

## Leaving a Legacy – Introduction to Conservation Easements



### What is a landtrust?

- A private non-Profit organization that works with landowners to conserve and protect natural areas, family farms, rural landscapes, and historic places.



### Why do we protect land?



“In the end, our society will be defined not by what we create, but what we refuse to destroy.”

- John Sawhill, late president of The Nature Conservancy

### Why Protect Land?



- **Biodiversity** – Preserve species and Ecological Importance
- **Clean Water, Clean Air** – riparian buffers, carbon sequestration
- **Recreation** – Hiking, Canoeing, Mountain Biking, Horseback riding, Hunting, Fishing
- **Cultural and Historic Resources** – Protect our Heritage, Understanding of past societies
- **Farmland Preservation** – Source of healthy local food, economic importance
- **Open Space Preservation** – Connection to Land, Scenic and Rural Landscapes, Quality of Life

### *History of the land trust movement*

#### First land trust

Trustees of Reservations, MA (1891)

#### First N.C. land trust

Southern Appalachian Highlands Conservancy (1974)\*

#### 2012 N.C. land trusts

23 private non profit organizations  
2 Statewide

#### Umbrella Organization

National Level – Land Trust Alliance





### History of Three Rivers Land Trust

1994	Yadkin Pee-Dee Lakes Project Incorporated
1995	Articles of Incorporation Filed 501(c)(3) Status Achieved First Property Protected – Coolemees Plantation
1997	First Acquisition – Gold Hill Rail Trail
2001	Jason Walser Becomes Executive Director
2002	Uwharrie Field Office Opens, Kevin Redding – Uwharrie Trail, Uwharries Become a Focal Area
2004	Original Board Members Begin Rotating Off Board
2006	Low Water Bridge Preserve in Uwharries bought, 1288 acres
2010	Third Strategic Plan Completed
2013	24,000 acres protected
2014	Nationally Accredited through Land Trust Alliance!
2016	Travis Morehead becomes ED
2018	The LandTrust for Central NC is Three Rivers Land Trust
2019	TRLT merges with Sandhills Area Land Trust
2020	TRLT Reaccredited
2022	46,000 acres protected!



### Land Trust Accreditation

- National accreditation program administered through the Land Trust Alliance, national umbrella organization. Insures Land Trust operates under highest professional, legal, ethical and administrative standards. Year-long application process.
- Addresses organizational policies and procedures. Primarily focuses on ethical & legal conservation transactions that permanently protect conservation values and planning & execution of long-term land stewardship obligations.
- State of North Carolina has indicated it will not award tax credits to conservation easement donations to non-accredited land trusts in future.
- LTCNC worked with LTA under their "Advancement Program" for high-performing land trusts to who need assistance in accreditation process.
- In 2014, LTCNC received national Accreditation, and in 2020 TRLT was Reaccredited for another 5 year term



### Methods of Land Conservation

- Donation of Conservation Easement
- Purchase of Development Rights
- Donation/Purchase of Fee Simple Interest
- Assists



### Varieties of Conservation Easements

- Forever Wild Easements (*Stanback Farm*)
- Farmland Protection Easements (*Hoffner Farms*)
- Ecosystem Enhancement Program – (*Lewis Easement*)
- Typical Donated Easement – (*Davis Family Easement*)



### What exactly is a Conservation Easement?

- A written agreement between a landowner and a qualified conservation organization or public agency, in which:
  - The landowner (Grantor) promises to keep the land in its natural condition without extensive disturbance, and
  - The conservation organization or public agency (Grantee) is granted the right to enforce the covenants of the easement and to monitor the property.



### Conservation Easement Skeleton

Recitals  
 Purpose of the Easement  
 Rights of Grantee  
 Duration of Easement  
 Reserved Rights of Grantor  
 Prohibited Uses  
 Enforcement & Remedies  
 Documentation & Title  
 Miscellaneous  
 Signatures  
 Exhibits



## Conservation Easement Options

- Flexibility
- Subdivision
- Homesites
- Forest Management
  - Depends on funding type
  - Donated easements
- Conservation Plan – Agricultural Practices
- Agricultural Structures
- Impervious surface
- Hunting
- Recreation
- ATV Use



