

# Land Preservation through Citizen Action: the Local Land Trust

The disappearance of prime farmlands, forests, open spaces, and the lack of a cohesive land use policy which protects natural resources is creating a strong grassroots initiative for land conservation: people are organizing to take control of local land. The tool they are using is a local land trust -- a nonprofit corporation that enables a group of people to manage land for common uses. Land trusts are a simple, privately organized technique for acquiring and managing land in the public interest.

The first land holding organization was created in New England in the 1890s with the founding of the Trustees of Reservations in Massachusetts. Today, New England has more land trusts than any other region, with over seventy-five land trusts in the state of Connecticut alone.

The local land trust provides a means for community input and community control over land resources. It can provide services which other private organizations and public bodies cannot:

- receive land unacceptable to state or national conservation organizations;
- manage land for which other organizations are unwilling to accept fiscal responsibility;
- operate free of political and statutory restraints;
- refocus its efforts to meet changing local land preservation needs;
- target for protection parcels of key location or value;
- negotiate quickly and privately with a potential land donor;
- solicit monies from various sources;
- work with town officials to shape local land-use planning;
- provide educational and recreational opportunities.

Because of these many advantages, the use of the land trust concept among local public interest groups has been increasing since the mid-seventies.

## WHAT IS A LAND TRUST?

A land trust is a community-based organization, usually organized as a nonprofit corporation, which acquires and manages land in the public interest. Land, or interests in land, are donated or bought and used for educational, recreational or scientific purposes.

The advantage of a private land trust lies in its flexibility. A local government is not in the position to acquire and preserve land outside its boundaries. However, a land trust can operate to preserve a special area contained in more than one jurisdiction, for example, land in a river basin.

Since a local trust's sole goal is the conservation of land resources, the trust can consider more active forms of land management such as agricultural use and woodcutting. A local trust can also broaden its agenda to include programs in environmental education, soil conservation, and natural resource management.

Interest in creating a land trust can come from local citizens, who may feel frustrated by



local zoning decisions or by a lack of government funding for acquisition of local open space. Frequently, citizens will organize to protect a piece of property threatened by development. Once the parcel has been protected, citizens may form an organization to pursue land conservation as a larger issue. Armed with com-

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munity confidence and the negotiating tools of philanthropy, land trusts can acquire land resources for public benefit at costs considerably below their market value. In return, landowners can receive substantial tax benefits as a result of their participation.

#### A LOOK AT NORTH CAROLINA

The emergence of local level private land conservation organizations on a widespread basis is a relatively recent phenomenon, but land trust activity is even newer to the Southeast. At least seven local land holding organizations exist in North Carolina: The Botanical Garden Foundation, The Conservation Foundation, The Carolina Bird Club, North Carolina Land Trustees of America, Northwest Environmental Preservation Committee, Eno River Association, and the Land Stewardship Council. Most of these seven groups have been established within the last ten or fifteen years. They focus on specific geographical areas or aspects of land conservation; for example, agricultural land, ecologically important land, or land for recreation purposes.

A group of concerned citizens living in Orange, Durham, Wake, Lee, Chatham, and Johnston counties are working with the Triangle J Council of Governments to create a Piedmont regional land trust. The regional focus is unusual, since most of the land trusts in North Carolina operate on a statewide basis. The Land Trust Task Force for Region J would like to preserve natural areas in these counties for a variety of purposes. The task force, part of Triangle J COG's Land Use Committee, has been working on the issue for over six months, and they hope to be an operating trust by next summer. Typically two years are needed for organization purposes before a group attempts to acquire land.

#### FORMING A LAND TRUST

Before proceeding, any local group should evaluate the structure of the local government and existing community groups to determine if any other organization could operate as a land trust. If not, the group may decide to incorporate itself as a nonprofit corporation, which can hold and manage land as an independent body.



Close attention must be paid to local land use statistics and trends. In order to build support for a land trust there must be evidence that development of natural resources is taking place at an increasing rate. It must also be

shown that there is a way to protect important natural areas and manage the inevitable development in a way that conserves resources.

