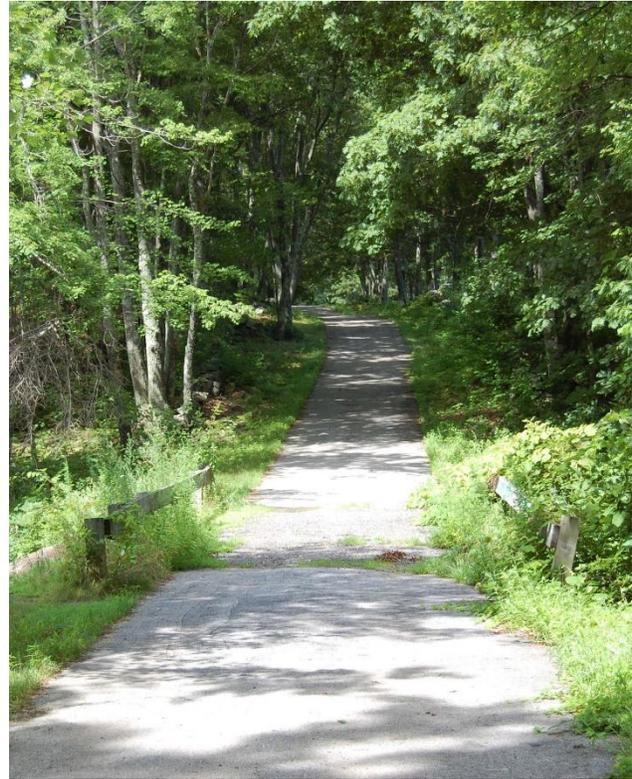


SECTION 3

Methods for Conserving Land

*“Forests are the lungs of our land,
purifying the air and giving fresh
strength to our people.”*

– Franklin D. Roosevelt, 32nd US President



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New Hampshire municipalities have a variety of methods, partners, and funding sources available for land and resource conservation. This section describes the available options and explores the advantages, disadvantages, and opportunities of each.

3.1 - Land Ownership

When people think of conserving land, the first thing they usually think of is the town owning the land. Land acquisition is the most secure way of preserving land as the town has ownership and thus complete control over how the land is managed and used. Acquiring land can be done in one of several ways:

- purchasing the land at fair market value, commonly referred to as a “fee simple” transaction,
- purchasing the land at less than fair market value, commonly known as a “bargain sale,” or
- having the land be donated to the town.

A fee simple transaction is the most lucrative to the landowner, but the most expensive option for the town. On the other hand, because there may be income or estate tax advantages to the landowner for either a bargain sale or outright donation, the landowner could potentially benefit just as much from one of the less-than-full-price transfer options mentioned above.

Another consideration for the town when it owns land outright is the loss of property tax revenue, although in most cases this loss is relatively small since most larger parcels of open land in Atkinson are already taxed at the reduced Current Use tax rate under NH RSA 79-A (see <http://www.gencourt.state.nh.us/rsa/html/V/79-A/79-A-mrg.htm>).

As specified in RSA 36-A:4, conserved land that is owned by the town is under the administration and control of the Conservation Commission, which establishes policies and guidelines for how the land is managed and used. In most cases, the town’s conservation land is open to the public with some restrictions such as prohibiting motorized vehicles. The Atkinson Conservation Commission periodically updates its written *Policies and Guidelines for the Use of Conservation Land*, which is shown in Appendix 4A at the end of this section, and is available on the Town’s web site.

3.2 - Protection of Town-Owned Conservation Land

Town ownership of land does not necessarily protect it in perpetuity as “conservation land” unless one or more of the following methods are used.

