

# Conservation Investors: Making Money, Saving Land

by Peter R. Stein

Land trusts have a great variety of tools and techniques to use to conserve land. Among the more sophisticated and creative strategies are conservation buyer programs, which many land trusts have successfully used to connect important properties with long-term, conservation-minded owners. Beyond alerting potential conservation buyers to opportunities as they develop, many land trusts have intervened in advance of conservation buyers by acquiring the property, placing a conservation easement on it and remarketing the parcel with the easement in place. These techniques require market savvy (or a very significant bargain-sale discount to the land trust by the initial sellers), access to significant risk capital, and a successful sales strategy.

In cases where conservation buyers are not available and the land trust is not able to purchase the property or an easement on it, an alternative is the use of conservation investors. For the purpose of this article, a conservation investor is defined as an individual, corporation partnership, limited partnership, or limited liability corporation that acquires a key conservation property and works collaboratively with a nonprofit land conservation organization to protect the property's special features. For the conservation investor, the goal is to do well and do good—that is, generate a monetary return on the investment that is commensurate with the investment risks, while structuring the investment in a way that ensures significant land conservation. For the land trust, partnership with a conservation investor may be the only viable way to turn a threatened parcel into a permanent conservation project. This article and the accompanying piece look at four examples of how the Maine Coast Heritage Trust (MCHT) and The Lyme Timber Company, in which I am a partner, are working together to accomplish mutual goals.

## Starting off

Any land trust interested in working with conservation investors should keep a number of things in mind as it pursues these types of arrangements. One is that conservation investors probably will not be long-term owners of the conservation property. The length of their ownership will depend on the market conditions and the intended land use/conservation scheme jointly developed by the land trust and the conservation investor.

A conservation investor also usually requires significant help from the land trust. This help might take the following forms:

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- ✦ Knowledge of local land use regulatory processes.
- ✦ Understanding of community concerns.
- ✦ Creativity in structuring the conservation components of the project.
- ✦ Access to individuals who may be interested in purchasing property lots, if limited development is an element of the project.
- ✦ Access to public or private land acquisition dollars, if conservation easements or conservation fee sales are elements of the project.
- ✦ Assistance in community relations that draws on the local credibility of the land trust.

The land trust will also need to have a realistic understanding of the business/investment motives of the conservation investor. For some very significant projects, the motive may be weighted much more toward conservation than economic return. This might be the case, for instance, if the investor is a neighbor to the conservation project. If, on the other hand, the conservation investor has a fiduciary responsibility to its partners or shareholders to generate a return, the land trust must keep this in mind when planning the project. No matter how innovative, "green," or environmentally conscious a conservation investor may project its business philosophy to be, the land trust must understand the profit motives and financial expectations of the conservation investor.

For a collaborative land conservation project, land trusts should seek companies with some or all of the following characteristics (besides capital, of course):

- ✦ Expertise in structuring real estate transactions.
- ✦ Expertise with elements of limited development projects, including land use approvals, development financing, construction management, and marketing.
- ✦ The ability to find and manage professional advisors (attorneys, land planners, soil scientists, civil engineers, etc.) who understand conservation alternatives.
- ✦ The ability and a real desire to work with land trust staff.
- ✦ Market savvy; for example, an understanding of the financial aspects of working landscapes (timber, ranching, or farming).

## Years in the making

The situation that first brought The Lyme Timber Company and MCHT together started taking shape back in 1980, when the National Park Foundation failed to convince the Secretary of the Interior that a 380-acre tract in

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Bar Harbor adjoining Acadia National Park was an appropriate addition to the park. In 1986, new boundary legislation passed by Congress eliminated the possibility of the National Park Service acquiring this parcel. The property was then sold to a local developer. But after years of struggling through a complicated approval process and a downturn in the New England real estate market, the developer lost the property through foreclosure to the bank that had provided the acquisition financing.

MCHT had followed the saga closely and began seeking conservation alternatives for this tract. Notwithstanding the restriction imposed by the 1986 boundary legislation, the park's 1990 general management plan identified this property as an important linkage between currently separated National Park Service lands. In 1991, MCHT contacted its network of potential conservation buyers, including Lyme Timber, a private real estate/timberland investment partnership, to see if any of them were interested in pursuing this project. This initial contact took place prior to the foreclosure and, unfortunately, Lyme

found the financial requirements of the existing owner unappealing. (The owner/developer was attempting to recoup his costs plus his loan balance, and the real estate market did not support a project of that scale.) In spring 1992, Lyme was able to acquire the property after the foreclosure and continued its extensive discussions and planning meetings with MCHT staff, neighbors, town officials, and representatives of the National Park Service.

At the outset of discussions, MCHT and Lyme agreed that limited development would be acceptable if conservation easements were placed on the balance of the property. (Local zoning allowed for 88 units, and clustering was not required.) The limited development planning began immediately after Lyme acquired the property. Neighbors, town officials, and MCHT staff participated in the planning, which was conducted by Coplon Associates of Bar Harbor.

The project benefited from an expedited state regulatory approval process because a significant conservation area was permanently set aside as part of Phase I. This also allowed the clustering of the development and thereby a reduction in road costs and land-clearing expenses. The project, called Acadian Woods, has sold 19 of 22 lots to date in Phase I, and has 14 additional

lots projected for Phase II, which began the approval process in spring 1997. Upon completion, 265 of the 380 acres will be permanently conserved via conservation easements held by MCHT. An additional 25 acres that are separated by development from the easement-restricted lands will be protected by restrictive covenants (private deed restrictions). Conserved areas include the entire border with an extensive buffer adjacent to National Park Service lands, plus an important riparian corridor and new public trail opportunities.

The financial advantages of this project are significant, as well. The project is generating higher profits for Lyme Timber than a conventional development would have, due primarily to lower marketing costs (since there are fewer lots to sell) and the tax benefits derived from the easement gifts. The success of this project is a reminder of the potential benefits realistic partnerships can bring to both land trusts and conservation investors.

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Acadian Woods Limited Development Project

