

Casco Open Space Plan

“Voluntary Measures for Protecting Undeveloped Land”

Introduction

In 2002 the Board of Selectmen, at the request of the Comprehensive Plan Committee, formed the Casco Open Space Committee (OSC) to define, identify, and protect undeveloped land, commonly called “open space”. This goal of protecting some of Casco’s undeveloped land is one of the primary goals of the recently updated and adopted Comprehensive Plan for the Town of Casco. The Comprehensive Plan based many of its key recommendations on several household surveys since 1983, all of which have highly rated Casco’s “natural resources” and “rural character” as worthy of protection. The results of the most recent survey, conducted in 2001, further refined the meaning of “rural character”, with respondents indicating that Casco’s large expanses of forested tracts, and its open fields are very important aspects of its rural character.

Briefly, this Plan contains the following major proposals:

1. Protection of large areas of undeveloped land, connected by narrower corridors.
2. Financial incentives to willing landowners as a key strategy for protecting land – we are proposing no encroachment on landowner “rights”.
3. Formation of a chartered Conservation Commission to create a group responsible for carrying out the proposals in this Plan.
4. Request the amount the Town sets aside for land protection efforts increase from \$30,000 to \$60,000 per year.

Each of these proposals is discussed in more detail in the following sections.

Land Proposed For Protection

The OSC used a number of factors to identify the areas proposed for some level of protection^[1]. They include a number of straightforward ideas:

1. We should start by looking at the “landscape” level; that is, looking at Casco as a whole, as well as the surrounding areas.
2. If large areas of relatively undeveloped land (i.e. hundreds of contiguous acres) can be protected, then those things that humans value are most likely to be protected. These values include:
 - A. Habitat for the widest variety of species.
 - B. Human outdoor recreational opportunities such as walking, hiking, mountain biking, bird watching, snowmobiling, hunting, etc.
 - C. Scenic landscapes, including open fields, forested hilltops, and historic landscapes.

^[1] The 8-page brochure entitled “Conserving Wildlife in Maine’s Developing Landscape”, Maine Audubon Society, Spring 2000, contains an excellent summary of design criteria and habitat requirements to consider during the open space planning process. Copies are available from Maine Audubon Society, 20 Gilsland Farm Rd., Falmouth, Maine 04105, (207) 781-2330, www.maineaudubon.org.

- D. Clean air and water, which intact ecosystems help provide, by protecting ground and surface waters and sequestering carbon.
3. These large areas should be connected via wildlife corridors of at least 1500' so that any one large area does not become isolated. These corridors can also provide linear recreational trail linkages.
 4. Taken together, these areas should contain a diversity of landscapes, such as low wetlands, open fields and forested hilltops.

Areas of large undeveloped blocks support the habitats of a number of species including moose, bobcat, bear, songbirds, fisher, and beaver. As an example, the home area for moose is typically from 1,000 to 10,000 acres. Black bear, bobcat and fisher also require large home areas. Such animals are disappearing as fragmentation of their habitat continues. *Beginning with Habitat*, a study of the natural resources of Casco conducted through a variety of state agencies and the Maine Audubon Society, identified significant habitat areas (including deer wintering areas, and rare species and plant habitats), which are included within the identified areas.

In terms of humans, we require large tracts of undeveloped land for the recreation most common in Casco. These include hunting, snowmobiling, cross-country skiing, hiking and mountain biking. Fragmentation of the undeveloped lands in Casco is already limiting such activities.

Ecologically, our clean water and air is contingent on relatively undisturbed areas. The forest canopy buffers the potentially destructive action of rain falling on the soil, and helps absorb excess moisture. Forests also absorb carbon dioxide and help moderate temperature extremes by cooling the soil. Wetlands provide many important ecological benefits: they act as recharge areas for groundwater, sponges to moderate flood waters and runoff, catch basins for sediments and nutrients, filtering areas for pollutants, and habitats for wildlife.

Finally, of a pragmatic nature, the four areas themselves are comprised of large blocks of privately owned land. As a result, a smaller number of landowners would be involved in the protection of the identified lands.

Open Space Focus Areas

Based on the above approach, the OSC identified four "Focus Areas" in Casco as worthy for protection from development (see map). All four are large blocks of undeveloped land which, including their connecting corridors, comprise approximately 7,700 acres. These corridors should be a minimum of 1,500 feet wide for the effective movement of species that tend to need interior forest habitat. When taken together, these areas will connect with the 6,000-acre Jugtown Plains conservation easement in northwest Casco (significant portions of this easement are found on adjacent land in Naples and Otisfield).