Is there enough volunteer interest to sustain the trust? A local group needs to contact key interests in the community and urge them to support a land trust as the best alternative for protection of open space. Key people might include members of garden clubs, civic organizations, sports clubs, historical societies, local businesses, and universities. The support and assistance of local governments in the area is necessary for the trust to succeed. A land trust plan could link existing public lands easements with proposed state and local open space programs.

#### FUNDING SOURCES

As the group proceeds, it needs to draw up a statement of purpose, seek public input and secure its financial base. Foundation and corporate donations, gifts of land, securities, bequests, fundraising activities, and membership fees can be used as resources. Local support through local funds should be considered a prerequisite to funding from other sources. If the group cannot muster local support, few outside funding sources will risk giving.

Once established as a publically-supported charitable organization, a land trust can receive tax-exempt status from the IRS. A trust can use this status to attract donations, since donors can receive substantial financial advantages for their participation. A tax attorney or an accountant should be consulted for each land transaction.

#### HOW TO ACQUIRE LAND

A land trust should be guided by a long-term plan and policy statement for its acquisitions. A policy statement clarifies the trust's purpose to the public and establishes guidelines for the trust's external operations. Before pursuing a parcel, a trust should consider whether or not the land acquired complies with its policy statement. Will the parcel be difficult to maintain? Why is it desirable -- for its natural resources, or for recreation or education uses? Is the land accessible to the public?

Once a parcel has been identified, the trust should begin working with the local landowner. What is the landowner's interest in conservation and financial ability to participate? Can the landowner afford to donate part or all of his or her land? As the trust negotiates with the owner, the two sides will determine the particulars of the transaction. Key questions include whether the acquisition will be a gift or sale, and who will pay for the costs of the transaction.



The protection of a parcel of land can be accomplished in a variety of ways:

#### A. Present Outright Donation

The owner gives the land to the trust with no strings attached. This is the simplest and most direct land gift and usually provides the greatest tax benefits to the donor. Generally, donors give for two reasons: preservation and economics. The tax incentives from an outright donation may be enough to convince a potential donor who otherwise might not have considered the option.

#### B. Bargain Sales

There will be instances where the landowner will not consider making a full donation, possibly because of an immediate financial problem. In these situations, it may be possible to negotiate a bargain sale, and the landowner receives the advantages of both a gift and a sale.

A "bargain sale" is a sale of property at a price that is less than its fair market value. This results in a part-sale and part-charitable contribution. The amount deductible as a char-

itable contribution is the difference between the fair market value of the property and the actual sale price. In this situation, the landowner receives some actual cash as well as a capital gain tax reduction and a charitable contribution deduction.

#### C. Donation With a Reserved Life Estate

Property can be donated so that possession and use of the property remains with the landowner and/or other family members during their lifetimes. The contribution is known as a gift of "remainder interest," and the donor is entitled to an income tax deduction for his or her contribution.

#### D. Donation of Undivided Interest of Land

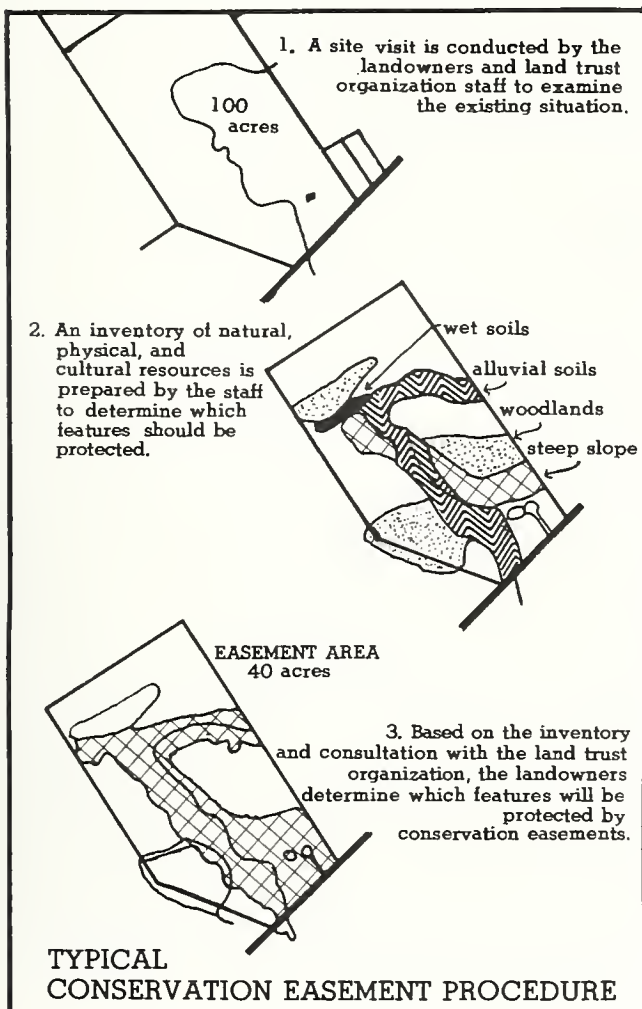
A donation of undivided interest of land involves the donation of a percentage interest in the land and not any specific physical portion. As a result, the land will be owned as tenants in common by all those parties who have interest in the property. In this case the donor is entitled to a tax deduction for the fair market value of the interest contributed.

