

CHAPTER 7

Land Use and Zoning



CHAPTER 7

The Land Use and Zoning Chapter is based on information gathered from a variety of sources. The land use and protected open space data came from the Massachusetts Office of Geographic and Environmental Information (referred to as MassGIS) and was updated by the FRCOG. Town zoning information was reviewed. Additionally, information from field observations, communications with local officials and residents, and discussions at the Route 122 Scenic Byway Committee meetings is included. Recent updates to Community Development Plans, Master Plans, and Open Space and Recreation Plans for Orange and New Salem were also examined.

Land Use

The Route 122 Scenic Byway study area is defined as Route 122 in Orange and New Salem, and a half-mile buffer along each side of the road. The land uses within the Scenic Byway study area vary dramatically in each town. The northwestern terminus of the Byway is in downtown Orange at the intersection of Route 2A (East and West Main Streets) and Route 122 (South Main Street). This is the center of the downtown and is densely developed with commercial, industrial, and residential uses. Just south of downtown Orange, there is a dense, residential neighborhood. After the dense

residential neighborhoods fade away, and there are intermittent commercial establishments along the road. Traveling south on the Byway the development transitions to land use that is less dense and also more agricultural and rural in nature. There is forest and farmland along the southernmost section of the Byway in Orange. In New Salem the Byway travels through landscape that is predominantly forested and natural where it passes through the Quabbin Reservoir lands.

As indicated in Table 7-1, overall, an estimated 64% of the Byway study area is forestland (MassGIS, 2005). Residential is

Table 7-1: Land Uses within the Scenic Byway Corridor Study Area*

Land Use Type	Acreage	Percentage of Total
Forest	3,221	64%
Agriculture	314	6%
Water and Wetlands	490	10%
Residential	630	13%
Commercial	22	>1%
Industrial & Transportation	131	3%
Other Open Space & Recreation	197	4%
Total	5005	100%

Source: MassGIS 2005 Land Use Data.

the next largest acreage with 13% of the acres along the Byway. Water bodies and wetlands comprise 10%. More detailed information on land use within the Byway study area in each town is provided later in this section.

The land use figures presented in this chapter are based on data provided by MassGIS, which classifies land uses based on aerial photography interpretation. Statewide data are available for 2005, 1999, 1985, and 1971. MassGIS uses 38 land use classifications in the 2005 data, an increase from the 21 codes in the 1999 dataset. These 38 classifications have been grouped into seven broader categories for the purposes of this plan: forest; agriculture; water and wetlands; residential; commercial; industrial and transportation; and other open space and recreation. The forest category includes all land classified as forest by MassGIS.¹ The agriculture category includes cropland, pasture, orchards and nurseries. The water and wetlands category contains all areas classified as water or as wetlands by MassGIS.¹ The residential land use category includes single-family homes, duplexes and multi-unit housing complexes and structures. The commercial land use category contains all land defined as commercial by MassGIS. The industrial and transportation category includes light and heavy industry, mining and waste disposal facilities, junkyards, and transportation infrastructure (such as highways, airports, railroads, and freight storage). The open space and recreation category includes abandoned agriculture, areas of no vegetation, areas under power lines, brushland, parks, cemeteries, public and institutional green spaces and buildings, vacant undeveloped land in urbanized areas, and recreation sites (such as playgrounds, golf courses, tennis courts, beaches, swimming pools, marinas, fairgrounds, race

1. Forested wetlands are included in the forest category, not the water and wetlands category.

tracks, and stadiums).

It is important to note that the land use classifications do not indicate whether land is permanently protected from development. Land that is categorized as forest or agricultural land, or that falls into the non-agricultural open space and recreation category may or may not be protected from future development. A discussion of land that is protected from development appears later in this chapter.

Orange

As previously noted, the northwestern terminus of the Byway is at the intersection of Route 2A (the Mohawk Trail Scenic Byway) and Route 122 in downtown Orange. This intersection is within the Orange Center National Historic District, which was added to the National Register of Historic Places in 1989. Orange is a center for employment and the third largest town in terms of population in Franklin County after Greenfield and Montague. The Town has a population of 7,699 (U.S. Census Bureau, 2009 Population Estimates) and a labor force of 3,835 workers (MA Executive Office of Labor and Workforce Development, 2010). Orange has a strong manufacturing history tied to the Millers River. Currently manufacturing remains the largest industry sector in Town, employing an average of over 500 workers per month during 2009 according to the MA Executive Office of Labor and Workforce Development (2010). The Rodney Hunt Company is the largest private sector employer in downtown Orange with more than 200 employees. It produces equipment for industrial and municipal water and wastewater flow management. Orange also has two industrial parks. Both of the industrial parks are located near the Orange Municipal Airport, but one, the Randall Pond Industrial Park, is located

directly near . The Randall Pond Industrial Park is located directly off of the Byway approximately 1.5 miles south of downtown.

Downtown Orange features 19th Century architecture, red brick factory buildings, retail storefronts, parks and the Millers River. There is a mix of civic, business, and residential land uses. There are also a few prominent vacant lots and structures, which are the focus of redevelopment initiatives that are being actively pursued. One of the vacant lots is located at the corner of Route 122 and 2A directly on the Byway. The Putnam Hall Building is located on East Main Street near the Byway and also is vacant. Funding for rehabilitation of this building is being sought. In 2007, the Town and the FRCOG, completed the development of the Orange Riverfront Park, located on East River Street close to the Byway, on a brownfields site where the town highway garage was previously located.

The development pattern of Orange today reflects its original settlement. In parts of

downtown, the minimum lot size is either 5,000 or 10,000 square feet per dwelling unit [5,000 in the CARD district or 10,000 in the A(r) district], less than one-quarter acre, for homes served by water and sewer. In rural residential areas, the minimum lot size is 2 acres. In recent years, new single-family homes have been increasingly built outside of the village centers. The town’s housing stock consists of 21% of multi-family housing containing three or more units (2000 U.S. Census). In the downtown, there are a number of former multi-storied mill buildings that are currently vacant or underutilized and could potentially be redeveloped.

