

# City of Kingston, New York

# Community Preservation Plan



Department of  
Environmental  
Conservation

Hudson River  
Estuary Program



**PUBLIC DRAFT: JANUARY 12, 2023**

PREPARED BY



PREPARED FOR  
The City of Kingston

*This project has been funded in part by a grant from the New York State Environmental Protection Fund through the Hudson River Estuary Program of the New York State Department of Environmental Conservation.*



# City of Kingston

# Community Preservation Plan

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*All photos provided by the City of Kingston and Behan Planning and Design unless otherwise noted.*

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# City of Kingston Community Preservation Plan

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- Table Listing Each Parcel with Resource Evaluation Score (sorted by address)

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# City of Kingston

# Community Preservation Plan

## ACRONYMS

- CPP Community Preservation Plan
- PAC Project Advisory Committee (of the City of Kingston)
- GIS Geographic Information System
- NRI Natural Resources Inventory
- NYS New York State
- NYSDEC New York State Department of Environmental Conservation
- NYNHP New York Natural Heritage Program (of the NYSDEC)
- OPRHP Office of Parks, Recreation and Historic Preservation (of NYS)
- OSP Open Space Plan

# Part 1

## Introduction

# Executive Summary

This Community Preservation Plan (CPP) for the City of Kingston was prepared to meet the requirements as set forth in the Hudson Valley Community Preservation Act. This legislation offers an excellent opportunity for the City to protect its open spaces, natural resources, environment, and community character. Such a program must be based on priorities identified in a CPP. This Plan advances the City's Open Space Plan and determines potential priority properties within the community that may be eligible for preservation. Successful outcomes for this CPP include the preservation of historic places, expansion of public access to the waterfront, preservation of natural areas, expansion of parks and the City's recreational trail system, among other similar goals. One unique aspect of a CPP is the potential to secure an ongoing source of funding as authorized by its enabling legislation from New York State.

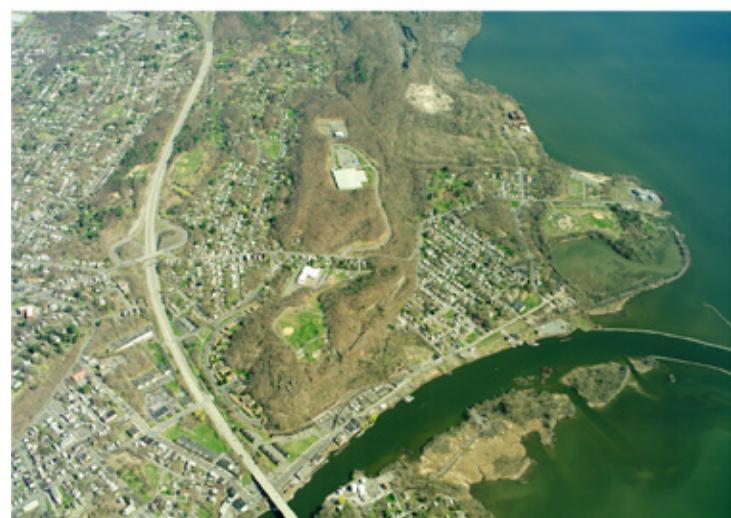
The adoption of a Community Preservation Plan for Kingston will allow the City to consider a public referendum which allows voters to decide whether to approve a tax on property sales exceeding the Ulster County median sale price to fund the purchase of land and conservation easements to protect water resources, preserve historic properties, develop trail systems, protect ecological resources, and other similar land conservation activities. If approved, this real estate transfer tax would provide an ongoing funding source through the parameters established for a dedicated Community Preservation Fund (CPF). Such a tax is a one-time fee paid by the buyer of

a property and can only be enacted through a referendum approved by Kingston residents. The fund gives the City leverage to seek matching funds from conservation organizations, private donors, and county, state and federal resources. The state requires that all properties under consideration for use of the fund be identified within the plan.

**The community preservation program is voluntary and funds can only be used to acquire properties or easements from willing landowners.** After adoption of the Community Preservation Plan, the establishment of this fund by the City is the next important step in accomplishing the community's preservation goals.

Following the adoption of the Kingston Open Space Plan and its accomplishments, including expansion of Kingston's trail system and the creation of Sojourner Truth State Park among others, the City aims to take advantage of new and additional opportunities to preserve and enhance Kingston's unique natural, historic, and cultural resources presented by the funding tools provided by the Community Preservation Act. This preservation plan builds upon several related City plans including the Comprehensive Plan, the Parks and Recreation Master Plan, as well as many other plans, studies, conservation strategies and efforts by the City and other partners.

## City of Kingston, New York OPEN SPACE PLAN



New York State Department of Environmental Conservation

FINAL: JUNE 25, 2019

PREPARED BY



PREPARED FOR

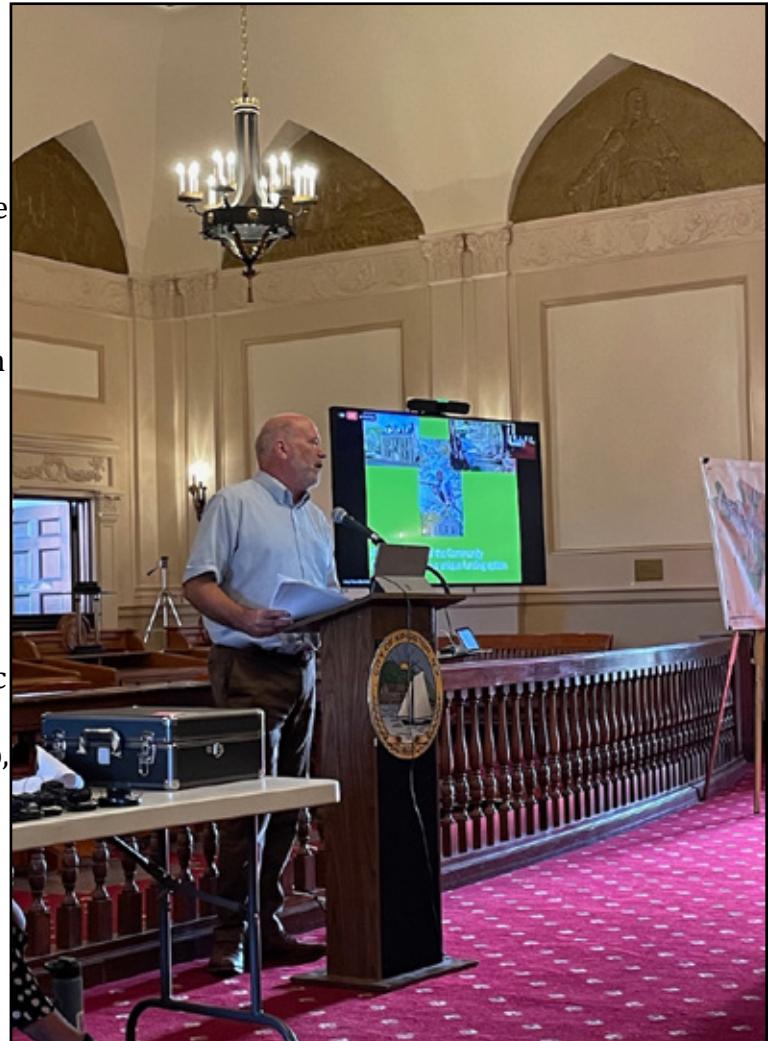
The City of Kingston and  
the Kingston Conservation  
Advisory Council

This project has been funded in part by a grant from the New York State Environmental Protection Fund through the Hudson River Estuary Program of the New York State Department of Environmental Conservation

# Background

In 2021, the City applied for and was awarded a grant to assist in the development of this Plan from the Environmental Protection Fund through the New York State Department of Environmental Conservation Hudson River Estuary Program. In 2022, City officials along with assistance from a Project Advisory Committee (PAC) comprised of residents and volunteers as well as a consultant team (Behan Planning and Design with Upstate GIS), began efforts to update and refine priorities outlined in the 2019 Kingston Open Space Plan by developing this Community Preservation Plan.

The PAC established to carry out development of the plan included representation from the City of Kingston Common Council, Heritage Area Commission, Climate Smart Kingston Commission, Historic Landmarks Preservation Commission, Kingston Tree Commission, Kingston Land Trust, Live Well Kingston Coalition, Scenic Hudson, Kingston Recreation Commission, Kingston Conservation Advisory Council, Hudson Valley Farm Hub, Friends of Historic Kingston, and Kingston Preservation, Inc. These stakeholders have been an integral part of the Plan development. The Project Advisory Committee helped determine the scope of the plan, provided technical input, contributed knowledge and shaped plan recommendations. Subsequent work of campaigning for a successful Community Preservation Fund will be contingent on stakeholders' participation.



*Consultant John Behan presenting at Kingston City Hall*



# Plan Elements

The following elements are included within the plan:

1. Real property parcels that would be eligible for preservation are listed according to the criteria in the Priority Scoring Matrix. This criteria outlines the underlying features important for preserving community character.
2. The project preservation resources, priority rankings and locations the City expects to pursue as it relates to the plan.
3. An evaluation of all available land use alternatives that seek to protect the City's character. The following is not an exhaustive list, but may include techniques as outlined in the state enabling legislation, which include:
  - a. Fee simple acquisition
  - b. Incentive zoning
  - c. Transfer of development rights
  - d. Purchase of development rights
  - e. Conservation easements
  - f. Cluster subdivision development
4. The plan provides opportunity to address a wide range of preservation projects including:
  - a. Establishment of parks, nature preserves, or recreation areas
  - b. Preservation of open space, including agricultural lands
  - c. Preservation of lands of exceptional scenic value
  - d. Preservation of freshwater wetlands
  - e. Preservation of aquifer recharge areas
  - f. Establishment and/or preservation of access to water bodies

