

Coastal Zone Management Program



# Cape Elizabeth Greenbelt Plan 1988

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**CAPE ELIZABETH**  
**GREENBELT PLAN**

Prepared by the  
**Cape Elizabeth Conservation Commission**

With the Assistance of:  
**The Greater Portland Council of Governments**

**April, 1988**

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# CAPE ELIZABETH GREENBELT PLAN

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## I. INTRODUCTION

Cumberland County and the Greater Portland area have been experiencing unprecedented growth, and this trend is expected to continue over the next few years. This amount of development has put tremendous pressures on municipalities.

Even with its close proximity to Portland, Cape Elizabeth has historically retained a sizable amount of its land area as open space and active farmland. Recent development pressures, however, necessitate action to ensure that the adverse impacts of development on the Town's open space will be minimized. Thus, the need for an update of the Greenbelt Plan. The extent of recent development in the Town can be seen on the "Recent Developments Map" (see map 1).

The original Greenbelt Study was developed in 1977 by the Cape Elizabeth Conservation Commission to identify important open space areas, wetlands and public access points, and to recommend which of those areas should be acquired by the Town for active and passive recreation purposes.

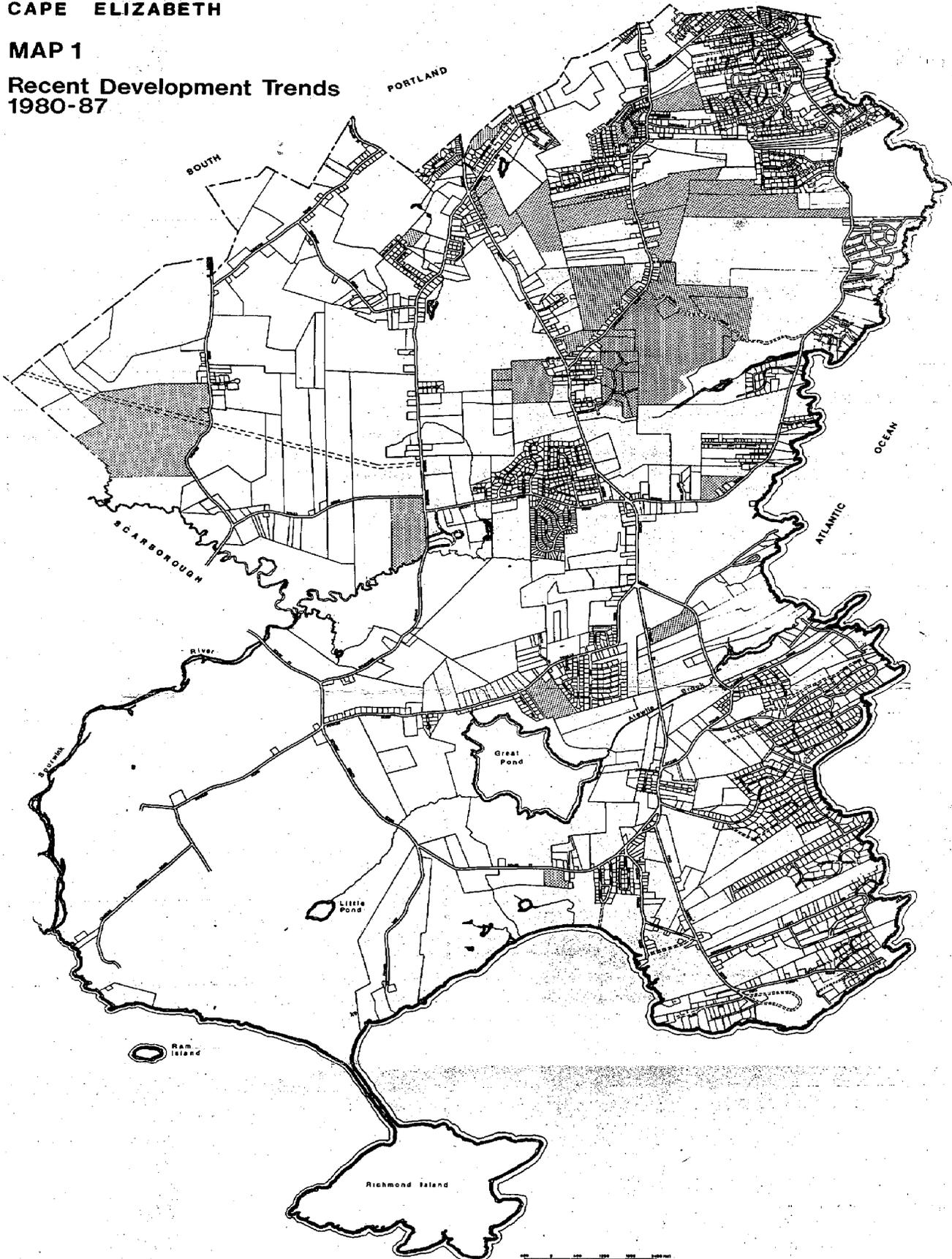
The Conservation Commission and the Town have been actively pursuing land acquisition since the development of the first plan, but it has been a slow process. The large level of real estate development and land prices have made it difficult to acquire land in a meaningful manner. This is not to say that there haven't been successes. Several easements have been conveyed to the Town through the Conservation Commission. Most recently, a 28 acre parcel of land was donated to the Town by the developer of a subdivision project. In addition, the Cape Elizabeth Land Trust was incorporated as a nonprofit organization in the Fall of 1986, and has already acquired several additional easements and land parcels.