Orange has a total acreage of 23,030 acres (Table 7-2). Approximately 10% of the town (2,206 acres) falls within the Route 122 Byway study area. Within the Orange section of the Byway section, the primary land use is forest (49% of the Byway study area), followed by residential (24%). Agricultural uses are 9% of the Byway study area in Orange, while recreational uses and other

Table 7-2: Acreages for Different Land Uses, Orange

Land Use Type	Acreage in Byway Study Area*	Percentage of Byway Study Area*	Acreage in Town	Percentage of Town
Forest	1,077	49%	17,282	75%
Agriculture	189	9%	1,260	5%
Water and Wetlands	67	3%	1,310	6%
Residential	536	24%	1,788	8%
Commercial	22	1%	165	1%
Industrial & Transportation	131	6%	713	3%
Other Open Space & Recreation	183	8%	511	2%
Total	2,206	100%	23,030	100%

Source: MassGIS 2005 Land Use Data.

*The Byway study area is defined as ½ mile on each side of Route 122 in Orange. See Byway Base Map for more details.

open space comprise 8% of the land uses in the corridor. Industrial and transportation uses make up approximately 8% of the study area, water and wetlands 3%, and commercial uses comprise roughly 1%.

New Salem

The Byway travels through the northeast section of New Salem. This area is a mostly forested landscape along the northern section of the Quabbin Reservoir. New Salem has a population of 957, making it the seventh least populated town in Franklin County (U.S. Census Bureau, 2009 Population Estimates). However, in terms of geography it has the most acreage of all of the towns in Franklin County, covering roughly 37,556 acres or 59 square miles. It has the most acres of forest land and water bodies of all of the Franklin County towns.

Route 122 and Route 202 are the major transportation routes in Town. New Salem's town center is located about 3-miles south of the Byway just east of Route 202. Its

quintessential New England common, which was designated a National Register Historic District in 1978, serves as the cultural and civic center of the community and is surrounded by historic buildings and homes.

Nearly 80% of the land in New Salem is publicly owned for the conservation of water resources, forests and wildlife (New Salem Open Space and Recreation Plan, 2004). The 12,100 acre Prescott Peninsula comprises the southern half of New Salem and is a Restricted Area that is reserved to protect the public water supply of the Quabbin Reservoir. This area is closed to the public and only limited access is allowed for research. The State-owned lands in and around the Quabbin Reservoir are under the authority of the Department of Conservation and Recreation (DCR). The Reservoir itself comprises nearly 9,000 acres of the Town's area.

The amount of publicly-owned land has reduced the area in the Town that is developable. According to New Salem's

Table 7-3: Acreages for Different Land Uses, New Salem

Land Use Type	Acreage in Byway Study Area*	Percentage of Byway Study Area*	Acreage in Town	Percentage of Town
Forest	2,144	77%	25,836	69%
Agriculture	124	4%	540	1%
Water and Wetlands	423	15%	9,830	26%
Residential	94	3%	415	1%
Commercial	0	0%	7	>1%
Industrial & Transportation	0	0%	11	>1%
Other Open Space & Recreation	14	>1%	917	2%
Total	2,799	100%	37,556	100%

Source: MassGIS 2005 Land Use Data.

*Byway study area is defined as including 1/2 mile on each side of Route 122 in New Salem. See Byway Base Map for more details.

Zoning Bylaw, the entire Town is a “Primary Residential-Agricultural District” with a minimum lot size of two acres. There are very few industrial or commercial uses in Town (see Table 7-3). However, new residential development has been occurring, with 50 building permits issued for new housing units between 2000 and 2009. An estimated 7% (2,799 acres) of the Town’s area falls within the Byway study area. A large majority (77%) of the Byway corridor in New Salem is forested. Water and wetlands comprise 15% of the land use within the corridor, followed by agriculture (4%) and residential uses (3%). Other open space and recreation uses make up less than 1% of the land use in the corridor, while there are no commercial, industrial, or transportation uses.

Land Use Changes for the

Entire Byway

From 1971 to 2005

The land use figures presented in this section are based on data provided by MassGIS. MassGIS classifies land uses based on aerial photograph interpretation conducted by the Department of Forestry’s Resource Mapping Project at the University of Massachusetts in Amherst. Statewide data including all municipalities are available for 2005, 1999, 1985, and 1971.² For the years 1999, 1985 and 1971, the analysis was conducted through manual interpretation of the aerial photos. In 2005, changes were made to the method of interpreting the data and semi-automated methods were used. In 2005, MassGIS used 38 land use classifications, an increase from the 21 codes in the 1999 dataset. These changes are important to consider when comparing the land use data over the years. Consequently, the comparing

Table 7-4: Land Use Changes within the Byway Study Area*, 1971 – 2005**

Land Use Type	1971 Acres in Byway Study Area	1971 Percentage of Byway Study Area	2005 Acres in Byway Study Area	2005 Percentage of Byway Study Area	Change in Acreage, 1971 - 2005
Forest	3,374	67%	3,221	64%	-153
Agriculture	275	5%	314	6%	39
Water and Wetlands	485	10%	490	10%	5
Residential	591	12%	630	13%	40
Commercial	55	1%	22	>1%	-33
Industrial & Transportation	99	2%	131	3%	32
Other Open Space & Recreation	132	3%	197	4%	65
Total	5010	100%	5005	100%	

Source: MassGIS 1971 and 2005 Land Use Data.

*Byway study area is defined as including ½ mile on each side of Route 122 in Orange and New Salem.

** Due to different data collection and analysis methodologies, direct comparisons cannot be made with precision between the 1971 and 2005 datasets. Readers should exercise caution in comparing land use data. Such comparisons can provide only an estimation of the trends.

2. The first statewide land use maps were created in 1953-54 from 1951-52 aerial photos. These maps were never digitized. They are available in the Map Collection Archives at the W.E.B. DuBois Library at the University of Massachusetts, Amherst.

the years provides only an estimation of the trends in land use change because of the different data collection and analysis methodologies used. Direct comparisons cannot be made with precision between 2005 and earlier years because of the change in analysis.