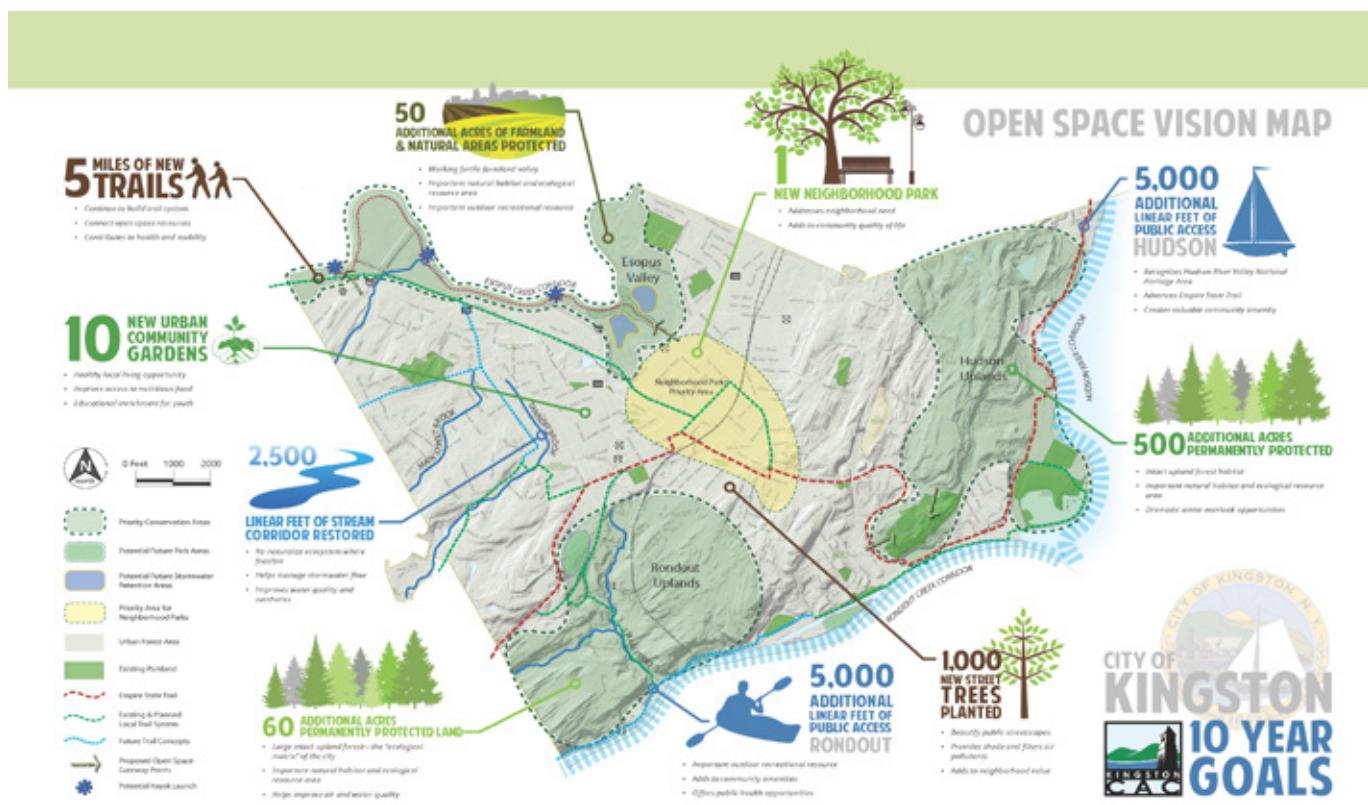


*Residents gathering outside for Music in the Parks*

# Plan Elements

- g. Establishment of wildlife refuges for the purposes of maintaining biodiversity and native animal species diversity, including the protection of habitats essential to rare, endangered, threatened, or special concern species
- h. Preservation of unique or threatened ecological areas
- i. Preservation of streams and stream buffer areas in a natural, free flowing condition
- j. Preservation of unique forested lands
- k. Establishment and/or preservation of public access to lands for public use including trails, stream rights, and waterways
- l. Preservation of historic places and properties listed on the National and/or New York State Registers of Historic Places and/or protected under a municipal historic preservation law
- m. Undertaking any of the aforementioned in furtherance of the establishment of a greenbelt

As community preservation projects are completed, the City recognizes the need to reassess priorities considering significant achievements, new opportunities, and emerging threats. As discussed in the City's Open Space Plan and other related plans, priority preservation elements include: the Esopus Valley, Hudson Uplands, Rondout Uplands, forests, wildlife corridors, wetlands near the Esopus Creek, Rondout Creek and Hudson River, cultural and recreation resources, historic places and scenic corridors, trails and public access.



Kingston Open Space Plan Vision Map

# Plan Elements

Recent examples of preservation work include City-sponsored projects and projects led by other organizations. The Kingston Greenline, a network of trails and complete streets, has expanded with the completion of the Midtown Linear Park and the Brickyard Trail, all of which are part of Empire State Trail. Many parcels of land have been protected by the work of several partners including the Kingston Land Trust, the Friends of Historic Kingston, Scenic Hudson, the Farm Hub, the Northeast Cave Conservancy and others. These commitments illustrate the value of protection to the community, but many other areas are important to achieving the conservation targets established in the City's Open Space Plan and to address community priorities for conservation of historic resources. Recognizing challenges presented by extreme weather events and other climate-related concerns, this Plan presents an opportunity to integrate and address resilience and adaptation to climate change into project priorities.

## Summary

To help inform the community discussion during the public outreach process, potential preservation activities were organized around ten project types as provided for in the enabling legislation. These include the expansion and/or preservation of:

- Parks
- Recreational trails
- Public access to water resources
- Ecological stormwater management areas
- Historic and/or cultural sites and places
- Viable agricultural land/areas for community gardens
- Land with scenic vistas
- Forested lands
- Floodplains



*Sojourner Truth Park view across the Hudson*

On Earth Day 2022, New York State Parks, the Palisades Interstate Park Commission and Scenic Hudson announced the opening of Sojourner Truth State Park along the Hudson River shoreline. Located on 500 acres of former industrial land, this is the first state park in the City of Kingston and the Town of Ulster, and the first new state park to open since July 2019.

## Part 2

# Community Preservation Focus Areas, Parcels & Priorities

# Methodology, Resource Scoring, and Maps

## Overview of the Planning Process

In 2021, Behan Planning and Design, a land-use planning consulting firm based in Saratoga Springs, was selected to assist the City of Kingston with the preparation of this Plan. (This same firm also prepared the Kingston Open Space Plan.) The Plan was overseen by City staff along with the Kingston Project Advisory Committee, who met regularly to review information and coordinate decisions with the consulting team.

Among other duties, the PAC helped guide the public outreach activities related to the development of the plan. It was important that the public was offered adequate opportunity to provide input to the Plan and lend their ideas and concerns. A community survey was developed by the consultant with input from PAC members. A brief questionnaire was prepared and made available in both online and hard copy (paper) format. The survey, as well as an online mapping tool, was launched in May of 2022 on the Engage Kingston website. City staff and consultants hosted a public meeting at City Hall on June 14, 2022, which was also live-streamed to enable remote participation. The input gathered from this public workshop meeting included consideration of the community survey results. This input was used to refine the recommendations from the Open Space Plan for more detailed prioritization using the guidelines of the Community Preservation Act. The workshop participants provided a variety of suggestions on many facets of recreation, open space and cultural resources protection. The PAC and consultants met to review the summary material from the workshop and discuss the potential projects derived from public input. A review was also conducted to determine if there were additional considerations that should be incorporated into the plan as well as where more public outreach efforts could be provided.

Data from the City's Natural Resource Inventory (NRI) was used to develop a series of resource-analysis maps in GIS (Geographic Information Systems). These maps document the geographic location of various natural and cultural resources found throughout the City. Consulting team member Upstate GIS, using some of the resource prioritization input from the Open Space Plan, developed a scoring system for each of the various resources and built upon these categories to create a prioritization matrix. Areas where more of these resources overlapped received a higher score. This allowed users to visualize which parcels are considered most important or in need of preservation. When combined, the overall maps were used to identify priority areas for preservation.



*At the public meeting for this CPP, participants at each table were invited to draw on maps to share their ideas for community enhancements.*

# Methodology, Resource Scoring, and Maps

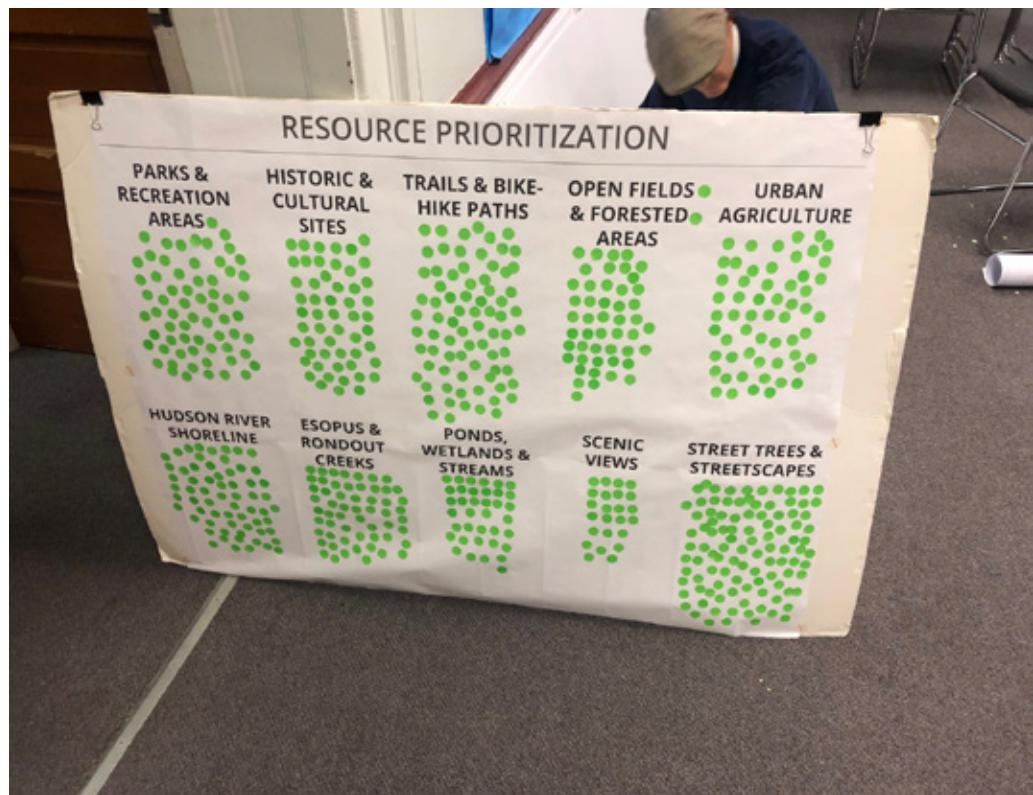
## Public Outreach Program

Consultants worked with City staff and the Project Advisory Committee to develop a public outreach program to help secure community input to the Community Preservation Plan. The City's Engage Kingston website and social media pages were used to disseminate information relating to the CPP. In addition, PAC members also reached out to their constituencies to share information on how to provide input to the planning process. Consultants provided content for both City staff and PAC members to use for the Engage Kingston website and social media, including content on the start of the program with a link to an overview of the public outreach plan and project schedule.

