



TOWN OF ACTON
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Open Space Committee

November 16, 2015

Mr. Peter K. Ashton, Chair
Town of Acton Community Preservation Committee
c/o Planning Department
Acton Town Hall
472 Main Street
Acton, MA 01720

**RE: Community Preservation Plan Project Application Form:
Open Space Set Aside Funds and Open Space Acquisition and Preservation Fund**

Dear Chairman Ashton and Community Preservation Committee Members:

On behalf of the Town of Acton, the Town of Acton Open Space Committee is pleased to submit the attached Project Application Form for the set-aside of Community Preservation Act funds for the purchase/protection of open space lands, and the replenishment of the Open Space Acquisition and Preservation Fund for use in advancing open space acquisition and preservation projects. The Open Space Committee suggests that this proposal is consistent with previous recommendations made by the Community Preservation Committee and approved by Town Meeting.

The Open Space Committee thanks you for your consideration of this proposal and looks forward to working with the Community Preservation Committee in advancing this proposal to the April 2016 Town Meeting.

Respectfully yours,

Andrew D. Magee

Andrew D. Magee
Chair, Town of Acton Open Space Committee

cc. S.Ledoux, Town Manager
T.Tidman, Director of Natural Resources

PROJECT APPLICATION FORM – 2016

Due Date: November 16, 2015

Applicant: TOWN OF ACTON **Submission Date:** November 16, 2015

Applicant's Address

Steven L. Ledoux, Town Manager
472 Main Street, Acton, MA 01720
978-264-9612 manager@acton-ma.gov

Purpose: (Please select all that apply)

- Open Space
- Community Housing
- Historic Preservation
- Recreation

Town Committee (if applicable): Open Space Committee

Project Name: Open Space Acquisition/Protection Set Aside

Project Location/Address: N/A

Amount Requested: \$470,000

Project Summary: In the space below, provide a brief summary of the project.

The Town of Acton Open Space Committee requests that the Community Preservation Committee (CPC) recommend to Town Meeting that \$450,000 of the 2016 Town of Acton Community Preservation Funds be set aside for future open space acquisition and/or land protection projects and for the annual debt service on the Wright Terrace acquisition, and that \$20,000 be placed in the Open Space Acquisition and Preservation Fund for use in advancing open space acquisition and preservation projects. This action would be consistent with previous recommendations made by the CPC and approved by Town Meeting for the acquisition and preservation of open space.

Estimated Date for Commencement of Project: N/A

Estimated Date for Completion of Project: N/A

Project Narrative

On behalf of the Town of Acton, the Town of Acton Open Space Committee is asking that the Community Preservation Committee (CPC) recommend to Town Meeting that \$450,000 of the 2016 Town of Acton Community Preservation Funds be set aside for future open space acquisition and/or land protection projects, and that an additional \$20,000 be placed in the existing Open Space Acquisition and Preservation Fund for use in advancing open space acquisition and preservation projects. These actions would be consistent with previous recommendations made by the CPC and approved by Town Meeting for the acquisition and preservation of open space.

Background. In May of 2001, as part of the development of the *Town of Acton Open Space and Recreation Plan 2002 -2007*, a survey form requesting information on open space and recreation needs was sent to all of Acton's 6,700 households. Over 1,400 surveys were completed and returned, a better than 20 percent response rate. Of the respondents, 81 percent stated they would vote for town-supported land purchases. The survey was updated in 2008, and purchase of open space for conservation and water needs was listed the number one priority among respondents, and the number one action to support this priority was town purchase of open space.

In 2005, in response to a recommendation of the *Town of Acton Open Space and Recreation Plan 2002 -2007*, the Board of Selectman created the Town of Acton Open Space Committee as an advisory committee to the Board of Selectmen. The mission of the Open Space Committee is to advise the Board of Selectmen and other Town boards on land acquisition and/or protection opportunities, identify state and federal funding opportunities for open space protection, and to act as sponsor and/or advocate for open space protection funding proposals to be presented to the CPC through the Board of Selectman.