In 1971, the predominant land use within the Byway corridor was forestland, which comprised 3,374 acres or 67% of the study

area. Residential uses accounted for roughly 12% of the study area, followed by water and wetlands at 10%. Between 1971 and 2005, this pattern continued with forest remaining the dominant land use within the corridor (64%), though the number of acres fell from 3,374 to 3,221, a reduction of 153 acres. Residential, agriculture, industrial and transportation, and other open space and recreation land uses all increased in acreage within the corridor between 1971 and 2005,

Table 7-5: Land Use Changes by Community, within the Byway Study Area* and Overall, 1971 – 2005**

Land Use Type	1971 Acres in Byway Study Area	2005 Acres in Byway Study Area	Acreage Change in Byway Study Area	1971 Acres in Town	2005 Acres in Town	Acreage Change in Town
Orange						
Forest	1,183	1,077	-106	18,007	17,282	-725
Agriculture	182	189	7	1,626	1,260	-365
Water and Wetlands	40	67	27	877	1,310	433
Residential	528	536	9	1,541	1,788	247
Commercial	55	22	-32	89	165	76
Industrial & Transportation	99	131	32	554	713	159
Other Open Space & Recreation	120	183	63	350	511	161
New Salem						
Forest	2,191	2,144	-47	26,705	25,836	-869
Agriculture	93	124	32	476	540	64
Water and Wetlands	446	423	-22	9,789	9,830	41
Residential	63	94	31	283	415	132
Commercial	0	0	0	8	7	-1
Industrial & Transportation	0	0	0	13	11	-2
Other Open Space & Recreation	12	14	1	304	917	613

Source: MassGIS 1971 and 2005 Land Use Data.

*Byway study area is defined as including 1/2 mile on each side of Route 122 in Orange and New Salem. See Byway Base Map for more details.

** Due to different data collection and analysis methodologies used over the decades, direct comparisons cannot be made with precision between the 1971 and 2005 datasets. Readers should exercise caution in comparing land use data over the years. Such comparisons can provide only an estimation of the trends in land use change over the years.

while commercial land use decreased over the same time period.

Between 1971 and 2005, Orange and New Salem had land use changes that generally mirrored the trends of the entire Byway area (Table 7-5). There was a decrease in forestland and an increase in residential land. New Salem experienced a 50% increase in residential development and this rise occurred within the Byway study area and throughout the Town.

The number of acres in agricultural uses within the Byway study area increased in both Towns. However, there was a decrease of acres of agriculture in Orange overall and an increased number of acres in agricultural land uses in New Salem. There was also an increase in commercial land uses in Orange, while commercial uses within the Byway corridor fell by more than half. This may reflect the loss of commercial uses in the downtown area over time accompanied by the increase of auto-oriented commercial development along major transportation routes such as Route 2A and Daniel Shays Highway (Route 202) near the interchange with Route 2.

Residential Growth since 2000

Since 2000, both towns along the byway have experienced growth in residential construction. Building permit data collected for each town between 2000 and 2009 show an increase in the housing supply of 8.7% in Orange and 11.8% in New Salem (Table 7-6). However, because of the down turn in the economy, the number of building permits issued during the past two years has decreased. In Orange 51 building permits were issued during 2006 for new housing units, but during 2009, only 6 permits were issued.

Protected Open Space

The protection of natural, agricultural, and/or historic landscapes will preserve and enhance the scenic value of the Byway. These lands can be permanently protected from development in a number of ways. Federal, State, or municipal agencies can purchase (acquire in fee) property from willing landowners or a public agency can permanently protect land by acquiring a conservation restriction that has been placed on a property for important values like a water supply recharge area, scenic vistas, wildlife habitat, or farm and forest lands.

The Massachusetts Agricultural Preservation Restriction (APR) Program is a tool for

Table 7-6: New Residential Construction in Communities along the Scenic Byway, 2000-2009

Community	Housing Units (2000 U.S. Census)	Number of Housing Units Authorized through Building Permits, 2000 - 2009	Housing Growth (%)
Orange	3,303	287	8.7%
New Salem	422	50	11.8%

Sources: 2000 U.S. Census, New Salem 2004, 2005, 2006, 2007, 2008, 2009 Annual Reports, New Salem 2004 Community Development Plan, Orange 2004 Community Development Plan, Orange Building Department.

permanently protecting active farmland. It is administered by the Massachusetts Department of Agricultural Resources (MDAR) and can be used to purchase a development restriction on agricultural land that meets the requirements of the program. Funding is available through the APR Program to purchase the development rights of prime farmland which permanently protects the land for agriculture. The APR is recorded with the Registry of Deeds and continues in perpetuity with the land.

In addition, a conservation restriction (referred to as a CR) can be purchased or acquired to permanently protect land. A CR is a legally binding agreement between a landowner and the CR holder, usually a public agency or a private land trust, whereby the landowner agrees not to develop the land in order to protect certain conservation values. The conservation restriction may run for a period of years or in perpetuity, and is recorded at the applicable Registry of Deeds. All permanent conservation restrictions must be approved by the Massachusetts Executive Office of Energy and Environmental Affairs (EOEEA).

Land that is enrolled in the Massachusetts

Chapter 61 tax abatement programs (Mass General Law, Chapter 61) and land with limited term conservation restrictions are considered to be temporarily protected from development. Eligible landowners who enroll in the Chapter 61 Program get a reduction in their local property taxes in return for maintaining land in productive forestry, agricultural or recreational use for a certain period of time. The Chapter 61 Program provides many public benefits, including maintaining wildlife habitat, recreational open space and sustaining rural character.

The Chapter 61 Program also provides towns with an opportunity to permanently protect the land. When land that is enrolled in the Chapter 61 Program is put up for sale and will be converted to a use that would make it ineligible for Chapter 61, there is a 120-day waiting period during which the town where the land is located may exercise its right of first refusal to purchase the property at fair market value and preserve it permanently. A principal challenge for towns in exercising the right of first refusal is raising the funds to purchase the parcel within the short time frame. However, towns can assign their right of first refusal to a land conservation

Table 7-7: Protected Open Space

Town	Within the Byway Study Area			Within the Town			Total Acres in Byway Study Area	Total Acres in Town
	Permanently Protected (in acres)	Limited Protection (in acres)	Temporary Protection (in acres)	Permanently Protected (in acres)	Limited Protection (in acres)	Temporary Protection (in acres)		
Orange	2.66	183.96	81.67	5,886.86	275.76	2,958.86	2,206	23,030
New Salem	1,662.44	0	0	22,676.00	0	0	2,799	37,556
Total	1,665.1	183.96	81.67	28,562.86	275.76	2,958.86		

organization (land trust), which may have more capital available.