## Conservation Easement Tax Benefits

### Federal Income Tax Deduction (enhanced benefits permanent)

- Easement value may be deducted
- Up to 50% of Adjusted Gross Income\*
- Can carry forward for 15 additional years, if needed

### State Income Tax Credit (expired January 1, 2014\*)

- 25% of easement value
- Could carry forward for 5 additional years, if needed
- Capped at \$250,000 for individuals, \$500,000 for corporations

### Federal Estate Tax Savings

- Land is valued subject to easement
- Estate can reduce value of land by additional 40%, up to \$500,000
- Easement can be donated post-mortem



## Conservation Easement Valuation

- Conservation Easement Appraisal by a professional licensed appraiser
- Shows before value – if it could be developed
- Shows after value – with the restrictions of the easement
- Difference is the easement value
- No hard and fast rule, but somewhere between 40% and 60% of the Property Value



## Frequently Asked Questions - Easements

- How large must my land be to donate an easement?
- Can my children sell the land if I conserve it?
- Does an easement prohibit eminent domain?
- Will my county taxes be lowered if I place an easement on my land?
- How much will my land be depreciated by an easement?
- What if The LandTrust ceases to exist?
- Can I still harvest timber if I place an easement on my property?
- Can't I do the same thing by placing deed restrictions on my property?



## Sources of Project Funds



## Sources of Project Funds



Funds projects focusing on water quality protection, and as of 2014 merged with the Natural Heritage Trust fund, to take on their duties as well. Appropriated annually by legislature. Applications due in February, announcements in September.



Purchases land/easements within 300 feet of perennial streams. Used for mitigation purposes. State holds easements. Land trusts contract to monitor. Little funding for land trusts at this time.



### Sources of Project Funds



No longer exists. Merged with CMWTF in 2014.



Ongoing negotiations to purchase Uwharrie Mt. region tracts. Formerly, funds were received mainly by earmarks. Now LWCF process, which is more competitive.



### Sources of Project Funds



Has funded N.C. Agricultural Development & Farmland Protection Fund last several years to protect farmland. Purchases conservation easements on farms, typically in partnership with NRCS funding. Applications due in December, announcements in August.



Purchases easements on working farmland. Will fund 50% of easement value, but must be matched by non-federal dollars. Cycle varies year to year.



### Sources of Project Funds



Southeast Resilient Landscapes Fund. Will fund conservation land and easement acquisitions at a 5:1 match. Not currently accepting applications.



Environmental Enhancement Grant. Part of Smithfield settlement. Primarily for land acquisition along important waterways.



### Sources of Project Funds



Alice Zawadzki Land Conservation Fund. Up to \$3000 for land conservation projects, including acquisition and transactional costs.



North American Wetlands Conservation Act. Up to \$1 million for land acquisition, primarily wetlands, with a 1:1 match requirement.



## Sources of Project Funds



Enviva Forest Conservation Fund. Partnership of Enviva and US Endowment for Forestry and Communities. Land and easement acquisition, focus on bottomland hardwood forests.



Private charitable fund that will fund land conservation primarily in Cabarrus County and surrounding counties.



## Steps to a Conservation Easement

- Initial contact with landowner
- Provide landowner w/ basic info on CEs, the tax benefits, & the TRLT
- Site Visit
  - Advise landowner re: Legal Counsel & Tax Advice
  - Costs to landowner: Legal Fees, Appraisal, Survey, Stewardship
  - Provide list of appraisers, surveyors & attorneys with CE experience
  - Discuss Buffer Policy and provide a copy
  - Discuss Stewardship Endowment, & provide copy of Policy & Calc.
  - Discuss whether there are any title encumbrances, mortgage, etc.
  - Do they own the mineral rights
  - Discuss landowner's goals for the property & the CE
  - When was the last survey completed? Assess whether survey will be required.
  - Discuss appraisal guidelines & provide landowner w/ appraisal disclaimer letter
- Complete Land Protection Prioritization score
- Prepare Staff Report
- Committee review and approval
- Board review and approval
- Draft and Negotiate CE



## Steps to a Conservation Easement

- Title Review
- Legal Review
- Schedule Closing Date
- Prepare Baseline
- Prepare Attachments
  - Exhibit Map
  - Property Description
- Close
- Send substantiation letter
- Send landowner Form 8283
- File Documents
  - Copy of CE and Baseline in Safety Deposit Box
  - Copy of CE and Baseline to land owner
  - Create Binder
- Press Release
- Post Boundaries

