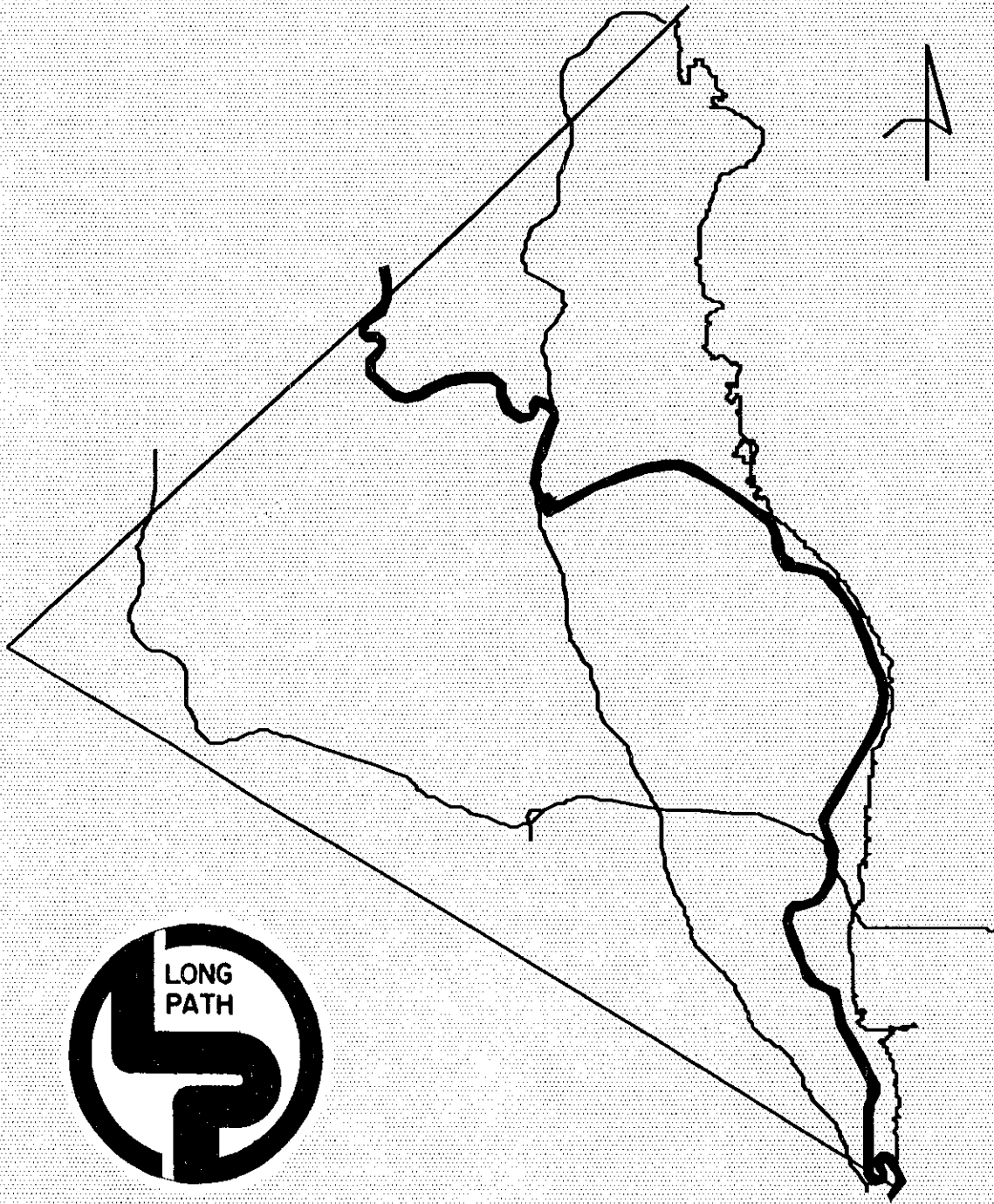
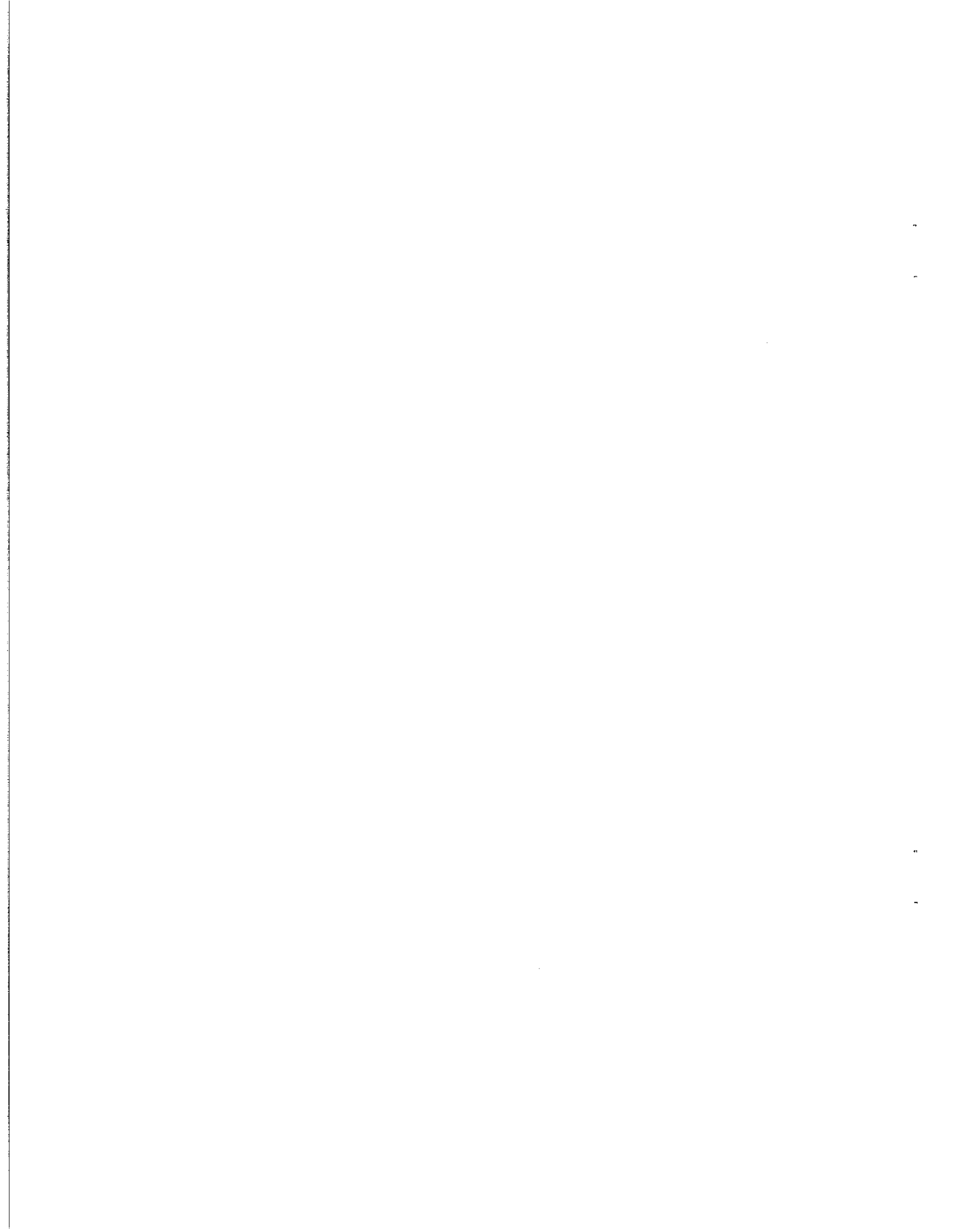


# THE LONG PATH IN ROCKLAND COUNTY, N.Y.



DECEMBER, 1989





## **THE LONG PATH IN ROCKLAND COUNTY**

Prepared by the

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Special thanks to Daniel Chazin and Eugene J. Walter for editing

December, 1989





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December, 1989

To: Mayors and Supervisors  
Town and Village Planning Board Chairperson

From: William Chase, Planning Commissioner

On behalf of the New York/New Jersey Trail Conference and the Rockland County Department of Planning, we are pleased to transmit this report on the **Long Path**, an important facility that needs your support and attention.

Development in Rockland County has recently been taking place in the more difficult areas that were passed over in the past, i.e., ridge tops, steep slopes, wetlands, floodplains. These areas are the very type of marginal land that traditionally is used to develop greenways and linkages between larger parks and open spaces such as the Long Path.

Joint meetings with members of the affected communities showed a common appreciation and concern with protecting the Long Path, and the need for technical guidance to achieve these goals. The Long Path report was written with hopes of aiding the communities faced with the growing problems of how to allow development while also protecting the Long path and the surrounding open space. The overall goal is to ensure that future generations can enjoy the same natural features that brought their relatives to Rockland County. The report focuses on identifying the location of the trail, the history behind its origin, a description of a viable hiking trail, and techniques in which the trail can be protected.

To help protect the Long Path from future development, we are recommending the County add the Long Path to its Official Map, so that any action that may impact the trail can be reviewed. The local municipalities can also add the Long Path to their official map by first, amending their local law to incorporate "hiking trails" as an item which can be added to the official map; and secondly, by adding the Long Path to their official map and the Master Plan, thereby, protecting the trail to its greatest extent.

The County Planning Department and the New York/New Jersey Trail Conference are available to further discuss the proposals herein with interested communities.



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# THE LONG PATH IN ROCKLAND COUNTY

## INTRODUCTION

There is an urgent need for counties and municipalities to develop adequate conservation and open-space plans covering their areas of jurisdiction. Such plans are necessary to protect natural and cultural resources. The protection provided by these plans can help to preserve our native animals and plants, and to maintain the quality of water and air so important to achieving a proper balance between the natural environment and man-made urban habitats. In addition, these undeveloped, protected areas provide opportunities for recreation and retreat that are becoming all too scarce.

People have an intrinsic right to clean air, pure water, and to scenic, historic, and aesthetic values. Rockland County is particularly blessed by its location within the Hudson Valley, and has within its boundaries, many sites that rival some of our national parks in their scope and grandeur. As trustees of these resources, the county, town, and village governing bodies have the responsibility to maintain them for the benefit and enjoyment of all.

One of the natural, scenic, -- and even historic -- resources within Rockland County is the Long Path, a linear hiking trail which starts at the George Washington Bridge. Eventually it will reach the Adirondacks. This trail was constructed and is maintained by volunteer members of the New York-New Jersey Trail Conference. A series of connector trails provides alternate paths. Many of them routes that will bring hikers back to their starting points.

As Rockland County develops a Master Plan for environmental conservation and open space preservation, the Long Path has a major role to play. It already connects a series of state, town, and county parks, primarily along the Palisades ridge, and thus, forms the backbone of one of several proposed greenways in Rockland County and the Lower Hudson Valley Region. A greenway is a linear land or water corridor that links residential areas with parks and protected areas. It may include historic sites, urban cultural parks, and scenic settings as well as environmentally sensitive areas such as wetlands, floodplains, ridges, wildlife habitats, and fragile coastlines.

This document is a handbook for citizens and governmental officials who are involved in local planning, zoning, and other land use regulation. Its purpose is to provide information about the Long Path: its history, its location, its vulnerable points, and its highlights. It also presents guidelines and strategies for the Long Path's preservation as an essential environmental/recreational resource in Rockland County and the Hudson Valley.

*The Tappan Zee Bridge*



## HISTORICAL OVERVIEW: THE LONG PATH

The suggestion for a "Long Path" from New York to the Adirondacks originated in the early 1930's with Vincent J. Schaefer of the Mohawk Valley Hiking Club, and his brother Paul. It was inspired by Walt Whitman, who wrote: "There lies before me a long brown path leading wherever I choose." The "Long Brown Path" was also the name of a weekly outdoor activities column written by Raymond Torrey for The New York Post.

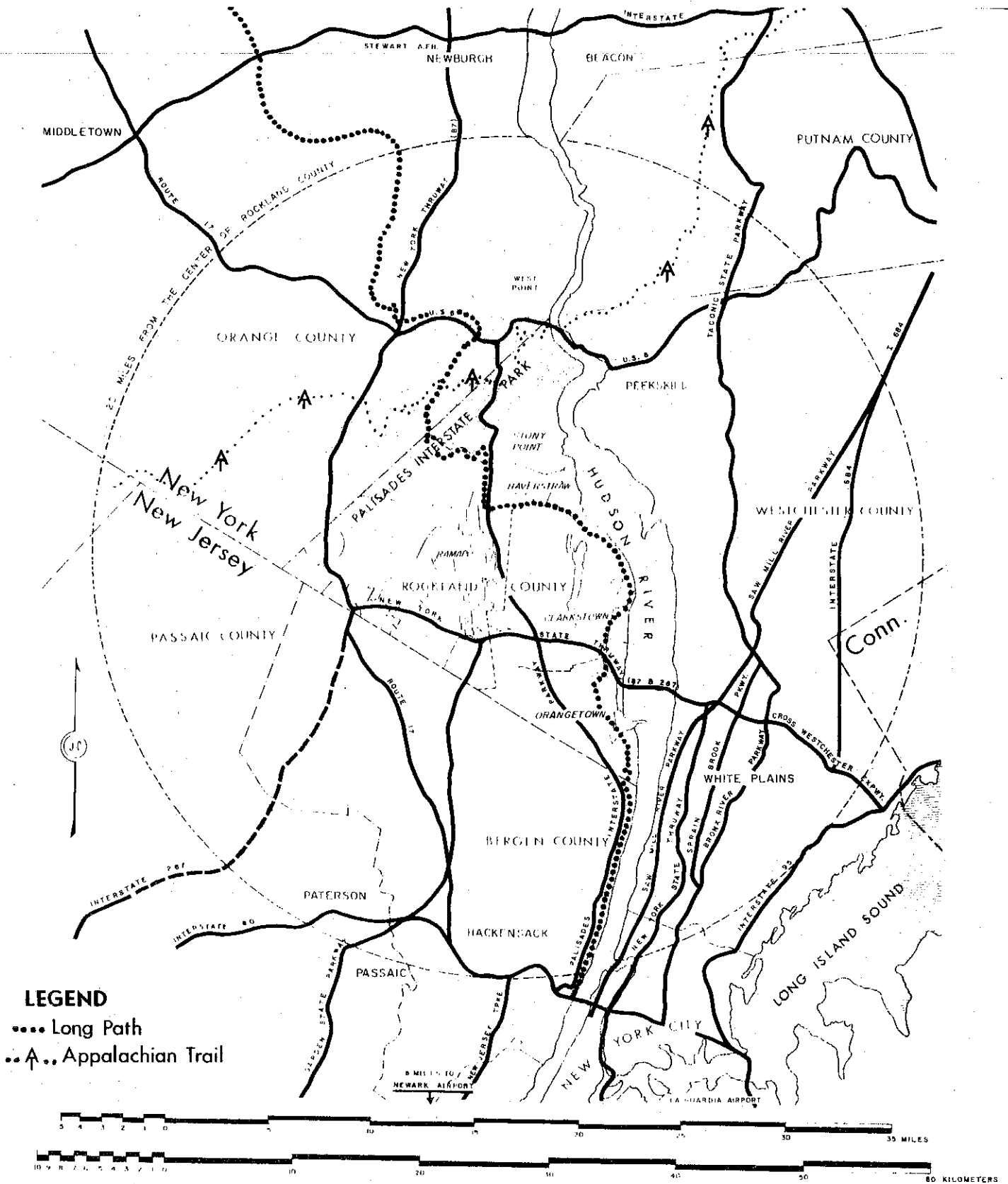
As originally conceived, the trail would extend along a wide corridor tying together most of the scenic, historical, and geological landmarks of the regions. The initial scouting of the route took place in the mid-1930's, with much of the proposed trail traversing unposted farmland and hill country. However, the project was set aside with the onset of World War II.

In 1960, Robert Jessen of the Ramapo Ramblers urged the New York-New Jersey Trail Conference to revive the project. Mr. Jessen began the field work, starting northward from the George Washington Bridge along the Palisades Ridge. The route he flagged joined scattered state parks as well as other public lands to form a long greenway. Private land, used with permission, and little-used streets completed the gaps. By 1970, the basic trail construction, grading, and clearing was completed through Rockland County. There were some areas in which a final route was left undetermined, notably in the Catskills, and much work remained to be done on other upstate sections.

During the 1970's, the route was refined and, in some cases, relocated. The Trail Conference began to assign sections of the trail to its club members for maintenance. A blue blaze, two by four inches upright, was designated as the official marking. In 1973, the Long Path became part of Rockland County's open-space recreational program.

By the mid-1970's, the pressures of suburban development began to threaten the Trail, particularly in Rockland County. For the first time since its creation, the possibility that the Long Path would be severed or seriously encroached upon became a reality. The Trail Conference was faced with the dual task of extending the Long Path to the north while learning the political ropes to protect existing sections in the south.