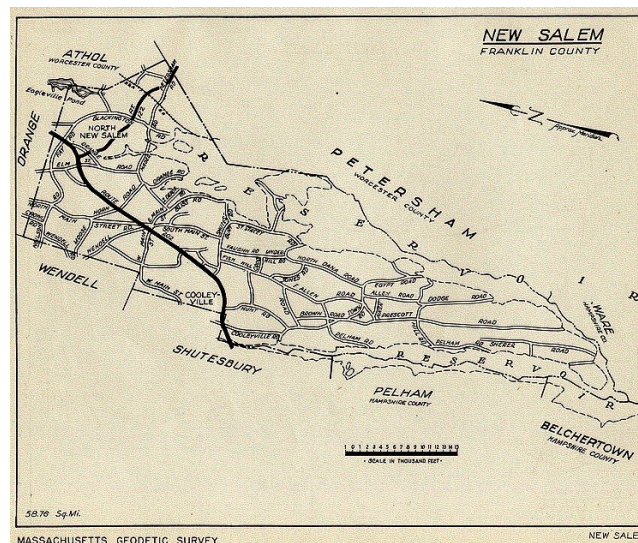
Table 7-7 lists the permanently and temporarily protected land within the Byway study area. The figures in the table are based on Open Space data from MassGIS. MassGIS's Open Space data is regularly updated using information provided by the EOEEA, DAR, and land trusts.

Of the 5,005 acres within the Byway study area in Orange and New Salem, 33% (1,665.1 acres) is permanently protected. Almost all of the permanently protected land is located in New Salem. Within the Byway area in Orange, there is a very limited amount of land that is permanently protected, while approximately 12% of the Byway within Orange is under limited or temporary protection (Chapter 61). Approximately, 59% of the Byway study area in New Salem is permanently protected.

The *Orange Open Space and Recreation Plan* was updated in 2008. The purpose of the OSRP is “to identify the town’s unique agricultural, historical, recreational, natural and scenic resources and to provide a framework for the town’s future decisions

regarding land conservation and development.” The OSRP includes a Five-Year Action Plan which identifies steps to guide decision-making regarding open space and recreation needs. The plan recognizes that extensive regional land protection efforts have taken place already and highlights additionally opportunities to expand this network of protected natural areas. The Five-Year Action Plan includes objectives and actions to permanently protect additional open space in town, particularly important agricultural areas.

New Salem has an Open Space and Recreation Plan (OSRP) that is more than five years old. It is important that New Salem have a current five year OSRP in order to identify priority areas for protection and recreational facilities needed. An OSRP approved by the State is also a requirement in applying for funding from grant programs administered by the Massachusetts Executive Office of Energy and Environmental Affairs and the Massachusetts Department of Conservation and Recreation (such as the LAND and PARC grant programs).



1950 Map of New Salem

Table 7.8: Zoning Summary for the Byway Communities

Zoning Measure	Orange	New Salem
Number of Zoning Districts Total (not including overlay districts)	6	1
Number of Zoning Districts in the Byway corridor	6	1
Village zoning district(s) with higher densities and/or more allowed uses to promote development in the district(s)	Yes	No
Open Space Residential Development (also known as a Conservation Subdivision) provision	Yes, by right with Site Plan Review	Yes
Flag Lot allowed	Yes	Yes
Accessory Apartment allowed	Yes, by right	Yes, by Special Permit
Site Plan Review	Yes	Yes
Wireless Telecommunications Facility Bylaw	Yes	Yes, by Special Permit
Types of Overlay Districts in the Byway Corridor	Water Resource District; Floodplain District	Solar Electric Overlay District (located just outside of Byway Corridor)

Source: Orange and New Salem Zoning Bylaws

Zoning Along the Scenic Byway

The future pattern of growth along the Route 122 Scenic Byway will be influenced by zoning and the nature of the land available for development. The zoning along the Byway differs in Orange and New Salem and is summarized in this section. The discussion focuses on the zoning in each town and how it benefits and protects the Byway’s character (historic, rural, natural, scenic and recreational resources) while promoting economic development. The discussion recognizes that zoning changes are a local issue and require a 2/3 majority vote at Town Meeting.

Enacted Zoning Measures

Table 7.8 provides a snapshot of the zoning bylaws in the two towns. More details on the zoning within the Scenic Byway corridor are provided under the zoning discussion for each town.

Zoning in Each Town

Orange

Orange has six zoning districts. The Byway corridor study area is in all of the six districts in various locations. Table 7.9 provides a brief summary of the highlights of the zoning districts. As noted in the table, the districts

Table 7.9: Zoning Districts within the Orange Section of the Byway Study Area

District	Minimum Standards					
	Lot Size, total or for first housing unit (sq ft)*	Area for each additional housing unit (sq ft)	Lot Frontage (ft)	Front Yard (ft)	Side Yard (ft) ^a	Rear Yard (ft)
Village Residential/ Commercial (A(c)) and Village Residential (A(r))	10,000 with sewer; 21,780 (1/2 acre) without sewer	10,000 with sewer; 20,000 without sewer	50	20	10	15
Commercial Area Revitalization District (CARD)	5,000	5,000	50	0	0	0
Residential/ Commercial (B)	21,780 (1/2 acre) with sewer; 43,560 (1 acre) without sewer	20,000 with sewer; 40,000 without sewer	100	20	10	15
Residential (C)	43,560 (1 acre)	20,000 with sewer; 40,000 without sewer	100	35	15	25
Rural Residential (D)	87,120 (2 acre)	40,000 with sewer ^b ; 80,000 without sewer	200	35	20	35

* 21,780 square feet equals a half-acre; 43,560 square feet equals one acre; 87,120 square feet equal two acres.

a. Wider side yards are required for multi-family dwellings with more than 4 housing units.

b. There are currently no parts of the Rural Residential District that have sewer access.

Source: Town of Orange Zoning Bylaw, October 2010.

have different minimum lot size requirements in areas with and without public sewer service.

In the center of downtown the Byway is within the Commercial Area Redevelopment District (also referred to as the CARD district). The CARD district is approximately 10 blocks in size, and was created to

encourage high-density development and redevelopment in downtown. Within the CARD district, there are no onsite parking requirements, buildings can occupy 100% of a lot area and can be up to five stories in height, and multi-family homes over two units are allowed by right. The CARD district is the only zoning district in Orange with complete sewer access. The Village

Residential District (A(r)) is also located in downtown Orange surrounding the commercial core. It allows for denser residential development on small lots.