1. After acquisition, pass a warrant article at Town Meeting making the land part of the Town Forest pursuant to RSA 31:112, and designate the management of the forest to be under the administration and control of the Conservation Commission. As of the end of 2021, Atkinson owns 589.5 acres of conservation land, of which 531 acres have been voted as Town Forest. This is the lowest ranked method for protecting land because future Town Meetings could vote to remove a parcel from Town Forest designation.
2. Have the seller include wording in the deed that says the land is acquired as authorized by NH RSA 36-A:4 and/or stating that the land is to be under the administration and control of the Atkinson Conservation Commission. Such deed language cannot be changed by the Selectmen, or by voters at Town Meeting. While the Conservation Commission may be pressured to allow a parcel of conservation land to be sold, traded, or used for other municipal purposes, the Commission does not have the latitude to “allow” use of deeded conservation land that is inconsistent with RSA 36-A, the enabling legislation that defines the roles, responsibilities, and powers of Conservation Commissions.
3. Many times when outside funding is involved in a land acquisition, the funding organization may have included land use restrictions as a condition of granting the funding, and these conditions are not always reflected in the deed. It is important to keep good records that document the funder’s wishes. A good example of this in Atkinson is a federal program called the Land and Water Conservation Fund (LWCF), which helped fund a number of parcels of conservation land in town, and which maintains oversight of that lands’ use as conservation land. Section 5 of this Plan documents these parcels. ← need to do this
4. In cases where land was either gifted to the Town or sold to the Town below market value (a “Bargain Sale”), if it can be documented that the land owner’s intent was that the land be used only for conservation purposes then a “charitable trust” is established. In these cases, the Charitable Trust division of the NH Attorney General’s office could intervene to prevent selling or repurposing the land. Again, good record keeping is essential for documenting such conditions.
5. Having the seller include wording in the deed (a “deed restriction”) that conveys the land under certain specific conditions, for example that it be left as open land in perpetuity, or that usage of all or a portion of the land is restricted to certain uses such as forestry, wildlife habitat, or passive recreation.

6. Convey a separate “conservation easement” deed that is held by a qualified third-party conservation organization such as a qualified land trust or government agency. This is the most permanent form of protection because it preserves the land *and* removes responsibility for long-term stewardship of the land from the town, and it relieves the Conservation Commission and Selectmen from spending time and effort defending the land’s status as “conservation” land.

In Atkinson, most of the conservation land owned by the Town is protected by the second and/or third of these methods, and in many cases some of the other methods apply as well.

The fifth protection method, having the seller include deed restrictions stating that the land is to be, for example, “left in conservation” in perpetuity, is one of the more permanent methods for protecting land. Such deeds usually contain language that would allow the seller or his/her heirs to “re-enter” the land – essentially repossess it – if the land’s use ever were to be changed.

Deed restrictions may be enforceable by: a) the landowner who created them; b) his or her heirs; or c) other named parties. However, deed restrictions that are not monitored and enforced by an independent land trust or which do not refer specifically to any protection-enabling legal statute, must rely on accurate record keeping on the part of the town. Therefore, enforcement of the deed restrictions over time can become impractical and legally problematic, and such restrictions can be forgotten after a while and inadvertently undone.

By far, the best way to ensure that land is left protected forever is to have a qualified third-party organization, such as the Southeast Land Trust, or the Society for the Protection of New Hampshire Forests (the “Forest Society”), own a “conservation easement” that clearly establishes what can and cannot be done on the land, and can assign management and monitoring of the land to this third party. More details about such easements will be found later in this section. In Atkinson today, there are only two parcels of Town-owned conservation land that have third-party conservation easements. These are the Caroline Orr Town Forest, and a 20-acre portion of the Sawyer Town Forest.

3.3 - Conservation Easements

As with any land protection method, easements on privately-owned land are always initiated at the request of the landowner, and RSA 36-A is very clear that the Town cannot impose an easement on an unwilling landowner.

As indicated above, the best way to protect land in perpetuity is through the use of a deeded conservation easement. This is a permanent, legally binding agreement between a landowner (the “grantor”) and the easement holder (the “grantee”) that restricts use of the land in order to protect its significant natural features. It is authorized by New Hampshire [RSA 477:45-47](#). Like any other land deed, it is recorded in the Registry of Deeds and is legally binding forever.