Since 1980, the Long Path preservation efforts have been coordinated with the Palisades Interstate Park Commission, Rockland County Department of Planning, and other agencies in order to develop a comprehensive approach to protect and enhance this public resource. Most recently, the Trail Conference began working with local planning boards in order to extend preservation efforts to the grass roots level.



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TRAIL PROTECTION ZONE

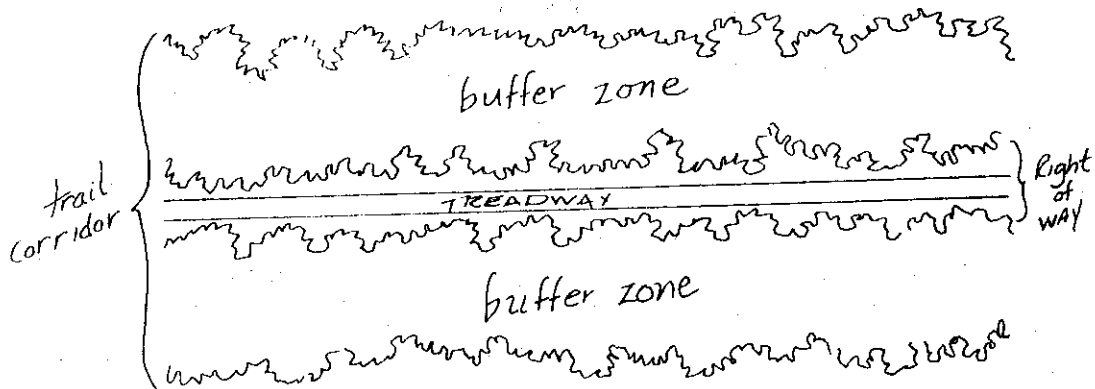
Trails are footpaths which provide safe and aesthetically pleasing recreational hiking experiences for their users. Trails are usually designed to incorporate along their route beautiful and dramatic natural features and vistas, as well as including otherwise inaccessible historical and cultural areas. Trails should have minimal impact on the environment. Trail location, design, and construction balance the needs of environmental preservation with those of trail continuity, safety, accessibility, interest, and beauty.

In order to preserve the trail environment and enhance the quality of the recreational experience, the area adjacent to a trail should have a minimal negative impact on the trail, and, if possible, make a positive contribution to its overall preservation and recreational aspects.

The Long Path, 33 miles of which traverses the County of Rockland (26 outside of Harriman Park), is the *unifying element* of a major greenway system in the county. As such, it needs adequate and continuing protection against encroachment, dismemberment, and general degradation of its route and surrounding ecosystem. The most direct and effective approach to protection of the Long Path and its neighboring environments is by controlling the accessibility, use, and development of the Trail Corridor.

The Trail Corridor is defined as the zone of travel and environmental influence. That is, it is a region that encompasses both the trail itself as well as the surrounding area that may impinge perceptually and/or physically on the trail and the trail user, and significantly influence that recreational experience for better or for worse.

The Trail Corridor is made up of three components: 1. *Treadway* 2. *Right-of-Way* 3. *Buffer/Protection Zone*. The *treadway* is the narrowest part of the Trail Corridor, and is defined usually as the four to six foot wide ground surface area upon which the hiker actually walks (see diagram). The treadway is of primary interest to the volunteer trail builders, refurbishers, and maintainers who give thousands of hours of their time and physical labor to make sure it is safe and attractive.



The *right-of-way* (ROW) extends on both sides of the actual treadway and defines the limits of legal passage and/or access. The physical width of the ROW may be nearly as narrow as the treadway or extend indefinitely as in the case of a public park/wilderness area. The accepted *standard* is for a minimum width of 200 feet, i.e., distances of 100 feet on either side of the treadway. This was established by the National Park Service after determining that any narrower right-of-way would essentially negate the hiking experience. An adequate width also insures that neither the trail user nor the adjacent property owner feel encroached upon by each other.

While the standard minimum right-of-way width is 200 feet, wider widths are encouraged and sometimes absolutely necessary. Acceptable widths vary with the characteristics on either side of the treadway. An open field setting would require a greater width than a typical woodland area. In rare situations, a minimum width for a short distance may be necessary. Under no circumstances however, is a width of less than 50 feet for the trail acceptable, i.e., distances of approximately 25 feet on either side of the treadway. The current National Parks policy is to acquire a minimal 1000 foot ROW for the Appalachian Trail.

Because the ROW for a linear trail tends to be relatively narrow, the buffer zone is an even more important, indeed often critical, component of the trail corridor. The *buffer or protection zone* is defined as the area on both sides of the ROW that is ideally required for additional physical and/or psychological protection of the on-trail experience when the ROW is not sufficiently wide to accomplish this purpose. A buffer zone serves to further insulate the trail and its users from any and all degrading influences. Except in the most happy circumstances mentioned above, the Trail Corridor contains mostly land in the buffer zone component category. The only means of regulating these buffer zones, other than outright purchase, is through the local zoning process.

Methods of acquisition and/or controlling a Trail Corridor for the Long Path in Rockland will be discussed below. In order to enable the zoning bodies to effectively pursue regulation, it is essential that they have information pertaining to the formulation and defense of Trail Corridor parameters.




The factors that determine such parameters are of two interrelated types: environmental (physical) and aesthetic (psychological). Because of their immediacy, the latter are often given priority over the former. However, the former are clearly more basic and will in the long run determine the latter. Thus, both must be considered in any serious Trail Corridor protection effort. Some of the important physical Trail Corridor (Buffer zone) factors which must be taken into account in establishing parameters are:

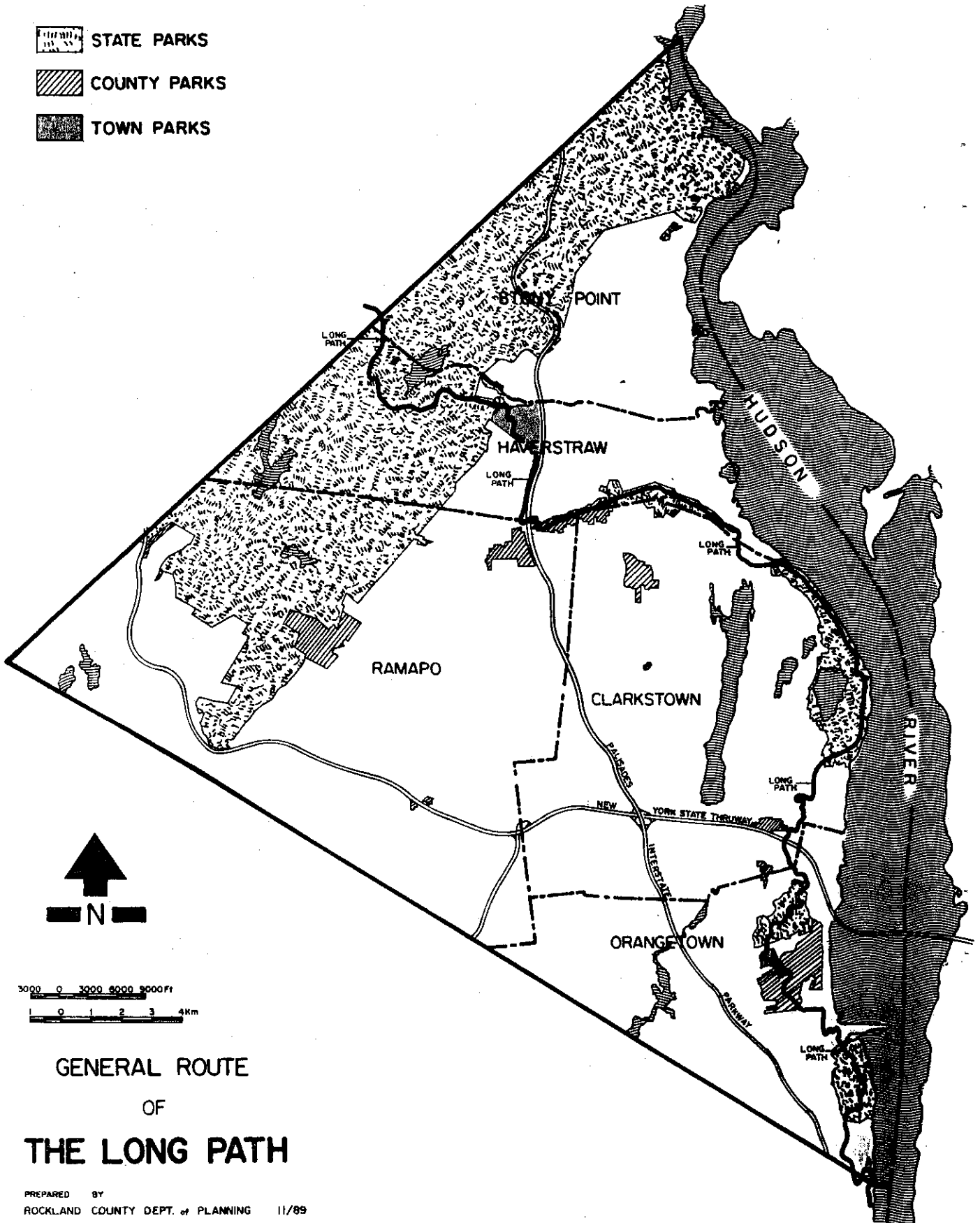
- Erosion Potential
- Vegetation Vulnerability
- Wildlife Vulnerability
- Surface and Groundwater Pollution Potential

*The task of Planning and Zoning officials* in regard to these and similar factors is to determine the width of the buffer zone in which environmentally adverse uses and practices can/should be restricted so as to minimize negative impact on the trail ROW. Existing planning and zoning standards addressing these issues may suffice. However, given the need to be as farsighted as possible, and to maximize the environmental quality of the ROW, new stricter standards may have to be developed and implemented. For further information about these factors which are beyond the scope and competence of this report, refer to Appendix A ("Natural Systems Vulnerability Screen" from The Appalachian Trail: Guidelines for Preservation).

The principal psychological factors to be considered in establishing Trail Corridor parameters are aural (noise) and visual pollution. Olfactory (odor) pollution may also need to be considered in certain circumstances. It is the trail user's immediate perceptual field that defines the quality of his recreational experience. Consequently, non-conforming visual and aural (and olfactory) stimuli need to be minimized in order to preserve and enhance the hiker's experience.

LEGEND

-  STATE PARKS
-  COUNTY PARKS
-  TOWN PARKS



GENERAL ROUTE  
OF  
THE LONG PATH

PREPARED BY  
ROCKLAND COUNTY DEPT. of PLANNING 11/89

Noise pollution is more intrusive than the visually non-conforming elements. This difference is such that most aesthetic guidelines for Trail Corridor widths are based on aural not visual factors. It is easier to screen out the latter using vegetation and topography, than eliminate noise. Consequently, the more intense the local noise profile, the wider the ideal Buffer zone. Substantial field work has been done in this regard. This work is summarized in Appendix B ("Establishing Corridor Widths" from The Appalachian Trail: Guidelines for Preservation). It also sets out recommended guidelines for various Land Forms and Vegetative Covers. Generally speaking, the Long Path in Rockland County tends to be "Ridgetop and Sideslope", and "Mixed Vegetative Cover with Understory".

### GENERAL ROUTE DESCRIPTION

The Long Path essentially follows the ridge of the Palisades traveling north from the New Jersey state line. The ridge borders the Hudson River for the most part; at High Tor it swerves to the west toward Mt. Ivy and disappears beneath the earth's surface. Here the trail swings northward to enter Harriman State Park.

The Long Path traverses the following public park lands:



#### Town of Orangetown

- Palisades State Park
- Tallman Mountain State Park
- Clausland Mountain County Park
- Tackamack Town Park
- Blauvelt State Park

#### Town of Clarkstown

- Hook Mountain State Park

#### Town of Clarkstown/Haverstraw/Ramapo

- High Tor State Park
- South Mountain County Park

#### Town of Haverstraw

- Palisades Interstate Parkway
- Cheesecote Town Park
- Harriman State Park

**A DETAILED ROUTE DESCRIPTION** (Also refer to the Long Path map presented to you by the Rockland County Planning Department)

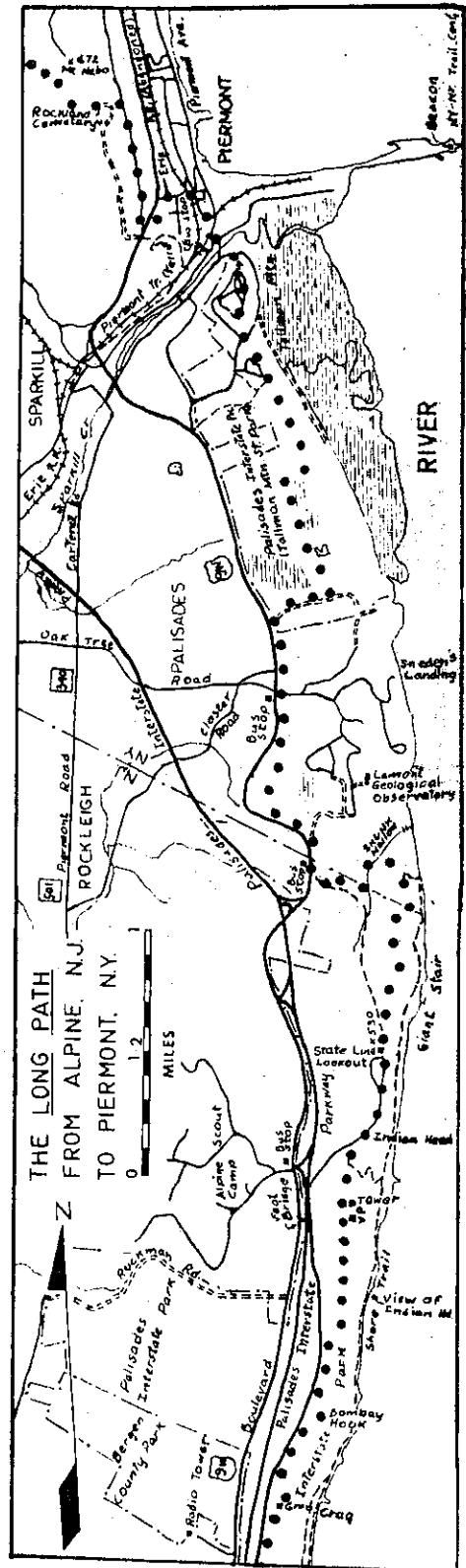
*[\*]: Denotes segment of the Long Path trail currently or prospectively at risk. Each will be discussed in detail in the Critical Areas section of this report.*

Having wended its way atop the New Jersey Palisades ridge from the George Washington Bridge, the Long Path enters New York State and Rockland County through a gate in a chain-link fence. (A six foot-tall shaft, erected in 1882, stands nearby as an elaborate surveyor's monument.) The trail descends steeply into the Lamont Nature Sanctuary, passing several viewpoints north toward the Piermont Pic, where the Tappan Zee Bridge and Hook Mountain form a backdrop. The trail heads west through the sanctuary, emerging onto 9W near the gate to the Lamont-Doherty Geological Observatory [\*1]. The Long Path runs alongside Route 9W for a short distance before turning off to the north on an old woodland road, the forerunner of today's modern 9W. The trail rejoins Route 9W just south of its intersection with Oak Tree Road. For the historically inclined hiker, Oak Tree Road leads east to Snedens Landing and west to the Hamlet of Tappan, both rich in revolutionary-era landmarks.

The Long Path proceeds north on the shoulder of Route 9W for a quarter-mile, then turns east onto Palisades Interstate Park Commission property. It turns north into the woods parallel to the Hudson River. For the next mile the trail traverses berms that served as impoundments for a short-lived oil tank farm facility in the 1920's. (They have become mini-swamps, popular today with birds and birders alike.) The trail rejoins the woodland road and soon enters the developed areas of Tallman State Park. (The woodland roads and the separate Long Path section form a circular route popular with cross-country skiers whenever snow remains long enough!)

As the trail moves up and across the plateau atop Tallman Mountain, the Tappan Zee, from the Sparkill marshes to the promontory of Hook Mountain, stretches out below. The trail then descends into the Village of Piermont where the Sparkill meets the marshes along the Hudson River's edge. Piermont was originally known as Tappan Sloc. Ebenezer Lord, having built the Erie Railroad, felt that the village needed a more sophisticated name when he constructed the pier as the southern terminus of his railroad. Mr. Lord's castle-like mansion still stands on the ridge behind the village.