To the south of the downtown the Byway enters the Residential District (C) and the Residential/Commercial District (B). In these two districts the minimum lot size requirements are larger. The Residential/Commercial District (B) lies in the southeastern section of town and includes the Orange Municipal Airport and the town's two industrial parks.

In the Residential/Commercial District (B), the Village Residential/Commercial (A(c)) and CARD districts, a number of commercial uses are allowed by right, such as inns/hotels, bed and breakfasts, and restaurants. Other small retail and commercial offices (of 2,000 square feet or less) are allowed by right in these districts. Also, they are allowed in the Village Residential (A(r)) District if businesses can meet requirements regarding parking, noise, lighting, and screening for adjacent properties. Larger retail and commercial offices (up to 5,000 square feet) and light industrial businesses (up to 10,000 square feet) are generally allowed by right if they can meet a more detailed list of performance standards regarding their impact on other properties. Businesses that cannot meet the performance standards may still be allowed by special permit.

Performance standards were added to Orange's zoning in 2006. They were created to make the zoning bylaws more flexible and to help the town attract a variety of commercial enterprises. Prior to the establishment of performance standards, more commercial and light industrial uses required special permits. The Orange Zoning Bylaw states (Section 4600) that the

“performance standard section provides an alternative to the special permit process and should save applicants time and expense.” The performance standards address a variety of characteristics of potential businesses that could impact nearby properties and the community overall, including traffic generation, noise, wastewater treatment, storm-water runoff, parking and loading areas, lighting, buffering from adjacent properties, and hours of operation.

A number of zoning related recommendations were made in the *2005 Orange Master Plan* and the *2004 Community Development Plan* that have been implemented during recent years including:

- Revisions to the open space development provisions to allow this type of development by right with site plan review. These revisions were made to promote this development option and to encourage new construction which permanently preserves open space;
- Changes to allow accessory apartments and flag lots to encourage infill residential development;
- An increase in the minimum lot size in the rural residential district to two acres from one acre in order to reduce the allowable density and development pressures in the rural areas of Orange and to help these areas remain rural; and
- Revisions to the site plan review guidelines to make the procedures and requirements more clear.

New Salem

New Salem has one zoning district. It is the Primarily Residential-Agricultural District, and covers the whole town. Building lots for single family homes are required to be at least two acres in size, unless the home is

located on a rear lot (i.e. flag lot), in which case the minimum lot size is four acres. New Salem's Zoning Bylaws allow a limited number of uses by-right, including single-family homes, rental of rooms to no more than four persons, agricultural uses including the sale of products principally raised in the town, lumbering and sawmill operations on a site for no more than one year, and home occupations that conform to certain conditions. Accessory apartments and the conversion of a single-family dwelling to a two-family dwelling are allowed by Special Permit, along with a number of commercial uses.

In recent years some changes have been made to the zoning code that had been recommended in town master plans and other reports. In 2005, Annual Town Meeting voted to change the minimum lot size from one to two acres. In 2007 a provision to allow for accessory apartments by special permit was added to the Zoning Bylaw. General conditions for the apartments ensure that the single-family residential character of the Town is preserved.

In 2010, Site Plan Review was added to the Town's Zoning Bylaw with the purpose of reasonably protecting the environmental resources and scenic qualities of the Town's neighborhoods. The following projects require Site Plan Review: subdivisions resulting in two or more building lots; the installation of ground mounted or roof mounted solar electric installations generating more than 10kW or occupying more than one acre; and non-residential or non-agricultural uses that create more than 5,000 square feet of enclosed floor area, require ten or more parking spaces, or result in a parking area 2,000 square feet or greater (Section 11A).

New Salem also added a Solar Electric Overlay District to its Zoning Bylaw in 2010. The overlay district allows for ground-mounted solar electric installations of up to 1 MW in capacity, and that occupy no more than two acres, by right with Site Plan Review. The district is made up of various areas in the northwestern section of Town and falls just outside of the Byway study area.

Potential for Future Development

This section briefly describes the areas with the greatest development potential in each of the towns within the Byway study area. The assessment of development potential is based largely on land characteristics such as slopes, wetlands, public water and sewer infrastructure, and on current zoning regulations.

Orange

In 2004, as part of the town's Community Development Plan, Orange considered the best locations for future potential growth. The Plan identified five potentially suitable locations for future industrial or large-commercial (greater than 5,000 square feet) growth. Two of these areas are located within the Byway study area, near the Randall Pond Industrial Park. It will be essential for these locations to be investigated further before development is pursued at these sites. For each location, an engineering feasibility study will be needed to fully evaluate the site's development

potential, possible environmental constraints, including wetlands issues, and the costs of extending water and sewer services as necessary.

The downtown was identified as the best area for future small commercial and mixed use development in the *2004 Community Development Plan*. Orange has been pursuing the redevelopment of vacant and under-utilized buildings in the downtown area, such as the Putnam Hall building, as part of its downtown revitalization activities. Putnam Hall is one of a few large, historic brick buildings in the downtown area. It has five floors and a total of approximately 20,000 square feet of space and is owned by the Town of Orange. Renovation of the building is being proposed by the Town of Orange in partnership with the North Quabbin Woods, an organization that seeks to promote forestry and forest products in the region. North Quabbin Woods would be the anchor tenant of the building once it is redeveloped. One potential challenge for the redevelopment of the historic mill buildings is that they do not contain elevators and elevator installation can be very expensive. The *2009 Mohawk Trail East Scenic Byway Corridor Management Plan* notes that Putnam Hall or other historic buildings in downtown Orange could be considered for use as a tourist information center and/or interpretive center for the Mohawk Trail Scenic Byway. A tourist information center in the downtown could provide information to visitors about both Scenic Byways as well as other area attractions.

In addition to new commercial uses, the *2004 Community Development Plan* identified the downtown area as an appropriate location for residential infill development and new residential growth

because of access to sewer and water as well as services such as stores, offices, Town Hall, and the library. An additional area within the Byway corridor identified for potential residential development is located between the Byway and Walnut Hill Road, south of the downtown area. The portion of the Byway study area south of Route 2 in Orange is constrained from development by a Zone II Wellhead Protection Area, which surrounds the Town's public water supply, as well as the presence of prime farmland soils.