A kick-off meeting by the Behan team with the PAC identified the PAC member's initial thoughts and observations, community preservation values, and helped refine the resource preservation priorities from the Open Space Plan for further review with the larger community. The consultants also worked with the City staff to prepare the meeting agenda and materials and to facilitate outreach with stakeholders including residents, developers, landowners, appointed and elected officials, and other stakeholders. Additional meetings were held by the PAC over the course of the project to provide feedback on project milestones.

The public meeting, held in June of 2022, included live Spanish translation services, and as mentioned previously, was live-streamed to provide remote participation. The agenda included a brief presentation on the project background and overview of the planning process. A series of large format maps of the natural and cultural resources of the City were made available for participants. Smaller groups were seated around a set of tables arranged by the following suggested discussion themes to initiate conversation with members of the consultant team, City staff and PAC members present:

- Open space/habitat
- Recreation and trails
- Historic resources
- Urban agriculture/ community gardens
- Water resources
- General including scenic resources and any topic



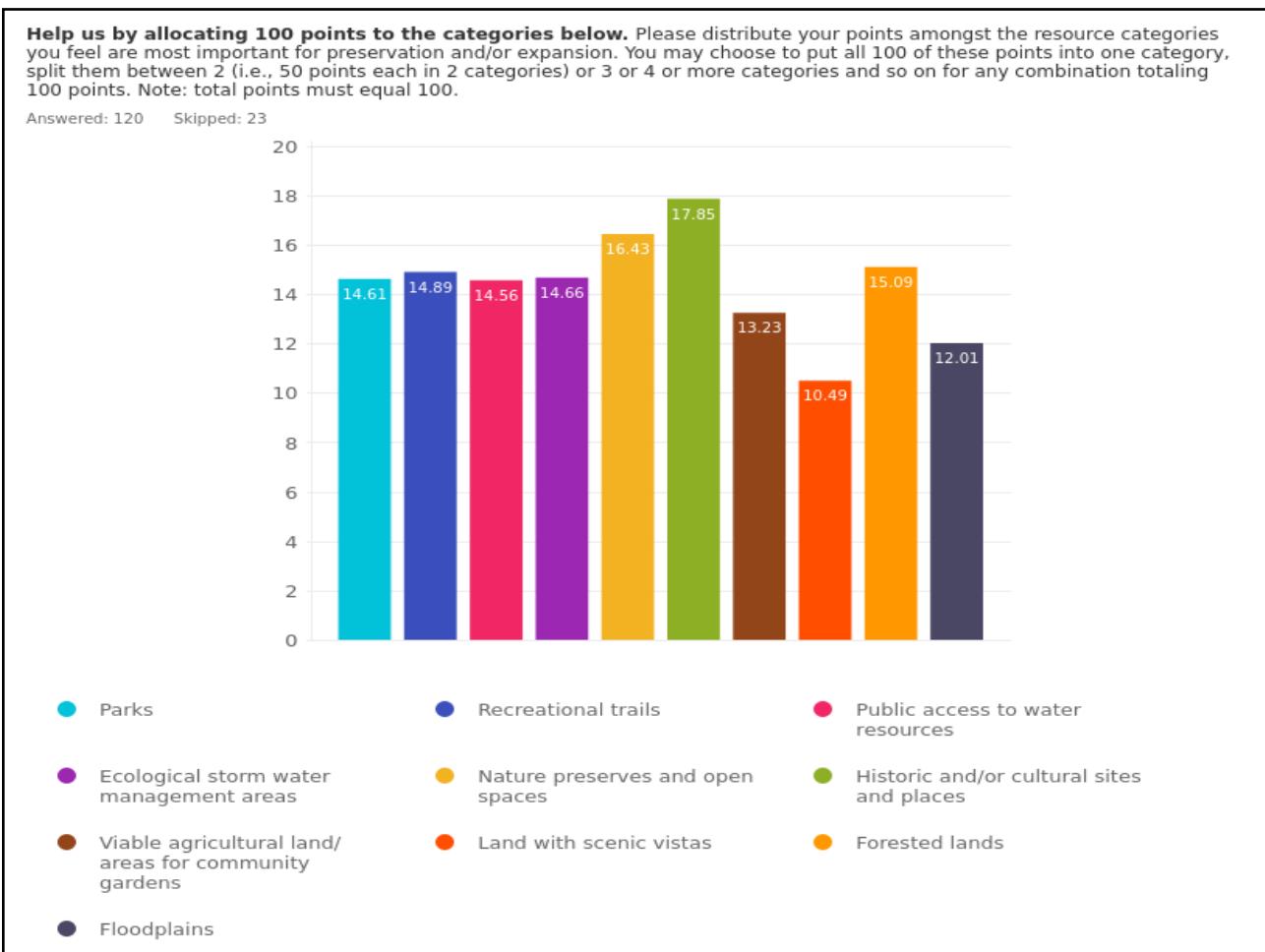
*Public input from development of the Open Space Plan provided foundation for the Community Preservation Plan.*

# Methodology, Resource Scoring, and Maps

Participants reviewed the maps, presented their thoughts, and marked up the maps identifying potential areas for preservation and related items of interest. Each table selected a representative to share some of the highlights of their discussion.

A community survey was conducted in the Spring of 2022 through the Summer of 2022 to garner public input on priority areas for preservation. The survey was available online at Engage Kingston and PAC members participated in multiple community events and outreach with the print version. Print versions included the same questions as well as a Spanish language version. The survey received 144 responses total with results reflecting, in general, a relatively even distribution among preservation project types. A closer look shows historic and/or cultural sites and places received a higher rating than other categories (17.8%). And nature preserves and open spaces (16.43%) as well as forested lands (15.09%) followed close behind.

Of the ten categories, the remaining project types ranked very closely; parks, recreational trails, public access to water resources, and ecological stormwater management areas all fell within a point of each other. It is important to note that while participants were asked to allocate their 100 points to the categories they felt were most important for preservation and expansion, this does not necessarily mean that the “lowest” ranked resource, land with scenic vistas (10.49%), is not of importance—it was simply considered of lower relative importance by the survey participants.



# Methodology, Resource Scoring, and Maps

In addition to the questionnaire format survey, the online mapping tool was made available for public input. The mapping tool was designed around a base map of the City and allowed users to click on a preservation category (e.g., passive park or green space, historic or cultural resource site, trail destination, etc.) and then place an icon representing that resource type on the map. Map users could also add text to the document for additional thoughts.

The survey results helped supplement and inform the refinement of the priority ranking system established in the already adopted Open Space Plan, along with other input and considerations by the PAC.

## Preservation Categories

This section gives a broad and inclusive description of the resource preservation categories in the City of Kingston. As discussed previously, the Open Space Plan provided the foundation for the organization of the preservation categories in this Community Preservation Plan. The Plan includes a listing of all parcels in the community that possess natural and cultural resources that have been identified in the City's plans as worthy of preservation.

State law requires that individual parcels of land must be identified and considered for preservation in a CPP before they can be considered for preservation using funds from a Community Preservation Fund. The City's priorities for preservation have been identified based upon this CPP and past planning efforts and these include parcels that fit within these broad categories:

1. Water and Wetland Resources
2. Agricultural Resources
3. Ecological Resources
4. Cultural and Recreational Resources

The intent of this CPP is to supplement, but not supplant, the prior related plans and policy priorities of the City related to community preservation, each of which serves as a reference for additional detailed information on resource values. Below is a brief overview of the resource categories:

## Water and Wetland Resources

Kingston is in the Hudson River Estuary watershed, which includes the tributaries of the Rondout and Esopus Creeks. The Rondout supports unique and critical ecosystems such as tidal wetlands and local fisheries. Both the Rondout and the Hudson River act as important water resources for the City by linking it to commercial and recreational travel. These areas also increasingly support activities such as recreational paddle sports and sport fishing. In addition, the Hudson River is a source of drinking water for many municipalities down river. Along with their important role in the ecosystem, the preservation of water resources becomes increasingly important as buffers for flood damage prevention. These areas also include substantial wetlands and floodplains.

# Methodology, Resource Scoring, and Maps

The Hudson River continues to face a number of water quality challenges from years of industrialized use. The effects from human impact of filled wetlands and floodplains, as well as heavily engineered shoreline, have jeopardized the area. Additionally, the presence of invasive species is an on-going threat to the Hudson's native ecosystem. The Hudson has made notable strides in recent decades thanks to federal, state, and local legislation aimed at preventing and mitigating pollution. Successful preservation of this area will need to be on-going in order to ensure its protection.

The Rondout Creek is an important tidal estuary that provides necessary habitat for migratory fish to reproduce and many species to overwinter. The Rondout Creek Corridor is a destination for tourism and recreation for the City. This area offers historic sites, marinas and other docking facilities, water dependent industry, restaurants, and waterfront attractions that help provide economic opportunity to the community. The Esopus Creek, running North of Kingston, also contains important wetland and floodplain regions that support a number of vulnerable, threatened, and endangered species and habitats. Additionally, rich soils contribute to farming activities in many Ulster County agricultural districts, including the nearby Town of Ulster. The Esopus sustains several water-related recreational activities, such as fishing, kayaking, and paddleboarding.

Other significant tributary streams within the City include Main Street Brook, Tannery Brook and the Twaalfskill system. Protecting these tributaries will be important in protecting the quality of their receiving waters. Reducing sediment and pollutant loading by preserving and restoring natural features in the City's watersheds can improve the welfare of the receiving waters.