One of the keystones of the Community Preservation Act (CPA) is the preservation of open space. In its initial years the Town of Acton CPC did not receive any applications specifically designated for open space/land acquisition, although several proposals, such as the Assabet River Rail trail, did include modest associated land purchase. In lieu of specific land purchases, and in recognition that land acquisition will likely require significant funds, the CPC has annually recommended to the Town the incremental set-aside of CPA funds for the future acquisition and preservation of open space. In addition, with the purchase of the Wright Terrace property which was bonded, there will be a continuing debt service payment each year which we assume will come from the set aside fund.

To date Town Meeting has approved the recommended set-aside of \$4,375,000 toward this purpose. The amounts that were appropriated each year are shown in the table below together with the amounts used to acquire open space (Table 3 from the *Town of Acton 2016 Community Preservation Plan, 9/2015*). This includes \$730,000 to purchase the Gaebel (Piper Lane) property, \$830,000 for the purchase of the Caouette property,

\$1,060,000 for the Anderson property, and most recently \$330,000 plus anticipated debt costs associated with the purchase of the Wright Terrace property in West Acton. An additional \$50,000 from the CPA general fund was used to fund stewardship costs related to the Anderson acquisition. In addition, \$100,000 in general CPA funds was used to purchase the Groener property. Also \$162,943 from the sale of the house at Piper Lane was returned to the Open Space Set-Aside Fund. As the table below indicates, the current Open Space Set-Aside Fund balance is \$1,951,572.

Sources and Uses of Open Space Set Aside Fund

Fiscal Year	Appropriations to the Set-Aside Fund (\$)	Appropriations from the Set-Aside Fund (\$)	Set-Aside Fund Balances (\$)
2003	200,000		200,000
2004	300,000		500,000
2005	400,000		900,000
2006	350,000		1,250,000
2007	500,000	730,000 (1)	1,020,000
2008	425,000		1,445,000
2009	500,000	830,000 (2)	1,115,000
2010	450,000		1,565,000
2011	500,000		2,065,000
2012	300,000	1,060,000 (3)	1,305,000
2013	450,000	330,000 (4)	1,425,000
2014	300,000	7,000 (4)	1,718,000
Other	162,943 (5) 70,629 (6)		1,880,943 1,951,572 (7)

(1) +/-5.25 acres off Piper Lane in South Acton plus a conservation restriction on adjacent +/-0.2 acres (2008 Gaebel land purchase with house; \$730,000 from Open Space Set-Aside).
 (2) +/-10.2 acres off Stow and Martin Streets in South Acton plus a conservation restriction on +/-3.1 acres of adjacent land (2010 Simeone/Caouette land purchase; initially \$1,000,000, later reduced to \$830,000 from Open Space Set-Aside).
 (3) +/-20.7 acres at the intersection of Arlington Street and Newtown Road west of Acton Center (2013 Anderson land purchase; \$1,060,000 from Open Space Set-Aside).
 (4) +/-14 acres located at 18 Wright Terrace (\$330,000 appropriated up front from Open Space Set-Aside, the remaining balance was bonded under the Community Preservation Program pursuant to M.G.L c. 44B, S 11). \$7,000 from 2014 funds is debt service on short term borrowing for this bond. Subsequent annual payments are estimated to be \$65,000+/- for the next 20 years from CPA funds.
 (5) \$162,943 from the sale of the house at Piper Lane was returned to the Open Space Set-Aside Fund as directed in the 2008 purchase appropriation (footnote (1) above).
 (6) Actual open space acquisition costs were somewhat below the appropriation amounts. This figure adjusts for that.
 (7) \$1,951,572 is the current Open Space Set-Aside Fund balance as of September 2015.