New Salem

As mentioned previously, almost 80% of New Salem's land area is permanently protected from development, largely limiting areas in Town where new development can occur. The *2004 New Salem Community Development Plan* identifies several areas where new residential and small business growth could occur. Most of the focus is on the area just west of the town center on Route 202, where several businesses already exist. The plan recommends the creation of a "Village Center" zoning district that could allow for higher density infill residential development mixed with small business uses. Currently the minimum lot size throughout the Town is two acres, making infill development in the village center area difficult.

Also, the area located north of the intersection of Route 202 and 122 in New Salem where the two roads merge was identified as potentially suitable for economic uses. The remaining sections of the Byway study area within New Salem are largely constrained from development due to the Quabbin Reservoir, protected forestlands, and wetlands and water bodies. In general the 2004 plan notes that residents

seem supportive of some new business growth, but only if new development enhances the Town's rural character. Small enterprises such as bed and breakfasts and farm stands are currently allowed by right in Town and could help support tourism along the Byway.

Scenic Views along the Byway

There are a number of scenic vistas along the Byway that were identified as outstanding during the visual assessment. These scenic views are noted with a viewshed icon on the Open Space Map at the back of this chapter. The areas with panoramic or medium range views have also been noted and are discussed below. Further discussion of the scenic views along the Byway appears in the Scenic Resources Chapter of this plan.

Several factors were considered when assessing the scenic qualities of a medium- or long-range vista or roadway corridor. Medium and long-range vistas are more breathtaking when they contain both an expansive field of view and depth of view. The field of view is the horizontal width of the view, while the depth of view is how far away one can see. Contrast and focal points are elements that add interest to what is being seen. Contrast means the differences seen in the vista, such as landscape differences. Focal points are elements in the landscape that draw the eye.

In Orange, the historic streetscape is an important feature of the downtown. This is an important viewshed to protect. The historic character of this area should be considered as future rehabilitation and infill development within the downtown is planned and developed. Additionally, the

area to the north of the intersection of Routes 122 and 202 is agricultural and has important views of classic farm settings. The section of the Byway that is in Orange where Route 122 and Route 202 have merged and become one have rural views of mature tree stands amidst fields and stonewalls.

In New Salem, the Byway travels along areas near the Quabbin Reservoir that are permanently protected.

Tools and Strategies to Preserve the Scenic Byway Resources

This section provides an overview of tools and strategies that can be used by towns and regional organizations to help preserve historic, scenic, and open space resources and enhance tourism along the Route 122 Scenic Byway. The strategies fall into four categories: land protection, historic preservation restrictions, funding programs, and zoning and other town bylaws.

Land Protection

Conservation Restrictions (CR)

Scenic, open space, forest, and agricultural resources can be protected through the use of conservation restrictions. A conservation restriction is a legally binding agreement between the landowner and a government agency or qualified conservation organization, such as a land trust, that places constraints on the use of a property in order to protect its scenic or open space values. With a conservation restriction, land uses are typically limited to forestry, farming, and/or passive recreational activities, and development is prohibited except if it is related to those uses (such as a barn for farming purposes). Scenic easements and

conservation restrictions can be donated or sold by a landowner. A donation of such a scenic easement can yield a significant tax benefit. The Federal Scenic Byway program can provide funding for acquisition of scenic easements from willing property owners.

Agricultural Preservation Restriction (APR) Program

The Agricultural Preservation Restriction (APR) Program protects prime farmland from development. The APR Program is a voluntary program that offers a non-development alternative to farmers and other owners of prime agricultural land and other farmland of statewide importance that are faced with a decision regarding the future use and disposition of their farms. The program offers to pay farmers the difference between the "development value" and the "agricultural value" of their farmland in exchange for a permanent deed restriction which precludes any use of the property that will have a negative impact on its agricultural viability. The APR Program is run through the Massachusetts Department of Agricultural Resources.

Chapter 61 Programs

Parcels enrolled in the property tax abatement programs under Chapter 61 of the Massachusetts General Laws are temporarily protected from development. The Chapter 61 programs offer landowners reduced local property taxes in return for maintaining land in productive forestry, agricultural or open space or passive recreational use for a certain period of time, usually at least 10 years. One important feature of the Chapter 61 programs is that they offer towns the opportunity to protect land permanently if land that has been enrolled in programs is being sold or converted to another use, and will leave Chapter 61. The town where the parcel is located has a 120-day period during

which it can exercise, or assign, its right of first refusal to purchase the property at fair market value or meet the conversion price offer, and preserve it permanently.

Historic Preservation

Historic Preservation Restrictions

A preservation restriction is a mechanism that is used to preserve a property's historic character. It is a legally binding agreement that is used to protect historic resources, such as historically significant buildings, landscape features or landscape areas. Preservation restrictions can be written to list the specific features of the historic property to be protected. Preservation restrictions are enabled under Massachusetts General Law Chapter 184 Sections 31-34. The preservation restriction must be held by a government or non-profit. Preservation restrictions are recorded in the local Registry of Deeds. The preservation restriction ensures that the specified features of the historic property will not be altered in the future and will be preserved for future generations.

Sources of Funding

Community Preservation Act (CPA)

Signed into law in 2000, the Massachusetts Community Preservation Act (M.G.L., Chapter 44B), gives communities a funding source for projects related to historic preservation, open space protection, and affordable housing. Municipalities adopt the Community Preservation Act (CPA) on a local basis, through a ballot referendum. Communities that approve the CPA can impose a property tax surcharge of up to 3%. The funds collected through this surcharge are set aside in a local Community Preservation Fund along with a State match. Monies accruing in this fund are to be spent on historic preservation, open space

(excluding recreation), and affordable housing with at least 10% of the annual receipts going toward each category. Spending can be deferred until needed. The community determines how it would like to distribute the remaining 70% of funds to any or a combination of the three categories, including public recreation. For the first six years of the program, from 2002 through 2007, the State match rate was 100%. Beginning in 2008, as more communities adopted the CPA, the average State match to communities has decreased. In 2010, the average statewide match was 31.5% of local surcharge revenue collected. Depending on a community's population and property values, the percentage may be higher or lower than the average. As of November 2010, neither of the towns along the Scenic Byway has adopted the CPA.