*Aerial view of Kingston and the outlet of the Rondout Creek to the Hudson River.  
Image source: Robert Rodriguez, Jr., courtesy of Scenic Hudson*

## Methodology, Resource Scoring, and Maps

## Agricultural Resources

## Ecological Resources



*The Rondout Garden stewards, Sasha and Danielle.*

# Methodology, Resource Scoring, and Maps

The Natural Resources Inventory and related prior studies considered forest resources to be among the more important ecological features within Kingston. Both for its area and extent, Kingston's urban forest contributes greatly to a number of community benefits. These include:

- Air quality – through removing pollutants, ground-level ozone and particulates.
- Water quality and resiliency to flood damage – by slowing precipitation and run-off, stabilizing soils and slopes, taking up nutrients and allowing water to recharge local aquifers before sediment-laden run-off contributes to the stormwater system and local streams.
- Energy conservation – by helping to keep streets and neighborhoods cool, mitigating “urban heat islands” in summer.
- Climate change – through carbon uptake and sequestration both above and below ground.
- Human health and well-being – both physical and mental, they lessen ambient noise, add to scenic and aesthetic beauty and add an overall enhanced sense of quality of life.
- Critical habitat, food, and biodiversity resources - for both resident and migratory birds, mammals, and important pollinator insects.

## Cultural and Recreational Resources

Historic and cultural resources are crucial factors with respect to community identity and quality of life. The preservation of places of historic value, including resources of historic significance, is key to community well-being as well as economic stability and development. Kingston is rich in historic and cultural resources including pre-contact Native American sites and the Pine Street African Burial Ground.

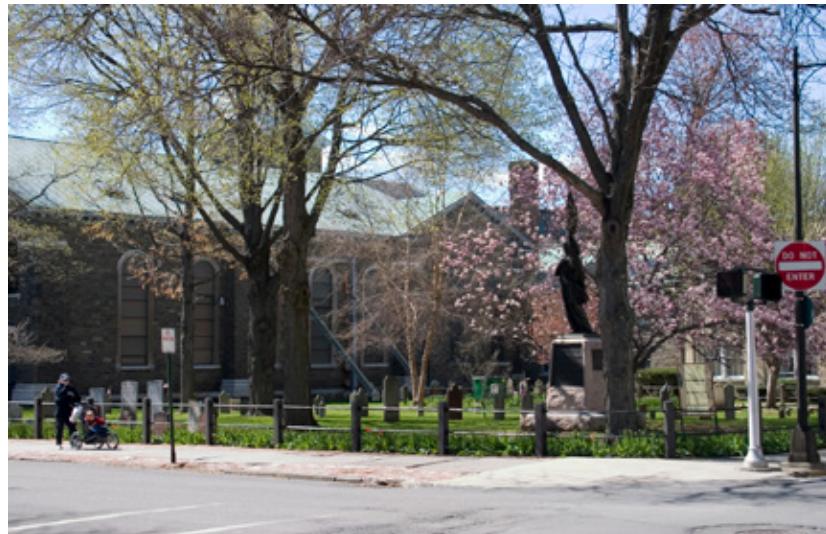
Historic districts in Kingston include the Stockade Historic District, the Rondout Historic District, and Chestnut Street Historic District. These three districts are all listed on the National and State Historic Registers and listed locally through the Historic Landmarks Preservation Commission as local landmarks. Additionally, the Fair Street Historic District, with significant 19th century structures, is a local landmark district only. The Old Dutch Church, located in the Stockade Historic District, is a National Landmark. Numerous significant structures dating from the 18th to early 20th centuries are listed either on the National and State Historic Registers and/or recognized locally through the Historic Landmarks Preservation Commission as local landmarks.

Considering historic properties as part of this Community Preservation Plan and continuing to collaborate with landowners interested in preservation can help conserve the rich historic and cultural legacy for the benefit of future generations.

# Methodology, Resource Scoring, and Maps

Outdoor recreation resources in Kingston address a wide range of needs, from athletic fields to passive parks, greenway trails/linear parks and waterfront promenades, canoe and kayak launches, swimming facilities and many others. As noted in the Natural Resources Inventory:

*Parks serve few more important roles than as havens and solace from the pressures and intensity of modern urban life. They provide wide arrays of resources and services across the spectrum of human and natural lives. As cultural and social centers as well as open and green spaces they offer destinations where we gather, meet, share, garden, recreate, exercise, walk our pets or allow kids to release some steam. For many, the opportunity to relax alone and enjoy some sun on the face and the fresh air of a warm day in spring ranks as one of life's great pleasures. Aspects as amorphous and intangible as beauty and quality of life are commonly associated with abundant green and open spaces . . .*



*Old Dutch Church and Cemetery*

This Community Preservation Plan looks ahead to continue to address community needs for parks and related recreation spaces as noted in the Open Space Plan and other City plans. One of these projects includes creating a new neighborhood park in Midtown to address the dire need for this area that has been described as a “park desert”, and to serve a core environmental justice area of the City. Expanding the City’s trail system is another opportunity to interconnect City neighborhoods to schools, the waterfront and other important community destinations.

## **Establishing Priority Parcels for Preservation**

In order to successfully implement the Plan, an inventory of parcels within the City, with consideration to their respective attributes for preservation, is necessary. Through GIS mapping, geographic research, and field inventories, an examination of Kingston’s existing conditions was completed as the preliminary step in designing this plan—fortunately, much of this underlying research was established by prior studies as previously discussed.

# Methodology, Resource Scoring, and Maps

Adoption of a CPP can help further advance preservation efforts for parcels that have previously been identified as containing a number of naturally and/or culturally significant resources. The Community Preservation Fund is a voluntary program and landowners must be willing to participate in order to carry out the program's goals. Further, there will be a need to establish incremental targets for preservation. Ideally, these targets are based upon the same targets identified in the Open Space Plan, the level of landowner interest in participating, and fall within the limits of funding availability. Once funding for CPF has been established, the future Community Preservation Fund Advisory Board can identify which targets have yet to be reached and create a framework to accomplish these goals.

The following scoring criteria table, as well as the map and parcel analysis, provide the City with a helpful tool in refining the list of future preservation projects. With an adopted CPP, these technical tools can be used by a future Community Preservation Fund Advisory Board in making recommendations for preservation projects to the City's Common Council. In addition, the parcel analysis will also be a useful tool for the Planning Board, and other local boards and commissions, when evaluating proposed land uses in the City.

Within the four preservation categories (see page 10), a total of 25 preservation criteria ("features") were identified for mapping purposes, which reflect resources or attributes of preservation value in Kingston. The scoring criteria for the parcels was created together by City staff, state agencies, and private consultants. The Project Advisory Committee provided feedback on the draft parcel rating system and the consultants made adjustments to create the final version. Each criterion in the table was given a score of 1 - 4 to reflect the relative priority of importance

expressed by Kingston residents in the 2022 community survey and in the 2019 Open Space Plan. Scores for each parcel were determined by adding all possible points per category for a total score. See table entitled Priority Parcel Scoring (pages following) for a breakdown of the scoring criteria and point values utilized in the parcel evaluation.



*Community members gathering together at the Fall Festival.*

## Kington NY Community Preservation Plan – Priority Parcel Scoring

### Water & Wetland Resources - Prioritization Scoring Criteria

| Feature   | Points  | Notes  |
|---|---|--|
| NYSDEC Wetlands and 100' regulated buffer area                                | 3 points  | NYSDEC wetlands are important to water quality due to their size (12.4+ acre).   |
| National Wetland Inventory wetlands and 100' buffer ( <i>outside NYSDEC</i> ) | 3 points: $\leq 100'$ from DEC Wetland<br>2 points: $> 100'$ from DEC Wetland   | NWI wetlands within 100' of DEC wetland are considered contributing to the NYSDEC network, regardless of size and thus also receive 3 points.  |
| Other wetlands and hydric soils   | 2 points  |  |
| Scenic Hudson SLAMM tidal wetland data  | 4 points: "Resilient" wetlands<br>4 points: "New wetlands"<br>1 points: "new wetland conflict"<br><i>Conflict refers to areas that are currently developed</i>  | Scenic Hudson modeled future wetlands based on sea level rise models and classified areas that would lose wetlands (lost), maintain wetlands (resilient), and gain wetlands (new or new with conflict). Areas that will maintain wetlands or are areas that could support future wetlands are most important in terms of climate resiliency. |
| Riparian buffers  | 3 points  | Important for habitat and stream water quality   |
| Surface waters and streams  | 3 points: within 100' of Class AA or A<br>2 points: from 100-200' of Class AA or A<br>2 points: all non-AA/A surface waters and/or within 100' of Class B, Class C(T) or (TS)<br>1 point: within 100' of Class C<br>1 pt – within 50' of All others | For area of overlapping water buffers the highest order buffer is used, buffer areas are not "double counted." Since riparian areas are a more defined type of buffer, the riparian score supersedes the stream buffer score in areas of overlap.  |
| Floodplains   | 1 points: floodplain areas outside of other water buffer zones  |  |
| Unconfined aquifers   | 2 points  | Potential drinking water source, susceptible to contamination  |
| Vernal pools  | 3 points: Vernal pool plus 300' buffer  |  |

### Agricultural Resources - Prioritization Scoring Criteria

| Feature         | Points   | Notes   |
|-----------------|--|---|
| Active Farmland | 4 points: $\geq 8$ acres<br>3 points: 1-7 acres                                | Larger areas of farmland provide greater production value and are also more critical to keep in production. |
| Farmland Soils  | 3 points: Prime<br>2 points: Statewide Importance<br>1 point: Prime if drained | Farmland soils, in theory, provide the best conditions for successful agricultural crops                    |

## **Ecological Resources - Prioritization Scoring Criteria**

| <b>Feature</b>                            | <b>Points</b>  | <b>Notes</b>  |
|---|--|---|
| Biologically Important Area - Terrestrial | 3 points   |   |
| Biologically Important Area - Aquatic     | 3 points   |   |
| NYNHP Important Areas                     | 2 points   | Only areas outside the locally mapped BIAs  |
| Unfragmented Forests                      | 3 points Forest Core<br>1 Point Forest Edge  | HREP data of forests blocks 100+ acres in size  |
| Terrestrial corridors                     | 2 points   |   |
| Sub Aquatic Vegetation                    | 2 points   | Areas within 100 feet of sub aquatic vegetation   |
| Ecological Climate Resiliency             | 4 points: Far Above Average (>2 SD)<br>3 points: Above Average (1 SD to 2 SD)<br>2 points: Slightly Above Average (0.5 to 1 SD)<br>1 point: Average (-0.5 to 0.5 SD) | The Nature Conservancy (TNC) did an extensive analysis for climate resilient landscapes and their results were used as the basis for the scoring. |