Discussions are ongoing by both organizations with several owners of key properties that would help fill in the missing links of the new Greenbelt Plan.

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MAP 1

Recent Development Trends  
1980-87



## II. WHAT IS A GREENBELT?

The greenbelt concept is not a new one. Greenbelts, developed extensively in Great Britain since the early 1900's, have resulted in rings of vegetated open space areas circling most British cities.

Generally defined, a greenbelt is an interconnected system of significant aesthetic and recreational open spaces. The use of these open spaces can be for active and passive recreational use, visual observation or protection of an important natural resource.

Focusing on its own defined natural resources, the Town of Cape Elizabeth has expanded upon the concept of a greenbelt by incorporating pedestrian walkways and protection of visually significant areas into its greenbelt.

### **III. GOALS AND OBJECTIVES**

The primary goal of the Greenbelt Plan is to provide a connecting system of trails, open space and "green areas" between Fort Williams Park and Crescent Beach State Park.

There are three specific objectives for the Greenbelt Plan:

#### **1. Preservation of Open Space**

It is essential that Cape Elizabeth maintain an adequate amount of land area that will always be kept open and undeveloped. Only by setting aside enough land now for both active and passive open space purposes will the Town's rural character be preserved.

#### **2. Creation of a Pedestrian Trail System**

A system of walking trails that would connect Fort Williams Park and Crescent Beach formed the initial impetus, and continues to be a major factor, in developing and implementing the Greenbelt Plan. A pedestrian trail system would enable local residents to enjoy more fully the natural beauty of the Town and increase the Town's recreational opportunities.

#### **3. Preservation of Visually Significant Areas**

A third important but somewhat overlooked objective is to identify and protect the areas of Cape Elizabeth that aesthetically add to and form the Town's character. Whether it be a view of waves crashing against the shore or the sight of a church steeple over a salt marsh, there are many significant views that typify the spirit of Cape Elizabeth. These must be protected.

## **IV. IDENTIFICATION OF IMPORTANT FEATURES**

### **1. Wetlands**

The protection of wetlands have been a concern to the Town for a number of years, due to their great ecological value. In fact, Cape Elizabeth is one of the only municipalities in Maine to have a local set of wetland alteration regulations.

The Spurwink Marsh is the largest wetland in the Town. It is connected to the Atlantic Ocean by the Spurwink River and extends across Spurwink Road to beyond the High School athletic fields. Other major wetlands in the Town are located around Great Pond (and extend across Bowery Beach Road to Little Pond), land to the west of the Sherwood Forest neighborhood, Town land to the east of the Stonegate subdivision extending to land currently owned by the Ibis Corporation, land to the southwest of Pine Ridge Road, land adjacent to Crescent Beach and land in the Peabbles Cove neighborhood. These wetlands and others are identified in the Cape Elizabeth Official Wetlands Map, currently displayed in the Town's Code Enforcement Office.

### **2. Waterbodies**

The large amount of land in Cape Elizabeth that abuts the shore makes the Atlantic Ocean a very important water resource to the Town for many reasons. In addition to the Atlantic Ocean, other major open waterbodies include the 131 acre Great Pond, Little Pond, and "Jordan's Pond". Major streams include the Spurwink River, Trout Brook, Alewife Brook, Willow Brook, Pond Cove Brook and "Cranbrook Brook".

### **3. Active Agricultural Land**

Historically, Cape Elizabeth has been a farming community. The amount of active farmland, however, has been decreasing over the past few years. When the Greenbelt Study was first developed, there were six productive farms. Presently,

only five farms remain active, producing primarily strawberries, potatoes, corn and cabbage.

Properties currently being used for active agricultural purposes includes land owned by the Sprague Corporation, Kenneth Maxwell, the Young family, William Jordan and Alvin Jordan.

#### **4. Large Lot Parcels**

A large amount of Cape Elizabeth's remaining undeveloped land is held by a small number of individual owners (see Map 2). In order to promote the preservation of open space, it was felt that undeveloped land parcels of 100 acres or more in size should be specifically identified and that special attention be paid to discussing open space options with the property owners.

The following is a list of the larger landowners:

1. Sprague Corporation and affiliated family members;
2. Robinson Family;
3. Harold Young, Heirs of;
4. Leavitt Family;
5. Theodore Wainwright;
6. Purpoodock Club;
7. William Jordan;
8. Lydon Family;
9. I. Alan Balfour; and
10. Ibis Corporation

