

*An Action Plan for  
Conserving Connecticut Forest  
& Park Association's Blue-Blazed Trails*



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825 Miles of Blue-Blazed Trails  
Final Report  
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**Introduction**

This report summarizes the results of a two-day session held on July 11 and 12, 2018, at Connecticut Forest & Park Association (CFPA) headquarters in Middlefield, Connecticut, focused on the following topics:

- Development of a written plan and protocol for strategically mapping and prioritizing protection of the 40% of CFPA's 825 miles of trail (approximately 330 miles) that are currently located on private lands without permanent protection.
- Streamlining and improving CFPA's outreach to private landowners to significantly increase the likelihood of reaching agreement with these landowners to secure permanent protection across private lands; and
- Providing advice, counsel, and material input on CFPA's landowner agreements and template for trail access and conservation easements.

**Background**

Founded in 1895, Connecticut Forest & Park Association has a proud tradition of developing, maintaining, and managing more than 825 miles of non-motorized trails (most of which are for foot travel only) that traverse Connecticut's woodlands, mountains, farmlands, and remote and wild areas.

CFPA's mission is stated as follows in the *Connecticut Forest and Park Association Strategic Plan 2015 – 2020*:

The Connecticut Forest & Park Association protects forests, parks, walking trails, and open spaces for future generations by connecting people to the land."

CFPA launched the Blue-Blazed Hiking Trail System in 1929 as a means of allowing the public to explore and appreciate Connecticut's forests. The CFPA Trails Program has since become one of the organization's most important programs.

CFPA's network of trails includes 112 miles of the New England National Scenic Trail, which bisects the state of Connecticut north to south; approximately 50 miles of the Nipmuck and Natchaug Trails in the Northeast Corner; approximately 60 miles of the Shenipsit Trail in central Connecticut; and more than two dozen other trails throughout the state. Amazingly, there is a CFPA Blue-Blazed Trail within 30 minutes of almost every person who lives in Connecticut.

Significantly more than 400 miles of these trails cross lands administered by local, state, and federal land-managing agencies, or scattered tracts of land owned by or under easement with one of Connecticut's 137 land trusts. Public access, while potentially limited by the management prerogatives of these agencies and organizations, is generally assured. CFPA maintains Blue-Blazed Trails on these lands and keeps them open and passable for the public in cooperation with these public and private partners under formal agreements or unwritten understandings.

According to CFPA staff, approximately 40 miles of the 112 miles of the New England National Scenic Trail are located on lands conserved and administered by local, state, and federal land-managing agencies or land trusts; 29 miles of the 49 miles of the Nipmuck and Natchaug Trail System are located on conserved lands; and 30 miles of the 60-mile Shenipsit Trail are located on conserved lands. Other trails in the CFPA Blue-Blazed Trail System are located on conserved lands to varying degrees.

However, at least 330 miles of CFPA's Blue-Blazed Trails – and perhaps as much as 380 miles of these trails – exist on privately owned lands. In most cases, CFPA maintains Blue-Blazed Trails across private lands under simple handshake agreements or previous understandings that continue a long tradition of New England neighborliness and access to the woods. Connecticut's recreational land use law (CGS § 52-557f, *et seq.*) provides limited protection from liability for landowners who allow use of their land without charge. In a few cases, CFPA has entered into short-term license agreements, which can be terminated by either party on 30- to 60-day notice. None of these agreements assure permanent public access, putting significant stretches of the Blue-Blazed Trail System at risk. This is perhaps the biggest challenge that CFPA faces in ensuring that these Blue-Blazed Trails remain open for public use in perpetuity.

### **Task Assignments and Deliverables**

Following initial negotiations with CFPA staff, Lands Trails and Parks LLC's senior executive consultant entered into an agreement with CFPA to provide professional services in evaluating CFPA's trail protection program. Specifically, under the terms of an agreement dated June 1, 2018, Lands Trails and Parks LLC (LTP) agreed to deliver:

- A written plan and GIS protocol that define and provide weighted criteria for protection for the 330 miles of CFPA trails located on private lands currently without permanent protection.
- A review of CFPA outreach efforts, including recommendations for improving communications to landowners, management of landowner information and parcel data, and landowner negotiations.
- A comprehensive review of CFPA landowner agreements and templates for trail access and conservation easements.