## **Cultural & Recreation Resources - Prioritization Scoring Criteria**

| <b>Feature</b>                          | <b>Points</b>   | <b>Notes</b>   |
|---|---|--|
| Historic and Cultural Sites             | 4 points  | Parcels within historic districts or contain historic properties                                     |
| Existing Parks                          | 2 points: adjacent to existing parks<br>1 point: adjacent to adjacent parcels   | Parcels adjacent to parks or one parcel removed could be used to expand existing park facilities     |
| Park Needs                              | 2 points: > ½-mile to nearest park and within ¼-mile environmental justice area<br>1 point: > ½-mile to nearest park and within ¼-mile moderate-high density area | Making sure as many people have access to parks as possible  |
| Existing and planned trails             | 3 Points: within 75' corridor and in EJA<br>2 Points: within 75' corridor<br>1 point: within 200' corridor  |  |
| Community Food and Pollinator Gardens   | 3 points  | Locations from Grow Well Community Garden Map  |
| Adjacent to School Districts Properties | 2 points  | This is a "bonus" for parcels that are already getting points from any of the other categories       |
| Natural or Conservation Zoning          | 2 Points: Located in Natural Zoning District<br>1 Point: Located in Conservation Zoning District  | The intent of these districts is to promote preservation of open space and protect natural resources |

# Methodology, Resource Scoring, and Maps

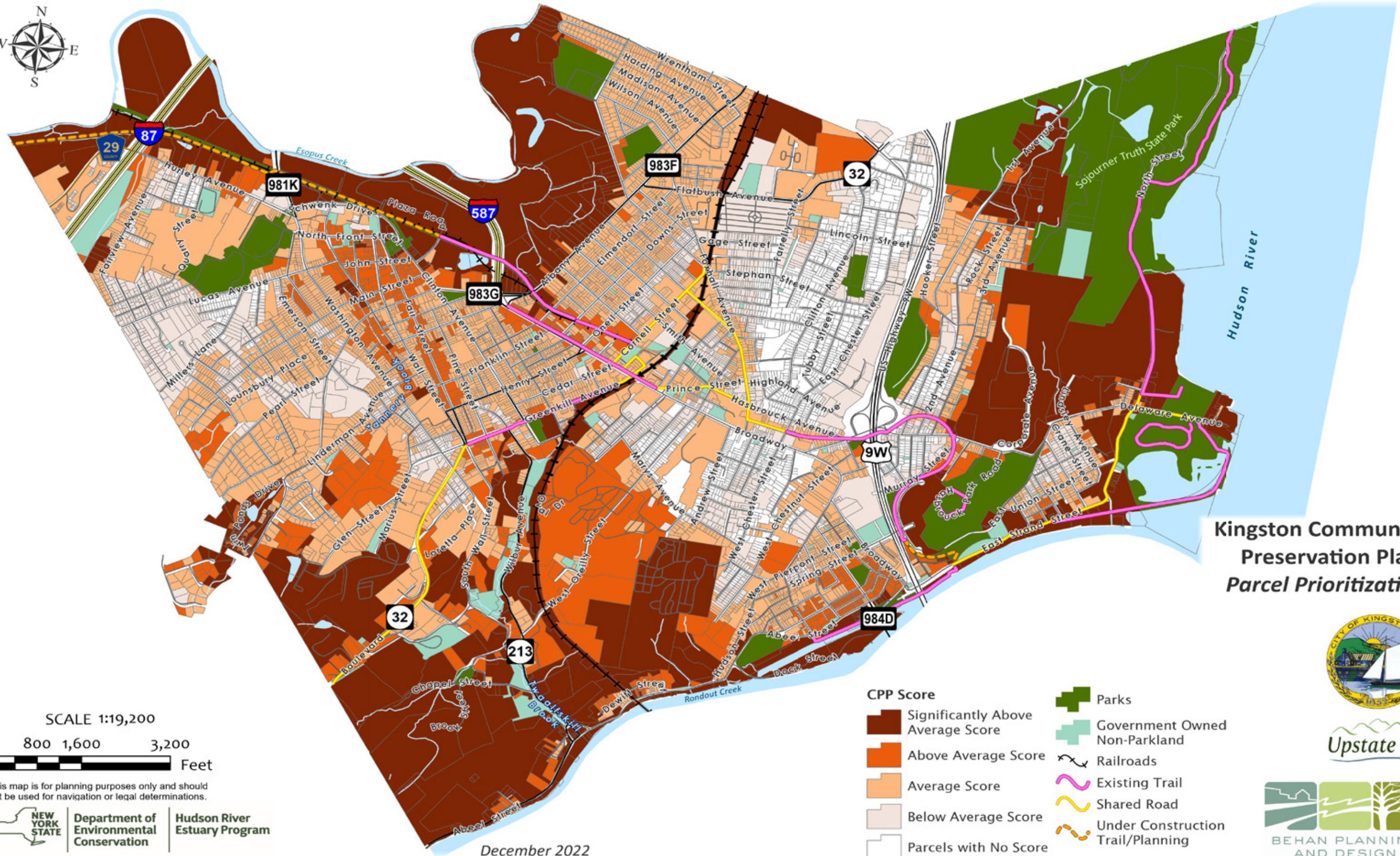
## Map of Parcel Prioritization

As noted above, individual resource scores were assigned to each parcel based on the presence of a resource on the parcel regardless of size/percentage coverage. The sum of all those resource scores was then used to give each parcel a total priority score. The map entitled "Parcel Prioritization" (page following) depicts the results of the analysis, graphically organizing the total score for each parcel grouped into one of four priority tiers: (1) significantly above average score, (2) above average score, (3) average score, and (4) below average score. (The average [mean] score are those scores immediately on either side of, and including, the average for the non-zero data. The above and below average scores are between the average score range and approximately one standard deviation away from the average. The significantly above average is more than one standard deviation away from the average.)

Parcels that had no points are shown as white space on the map. **Parcels that receive a score of 1 or above are considered eligible for CPP funding.** Parcels currently owned by the City of Kingston are not eligible for future CPP capital funding, however, if City-owned properties become part of a community preservation project, the subject property would be eligible for funding of stewardship-related activities. A provision for up to 10% expenditure of the CPF may go to stewardship costs. Examples include, easement monitoring, recreation improvements, or maintenance. New York State parkland parcels are excluded, as they are considered permanently protected. The parcel scores can be used to identify parcels with high concentrations of natural and cultural resources, as well as priorities for specific types of resources. The Appendices includes a link to the complete CPP Parcel Scores Table, which lists each parcel within the City that received one point or more in the parcel rating system. In addition, the PDF of the score table includes the sub scores for each of the four major resource categories established in the priority parcel scoring criteria: Water and Wetland Resources, Agricultural Resources, Ecological Resources and Cultural & Recreational Resources. A link to a set of PDF maps representing each of these four preservation categories are also provided in the Appendices.

In Part 3, alternative land preservation tools have been identified that can help the future Community Preservation Fund Advisory Board and other agencies understand the options for preserving land. These include, among others, tax abatements/incentives, clustering, zoning-based mechanisms, public/private partnerships including purchase of development rights and conservation easements and other cooperative agreements with private landowners.

(Please note that any geographic analysis will have limitations. For example, new data may suggest potential changes to resource mapping, e.g. water courses can change paths, natural processes can modify landforms, field verification may cause resource boundaries to be adjusted, etc. Not all community values can be easily captured in mapped data and individual priorities may not match the priorities established in a mapping criterion. Looking to future project development, certain landowners may be interested in a future community preservation project on their property while another landowner (whose property is ranked higher in priority, for example) may not be interested at all. Hence, the mapped priorities may not necessarily represent the actual set of lands that would be the first preserved under a CPP project. While the mapping is informative and important, it should not be considered the single or definitive determinant of project selection by a future Community Preservation Board or the City Government.)



## Kingston Community Preservation Plan: *Parcel Prioritization*



Upstate GIS



This map is for planning purposes only and should not be used for navigation or legal determinations.

This map is for planning purposes only and should

not be used for navigation or legal determinations.

The logo for New York State, featuring a stylized outline of the state's shape in black, with the words "NEW YORK STATE" in a bold, black, sans-serif font to its right.

## Department of Environmental Conservation

## Hudson River Estuary Program

December 2022



## **Part 3**

# **Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character**

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

The evaluation of alternative protection techniques outlined below in the table entitled *Existing Land Use Controls and Strategies to Protect Community Character* presents a number of categories of land use controls. These include City laws, ordinances, regulations, as well as public sector and private/individual strategies to preserve Kingston's natural resources and historic community character. Each technique is referenced with its respective corresponding Chapter or Section of the City Code as well as an identification number.

| Existing Land Use Controls and Strategies to Protect Community Character |                                      |   |
|--|--------------------------------------|---|
| ID No.   | City Code/Reference                  | Description/Program Reference   |
| 1  | § 205-7/NYS Law                      | Tax Abatements/Incentives   |
| 2  | §347-1                               | Site Plan Review  |
| 3  | Ch. 353                              | Stormwater Management and Erosion Sediment Control  |
| 4  | §405 Article IX and Ch. 22 Art IV    | Conservation Advisory Council, Historic Landmarks Preservation Commission and Heritage Area Commission  |
| 5  | §373-5                               | Tree Commission   |
| 6  | §405                                 | Zoning Law  |
| 7  | §405-25                              | Zoning Law – RF-R Rondout Creek and RF-H Hudson Riverfront Districts  |
| 8  | §405-26                              | Zoning Law – Flood Hazard Overlay District  |
| 9  | §405-27.2                            | Zoning Law – TNDOD Traditional Neighborhood Development Overlay District  |
| 10   | §405-31.2                            | Zoning Law – Broadway Overlay District Design Standards   |
| 11   | §405-35                              | Zoning Law – Cluster Developments   |
| 12   | Fee Simple Acquisition               | City Community Preservation Fund*<br>County, State, and Federal Funds*<br>U.S. Dept. of Agriculture*<br>Intergovernmental Transfers*<br>Public/Private Partnerships*<br>Combinations of the above   |
| 13   | Private Land Conservation Strategies | Conservation Easements<br>Purchase of Development Rights (PDR)<br>Transfer of Development Rights (TDR)<br>Bargain Sale/Land Donation<br>Tax Exempt Installment Sale**<br>Like Kind Exchange**<br>Limited Development**<br>Family Limited Partnership**<br>Charitable Remainder Trust**<br>Combinations of the above |
|  | Footnotes                            | *These represent funding sources and approaches to securing fee simple title to property for community preservation purposes.<br>**These techniques are listed for future reference/consideration. Detailed descriptions are not provided in the narrative below.   |

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

A summary of the available land use protection alternatives listed in the above table, including a brief discussion of an assessment of the alternative's effectiveness for community preservation, is described below.