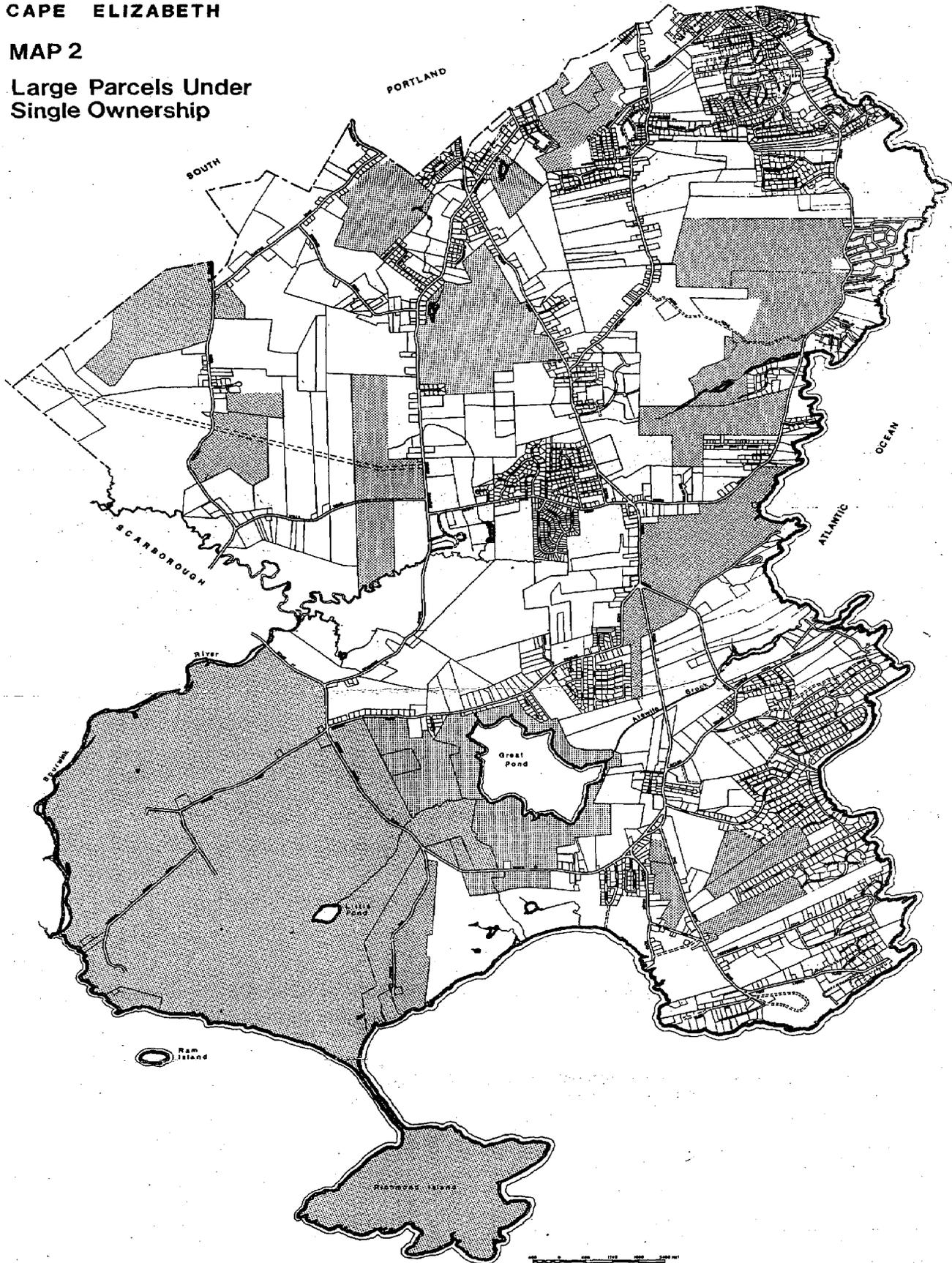
#### **5. Visual Significance**

Cape Elizabeth has a large number of inspirational scenic vistas. In fact, the Town's comprehensive plan identifies scenic areas and scenic views as high priority areas of local significance (see the 1980 Comprehensive Plan). It is vitally important that techniques be considered that will adequately protect the Town's scenic resources.

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MAP 2

Large Parcels Under  
Single Ownership



## V. DESCRIPTION OF THE NEW GREENBELT

The new Greenbelt is an interconnected system of open space, pedestrian accessways and important natural resources situated throughout the Town. The new Greenbelt has been developed to provide physical and visual access in all areas of Cape Elizabeth, while still striving toward the objective of linking Fort Williams Park with the Crescent Beach State Park for pedestrian access purposes (see Map 3). The challenge to the Town will be in melding together the existing components of the Greenbelt system with the new Greenbelt routes.

It is important to note that the Greenbelt Map delineates only general locations of the Greenbelt System, and that the actual location of the Greenbelt on the face of the earth may differ slightly from that depicted on the Map.

### Existing Segments of the Greenbelt

Several significant sections of the Greenbelt have already been acquired by both the Town of Cape Elizabeth and the Cape Elizabeth Land Trust. Many of the Town-acquired parcels were obtained as a result of the subdivision review process. Land or easements were acquired from the following developments: Wildwood at the Cape; Hobstone; Ottawa Farms Subdivision; Canterbury at the Cape; Stonegate; and Elizabeth Farms-Cole Field.

Other land or easements donated to the Town or Land Trust include: a parcel near Trundy Point; a pathway near the Viking Nursing Home; a skating pond off Shore Road; and a pedestrian way along a portion of the Spurwink Marsh;

### The New Greenbelt

The following description will first focus on the portion of the Cape Elizabeth Greenbelt that connects Fort Williams Park with Crescent Beach State Park. The remaining branches of the Greenbelt will then be described, according to the "quadrant" of the Town within which it is located.

