

Conservation & Historic Preservation Easements

INTRODUCTION

Natural, agricultural and cultural resources provide important benefits to local communities. Natural resources include wetlands, woodlands, flood plains, lakes, streams, and scenic vistas. Agricultural resources include land with prime agricultural soils, larger parcels of land, and agricultural buildings, including barns. Cultural resources include buildings, structures, sites, objects, features, or open space that is significant to the history, architecture, archaeology, engineering, or culture of the nation, state or local community. Many of these resources can be located on the same property, or in the surrounding area. The preservation of each of these resources may be inter-related to the overall conservation and preservation values and goals of a particular property as well as the community.

Two conservation and historic preservation tools that are available to landowners in cooperation with governmental entities, charitable or educational associations, corporations, trusts, or other legal entities in Michigan are **conservation easements** and **historic preservation easements**. Both of these tools provide permanent protection for important natural, agricultural and cultural resources within a community and offer landowners the option of preserving their land and built resources in perpetuity. Property owners may be eligible for tax incentives for preserving their property through these two conservation and historic preservation tools.

*The purpose of this paper is to
Provide a background on two conservation
and historic preservation tools;
Offer information on applicable use for historic
preservation and land preservation; and
Show how they can achieve community conservation
and preservation goals.*

CONSERVATION EASEMENTS

Background: A Conservation Easement is a voluntary agreement reached between a landowner and a land trust or a government agency that limits development of the property. The conservation easement is held in perpetuity and recorded with the deed to affect all future owners. The appraised value of the conservation easement may be eligible as a deduction for federal income tax purposes if the conservation easement is donated to a land trust, other charitable non-profit organization or a local government.

One way to illustrate conservation easements is to illustrate a bundle of sticks, with each stick of the bundle representing one of the rights an owner holds to their land. Landowners enjoy each of the “sticks of rights” tied to owning their respective properties. These rights can include use, mineral resource rights, deed restrictions, liens, and other easements, such as utility and access easements.

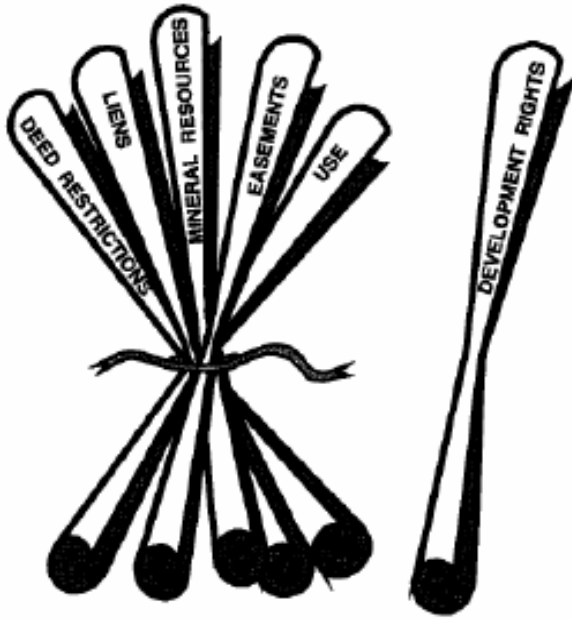


Figure 1: “Bundle of Rights” associated with land ownership [each ‘right’ is a stick in the bundle].

The figure above illustrates these “bundles of rights.” The entire bundle of ownership rights represents the entirety of ownership of the property by the owner, otherwise known as ‘fee simple ownership.’ In this scenario, the landowner is called the “Grantor” and the land trust or non-profit organization is called the “Grantee” as the landowner is “granting” a conservation easement to a land trust/non-profit/local government (receiving entity) [i.e. granting one of the sticks of ownership from the “bundle of property rights”].

By granting a conservation easement to a receiving entity, the landowner donates their legal right to further develop their land. The landowner enjoys all the rights associated with owning the land, except for their right to develop it, and the land trust/non-profit/local government has been granted an “interest” in the land through the conservation easement.

If a landowner donates a conservation easement to a receiving entity in exchange for a federal income tax deduction, they are giving up one of the sticks in their “bundle of rights” which restricts how the property can be used. Usually the conservation easement restricts further specified development of the property, beyond the current structures, with the open areas remaining undeveloped into perpetuity.

For receiving entities (land trusts and conservancies, non-profits and local governments), the advantage to obtaining a conservation easement is that it is more cost effective than fee simple ownership of the property. This form of property protection has fewer financial responsibilities than those normally associated with fee simple ownership (such as property insurance, etc.).