After reviewing advance materials provided by CFPA staff and information publicly available on CFPA's website and other sources, LTP's senior executive consultant met

with CFPA's Executive Director Eric Hammerling, Land Conservation Director Lindsay Suhr, and Trail Stewardship Director Clare Cain for two days, July 11 and 12, 2018. During this meeting, the participants reviewed and discussed:

- The current status of CFPA's Trail Stewardship Program;
- The current status of CFPA's Land Conservation Program;
- The results to date of CFPA's efforts to secure fee or easement interests in private properties along CFPA's Blue-Blazed Trails;
- "Ballpark" estimates of the number of landowners that might own lands along CFPA's Blue-Blazed Trails;
- Potential available funding sources for acquisition of fee or easement interests in property;
- Other entities, both public and private, interested in protecting land along CFPA's Blue-Blazed Trails, either to protect the Blue-Blazed Trails or other conservation values, or both;
- Communications to date with these other entities to determine if they were aware of CFPA's interests in protecting Blue-Blazed Trails; and,
- At the conclusion of the two-day meeting, a summary of LTP's preliminary recommendations for actions to address the issues involved in conservation of CFPA's Blue-Blazed Trail System.

The following narrative describes the issues that were raised and the outcomes of these discussions.

**Task #1: Developing a Written Plan and GIS Protocol that define and provide weighted criteria for protection for the 330 miles of CFPA trails located on private lands currently without permanent protection**

To date, CFPA's efforts have been largely opportunistic – in other words, CFPA has waited for landowners to contact staff and express an interest in donating an easement or fee interest in their property. CFPA also staff have tried a number of different approaches to encourage landowners, including articles in *Connecticut Woodlands*, mailings to landowners, and small public meetings, with limited or no results. For example, in one instance, CFPA sent letters of introduction to more than 40 landowners along a section of the New England National Scenic Trail inviting landowners to contact CFPA about protecting the trail across their land. Only one landowner responded positively.

Donations of land or easements that have been received by CFPA are scattered across the state. Of the seven fee properties (on approximately 436 acres of land) and 18 easements (on approximately 1,824 acres of land) that CFPA currently holds, only a handful are located along Blue-Blazed Trails. CFPA also holds seven trail easements, which are typically less than 100 feet in width.

CFPA also has developed or participated in development of several studies, including a study titled *The New England Trail: A Plan for Protection in the Greater Hartford Region* and a GIS-based analysis of biodiversity titled the *MassConn Focus Area Analysis*, which

was developed under the auspices of the MassConn Steering Committee as a means of identifying natural resource conservation values for undeveloped, non-agricultural lands in the state.

In a back-of-the-envelope exercise, CFPA staff and LTP's senior executive consultant determined that there were likely thousands of privately-owned properties along those sections of CFPA trails that did not cross public lands, and that purchase of a 100-foot-wide corridor across these properties would cost as much as 24 to 30 million dollars, not including staff or administrative costs.<sup>1</sup>

In reviewing CFPA's current capacity and portfolio of property interests, it was apparent that CFPA does not have the personnel or financial resources to implement a land conservation program that could acquire interests in several thousand properties.

What this means is that CFPA should re-program and re-focus its Blue-Blazed Trail protection program, at least in the short term, according to the following seven programmatic initiatives:

- 1. Identify public access for CFPA's Blue-Blazed Trails as the #1 criterion for land conservation, above all other conservation values;**
- 2. Strengthen partnerships with Connecticut's network of more than 130 land trusts, as well as towns, state agencies, and other partners;**
- 3. Proactively identify key "nodes" and "lynchpins" along all trails in CFPA's Blue-Blazed Trail System;**
- 4. Conduct a GIS-based analysis of land ownership to determine the scope and scale of what would be needed to complete protection of CFPA's 825 miles of Blue-Blazed Trails;**
- 5. Develop tools to identify properties on the market along any trail in CFPA's Blue-Blazed Trail System;**
- 6. Direct available CFPA land conservation staff and financial resources primarily to land conservation for the New England National Scenic Trail and, to a lesser extent, the Nipmuck, Natchaug, and Shenipsit Trails; and**
- 7. Focus on mechanisms that secure a permanent interest in land, and use license agreements only as a last resort.**