LAND - Local Acquisitions for Natural Diversity Grant Program (formerly Self-Help Program)

Provides grant assistance to city and town conservation commissions for the acquisition of open space for conservation and passive recreation purposes. The program is administered by the Massachusetts Executive Office of Energy and Environmental Affairs (EEA) and the Massachusetts Department of Conservation and Recreation (DCR). The LAND Program helps preserve lands and waters in their natural state and the program offers funding to preserve areas that contain unique natural, historical or cultural features or extensive water resources. The program encourages compatible passive outdoor recreational uses such as hiking, fishing, hunting, cross-country skiing, and wildlife observation. General public access must be allowed, and the Town must have an up to date Open Space and Recreation Plan to apply. The LAND Program pays for up to 80% of a municipality's costs for the

acquisition of land, or a partial interest (such as a conservation restriction), and ancillary land acquisition costs. The grants range in size from \$75,000 to \$500,000.

Parkland Acquisitions and Renovations for Communities (PARC) (formerly the Urban Self-Help Program)

Provides grant assistance to cities and towns to acquire parkland, develop new parks, or renovate existing outdoor public recreation facilities. The program is also administered by Massachusetts Executive Office of Energy and Environmental Affairs (EEA) and the Massachusetts Department of Conservation and Recreation (DCR). Any city or town with a population of 35,000 or more, or any city regardless of size, which has an authorized park or recreation commission, is eligible to participate. Grants can also be issued to smaller communities for projects that have regional or statewide significance. Projects for outdoor recreation purposes, whether active or passive in nature, are considered for funding. Grants are available for the acquisition of land and the construction, restoration, or rehabilitation of land for park and outdoor recreation purposes such as athletic playing fields, playgrounds, game courts, and swimming pools. Access by the general public must be allowed and the Town must have an up to date Open Space and Recreation Plan. The grants reimburse a significant portion of total project costs. The grants range in size from \$50,000 to \$500,000.

The Town of Orange received an Urban Self-Help (now PARC) Grant for funding to construct the Orange Riverfront Park. The riverfront park provides canoe and kayak access to the Millers River and a rest stop for travelers along the Route 122 Scenic Byway.

Massachusetts Recreational Trails Grants Program

The Recreational Trails Program provides grants ranging from \$2,000 to \$50,000 on a reimbursement basis for a variety of trail protection, construction, and stewardship projects throughout Massachusetts. It is part of the national Recreational Trails Program, which is funded through the Federal Highway Administration (FHWA). Funds are disbursed to each state to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized recreational trail uses. In Massachusetts, funds are administered by the Department of Conservation and Recreation (DCR), in partnership with the Massachusetts Recreational Trails Advisory Board. Eighty percent of the project costs are reimbursed to grantees, but at least 20% of the total project value must come from other sources.

Brownfields Assistance

There are a number of programs to assist in the cleanup and redevelopment of brownfields sites. Both of the communities along the Scenic Byway contain properties that have been identified as brownfields, with most of these brownfields being located in or near historic town centers where industries were traditionally located. Brownfield cleanup is regulated in Massachusetts under Massachusetts General Law, Chapter 21E. In 1998, the State Legislature amended Chapter 21E to establish significant liability relief to encourage the redevelopment of brownfield sites, while ensuring that the Commonwealth's environmental standards are met. The Massachusetts Department of Environmental Protection (DEP) administers the State's cleanup laws and regulations. DEP offers technical assistance for the cleanup of brownfields sites.

The Franklin Regional Council of Governments (FRCOG) coordinates a regional Brownfields Site Assessment Program for Franklin County funded through the U. S. Environmental Protection Agency. In addition to the Site Assessment Program, the FRCOG coordinates a Rural Brownfields Clean-up Revolving Loan Fund to help fund brownfields clean-up and redevelopment activities in Franklin County communities. The program could be of particular benefit to downtowns that have historic mill buildings which are vacant or underutilized and could be redeveloped. The restoration and reuse of these structures is important for the Byway.

MassWorks Infrastructure Program

The MassWorks Infrastructure Program consolidates six public infrastructure grant programs (Public Works Economic Development (PWED) Grants, Community Development Action Grant (CDAG), Growth District Initiative (GDI) Grants, Massachusetts Opportunity Relocation and Expansion Program (MORE), Small Town Rural Assistance Program (STRAP), and the Transit Oriented Development (TOD) Grant Program) formerly administered by different agencies into one administrative program under the Executive Office of Housing and Community Development. The program provides grant funding for publicly owned infrastructure including, but not limited to sewers, utility extensions, streets, roads, curb-cuts, parking facilities, site preparation, demolition, pedestrian walkways, streetscape, and water treatment systems.

Community Development Block Grant Program (CDBG)

The Community Development Block Grant (CDBG) program is a federally funded, competitive grant program run through the Massachusetts Department of Housing and

Community Development that is designed to help small cities and towns meet a broad range of needs. Eligible CDBG projects include, but are not limited to, business assistance, infrastructure, community/public facilities, housing rehabilitation or development, and downtown revitalization. Communities may apply for funds on behalf of a specific developer or property owner, and may apply regionally with one lead community.

Both Orange and New Salem have received CDBG funds for housing rehabilitation. In addition, in 2009 the Town of Orange completed an inventory of the Commercial Area Revitalization District (CARD) in downtown Orange using CDBG funding. The inventory determined that the district qualifies as a slum and blighted area. The designation as “Slum and Blighted” allows the Town to apply for additional CDBG funding critical to the revitalization of the area. Specifically, the designation and available funding will allow the Town to begin eliminating the current conditions of blight on an area basis and also prevent further blight by addressing marginal properties that could, if left unassisted, deteriorate further.

Expedited Permitting Process

In 2006, the State Legislature enacted regulations (Massachusetts General Laws, Chapter 43D) to support an expedited and streamlined municipal permit process for targeted economic development projects. An established, predictable local permitting process is considered advantageous by potential developers. For towns that choose to enact “Expedited Local Permitting”, this program gives them the ability to promote commercial/industrial development on pre-approved parcels, known as “Priority Development Sites,” by offering an

expedited, streamlined local permitting process. The goal is to create a transparent and efficient municipal process, which guarantees local permitting decisions on designated “Priority Development Sites” within 180 days. This requires the coordination of municipal staff and town boards including the Planning Board, Zoning Board of Appeal, Conservation Commission, Fire Chief, the Historic Commission, and Board of Health.