The Open Space Committee respectfully requests that the CPC continue the practice of maintaining and increasing the set aside fund, particularly in recognition of both the high cost of land acquisition/protection and the large degree of interest expressed by the Town of Acton citizenry in acquiring and preserving open space. The Open Space Committee also requests that the CPC consider this request together with the monies already set aside to be dedicated to open space acquisition and preservation and not be permitted to be used for recreation purposes. We understand that one of the changes in the state law governing the CPA is to allow the open space set aside fund be used for recreation purposes. Clearly the monies that had been set aside prior to this change in the law should be grandfathered and be permitted for use only for open space preservation. This application requests that the \$450,000 being requested for the set aside fund be similarly treated.

In recent years the CPC has successfully recommended to Town Meeting the purchase of five important parcels of land: the 12 acre Groener parcel abutting the Nagog Hill Conservation Lands, the 5.9 acre Gaebel parcel abutting the Great Hill Conservation Lands, the 11 acre Caouette parcel in South Acton, the 20.7 acre Anderson parcel located on Newtown Road near Arlington Street in West Acton, and the 13 acre parcel on Wright Terrace. In April 2014, Town Meeting voted by an overwhelming margin to purchase the Wright Terrace property and to do so by using both set aside funds in the amount of \$330,000 and bonding the remainder (approximately \$990,000) over a period of between 15 and 20 years. Previously in June 2013, Town Meeting voted unanimously to purchase the Anderson parcel which had been in negotiation for a considerable period of time. These overwhelmingly positive votes by the Town, together with prior votes to support land purchases, is indicative of the extremely high priority that the Town places on preserving open space.

Finally, the Open Space Committee is requesting that an additional \$20,000 be placed in the Open Space Acquisition and Preservation Fund established by the Community Preservation Committee and approved by Town Meeting in 2010. A copy of the "Policy for Open Space Acquisition and Preservation Fund" as approved in 2010 is included as an attachment to this application.

As by way of background to the above request, in 2010, the Open Space Committee noted that the purchase of targeted lands with CPA funds to that point had been successful, but that all purchases had been conducted outside of the normal CPC funding cycle. While the CPC was eventually able to react in a timely and supportive manner, the success in advancing these efforts was initially hindered by the lack of funds to conduct the necessary preliminary assessment activities, such as property appraisals and title searches. To that point, the Open Space Committee had to scramble to find funds for these necessary studies and appraisals so as to bring land protection proposals forward to the CPC and Town Meeting. In recognition of the fact that land purchase and preservation opportunities can be expected to occur (and so far have always occurred), outside of the normal CPC funding cycle, and that certain funds are necessary in order to advance these opportunities to a point where purchase can be contemplated and a

proposal for purchase be brought forward, the CPC approved the creation of the Open Space Acquisition and Preservation Fund. Subsequently, the Open Space Committee was able to advance the Anderson and Wright Hill Terrace projects to the point of determining fair value, and to bring these projects forward to the CPC and Town Meeting. It is the Open Space Committee's understanding that this fund currently has a balance of approximately \$6,800. The request for \$20,000 to be placed in an Open Space Acquisition and Preservation Fund is made so as to make this fund whole, particularly in light of the fact that two additional appraisals are currently in progress, which will likely result in the full depletion of this fund.

Project Scope. Since its inception the Open Space Committee, working with local land trusts such as the Acton Conservation Trust (ACT) and the Sudbury Valley Trustees (SVT, has identified several potential land acquisition/protection opportunities. Five of these have advanced through the CPC to actual land purchase approvals. Several other opportunities have been identified and currently are at various stages of discussion.