### Fort Williams to Crescent Beach

The new Greenbelt System "starts" at Fort Williams Park and crosses Shore Road at two places, one of which connects with the 40 acres of land donated to the Town by Stonegate Associates. This land contains several existing trails and will connect with Mitchell Road via Stonegate Road, once the latter road is fully constructed and accepted by the Town. A southern branch of the Greenbelt system is proposed along the existing set of trails, which would connect the 40 acre parcel with the Ibis Corporation land parcel and then the Robinson Family land. The Town is currently negotiating with the Ibis Corporation about the future public use of the existing set of trailways. The proposed Greenbelt continues southerly through a forested area and then veers southwesterly along the north side of "Pond Cove Brook", which the Greenbelt follows until it reaches Ocean House Road.

The Greenbelt crosses Ocean House Road over to Lions Field. The system then extends north through the Wildwood at the Cape via an easment that was given to the Town. This easement links up with the Purpoodick Club property. The Greenbelt also heads west from Lions Field in two branches: (1) along an existing trail that connects with Willow Brook; and (2) along the northern border of the Brentwood neighborhood to Willow Brook. The Greenbelt continues south along the brook across Scott Dyer Road, down to the sewer easement that borders the northeastern portion of the Spurwink Marsh, which is also linked to the Cape Elizabeth school property. The proposed trail system then heads westerly until Spurwink Road, which is used to connect up with the southeasterly portion of the Spurwink Marsh. The Greenbelt moves south along the edge of the marsh until it connects with Fowler Road in two locations: (1) via an easement that enters directly onto Fowler Road; and (2) via Sweetsir Road, which is linked to Fowler Road.

Fowler Road connects the Greenbelt with a Town-owned pedestrian access easement that runs along the eastern portion of the Fenway Road neighborhood. As an aside, a question presently exists concerning pedestrian use of the drainage easement at the end of Fenway Road for public access to Great Pond purposes. If available for pedestrian access, the drainage easement would be preferable as a connector for the

Greenbelt due to its more convenient location and condition.

The Greenbelt then connects with the easements that allow pedestrian useage of existing trails along the northeasterly edge of Great Pond. The Greenbelt follows along the "Ottawa Farms" subdivision pedestrian easement out onto Route 77. The Greenbelt then moves along Route 77 until it connects with the State-owned parcel of agricultural land, which connects with Crescent Beach State Park.

### Northeast Quadrant

A segment of the Greenbelt starts at the main entrance to Fort Williams Park, crosses over through the Town baseball field and continues easterly until it connects with the existing set of trails that eventually lead to Oakhurst Road and to the Town-owned 40 acre parcel to the south.

One part of the Greenbelt branches off the section that leads to Lions Field, and follows existing trails to the Methodist Church property. It also connects to the Olde Colony Road neighborhood.

Another portion of the Greenbelt begins at the entrance of the Hobstone condominium development and runs up an existing easement to the northern property line of Hobstone. The proposed Greenbelt connector links up with another existing pedestrian easement that was granted by the developers of the Canterbury at the Cape condominiums and which connects to Columbus Road. The Greenbelt then moves north and connects with both Cheverus Road and with the Maxwell property trails and Spurwink Road. It then connects with two parcels of Town-owned, tax acquired properties along Linn Street, and further connects with Mitchell Road (near Woiodland Road). There is also a Greenbelt link proposed between the southern point of the Canterbury easement and Ocean House Road.

A conservation protection (no public access) portion of the Greenbelt currently exists along Cranbrook Brook.

### Northwest Quadrant

One route of the Greenbelt begins at the Spurwink Road/Starboard Drive intersection and follows along the northern edge of the Spurwink Marsh over to Sawyer Road. From a point just north of the Spurwink Road/Wells Road intersection, the Greenbelt continues along the edge of the marsh until it connects with the dedicated open space provided by the Elizabeth Farms development. The Greenbelt then continues north along the Elizabeth Farms easement land along the stream, borders the Young's farm and connects with Sawyer Road and over to another proposed Greenbelt section. Pedestrian access is also proposed from the Elizabeth Farms development along the CMP right-of-way back to Spurwink Road. A branch off this right-of-way connects with Willow Brook back to Lions Field.

Another portions of the Greenbelt connects the end of Silva Drive with the set of trails that exist to the north and connect with Eastman Road and the northern parts of Sawyer Road. One of these proposed Greenbelt trails connects to one portion of Trout Brook and the trails that exist in the Maxwell Farm fields. The Greenbelt section that follows along the banks of Trout Brook eventually connects with Ocean House Road.

### Southeast Quadrant

In this section of Cape Elizabeth, the Greenbelt portion at the end of Fenway Road is adjacent to a public access/parking area easement that was given to the Town by the developers of the Great Pond condominiums. This easement is proposed to link up with a section of the Greenbelt that would extend easterly directly out to Route 77, as well as linking up with a property already controlled by the Town to the north. This property crosses Route 77 and abuts Old Ocean House Road. The Greenbelt then travels north along Old Ocean House Road, travels northeast up a private road, and then veers off to the ocean.

A branch of the Greenbelt is proposed on both sides of Alewife Brook. The portion of this branch to the west of Route 77 would be open for pedestrian use, while the other section leading to the ocean would be for conservation protection (no public

access) purposes.