There are three varieties of conservation easements that matter to the Town of Atkinson. These are:

1. The Atkinson Conservation Commission, on behalf of the Town, can hold and manage a conservation easement on privately owned land,
2. A qualified third-party conservation organization (such as the Southeast Land Trust or the Forest Society) can hold an easement on either privately-owned or Town-owned land, and
3. The Conservation Commission can hold an easement on privately-owned land, with a 3rd party owning an “executory interest” in the easement in the event that the primary easement holder (the Conservation Commission in this case) fails to enforce the easement’s provisions.

Conservation easements of all varieties can be purchased by the town (either at market value or as a bargain sale) or can be donated. Even at market value, an easement costs less than purchasing the land outright, since the landowner continues to own the land and use it as permitted by the easement. And, unlike the Town owning the land, the landowner continues to be responsible for maintaining the land and paying property taxes on it.

For the landowner, a conservation easement may give them the peace of mind that the natural resources on the property are permanently protected, while allowing them to continue to enjoy the benefits of property ownership, and perhaps generate income, for example, from forestry or agriculture. A conservation easement removes financial value from the land by eliminating its development potential, which may make it easier to pass land on to the next generation of family members, or may help to achieve certain financial objectives, whether through income tax or inheritance tax savings and/or cash, in the case when the easement is sold.

Depending on the terms of the easement, the land may or may not be open to public access, and/or may have certain types of access prohibited, such as motorized vehicles or hunting.

In Atkinson today, the Conservation Commission holds conservation easements on five parcels of privately-owned land totaling just over 31 acres. One of these easements grants an executory interest to the Forest Society. These easements were all donated by generous landowners and are described in detail in Appendix B of this plan.

In summary, easements are a good deal for the Town because they cost less, and the landowner remains responsible for maintaining the land and paying taxes on it. Easements are permanent. Pursuant to RSA 477:45-47, “the burden of an easement runs with the land and is enforceable against all future owners and tenants in perpetuity.”

One downside of easements is that the easement holder (either the Town or third party) needs to monitor the land for compliance with the easement, and has a fiduciary responsibility to enforce the easement if a future landowner or abutter violates its terms. Contrary to popular belief, the easement holder has no latitude in deciding what can and cannot be done with the land, so having a land trust or other qualified organization hold the easement rather than the Town does not “give up” control of the land.

The responsibility to monitor and enforce an easement could incur some expense for the easement holder, and land trusts typically set aside funds for this purpose in an endowment-like fund. These on-going expenses are referred to as “stewardship expenses,” and setting aside funds to provide for these future costs is part of most third-party easement deals.

An optional provision in New Hampshire law (NH RSA 36-A:4-a I (b)) allows a Conservation Commission to expend funds to assist a qualified third-party organization to establish a conservation easement on privately-owned land within the Town, thus relieving the Town from the long-term obligation of monitoring and enforcement. Use of this provision requires approval at a Town Meeting, which was granted by Atkinson voters in 2021 (see TM 2021-18). The text of this RSA can be found here:

www.gencourt.state.nh.us/rsa/html/III/36-A/36-A-4-a.htm

3.4 - Cluster Subdivision Dedicated Open Space

Atkinson Zoning Ordinance Article VI, Rural Cluster Residential Development, has several options for conserving land and resources, including incentives for preserving scenic vistas, providing for inclusionary housing, and conserving environmentally significant land.

The idea behind cluster subdivisions is that the developer is permitted to reduce lot size, frontage, setbacks, and other zoning requirements, in exchange for leaving a large part of the land undeveloped. While the exact formula is quite complicated, typically in excess of 50% of the land remains undeveloped and referred to as “Dedicated Open Space.” The open space is most often not open to public and remains under the ownership and management of a homeowners’ association, whose management of the land is governed by the terms of the legal instruments approved by the Planning Board. The advantage for the developer is that the infrastructure, such as roads and utilities, service a much smaller portion of the parcel and thus material costs are greatly reduced. The advantage for the Town is that significant areas of the land remain protected from further development.