## 1. Tax Abatements/Incentives

This incentive, discussed in City Code section 205-7, relates to the City's Economic Development Zone. This was an older program of New York State that encouraged provision of real property tax incentives and similar tools to spur reinvestment in state-designated economic development zones (EDZs).

While this EDZ incentive would not likely have much application for CPP projects, other tax abatements authorized by state law have been used to help reduce tax burdens for property owners of land in certain community/conservation type of uses such as farmland.

Tax benefits for qualifying farmland/farm operations and working forest land can help reduce tax burden on these properties. Land outside an agricultural district may qualify for an agricultural assessment, however, there is no agricultural district in the City of Kingston, so this could be applicable to any qualified agricultural parcel in the City. The requirements and application procedure are the same as for land in an agricultural district. However, land located outside of an established agricultural district that receives agricultural assessment is required to remain in agricultural use for eight years (land within an agricultural district is encumbered for five years) or be subject to a payment for conversion to non-agricultural use. Land generally must consist of seven or more acres that were used in the preceding two years for the production for sale of crops, livestock, or livestock products. The annual gross sales of agricultural products generally must average \$10,000 or more for the preceding two years.



*Kingston elementary students walking in Uptown neighborhood*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

Forest land owners have a similar program available, however, the minimum acreage requirement is 50 acres. Forest land enrolled in the program receives an annual property tax exemption of up to 80%, which can result in significantly less local taxes (school, county, and municipal) for the landowner. In return, the landowner commits the land to the production of forest crops for the next succeeding 10 years.

An income tax credit is available to homeowners of historic homes. The New York State Historic Homeowner Tax Credit Program will cover 20% of qualified rehabilitation costs of owner-occupied historic houses, up to a credit value of \$50,000. Among the requirements include the building must be individually listed in the State or National Register of Historic Places, or in a listed historic district. A similar tax credit program is available for owners of historic income-producing properties.

## 2. Site Plan Review

The City of Kingston has stipulations in its residential site plan review provisions in City code for the preservation of parkland. The Planning Board may require that a subdivision or site plan containing residential units also contain a park or parks, or playground suitably located for these or other recreational purposes. Before the Planning Board will require that land be reserved for a park, playground, or other recreational purposes, it must make a finding that such requirement is warranted. This would include an evaluation of the present and anticipated future needs for park and recreational purposes in the City based on the projected population growth to which the site plan and/or subdivision will contribute, in consultation with the Parks and Recreation Department of the City of Kingston.

The City of Kingston currently has a mechanism by which to establish dedicated funds for parks and parkland. If a park or parks of adequate size cannot be properly located on a site or subdivision, the Planning Board may exercise the authority to require a payment to the City of Kingston in lieu of such dedicated parkland in a sum equal to \$3,000 per dwelling unit/lot created above four units/lots. These monies are set aside in a recreation fee reserve fund to be used exclusively for park, playground or other recreational purposes, including acquisition of property for use as parks or playgrounds.



*Kids using the disc golf improvements at Kingston Point Park*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

It is important to note that site plan review procedures have been successfully used to help mitigate some impacts related to development projects. However, site plan review may not be a sufficient tool to fully protect natural and cultural resources that would otherwise be lost or damaged as a development that is otherwise a permitted use. The planning board's review authority is limited to matters directly related to and incidental to a proposed site plan.

Note: Proposed City-wide rezoning, under review at the time of this publication, has a section titled Usable Open Space Standards that describes open space requirements in new development. This new zoning section is intended to achieve the same objectives as the above type of requirements. The FBC has several other areas where open space protection is required including the TC2 zone that requires up to 50 percent of a large site (greater than two acres) be preserved for open space and natural resource protection.

## **3. Stormwater Management and Erosion Sediment Control**

The City's stormwater management rules establish minimum stormwater management requirements and controls to protect and safeguard the general health, safety, and welfare of the public in the City of Kingston. The objectives of these rules is to meet the requirements of the state pollution discharge elimination system (SPDES) general permit for stormwater discharges from municipal separate stormwater sewer systems (MS4s). Land development activities must conform to the substantive requirements (SPDES) general permit for construction activities.



*Aerial view of Sojourner Truth State Park*

*Image source: Robert Rodriguez, Jr., courtesy of Scenic Hudson*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

These regulations are intended to minimize increases in stormwater runoff from land development activities in order to reduce flooding, siltation, increases in stream temperature and stream bank erosion, maintain integrity of stream channels, and minimize increases in pollution caused by stormwater runoff from development, which would otherwise degrade local water quality.

Further, these regulations may help minimize the volume of stormwater runoff which flows from any specific site during and following development to the maximum extent practicable. For development projects, these rules reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution through stormwater management practices. They include provisions so that these management practices are properly maintained and eliminate threats to public safety. Provisions for the long-term responsibility for and maintenance of both structural and nonstructural stormwater control facilities and management practices are required to ensure that they continue to function as designed, are adequately maintained, and pose no threat to public safety. Stormwater regulations are a helpful tool to mitigate impacts—particularly as part of a construction project, but these regulations are not adequate or fully applicable to retrofit existing natural drainage features that have been damaged or compromised as part of urban development and these regulations cannot fully prevent loss of natural resources.

## **4. Conservation Advisory Council, Historic Landmarks Preservation Commission and Heritage Area Commission**

The Conservation Advisory Council (CAC) serves in an advisory capacity to ensure the conservation of the City of Kingston's natural resources and the enhancement and protection of its environment. While the CAC lacks decision making authority, it has been an important advocate for the protection of Kingston's natural resources and has spearheaded several important initiatives including the development of the Natural Resources Inventory (NRI) and the preparation of the City's Open Space Plan.

Historic preservation in Kingston is presently overseen by two different commissions operating under different mandates. The Historic Landmarks Preservation Commission (HLPC) was first established in the 1960's during a period of threats to historic preservation resources resulting from urban renewal and demolition of significant buildings in the City of Kingston. The HLPC, since 1986, has been part of the NYS Certified Local Government (CLG) program, and conducts architectural and appropriateness reviews affecting local landmarks and the landmark districts. Standards used by the HLPC are derived from the US Department of the Interior for this program. The Heritage Area Commission is responsible for advising the Mayor and the Common Council on matters related to the Kingston Heritage Area and its programs in a manner consistent with the concepts, goals and objectives regarding New York State Heritage Areas and in the Urban Cultural Park Management Plan. The Commission acts as the review board and functions with respect towards the Broadway Overlay District Design Standards. Historic preservation tools available are primarily reactive in that they are deployed as part of a review procedure for regulated actions where there is jurisdiction.

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

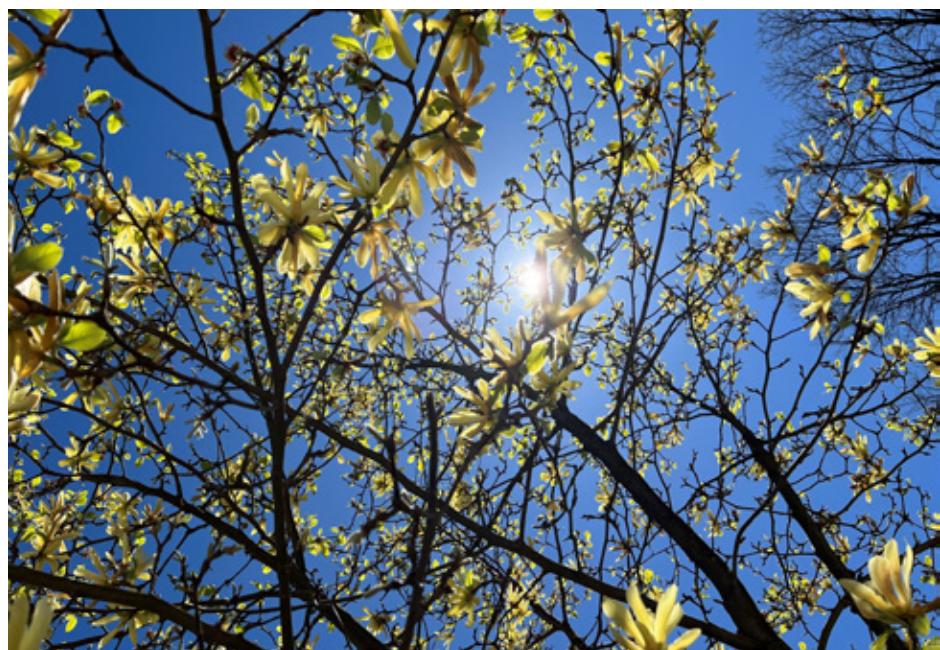
## 5. Tree Commission

The City of Kingston has an established Tree Commission consisting of seven members, all of whom are residents of the City of Kingston appointed by the Mayor. The Tree Commission has the power and duty: (1) To study problems and needs of the City in connection with the tree planting program and to make recommendations to the Mayor and/or his designee as to the type and kind of trees to be planted by the City; (2) To assist in the dissemination of news and information regarding the protection, maintenance, removal and planting of trees in the City; (3) To make recommendation to the Common Council as to desirable legislation concerning the tree program and activities for the municipality such as certification as "Tree City, USA"; and (4) To provide for the holding of regular and special meetings and to adopt rules and regulations for the conduct of the meeting and business of the Commission.

The tree protection ordinance, City Code Chapter 375 (Street Trees), and the work of the Tree Commission (Kingston City Code Section §373-5) is focused on street trees and trees on public property and does not appear to have regulatory authority or jurisdiction over private trees and forestland. As a result, privately owned trees and forest lands are resources that could potentially be preserved through CPP implementation actions.

## 6. Zoning Law

The City's zoning law has established a number of purposes that support this Community Preservation Plan. One of the enumerated purposes is as follows: "The protection, enhancement, perpetuation and use of improvements and landscape features of special character or of historic, aesthetic or other cultural interest or value and of districts which include such improvements or features." A number of sections in the zoning law offer tools that are more specific. While zoning methods can help guide development away from important resources, zoning has proven to be an insufficient tool to fully protect the resources and values that can be achieved with other tools. For example, to preserve an intact woodland area the action necessary would typically require acquisition of interests or rights in real property to protect community character. Nonetheless, zoning is expected to be an important tool to assist the City in working towards achieving its goals.