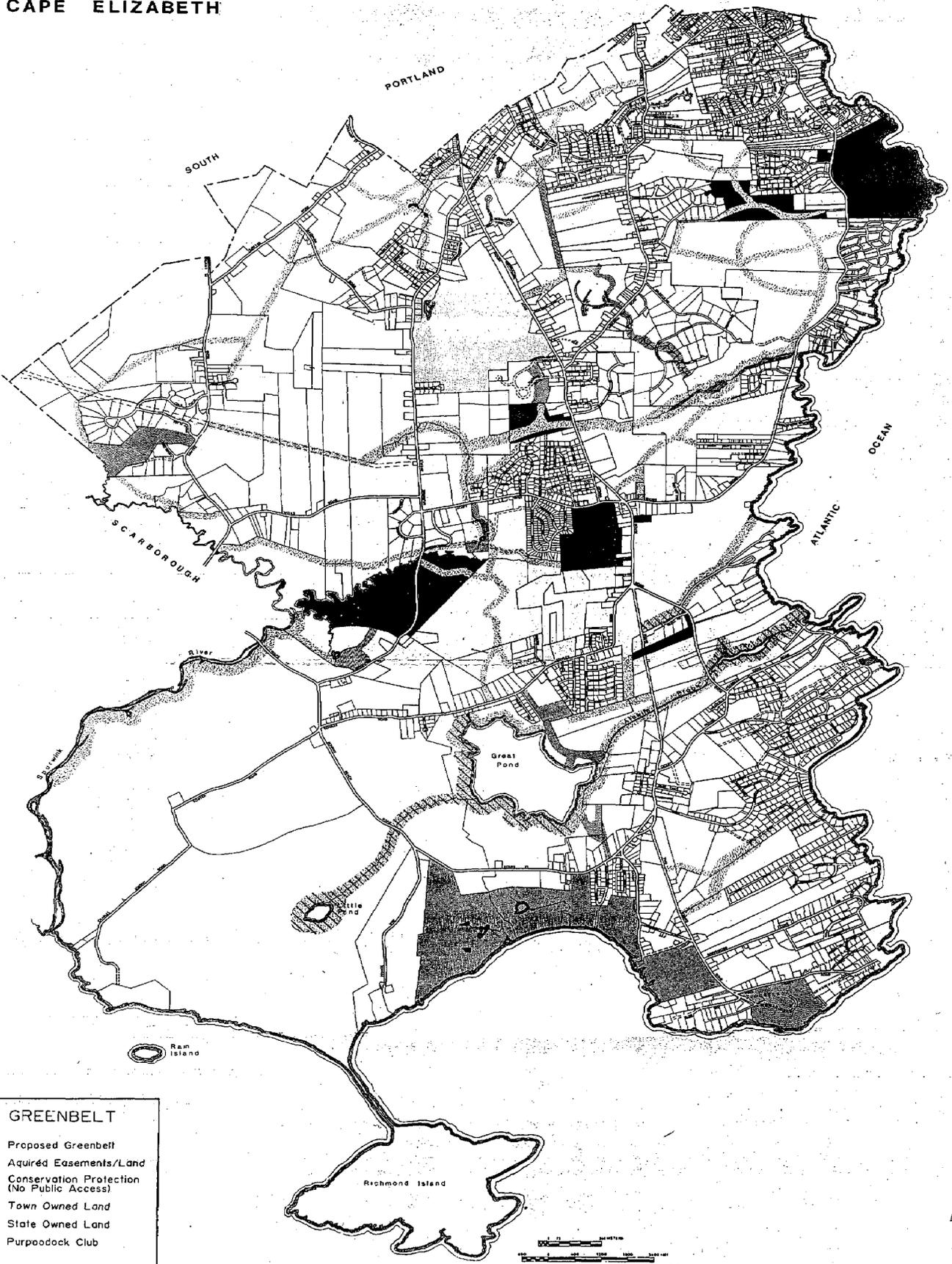
Another part of the proposed Greenbelt system is located in the Broad Cove neighborhood. The existing set of walking trails that link Pine Ridge Road Extension, Channelview Road and Hunts Point Road Extension to Two Lights Road are incorporated into the Greenbelt. This would provide a formal link between Broad Cove and the State land abutting Crescent Beach State Park.

#### Southwest Quadrant

The Greenbelt is proposed to completely encircle Great Pond and follow along the stream under Bowery Beach Road to Little Pond. Pedestrian access would be limited to the northern and northeastern shore of Great Pond, however, with the rest of the abovementioned area to be classified as conservation protection (no public access).

Another section of the Greenbelt will link the "Poor Farm" land owned by the Town with an existing pedestrian easement that connects to Spurwink Road. It is proposed to also connect to the Spurwink Cemetery, cross Bowery Beach Road and follow along the edge of the Spurwink River for a distance of approximately 1.3 miles.

# CAPE ELIZABETH



## GREENBELT

-  Proposed Greenbelt
-  Acquired Easements/Land
-  Conservation Protection (No Public Access)
-  Town Owned Land
-  State Owned Land
-  Purpodock Club

1976 UPDATE: 1981; 1984; 1987

PREPARED BY: SPCCS

## VI. TECHNIQUES FOR DEVELOPING THE GREENBELT

### 1. Fee Simple Acquisition of Land

The best way to gain an interest in property is to acquire it outright, on a "fee simple absolute" basis. This reduces the potential for a misunderstanding about the use of an particular parcel of land, with the major issues then centering on maintenance, liability, and policies about access by the public. There are several methods for acquiring land, some of which are described below.