### Land Protection Checklist

	Yes / No	Points
1 The property is within our 10-county administrative area.		
2 The LandTrust has the capacity to steward this property is perpetuity (stewardship endowment included or property has ability to generate stewardship income)		
3 The property is of sufficient size that it's conservation resources are likely to remain intact.		
3a 40-70 acres (1 point)		
3b 70-100 acres (2 points)		
3c 100+ acres (3 points)		
3d 1000+ acres (4 points)		
4 The property contains identified rare/endangered species, areas of high biological diversity, or areas that have been included in the county's Natural Heritage Inventory, or has been identified as natural community by North Carolina Natural Heritage Program.		
4a The property has a Natural Heritage Element Occurrence or a Significant Natural Heritage Area, and the rank determines the score: C1, R1, S1, S1A = 5 points; C2, R2, S2, S2A = 4 points; C3, R3, S3, G3, C = 3 points; CA, RA, SA, GA, D = 2 points; C5, R5, S5, G5 C,F,H = 1 point		
4b There are WetEO or Shrub elements within a 1 mile radius of the property. (1 point)		
5 The property is in close proximity to privately or publicly protected lands.		
5a The property is within one mile of protected land. (1 point)		
5b The property shows a boundary with protected land. (3 points)		
6 The property provides educational value, public access and/or recreational use, particularly river or trail access.		
7 The land has the potential to become part of a community, regional or state park or greenway system.		
8 The land has historic and/or cultural significance or is adjacent to land with historic and/or cultural significance.		
9 The property is in one of our focal areas (Waharrie's & Two Rivers areas). (2 points)		
10 Protection of the property will contribute to landscape level conservation by linking priority conservation areas (Waharrie to Two Rivers, Sandhills)		

### Land Protection Checklist

12 The land/for easement is donated (instead of purchased).		
11 The property is primarily forestland or agricultural land		
13 The property is implementing unique forestry management and stewardship for biodiversity and wildlife.		
The property is located in a farming community, or is implementing farm to table or organic farming practices, or has 50% or more prime or state important soils, no till farming.		
14 The property protects a lake, stream, river, wetlands or an important watershed area.		
15 The property is located in an area that has the potential to generate more conservation projects.		
The property is valuable to the community as open space due to its proximity to developing areas or its prominent position in how people perceive their community.		
17 Protection of the property will protect a scenic viewshed		
18 The land/easement donor has a strong leadership role in the community		
19 The project involves a unique conservation partnership or a new or diverse user group		
Does the project have any problems associated with any of the following: (if the property has any of these issues, it must first be discussed with the Land Protection Committee chair to evaluate compelling reasons to continue)		
20		

### Land Protection Checklist

20 Does the project have any problems associated with any of the following: (if the property has any of these issues, it must first be discussed with the Land Protection Committee chair to evaluate compelling reasons to continue)		
20a Access ( - 1 point)		
20b Tax or Legal Issues ( - 1 point)		
20c Title Issues ( - 1 point)		
20d Minerals Rights Issues ( - 1 point)		
20e Hazardous Materials ( - 1 point)		
20f Project Funding ( - 1 point)		
20g Conflicts with other conservation projects/priorities ( - 1 point)		
20h Conflicts of interest ( - 1 point)		
20i Project would require excess investment of LandTrust staff time, management capacity or financial resources ( - 1 point)		
20j For conservation easement proposals, the landowner or other project supporters are unwilling or unable to make an adequate donation toward the Stewardship Fund to sustain long-term monitoring and enforcement of the easement. ( - 1 point)		
20k The landowner is not sufficiently committed to land conservation or insists on provisions in a conservation easement that the LandTrust believes would seriously diminish the property's primary conservation values or the ability to enforce the easement. ( - 1 point)		
20l There is reason to believe that the land/easement would be unusually difficult to manage/enforce; for example, because of multiple or fractured ownership, difficulty of access, frequent incidence of destructive trespassing, landowner or other restrictions, irregular configuration, etc. ( - 1 point)		



## 1031 Exchanges

- A 1031 exchange is a swap of one real estate investment property for another that allows capital gains taxes to be deferred. The term gets its name from Section 1031 of the Internal Revenue Code (IRC).
- A 1031 exchange is a tax break. You can sell a property held for business or investment purposes and swap it for a new one that you purchase for the same purpose, allowing you to defer capital gains tax on the sale. Proceeds from the sale must be held in escrow by a third party, then used to buy the new property; you cannot receive them, even temporarily.
- The properties being exchanged must be considered like-kind in the eyes of the IRS for capital gains taxes to be deferred.
- If used correctly, there is no limit on how frequently you can do 1031 exchanges.
- You can use funds you are paid for a conservation easement for a 1031 exchange to buy additional properties.

