

Your Guide To Understanding **LAND CONSERVATION**



ABOUT US

We are a nationally accredited, non-profit land trust focused on preserving the Lake Country region and beyond. We believe in protecting farmland, water and open spaces within our community to honor generations past, maintain a connection to our rural heritage and preserve these irreplaceable resources for future generations to enjoy.

Tall Pines Conservancy

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Conservation Options Available to Landowners

When a landowner is considering options for conserving their land, there are various options available. The two key decisions the landowner will have to make center around **land ownership** and **financial contribution**. Tall Pines Conservancy is most commonly engaging in easement transactions in which the landowner retains ownership but relinquishes development rights to their land.

Land Ownership (Easement vs. Land Transfer)

For landowners who want to retain ownership of their land, a conservation easement is the best choice for land conservation. A conservation easement is a permanent, legally binding agreement between a landowner and a qualified conservation organization or public agency that places deed restrictions on the property to protect important natural and cultural resources by limiting activities and uses. The easement reflects the landowner's individual needs and wishes for the land and gives the landowner the right to manage and sell the land.



For landowners who do not wish to leave their land to heirs, or no longer use the land, land transfer may be the best option. When land is transferred for the purpose of conservation, the entity to whom the land is transferred will typically work with another entity to place the land under conservation easement to ensure protection of the land in perpetuity.

Financial Contribution (Donation vs. Purchase)

Deciding whether to donate or pursue funding through a federal/state/local program is a personal decision that needs to align with a landowner's goals and financial situation. Donation of land or an easement may qualify for tax benefits and avoids potentially lengthy processes and review times to secure outside funding.

Understanding the Purchase of Development Rights Option

In a **Purchase of Development Rights (PDR)** program, a landowner voluntarily sells their development rights to a governmental agency or land trust. The agency or trust pays the landowner for the land's development value. This is the difference between the value of the land in its current use and the value after it is protected. For example, if a farmer's land is worth \$3000 an acre for agricultural use and \$5000 an acre for development, the farmer can sell his development rights for \$2000 an acre.

When the sale occurs, a legal document called a conservation easement is created. This easement restricts (in perpetuity) the use of the land to farming, open space, and wildlife habitat. The farmer retains private ownership of the land and can sell it, hold it, or pass it on to heirs.

The concept of selling one's development rights is tied to private property rights. If one owns land in the United States, what is owned is a bundle of rights. These rights or "sticks in the bundle" include water rights, air rights, mineral rights, the right to sell land, the right to develop it, the right to pass it on to heirs, and the right to use the land in many different ways. A landowner can choose to separate individual property rights from the bundle, and can sell, donate, or otherwise encumber these rights.

\$5000 PER ACRE	Value of property prior to protecting land with a conservation easement
- \$3000 PER ACRE	Value of property after protecting land with a conservation easement
= \$2000 PER ACRE	Value of conservation easement (i.e. development rights) <i>**potential value of tax-deductible charitable gift)</i>

Conservation Easements














What is a conservation easement?

A conservation easement is a voluntary land preservation agreement negotiated between a landowner and an easement holder. In this process, the landowner is giving up a “stick” (development rights) from their bundle of property rights, while retaining overall ownership of the land. To qualify for tax benefits, the restrictions must last in perpetuity – easements are forever. An easement must advance a conservation purpose and result in a public benefit.

What uses are permitted and prohibited on conservation easement land?

Typically, conservation easements held by a land trust allow the landowner to continue to use the land for agriculture, forestry, non-commercial outdoor recreation, wildlife habitat management, and all other uses that are compatible with the conservation goals for the property and not specifically prohibited by the easement terms.

Conservation easements generally prohibit subdivision and development, commercial and industrial activities (except agriculture and forestry), mining and excavating, filling or disturbance of wetlands, and disposal of manmade waste or hazardous materials.

Permitted	Conditional	Prohibited
 Agricultural activities	 Houses <ul style="list-style-type: none">• Number of houses• Reasonable expansion• Farmer or farm worker occupied• Location	 Unlimited residential development
 Agricultural structures	 Permanent agricultural structures <ul style="list-style-type: none">• Size• Location	 Unlimited subdivision
	 Subdivision <ul style="list-style-type: none">• New parcel size• Remain viable for agriculture	 Commercial and industrial development
	 Rural enterprises <ul style="list-style-type: none">• Ancillary to farm business• Support viability for agriculture• Location	 Unlimited commercial mineral extraction
	 Renewable energy structures <ul style="list-style-type: none">• Scaled for on farm use• Plan for decommissioning• Location	 Activities that harm agricultural resources or prevent agricultural use
	 Impervious surfaces <ul style="list-style-type: none">• Area covered• Location	

When a landowner works out the details of the easement with the easement holder, the landowner should try to anticipate as many future possibilities for the land as possible.

Specific exceptions may allow an additional house lot on the property or the right to build and maintain roads and buildings. Sometimes landowners put conservation easements on only a portion of their property reserving full development options for the balance of the land.