#### E. Conservation Easements

Conservation easements are the most powerful, flexible, and effective tools for preserving the natural condition of the land without outright acquisition. In effect, a landowner transfers certain development rights for the purpose of preventing future development of the property. The landowner retains title to and possession of the property. The purpose of the easement, written in deed form and filed with the County Order of Deeds, is to set limits on the development of privately held land. The recipient of the easement does not have power to use development rights in any way.

For tax benefits, an appraiser will calculate the market value of the property with and without the easement. The difference in the two is the value of the easement. In general, the value of the easement is equal to the loss in the potential market value of the land after the easement has been executed.

In 1979, the North Carolina General Assembly enacted model legislation for historic preservation agreements and conservation easements. The legislation has been used by some local governments and several private land conservation organizations. Because of increasing real estate costs, easements are becoming a more feasible alternative to fee acquisition. If the public goals are consistent with existing public uses, the private uses are providing the owner with an income, and there is little need for public access, then the public interest can be protected by preventing any change through an easement rather than outright ownership.



# The Humboldt North Coast Land Trust

In 1978, landowners in the small northern California community of Trinidad reacted strongly to legislation which would have created a state coastal park in their area. The proposed ten-mile long park included some thirty-three privately owned parcels of land, all of which would have been taken by eminent domain procedures if the legislation was passed. With training and assistance from The Trust for Public Land, the community formed the Humboldt North Coast Land Trust (HNCLT) as an alternative to state acquisition. Since the local land trust offered landowners more flexible land use options as opposed to state acquisition, the organization quickly gathered community support. In the words of one of the founders of the organization, the basis of its community support was due to the fact that "...the state can't treat each property owner in particular... (whereas) the land trust can be much more detailed and specific to fit the needs of the owner and rights of the people."

With the aid of their Assemblyman, the Trinidad residents succeeded in convincing the Legislature to rescind the bill authorizing the state park. At the same time, it passed a new bill authorizing the California State Coastal Conservancy to give the HNCLT grants totalling \$100,000, in order to purchase property that was previously designated for acquisition by the state. With the technical and financial assistance of the Coastal Conservancy and follow-up guidance from The Trust for Public Land, the land trust has fulfilled its original objective of creating an alternative to a state park, one that will allow a mixture of public and private uses along the coast.

The land trust made two important acquisitions with the funds available from the Coastal Conservancy. Both were bargain sale purchases of ocean front property. One six-acre parcel was valued at \$90,000, and was purchased by the land trust for only \$6,000; another was valued at \$420,000 and acquired in 1981 with the remaining \$94,000 of the state grant. The Coastal Conservancy provided tax benefit advice and other technical support in the structuring and timing of these transactions, while the trustees of the land trust provided energy, dedication and negotiating skills. The result is that land worth more than \$510,000 is now available to the public with \$100,000 of state funds.

The Humboldt North Coast Land Trust has just completed a partial development project on

a nineteen-acre headland called Pilot Point. The group negotiated a bargain sale price of \$50,000 for a property worth five times that amount. Because of the potential public benefits of the project and willingness of five trustees to co-sign notes worth \$10,000 each, a local bank lent the money to the land trust at a favorable interest rate.