The New Hampshire Association of Conservation Commissions does not generally recognize land that is set aside to meet a zoning requirement – such as Dedicated Open Space of cluster subdivisions – as “conservation” land. Land that is set aside in this way rarely is chosen with any environmental goal in mind, such as preserving wildlife habitat and migration corridors, or preserving an upland buffer to a valuable wetland. Very often the Dedicated Open Space is fragmented and/or not contiguous with other conservation lands, or zoning allows the Dedicated Open Space to be used for recreational purposes which has diminished value as a natural resource such as wildlife habitat or watershed protection.

On the other hand, land that is set aside as part of a cluster subdivision is permanently protected from further development, much the same way as land that has a conservation easement on it. So, a local conservation benefit is realized in the end.

In Atkinson, the most commonly used Cluster Subdivision option in recent years has been the Scenic Vista Cluster Subdivision. Atkinson zoning does contain a section aimed specifically at conserving environmentally significant land. To date, Section 640, Residential Conservation Developments, has not been used by a developer.

3.5 - Zoning and Regulatory Protections

One method of protecting the Town’s environment can be through the adoption zoning ordinances and land development regulations that protect our natural resources.

In addition to some of the dedicated open space created by cluster subdivisions, two common regulatory methods for protecting wetlands are **buffers** and **setbacks**. A detailed overview of buffers and setbacks can be found in Appendix C.

Examples of Atkinson’s current zoning requirements for buffers and setbacks that contribute to conserving the Town’s natural resources include:

- a 100-foot setback of structures that produce human or animal waste and septic systems from wetlands,
- a 150-foot natural vegetative buffer around the Town’s 8 prime wetlands, and
- buffers adjacent to dedicated open space created through cluster zoning developments.

Setbacks

There are advantages and disadvantages to each of these requirements. The 100-foot setback from wetlands for structures and septic systems is easy to administer since these setbacks are approved through the Planning Board review and approval process under the zoning ordinance and/or Site Plan Review and Subdivision Regulations, and building permits are required for these activities. However, the “one size fits all” nature of these setbacks and ordinances have been criticized as being unreasonable since some wetlands are more valuable than others. In response to this, the Conservation Commission reviews wetland setback variance applications and advises the Zoning Board of Adjustment in making decisions whether or not to grant relief from wetland setback zoning requirements.

Buffers

Several years ago, there was an attempt to implement a multi-tiered wetland setback ordinance that failed to be approved by the voters. Among the objections was the difficulty in formally defining the tiered wetland definitions. Also, there was a concern that having lower setbacks for some wetlands would result in less protection than is currently afforded to them.

A drawback to relying on setbacks alone for wetland protection is that other development activities are allowed within the 100-foot setback, such as roads, driveways, parking areas, and

stormwater management structures, thus rendering any conservation value nonexistent or minimal at best.

Other than prime wetlands, described below, Atkinson has no vegetative buffer zoning requirements around wetlands. Such vegetative buffers, while being of more value to the environment, are problematic to enforce once a development project is approved and all site construction inspections are completed. No permits are needed to clear natural vegetation on a parcel-by-parcel basis, making enforcement very difficult.

Prime Wetland Buffers

Natural vegetative buffers of 150 feet are required by town zoning around Atkinson's eight prime wetlands, but there are exceptions for "grandfathered" parcels, as described below. Maps showing the location of these prime wetlands can be found in Appendix B of this plan.

Both the Town and the State require Prime Wetland buffers, and when jurisdictions overlap the more restrictive rule applies. Here is a summary of the prime wetland buffer rules.

- Town zoning requires a 150-foot natural vegetative buffer around all eight Prime Wetlands, but this does not apply to parcels that were already developed prior to the adoption of the ordinance in 2010. The ordinance states that the rule "does not prohibit the rebuilding or redevelopment of any portion of a residential lot which had already been improved or developed, and regularly maintained, as of the effective date" of the ordinance. Since the vast majority of Atkinson homes were developed prior to this date, this rule does not prohibit homeowners from clearing additional vegetation from within the Town's 150-foot prime wetland buffer.
- The State of New Hampshire required a 100-foot buffer around Prime Wetlands that were approved by Town voters and accepted by the Department of Environmental Services prior to 2012 when the law was changed. Therefore, this 100-foot rule applies to only seven of our prime wetlands. The eighth one, the Wright Farm Pond Prime Wetland, which was approved at Town Meeting in 2013, does not have a state-mandated 100-foot buffer. On the other hand, for the other seven prime wetlands, this buffer rule applies to all parcels regardless of when they were developed.