#### Purchase

Buying land outright is a relatively simple way to acquire land. Purchase usually removes most questions about access to and the use of the land. On the other hand, it is usually an expensive proposition for the purchaser, especially given the high cost of land in Cape Elizabeth. There are several sale options available to landowners, such as a fair market price sale, a bargain sale, an installment sale.

A **fair market price sale** is the most common sale arrangement, in which land is purchased at its assessed value (which may still be lower than its market value). Land sold at less than fair market value would constitute a **bargain sale**. The buyer is able to acquire the property at a more affordable price and the seller can claim the difference between the bargain price and the fair market value as a charitable contribution.

An **installment sale** involves an agreement between the property owner and the purchaser in which the purchaser either pays for the land in annual installments or buys a portion of the land each year. This arrangement makes the purchase of land easier for a municipality or organization, since the installments can be budgeted over time.

In some cases, it may be prudent to lease or resell the purchased property. This can be done so that the original intent of the purchase is preserved. For example, the purchase of a scenic pasture area could be "**leased back**" to a local farmer, who

could then use the land for its original grazing purposes, but not for more intensive agricultural uses. Another possibility is the **purchase and resale option**, in which property is resold for private use, but with conditions written into the deed to preserve the parcel's important open space or ecological qualities.

### Donations/Gifts

Hard as it is to believe, there is always the possibility that a property owner may wish to donate an interest in a parcel of land to the Town, the Land Trust or some other type of land holding organization. The tax benefits to be derived from donation of land also make the idea attractive to some people. It is important that the benefits of donating land be highlighted, potential donors be identified and donations encouraged in an appropriate manner.

### Tax Acquired Property

Most communities, including Cape Elizabeth, acquire property through the nonpayment of property taxes by the landowner. Although the Town has been very careful in the sale of such land to private citizens, existing and future tax acquired properties should be evaluated with respect to their value as an addition to the Greenbelt system.

### Land Banking

In land banking, land is purchased, analyzed to determine its land use suitability and then allowed to be used to the limit of its "carrying capacity". In many cases, land is purchased and transferred to an appropriate third party organization for open space or natural resource preservation purposes. In other cases, the land is held in the "land bank" until the need arises for a more active use of the land, at which point it is sold with conditions attached to its future use.

In the Maine context, land banking has been viewed as primarily a type of land acquisition funding mechanism. It has been associated with a proposed local option, Real Estate Transfer Tax, which would give municipalities the option to assess an

additional transfer tax (e.g., 2%) onto all local property transfers, the monies from which would be used for land acquisition purposes.

## **2. Easements**

Acquiring easements on land is another form of open space protection. Easements are legal instruments that place conditions, either positive or negative, on the use of a particular piece of land.

### Conservation Easements

A conservation easement is an agreement between a property owner and an organization qualified to hold a conservation easement (such as a local land trust or the Nature Conservancy) that protects the conservation value of the property. The receiving organization agrees to enforce the terms of the easement and in some cases may agree to maintain or manage the property.

### Reciprocal Negative Easements

These easements, also known as equitable servitudes, involve several landowners who mutually agree not to use their land in a certain manner. For example, property owners with land that borders a significant marsh area may agree not to build any structures or undertake any landscaping within a fixed distance from the edge of the marsh.

### Restrictive Covenants

A restrictive covenant is a legal provision that is placed in a deed to restrict the use of a land parcel. Such covenants are generally written to "run with the land", thus remaining in effect through changes in ownership.

## **3. Zoning and Subdivision Regulations**

The influence that a Town can exert in the process of reviewing development

proposals is often overlooked when one is considering available techniques for preserving open space. Development review will usually fall under the Subdivision Ordinance or the Site Plan Review provisions in the Zoning Ordinance.

The **Subdivision Ordinance** has jurisdiction when a property owner wishes to divide land into three or more parcels, although there are some exemptions to this general rule. The subdivision ordinance standards are meant to encourage good design by the subdivider and deal with such design issues as road layout and the location of public utilities. The Subdivision Ordinance, in concert with the Zoning Ordinance, is also used to minimize any adverse impacts resulting from a proposed subdivision development. Thus, landscaping, buffering, wildlife protection and preservation of important ecological resources are just a few of the areas that are examined during the subdivision review process.

The Town's **Zoning Ordinance** is a multifaceted land use management tool, which applies to more than just subdivision development projects. It sets density, setback and land use standards for different areas of the Town that are designated on the Official Zoning Map. The Zoning Ordinance also contains provisions that regulate wetland alterations, nonresidential development (site plan review), and permits cluster development.

In the Cape Elizabeth Zoning Ordinance, there is a "**cluster development**" provision in the Town's zoning ordinance, which applies to both residential subdivisions and attached, multiplex housing projects. The cluster provision allows the normal lot size, setback and lot width requirements to be modified, in order to promote innovative site designs that would preserve open space and important natural features. The Town benefits from cluster projects with the preservation of dedicated open space or natural areas that would otherwise be developed. In return, the developer is given more design flexibility and usually has a smaller amount of roads and other infrastructure improvements to be added to the site, which lowers his or her site development costs.

