

Developer-Land Trust Partnerships: An Emerging Model for Land Conservation

In many congested areas where the need for land conservation is greatest, the number of remaining untouched parcels continues to decrease. As scarcity increases, prices do as well. This makes it ever more difficult – and expensive – for land trusts to protect the resources that remain.

Remaining large tracts of land are under pressure. They are often passing from one generation to the next, with tax and inheritance issues complicating the decision-making process. In the meantime, such tracts are increasingly valuable to developers as they become scarcer. For the developer, however, the dynamic has changed as well. In today's economy and saturated housing market, the ability to differentiate one's development from the rest of the marketplace is increasingly critical. This dynamic can actually work in favor of committed land trusts, *if they remain flexible and on the lookout for new opportunities*.

A recent model for land protection has emerged which involves developers cooperating with land trusts to create a win-win situation in which new housing is built within a larger protected environment. Such a successful outcome was recently achieved in Scituate, Massachusetts, where the Maxwell Conservation Trust collaborated with Design/Housing, Inc., and the Hennessey family to protect 33 acres while promoting tasteful and responsible development of 5 Two-Family dwellings.

The process was not simple. Given wetlands and access issues, it involved hearings with Scituate's Planning Board, Conservation Commission, Community Preservation Committee (CPC), and a Town Meeting to approve CPC funding. And without the good will of the Hennessey Family and the commitment of Design/Housing, it would never have occurred.

In order to appreciate the outcome, some background is in order. The Hennessey parcel is a 39.6 acre tract of land that is now part of the largest contiguous open space, the Bates Lane area in Scituate, at just under 350 acres. It is home to two vernal pools, box turtles, spotted turtles, and a variety of other wildlife. Its groundwater flows into Scituate's South Swamp, which is a principal source of the Town's drinking water. The land was all farmland in the past and returned to woodlands in the latter half of the 1900s.

In 1998, the Maxwell Conservation Trust was formed with the idea of protecting land in Scituate and its founders began contacting families who owned large land areas. At about the same time, a publicly traded national house building company entered the picture and began signing contingency agreements with landowners in the Bates Lane

area. One land owner, Charles Moncy, chose to work with the Maxwell Conservation Trust to try to preserve his land. In 2002, the Town of Scituate demonstrated its vision by approving town participation in the Community Preservation Act, thereby setting aside monies for protection of open space. In 2003, the Town Meeting voted unanimously to partner with Maxwell Trust to purchase the 76 acre Moncy property. CPA funds purchased 42 acres and Maxwell Trust purchased 34 acres using their own funding. The Moncy property – at 76 acres - was the first large parcel approved for CPA funding with Maxwell Conservation Trust holding the permanent conservation restriction.

In 2004, the agreements that the Bates Lane area landowners had with the national house building corporation were discontinued. One of the landowners, John Litchfield, began to talk to the principals at Maxwell about selling his land for open space. The Litchfield family's 40 acre parcel became the second large parcel in the Bates Lane area facilitated by Maxwell Trust and approved unanimously for purchase with CPA funding at the 2006 Town Meeting, with the conservation restriction held by the Maxwell Trust and the Cohasset Water Commissioners. John Litchfield and Maxwell Trust then began conversation with the Hennessey family about potentially pursuing the same conservation path.

In the meantime, the Maxwell Conservation Trust began to hear about a new model for compromise that was promoted at an annual Land Trust conference held by the Trustees of the Reservation, suggesting that one of the only ways to continue protecting expensive land was through compromise. The Trust met with the Hennesseys shortly thereafter, and began to discuss the possibilities with them. As a family, the Hennesseys had fiduciary responsibilities to their members. But they were also keenly interested in finding a way to protect the land that they had enjoyed for years during their childhood.

When the topic of a potential compromise with a developer was raised, they not only expressed an interest, but went out of their way to locate a company with the value and commitment to work on such an endeavor as well as a record of similar accomplishments. The Hennesseys found Design/Housing Inc., a Massachusetts-based company with a proven record of low impact design, developing land while protecting open space in multiple communities across the Commonwealth. The opportunity to work with the Hennessey's and protect a large portion of the open space was attractive to Design Housing. As Chairman and CEO Arnold Soloway noted: "We are interested in conservation and the future of the environment. But we also recognize there is no likelihood of zero population growth. Therefore, we need to be very careful and thoughtful in our selection of sites which should be conserved."

Design Housing then worked with the Hennesseys and Maxwell Trust to develop a plan which would involve construction of 5 two-family homes on 7 acres while protecting an additional 33 acres for open space.

After numerous meetings with various town officials, the proposal was finally ready for a vote to approve \$355,200 of Scituate CPA funds at the March 2009 Town Meeting. As with two previous similar votes in the past five years to preserve open space, the vote was unanimous. The Town of Scituate thereby increased the amount of preserved open space in Scituate's West End Bates Lane area to almost 250 acres – land that is now available for habitat and water preservation, hiking, cross-country skiing, and other outdoor activities. Each year, the number of people enjoying the space grows. The recent “planting” of a geocache has attracted new “customers.” And with the addition of a new foot bridge, the land is now even more accessible to residents of Scituate and the greater South Shore.

The latest addition of 33 acres to this local treasure are a testament to the commitment of the Hennessey family, the values of Design/Housing, and the creativity and perseverance of the Maxwell Conservation Trust. Perhaps most of all, it is a tribute to the voters of Scituate, who had the foresight to approve town participation in the Community Preservation Act, and who have consistently and unanimously supported the ongoing efforts to protect open space in this lovely and vibrant town. As Chris Hennessey reflected: “To our parents, the return of the turkeys or a returning cardinal at the feeder were unanticipated joys. We grew up surrounded by the land they, and in turn we, loved...The spruces cut down for Christmas trees, the pond where we ice skated, and the trails for our horse will never be forgotten. Our parents would have wanted nothing more than the beauty of this land to be preserved. When we walk the trails, and we will indeed walk them, seeing their names will forever leave them a part of this land. We honor our parents by honoring the land. We know they would be proud!”