More information about Atkinson's prime wetlands, and the process that was followed to define and approve them, can be found in the [Atkinson Prime Wetland Study](#), available on from the town's website.

In summary, while effective zoning is good and costs the Town essentially nothing, it is also one of the least permanent methods for conserving land since zoning can always be changed by a vote at Town Meeting.

3.6 - State Wetland and Development Permits

Acting at the state level through both the Department of Environmental Services (DES) and New Hampshire Fish and Game, each agency play an important role in safeguarding the Town's natural resources. Some examples include:

- DES regulates wetlands and requires a permit for any activity that impacts a wetland.
- DES requires a 100-foot natural vegetative buffer around most Prime Wetlands, as described above.
- DES is responsible for issuing Alteration of Terrain (AoT) permits which protect surface waters, drinking water supplies and groundwater from the impacts of development. An AoT permit is required whenever a project proposes to disturb more than 100,000 sq. ft. of contiguous terrain (50,000 sq. ft., if any portion of the project is within a protected shoreland), or disturbs an area having a grade of 25 percent or greater within 50 feet of any surface water. Although the primary responsibility of an AoT permit is to safeguard water resources, NH Fish and Game keeps data on endangered and threatened wildlife habitats and wildlife corridors, and advises DES on Alteration of Terrain permit applications that may impact these resources as well.
- For development of smaller sites, the AoT "Permit By Rule" is applied to protect water resources. (NH Code Admin Env-Wq 1503.03)
- The Shoreland Water Quality Protection Act (SWQPA – RSA 483-B) regulates structure development and terrain alteration around the shores of lakes, ponds and impoundments greater than 10 acres, including Big Island Pond, year-round flowing streams and river of fourth order or higher, state designated rivers and river segments, and coastal waters.

The Conservation Commission is responsible for reviewing and commenting on DES wetland permits, and is the only body of town government authorized to intervene (request more time) in this permitting process.

On the other hand, AoT permits and applications for development that fall within the purview of the SWQPA are considered only at the State level, and much of this work is done without

input from or visibility to the local Conservation Commission. However, Planning Boards are sometimes notified of these permit applications.

3.7 - Property Tax Relief Programs: Current Use and Conservation Restriction

While not exactly a method for the long-term protection of open land, the Current Use property tax assessment provisions of NH RSA 79-A allow owners of large parcels of undeveloped land greater than 10 acres to have their land assessed at a much lower value than what it might be worth in the open market, and thus enable owners to keep their land rather than be forced to sell it because of high property taxes. Current Use is a powerful tool to facilitate preservation of active farms and forest lands.

To quote from the law itself: “It is hereby declared to be in the public interest to encourage the preservation of open space, thus providing a healthful and attractive outdoor environment for work and recreation of the state's citizens, maintaining the character of the state's landscape, and conserving the land, water, forest, agricultural, and wildlife resources. It is further declared to be in the public interest to prevent the loss of open space due to property taxation at values incompatible with open space usage. Open space land imposes few if any costs on local government and is therefore an economic benefit to its citizens.”

Current Use does not provide permanent protection. However, if land in Current Use is sold for development, there is a Land Use Change Tax of 10% of its newly assessed value. Currently in Atkinson, 99% of the Land Use Change Tax proceeds are placed in the Town’s Conservation Fund as a way to partially offset the loss of the natural benefits of the land that has been developed by funding land conservation purchases and other efforts.

The Conservation Restriction Assessment program is a parallel program to Current Use. Authorized by NH RSA 79-B, this program requires municipal officials to assess qualifying, easement-protected land at reduced values based on the specific restrictions of the easement, and applies the same per-acre values as used for Current Use. This alternative program can provide an important additional tax incentive for landowners to conserve small but significant conservation tracts, for example, a small parcel with extensive undeveloped shoreline.