Eligible “Priority Development Sites” are sites that have been identified and approved by the town with permission from the property owner(s) that are in a commercial, industrial or mixed use zone and can accommodate the development or re-development of a building(s) of at least 50,000 square feet. Communities with “Priority Development Sites” will receive priority consideration for economic development grant programs such as the MassWorks Infrastructure Program and brownfields funding. The FRCOG provides technical assistance to towns exploring designation through “Expedited Permitting (Chapter 43D). The Town of Orange, with the FRCOG’s assistance, has designated three Priority Development Sites in downtown all of which are located within the Byway area. The sites are the Putnam Hall block, the South Main Street block, and the West River Street block.

Local Bylaws and Zoning Options

Corridor Overlay District

Scenic Byway communities may consider the creation of a zoning district that overlays the Byway corridor. Uses underlying the corridor district would continue to be allowed, but new development would be

required to meet additional design standards. These standards could limit the amount of lot clearing, call for maintaining roadside vegetation and trees, favor curved over straight driveways, limit the size of large commercial buildings and storage facilities, keep exterior lighting to a minimum, and introduce special regulations for signs within the district. Additional requirements could include the identification of existing scenic vistas from the Byway and proposed measures to avoid impacting those vistas, such as locating buildings, structures, and power lines out of the sight-way. Performance incentives could be developed to allow an increase in use, density, or other bonuses if a developer meets or exceeds the design standards of the bylaw.

Local Historic Districts

A local historic district is established and administered by a community to protect the distinctive characteristics of important areas, and to encourage new structural designs that are compatible with the area's historic setting. Prior to the establishment of a local historic district, a district study committee is appointed to conduct a survey of the area and to prepare a preliminary report for local and state review. A final report is then submitted to the local governing body for approval of the local historic district ordinance or by-law. Once a local historic district is established, a local historic district commission is appointed to review all applications for exterior changes to properties within the district. This design review process assures that changes to properties will not detract from the district's historic character. The review criteria are determined by each city and town and are specific to each local historic district.

Architectural Preservation Districts (also referred to as

Neighborhood Conservation Districts)

An architectural preservation district is a defined area in which additions, major alterations, demolition and new construction are reviewed. An architectural preservation district bylaw protects the overall character of an area by regulating major alterations and demolitions, and by ensuring that new construction is completed in keeping (scale, massing, street pattern, setback and materials) of the existing buildings. An architectural preservation district is an alternative to a local historic district for areas where some alterations have already occurred but protection of the overall scale, streetscape and historic buildings is a priority.

Village Center Zoning

The creation of village center zoning districts helps direct future growth and development to those areas and therefore helps preserve rural and open space areas elsewhere. Village center districts are usually established in existing villages, or in other parts of town that have the infrastructure (water, sewer, roads, etc.) to support more development. Village center districts typically have higher densities (smaller lot sizes and frontage) and encourage more intensive residential uses, such as multi-family homes, and commercial uses to locate in the village centers instead of elsewhere in town.

Growth in village centers is also promoted through flag lot provisions which allow development on lots without the standard required frontage behind existing development in areas with sewer and water service. Another important provision is a waiver of lot size and front setback requirements, in older neighborhoods where many properties do not meet the standards.

Orange has village center zoning in its downtown that allows for greater densities and a mix of uses. New Salem has informally considered one, but has taken no action yet.

Open Space Residential Development

Open space residential developments (OSRD) can help preserve open space and reduce residential development costs. In OSRDs, homes are built on smaller than regular lots in exchange for some of the remaining area being set-aside as protected open space and the clustering of homes helps preserve open space and natural resources. Orange has adopted provisions to allow OSRD by right with Site Plan Review to help encourage its use.

Sign Regulations

Both of the communities along the Scenic Byway have sign regulations in place. Sign regulations can be incorporated into a community's zoning bylaws or general bylaws. The sign regulations in each community could be reviewed to see if they should be strengthened to protect the community character overall and the scenic

character of the Byway corridor specifically. One option could be to have more detailed regulations and design guidelines for signs within a Byway corridor overlay district to help enhance the Scenic Byway. A community could also have different sign limits in rural zoning districts than in commercial areas.

Lighting Regulations

Communities can establish regulations regarding external lighting to help preserve rural and scenic character. Regulations can be designed to address the brightness, color, and height of external lighting and can also call for lighting fixtures to project light downward to limit their impact on neighboring properties, on the night sky, and on night flying insects. There can also be design guidelines for lighting fixtures in local historic districts or as part of Site Plan Review.

Phased Growth Bylaw

Phased growth bylaws limit the number of homes that are allowed to be built each year. The purpose of a phased growth bylaw is to help ensure that growth does not strain a community's ability to provide basic public

Findings and Recommendations

Findings

- There are historically significant commercial and industrial buildings in downtown Orange and New Salem Village center that are underutilized.
- There are some areas along the Byway that have outstanding scenic views and are worthy of protection.
- Downtown Orange would greatly benefit from continued revitalization efforts that highlight and enhance the historic and industrial heritage of the area.
- The industrial heritage is significant and should be highlighted as an important feature of the Byway.
- Open Space and Recreation and other important local plans should be updated and kept current.

Recommendations

- Seek funding to purchase conservation restrictions and/or Agricultural Preservation Restrictions for land from willing property owners in important scenic and natural areas.
- Enhance the public visibility of agricultural and forestry businesses in the Byway towns and promote the purchase of local forest and farm products.
- Provide information about the tax credit and funding which can assist private property owners with restoration and rehabilitation projects for historic and architecturally significant buildings.
- Pursue funding (grants and other available sources) to complete redevelopment and revitalization projects in downtown centers and at former mill building sites.
- Encourage appropriate and sustainable economic development where wanted by towns.
- Support the review and revision of local zoning bylaws to enhance and protect the character and resources of the Scenic Byway corridor.
- Encourage commercial establishments to have signage, external lighting, building characteristics, and landscaping that complement the scenic, historic, and natural characteristics of the Byway.
- Consider strengthening local regulations to discourage signs and outside lights that detract from the scenic nature of the Byway. This may include adopting more detailed regulations and design guidelines for signs and lighting within the Byway corridor to help enhance the Scenic Byway.
- Pursue options to preserve and promote historic resources along the Route 122 Scenic Byway, such as the development of architectural guidelines for historic structures to assist property owners when completing historic renovation or restoration projects.
- Support the completion of an updated open space and recreation plan for New Salem.
- Evaluate zoning bylaws and districts to direct commercial growth and avoid “strip” development.