In past years the Open Space Committee has noted that (1) the likelihood of a significant land acquisition in Acton, Massachusetts would depend upon identifying owners interested in land protection over full development potential, and (2) that CPA funds set-aside for land acquisition would likely be inadequate to initiate a discussion of a land acquisition of any significant size or area. Experience has shown that the first of these observations is true. The landowners with whom we have successfully come to agreement, and those with whom we are in discussion, have generally expressed an interest and willingness to work with the Committee (and ACT) to come to agreement whereby the land has been protected at reasonable cost. Similarly, as the CPA Open Space set-aside has grown, we have observed more owners coming forward in hopes of protecting the land while recognizing a reasonable financial benefit from their asset. Having recently used a sizeable share of the set-aside fund toward the Anderson purchase in June 2013 and a smaller amount toward the Wright Terrace property in April 2014 together with associated bonding obligations, and given the fact that the Open Space Committee is engaged with several landowners in town, our request for funds this year is timely and important.

Review and Recommendation Criteria

As noted above, the acquisition and preservation of open space is one of the cornerstones of the CPA. The following section reviews the applicability of designating an Open Space set-aside and continuing to fund the Open Space Acquisition and Preservation Fund in relation to the Review and Recommendation Criteria of the *Town of Acton Community Preservation Plan 2011* as presented on page 27 of the Plan.

Consistency with the Town of Acton Community Preservation Plan. The acquisition and preservation of open space is a basic tenant of the CPA. The Town of Acton Community Preservation Plan fully adopts the CPA's focus to the point of quoting from the Act the definition of community preservation as including "the acquisition, creation and preservation of open space..."

Consistency with Town of Acton Planning Documents. The set-aside of funding dedicated to the acquisition and preservation of open space is highly consistent with the *Acton 2020 Community Plan* and the newly released and approved *The Town of Acton Open Space and Recreation Plan 2014 - 2021*.

The *Acton 2020 Community Plan* was approved at the 2012 April Town Meeting and one of its major goals is the preservation of open space. Specifically the Plan states that a key goal is to “protect, acquire, and improve open space for conservation, farming, and recreation.” The Plan goes on to state “that these efforts will be supplemented by continuing to purchase open space with CPA Funds.” Our request for money to be set aside and used for open space purchases is consistent with this plan.

The *Town of Acton Open Space and Recreation Plan 2014 - 2021* identified three specific goals: the preservation of the remaining elements of Acton’s rural character, environmental protection, and improved recreational opportunities. The objectives of these goals specifically reference the protection of existing open fields and meadows, to preserve and protect forests and to support local farms and farming. The Plan also notes the importance of working with key landowners in town to discuss options for the protection of land in the future. In addition, the Plan includes a priority list of critical parcels to protect in town. Clearly, the CPA Open Space set-aside is consistent with this Plan.

The set-aside and proposed fund are also clearly consistent with the *1998 Master Plan Update*. The Master Plan goals and objectives specifically includes reference to the protection of Acton’s remaining farmland, the conservation of open space parcels, the creation of green belts, and the management and enhancement of Acton’s existing conservation lands.

Economic Feasibility. The acquisition and preservation of open space in a town like Acton, where real estate values have increased dramatically, is an expensive proposition. Buying large parcels of land at market rates will likely require funds in excess of those available through CPA funding alone. Hence, significant open space purchases will generally require a number of convergent circumstances, such as a seller interested in land protection over maximized dollar value, and the participation of other entities in the funding process. The intent of the open space acquisition set-aside is to continue to develop a pool of money for land protection that gives credibility to the concept of land purchase in the eyes of both a potential seller and a potential acquisition partner. The addition of \$450,000 of set-aside moneys, together with the \$1,951,572 currently available in the fund represents an amount that may be of interest to a seller intent on a reasonable income from a land sale as well as to service the ongoing annual debt obligation on the Wright Terrace property. In this vein, the Open Space Committee requests that the Community Preservation Committee consider this request together with

the monies already set aside to be dedicated to open space acquisition and preservation and not be permitted to be used for recreation purposes.¹

Population Served. To the degree open space preservation serves the entire population it also serves an under-served population. Acton has a number a superb conservation lands and public open spaces. They are used for a range of passive and active recreational purposes, offer environmental protection for our water supplies, and scenic vistas for us as we go about our business. Similarly, there are a number of such spaces, some of which serve similar purposes, that are not currently protected as conservation lands or otherwise protected by conservation restrictions. As these parcels disappear, so does a portion of what makes Acton the livable community it is today. The Open Space set-aside and Open Space Acquisition and Preservation Fund² offer the hope of protecting some of these parcels that touch the lives of all of our citizens.