3.8 – Examples of Methods for Conserving Land

To illustrate some of the conservation methods described in this section, below are some examples of previous projects and the conservation attributes they protect. The following short scenarios explain some of the most common ways and reasons by which land is acquired and/or protected for the purposes of wildlife conservation and natural resource protection.

Sawmill Swamp Parcels

Over the course of several decades, much of the land comprising the two major portions of Sawmill Swamp has been acquired by the Town. Beginning in 1985, a major portion of the west side of the Swamp was acquired from the Feuer family with the assistance of Federal land conservation funds. Since then, various smaller parcels within the swamp ecosystem have been acquired through donations, tax sale, a land swap, or outright purchase.

The common thread running through all these transactions was that the land was either unusable or was valued so low that the acquisition price (if any) was very manageable. However, the Conservation Commission recognized these parcels for their high ecological value, and so moved to acquire them. Multiple endangered species of plants and animals had been identified as living in the Sawmill Swamp complex. The function of the swamp in providing groundwater recharge was especially valuable to a town which, at the time, obtained all its drinking water from locally drilled wells. So, protection of this ecosystem became, and has continued to be, one of the Commission's top priorities for protection and preservation.

The same reasoning has applied to many other parcels in Town over the years, and the Town was able to acquire and protect many ecologically valuable parcels for very little money. However, today, with the price of land and homes at an all-time high, we are seeing parcels developed that only ten years ago may have been considered "too wet" to build on. Modern planning and construction practices have made it easier for developers to build right up to the maximum limits allowed by zoning, and the potential profits have made the costs of these efforts just one more budget line item in the normal course of a project. Suffice to say, there will probably not be any more "bargain sales" or gifts of "unbuildable" land in the future.

Sawyer Town Forest (Sawyer/Bonin/Cirome Parcels)

The Sawyer Town Forest on Sawyer Avenue is the largest contiguous Town Forest in Atkinson. It consists of managed forest and field land, containing a variety of cover types and habitats. A

recreational trail system leads through a scenic upland pine and hardwood forest which contains trees of up to 2½ feet diameter. The county champion white ash, over 5 feet in diameter, is located off one of the trails. The trails pass by a successional grassland that is maintained (mowed regularly) for wildlife, as well as several seasonal streams and forested wetlands.

This property was assembled in the late 1970's and early 1980's by purchasing land from three different owners, using funds made available in the Land and Water Conservation Fund, a fund established and overseen by the U.S. Bureau of Outdoor Recreation. The first purchase occurred in 1977, when the Town voted to accept \$43,000 from the BOR, which was used to purchase a 48-acre parcel on Sawyer Avenue from Ralph and Ruth Sawyer. Terms of the BOR grant required conservation restrictions to be placed on the deed, and the property was officially designated as Town Forest in 1979.

At the same time, the Town obtained \$10,000 in Federal Revenue Sharing Funds, and added together with a matching \$10,000 from the Town's Greenbelt Fund, was able to purchase an additional 20 acre parcel from the Sawyers. At that time, the parcel contained a horse-riding rink, managed by the 4-H Club, so it was designated as recreational land, but no conservation restrictions were placed on it.

In subsequent years, two additional parcels were obtained: 58 acres from Arthur Bonin in 1980, and 14 acres from the Cirome family in 1983. Both projects were again funded entirely by a grant from the BOR's Land and Water Conservation Fund, which necessitated conservation deed restrictions. Both parcels were subsequently classified as Town Forest.

In 2007, the protection of the entire Sawyer Town Forest complex was completed when the Town voted to place conservation restrictions and a Town Forest designation on the 20-acre recreational parcel, in return for allowing the Recreation Commission to build playing fields on another parcel of Town-owned conservation land on East Road, which was obtained in a bargain sale from Philip Busby, and is known today as Collins Park.

The key takeaway about the Sawyer Town Forest is that most of the property is "high and dry", and could easily have been developed for other uses. However, the generosity and foresight of the individuals who owned the land, and their willingness to sell the land at a price that would enable it to be protected for posterity, is what enabled this beautiful forest ecosystem to survive to this day, where it can now be enjoyed by all.