*Flowering Magnolias*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

The most applicable sections are discussed in more detail below. (Note: the proposed zoning ordinance, The Kingston Form Based Code, is also discussed in parenthetical statements at the end of certain alternatives as applicable. The proposed zoning ordinance (currently in draft form) would replace current zoning code at Chapter 405. The proposal includes incentive zoning that provides inducements for open space and public waterfront trails and access. In particular, see brief overview in Rondout Creek and Hudson Riverfront Districts in section below.)

## 7. Rondout Creek and Hudson Riverfront Districts Incentive Zoning

Incentive zoning is a land use regulatory tool municipalities can use to help secure community amenities such as protection of open spaces or public access to waterways or trail systems, for example in exchange for some additional flexibility or other inducement under the local zoning code. Some examples of an incentive may be an increase in the permitted height of a building or permitting some other type of density bonus. The City has two riverfront districts, the Rondout Creek and the Hudson Riverfront District, whose purposes include public access to the coastal area, controlling development, and providing opportunities for permanent public views and access to the Hudson River and Rondout Creek.

The Rondout Creek and Hudson Riverfront Districts in the zoning code provide incentives to allow certain uses by special permit whenever the owner dedicates meaningful, permanent public access along and where appropriate, across the property to the dry shore area. The Planning Board is authorized to waive the requirement to provide public access when the property does not have direct water frontage. (There are currently no similar incentive for the Esopus Creek corridor.) These districts provide some incentives to potentially secure public access but such a scheme is limited to implementation as part of a development process, whereas securing public access to waterfront areas can also be accomplished more comprehensively or in partnership with development activities with the availability of public funding.

(Proposed zoning has new districts titled T1 Natural (T1N) and T2 Conservation (T2C), which also have provisions to help conserve natural resources as lands are developed. The Rondout Creek Overlay Hudson River Overlay District has a corresponding FBC Section 405.15 for Waterfront Overlay. Two waterfront Special Districts have been added in Section 405.11, SD-W (Waterfront) and SD-WMU (Waterfront Mixed-Use) that advance the policies of the City's Local Waterfront Revitalization Program.



*Rondout Creek Shoreline*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

## 8. Flood Hazard Overlay District

To address potential and/or actual damages from flooding and erosion, the City has included a flood hazard overlay district in its zoning law. This regulation is a standard requirement for any municipality to so that local property owners may be eligible to secure subsidized flood insurance from the National Flood Insurance Program. There are provisions within the overlay district designed to preserve natural resources. For example, one such provision regulates the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters. There are also regulations to control the filling, grading, dredging and other development in the floodplain, which otherwise may increase erosion or flood damages. The City also regulates the construction of flood barriers which could unnaturally divert floodwaters or which may increase flood hazards to other lands.

A floodplain development permit is required for all construction and other development to be undertaken in areas of special flood hazard to protect the public from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. By protecting floodplain areas, this district helps preserve some of the values these lands provide relating to the purposes of the Community Preservation Act. The flood hazard overlay district only regulates activities and does not provide for additional preservation values such as public access to the waterfront or permanent protection from future projects that could compromise site ecology such as land clearing. Those type of activities can best be managed by cooperative arrangements from willing landowners. Such arrangements could include purchasing access rights and/or conservation easements to protect the natural setting. (Note the proposed Form-Based Code carries over the provisions of this district from the current code as a supplemental section.)



*Aerial view of Kingston's Hudson River Waterfront  
Image source: Robert Rodriguez, Jr., courtesy of Scenic Hudson*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

## 9. Traditional Neighborhood Development Overlay District (TNDOD)

Kingston recognizes the need to redevelop former industrial sites positioned along important natural and scenic resources to enhance the community. The TNDOD was created in order to facilitate traditional neighborhood development that is consistent with mixed-used residential areas within close proximity to commercial and civic buildings, create pedestrian-oriented neighborhoods, strengthen Kingston's economic base, help advance public access to the Hudson River waterfront lands, and promote preservation of natural resources.

Much of the land covered by this overlay district is now preserved for public use as Sojourner Truth State Park. Hence, this district would only be of further use if the TNDOD was extended to other similar and appropriate waterfront areas. The purposes of this overlay district could help advance community preservation projects such as expanded public waterfront access and/or preservation of areas with important ecological resources with commensurate incentives to allow the higher density and quality of attractive development envisioned by the TNDOD. (The Form-Based Code's proposed waterfront special districts and large site standards for conservation village plan requirements for large sites address similar objectives of the TNDOD.)

## 10. Broadway Overlay District Design Standards

Kingston has established design standards in order to protect its existing historic development and aesthetics within the Broadway Overlay District and promote new development that will enhance the visual appearance of the City. These standards help property owners, developers, and planners to streamline the design approval process by specifying the desired development characteristics up front during the design process which, in turn, helps promote the preservation of the historic and attractive design features of the Broadway Overlay District. (The Form-Based Code includes provisions that are responsive to the purposes of the Broadway Overlay District.)



*Aerial View of Broadway*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

## 11. Cluster Developments

Cluster developments are meant to provide flexibility in design and development of land in order to promote the most appropriate use of land, facilitate economical provision of streets and utilities, and preserve the natural and scenic qualities of open space.

Under current zoning, the City of Kingston allows cluster developments in the single-family zoning districts. One of the stated purposes of such development is to preserve the natural and scenic qualities of open space. This development potential is limited by the regulations which utilize an equation that calculates a gross density that is no higher than would occur under conventional development in the zoning district. The minimum area of a cluster development is set at 10 acres.

Cluster development has limitations in that development is required to accomplish resource conservation—and that very development may damage or compromise the resources that should, ideally, be protected. Further, a willing landowner who has property with important community resources intact may prefer that land not be developed at all and would rather work toward protecting all of the property if such could be established in a mutually agreeable arrangement.

(The proposed zoning has additional provisions for cluster/conservation-based design. The zoning proposed requires development sites greater than 2 acres in size to be designed under the guidelines for a Conservation Village Plan (CVP) or Walkable Neighborhood Plan (WNP). The Conservation Village Plan type of development is intended to protect open spaces and natural resources by requiring 50% of the land area to be dedicated to the T1 Natural Transect Zone. The Conservation Village Plan type of development is intended to protect open spaces and natural resources by requiring a percentage of the land area in new development to be dedicated to the T1 Natural Transect Zone.)



*Aerial view of the City from City Hall*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

These kinds of provisions would help advance some of the CPP objectives for resource preservation, particularly in those settings where the resources to be preserved under the cluster type of design are not unduly compromised by the presence of the additional nearby development.

## 12. Fee Simple Acquisition

Land acquisition includes the “fee simple” purchase of a parcel of land. A fee simple purchase transfers full ownership of the property, including the underlying title, to another party. Fee simple land acquisition may also be the result of a donation, with the landowner realizing tax benefits from the donation. Sometimes a combination of purchase and donation occurs, resulting in a sale of land for below market value and the landowner donating a portion of the property’s value to the buyer. This type of exchange is referred to as a “bargain sale” and benefits the donor because they can deduct the value of the gifted portion of land from their federal income taxes. Under this scenario, landowners enjoy direct economic gains from the sale of their land and potentially from the tax benefits of donating a portion of their land. (More on bargain sale in section 13, below.)

Fee title purchases are voluntary transactions between a landowner (seller) and purchaser (buyer). A fee title is a full interest in real property. In granting a sale of land, the landowner generally retains no ownership of the property and gives up all rights. (Source: University of Washington, Conservation Toolkit.)

Acquiring property by fee simple is often a most appropriate method of securing property for community benefit when full ownership of all property rights is required, for example, for use of property as a recreation park where public access will be extensive and the property would be managed by the City as a parkland. Fee simple acquisition is a most important tool for community preservation projects—in particular those where extensive public access is expected or where property management would be turned over to the City or a similar partner nonprofit agency.

One of the primary techniques for protecting open space resources will be the use of public and private funding sources. In addition to potentially establishing a Community Preservation Fund through a real estate transfer tax, it is recommended that efforts continue to be pursued to join various available public sources of funding for fee simple acquisition with private strategies designed to establish financial incentives to encourage land preservation.

## 13. Private Land Conservation Strategies

### Conservation Easements

Conservation easements are a way to transfer some property rights without a complete transfer of ownership or the underlying “fee”. For example, a conservation easement may be transferred to protect a significant habitat from being developed, where the private party/property owner still maintains the underlying property ownership. A conservation easement is a legal agreement between a landowner and an eligible easement holder (e.g., the city or a land trust) that restricts future activities on the land to protect its conservation values. Easements are especially applicable in situations where the landowner is not interested in selling their land but is willing to place an easement on the property to dedicate the land for a specific purpose.

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

Conservation easements are a highly useful land conservation strategy for community preservation projects that protect private lands without changing the underlying ownership. This strategy helps landowners by providing tax, estate, and financial benefits. Farmland, forestland and other similar lands managed by private owners can be well-suited for preservation by conservation easement.

## Purchase of Development Rights (PDR)

PDR involves the acquisition by the purchase of interests or rights in real property for the preservation of open space, natural areas or other similar preservation goal. A Purchase of Development Rights transaction includes a voluntary legal agreement, or conservation easement, that restricts future development on a property while encouraging farming, forestry, and other land uses that are compatible with the conservation values to be preserved on the property. Since not all of the property rights are conveyed with a PDR, the underlying fee or ownership of the remaining rights rest with the seller who is free to continue to use the property, manage it, etc.

After a governmental agency or land trust acquires the development rights to a particular property, the development rights are then “retired” through deed restriction, usually recorded in the form of a conservation easement. By removing the development rights, the values of the land in its existing, natural state can be preserved in perpetuity. The General Municipal Law authorizes municipalities to use public funds to acquire interests or property rights for the preservation of open space or agricultural land (General Municipal Law Section 247).

PDRs allow land to stay in private ownership and on the tax rolls. New York State has several grant programs to support conservation goals through a PDR process. Used primarily for preserving important farmland, PDR has also been used to preserve forestland and natural habitat areas.



*Kingston Kayak Festival on the Hudson*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

## Transfer of Development Rights (TDR)

TDR is a voluntary growth management tool that allows high intensity development to take place in designated “receiving” areas in return for resource preservation in designated “sending” areas. A municipality must establish baseline development rights for both types of areas. To exceed these baseline development limits, owners in receiving areas are required to purchase unused development rights from owners in sending areas.