Multiple Needs and CPA Focus Areas. As noted above, in October of 2008 the CPC successfully recommended to Special Town Meeting the purchase of the Gaebel property. Doing so both expanded upon and protected the Great Hill Conservation Lands. It also contributed to the permanent protection of the 1840 Gaebel House, and the adjacent South Acton Historical District. In October 2010, Special Town Meeting approved the use of general funds to supplement CPA money to purchase the Caouette property which had initially been approved in April 2010. This purchase and the associated conservation and use restrictions protect this agricultural land, preserving one of the last major farmlands in town, and provides access to the Assabet Rail Trail, an important recreation option. The Anderson purchase in June 2013 was another important purchase that allows the town to protect and preserve a high priority open space parcel in town. It connects a major wildlife corridor as well as links major conservation lands in West Acton. Finally the purchase of the Wright Terrace property in West Acton also links key resource and conservation areas.

It can be presumed that future land acquisition or preservation efforts will similarly contribute to the protection of open space, the preservation of the town's character, the enhancement of passive and/or active recreational opportunities, the protection of lands of potential historic or archeological value, and/or the protection of properties that offer specific environmental benefits, such as groundwater protection.

Leverage of Funding. Experience shows that any significant land acquisition or preservation effort will require certain leveraging actions, including the likely surrender of some value of the land by the seller, and/or the contribution of additional funds by local or regional land trusts, governmental grants, and/or private funding initiatives. The

¹ We understand that one of the changes in the state law governing the CPA is to allow the open space set aside fund be used for recreation purposes. Clearly the monies that had been set aside prior to this change in the law should be grandfathered and be permitted for use only for open space preservation. This application requests that the \$450,000 being requested be similarly treated.

² We understand that there remains approximately \$6,800 in the Open Space Acquisition and Preservation Fund which is used to fund appraisals, environmental reviews, legal costs and related pre-acquisition costs.

initiation of the discussions concerning all four parcels, for example, was the result of persistence and on-going contribution of significant time and effort on the part of the ACT, SVT, and the Town of Acton Open Space Committee. Indeed the Anderson purchase reflected the culmination of over five years of discussion and negotiation. These purchases involved owners who were willing to forego some financial benefit in return for the permanent protection of these lands. More recently, the Wright Terrace Project was an example where dedicated citizens put both their time and their own monetary resources into insuring that a unique and special piece of open space with significant historical value was held until such time as the Town could mobilize to insure its protection.

Relation to Town Assets. The potential for expanding existing Town lands, or creating links between existing and neighboring town lands, is always possible. Together, the five parcels purchased by the town using CPA funds have added approximately 63 acres to existing Town-owned conservation lands. The protection of the Gaebel parcel has also contributed to the protection and preservation of the 1840 Gaebel House adjacent to the South Acton Historic District. The acquisition and protection of the Caouette farmland adds approximately 11 acres to Town-owned conservation land, protects another 4 acres against future development through a conservation restriction, and also provides a possible link to the future protection of nearby Stonefield Farm. The Anderson purchase protects 21 acres as conservation land and, similar to the Caouette purchase, provides a possible link to the future protection of additional adjoining land. The Wright Terrace property protects another 13 acres as conservation land and protects against development by means of a conservation restriction and provides the potential for new trails connecting the West Acton village to nearby conservation lands.