In a clock-wise fashion these lands include the **Pine Hill/Owl Pond/Heath area (area 1)**, roughly the lands enclosed by the Heath, Route 11, Parker Pond, and Mayberry Hill

Road. This block of land is comprised of approximately 1,800 acres and includes Owl Pond, the only pond within Casco without development on its shores. In terms of human recreation, this area is laced with hiking, snowmobiling, and ATV trails.

Second, the area around **Rattlesnake Mountain (area 2)** and enclosed by Route 11, Route 85, the Raymond/Casco town border, and Route 121. This area of approximately 1,400 acres includes Rattlesnake Mountain, the town's highest point at 1,035 feet, hiking trails, a large heron rookery, and examples of rare and exemplary natural plant communities as defined by Maine's Department of Conservation.

Third, **Quaker Ridge East (area 3)**, the block of land defined by Route 121, Libby Road, Quaker Ridge Road, and Route 11. This area of 1,600 acres is comprised of significant wetlands, prime agricultural soils as well as numerous trails for human recreation.

Fourth, **Quaker Ridge West (area 4)**, the area of 1,800 acres defined by Quaker Ridge Road, Route 302, Tenney Hill Road, and Route 11. Within this area is an identified significant deer wintering area, a stand of old-growth hemlock, the largest wholly contained stream and wetlands complex in Casco (over 300 acres), as well as a network of trails for snowmobiling, biking and hiking.

As mentioned above, to be effective in terms of habitat for a number of species, these areas require linkages through wildlife corridors. To connect **areas 1 and 2** a corridor over Route 11 in the area of Jim Small Road and Camp Cedar is recommended. To connect **areas 2 and 3** a corridor over an undeveloped area of route 121 is needed. To link **areas 3 and 4** a corridor over an undeveloped area of Quaker Ridge Road is required. Finally, to connect **area 4 with the Jughtown Plains easement**, a wildlife corridor over route 11 near Leach Hill Road would be required.

Some lands that are outside the large undeveloped blocks and that therefore may not further the goal of creating large parcels of contiguously undeveloped space may also be considered for protection. Agricultural lands are a good example. As costs increase for the transportation of crops, locally grown foods may become more critical. Some good agricultural lands are included in the Focus Areas, but others are not. Since agricultural land doesn't need to have the large contiguous areas we have been discussing for habitat and recreational needs, they should also be considered for protection. Other areas which may be considered include ridges which provide scenic views, and lands along the Crooked River.

Key Strategies For Protection Of Identified Land

The OSC spent a great deal of time grappling with balancing an individual's rights with the common good of the community as a whole. Due to the strong philosophy in Maine of landowner's rights, the Committee determined the best strategies for protecting the undeveloped land within the four identified areas would need to be voluntary for the

landowner. They would also need to be attractive enough for landowners to want to take advantage of them.

While participation in the program by individual landowners will be voluntary, we believe all citizens of the Town Of Casco have a stake in protecting Open Space. If we as a community are serious about protecting our open space, we must be willing to finance these efforts through tax dollars.

The following strategies, individually or together, are appropriate to protect land within the four identified areas. These strategies basically fall into two categories: education and financial incentives. While the types of financial incentives are discussed in this section on strategies, the means of raising money is discussed in the section entitled "Finances".

Conservation Leases

This is the most important strategy recommended in this Plan. Large parcels of undeveloped land are undeveloped because past and current owners have assumed some level of stewardship. We should be encouraging landowners to continue that stewardship by rewarding their behavior. Leasing development rights would be a key way to reward them. It would allow the town to enter into a lease contract with a landowner for keeping their land undeveloped. The amount of the contract payment could be related to the amount the land is taxed for real estate purposes and the length of the contract, which would likely be at least 10 to 15 years and possibly more. There could also be financial penalties if the landowner decided to end the contract prematurely. These penalties could be similar to those assessed under the Tree Growth current use tax program. Specific details of the lease agreement shall be determined by the proposed Conservation Commission.

The contract would also include a "right of first refusal." In this way, if a property owner should decide to sell his or her land, he/she would first offer the sale to the town at (or below) market value. The town, within a specified time frame, would either agree to, or decline, the purchase.

As an example of what this program might cost, if *all landowners of lots greater than 100 acres* decided to enter into such a contract and were reimbursed 100% of their property taxes, it would cost the town approximately \$60,000 per year. These numbers are based on the 2005 tax rate and April 2004 assessed values, the latest date for which assessed values are available. These numbers may change with the current revaluation. However, many of these parcels are assessed under the Tree Growth current use tax program, so their value will not change because of the revaluation.

