

TAR RIVER LAND CONSERVANCY

Conserving Your Land: The Process Explained

This section is written for landowners interested in placing their property in a conservation easement. Primarily, we will discuss donated easements; the process of selling the easement or “selling the development rights” is similar, but the funding source may have additional requirements beyond those described below. If you intend to sell a conservation easement, TRLC should be your primary point of contact since we are uniquely positioned to leverage funding sources.

Donating a Conservation Easement

A [conservation easement](#) project entails the following steps:

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Initial Review

If you believe a [conservation easement](#) fits your landownership goals, TRLC will be glad to arrange a meeting to discuss the goals for your property. This initial meeting will allow an assessment of the property and determination of conservation strategies. At this meeting, be prepared to answer questions like:

- On what portion of your land would you like to limit development?
- Do you want to reserve specific areas or plots for development?
- Does your family/future heirs support your long-term vision for the property?
- To what extent is your property encumbered by a mortgage?
- How many people own the land?
- How wide of a buffer along streams would you like to protect?

In preparation for this initial meeting, you should find all deeds, surveys, and maps you may have. TRLC staff members will review these items with you and investigate further the goals you may have and how you anticipate an easement will help to achieve them. Our staff will also discuss the financial aspects of the project, including possible tax breaks of an easement donation, the steps that will be involved to complete a gift, the costs that will arise and a workable timetable for the project. The TRLC Land Protection and Stewardship committee will review the proposed project for conformance with organizational goals and objectives.

Decision Making

A conservation easement provides long-term benefits to the conservation value of your land. Just as importantly, the easement has serious economic benefits and consequences for you and future landowners. Therefore, it is important to seek the counsel of your financial and legal

advisors before embarking on the project. Remember, while TRLC is available to answer any questions that you or your advisors have concerning the project, we cannot serve as your independent legal or financial advisor.

Resource Assessment & Easement Terms

Conservation easements require a detailed investigation of the property; prior to drafting your conservation easement, TRLC will formulate a worksheet summarizing the resource value of your land. This worksheet will include all the natural resources present on your land and the benefits the public would receive as a result of the conservation of the property.

Draft the Easement

Once TRLC answers all your questions and you agree to pursue the conservation easement project, TRLC will create the first draft of the conservation easement. In order to achieve your site-specific goals, we will visit your property with you to verify the boundaries, map any areas of special concern (including areas to be excluded from the easement), and assess opportunities for special protections such as riparian buffers.

If your property has not been surveyed and if either the boundaries are vague or poorly described, or the property is subject to a boundary line dispute, or you are excluding a portion of the property from the easement, TRLC may require a map from a licensed surveyor to prevent enforcement problems later.

Landowner Review

Once TRLC creates a draft that meets your objectives, we submit it to you for your review and your advisor's comments/revisions. If you plan to utilize the tax benefits associated with the donation of a conservation easement, it may also be prudent at this stage in the project to consult with an appraiser to determine whether changes in the easement could help maximize donation value (which translate into tax benefits) associated with the conservation project.

Remember, the easement must meet all your specifications and concerns - this is your document and perpetual imprint on future uses of the land.

Appraisal and Mortgage Subordination

Most people who donate an easement will want to claim a tax deduction and tax credit for their charitable gift. If you plan to do so, you must commission an appraisal. TRLC staff can provide information about Internal Revenue Service appraisal requirements and share a list of appraisers experienced at valuing conservation easements in our service area. Some landowners wish to work with an appraiser before drafting the easement in order to proactively maximize the value of the gift. In other cases, landowners commission the appraisal after the documents are recorded.

If you have used your property as collateral for a loan, you will need to obtain an agreement from the mortgage holder (i.e. mortgagee) so that the easement is not extinguished in the event of a foreclosure. This is called a "mortgage subordination." The mortgagee will probably need to review the easement documents or the appraisal prior to subordinating its interests.

Likewise, if you have a judgement against your property, you will want to clear the lien before closing the easement.

Create Baseline Document

The Internal Revenue Service requires organizations receiving a donated conservation easement maintain “documentation sufficient to establish the condition of the property at the time of the gift.” Likewise, the N.C. Tax Credit program requires this documentation in order to process your application. As a result, TRLC will require that you countersign a base line documentation report, consisting of maps and photographs taken on site, at the time of closing. In addition to conforming to the IRS and NC Tax Credit program requirements, this report will help provide a detailed guide that will aid stewardship of the easement.

Closing Celebration

After final easement drafting, completion of the baseline document, and any required appraisals or mortgage subordinations, you will be ready to close. You may choose to sign the documents at TRLC’s office in Louisburg, or you may make your own arrangements with a notary public. On top of the above-mentioned documents, you will also be required to sign a transfer tax return for the department of revenue in your state. Later, if you choose to claim an [income tax deduction](#), you must complete IRS Form 8283.

TRLC will insure that your conservation easement deed is recorded properly and you receive the recording information. Additionally, if agreeable, TRLC will share your commitment with other local groups and news outlets.

Stewardship

After the closing, TRLC begins its formal relationship with your land. TRLC representatives will periodically visit the property to verify and document compliance with the terms finalized in the easement. We are here for your benefit, and in the future will always be glad to assist with any questions that may arise about the easement terms and provisions. [Stewardship Endowment Contributions](#) are kindly requested at the closing of a project.