What Are The Costs and Benefits Associated with a Conservation Easement?

Costs	Benefits
<ul style="list-style-type: none">• Devaluation of the land with the sale/donation of the development rights to a land trust• Expenses for items such as legal fees, survey and appraisal costs, baseline documentation preparation or other professional services• Land trust typically requests a donation from the landowner to support monitoring the property and for any legal expenses that may be necessary to enforce the terms of the easement	<ul style="list-style-type: none">• Access some of the land's cash value now without having to sell the land• Retain the right to own, farm, and sell the property• Permanently protect important farmland while keeping the land in private ownership and on local tax rolls• Make land more affordable to future farmers• Donation of a conservation easement to a qualified conservation organization is treated as a charitable deduction for tax purposes• Lower the property's value for federal estate tax purposes and potentially decrease estate tax liability facilitating generational transfer• Potentially reduce property taxes on the land. Under Wisconsin law, local property tax assessors are required to consider the effect of a conservation easement when setting the taxable value of the property• Ability to take direct action that can benefit the entire community

What are the steps involved in developing a conservation easement with Tall Pines Conservancy?

Depending on the funding source (landowner donation or purchase of development rights) it can take anywhere from 1 to 3 years to get from an initial project idea to closing and official land protection. The following summarizes Tall Pines Conservancy's typical process for land conservation with a conservation easement.



INTAKE (2-3 months)

Upon contact from a prospective landowner about their interest in land conservation, Tall Pines Conservancy will conduct a desktop review of the various conservation values present on the property (agricultural land, wetlands, forest, other ecological resources). The prospective easement and values identified in the initial assessment are scored against our selection criteria. If the property passes our Conservation Committee's review, it is assigned a score and prioritization, and we engage further with the landowner.

FUNDRAISING (1-2 years)

If the landowner chooses to pursue a purchase of development rights, Tall Pines Conservancy will work with the landowner to secure funding. There are various federal, state, and local funding programs available and Tall Pines Conservancy will work in collaboration with the landowner to submit grant applications and requests for donations to support the project.

EVALUATION (7-10 months)

Tall Pines Conservancy drafts the initial easement deed and baseline documentation report, which serves as a snapshot in time of current conditions and existing conservation values of the property. These documents are then provided to the landowner to review, ideally with legal counsel, to ensure they meet the landowner's needs and goals for the property. For purchase of development right projects, once the easement and baseline are accepted, Tall Pines Conservancy will contract an appraisal to determine the value of the land prior to and after the easement. This initial appraisal step is not required for projects in which the landowner is donating the development rights.

COMPLETION (1 month)

Once the landowner is prepared to close on the easement, we set up a date and location to sign and record the easement and baseline documents. The landowner is then required to contract a final appraisal and provide that appraisal, along with a document known as Form 8283, to Tall Pines Conservancy for review. Form 8283 acknowledges the value of the landowner's donation and potential tax deduction. We recommend the landowner work with an attorney or tax professional to complete this step.

ONGOING RESPONSIBILITIES (in perpetuity)

As a nationally accredited non-profit land trust, Tall Pines Conservancy is obligated to perform annual monitoring of all properties and easements, and to do so in perpetuity. We are also responsible for legally defending any perceived impacts or infringements to the conservation easement and hold a secure fund to support legal defense in the instance that we need to do so.

We also identify backup easement holders so that the land will always be held in an interest that supports the conservation easement, even if Tall Pines Conservancy ceases to exist in the future. This ensures the property's conservation values for generations to come, fulfilling our commitment to enduring stewardship.

What expenses can a landowner expect to incur when working with Tall Pines Conservancy to protect their land with a conservation easement?

Completing the conveyance of a conservation easement involves significant costs. Beyond legal expenses, costs are incurred in completing required environmental assessments, as well as a baseline documentation study of the subject property. These steps are required by federal regulations and include fieldwork to document, inventory, and photograph the property's existing conditions, improvements, and conservation values.

Tall Pines Conservancy typically covers the majority of these project transaction costs. However, the landowner should be prepared to engage and pay for their own legal counsel as well as the costs associated with a qualified appraisal for the purposes of a tax deduction. The landowner may also be required to cover up to 50% of any required survey costs, depending on the details of the project and the survey needs.

Tall Pines Conservancy also requests a Stewardship Contribution from the landowner to support our ongoing responsibilities of monitoring and legal defense of the conservation easement. This Stewardship Contribution, determined in accordance with Tall Pines Conservancy's Stewardship Policy, is placed in an existing interest-bearing fund, the proceeds of which are used to cover monitoring expenses, while the principal remains available for legal defense should it be necessary to enforce the terms of the easement. This voluntary contribution is critical to supporting the perpetual maintenance of the conservation easement and qualifies for a charitable tax deduction.

***Tall Pines Conservancy thanks American Farmland Trust for the use of some information found in this communication.
Visit their website at farmland.org***