While the Open Space Focus Areas and the parcels containing at least 100 acres do not match exactly, they are at least compatible. Corridor connections are not included in the Focus Areas because these tend to be smaller parcels, and therefore will likely cost more to protect per acre. But we can start with the 100+ acre parcels and gain experience with them. Not all landowners with these large parcels will want to enter into lease

agreements. Once we see which ones do, we can figure the cost of doing leases, or develop other strategies, for some of the key connecting parcels.

Conservation Easements

These are legal documents which allow a landowner to continue owning their land while limiting the type and scope of development on a parcel of land “forever.” Conservation Easements are voluntary agreements between a landowner and an organization allowed by law to hold one. For example, land trusts such as Loon Echo Land Trust, municipalities, other governmental agencies and duly chartered Conservation Commissions may hold conservation easements.

While there is typically a monetary value to the development rights that a landowner is relinquishing, some landowners have been willing to donate a conservation easement to a qualified organization, while others have wanted to be reimbursed for the full value or a portion of the value of those development rights. In either case the process of creating a conservation easement incurs legal and other expenses, and the town should be willing to aid the landowner financially should it be necessary. Conservation easements sometimes result in a decrease in estate, income and/or property taxes, which often provides enough of a monetary incentive for the landowner to donate the easement.

When a landowner wishes to be paid for all or a portion of the value of the development rights, and the parcel is an important component of the Open Space Plan, then the Town should consider paying for those development rights.

In addition to the direct legal expenses incurred when a conservation easement is created, most land trusts require the payment of a stewardship fee and/or the payment into a fund to provide for the potential future legal defense of an easement. These are other costs to the landowner which the Town should consider subsidizing.

Town-owned Land

The Town should also be willing to own land outright. It can either purchase important parcels or accept them as donations. With town-owned land, the community decides its outcome. It can be managed for any combination of wildlife habitat, sustainable timber harvesting, ecological reserves or recreation, or made available in the future for development, based on community desires/values/priorities at that time. Ecological reserves are tracts of land that support rare and endangered habitat and/or are allowed to develop into late successional (old growth) forests. The Conservation Commission shall consider setting aside some areas as ecological reserves.

The town should make the determination for the worthiness of purchase of a particular parcel based upon such criteria as: its price; its significance to the overall Open Space Plan; the significance of its habitat and other ecological values; human recreation possibilities; and its location in regard to other undeveloped lots.

The Town already owns approximately 180 acres on about two-dozen parcels. The two largest parcels, one containing 70 acres and the other containing 40 acres, are both

located south of Route 302. Each of these should have a management and use plan developed for them. Such plans can combine, in different proportions, recreation, timber harvesting, wildlife habitat, and other values as deemed appropriate by the community.

Education and Outreach

There are a variety of topics about which landowners and other groups should be educated. All stakeholders should have a good understanding of why it is important to protect open space: not just the large landowners, but all townspeople, especially voters, who will have to decide on funding options; and school-aged children, so they will develop a respect for the land. Developing a good working relationship with large landowners will be very important, and will depend on active outreach to them. They should be provided information regarding such items as: wildlife habitat and ways to enhance or maintain it; current use tax programs; cost-sharing programs for developing forest stewardship plans; and conservation easements. The Conservation Commission shall develop an education and outreach program to address these issues.

Governing Organization

Finally, there needs to be a chartered Conservation Commission to implement these recommendations and to provide stewardship for the Town's natural resource interests. Any governing organization, while being directly responsible to the community, must have the flexibility to act quickly when, for example, a critical parcel of land comes up for sale. With a *chartered* Commission, the responsibilities, authorities and limitations of the group are clearly spelled out (in the charter). The initial charter and any subsequent changes to it must be presented to voters at a Town Meeting for their approval. Some members of the Commission may be appointed by the Board of Selectmen, and others elected by the voters.

The formation of a Conservation Commission (CC) is of utmost importance. The first responsibility of the CC would be to immediately contact landowners of parcels with greater than 100 acres within the focus areas to determine their interest in preserving undeveloped land. The CC would offer information on such tax programs as Tree Growth and Open Space and Farmland as well as conservation easements; the CC would also aid landowners in such applications. Such strategies cost the town nothing financially and help maintain open space. Further the CC would immediately contact appropriate landowners in the focus areas regarding the Conservation Lease Program (and the inclusive right of first refusal). In addition, any lands for sale within the Focus Areas are to be immediately reviewed by the CC for possible purchase or other action by the town.