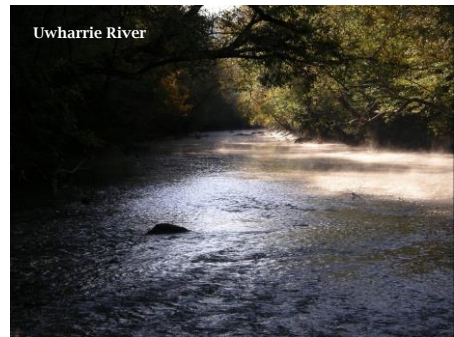


## Other ways to protect land

- Fee Donations
  - To TRLT to add on to our preserves
  - Assist to state agency – state parks, gamelands, national forest
- Trade Lands
  - Tracts not high in conservation value that we can sell and use the proceeds to do other conservation work
- Natural Heritage Registry
  - If you have a special natural area you can register it with the state, no real protection but identification as a special place
- Voluntary Ag District
  - Can provide additional points for farmland conservation grants and can offer some protection against nuisance lawsuits

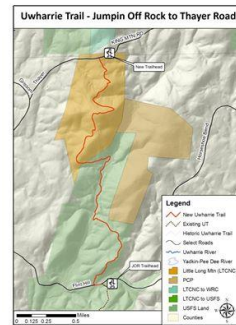
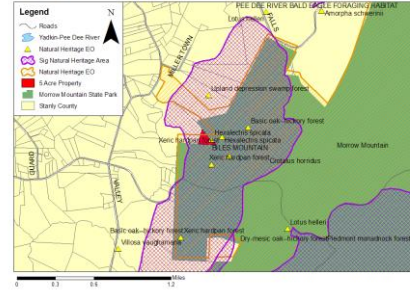


## Three Rivers Land Trust Sampling of Projects

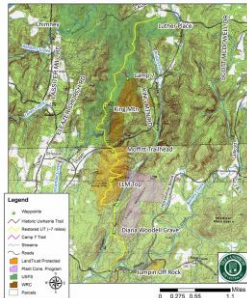




### 5 Acres Beside Morrow Mountain State Park

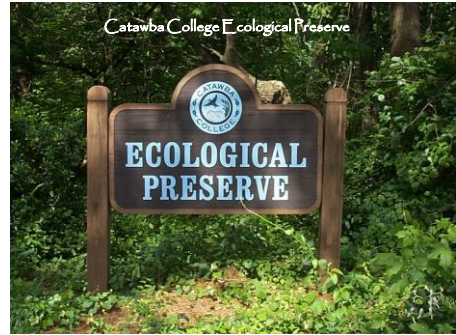


### Uwharrie Trail - Jumpin Off Rock to Pisgah Covered Bridge Road



[illegible]

The map displays the Spring Creek Property, a large area of land in Davidson County, Tennessee. The property is divided into several colored regions: a large red area (Springer Property), a yellow area (Acre), a green area (Land Trust Protected), a dark green area (Beebe's Cave Park), a light green area (Riparian parcels), an orange area (Other parcels), and a light orange area (Davidson parcels). The map also shows major roads like I-77, I-85, and US-421, and surrounding areas like Davidson County and Davidson. A legend in the bottom right corner identifies the symbols and colors used on the map. An inset map in the top right corner shows the location of Davidson County within the state of Tennessee, with labels for Davidson, Davie, and Rowan counties.





#### Recreational Opportunities in the Uwharries

- Hike the Uwharrie Trail
- Paddle the Uwharrie River
- Mountain Biking
- Hunt and fish
- Pan for gold
- Go offroading
- Ride Horses
- Birdwatching
- Boulderling and repelling



#### Recreation Opportunities



#### Land Stewardship and Management