### **Detailed Analysis of Recommended Programmatic Initiatives for Task #1**

- 1. Identify public access as the #1 Criterion, above all other conservation values.**

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<sup>1</sup> This estimate, which was developed for discussion purposes only and is not intended to be used for any other purpose, is based on acquiring a 100-foot right-of-way across 330 miles of trail; for a total of 4,000 acres; at an average cost of \$6,000 to \$7,500 per acre (these costs were derived from a Connecticut Department of Energy and Environmental Protection analysis of land conservation projects in 2017).

Establishing priorities for trail protection is a significantly different exercise than a typical GIS-based conservation value analysis. Property rights in the United States (including the rights of legal access) are based on English land law. Unless a public agency or private entity holds a legal interest in the land (whether fee, easement, or right-of-way), the organization that maintains and manages a public access trail for the benefit of the public (in this case, CFPA) has no assurance whatsoever that the trail will be open tomorrow.

As a result, the paramount criterion for a public access trail – and protection of that trail – is public access, and ultimately continuous public access across multiple contiguous properties. A property may have outstanding conservation values and be significant for biodiversity, water quality, viewshed, historical significance, or any combination of these values. If, however, a public agency or private entity such as a land trust does not hold an interest in the land that provides for public access, the trail is vulnerable to closure at any time – and the right to make that decision is held entirely by the private property owner whose land is crossed by the trail.

Secondarily to the above criterion, fee, easement, or right-of-way interests should be acquired based upon:

- The resource values present, including the natural, cultural, and scenic conservation values present on those properties (which, if significant, may contribute to a property's identification as a "node" – see discussion beginning on page 8);
- The linear extent to which conservation of the property contributes to a contiguous right-of-way for a trail;
- The anticipated difficulty of trail construction (although it is almost always easier to solve a problem with trail construction than with access acquisition, with notable exceptions being wetlands or water crossings that require extensive boardwalks, bridges, or other major trail construction projects);
- Vulnerability/likelihood of potential development;
- Financial considerations (funding, acquisition cost, and administrative costs); and
- Land uses on adjoining lands (or the subject property, if a less-than-fee interest would be acquired) that may conflict with the use of the property for trail purposes.

Recommendations for changes and weighting of trail conservation project selection criteria are provided in Track Changes to CFPA's *Project Selection Criteria* (last updated April 9, 2014). See Appendix A.

## ***2. Strengthen partnerships with Connecticut's 130 land trusts, as well as towns, state agencies, and other partners.***

One of CFPA's first courses of action should be to strengthen existing partnerships and build new partnerships with land trusts and towns, state parks, state forests, and other partners that have service areas that overlap CFPA's Blue Blazed Trails, and encourage

these partners to acquire fee or easement interests in land crossed by CFPA Blue-Blazed Trails.

This approach has a number of advantages over the other logical alternative, which would be to internally build capacity within CFPA for a major land conservation program. First, CFPA would not have to invest significant resources in acquiring land or easements. Second, CFPA would not have to build a large land trust program or secure technical assistance from appraisers, lawyers, surveyors, and resource professionals. Thirdly, CFPA would not have to invest significant resources in perpetual stewardship of fee or easement interests in land.

CFPA could initiate the land trust portion of this effort by coordinating directly with the Connecticut Land Conservation Council (CLCC), based in Middletown, Connecticut. As the statewide entity serving all of Connecticut's land trusts, CLCC is well-positioned to convey CFPA's message about conserving Blue-Blazed Trails to more than 130 land trusts that operate throughout the state. A joint message from CFPA and CLCC to all of the land trusts in Connecticut, conveyed through multiple media (websites, newsletters, social media, and a direct appeal via electronic mail and/or regular mail), would begin the conversation.

