	0.30	open	avg	low	yes	Commnw	Res/ag	small lot abutting I-91	not developable	Town
Whately Town Of	Off E/S of Webber Rd	10 0 26	8.70	stumps	avg	low	yes		Res/ag	stump dump		Town
<b>TOTAL</b>			<b>95.26</b>									

Source: Town of Whately Tax Assessors' Records, April 2006 and March 2007.