TDR is a private land conservation strategy that is typically accomplished by placing a conservation easement on the protected land; although it may be possible to actually send all of the development rights and convey a fee simple deed (instead of a deed of conservation easement.)

TDR is often used to ensure that the municipality's open space planning goals are met without causing a financial burden on landowners or the greater community. With a TDR system, landowners are able to retain legal title to their land, but sell its development rights for use on other properties. Stated differently, TDR allows the owner to disconnect the right to develop the property from the property itself and sell or transfer it for use on a different parcel of land in the community.

**Working Together to Preserve a Family Legacy Landscape.** In Monroe County, near Rochester, New York, the Hopkins Family and the Town of Pittsford collaborated to preserve a seven-generation, 350-acre farm—a project envisioned in the *Greenprint for Pittsford's Future* the town's open space and resource conservation plan. Town funding for the purchase of development rights was supported with a bargain sale (i.e., partial donation) transfer by the family which leveraged state and federal grants. Advocacy support included local citizens, organizations, and the American Farmland Trust. The purchase of development rights was secured with a deed of conservation easement conveyed to the town by the family. While no subdivision or similar development is allowed, the family continues to own and operate the farm as a working landscape. (Bottom right photo courtesy Rochester Democrat and Chronicle.)



# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

TDR is based on the concept that ownership of land gives the owner a “bundle of rights,” each of which may be separated from the rest. One of the “bundle of rights” is the right to develop the land. A transferred development right is a development right that has been moved (transferred) from its parent parcel to another. The development potential is removed from the parent (sending) parcel and legally transferred to the receiving parcel whereby additional incremental development is allowed. The buyer of the development rights is then permitted to exceed the maximum height or density restrictions set forth in the local zoning regulations when using the transferred rights.

TDR has often been applied to preservation of farmland and forestland in New York. Under typical TDR systems, farmers/forest managers are able to keep their land for agricultural/forestry production and sell the property’s development rights, which are then used on land that is more suitable for development. New York State’s TDR statute - General City Law Section 20-f provides a detailed procedure for local governments to follow in creating and implementing TDR programs.

The Community Preservation Act requires municipalities that have adopted a Community Preservation Fund to “study and consider” establishment of a TDR program. Looking ahead to such a study and consideration, the regulating map provided in the proposed Kingston Form Based Code would provide a useful basis for further study for applying the TDR technique in the future. Such analysis could include consideration of districts identified for conservation-type of uses including but not limited to T3 Large Lot, T2 Conservation, and T1 Natural as well as the waterfront overlay area and areas noted as priority resource areas in this Plan as potential sending zones with other areas suited to more intensive development as possible receiving zones.



*Consultant John Behan and participants work on maps at CPP public meeting*

# Evaluation of Alternative Land Use Controls and Strategies to Protect Community Character

## Bargain Sale/Land Donation

A bargain sale or land donation involves the purchase of property rights at less than full market value. A bargain sale may be for a fee simple transaction (see page 31) or for the purchase of a conservation or similar easement. The seller may secure tax benefits in that the value donated (that is fair market value less the bargain sale price) may qualify for a charitable donation for income tax purposes. For example, if a landowner had a parcel of waterfront land that the City wanted to purchase, and the owner was willing to sell for less than it was worth (as determined by an independent, qualified appraiser) than that reduction in value may be considered a charitable donation—a bargain sale.

Sometimes property owners are in a position to donate land outright and wish to do so for personal reasons. This is not uncommon for owners with strong community conservation values and who are in a financial position to be able to do so. By donating to a qualified party, such as a land trust or a city, the value of the asset transferred may be considered as a donation for income tax purposes. Many land trusts rely on bargain sale transactions and donations to enable them to cost effectively carry out their mission. Bargain sales/land donations may become an important element in the future aspects of implementing this Community Preservation Plan. With any of these transactions, there still often are costs—including the purchase price for the amount required as compensation in the case of a bargain sale and the transaction costs (legal, survey, environmental clearance, etc.)



*Historic Rondout Waterfront*

# Alternative Land Use Control & Strategies to Protect Community Character

**A**s a general finding, tax abatement type of incentives can be helpful to property owners over time to reduce the cost of holding and maintaining property—and in turn help preserve community resources. However, these methods do not provide permanent protection and the forces of economics and private financial issues often force landowners to make decisions that may not preserve the underlying resource values. For example, farmland and woodland owners may desire to keep their land as a working landscapes, but life-changing circumstances, such as impending retirement, may require them to sell the land for development in order to meet their needs.

Zoning and most other regulatory-based tools like historic districts and flood damage prevention regulations will have measures to limit activities that otherwise would be contrary to the purposes of those laws, however, these too cannot fully protect resources. For example, zoning only regulates uses, density and dimensions for development—it cannot (nor should it) prevent a landowner from subdividing and developing buildable property.

That is not to say that these kinds of tools are not important for preservation—they are and can always be improved and made more effective. However, there are many kinds of community preservation projects that would be best accomplished with methods such as fee simple acquisition and conservation easements and other similar private land conservation strategies. For example, to secure permanent protection over an important ecological resource—say a unique wildlife habitat owned by a landowner willing to conserve the resource, purchase of the land in fee simple or of a conservation easement may offer best long-term protection for that resource.

It is important to note that as this plan is implemented, the potential for fee simple acquisition or purchase of development rights from a willing landowner would be considered on an individual basis, and would be deployed if that was determined to be the most effective strategy to preserve the underlying resource values. Additionally, it may be possible to combine more than one of the land use controls depending on the project.

To help review and evaluate the thirteen land use alternatives described in section 2 and summarized above, and provide a general overview of potential application of these methods, the table below entitled *Analysis of Land Use Alternatives to Protect Community Character*, lists the four resource preservation categories as well as the list of 13 items from the table in section 2 entitled *Existing Land Use Controls and Strategies to Protect Community Character*.

The table assigns a column for each individual or class of land use protection alternative with an identification number and title listed at the head of the column. The table assigns a specific row to each of the four Preservation Category areas and underlying categories of parcels and projects described and mapped in Part 2 of the Community Preservation Plan.

Land use alternatives that present the greatest potential for protection of a specific Preservation Category area or underlying category of parcels or projects are assigned an asterisk symbol. Land use protection alternatives that may have a lower potential for application are assigned a bullet symbol. Alternatives with limited or no application are not assigned a ranking but are included because they may, under certain circumstances, result in a benefit.

# Alternative Land Use Control & Strategies to Protect Community Character

| Analysis of Land Use Alternatives to Protect Community Character         |  | 13                                   | 12                     | 11                  | 10                        | 9                                 | 8                     | 7                          | 6          | 5               | 4                         | 3                     | 2                | 1             | Priority Resource Preservation Categories |                        |                      |                                   |
|--|--|--------------------------------------|------------------------|---------------------|---------------------------|-----------------------------------|-----------------------|----------------------------|------------|-----------------|---------------------------|-----------------------|------------------|---------------|---|------------------------|----------------------|-----------------------------------|
| Existing Land Use Controls and Strategies to Protect Community Character |  | Private Land Conservation Strategies | Fee Simple Acquisition | Cluster Development | Broadway Overlay District | Traditional Neighborhood District | Flood Hazard District | Rondout & Hudson Districts | Zoning Law | Tree Commission | Historic Preservation/CAC | Stormwater Management | Site Plan Review | Tax Abatement | Water and Wetland Resources               | Agricultural Resources | Ecological Resources | Cultural and Recreation Resources |
| Water and Wetland Resources  |  | ●                                    | ●                      | ●                   |                           | ●                                 | ●                     | ●                          | ●          | ●               | ●                         |                       |                  |               |   |                        |                      |                                   |
| Agricultural Resources   |  | ●                                    |                        |                     |                           |                                   |                       |                            | ●          | ●               |                           |                       |                  |               |   |                        |                      |                                   |
| Ecological Resources   |  | ●                                    | ●                      | ●                   |                           |                                   | ●                     | ●                          | ●          | ●               |                           |                       |                  |               |   |                        |                      |                                   |
| Cultural and Recreation Resources  |  | ●                                    | ●                      |                     |                           |                                   |                       | ●                          | ●          |                 |                           |                       |                  |               |   |                        |                      |                                   |



Legend:

\* Primary strategy symbol:

● Secondary strategy symbol:

# Conclusion

It is clear that there are many parcels in Kingston with at least one attribute listed as contributing to community character. Yet, it is also clear that an important task of the future Community Preservation Fund Advisory Board will be to use this plan to focus on a smaller set of properties and establish priority projects for implementation. The scoring system developed with this Community Preservation Plan is intended to help inform project development so that the decisions made for preservation have an underlying foundation based on sound analysis. Whether the whole score for all four resource categories is used to establish priority projects to implement, or a sub score within the preservation categories, in either case, this plan should be of great utility.

As well, this plan is not intended to serve as the only source of guidance, as there will be other factors to consider in establishing a set of projects. In addition to the earlier reference for consideration of existing adopted plans, the geographic distribution of projects may be a factor that would require some further attention. It may be important to assemble adjacent properties to accomplish a trail project, for example, where not all of the parcels involved may be equally highly rated. Finally, it may be advantageous to link potential projects with grants and other outside funding opportunities to help refine priorities for action.

This Community Preservation Plan is based on the principal that landowners would continue to be recognized for their important role in the preservation of the natural and cultural resources that add to quality of life in Kingston. Landowners are the stewards of the properties that provide preservation values to the community. It is also recognized they have fiduciary responsibilities and financial needs inherent in their land and buildings. This plan offers the community a tool box to collaborate with local landowners and provides a wide range of alternative strategies to help those who are interested in preserving the natural and cultural resources for both current and future generations that make the City a great place to live.



*Clearwater Heading out*

# Appendices

## Appendix A: Maps of Parcel Prioritization by Resource

[Water and Wetland Resources](#)

[Agricultural Resources](#)

[Ecological Resources](#)

[Cultural and Recreational Resources](#)

## Appendix B: Table Listing Each Parcel with Resource Evaluation Score

[Table Listing Each Parcel with Resource Evaluation Score](#)

[Table Listing Each Parcel with Resource Evaluation Score \(sorted by address\)](#)

## Appendix C: Community Survey Information

[Summary of Survey Response](#)

## Appendix D: City of Kingston Open Space Plan (2019)

[City of Kingston Open Space Plan \(2019\)](#)