In addition, CFPA should consider making a presentation at the annual Connecticut Land Conservation Conference – and should actively promote the presentation in advance to encourage land trusts to attend.

Finally, when land trusts respond, CFPA should be prepared to provide good information on what CFPA's needs are and what benefits a land trust might realize from a partnership with CFPA. This information should include:

- a brief description of the importance of CFPA's Blue-Blazed Trails;
- GIS-based data on the location of CFPA Blue-Blazed Trails within a land trust's service area;
- a description of the interests in land that CFPA would like to secure (carefully worded, with an explanation that CFPA is willing to work with land trusts and property owners on any negotiated agreement that will secure permanent access for a CFPA Blue-Blazed Trail);
- an offer that CFPA staff are willing to meet and work with land trust representatives, and property owners as appropriate, to ensure that CFPA's interests are considered when a land trust acquires a fee or easement interest in a property on which a Blue-Blazed Trail is located;
- an offer to enter into a long-term agreement with a land trust that would commit CFPA to managing and maintaining the Blue-Blazed Trail across lands acquired by the land trust;
- a summary of tax benefits and other benefits that landowners may realize from conveyance of a fee or easement interest to protect a Blue-Blazed Trail;
- a statement to the effect that protection of a segment of the CFPA's Blue-Blazed Trail System can offer a guaranteed "gold star" conservation value: outdoor recreation access, which is a significant conservation value under both federal

and state criteria for conservation easements (IRC § 170 and the Connecticut Comprehensive Open Space Acquisition Strategy – The Green Plan).

This approach has one additional, highly significant advantage: it engages many more partners, with combined staff and financial resources that far exceed CFPA's staff and financial resources, in conserving CFPA's Blue-Blazed Trails.

This does not mean that CFPA should shutter its land conservation program – far from it. CFPA should continue to maintain a land conservation program for several reasons. Some land trusts may wish to co-hold interests in land with CFPA. Others may request assistance in technical aspects of an acquisition, or in stewardship of acquired interests. Perhaps most importantly, CFPA should retain the ability to act as a “last resort” in instances where an essential property is on the market or otherwise available, and no partner can be found to pursue the acquisition.

### ***3. Proactively identify key “nodes” and “lynchpins” along all trails in CFPA’s Blue-Blazed Trail System.***

One of the biggest challenges CFPA faces is prioritizing its efforts. Faced with potentially thousands of conservation projects, CFPA should seek to identify the comparatively few essential properties – properties that contain resource values that make a particular trail unique, or that provide the “missing link” to a particular trail section. By identifying and promoting the protection of these essential “nodes” and “lynchpins” as defined below, CFPA can focus its available resources on securing the most critical properties along each section of the Blue-Blazed Trail System.

*“Nodes” can be defined as the locations that contain highly significant components of particular trails – dramatic overlooks, stunning viewpoints, rock ledges, riverside paths, historic sites, or whatever resource values are present that make a trail uniquely suited for inclusion in the Blue-Blazed Trail System. Some trails may have many “nodes,” others may have only one or two.*

*“Lynchpin” properties are the essential missing pieces of a puzzle – the last property to secure a trail segment between two public roads, or the only available location for a stream or river crossing.*

Ideally, “nodes” would be acquired in fee, with all appurtenant legal access, water, and timber rights. However, CFPA and its land trust partners need to recognize that the interests that can be acquired for a particular property are entirely dependent on the outcome of negotiations with an individual landowner or landowners. Greater flexibility can be used in negotiations to acquire less-than-fee interests in “lynchpin” properties, since the primary objective is to acquire contiguous, continuous access.

CFPA could initiate this effort by identifying “nodes” and “lynchpins” along each trail in the Blue-Blazed Trail System, preferably through a map-based exercise with input from both CFPA volunteers and professionals who have an intimate knowledge of a particular trail.

Securing permanent protection of these “nodes” and “lynchpin” properties alone could take CFPA and its land trust partners years – perhaps decades.