#### **4. Transferrable Development Rights (TDR) Process**

The Town of Cape Elizabeth is one of the few towns in New England with a Transferrable Development Rights (TDR) system in place in its Zoning Ordinance. The TDR system allows a developer to gain greater density for areas that are best suited for development. In Cape Elizabeth, this translates into land parcels that are over 10 acres, are zoned RA and are able to have all dwelling units connect to the public sewer system. In exchange for the increased density, the developer would need to acquire a conservation easement on land that has been designated as being valuable to the Town. Due to the ecological and historic importance of farmland to Cape Elizabeth, the Town selected several parcels of actively used agricultural acreage as land to be preserved through the TDR system. These parcels are identified on the Cape Elizabeth Transfer Zone Map, situated in the Town Planner's office.

The TDR process is completely voluntary for both the developer and the owner of land designated for preservation. The value of the conservation easement is left for these two parties to negotiate, although easement terms and conditions may be set or modified by the Planning Board and are subject to Town Council approval.

Cape Elizabeth's TDR process has not yet been utilized, although preliminary discussions did occur between at least one developer and landowner. The recently adopted Sewer Ordinance will make future use of the TDR process unlikely, since the Ordinance limits the number of public sewer hook-ups that may occur on any given parcel of land according to the amount of frontage on an existing public road.

#### **5. Use of Public Lands**

The Town has several parcels of land that it owns, which either are or could be used as links for the Greenbelt system. Examples of such parcels include Lions Field, the open space connected to the Stonegate subdivision and the Sewage Treatment Plant land parcel.

## 6. State and Federal Grants

Although federal funds for land acquisition and improvement have all but disappeared over the past few years, there are still some available funding sources. The Maine Coastal Program has federal monies available on a competitive, annual basis, in the form of **Waterfront Action Grants (WAG)**. The money is to be used for the acquisition of public access to the shore or for improvement of existing access points or coastal recreational facilities. There are also very limited **Land and Water Conservation (LAWCON)** funds available for development of coastal and noncoastal parks and other recreational facilities, which are administered by the Maine Department of Conservation. The process in applying for these funds is, needless to say, very competitive.

There are also funds available from the State of Maine for the purchasing of significant lands for public use, after the \$35 million bond issue was approved in November, 1987. The criteria for selection of land parcels to be purchased will be determined over the next few months.

## VII. RECOMMENDATIONS AND ACTION PLAN

1. **Complete the Greenbelt Pedestrian Trail System Between the Two Parks**

It is important that the connection be made complete between Fort Williams Park and Crescent Beach State Park. The pedestrian trailway system will represent the Greenbelt for most people, which makes it crucial that the link between the parks be achieved.

2. **Pursue Full Range of Property Acquisition Options for the Entire Greenbelt**

All land acquisition techniques that meet the objectives of this Greenbelt Plan should be considered when additions to the Greenbelt are being sought.

3. **Continue Cooperation and Coordination between the Conservation Commission, Planning Board, and Town Council**

The abovementioned Town boards have enjoyed a good working relationship with each other. The Town Council provides funding and encouragement to both the Conservation Commission and Planning Board for planning and open space preservation. The Town Council has also dedicated funds obtained from the sale of tax acquired properties for open space acquisition. The Conservation Commission and the Planning Board work together to negotiate with developers about dedications to the Greenbelt, which helps the Town meet its goal of preserving the rural character of Cape Elizabeth.

4. **Encourage Cooperation between the Town and the Cape Elizabeth Land Trust**

The Town and the newly created Cape Elizabeth Land Trust both share an interest in preserving open space and adding to the Greenbelt. The two entities should work

together, where appropriate, to maximize the achievement of the Greenbelt Plan's objectives.

5. **Maintain and Increase the Emphasis in the Comprehensive Plan and Town Land Use Ordinances Regarding the Greenbelt and Preservation of Areas of Local Significance**