The Long Path passes northwest through the village, crossing 9W, and north on Tweed Boulevard, cut precariously into the eastern slope of the Palisades ridge above Route 9W [\*2]. The trail leaves Tweed Boulevard and climbs steeply to the upper section of Rockland Cemetery at the ridge top. Established in 1847 by Mr. Lord as a "national cemetery," it never caught on. Buried here

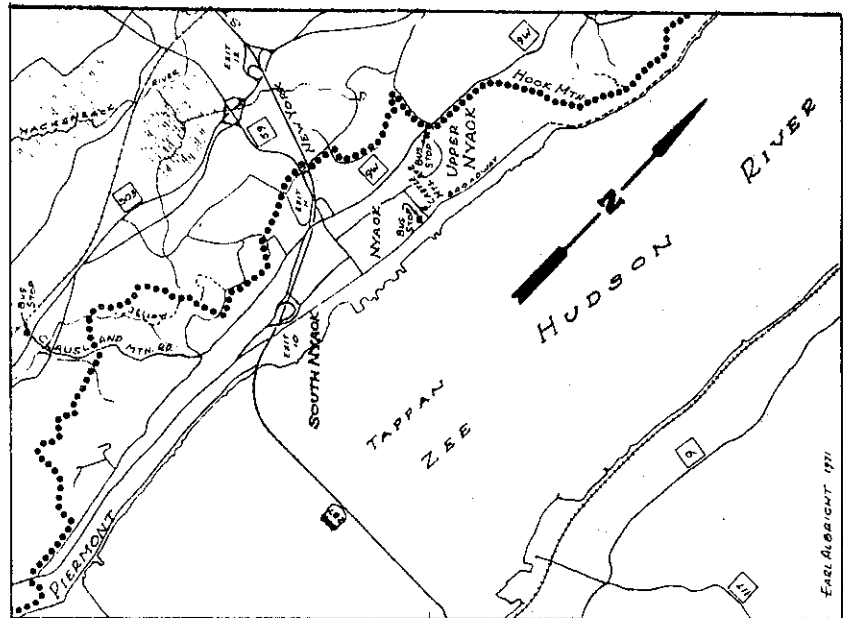




are John Fremont, the "Pathfinder," and Henry Gorringe who brought Cleopatra's Needle to Central Park. His grave is marked by a small scale replica of this famous obelisk. As it leaves the cemetery, the Long Path proceeds north on the western side of the ridge through some of the finest old-growth forest in the region. To the east, Mt. Nebo tops the ridge; formerly a U.S. Army Nike base, the site is now an Orangetown Park featuring magnificent views in all directions.

Beyond Mt. Nebo, the Long Path continues north, first through Clausland Mountain County Park and then Orangetown's Tackamack Park.

After crossing Clausland Mountain Road, the trail soon passes a small reservoir behind an old dam [\*3] and intersects a broad woodland road which forms the southern border of Blauvelt State Park. This park contains the ruins of Camp Bluefield (Blauvelt in Dutch), a pre-World War I National Guard rifle range complex built in 1910 and closed down in 1913. It seems bullets from the range found their way through Grandview-On-Hudson roofs, and the residents complained very loudly. The concrete wall and tunnels are still there waiting to be explored, but watch out for the poison ivy! Patricia Edwards Clyne, a Hudson Valley author, used Camp Bluefield as the setting for a children's mystery story.



The trail meanders around and along the target ranges before crossing Tweed Boulevard and once again regaining the ridgeline. Heading north, the Long Path reaches a promontory from which there are excellent views of both the Hudson and Hackensack Valleys. This was once the site of "Balance Rock." Unfortunately, vandals managed to slightly unbalance the huge glacial erratic in 1966, and it had to be removed by park officials.

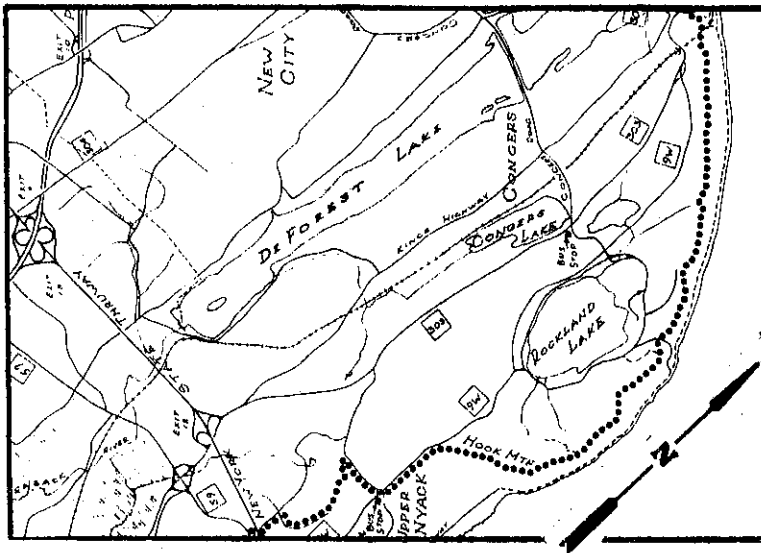
The Long Path proceeds north past a water tank [\*4], and emerges from the woods at the dead end of Highland Avenue behind Nyack College, for a view of Nyack with Hook Mountain looming large in the background. At the intersection of Highland Avenue and Bradley Boulevard, the Long Path runs onto Bradley Boulevard for fifty yards, then turns north into the woods at the ridgeline next to a private driveway [\*5]. (When combined with the abandoned Nyack Spur Railroad right-of-way from Piermont to South Nyack, the Long Path from Piermont to Bradley Boulevard makes a pleasant and scenic circular hike.) The trail climbs to the ridge crest with good views east across the Tappan Zee and then descends the western slope into Central Nyack. Plans are being developed for a side trail leading from the Long Path to Buttermilk Falls County Park, currently accessible only from Greenbush Road.

The trail follows local streets and crosses Route 59 at Waldron Avenue. It passes over the Thruway on the Mountainview Avenue bridge. Beyond the bridge, the Long Path turns due east, [\*6] then north along the backyards of the Mountainview Condominium complex [\*7]. At the parking lot the trail drops just below the ridge to the east and turns north on a steep side slope. Soon it regains the Palisades ridge west of the new Nyack High School site [\*8] and leaves the woods at Christian Herald Road [\*9].

After following Christian Herald Road eastward, the trail turns north on Route 9W for a short distance before turning obliquely east onto the old Route 9W roadbed [\*10]. The trail enters Palisades Interstate Park Commission property and begins to rise eastward with terrific views to the south of the Nyack Bowl and Tappan Zee. After a short, rocky climb up a steep slope, the trail reaches the highest of Hook Mountain's three summits (729 feet). Visitors can enjoy a magnificent 360-degree panorama, probably the best known vista in the region, given Hook's popularity with young, old, novice, and seasoned hikers. It is also a favorite observation post for volunteers who monitor bird migrations in the spring and fall [\*11].

The Long Path continues along the ridge top passing above the Nyack Beach State Park Quarry and over the next two (lower) summits, both offering their own special views. The pathway drops off the ridge to the western slope and intersects Tweed Boulevard, now only a woodland road but carefully constructed and graded. This section of the trail is mostly hemmed in by forest. The trail advances north on Tweed Boulevard to another side trail leading east to a rocky platform overlooking the huge quarry at Rockland Landing. Directly across the river is Ossining with "Sing-Sing" at

the water's edge. Croton Point, and on a clear day, the top of Croton Dam are also visible. Just past this side trail, the Long Path descends steeply into the clove separating Rockland Landing on the river and Rockland Lake Village inland. The road through the clove connects with the shore path from Nyack Beach State Park to the south and the dilapidated Haverstraw Beach State Park to the north. By combining parts of the Shore Path with sections of the Long Path along the Hook Ridge, several loop hiking routes may be created.

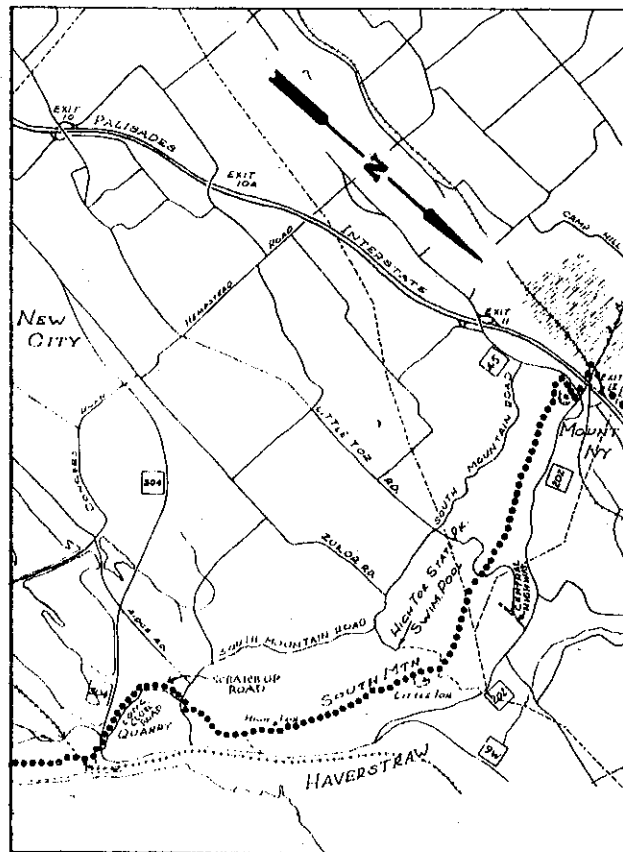


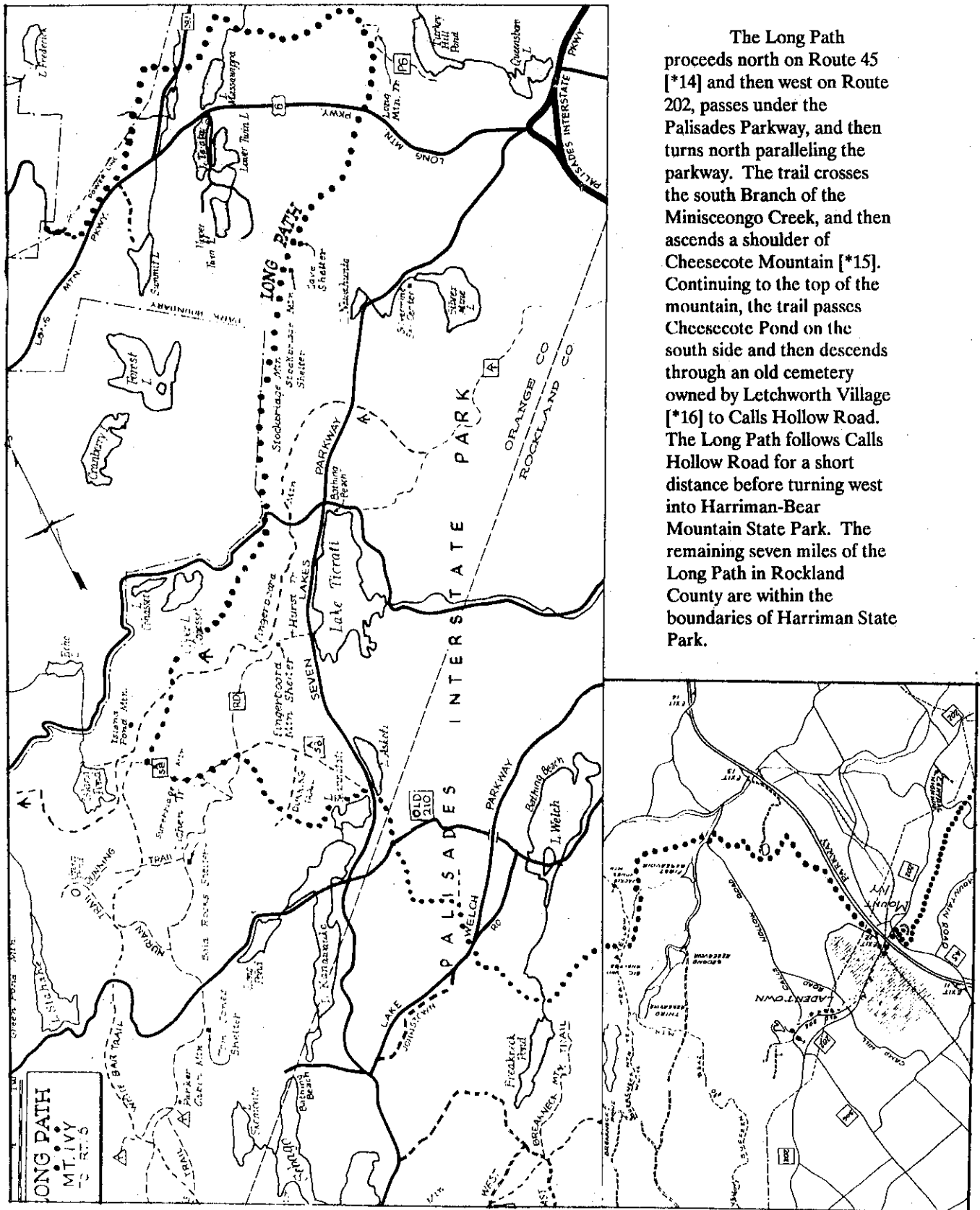
The Hook Mountain area has a lot of local historical interest. Ice harvesting and trap-rock quarrying flourished nearby simultaneously. The quarrying, which had begun along the Hook Cliffs in 1876, was finally halted in 1920, thereby saving the last of the Palisades facade. The harvesting of Rockland Lake's particularly high-quality ice began in the 1840's and continued until the Knickerbocker Ice Company finally shut its doors in 1924, a casualty of gradual electrification. There is a small museum dedicated to preserving the history of the ice industry at the Rockland Lake North Park office.

Crossing Rockland Landing Road, the Long Path re-enters the woods and immediately passes by an old and unfortunately overgrown family cemetery. It continues on into Trough Hollow behind the park water-treatment facility, and skirts the north golf course parking lot. The golf course offers an intermediate cross-country ski course when snow cover permits. The Long Path climbs gradually to a high point from which there are good views of DeForest Reservoir, High Tor, and the ravaged backside of the Palisades Ridge between Long and Short Cloves. The trail soon begins a gradual descent into Long Clove along an old woods road and rejoins Route 9W. About one-half mile before this point, a white blazed side trail continues north then east switchbacking down an old quarry service road to the Shore Path at the burned-out shell of a ranger's cabin near Haverstraw Beach State Park. This recently constructed "connector" path simplifies access at the northern end of the Hook between the ridge trail and river path for loop hikes. A similar connecting trail is planned in Upper Nyack between Nyack Beach State Park and the Long Path near where it splits off of Route 9W. This would complete another local circular trail system.

The Long Path leaves Long Clove along Scratchup Road [\*12] with orchards on the south and the active quarry on the north. Upon reaching South Mountain Road, it heads into the woods on the northside of the road [\*13]. The trail ascends the ridge in a series of gently sloping plateaus interspersed with short steep rocky scrambles to High Tor. At 832 feet, High Tor is the highest point along the whole Palisades. It was utilized as a colonial signal station during the Revolutionary War, and in more recent times was the site of an aircraft navigation beacon. Only its anchor points remain now, firmly fixed in the rock. High Tor is probably best known locally as the setting for the Maxwell Anderson play of the same name. Its production on Broadway, along with the concerted efforts of local conservation organizations (including the New York-New Jersey Trail Conference) in the early 1940's are credited with having saved this magnificent spot from being dynamited to smithereens and barged to New York City. At the summit, another 360-degree panorama, less appreciated but just as fine as the Hook's, welcomes visitors. To the north, Perkin's Memorial atop Bear Mountain may be seen, and the New York City skyline is visible to the south. Directly below, the Village of Haverstraw stretches out like an elaborate model railroader's train table.

From the summit, the Long Path descends steeply to a woods road and continues west. Views are limited until the side trail to Little Tor is reached. From the summit of Little Tor, there are more fine views, primarily to the north across Garnerville. The Long Path crosses Central Highway and enters Rockland County's South Mountain Park. Here the trail closely parallels the ridge crest for awhile, and then passes by an abandoned cable television receiving antenna, and continues to the upper edge of the old Gurnee Quarry, where there are lovely vistas west and northwest to the Ramapo Mountains and Cheesecote Mountain. The quarry marks the northern terminus of the Palisades, and the Long Path descends along its edge to meet Route 45 just south of Route 202 in Mt. Ivy.





The Long Path proceeds north on Route 45 [\*14] and then west on Route 202, passes under the Palisades Parkway, and then turns north paralleling the parkway. The trail crosses the south Branch of the Minisceongo Creek, and then ascends a shoulder of Cheesecote Mountain [\*15]. Continuing to the top of the mountain, the trail passes Cheesecote Pond on the south side and then descends through an old cemetery owned by Letchworth Village [\*16] to Calls Hollow Road. The Long Path follows Calls Hollow Road for a short distance before turning west into Harriman-Bear Mountain State Park. The remaining seven miles of the Long Path in Rockland County are within the boundaries of Harriman State Park.

## LAND PRESERVATION STRATEGIES

Besides the costly and unlikely solution of purchasing outright the property (in fees) over which the Long Path traverses, there are other ways in which to protect or even acquire land in order to preserve the trail. These methods can be included in Town or Village local zoning ordinances, or in the County Comprehensive Plan (due out in 1990).

There are three basic types of land preservation methods that can be used by the municipalities to protect the Long Path and its corridor: Easements; Development Regulatory Techniques; and, Government and Nonprofit Open Space Acquisition. The more common of these strategies include: conservation easements, exaction, cluster zoning, planned unit development, large lot zoning, and fee simple acquisition. A description of each preservation method is provided in Appendix C, which also lists advantages and disadvantages of each method.