***4. Conduct a GIS-based analysis of land ownership to determine the scope and scale of what would be needed to complete protection of CFPA’s 825 miles of Blue-Blazed Trails.***

CFPA should consider developing a pilot program for a given geographic area (for example, for a 25- to 50-mile section of the New England National Scenic Trail) to help determine what would be required to protect its 825 miles of Blue-Blazed Trails. The Connecticut Land Conservation Council (CLCC), a local town or Council of Government office, or a land trust partner may already have and be willing to share GIS land ownership data for a given segment of a Blue-Blazed Trail. Once this information has been obtained, CFPA can extrapolate from the data estimates of the number of properties involved, potential cost, and other factors to help determine a realistic course of action for protecting the entire system of its Blue-Blazed Trails.

***5. Develop tools to identify properties on the market along all trails in CFPA’s Blue-Blazed Trail System.***

Perhaps the best time to secure an interest in any property along any trail in CFPA’s Blue-Blazed Trail System is when that property is actively being marketed for sale.

According to National Association of Realtor statistics, a residential property owner lives on a residential property for six years, on average, and residential properties change hands every seven years, on average. Rural properties are typically held longer – rural property owners retain ownership of their property for approximately ten to 14 years on average. This means, inversely, that anywhere from 7 to 10% of the properties along CFPA’s Blue-Blazed Trail System are potentially for sale at any given time. That means that as many as several hundred properties along CFPA Blue-Blazed Trails could be for sale at any given time.

On-line real estate marketing tools like Zillow can be used to identify properties that are on the market along Blue-Blazed Trails, by comparing maps of these properties to centerline data for each of the trails. A GIS specialist may be able to identify a methodology for conducting this task using GIS and quickly identify all properties along a given Blue-Blazed Trail or within a given geographic area. If this isn’t possible, CFPA staff or volunteers could conduct this exercise for a given pilot area by reviewing Zillow maps online and comparing these data to the centerline of a Blue-Blazed Trail.

Alternatively, a real estate agent may be willing to sit down and help identify properties that are on the market, particularly if there’s a realistic potential for earning a commission on a sale. All it may take is an expression of interest by CFPA as a potential

buyer and a good map of the trail centerline. (A word of caution: a concern with this approach might be in instances where the owner of a property on the market is not aware of the existence of a Blue-Blazed Trail and may have reservations about the trail being on the property while it is being marketed.)

**6. *Direct available CFPA land conservation staff and financial resources primarily to land conservation of the New England National Scenic Trail and, to a lesser extent, the Nipmuck, Natchaug, and Shenipsit Trails.***

Given the scale of the challenge of securing permanent protection for approximately 330 miles of Blue-Blazed Trails, CFPA would be well-advised to focus most of its energies and resources on its three flagship trails: the New England National Scenic Trail, above all, and secondarily on the Nipmuck and Natchaug Trail System and the Shenipsit Trail. This doesn't mean that CFPA shouldn't pursue land conservation opportunities on other trails when they arise. It simply means that, when given a choice of where to direct available financial and staff resources, these trails should be given priority.

**7. *Focus on mechanisms that secure a permanent interest in land, and use license agreements only as a last resort.***

License agreements require a substantial investment of staff time and energy for little return. A license agreement lasts only as long as the current property owner holds the property, and can be terminated unilaterally by the owner for due cause or not. Frequently, license agreements contain term limits that expire within a relatively short period of time – the life span of a license is often 10 or 20 years, and may or may not be subject to renewal. Regardless, any license agreement typically includes a provision for termination by either party, typically with 30 or 60 days' notice.

CFPA's mission is to “protect forests, parks, walking trails, and open spaces for future generations by connecting people to the land” (emphasis added). This is further elaborated on in the *Connecticut Forest & Park Association Strategic Plan 2015 – 2020*, which includes the following key action item for the strategy to create transformative outdoor experiences that inspire a lifelong connection to the natural world: “secure the legacy of the Blue Trails by working with landowners to achieve long-term protection of Trails” (again, emphasis added).