This group should also play a role in the Planning Board review process for important parcels. It should advise the Planning Board when they review an open space subdivision, making recommendations on what parts of a parcel should be included in the set-aside areas, as well as recommending ownership status of the common areas.

The responsibilities of the group should include the following:

- Work directly with landowners.
- Develop and monitor lease agreements.
- Develop management plans for town-owned parcels.
- Educate landowners on such topics as conservation lease program, current use tax programs, conservation easements, wildlife habitat improvement, etc.
- Determine suitability of land for purchase or subsidy.
- Determine amount of subsidy for easements.
- Enter into purchase and sale agreements.
- Partner with other entities to further the protection of valued land in Casco.
- Accept donations of money, land and conservation easements.

Finances

The above-mentioned strategies rely overwhelmingly on financial resources. Again, the community must decide whether it is serious about the protection of its natural resources. We also must acknowledge land will most likely not become cheaper in the near future, and minimally controlled development will continue to occur with predictable results. Fragmentation of undeveloped land will negatively impact the wildlife of the area as well as human recreational possibilities and the rural character of Casco.

Should we decide to protect the land, we must acknowledge we will pay for it with our financial resources and our time. There will be those who argue removing properties from the tax roll will negatively impact Casco financially. However, studies show protecting land from development actually saves municipalities money. Although protected lands are not generating revenue, they also do not require services from the town; these lands do not require fire and police protection, or school services.

In addition, protected lands (especially those owned by the town) can actually generate revenue. Town-owned lands could be harvested. Timber harvests would generate revenue that most likely would be greater than the tax revenue received (a great portion of the lands within the focus area are in Tree Growth tax status and thus are assessed at a reduced rate). The idea of timber harvests now not only includes lumber for building and paper products, but also for fuel. As oil becomes more expensive, wood chips can be used for heating and power generation, or made into ethanol for fuel. If the Town owns agricultural land, it could lease the land to farmers who would use it sustainably.

Finally, the idea of carbon banks is a possibility following NASA's admission that global warming is a reality. Carbon banks (already in existence in other countries) operate on the idea that businesses (especially the power industry) that generate greenhouse gases must "balance" their emissions through leasing forested land. Casco, and Maine in general, could be poised to take advantage of its forested land without any additional capital investment.

Currently, the Town puts aside \$30,000 per year from the budget for the protection of land. The Town should **increase that sum to \$60,000**, and in two years again increase

the amount to be decided by the Town. This first increase of \$30,000 would result in an additional \$10 per account (each separate tax bill). These funds should be used to aid with conservation easements, to provide lease payments, to purchase land and development rights, and to fund any other protection activities, including education of landowners and its citizenry, habitat improvement, and creating management plans for Town-owned land.

Also, the Town should be willing to secure a **bond**, per Town Meeting vote, for the outright purchase of land or for other protection measures. Some will argue it is unfair to “saddle” future generations with such a debt; however, future generations are the ones who will more greatly benefit.

Finally, a donation request specifically for the protection of land in Casco should be included with the mailing of property tax bills.

Action Plan For Protecting Undeveloped Land

In order to protect the natural resources of Casco, the following strategies must be implemented.

OBJECTIVES	STRATEGIES	WHO	WHEN
Provide adequate funding	Sponsor an annual article for Town Meeting to increase the amount set aside for land protection from \$30,000 to \$60,000 annually.	BOS	June 2006 On-going
	Include a request for donations to the land protection fund with each tax bill.	BOS	Oct 2006 On-going
Charter a Conservation Commission	Appoint an interim group to act on these items until a permanent group is formed.	BOS	July 2006
	Research the chartering of a Conservation Commission as provided by state law.	Interim Group	Sept 2006
	Determine membership criteria: elected or appointed or some of each; how many; composition; etc.	Interim Group	Sept 2006
	Draft a charter.	Interim Group	Sept 2006
	Place charter on November 2006 ballot.	BOS	October 2006
	If some members will be elected, determine when to hold elections.	BOS	Dec 2006
Implement Conservation Lease Program	Research the legal implications of leasing land.	Town Manager	May 2006
	Determine landowners who are eligible.	CC	Jan 2007
	Create a prototype lease agreement.	CC	Feb 2007
	Set up a structure/criteria for determining the amount of lease payments.	CC	March 2007