Caroline Orr Town Forest (Trinity House Camp Parcel)

The Caroline Orr Town Forest has a history that is unique in all of Atkinson, originally created in the early 1950's as a summer "outdoors-oriented" camp for young girls from the Trinity Neighborhood House in East Boston. The camp's director, Caroline "Orrie" Orr, developed programs in nature, arts and crafts, music, dancing and reading. She led hikes and outings, inspiring youth who might otherwise never see nature to appreciate it. After she died in 1982, the Trinity House decided to close the camp and sell the property, but still wanted to maintain the property in its natural state, as a tribute to Orrie and all the campers who had come before.

At the same time, the State of New Hampshire had just developed the initial version of the Land Conservation Investment Program (LCIP), which appropriated \$20 Million for the purpose of purchasing conservation land or the interests in land at both the state and local levels. On the local level, matching monies were provided up to an amount equal to the Town's contribution. The Conservation Commission worked with the Society for the Protection of New Hampshire Forests (SPNHF) to work out a deal whereby the Town could use a bargain sale of the back property as "matching funds" and obtain the land essentially for free. As a requirement of the deal, very strict conservation restrictions were placed on the deed, including the prohibition of any and all structures on the property. The property is monitored for compliance with these restrictions on an annual basis by the State of New Hampshire.

Other transactions at the same time allowed the Town to purchase the former camp buildings and the front five-acre parcel (now the Atkinson Community Center) at a bargain price, and a few house lots on Robie Lane were subdivided from the property and sold, with the profits going to Trinity House.

When the Town obtained title to the backland, it was renamed the Caroline Orr Town Forest, with the designated purposes of wildlife protection, education, and passive recreation. Since then, the existing trail system has been maintained and upgraded, along with the large open field that supports a variety of wild flora and fauna. The property contains a variety of cover types and habitats, including forested wetlands, ponds, seasonal streams, and vernal pools. Its proximity to the Atkinson Community Center makes it a very popular and easy way to experience a walk in the woods. The Commission has conducted a variety of educational programs on the site, including tree and bird identification walks.

The process to obtain and develop the Caroline Orr Town Forest is another excellent example of a generous owner working with a matching funds program to protect and preserve land that they cared about. This project was unique at the time as it involved matching funds from the

State, not the Federal government, but many of the principles were the same: matching funds (or a bargain sale) were required, the property had to be designated for a specific purpose (conservation), and the restrictions were required to be recorded in the property deed.

Cogswell Farm (Kachanian Parcel)

This is an example of how special zoning can precipitate the protection of a valuable natural attribute, without requiring deed restrictions or an actual change in property ownership. In this case, a valuable scenic vista and semi-wet marsh just south of the Atkinson Town Center was preserved and protected when this large parcel was developed using the Town's then recently enacted Scenic Vista and Pronounced Landscape Regulation (Zoning Section 505).

The parcel consists of a large meadow that is wet part of the year, and a forested area that provides an "edge" habitat to wildlife and a scenic backdrop as one travels along Main Street (NH Route 121) just south of the Town Center. While it may have been possible to lay out streets and house lots in this entire open space, the developer was able to obtain increased building density by locating all of the buildings in the forested area, behind a buffer of deciduous and evergreen trees. The resulting open space and forested buffer, combined with the classic Georgian-style building and white steeple of the Atkinson Congregational Church at the north end of the parcel, makes for a quintessential rural New England vista.

Of course, it may have been preferable to fully preserve the forested area by not building in it at all, but the owner was totally within their rights to develop the land as they saw fit. In this case, the asking price for the land at the time was far too steep for a full preservation effort, and so use of the Scenic Vista ordinance was regarded as the next best thing. Working with the Planning Board, the developer paid careful attention to the forested buffer, thus protecting this scenic vista which was so valuable to the residents who passed it every day on their travels, and the way it continued to maintain the rural character that so many of the townspeople held dear, allowed the project to quickly gain approval.