As such, CFPA should direct its available resources towards acquiring fee, easements, or trail right-of-way easements that provide permanent access, and only seek temporary license agreements when no other alternatives exist (which is sometimes the case with large corporate entities).

Finally, as a practical matter, CFPA should seek opportunities to relocate Blue-Blazed Trails onto publicly owned lands. As noted previously in this report, trail construction is usually easier and less expensive than access acquisition (with notable exceptions being wetlands or other topographic features that require extensive boardwalks, bridges, or major trail construction projects).

**Task #2: A review of CFPA outreach efforts, including recommendations for improving communications to landowners, management of landowner information and parcel data, and landowner negotiations**

CFPA's initial introductory letter and communications to landowners are sufficient for their intended purpose. The primary drawback is the absence of a significant incentive (such as cash or a state tax credit) for the landowner. Minor recommendations for improving the introductory letter are provided in Track Changes in Appendix B.

**Task #3: A comprehensive review of CFPA landowner agreements and templates for trail access and conservation easements.**

CFPA's landowner agreements and templates for trail access and conservation easements also are sufficient for their intended purposes. Suggestions for improving these documents are attached in Track Changes in Appendices C and D. (Note: I am not a lawyer, and as such, I am not offering legal advice. All changes to the CFPA template should be reviewed by a lawyer.)

In addition, copies of the Pennsylvania Land Trust Association (PALTA) long-form and short-form templates for trail easements are provided under separate cover. The short-form template is far simpler and less legalistic than the long-form template. These templates, which have been adopted by many land trusts, are designed for donated trail easements. Both documents would require substantial modification if compensation is provided to the landowner.

**Conclusion: The Long Game for Funding Trail Protection**

It is readily apparent that protecting CFPA's spectacular system of Blue-Blazed Trails will be a long game. Securing protection for more than 330 miles of trail, across thousands of individual properties, will take decades – and a significant investment of capital and human resources.

As such, CFPA should consider building support for a long-term effort to secure tax incentives for public recreation access to trails in Connecticut. In the late 1990s, the Commonwealth of Virginia, which at one time was considered to be one of the weakest states for conservation, generated sufficient enthusiasm for conservation to create what is undoubtedly the strongest state incentive for conservation in the nation: a 40% tax credit for conservation easements. Initially approved by near-unanimous vote of the Virginia General Assembly in 1999, the Virginia Land Preservation Tax Credit Program has resulted in the conservation of more than 750,000 acres in Virginia, and has survived and been expanded through both Republican and Democratic administrations. Colorado, New Mexico, Massachusetts, and several other states also have enacted laws that provide for state tax credits for conservation purposes. Connecticut also enacted a law in 1999 (P.L. 99-173, CSA § 12-217dd) that provides for a non-transferable tax credit for corporations that donate land for conservation purposes.

If CFPA could develop a similar advocacy effort for legislation in Connecticut, focused on ensuring that all Connecticut residents – indeed, all Americans – should have access to trails and the great outdoors near where they live, the result could be similar to Virginia’s conservation success. Private landowners would have a far greater financial incentive to voluntarily protect CFPA’s trails, and CFPA, local land trusts, and local governments would be far more successful at providing trails for the public.

Absent a tax credit or other public incentive (or at least until such time as a tax credit program is created), another potential source of funding is fundraising – and specifically endowment fundraising. Although plenty of crossover exists, some donors who are not interested in contributing to support other CFPA programs or general purposes will readily give money to a specific land conservation effort. Additionally, one of the attractive features for a donor donating to a land conservation effort is that he or she can leave a legacy that has a sense of permanence: the donation helps conserve a piece of land forever. This can be particularly important consideration for prospective donors who are considering bequests or planned gifts.

As recognition for a legacy conservation gift, CFPA may wish to explore development of a program to “name” specific properties that it acquires (or that land trusts acquire in partnership with CFPA) in honor of a major donor or contributor to the acquisition of that property. This official recognition may also be an important consideration for the actual landowner of a property as well, in instances where the landowner donates a fee or easement interest in his or her property.