Consistency with Past Town Meeting Actions. The Project is consistent with recent Town of Acton Town Meeting actions, which included the setting aside a total of \$4,675,000 over the course of 12 years of CPA funds for open space acquisition and preservation, and the authorization to purchase the Groener, Gaebel, Caouette, Anderson, and Wright Terrace parcels.

Competency to Implement. It is presumed that the Town of Acton will be applicant or co-applicant of any proposal to utilize CPA Open Space set-aside funds. The Town has successfully demonstrated competency in the implementation of CPA projects.

Site Control. It is presumed that ownership and/or a conservation restriction to which the Town is party will be required for any CPA open space land acquisition or preservation proposal funded with set-aside funds.

Policy for Open Space Acquisition and Preservation Fund

Establishment of the Fund

Pursuant to § 5(b)(2) of the Community Preservation Act, the Community Preservation Committee ("CPC") has recommended that Town Meeting appropriate from the community preservation fund the sum of \$25,000 in Fiscal Year 2011 to establish an Open Space Acquisition and Preservation Fund (the "Fund") to be expended by the Open Space Committee, subject to the approval of the Board of Selectmen, consistent with this policy, for advancing the acquisition and preservation of open space in the Town of Acton.

Purpose of the Fund

The purpose of the Fund is to advance opportunities to acquire and preserve open space which opportunities may otherwise be lost, jeopardized, impeded or delayed by the Town's inability to secure the opportunity due to the interval between Town Meetings. Bringing to fruition open space acquisition and preservation opportunities often requires certain initial expenditures to determine the value of the property, to evaluate the merits of the transaction, and to negotiate and prepare transaction documents to preserve the opportunity before the actual project can be brought forward for CPA funding. The purpose of this Fund would be to allow the Open Space Committee, with the approval of the Board of Selectmen, to access a limited amount of CPA funds, supplemented by other funds as set forth below, for such preliminary expenditures in the interval between Town Meetings.

Sources of Funds

In addition to any appropriation to the Fund of CPA funds as recommended by the CPC and approved by Town Meeting, the Fund shall include such other funds as the Open Space Committee and the Board of Selectmen may obtain for this purpose from other sources such as gifts and donations associated with open space preservation efforts.

Uses of the Fund

Expenditures from the Fund may be used for the following purposes:

- Appraisals consistent with CPA § 5(f),
 - environmental studies, including wetlands delineation and 21E investigations;
- and

- legal work related to potential land acquisition and protection, transaction documents, title searches, open space restrictions, and analysis and resolution of legal issues.
- Deposits to bind offers to purchase, P&S agreements, options, or similar instruments to preserve the opportunity pending Town Meeting action.

To the extent another potential use might arise for use of this Fund, the Open Space Committee may petition the Board of Selectmen and the CPC for permission to use money from the Fund for this use. It is the intent of this Fund that the monies shall only be used for purposes related to open space acquisition and preservation.

It shall be the intent also that the open space acquisition and protection projects for which the CPA money from this Fund would be used ultimately would be funded in whole or in part by CPA funds.

Procedures for Accessing Money from the Fund

The Open Space Committee shall be responsible for requesting permission from the Board of Selectmen to access money from this Fund for one of the uses listed above. The Open Space Committee shall make a written request to the Selectmen outlining generally the reason and the use for the money, and the Selectmen are encouraged to vote on the request at the earliest opportunity after giving the Open Space Committee the opportunity to explain in detail, and in executive session if permissible, the reasons for the request.

If the open space acquisition and preservation opportunity does not result in a concrete proposal being presented to and approved by the CPC and Town Meeting for funding from the CPA, the Open Space Committee shall recommend to the Board of Selectmen that any money used from the Fund for that project shall be replenished from the municipal operating budget or any other available source.

Policy Approved as follows:

- By the Open Space Committee at an open meeting on February 26, 2010;
- By the Community Preservation Committee at an open meeting on March 4, 2010; and
- By the Board of Selectmen at an open meeting on April 26, 2010.