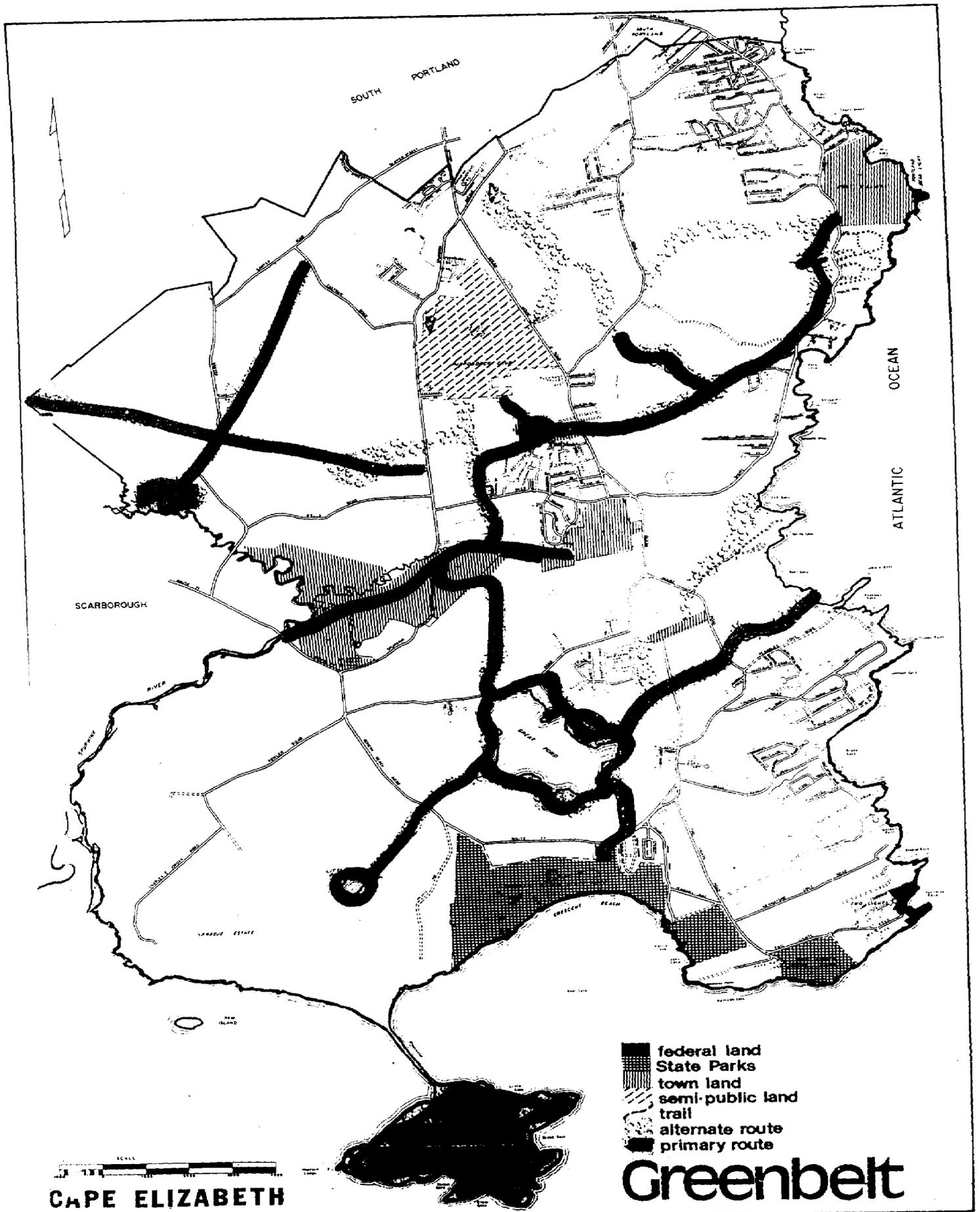
The 1980 Cape Elizabeth Comprehensive Plan and the Town's land use ordinances both emphasize the need for open space preservation. The current comprehensive planning process should continue the past Plan's emphasis on open space preservation. Future revisions to the Town's zoning and subdivision ordinances should stress the need to balance new development and preservation of open space.

6. **Budget Public Funds for Acquisition of Greenbelt Land and Easements**

The Town should allocate funds annually in the Town budget for Greenbelt acquisition purposes. These monies could then be used to complement the additions to the Greenbelt achieved through donations and development dedications.

Appendix A

**Old Greenbelt Map**



SOUTH PORTLAND

OCEAN  
ATLANTIC

SCARBOROUGH

SCARBOROUGH RIVER

SPRINGE ESTATE

CRESCENT BEACH

- federal land
- ▨ State Parks
- ▧ town land
- ▩ semi-public land
- ⋯ trail
- alternate route
- primary route

# Greenbelt

SCALE

CAPE ELIZABETH

**Appendix B**

**Cape Elizabeth Conservation Commission  
Goals and Objectives**

## Appendix B

### **Cape Elizabeth Conservation Commission Goals and Objectives**

#### **A. Provision of Non-Mechanized, Public Access to Valuable Environmental Resources**

1. Completion of the Greenbelt system, including the pedestrian trail system
2. Access to Great Pond
3. Acquisition of Other Selected Areas, either through easements or fee simple

#### **B. Preservation of Valuable Open Space**

1. Protection of Remaining Farmland
2. Protection of Important Wetlands
3. Protection of the Spurwink Marsh
4. Protection of Sensitive Dunes
5. Preservation of Scenic Views
6. Preservation of Historic Sites

**Appendix C**  
**Subdivision Open Space Exaction Language**

The Cape Elizabeth Subdivision Ordinance was recently amended to include a provision regarding the dedication of land, or payment in lieu of dedication, for recreation and open space purposes. The language is as follows:

**Article III, Section 16-3-1**

(q) The Planning Board shall require the subdivider to provide an area suitable for recreation or open space purposes up to 10% of the subdivision's total land area, or pay a fee to the Town in accordance with a fee schedule established by the Town Council for recreation and open space acquisition purposes, primarily for the use of owners of lots within the subdivision, in order to address a recreational or open space deficiency to be created by the proposed subdivision. The fee shall be based on the "current assessed value" of the land, as listed in the Town Assessor's records. Land reserved for active recreation purposes, such as a playground or ballfield, shall be relatively level and dry. Land reserved for primary scenic or passive recreation purposes shall have sufficient public access as determined by the Planning Board.

**Appendix D**

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## Appendix D

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