

CONSERVATION OPTIONS

Landowners have many options available to them when making long-term conservation plans for their property. A variety of techniques can be tailored to fit your unique circumstances. Selecting one or several of these options depends on the natural characteristics of the land, your family's objectives, your sense of stewardship and personal issues concerning your tax and estate planning. Members of the Durham Land Protection Working Group are available for confidential discussions on conservation options, along with your legal and/or financial advisor. We provide here brief descriptions of several conservation options that you may consider for your land, as well as how the Durham Land Protection Working Group can assist you in the process of conserving your property.

Conservation Options: Retaining Ownership and Management

If your goals include retaining the ownership and management of your land and protecting it for future generations, a conservation easement ensures permanent protection of the natural resource while leaving its use and management in private hands.

Conservation Easements

If you own land, you have certain rights to use or modify the resources – soil, minerals, trees, vegetation - as well as the right to sell or transfer the ownership of the land, subdivide and develop it.

A conservation easement is a legal agreement a land- owner makes with a qualified organization whereby the landowner keeps the land and its resources but restricts the use of the land such as the type and amount of development that may take place on his or her property. These “development rights” can be restricted by a qualified organization (the “grantee”) through a conservation easement deed. The grantee agrees to hold but not use the development rights and ensures that they are not used by anyone else. Conservation easements are granted in perpetuity and apply to the land regardless of who may own it in the future.

A landowner may choose to either donate or sell a conservation easement to a qualified organization, such as a government entity or private nonprofit 501(c)(3) conservation organization. If donated, income tax benefits may be realized by the landowner.

Working together, the landowner and grantee can determine appropriate land uses, evaluate the significant resources, and tailor the easement's restrictions to the particular property. Identifying land set aside for “limited development” of an additional house site(s) may be negotiated in certain cases.

Conservation Options: Relinquishing Ownership and Management

If your goals include relinquishing the ownership and management of your land and protecting it for future generations, there are several options:

Sale and Bargain Sale of Land

If funding is available, and the land contains one or more of the Town of Durham's land conservation priorities, the town may be able to buy land “in fee” and become the full owner of the land. If the landowner is willing to sell for less than the appraised fair market value (this is known as a “bargain sale”), the landowner may realize income tax benefits. The sale of your land can also be tailored to allow you to live on the land for a period of years or for the rest of your life.

Gift of Land

A landowner can choose to donate or “gift” their property to a qualified organization. Substantial income and estate tax benefits may be realized by the landowner. Gifts of land can be given during your lifetime, or through your will. Gifts of land can also be tailored to allow you to live on the land for a period of years or for the rest of your life.

MORE ABOUT CONSERVATION EASEMENTS

What restrictions can be included in a conservation easement?

An easement can include any restrictions agreed to by both the landowner and the easement holder. Most conservation easements prohibit commercial uses, construction of buildings and mining, while permitting sustainable timber harvesting and agriculture.

Who accepts and enforces conservation easements?

Private non-profit conservation groups such as the Society for the Protection of New Hampshire Forests, The Nature Conservancy, the Audubon Society of NH, Rockingham Land Trust, and Strafford Rivers Conservancy are equipped to receive and enforce conservation easements. Public agencies, including towns, can also hold easements.

What are the benefits to our community?

Agricultural and forest lands, natural areas, and scenic vistas are vital to preserving Durham's scenic character. Conservation easements can provide great public benefits – wildlife habitat, recreational spaces, trail corridors, stabilized property taxes, clean water, clean air, flood control – at a fraction of the cost of outright public ownership. While zoning and public ownership can accomplish some land use goals, the gift or purchase of a conservation easement enables the private landowner to make a contribution to the community that will last forever.

What are the benefits to the landowner?

Landowners may have several reasons to favor a conservation easement. They may wish to ensure that property is left in an undeveloped state even after their death, or they may use qualified conservation easements for financial and estate planning purposes.

Landowners can give an easement on their land as a gift, or can be sold in a bargain sale to a conservation group or government entity. An easement donation that meets federal tax code requirements (provides public benefit by permanently protecting conservation resources) can qualify as a tax-deductible charitable donation. For income tax purposes, the value of the donation is the difference between the land's value with the easement and its value without the easement.

A conservation easement can be essential for passing land on to the next generation. By removing the land's development potential, the easement lowers the land's market value, which in turn lowers estate tax. Whether the easement is donated during life or by will can make a critical difference in heirs' ability to keep the land intact. Because each conservation easement is written with the landowner's wishes for future use of the land, the greatest reward for most landowners is the knowledge that their land's special features will be protected.

Strong Community Support for Land Conservation in Durham

In 2002-2003, Durham voters approved a \$2.5 million bond measure to support land conservation. By a strong majority, Durham residents showed their commitment to protecting Durham's scenic character and valued open lands.

The key element to the successful fulfillment of this community resolve will be building partnerships with landowners in Durham who are interested in conserving their land.

Despite years of "hot" real estate markets, many of Durham's private lands with high scenic or conservation values have remained undeveloped. Now, with town bond funds available, Durham is in a special position to help landowners conserve their land in ways that are good for the land, good for Durham, and make good financial sense for landowners.

This publication summarizes basic information about conservation options that allow landowners to conserve their property for their children and for future generations.

Durham Land Conservation Priorities

The current land conservation initiative in Durham hopes to protect more than 500 acres of land, focusing on lands which have critical conservation values such as:

- Scenic Views
- Drinking Water Protection
- Farmlands
- Wildlife Habitat & Wetlands
- Greenways
- Passive Recreation & Trails
- Forestlands

All land or easement transactions will require an appraisal prepared by a licensed professional appraiser. Conservation projects that stretch our public dollars further – easement donations, bargain sales, and use of matching funds from outside organizations – will be given a high priority.

For more information:

To learn more about how to protect your land, contact a member of the Durham Land Protection Working Group:

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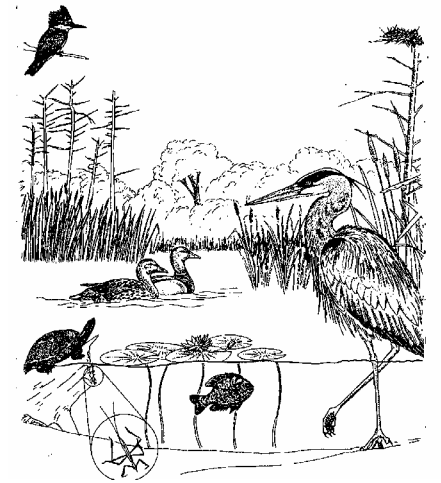
About the Durham Land Protection Working Group

The Durham Land Protection Working Group is an independent group of Durham residents working to help conserve land in Durham. Members work in partnership with the Conservation Commission to research land conservation opportunities, contact landowners, and work on funding for land protection. An independent group allows for private and confidential discussions with landowners before proposals are brought to the Town Council for funding approval.

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Conservation Options for Durham Landowners

How to Conserve Your Land for Future Generations



Presented by the Durham Land Protection Working Group