

Buying and selling land that has a conservation easement on it

What is a conservation easement?

A conservation easement is a legal agreement between a landowner and a land trust, government entity or a qualified conservation organization, under which a landowner voluntarily restricts certain uses of the property to protect its natural aesthetics and conservation values.

The landowner retains legal title to the property and determines the types of land uses to continue and those to restrict. For example, a landowner donating a conservation easement could choose to limit the right to develop a property, but keep the rights to build a house, raise cattle and grow crops. The landowner may continue his or her current use of the property, provided the resources the conservation easement is intended to protect are sustained.

How to approach buying/selling land under a conservation easement?

Rarely is any property without some level of restriction. Property Owner Associations, Zoning and City Ordinances, all have legal covenants that must be followed. A conservation easement is no different. It is important to read and understand the objectives and specifics (see Reading a NALT Conservation Easement attached) before buying any property.

Remember that at the time of the donation, a careful negotiation took place. The land trust identified what features of the property were important to protect, e.g. conservation values.

At the same time, the landowner defined a “bundle of rights” that it retained for the property, and those that they gave up. Think of it as the landowner holding a bundle of property rights; these rights may include the right to develop, subdivide, construct buildings, irrigate, harvest timber or restrict access. A landowner may sell or donate the whole bundle of rights or just one or two of those rights. The rights the landowner chooses to sell or donate become the restrictions on the property. The restrictions placed on the property, pursuant to the conservation easement, are perpetual and binding on all future owners of the property. This means, if the property is ever passed on to an heir or is sold, the new owner will be subject to the conservation easement. *These cannot be amended or changed in any way, at any time.*

For this property, the landowner reserved the following rights with prior approval from the land trust (please refer to the conservation easement document for a more detailed list of rights and prohibitions with a full explanation):

1. 1.5 acre homesite **or** a resort residence (up to 12 bedrooms with one kitchen) located anywhere within a defined “building zone”
2. Passive recreation
3. Forestry Management (with approved Forestry Management Plan)
4. Private dock (or community dock)