## CRITICAL AREAS

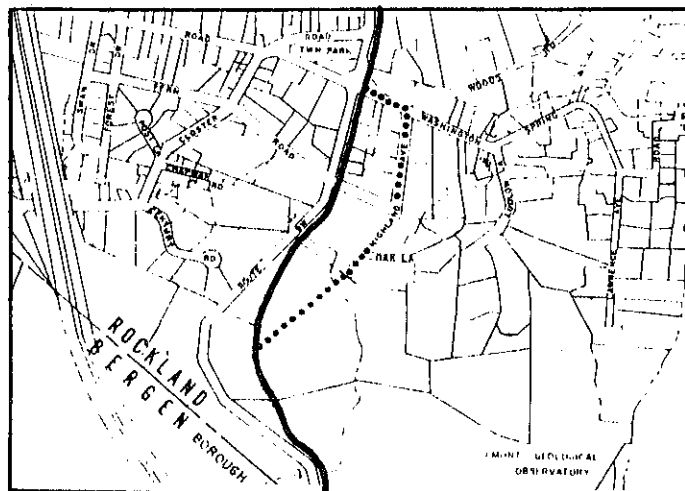
### 1. Lamont-Doherty Laboratory

Several hundred yards north of the main entrance of the observatory, the trail route follows an old woodland road downhill towards the hamlet of Palisades, ultimately returning to Route 9W.

*Ideal Routing* - Instead of returning to Route 9W, the route should, from the end of the woods road, continue along a private street to reach Washington Spring Road. The trail route would then turn west to reach Route 9W.

#### *Action Needed -*

- a) An easement 50 feet wide should be secured for the woods road from Columbia University, the owner of the property.
- b) An easement should be secured to traverse the private street intersecting Washington Spring Road.
- c) Consideration should be given to obtaining an additional easement from Columbia University for a 50 foot trail corridor between the Lamont-Doherty gate and the woodland road in (a) above, roughly paralleling 9W for about 20-30 yards east.



2.

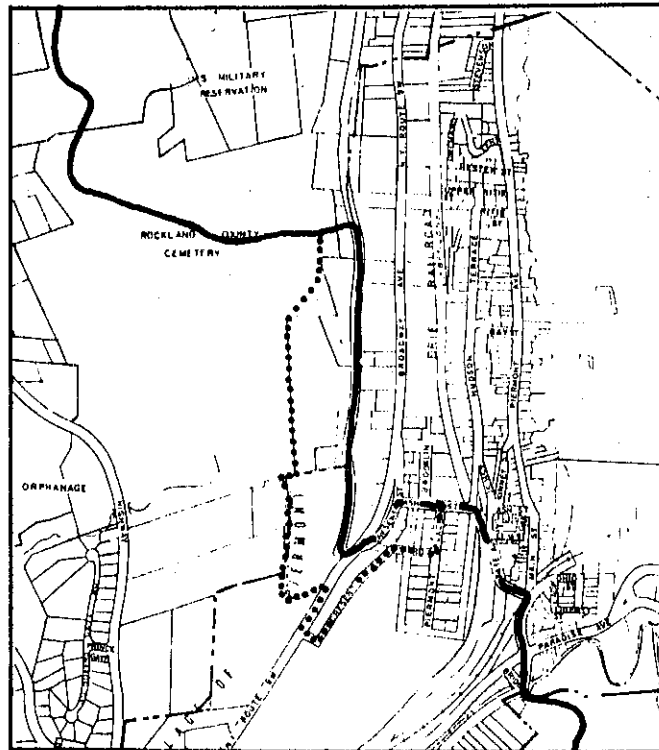
Piermont

The present route leads from the village west along Ash Street and thence along Tweed Blvd., a distance of about 3/4 mile, before climbing steeply up to Rockland Cemetery.

*Ideal Routing* - After traversing Ash Street for one block, the route would turn south and then west along local streets, ultimately following a mapped street now used as a pedestrian access to Tappan Zee Elementary School. The paper street leads to Route 9W opposite Castle Avenue. Following Castle Avenue to the boundary of Rockland Cemetery, the route would follow a cemetery road to connect with the current route at the top of the ridge.

*Action Needed* -

- a) An easement to cross a small private parcel to reach the Rockland Cemetery road.
- b) An easement from Rockland Cemetery to utilize a portion of their established paved road system.



3.

North of Clausland Mountain Road

There is a 125 foot wide strip of private land separating Tackamack Town Park and Blauvelt State Park. The trail route crosses this private property.

*Ideal Routing* - Current route.

*Action Needed* - An easement to protect the trail route. The parcel has been slated for subdivision. The engineer for the developer has orally stated that he would provide a 100 foot easement, with the treadway following along a common property line. The easement would be in close proximity to the current route. This would include a 50 foot ROW which includes the treadway.

4. Nyack College

Continuing northward from Tweed Blvd., the trail route follows a woodland road. The portion of the woodland road which is north of a water tank is in private ownership and appears to be owned by Nyack College. The road ultimately becomes the southernmost paved section of Highland Avenue.

*Ideal Routing* - Current route.

*Action Needed* -

- a) An easement encompassing the woodland road and lands on either side, particularly east of the woodland road.
- b) An easement to continue to use the private paved road of Nyack College in order to reach Bradley Hill Road.

5. North of Bradley Hill Road

This is a highly critical area representing the last undeveloped acreage in a built-up area. The trail lies along the wooded ridgeline before descending into Central Nyack along a mapped street and existing street.

*Ideal Routing* - Current route.

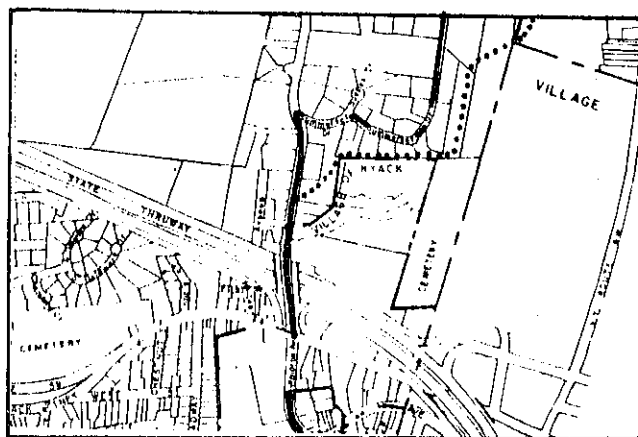
*Action Needed* - Conservation easement, acquisition in fee, or creation of a special district of the entire ridgeline and a portion of the slope needed to reach the mapped street.

6. Mountainview Avenue

The trail will be relocated on a 15-foot easement (less than adequate!) along the boundary of a new development called "Gold-ell Heights."

*Ideal Routing* - To enter the woodlands of the apartment house complex, several yards after passing the entrance drive, to more directly reach the easement of Gold-ell Heights.

*Action Needed* - Secure an easement which will connect with Gold-ell Heights easement at the southwest corner of Gold-ell Heights development.



7.

Mountainview Condominiums

The trail follows the southern and eastern boundaries of this complex. There is a legal 6 foot easement but in places it has been encroached upon by parking areas and other uses. Along the eastern boundary, the easement goes through the back yards of various residences and also goes around a swimming pool at a lower elevation which is used as a dump for biodegradable debris.

*Ideal Routing* - The route should be shifted eastward in existing woodlands, perhaps using a slightly lower elevation.

*Action Needed* -

- a) Obtain an easement along the western portion of a land-locked parcel (west of the Village Gate complex in Nyack). The owner has indicated that he would be receptive to shifting the trail to his property.
- b) Obtain an easement on the Nyack Missionary Alliance property along their western property line, or obtain an easement with the subsequent owner of the property in conjunction with any development plan of the property.



8.

Nyack High School Site

Skirting the extreme western boundary of the property, the trail route connects Mountainview Condos and Christian Herald Road.

*Ideal Routing* - Current route.

*Action Needed* - Reaffirm written permission from the School Board upon completion of the high school if development of the school site comes close to the trail route.



9.

Camp Ramah

The original route of the hiking trail in this area, dating back to 1900, traversed the escarpment north and west of this property. It connected Christian Herald Road with Hook Mountain. Currently the trail route goes along Christian Herald Road and Route 9W, a distance of about one-half mile, before reaching Hook Mountain. Several parcels have recently changed ownership and it seems likely that this area will be developed shortly. In fact, construction is in progress at the most prominent point of the escarpment.

*Ideal Routing* - The route should be restored along the escarpment.

*Action Needed* -

- a) Acquisition of an easement with additional areas on either side included in a protected zone.
- b) High visibility of the escarpment demands that additional review processes be implemented to protect aesthetic and scenic qualities.



10.

Hook Mountain

One-quarter mile north of Christian Herald Road, the trail route leaves Route 9W and continues on a woodland road towards Hook Mountain. Even if the Long Path route should be relocated across the Camp Ramah escarpment, this approach is needed for people arriving by public transportation.

*Ideal Routing* - Current route.

*Action Needed*

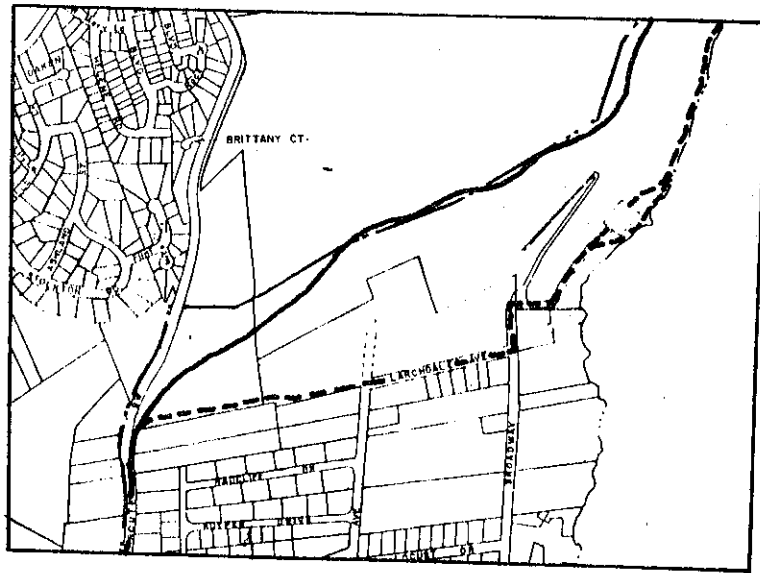
- a) There are four separate parcels between Route 9W and Hook Mountain State Park. Two are owned by Camp Marydell which is receptive to the trail crossing their property. However, some written authorization should be obtained.
- b) An easement should be obtained over the remaining two parcels of land in conjunction with any future development plan presented for local governmental approval.

11. Upper Nyack Connecting Trail

There has long been a need to connect the Long Path at Route 9W with Nyack Beach State Park. Camp Marydell has used an informal trail for many years. Recently it was discovered that the trail was not on their property.

*Ideal Routing* - A route between Route 9W and Midland Avenue on property owned by Camp Marydell. The trail would continue on local streets to Nyack Beach State Park.

*Action Needed* - Approval of the route by Camp Marydell and an easement over the property.



12. Scratchup Road

The presence of an operating quarry nearby forecloses any other route in this area. The quarry can provide a modern contrast to the more extensive quarrying operations of bygone days. The road is little used by vehicular traffic.

*Ideal Routing* - Current route.

*Action Needed* - The present route is acceptable but only if the level of development and traffic density do not increase. Zoning resolutions should be enacted to keep development to a very low density.

13. High Tor

The trail route ascends the south flank of High Tor. Although most people assume that the entire mountain is state owned, several hundred yards of privately-owned lands are crossed between Old Route 304 and High Tor State Park (PIPC).

*Ideal Routing* - Current route.

*Action Needed* - Obtain a sufficiently wide (100 foot) easement adjacent to the south edge of the quarry to connect separated county park lands. Current negotiations indicate that this is likely.

14. Route 202 - P.I.P. Interchange  
Heavy vehicular traffic from many directions makes the trail route somewhat dangerous. This routing is necessary to reach the western right-of-way of the parkway.
- Ideal Routing* - No specific recommendations.
- Action Needed* - Clear designation of pedestrian right-of-way through this area.
15. Cheesecote Town Park  
It was recently ascertained that the route at the south end of Cheesecote Pond is on privately owned land. This is the area farthest away from the recreational areas of the park.
- Ideal Routing* - Current route.
- Action Needed* - Acquisition in fee or by an easement of the woodland road which is in private ownership. The length of the area in question is about 100 yards.
16. Letchworth Cemetery  
Leaving Cheesecote Town Park, the trail route enters this cemetery, formerly used by Letchworth Village. The route emerges through the main cemetery entrance to reach Calls Hollow Road.
- Ideal Routing* - Current route.
- Action Needed* - Obtain state agency permission to traverse the cemetery grounds.

#### A TRAIL'S EFFECT ON PROPERTY VALUES AND CRIME

As more development occurs within Rockland County, the proximity of the Long Path to residential areas increases. Homeowners often oppose trails adjacent to their property, fearing that their property values will decrease and crime will increase. Several studies have been done to determine whether in fact, these fears are valid.

There is an ongoing monitoring of the entire 2000 mile Appalachian Trail by the Appalachian Trail Conference (Harpers Ferry, WV). Their observations indicate that there are very few incidents of crime along the trail. When trail relocations occurred, only in rare instances were people opposed to the Appalachian Trail. Generally, after a discussion of their concerns these people became at least neutral about the trail being adjacent to their property. Subsequently, most became enthusiastic about the trail as usage indicated that their fears did not materialize. In fact, people living along the Appalachian Trail often extended hospitality to long-distance hikers.

Experience has indicated that camping, campfires, and/or loitering are not found along trails in the relatively narrow rights-of-way connecting larger park areas. The very nature of these activities is dependent upon a sense of privacy which only larger park areas provide.

In 1987, the results of a survey undertaken by the Seattle Engineering Department's Offices for Planning with respect to a 12-mile long trail (the Burke-Gilman Trail), was published. The trail passed mostly through residential areas and was multi-use in character. Built on a former railroad roadbed, the trail is used by 750,000 people per year, mostly bicyclists. The purpose of the survey was to draw conclusions about the effect that this trail has had on nearby property values, crime, and the quality of life. The conclusions and recommendations of the study are presented as originally published in Appendix D. In short, the study found no adverse impact. On the contrary, property values were found to be slightly increased due to the trail's proximity.

## PROPERTY OWNERS' LIABILITY

Property owners often worry about the liability of allowing the use of their land for recreational purposes, such as for hiking. Under the General Obligations Law, the property owner is not liable for any persons entering or using their land as long as there is no fee charged. Appendix E describes the General Obligations Law, and gives examples of case notes dealing with different types of recreational uses.



**APPENDIX A**

**"NATURAL SYSTEMS VULNERABILITY SCREEN" from THE  
APPALACHIAN TRAIL: GUIDELINES FOR PRESERVATION**

**Prepared by Pennsylvania State University  
Department of Landscape Architecture**

**for the  
Commonwealth of Pennsylvania  
Department of Community Affairs**

## Natural Systems Vulnerability Screen

The evaluation of a development proposed in the vicinity of the Appalachian Trail should include, in addition to the corridor width concerns discussed in the previous section, an analysis of the potential impact of the development on the environment in general. The high quality of the environment in or near a recreation area is particularly important for the maximum enjoyment of the area.

The natural systems vulnerability screen is a tool to be used by municipalities to insure the compatibility of a particular land use development plan to its site environment. Development should not occur on unsuitable ecological settings, which comprise major sections of the existing trail corridor. State laws and local ordinances should restrict development in these locations.

The Natural Systems Vulnerability Screen consists of these factors: 1. soil erosion, 2. vegetation, 3. wildlife, 4. visual impact, 5. ground water pollution, 6. surface water pollution, and 7. septic tank suitability plus factors which are a determinant of degree of vulnerability i.e. soils, geology, slope, depth to bedrock, depth to water table, permeability and aquifer recharge zones.

### EROSION VULNERABILITY

Soil erosion vulnerability analysis predicts the degree of erosion that is likely to result when the land is stripped of its vegetation during development. The increased runoff caused by the removal of vegetation, especially in areas of fine textured soils, intensifies the likelihood of erosion and flooding.

Factors involved in measuring the degree of vulnerability are rainfall, soil type or stability, and gradient of slope. Rainfall (the erosion causing factor) varies with the local climate. The greater the rainfall, the greater the potential for erosion. Degree of slope and soil stability are plotted against each other to arrive at the level of vulnerability. Slight limitation areas can tolerate most types of development with minimal erosion. Severe limitation areas are not suitable for normal construction, and require sophisticated erosion control measures.