The existing zoning of the property would have allowed five single-family homes to be constructed on the nineteen-acre site. After purchasing the land, the trustees applied for and received approval to create a one-acre lot suitable for one unit of housing. The lot sold for \$125,000, which enabled the land trust to pay back the loan and engineering costs. The transaction yielded a net profit of \$50,000 for the HNCLT.

The remaining eighteen acres will be managed under a cooperative agreement between the land trust and Humboldt State University, which will use the land for geologic research. The proceeds from the transaction will fund the ongoing operations of the land trust. Armed with their own energy and dedication, and supported with the technical assistance of the Coastal Conservancy and The Trust for Public Land, local citizens have set aside eighteen acres of coastal land for the public benefit with no outlay of public funding.



*From a memo prepared for the California State Coastal Conservancy by The Trust for Public Land, January 1982.*



## F. Sale and Lease Back

Another mechanism available for conservation purposes is the sale and lease back technique. The trust buys or is given land from a landowner, and both sign an already agreed-upon lease which leases the land back to the original owner for a specific purpose. In this way, the landowner immediately receives money from the sale but still retains use of the land. The trust receives rent from the land which goes toward maintenance costs.

## NETWORKS AND EXCHANGE

The Land Trust Exchange was organized early this year in Massachusetts. Its purpose is "to serve as the catalyst and hub" for individuals and organizations involved in the conservation of local private land. Over 400 local land trusts have been organized since 1975, and the Land Trust Exchange was created as a support system for all these isolated efforts by sharing information, technical expertise, program experiences, and moral support. The group publishes a newsletter called "Exchange," operates a data base information service, and sponsors working groups to address critical issues in private land-saving.

The Trust for Public Land (TPL), another national organization, was created in 1975 to acquire and preserve land to meet human needs. By acting as an intermediary between landowners and government parks and recreation agencies, and by using its status as a charitable organization, TPL saved \$8 million in public acquisition funds in 1981 alone. TPL also provides technical expertise to community groups forming local land trusts. They have helped form sixty-five trusts throughout the country and trained these groups in areas such as incorporation, acquisition of properties, and tax benefit analysis. TPL will also lead a newly-formed land trust through a demonstration project to teach organizers the skills needed to acquire land.



The Nature Conservancy (TNC), also a national organization, works across the country to preserve biotic diversity through the acquisition and management of significant natural areas. TNC has a state field office in Chapel Hill, and since 1977 the organization has set aside over 130,000 acres in North Carolina. The Nature Conservancy, like The Trust for Public Land, has developed the expertise in land acquisition and management to be of assistance to local groups.



A number of books and pamphlets on the subject of land trusts have been published during the past several years. For example, the North Carolina State Heritage Program in the office of Natural Resources and Community Development has published a booklet called: "Forming a Conservation Foundation in North Carolina." It offers a clear, concise account of a step by step approach to creating a land trust. Another example comes from the Connecticut Land Trust Service Bureau, which was organized to serve land trusts in the State of Connecticut. The Bureau has recently published a detailed handbook on creating and managing land trusts which is probably the best publication of its kind.

The Land Trust Exchange has produced a book containing the proceedings of a 1981 conference that dealt with forming land trusts and networks. Many of the short papers found in this book formed the basis for the creation of The Land Trust Exchange. The proceedings give a good perspective on activity across the country, as well as a look at creative solutions to some of the problems other trusts have had.

## CONCLUSION

The increasing use of local land trusts as a tool for land conservation is a symbol of strong grassroots activity. Faced with an invasion of highways and highrises, cluttered landscapes, and lack of open space, people are organizing themselves to take responsible control of local land use. Local land trusts have thus far secured over 675,000 acres of scenic, coastal, farm, forest, streambank, trail, recreation, and urban open space lands.

The concept of a land trust is based on the idea that open spaces and areas for scenic and recreational pleasure are important to people. A local land trust is a way for citizens to shape the future of natural lands in their region. Working with state and local governments, local private land trusts can help accomplish the goal of land conservation in a more thorough and efficient manner. As a nonprofit group it can raise its own funds; as a private entity it brings the public and private sector together.