### VEGETATION VULNERABILITY

Determining factors of vegetative vulnerabilities are: surface water, slope, vegetative associations, wildlife, and topography. An examination of on site characteristics (i.e. slope, floodplain areas, ridgetop, marshland, deciduous and evergreen stands, and undergrowth) and subsequent rating of these characteristics determine the vulnerability of the vegetation to development. For example, a 60% slope or greater is high in vulnerability because of the consequences involved in development, namely: severe erosion, runoff, and high visual impact. A marsh is an extremely sensitive ecotone for wildlife, therefore, vulnerability is high. Ridgetops have high visual impact, wind exposure, and diversity in wildlife, giving it a high rating. Abuse of highly sensitive or vulnerable stands of vegetation may cause their death. Such destruction lowers the visual quality and the number of wildlife habitats.

### WILDLIFE VULNERABILITY

The importance of a wildlife vulnerability analysis is to show: the prime zones in which wildlife exists; and zones which contain the most diversity of species. Wildlife ecosystems and habitats are the two factors considered to determine the degree of vulnerability. Because an area is low in vulnerability it does not imply that development is allowable. For example, one of the least vulnerable areas is a conifer/pine forest, but due to its limited numbers, development could result in wiping out a species from the area. Open agriculture is less vulnerable, and in dealing with large areas, some could be sacrificed for minor construction without significant wildlife losses.

### VISUAL IMPACT

Visual impact or quality may serve as a guideline in determining lands which are to be preserved or developed. Visual impact is dependent on landform, vegetation, and unique site character. Ridgetops and gaps rate high in visual quality and high in vulnerability due to the extreme visibility of development in these locations. The visual dominance of the ridgetop makes it one of the most significant elements in a landscape, and therefore especially vulnerable to development. Unique or specimen plantings also have a high visual impact. Site features such as waterfalls and rock outcrops have a special visual impact. Unique visual features should be preserved or enhanced--not overwhelmed by development.

### SURFACE WATER POLLUTION VULNERABILITY

Surface water pollution vulnerability indicates potential input of biotic and sediment pollution of surface waters. Biotic pollution is directly or indirectly related to man-made features such as septic tanks, while sediment pollution stems from man altered zones. Sediment pollution or erosion is compounded by steep slopes, impermeable soils, and unstable soils. Sedimentation and siltation occur when soil particles, organic matter, and dissolved nutrients reach surface water features and filter out or deposit. These deposits along with biotic pollution can cause an imbalance in the existing water ecosystem.

### GROUND WATER POLLUTION

The factors involved in determining the vulnerability to ground water pollution are slope, soil permeability, depth to water table, and aquifer recharge areas. Septic tank effluent, pesticides, chemical fertilizer used in agriculture, and leachates from solid waste are potential ground water pollutants. The potential for pollution depends on the mobility of the contaminant, and the hydraulic characteristics of the ground water. The ability of the pollutant to leach through the soil depends on the soil permeability. Contaminants leach continuously; therefore, refuse in shallow water table areas has a maximum potential for ground water pollution.

SEPTIC TANK SUITABILITY

Effluent should be disposed so as not to pollute surface or ground water. Pollution can lead to problems affecting not only the environment, but also the economic and health related aspects of the development.

Limiting factors to septic tank suitability are: slope greater than 15%; depth to bedrock of less than 6'; depth to water table of less than 6'; and soil permeability rate faster than 6.3"/hour or slower than 2.0"/hour.

CONCLUSION

The natural systems vulnerabilities are interrelated. Development will most likely affect a series of vulnerabilities rather than a single factor. For example, while land is cleared during construction, loss of vegetation leads to severe erosion, which in turn pollutes a nearby stream with sediment. The vegetative vulnerability contributed to the erosion and pollution vulnerabilities. Differing land uses will involve different impacts, which are summarized in the following table:

LAND USE	VULNERABILITY
RESIDENTIAL	
subdivision	vegetation, visual impact, ground water pollution, surface water pollution, septic tank suitability, soil erosion
private estates	water pollution, septic tank suitability
INDUSTRY	visual impact, ground and surface water pollution, wildlife, septic tank suitability, soil erosion
RECREATION	
camp	water pollution, septic tank suitability
campgrounds	visual impact, water pollution, septic tank suitability
ski area	vegetation, visual impact, wildlife, septic tank suitability, soil erosion
UTILITIES	visual impact, soil erosion
TRANSPORTATION	vegetation, visual impact, wildlife, soil erosion
AGRICULTURE	surface water pollution, ground water pollution, soil erosion

The value of a natural systems inventory is not limited to trail protection; it is invaluable to municipalities in maintaining a balance between open space conservation and development. To this end each community or township is urged to inventory and analyze their natural systems.

10/10/10



**APPENDIX B**

**"ESTABLISHING CORRIDOR WIDTHS" from THE APPALACHIAN TRAIL:  
GUIDELINES FOR PRESERVATION**

**Prepared by Pennsylvania State University  
Department of Landscape Architecture**

**for the  
Commonwealth of Pennsylvania  
Department of Community Affairs**

## Establishing Corridor Widths

Establishing guidelines for trail corridor widths in varied landscape situations was identified by the Appalachian Trail Study Group. These were conceived to be an initial and vital step in an overall trail protection strategy. These guidelines were determined through field studies and research into previously conducted studies. Major considerations were audio and visual analysis, which were combined as determinants of overall corridor width guidelines.

### Noise

Noise is defined as sound that is noticeably unpleasant. Moreover, noise when excessive "is detrimental to the physical, mental, and social well being . . ." of the individual.<sup>11</sup> Due to this unwholesome effect, sound/noise was determined to be an important factor in the selection of an appropriate corridor width for the Appalachian Trail.

Various firms and individuals, including Kugler and Galloway<sup>12</sup> and Bold, Beranek and Newman have established recommended noise levels associated with certain land uses. Further, in July of 1971 the city of Chicago enacted into law an ordinance controlling noise levels. Other cities and communities within the United States are now in the process of instituting noise ordinances. The states of California and New York have recently passed noise control legislation and others will undoubtedly follow their lead. Within the ordinances passed, there is general agreement as to recommended noise levels of various land uses. The study group, in determining corridor width, used these recommendations as the maximum acceptable limits.

#### Maximum Acceptable Noise Levels for Various Land Uses

Transportation	90 db(A)
Industrial	86 db(A)
Commercial	76 db(A)
Residential	70 db(A)
Recreational	65 db(A)

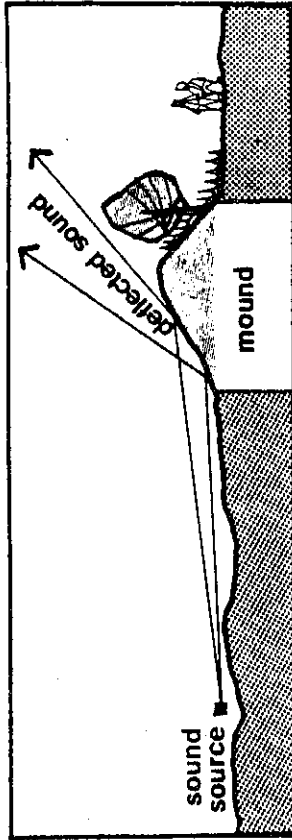
All of the decibel levels listed above are excessive to the individual walking in a natural environment. According to two sources, the noise level at which people are likely to complain is 70 db(A).<sup>13 14</sup> This level is based on the study's definition of peak noise in a residential area. The level of acceptance is 55 db(A) in this same area. An ideal level for a hiker in a natural environment was determined by the study group to be 10 db(A) below this level of acceptance.

### Noise Reduction

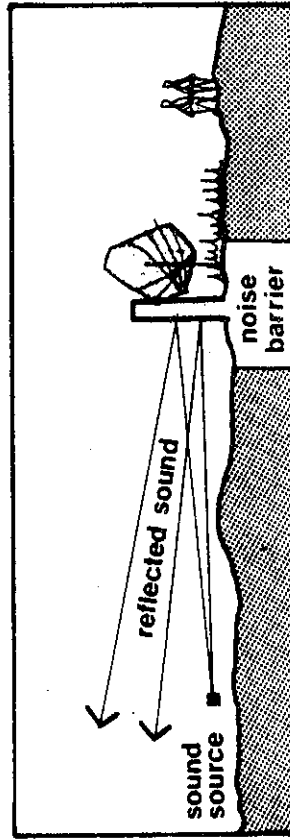
The reduction of noise is dependent upon many factors. A few

of these factors are: distance from the source, climate, and vegetation. The existence and use of vegetation is the only reasonable variable which may be utilized in the lowering of noise and still having a corridor width of reasonable size. Noise is reduced in three ways:<sup>15</sup>

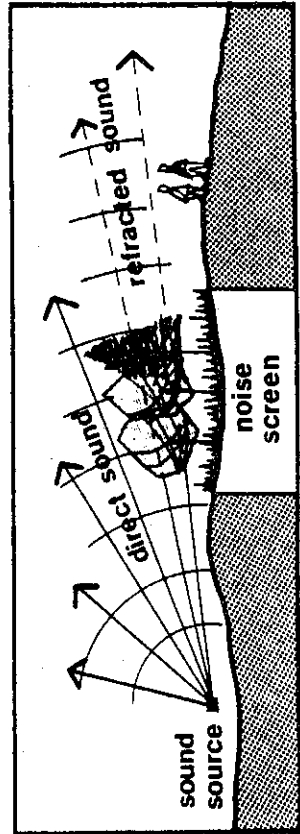
Deflection--by utilizing a barrier to bounce the sound in a direction away from a potential listener.



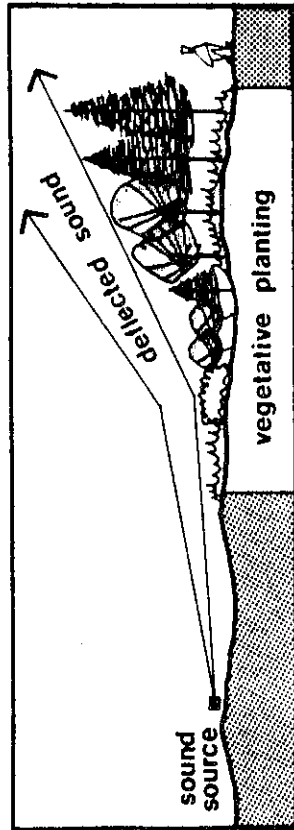
Reflection--by shielding the noise and reflecting it back towards the source.



Refraction--by diffusing and scattering the noise, as would occur if vegetation were used.



Since thick tree bark and dense foliage have the capacity to absorb and/or diffuse and scatter sound waves, their use can be expected to result in increased noise reduction (refraction). Employing this principle, an increase in the depth of plantings increases noise reduction. Additionally, by locating smaller plant materials closer to the noise source and gradually increasing vegetation height away from the source, noise may be directed up and over any potential listener (deflection). Reflection cannot be successfully accomplished through the use of vegetation due to penetration of the sound waves.



"Vegetative Plantings Deflecting Sound Waves"

A reduction design value of 5 db(A) per 100 feet of planting may be used if trees are in excess of 15 feet high and sufficiently dense so that the noise source cannot be seen. If however, the noise source is visible through the vegetation a 3 db(A) per 100 feet reduction figure should be used. A 1.5 db(A) per 100 feet reduction figure may be used in an open area based solely on distance and subsequent ground absorption. 16 17

The values listed above are general and result from a compilation of results of the previously listed studies. The reduction values vary to some degree with vegetation types; however, it is interesting to note that the distinction between the reduction effects from evergreen and deciduous trees is very slight.

#### Sight

The distance an individual can see an object or structure within various landscapes was also determined to be an important factor in selecting an appropriate corridor width for the Appalachian Trail.

A field study was conducted by the Study Group in various vegetative settings on two basic landforms, ridgetop-side slope and flat-rolling topography. Broken down, the vegetative groupings fell into seven different categories. \*

\*See Note #3, Appendix B.

1. Coniferous growth with understory
2. Coniferous growth without understory
3. Deciduous growth with understory
4. Deciduous growth without understory
5. Mixed coniferous and deciduous growth with understory
6. Mixed coniferous and deciduous growth without understory
7. Open ground

The results of this field study are reported in subsequent graphs along with the results of the noise study enabling the Study Group to determine an acceptable range of width for the trail corridor.

#### Corridor Width

Upon completion, the audio and visual studies were applied to the trail route to establish: 1) ideal, 2) acceptable, and 3) unacceptable corridor widths.

In reviewing the data collected, the distances related to the audio aspect were substantially greater than those for visual; therefore, the ideal trail corridor width for all land uses was taken from the audio data, the distance at which the noise level would be reduced to 45 db(A). This decibel level provides a quiet background for the wilderness hiker. The distance at which the corridor width is acceptable for each land use was the distance at which the noise is reduced to 55 db(A). The reason for emphasizing the audio aspect was to retain as much of a wilderness experience as possible for the Appalachian Trail Hiker. Even though a hiker may not be able to see a source of noise annoyance, he will not feel a part of the trail environment if he is exposed to loud high-pitched noises.

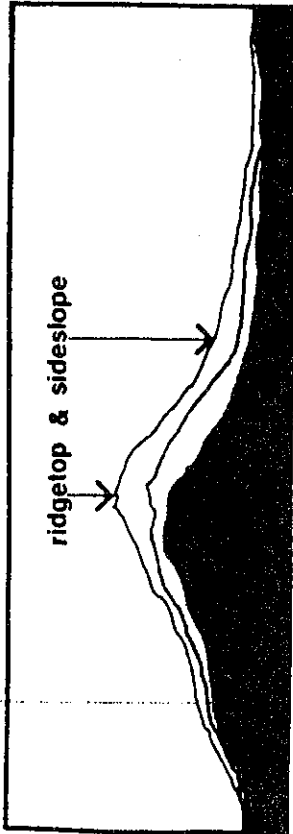
An exception to the emphasis placed on audio considerations was with respect to recreational land. In analyzing the type and level of noise produced by lands in recreational use it was determined that accompanying noise levels would not be offensive to the trail hiker. Recreational lands are utilized seasonally and intermittently. Thus, visual data was used to determine the minimum acceptable corridor width.

#### Conclusion

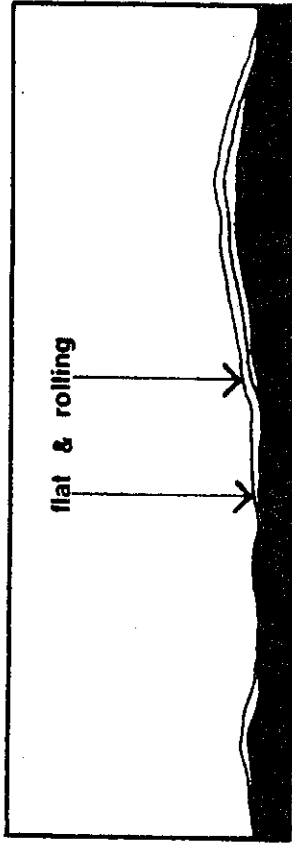
The purpose of these studies, and the resulting determination of corridor widths, is that they may serve as guidelines for municipalities and other land use regulatory agencies in dealing with developers. By breaking each potential problem down into specific land forms, vegetative conditions, and individual land uses, an agency can easily attack the corridor width problem in any given situation. Only a comprehensive analysis and plan can provide substantial assurance of protecting an adequate corridor width for the trail, over the whole length. Hopefully, phases of this report may help local agencies to recognize potential conflicts and provide them with adequate tools to confront and deal with problems before they occur.

# How To Use Graphs For Recommended Distances Between Trail And Land Use.

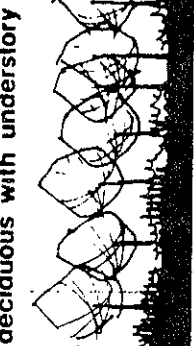
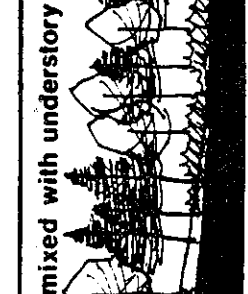
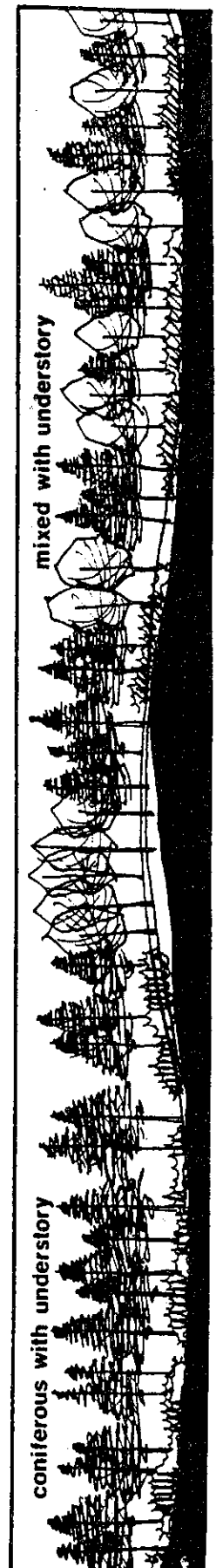
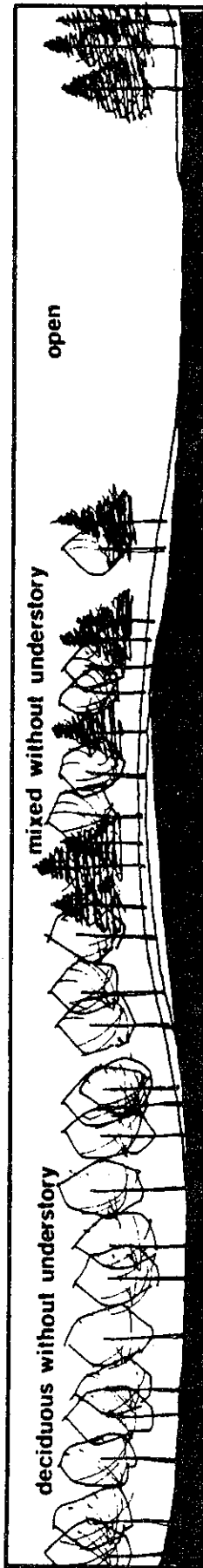
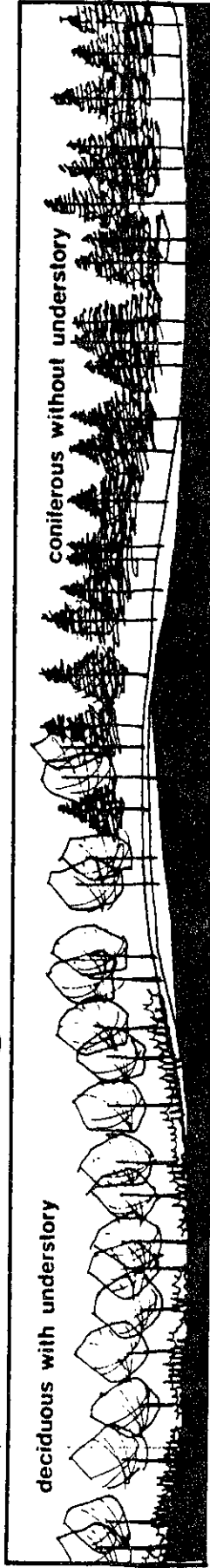
## 1. Determine Landform



or



## 2. Determine Vegetative Cover



### 3. Refer to the appropriate landform/vegetative cover and land use

The charts on the following pages portray the recommended distances between the trail and several selected general land uses in areas with various landform/vegetative covers. Sight and sound, as indicated by the symbols  $\mathcal{L}$  and  $\mathcal{S}$  are the sensory determinants the study group considered when establishing the recommended distances.

The distances are broken down into two categories: Acceptable (shown in light type) and ideal minimum (shown in bold type). In order to determine a total corridor width, distance should be established for each side of the trail. If the land use or landform/vegetative cover differs on either side of the trail it will be necessary to establish two separate recommended distances, one for each side of the trail.

The reader will notice that sound, rather than sight, has the greatest impact on the recommended corridor width. However, if a particular land use is uniquely quiet, the recommended minimum distance for sight may be more appropriate.

**NOTE:** If recreational land use involves motorized vehicles, transportation land use corridor widths should be used.

(Shown in feet)

Landform/Vegetative Cover

Land Use	Landform/Vegetative Cover							
	Ridgetop & Sideslope Coniferous With Understory	Ridgetop & Sideslope Coniferous Without Understory	Ridgetop & Sideslope Deciduous With Understory	Ridgetop & Sideslope Deciduous Without Understory	Ridgetop & Sideslope Mixed With Understory	Ridgetop & Sideslope Mixed Without Understory	Ridgetop & Sideslope Open	
Transportation	25 40	50 115	30 70	65 145	25 60	65 135	200 500	
	675 900	1200 1500	675 900	1200 1500	675 900	1200 1500	2300 3000	
Industry	25 40	50 115	30 70	65 145	25 60	65 135	200 500	
	600 800	1000 1400	600 800	1000 1400	600 800	1000 1400	2000 2500	
Commercial	25 40	50 115	30 70	65 145	25 60	65 135	200 500	
	400 600	700 1000	400 600	700 1000	400 600	700 1000	1400 2000	
Residential	25 40	50 115	30 70	65 145	25 60	65 135	200 500	
	300 500	500 800	300 500	500 800	300 500	500 800	1000 1600	
Recreation	25 40	50 115	30 70	65 145	25 60	65 135	200 500	
	200 500	500 700	200 400	500 700	200 400	500 700	1100 1300	

Recommended Corridor Widths for Various Situations  
(Shown in feet)

Landform/Vegetative Cover

Land Use	Landform/Vegetative Cover									
	Flat & Rolling Coniferous With Understory	Flat & Rolling Coniferous Without Understory	Flat & Rolling Deciduous With Understory	Flat & Rolling Deciduous Without Understory	Flat & Rolling Mixed With Understory	Flat & Rolling Mixed Without Understory	Flat & Rolling Open			
Transportation	25 40	90 200	30 70	200 450	25 60	90 200	200 500			
	675 900	1200 1500	675 900	1200 1500	675 900	1200 1500	2300 3000			
Industry	25 40	90 200	30 70	200 450	25 60	90 200	200 500			
	600 800	1000 1400	600 800	1000 1400	600 800	1000 1400	2000 2500			
Commercial	25 40	90 200	30 70	200 450	25 60	90 200	200 500			
	400 600	700 1000	400 600	700 1000	400 600	700 1000	1400 2000			
Residential	25 40	90 200	30 70	200 450	25 60	90 200	200 500			
	300 500	500 800	300 500	500 800	300 500	500 800	1000 1600			
Recreation	25 40	90 200	30 70	200 450	25 60	90 200	200 500			
	200 400	500 700	200 400	500 700	200 400	500 700	1100 1300			





## APPENDIX C

### LAND PRESERVATION STRATEGIES

**EASEMENTS** - This type of protection method can be used to secure access through subdivisions, or to protect land from development.

#### 1. RIGHT-OF-WAY

The legal right to pass through the grounds of another landowner acquired by either purchase or donation. The landowner still owns the land over which the right-of-way is bought; only the right to pass over the land is sold. This technique protects the trail corridor, for example, by guaranteeing the right of passage over a 25 foot wide strip which the trail traverses. Normally, such an easement is established for the benefit of an adjoining property owner:

#### 2. CONSERVATION EASEMENT

An agreement between a landowner and a public agency or not-for-profit agency whereby the landowner donates or sells development rights. This easement runs with the land, and removes the right of the owner to develop the land in order to preserve open space and protect certain natural resources. Some easements are negative in that they give the holder the right to prevent the landowner from using his land for specified purposes such as cutting trees, while other easements are positive in that they give the public rights to the use of trails, lakes, streams, etc. This type of easement is an easement in gross; it does not benefit the adjacent landowner, but some other interested agency. The donation of a conservation easement can provide tax benefits to the owner if it meets the criteria specified by the I.R.S. This technique is one of the least expensive and simplest ways by which land can be preserved.

#### 3. SCENIC EASEMENT

The grant by a landowner to a road agency of the right to use his land for scenic enhancement. The easement, which is usually bought by state road commissions for the planting of greenery, bars the owner from changing the use or appearance of his land without the agency's consent. Scenic easements are sometimes purchased for all land viewable from the road but more often for particular strips along the way.

**DEVELOPMENT REGULATORY METHODS** - These types of protection methods need to be controlled by the Municipality, and include three types of techniques: Zoning/Regulatory Techniques, Growth Control, and Environmental Review.

### ZONING/REGULATORY TECHNIQUES

#### 1. LARGE LOT ZONING

Large lot zoning requires a large minimum lot area size, thereby restricting the density of development. This type of zoning would create larger rear and side yards, thereby providing a buffer adjacent to portions of the trail which straddle property lines. Large lot zoning is only effective in preventing new development from infringing on the trail. The advantage of this technique is that it is effective at maintaining low densities. Upzoning to large lot area requirements will not reduce the existing density, however. Future preservation is not definite since zoning districts and codes are subject to change. This technique can increase infrastructure costs, and can foster urban sprawl.

## 2. PERFORMANCE ZONING

Performance zoning permits specific uses of property based on natural resource data and design guidelines. The advantage of this technique is that it directs development to appropriate places based on a comprehensive and environmentally focused plan. This technique could be used to protect viewsheds from the Long Path by limiting the height of development, or by requiring buffers to be placed adjacent to the property abutting the trail. However, this zoning is hard to implement since environmental impacts can be difficult to measure.

## 3. CARRYING CAPACITY ZONING

This zoning technique is based on the ability of an area to accommodate growth and development within the limits defined by existing infrastructure and natural resource capabilities, such as sewer or water. The advantage to this method is that the zoning is based on an area's physical capacity to accommodate development. The disadvantages are that a comprehensive environmental inventory must be implemented, and it is often difficult to determine carrying capacity. This technique has been found relatively ineffective, however. The Rockland County Sewer District #1 has been operating near capacity, and plans to expand their lines. Yet, up until the time that the service is expanded, development has continued to be approved.

## 4. CLUSTER ZONING

Cluster zoning maintains the regular zoning's ratio of housing units to acreage, but permits development to be clustered on undersized lots, thus allowing for open space preservation. This method provides flexibility in siting while allowing preservation of significant natural areas within the site, such as the Long Path. The proposed dwellings could be constructed away from the hiking trail, thereby avoiding encroachment onto the trail. Construction and infrastructure costs can also be reduced with this technique. The most successful cluster developments would provide a large continuous parcel of open space, and not small sporadic areas.

## 5. PLANNED UNIT DEVELOPMENT (PUD)

This technique, similar to cluster zoning, allows for a large mixed use, with carefully planned development. PUDs must be specifically provided for in a zoning ordinance. Planned unit development encourages cluster development while also providing neighborhood open space. The disadvantage of PUDs is that open space is often preserved in small fragmented areas, and processing time for development may be increased.

## 6. SPECIAL DISTRICT

Special Districts can be established with development restrictions to protect natural areas, scenic views, and neighborhood character. Special districts have regulations specific to the needs of a unique open area, such as a scenic viewshed. Areas adjacent to the Long Path that traverse the ridgelines could be included in a special district since they offer unique hiking opportunities and scenic views. The difficulty in establishing special districts is that the wording must be specific enough to avoid varying interpretations.

## 7. EXACTION

This is the process by which a local government requires a developer to pay a fee or to dedicate land to a municipal trust fund for open space as a condition of obtaining subdivision approval. This would enable owners to donate land adjacent to the Long Path when a subdivision is proposed, thereby protecting the trail as well as the future homeowners. In effect, new construction pays for its impact on open space. Unfortunately, exaction normally applies to only residential development. Commercial or industrial development is usually not subject to exaction despite its equal or greater coverage of open space.

## 8. PETITION

Under the Town and Village Laws, 20% or more of adjacent landowners can petition against a zoning change. This allows the community directly affected by a proposed zoning change an opportunity to voice opposition. However, only the adjacent landowners, not nearby landowners, can petition against a zoning change. The petition could help existing landowners in environmentally sensitive areas to preserve the open space by opposing a higher density. The higher density would help protect the Long Path as well, by requiring greater yard requirements. However, petition does not ensure that the zone change will be avoided.

## 9. OFFICIAL MAP

In order to help protect the Long Path from future development encroachment, under the City, Town, or Village Law of New York State, Municipalities should amend their local law to include "hiking trails" as an item to be included on their official map. The Municipality could then change or add to the official map hiking trails such as the Long Path. The City law which would need to be amended is Section 26; the Town law to be amended is Section 270; and the Village law to be amended is Section 7-724.

## GROWTH CONTROL TECHNIQUES

### 1. PREFERENTIAL ASSESSMENT

This technique grants a reduced tax assessment to property used for specific purposes, such as farmland or forest. By lessening the tax burden on the owners, this technique encourages them to maintain their property in a non-intensive use, rather than developing it. However, this method requires other property owners in the area to bear the burden of additional taxes, and it does not guarantee preservation of land.

### 2. PHASED GROWTH/MORATORIUM

Phased growth permits a limited amount of growth each year. A moratorium is a legal postponement or delay imposed upon land development. Phased growth is effective as a comprehensive planning strategy, and a moratorium is very useful during the formulation of a master development plan. The moratorium could be used as a device to limit development adjacent to the Long Path until the County comprehensive plan is completed. The updated plan will include an official map which will depict the location of all of the County parks and the Long Path, thereby requiring the County Department of Planning to review all development within 500 feet of the facilities. However, a moratorium may be found to be a "taking" of property, thereby requiring the payment of compensation to the owner. Under phased growth, there must be an equitable system to approve developments.

### 3. TRANSFER OF DEVELOPMENT RIGHTS (TDR)

Under an established program, a landowner who wishes to preserve his property can sell the development rights to other landowners whose property can support increased density. The result is that land more suitable for development or already partially developed can absorb higher densities, while existing open space, forests, or wetlands are maintained in another location. This would protect the Long Path by encouraging a landowner adjacent to the trail to sell his development rights, thereby allowing another property owner to build higher densities. The advantage to TDR is that the cost of preservation is absorbed by the property owner who purchases the development rights. However, TDR is difficult to implement. The preservation and receiving areas need to be identified and development pressures must be sufficient to make this technique workable.

ENVIRONMENTAL REVIEW - Government agencies can be required to mitigate the environmental impact of specific developments through legislation. This allows for objectivity and creative solutions to development conflicts, especially with regards to preserving open space. The disadvantage to this technique is that it can be a time consuming and complicated process which can stall development, adding to the project costs.

#### 1. ENVIRONMENTAL PROTECTION ORDINANCES

Environmental protection ordinances are ordinances that specifically protect natural resources such as floodplains, wetlands, watersheds, and tree removal. These ordinances are often the result of a federal or state legislative mandate that regulates development in sensitive areas. The benefit of these environmental protection ordinances is that development in protected areas requires a permit, and the permit is issued only if development is within the ordinance guidelines. The problem with these ordinances is that they do not always prohibit development and that the regulatory guidelines are often broad enough to allow subjectivity in the permit application approval.

#### 2. CRITICAL ENVIRONMENTAL AREA DESIGNATION (CEA)

Critical Environmental Area Designation is established by the local government. Any development proposed in a CEA is subject to a Type I State Environmental Quality Review and requires an environmental assessment or environmental impact statement. This technique is an effective tool for preventing or mitigating the impact of development on sensitive natural areas. Requiring a review to either mitigate the development or relocating development to a less obtrusive location would help to preserve the Long Path. However, a CEA does not assure preservation since determination of environmental impact is discretionary.

#### 3. CONSERVATION ADVISORY COUNCIL/BOARD

A Conservation Advisory Council or Board, authorized by the General Municipal Law, is appointed to oversee the community's natural resources and advise the municipal board on such things as mitigating the impact of development on natural resources. To our knowledge, no such Board exists at this time, but the formation of a Board could be considered. However, this is only an advisory Board that discusses projects within the realms of the law.

**GOVERNMENT AND NONPROFIT OPEN SPACE ACQUISITION METHODS** - The third type of protection method can be done at the Federal, State, or Local level, and includes: Government Financing Options, Transfer of Title and Nonprofit Financing Options, and Ownership Entity and Type of Ownership Options.

#### GOVERNMENT FINANCING OPTIONS

1. **BOND ACT**

Borrowing money through issuance of bonds is a common way to provide funds for open space. This procedure must be approved through a referendum. This method assures the availability of funds, thus allowing for immediate purchase of open space, and helps to distribute the cost of acquisition. Since interest charges are tacked on to the cost of the project, this technique can be expensive.

2. **GENERAL FUND APPROPRIATION**

This method involves appropriations from general local government funds. General fund appropriation avoids interest and debt service costs. However, budget allocations are unpredictable, and there may not be sufficient funds.

3. **REAL ESTATE TRANSFER TAX**

A real estate transfer tax is a tax imposed on property sales. This creates a substantial fund which can be used for land acquisition. Discrimination between new and existing residents may result from this tax.

4. **LAND GAINS TAX**

This is a capital gains tax on the sale or exchange of land held for six years or less. The tax rate can vary. Land gains tax discourages speculative development and has a regulatory and revenue impact. The disadvantage to this tax is that it can discourage sales of land.

5. **TAX RETURN CHECK OFF**

This method permits taxpayers to allocate a small sum of their taxes for designated uses, including the acquisition of land for public use. It is a convenient method of generating funds for this purpose, but is vulnerable to competition from other important and desirable programs.

6. **OTHER FUND/TAX**

Taxes on such items as gasoline, cigarettes, etc. can be earmarked for land preservation. In addition, fees can be imposed on the use of public lands, with the proceeds going towards the preservation of these lands and the purchase of additional lands. However, unless they are firmly dedicated to park and recreational purposes, user fees can easily be diverted to other uses.

7. **STATE GRANT**

States can provide matching grants for municipalities to acquire open space. This method has proven very effective in a number of states, but there is always competition by many municipalities for the limited funds available.

## 8. SALE OR TRANSFER OF TAX DEFAULT PROPERTY

The sale of tax default property can provide a fund for open space acquisition. Funds for acquiring open space land is thereby obtained with little cost to the taxpayers. This can be a very political process, and might not provide significant income.

## 9. PAYMENT IN LIEU OF DEDICATION

Payment in lieu of dedication is a technique in which local governments require developers to pay a fee to a municipal trust fund for open space acquisitions. This process makes new construction pay for its impact on open space. However, acquisition funds are dependent on development.

## 10. SPECIAL ASSESSMENT DISTRICT

The special assessment district is a special tax district for the area benefited by an open space project. The users of the project are the ones who finance the acquisition. The disadvantages to these districts are that they can increase taxes and are costly to implement.

## 11. LAND AND WATER CONSERVATION FUND

Federal funds are provided to local governments on a 50/50 matching basis for acquisition and development of outdoor recreation areas. These funds lower the cost of local government acquisition through the subsidy. Receipt of the funds is dependent on federal approval, however, and there are only limited funds available.

## TRANSFER OF TITLE AND NONPROFIT FINANCING OPTIONS

### 1. OUTRIGHT DONATIONS

This technique involves the donation by a landowner to a public or non-profit agency of all or part of his property. This allows for permanent protection of the land, and provides tax benefits to the seller, since the property's fair market value is considered a charitable contribution. This technique is one way in which much of the existing parkland has been obtained. The receiving agency or organization must be willing to accept the donation, and be capable of management responsibilities.

### 2. OTHER DONATIONS

A. **BY DEVISE** - The landowner bequeaths in his will all or part of his property to a public or non-profit agency. Of course, he retains ownership of the land until his death. The disadvantage to this technique is that the landowner does not benefit from income tax deductions, and the date of acquisition is uncertain.

B. **RESERVED LIFE ESTATE** - The landowner donates the land during his lifetime, but retains lifetime use of the land. This technique is advantageous because the landowner retains the uses of the land while also receiving tax benefits from the donation.

### 3. FAIR MARKET VALUE SALE

Land is sold at a price equivalent for its value at highest and best use. This technique provides the seller with the highest sale income (cash inflow) as possible. However, this can be a very expensive way to acquire land.

#### 4. BARGAIN SALE

This is a technique where the land is partly sold and partly donated, i.e., it is sold at less than fair market value. There are tax benefits to the seller since the difference between fair market value and the sale price is considered a charitable contribution. There is also a lower capital gains tax. The seller must be willing, however, to sell the land at less than fair market value.

#### 5. LAND EXCHANGE

Public land with little conservation value but high development value can be exchanged for land under private ownership with high conservation value. This is a relatively cost-free technique and reduces the capital gains tax for private owners. The drawback to this technique is that the property owner must be willing to accept the exchange. The property must be of comparable value. Land exchange can be an expensive and time-consuming transaction.

#### 6. RESTRICTED AUCTION (Nonprofit)

At times, the government may have surplus property which it wishes to dispose of. By holding an auction for the property but restricting bidders to non-profit organizations who agree to maintain it as open space (or pursuant to other suitable restrictions), the government can receive a substantial price for the land yet be assured that the land will not be developed. Of course, the price for the land will almost certainly be lower than if it had been sold without restrictions to the highest bidder.

#### 7. EMINENT DOMAIN (Government)

Eminent Domain is the right of the government to take private property for public purpose upon payment of just compensation. This provides the government with a tool to acquire desired properties if other acquisition techniques are not workable. However, there may be high acquisition costs, and it can result in speculation on target properties. This procedure can also be time consuming.

#### 8. TAX FORECLOSURE (Government)

The government acquires land by tax payment default. This requires limited government expenditures. The disadvantage to this technique is that land acquired from tax foreclosure might not be appropriate for public open space. The land could, however, be sold to provide funds for open space acquisition.

#### 9. AGENCY TRANSFER (Government)

Another alternative which the government may wish to pursue if it has surplus property is to transfer the property to another government agency which can preserve it for its open space value. For example, a military facility which includes significant open space but is no longer needed for military purposes could be transferred to the Department of Environmental Conservation or to the Office of Parks, Recreation and Historic Preservation. This, of course, requires no expenditure by the government, but the surplus land available often is not suitable for recreational or open space use.

### OWNERSHIP ENTITY AND TYPE OF OWNERSHIP OPTIONS

#### 1. GOVERNMENT OWNERSHIP ENTITY OPTIONS

A. FEDERAL LEVEL - This option provides for acquisition of land by the National Park Service, Forest Service, U.S. Fish and Wildlife Service, or the Bureau of Land Management. Acquisition of land is at a Federal level, eliminating any financial obligation by the locality. This option is limited due to the agencies' specific criteria for acquisition.

B. STATE LEVEL - Acquisition of land is done by the Office of Parks and Recreation (Environmental Quality Bond Act funds - EQBA) or Department of Environmental Conservation (Gift to Wildlife Fund). These funds are available from the 1986 Environmental Quality Bond Act and Gift to Wildlife Fund for open space acquisition. Often long time frames are needed for acquisition approval, which may cause the government to miss acquisition opportunities. With the EQBA, there is a 50/50 matching required, which can be costly for the local or County government.

C. LOCAL LEVEL - Land is acquired by County or Municipality purchase. This type of purchase can give the local government more flexibility in the type of open space it wishes to acquire. However, with escalating land costs, this type of technique can be costly, making local acquisition difficult.

## 2. NONPROFIT PURCHASE AND OWNERSHIP ENTITY OPTIONS

A. NONPROFIT ACQUISITION/CONVEYANCE TO PUBLIC AGENCY - A nonprofit organization can acquire and hold land until the government is able to purchase it. The nonprofit agency can buy the land more easily than the government, and can often sell to the government at under fair market value if the property was acquired through a bargain sale. However, there must be a public agency willing and able to buy the land within a reasonable time frame.

B. NONPROFIT ACQUISITION/CONVEYANCE TO LAND TRUST - This is a technique whereby a national or regional nonprofit organization can acquire and hold land until a local land trust has been established or is able to finance acquisition. This makes it possible for immediate acquisition, and the nonprofit agency can hold the property until a land trust has been established or has acquired funds. The disadvantage with conveyance to land trust is that if a land trust does not exist, a community must establish one. A land trust needs solid support, funding and ability to manage land.

C. NONPROFIT ACQUISITION/MANAGEMENT - This is where a national or regional nonprofit organization or local land trust retains ownership and assumes management responsibilities. This technique allows for ownership within a community, and local citizens can provide responsible care and management of the site. The disadvantage of this approach is that the land must fit the criteria of the acquiring organization, which must be prepared to assume management responsibilities.

D. NONPROFIT ACQUISITION/SALEBACK OR LEASE - A nonprofit organization can purchase property, limit future development through restrictive covenants, and resell or lease back the property. The acquisition is financed by the resale or leaseback of the property. Resale is at less than fair market value, because of restrictive covenants, thereby making land affordable for the buyer. However this technique often involves complex negotiations. If the land is leased back, the nonprofit organization retains the responsibility for the land. Another disadvantage is that finding a buyer for restricted property may be difficult.

E. NONPROFIT ACQUISITION/PARTIAL DEVELOPMENT - Through this method, a nonprofit organization can acquire a property, then resell a portion appropriate for development, thus financing preservation of the remainder of the site. This is advantageous since the development will pay for preservation of the remainder of the land. However, this can be a time consuming technique to both plan and negotiate. Participants who are willing to develop with restrictions must also be found.



### 3. OWNERSHIP ENTITY AND TYPE OF OWNERSHIP OPTIONS

A. **FEE SIMPLE** - This is the outright purchase of full title to land and all rights associated with the land. Fee simple gives the owner full control of the land, and allows for permanent protection and public access. The most critically endangered areas along the Long Path should be considered to be purchased by the fee simple technique to quickly protect the trail. However, acquisition can be costly, and it removes the land from the tax base. Ownership responsibility includes liability and maintenance.

B. **FEE SIMPLE/LEASEBACK** - This method involves the purchase of the full title, and then leasing the land back to the previous owner or other person, subject to restrictions. The advantage to this technique is that it allows for a comprehensive preservation program of land banking and provides income through the leaseback.

C. **LEASE** - Leasing is the short or long term rental of land. Leasing can be combined with an option to purchase the land. This technique allows time to obtain financing approvals. The disadvantages to leasing are that it affords only limited control of property, and the temporary context of a lease does not assure a permanent protection.

D. **UNDIVIDED INTEREST** - This technique involves the split of ownership between different owners, with each fractional interest extending over the whole parcel. Each owner has equal rights to the entire property. This form of ownership prevents one owner from acting without the consent of the other. However, if several landowners are involved, property management issues can become complicated.



## APPENDIX D

### CONCLUSION: THE EFFECT OF THE BURKE-GILMAN TRAIL ON PROPERTY VALUES AND CRIME

The Burke-Gilman Trail in Seattle is regarded by real estate companies as an amenity that helps to attract buyers and to sell property. Single-family homes, condominiums, and apartments are regularly advertised as being near or on the Trail.

Property near but not immediately adjacent to the Burke-Gilman Trail is significantly easier to sell and, according to real estate agents, sells for an average of six percent more as a result of its proximity to the trail. Property immediately adjacent to the trail, however, is only slightly easier to sell. The trail has no significant effect on the selling prices of homes immediately adjacent to it. Residents who bought their homes after the trail was opened are most likely to view the trail as a positive factor that increases the value of their home. Long-time residents who bought their homes prior to the opening of the trail are generally less likely to view the trail as an economic asset. Real estate advertisements that promote properties as being on or near the trail tend to be from the companies that regularly sell homes near the trail. In other words, people who have recently been involved in the real estate market are more likely to have experienced the economic assets of the trail.

The existence of the trail has had little, if any, effect on crime and vandalism experienced by adjacent property owners. Police officers interviewed stated that there is no greater incidence of burglaries and vandalism of homes along the trail. They attribute that fact to the absence of motor vehicles. They note that problems in park areas are generally confined to areas of easy motor vehicle access. The police officers said that there would be no significant trail problems as long as parking lots are away from the trail and bollards prevent motor vehicle use. They also recommend the development of additional trails.

Residents adjacent to the trail are also positive about it, especially when compared to conditions before the trail was opened. A former opponent of the trail (her home is on the trail) stated that the "trail is much more positive than I expected. I was involved in citizens groups opposed to the trail. I now feel that the trail is very positive; [there are] fewer problems than before the trail was built; [there was] more litter and beer cans and vagrants when the railroad was in." Not a single resident surveyed said that present conditions were worse than prior to construction of the trail. In the eight years that the trail has been opened, there have been an average of only two incidents per year of vandalism or break-ins where a trail user may have been involved.

There is also a very high level of public acceptance and support for the trail. Not a single resident surveyed felt the trail should be closed. Less than three percent said there were any problems associated with the trail that were serious enough to cause them to consider moving (reason cited for wanting to move was always related to privacy, never crime or vandalism). Almost two-thirds of the residents felt the trail increased the quality of life in the neighborhood.

In summary, this study indicates that concerns about decreased property values, increased crime, and a lower quality of life due to the construction of multi-use trails are unfounded. In fact, the opposite is true. The study indicates that multi-use trails are an amenity that help sell homes, increase property values and improve the quality of life. Multi-use trails are tremendously popular and should continue to be built to meet the ever-growing demand for bicycle facilities in Seattle.

One point of concern regarding the trail must be mentioned. Although not included in the survey, thirteen percent of those surveyed brought up the problem of user conflicts (i.e., speeding bicyclists) on the trail. To some extent, it is a problem of success. The trail has twice as many users as originally forecasted. Solving this problem may require trail design changes, educating users, and enforcing trail regulations.



**APPENDIX E**

**GENERAL OBLIGATIONS LAW & CASE NOTES**

Excerpts from the  
General Business Law  
New York State Statutes

### § 9-101. Liability of receiver of rents and profits appointed in mortgage foreclosure

A receiver of rents and profits appointed in an action to foreclose a mortgage upon real property shall be liable, in his official capacity, for injury to person or property sustained by reason of conditions on the premises, in a case where an owner would have been liable. Nothing herein contained shall be construed to enlarge the liability of the receiver in his personal capacity.

#### HISTORY:

Add. L 1963, ch 576, eff Sept 27, 1964.  
Substance transferred from Real P Actions & Proc L § 1325(3).

#### CROSS REFERENCES:

This section referred to in § 1-203.

#### RESEARCH REFERENCES AND PRACTICE AIDS:

46 NY Jur. Premises Liability § 1.  
49 NY Jur. Receivers § 66.  
59 NY Jur. Torts § 6.  
15 Carmody-Wait 2d. Foreclosure of Mortgages on Real Estate §§ 92:480, 92:484, 92:493.

#### CASE NOTES

Acts of active, affirmative negligence of receiver. A showing of affirmative negligence by a receiver causing personal injuries, renders him liable therefor. Moskowitz v Rothman (1948) 274 AD 999, 84 NYS2d 388. 925, 383 NYS2d 86.

### § 9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users

1. Except as provided in subdivision two,
  - a. an owner, lessee or occupant of premises, whether or not posted as provided in section three hundred sixty-six of the conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, trapping, hiking, horseback riding, bicycle riding, vehicle operation for recreational purposes, snowmobile operation or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;
  - b. an owner, lessee or occupant of premises who gives permission to another to pursue any such activities upon such premises does not thereby (1) extend any assurance that the premises are safe for such purpose, or (2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.
2. This section does not limit the liability which would otherwise exist,
  - a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or
  - b. for injury suffered in any case where permission to pursue any of the

activities enumerated in this section was granted for a consideration other than the consideration, if any, paid to said landowner by the state or federal government, or permission to train dogs was granted for a consideration other than that provided for in section two hundred forty-two of the conservation law; or

- c. for injury caused, by acts of persons to whom permission to pursue any of the activities enumerated in this section was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.
3. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

#### HISTORY:

Add. L 1963, ch 576, with substance transferred from Conserv Law § 370, amd, L 1965, ch 367, L 1966, ch 886, L 1968, ch 7, eff Sept 1, 1968.  
Section heading, amd, L 1966, ch 886, L 1968, ch 7, eff Sept 1, 1968.  
Sub 1, par a, amd, L 1971, ch 343, L 1972, ch 106, eff Sept 1, 1972.

#### RESEARCH REFERENCES AND PRACTICE AIDS:

46 NY Jur. Premises Liability § 246.  
62 Am Jur 2d, Premises Liability §§ 1 et seq.  
29 Am Jur Proof of Facts p 641, Snowmobile Accidents.

#### CASE NOTES

Where 20-year-old plaintiff was walking approximately two feet from edge of abandoned passenger platform of railroad slipped and fell under wheels of passing train, and plaintiff was walking on platform for her own convenience as a short cut to reach her home, and evidence was insufficient to establish that there was footpath through snow which plaintiff followed, railroad could not be held liable for injuries sustained by plaintiff. Merriman v Baker (1974) 34 NY2d 330, 357 NYS2d 473, 313 NE2d 773.

Fact that snowmobile operator in fact failed to see gate which he struck did not give rise to liability on part of owner of property where there was substantial evidence that gate was observable to average snowmobiler using property. Rock v Concrete Materials, Inc. (1974) 46 AD2d 300, 362 NYS2d 258, app dismd 36 NY2d 772, 368 NYS2d 841, 329 NE2d 672.

Fact that gate which was struck by snowmobiler had been discovered by snowmobilers on many prior occasions without incident precluded inference that owner of property should have known that gate was not likely to be observed. Rock v Concrete Materials, Inc. (1974) 46 AD2d 300, 362 NYS2d 258, app dismd 36 NY2d 772, 368 NYS2d 841, 329 NE2d 672.

Company which purchased premises having gate

across private road and which cleared path around right side of gate expressly for use by snowmobile could not be held liable for death of snowmobile who struck gate which was not hidden or concealed and the presence of which was general known to snowmobilers. Rock v Concrete Materials, Inc. (1974) 46 AD2d 300, 362 NYS2d 258, app dismd 36 NY2d 772, 368 NYS2d 841, 329 NE2d 672.

Company which erected gate on private roadway and which parted with title and control of premises long before snowmobiler was killed by striking gate could not be held liable for death of snowmobiler. Rock v Concrete Materials, Inc. (1974) 46 AD2d 300, 362 NYS2d 258, app dismd 36 NY2d 772, 368 NYS2d 841, 329 NE2d 672.

Statute limiting liability of landowners to sport men using their land with permission did not eliminate duty owed at common law to invitees licensees but was enacted for purpose of codifying common law and preventing extension of liability to injured licensees in accordance with more liberal approaches. Rock v Concrete Materials, Inc. (1974) 46 AD2d 300, 362 NYS2d 258, app dismd 36 NY2d 772, 368 NYS2d 841, 329 NE2d 672.

The term "state" as used in section 9-103 of the General Obligations Law does not include political subdivisions of New York State. 1975 Ops At Gen Sept 5 (informal).

boating, trapping, hiking, cross-country skiing, tobogganing, sledging, speleological activities, horseback riding, bicycle riding, hand gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood non-commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering such purposes;

b. an owner, lessee or occupant of premises who gives permission to another pursue any such activities upon such premises does not thereby (1) extend assurance that the premises are safe for such purpose, or (2) constitute the person whom permission is granted an invitee to whom a duty of care is owed, or assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

(Added, L. 1980)

c. an owner, lessee or occupant of a farm, as defined in section six hundred seven one of the labor law, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep such farm safe for entry use by a person who enters or remains in or upon such farm without consent privilege, or to give warning of any hazardous condition or use of or structure activity on such farm to persons so entering or remaining. This shall not interpreted, or construed, as a limit on liability for acts of gross negligence addition to those other acts referred to in subdivision two of this section.

2. This section does not limit the liability which would otherwise exist

a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

b. for injury suffered in any case where permission to pursue any of the activities enumerated in this section was granted for a consideration other than the consideration, if any, paid to said landowner by the state or federal government, permission to train dogs was granted for a consideration other than that provided for in section 11-0925 of the environmental conservation law; or

c. for injury caused, by acts of persons to whom permission to pursue any of the activities enumerated in this section was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owes a duty to keep the premises safe or to warn of danger.

3. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

**HISTORY:**

Amd, L. 1979, ch 408, § 1, eff Sept 1, 1979.  
 The 1979 act deleted at fig 2 "two hundred forty-two".  
 Sub 1, par a, amd, L. 1977, ch 91, L. 1978, ch 147, ch 187 and ch 195, L. 1979, ch 336 § 1, and ch 408, § 1, eff Sept 1, 1979, L. 1984, ch 141, § 1, eff Sept 1, 1984, L. 1984, ch 286, § 5, eff Oct 24, 1984.  
 See 1984 note.  
 The first 1984 act (ch 141) added matter between figs 1 and 2.  
 The second 1984 act (ch 286) added "tobogganing, sledging."  
 Laws 1984, ch 286, § 6, provides as follows:  
 § 6. This act shall take effect on the one hundred twentieth day after it shall have become a law, except that the state commissioner of agriculture and markets shall promulgate any necessary rules and regulations to insure the timely implementation of this act on or before such effective date.

Neither 1979 amendment referred to the other.  
 Sub 1, par 6, add, L. 1980, ch 174, § 1, eff June 2, 1980.  
**CROSS REFERENCES:** *Organized gleaning and markets law*, § 9-103 and § 9-104. *Organized gleaning, definition of, CLS Agr & M § 71-103-1032 not here in book.*

§ 7-401. Buyer's right of redemption. *Buyer's right of redemption* shall be subject to the provisions of this section.

1. No note or security agreement used in connection with a loan for the purpose of financing the purchase of a motor vehicle, used primarily for personal or household purposes, shall contain any provision for acceleration of payment which would prevent the buyer's right of redemption pursuant to section three hundred two of the personal property law. Any such provision shall be void but shall not otherwise affect the validity of the note or security agreement.

2. Within seventy-two hours after the repossession or surrender of such motor vehicle the holder shall personally deliver or mail to the borrower at his last known address a written notice setting forth the right granted to redeem the vehicle, the dollar amount necessary to redeem, and the name, address and telephone number of the holder where information may be obtained regarding redemption of the vehicle.

**HISTORY:**

Add, L. 1986, ch 592, § 2, eff Jan 1, 1987.  
 Sub 2, amd, L. 1987, ch 80, § 2, eff June 21, 1987.  
 The 1987 act deleted at fig 1 "twenty-four".

**ARTICLE 9**

**Obligations of Care**

**TITLE 1**

**Conditions on Real Property**

**§ 9-101. Liability of receiver of rents and profits appointed in mortgage foreclosure**

**CROSS REFERENCES:**

This section referred to in § 1-203.

**CASE NOTES**

In a personal injury action by a tenant who was injured while using a common stairway in a building then the subject of a foreclosure action against the court-appointed receiver of rents and profits of the property, the action was not rendered jurisdictionally defective by the resignation of the receiver prior to the service of the summons and complaint, where there was no requirement to substitute the new receiver as defendant, where the original receiver was subject to liability in his official capacity, and where the tenant would be entitled to proceed against the carrier of any liability insurance covering the receiver. *Copeland v Salomon* (1982) 56 NY2d 222.

**§ 9-103. No duty to keep premises safe for certain uses; responsibility for acts of such users**

1. Except as provided in subdivision two, a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy-one-y of the agriculture and markets law, canoeing,

pendent determination of whether activity was for recreational purposes; bicycle rider may not be covered for injuries sustained when bicycle rider left road with intention of steering across open field to defendant's property and immediately after entering field drove bike into drainage ditch causing him to lose control and sustain serious personal injuries. *Seminara v Highland Lake Bible Conference, Inc.* (1985, 3d Dept) 112 App Div 2d 630, 492 NYS2d 146.

There is no obligation to warn bicycle riders of drainage ditch where drainage ditch constitutes a danger to those using land for its usual and ordinary purposes and there is no evidence that affected property is ever used by bicyclists, particularly during hours of darkness without headlights on bicycles. *Seminara v Highland Lake Bible Conference, Inc.* (1985, 3d Dept) 112 App Div 2d 630, 492 NYS2d 146.

CLS General Obligations Law § 9-103, purpose of which is to open up lands for public recreational purposes by relieving owner/possessor of potential tort liability, except for wanton or malicious acts, does not immunize public owners of developed land; accordingly, in negligence actions against municipalities which owned adjacent parks for injuries sustained when bicycle on which infant plaintiff was passenger collided with steel cable erected by one of municipalities between tree which divided 2 parks, motions for summary judgment dismissing complaint and third party complaint were properly denied; unique duty owe to ordinary public users of municipalities is not what legislature intended to alleviate by statute. *Bush v Saugerties* (1986, 3d Dept) 114 App Div 2d 176, 498 NYS2d 563.

Section 9-103 does not apply, and ordinary standards of negligence do apply, in action to recover for injuries sustained by 14 year old plaintiff who rode motorcycle on dirt roadway on property owned by defendant City of New York and structure cable which was strung across roadway between towers erected on property by defendant utility company, where narrow strip of land on which plaintiff was injured is located in densely populated and highly developed area. *Russo v New York* (1986, 1st Dept) 116 App Div 2d 240, 51 NYS2d 673.

Section 9-103 is not intended to limit liability, or owners or lessees of premises situated in, through or around highly developed areas, and should be applied only to remote, undeveloped land. *Russo v New York* (1986, 1st Dept) 116 App Div 2d 240, 51 NYS2d 673.

Allegation that landowner was negligent in permitting driver to drive motor vehicle on dangerous roadway is insufficient to overcome defense based on CLS Gen Obl. § 9-103. *Messinger v Fe* (1986, 2d Dept) 117 App Div 2d 784, 499 NYS2d 111.

Fact that landowner has posted property, and never given permission for use of property and caused trespassers to be ejected does not deprive landowner of protection afforded by § 9-103.

strating that the railing of this bridge constituted an inherently dangerous instrumentality known to the State, which the State had reason to believe claimant could not have discovered for herself and that the State failed to exercise the necessary degree of care to prevent foreseeable injury to her by appropriate warnings and otherwise. Even if the railing could not be considered an inherently dangerous instrumentality, claimant's injury was not reasonably foreseeable, but rather was caused by her own conduct in electing to use the railing as a perch from which to view the surroundings and not as the handrail for which it was intended; moreover, claimant tested the railing by shaking it before she climbed upon it and found it to be firm, a condition which was also found by State employees who inspected the railing after a prior vehicular accident resulted in one of the metal pipes being bent. *Sega v State* (1982, 3d Dept) 89 App Div 2d 412, 436 NYS2d 856.

In a personal injury suit by plaintiffs who were injured when a snowmobile they were riding at night collided with a bench on a snow-covered baseball field owned by a school district, the trial court erred in denying the school district's motion for summary judgment, where there was nothing in the record that created a genuine issue of fact as to whether the bench became a dangerous structure because it was partially covered with snow, where plaintiffs thus failed to prove that a trap or dangerous structure existed, and thus could not show that the school district failed to exercise the degree of care that could have prevented the injury. *Mattison v Hudson Falls Cent. School Dist.* (1983, 3d Dept) 91 App Div 2d 113, 458 NYS2d 726.

Wrongful death claims arising from three accidental drownings that occurred at the marina of a public recreational facility owned and operated by the State, which claims were based on the State's alleged negligence in the active management of its marina, its failure to provide adequate supervision and police protection, and its failure to provide lifesaving equipment, were not within the purview of Gen Obl. Law § 9-103, and so were improperly dismissed, since § 9-103, which provides that landowners who gratuitously allow persons to use their property for certain enumerated recreational activities are not liable to persons injured on the property except for "willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity," does not apply to a claim against the State or a municipality for negligence in operating and maintaining public parks and recreational facilities; the standard to be applied to such claims is that of ordinary care, which is traditionally applied in assessing the conduct of a governmental unit for furnishing and maintaining parks and recreational facilities for the public. *O'Keefe v State* (1984, 4th Dept) 104 App Div 2d 43, 481 NYS2d 920.

As to particular activities stated in statute, no proof is required that engagement in activity was for recreational purposes; only in instance of motorized vehicle, operation must court make inde-

pendent determination of whether activity was for recreational purposes; bicycle rider may not be covered for injuries sustained when bicycle rider left road with intention of steering across open field to defendant's property and immediately after entering field drove bike into drainage ditch causing him to lose control and sustain serious personal injuries. *Seminara v Highland Lake Bible Conference, Inc.* (1985, 3d Dept) 112 App Div 2d 630, 492 NYS2d 146.

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Section 9-103 is not intended to limit liability, or owners or lessees of premises situated in, through or around highly developed areas, and should be applied only to remote, undeveloped land. *Russo v New York* (1986, 1st Dept) 116 App Div 2d 240, 51 NYS2d 673.

Allegation that landowner was negligent in permitting driver to drive motor vehicle on dangerous roadway is insufficient to overcome defense based on CLS Gen Obl. § 9-103. *Messinger v Fe* (1986, 2d Dept) 117 App Div 2d 784, 499 NYS2d 111.

Fact that landowner has posted property, and never given permission for use of property and caused trespassers to be ejected does not deprive landowner of protection afforded by § 9-103.

CASE NOTES

Under Gen Obl. Law § 9-103, neither a claimant who was injured while hiking at a public forest preserve when a bridge guardrail on which she was seated collapsed, nor a claimant who was injured while operating a vehicle on State land open to the public for recreational use when he struck a steel cable stretched across the gravel roadway on which he was travelling could recover against the State, since there was no evidence that the State's conduct was either willful or malicious. *Sega v State* (1983, 3d Dept) 112 App Div 2d 412, 436 NYS2d 856.

An action by claimant, who was injured while operating a three-wheeled all-terrain vehicle on State land open to the public for recreational use when he struck a steel cable stretched across a dirt roadway on which he was traveling, was not barred by Gen Obl. Law § 9-103, where it was shown that even though State officials were aware that motorized vehicles used the roadway and erected the cable gate with knowledge that the cable was located such that, when approached, it left the operator of a motorized vehicle little time to observe and react, the State took no steps to warn users of the existence of the cable. *Cutway v State* (1982, 3d Dept) 89 App Div 2d 406, 456 NYS2d 539.

Since the standard of care of an owner of lands who opens them for public use is imposed upon the State by statute pursuant to Gen Obl. Law § 9-103, in an action for damages by a claimant who was injured at a public campsite after a bridge guardrail on which she was seated collapsed, the trial court was bound to take judicial notice of it. Public policy prohibits the application to the State of a lesser standard of care than that required by the statute simply because the State failed to assert the statutory standard at trial. *Sega v State* (1982, 3d Dept) 89 App Div 2d 412, 456 NYS2d 856.

Claimant, who was injured while hiking at a public campsite when a bridge guardrail on which she was seated collapsed, failed to prove a breach of the statutory duty of care imposed upon an owner of lands who opens them for public use pursuant to Gen Obl. Law § 9-103 by demon-



Hardy v Gullo (1986, 2d Dept) 118 App Div 2d 541, 499 NYS2d 159.

Recreational club, which owned approximately 460 acres of undeveloped land used by its members for hunting, fishing, snowmobiling and camping and for which members paid initiation fee and monthly dues, was not immune from liability by virtue of CLS General Obligations 9-103(1) for injuries sustained by plaintiff when he was struck by tree being cut down by club members, because CLS General Obligations 9-103(2), provides that immunity from negligence does not apply if landowner exacts charge for use of property. *Schoonmaker v Ridge Runners Club 99, Inc.* (1986, 3d Dept) 119 App Div 2d 858, 500 NYS2d 562.

Landlord is not entitled to protection under § 9-103 with respect to injury resulting when injured person is struck on head by falling rock while walking away from swimming hole on property allegedly owned by landowner. *Cramer v Henderson* (1986, 4th Dept) 120 App Div 2d 925, 120 App Div 2d 926, 503 NYS2d 207.

Court of Claims erred in dismissing negligence claim brought against state for injuries sustained at state-owned recreational dock structure where court relied on CLS Gen Oblig § 9-103 in finding that state was afforded statutory immunity for its negligent maintenance of dock, since legislative purpose of statute was to encourage opening of privately-owned lands for public recreational purposes by relieving owners of potential tort liability, and extension of statute to public parks and facilities would effect drastic change in rules of liability not envisioned or intended by legislature. *Smith v State* (1986, 3d Dept) 124 App Div 2d 296, 508 NYS2d 277.

The State, which, as a landowner, is only liable to persons engaged in permissible snowmobiling activities "for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity" (General Obligations Law, § 9-103), is not liable for the injuries sustained by claimant when he crashed into a concrete dock while riding a snowmobile on a lake in a State park during a sudden snowstorm since the cause of claimant's injury was not a "trap" or a "dangerous defect" of which the State had a duty to warn. The concrete dock was plainly visible except under the most adverse weather conditions. It is not reasonable to require the State to foresee that snowmobilers would make use of the lake under such conditions. In any event, claimant, having actual knowledge that the dock might be proximate to his position, failed to exercise reasonable prudence when he accelerated his snowmobile in an attempt to clear what he believed was merely a snowbank. *Wright v State* (1978) 93 Misc 2d 560, 403 NYS2d 450.

Notwithstanding the elimination of the prior common-law rules which based a landowner's duty to a user of his land upon the legal status of the user as a trespasser, licensee or invitee and the creation of a "single standard of reasonable care under the circumstances whereby foreseeability shall be a

measure of liability" (see *Basso v Miller*, 40 NY2d 233, 241) the duty of care which the State, as a landowner, owes to a person engaged in permissible snowmobiling activities at a State park is only the statutory duty to refrain from intentional, wanton or willful infliction of injuries and to warn of traps and dangerous defects not likely to be discovered (General Obligations Law, § 9-103). Although the judiciary has the power to fix and amend common-law rules which have their roots in the judicial process, it is the province of the Legislature to make whatever changes in those rules evolving circumstances may warrant. *Wright v State* (1978) 93 Misc 2d 560, 403 NYS2d 450.

A landowner's motion for summary judgment in an action to recover for injuries sustained by the infant plaintiff while on vacant land owned by the landlord when the dune buggy in which the infant was a passenger hit a mound of dirt and flipped over would be granted, since Gen Oblig Law § 9-103 provides that an owner of premises owes no duty to keep the premises safe for entry or use by other for motorized vehicle operation for recreational purposes and imposes liability only if there is a willful or malicious failure to warn of a dangerous condition or for injuries sustained when permission to engage in the enumerated activities was granted for a consideration, in that there was no allegation that the landlord charged a fee or that it was willful or malicious in its failure to warn. *Hardy v Gullo* (1984) 124 Misc 2d 240, 475 NYS2d 1018.

For purposes of CLS Gen Oblig § 9-103, term "hiking" means more than merely walking and totality of circumstances, including path taken, length and purpose of journey and topography of property, should be considered in order to determine whether plaintiffs were on hike; jury's special verdict that plaintiffs were "hiking" absolved city of liability for injuries sustained when dead tree fell on plaintiffs in city owned park. *Guillet v New York* (1986) 131 Misc 2d 578, 500 NYS2d 946.

Railroad company was entitled to summary judgment in action for personal injuries sustained by dirt bike riders who collided with whistle post on railroad's property, since CLS Gen Oblig § 9-103 precluded liability for negligence, and no willful or malicious action could be found on basis of allegation that railroad allowed whistle post to remain adjacent to dirt track knowing that track was used by operators of recreational vehicles, and that it did not repair or modernize post in keeping with newer standards. *Cassella v Delaware & H. R. Co.* (1986) 133 Misc 2d 128, 506 NYS2d 554.

Landowner was entitled to summary judgment in wrongful death action brought after motorcyclist left roadway and struck fieldstone wall which was obscured by bushes, outside of public right-of-way, and 8 to 11 feet from road; neither common-law nor CLS Gen Oblig § 9-103 imposed any duty on landowner to protect motorists against wall or to clear vegetation in front of it. *Scattareggia v Niagara Mohawk Power Corp.* (1986) 134 Misc 2d 234, 510 NYS2d 455.



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