Conservation easements can be used to protect natural resources as well as cultural resources. Common uses of conservation easements include the following:

- Land Trust use of conservation easements to protect farmland;
- Land Trust use of conservation easements to protect unique and scenic areas;
- An historic district commission partnering with an historic trust or a historic preservation non-profit to use a conservation easement in the preservation of historic sites or buildings;
- A planning commission’s use of conservation easements to preserve open space in a Planned Unit Development (PUD), site condo, or a subdivision project.



Conservation easements do not remove the land from the tax rolls, although property tax benefits can be derived from granting a conservation easement. Conservation easements do not automatically allow public access to the land, unless that is part of the easement agreement.

Landowners enjoy all the other rights associated with the property, including their right to lease or sell the land. However, the conservation easement runs with the land and not the owner. Thus, a subsequent owner is bound by the same conservation easement conditions as the previous owner.

A conservation easement may specify where structures may or may not be placed, and can provide for access to fishing and hunting. A conservation easement may also provide for future activities like the construction of trails or other recreation facilities and may prohibit the location of commercial, multi-family structures or signage on a parcel. A conservation easement may also prohibit alteration to an historic structure not in character with the era in which it was built. A conservation easement may also prohibit the excavation or removal of gravel, soil, and/or vegetation.

Use with Other Historic Preservation Tools:

Conservation easements can be used in conjunction with local historic district designations as well as with National and State Registers of Historic Places. A conservation easement can provide permanent preservation for the surrounding landscape (land area) of an historic resource(s) that are contained on the same property or adjacent to the same property. The

conservation easement may not necessarily prevent alterations to the specific historic resource(s), unless such restrictions are included in the conservation easement.

The use of a conservation easement for permanent historic resource preservation can prevent the historic resource(s) from being altered by any future potential residential and non-residential development on the property.

***Legal Basis:** Conservation Easements are enabled by the original Conservation and Historic Preservation Easement Act, P.A. 197 of 1980 [MCL 399.251], and this act subsequently became a part of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, Subpart 11 [MCL 324.2140 – 324.2144].*

Additionally, references can be made in a conservation easement to the *Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* within the easement document related to any alterations to the historic resource(s). If the property contains a local historic district, the easement language can identify the process by which any alterations of the historic resource(s) can occur, which includes the process by which to obtain a Certificate of Appropriateness from the local/County Historic District Commission, and indicate that no alterations shall occur without obtaining a Certificate of Appropriateness.



Typical Concerns:

- Awareness of conservation easement for new and future landowners can be difficult.
- Perceived fear of public access or interference on private property.
- Maintenance of the easement requires education of stakeholder parties, proper documentation, and communication with the easement-holding entity for required monitoring activities.
- Restrictions contained within the conservation easement may limit marketability of the property to some prospective buyers.
- Particular problems may exist with the landowners' and future landowner(s)' ability to obtain a mortgage for the residential structure on the property if the residential structure is within the conservation easement. Financing challenges may arise, as most mortgage lenders do not wish to grant a mortgage in subordination to the conservation easement.

Benefits to the Community:

Conservation Easements help support other land preservation efforts:

They complement PDR programs, Sliding Scale Zoning, and Public Park/Preserve acquisitions.

- Valuable resources can be conserved without expensive fee-simple (outright) purchase of the property.
- If farmland, productive farmland is not lost and helps to maintain the local farming economy.
- Prevents the cost of public services provided within a local community from rising.
- Protects land from fragmentation – which can impact habitats and water quality.
- Private property is not removed from the tax rolls.

Benefits to the Property Owner:

- Farmland and/or open spaces are preserved for future generations.
- Property owners may retain ownership of the land, and can continue to farm the land and/or leave in open space uses.
- Public access is not granted unless specified in the conservation easement.
- Future property buyers may be attracted to land and/or resources already protected by an easement.

Additional Benefits to the Property Owner:

- Land owners may receive federal tax credit(s) for donating a conservation easement.
- If a donated conservation easement occurs during the 2008 or 2009 Federal Tax Years, landowners can deduct up to 100% of their respective adjusted gross income, if they earn 50% or more of their annual income from farming and/or ranching, depending on their situation, as per the Pension Protection Act of 2006, and renewed through the 2008 Farm Bill.
- If a landowner earns less than 50% of their annual income from farming and/or ranching, the landowner can deduct up to 50% of their respective adjusted gross income for donating a conservation easement in 2008 or 2009, depending on their situation, as per the Pension Protection Act of 2006, and renewed through the 2008 Farm Bill.
- Any excess value from a 2008 or a 2009 conservation easement donation can be deducted for up to 15 additional years for their respective Federal Income Tax, as per the Pension Protection Act of 2006, and renewed through the 2008 Farm Bill.
- Beginning in 2010, landowners will be able to only deduct up to 30% of their respective adjusted gross income for donating a conservation easement, and any excess value can be deducted for up to an additional 5 years for the landowner's respective Federal Income



Tax. This is the default federal tax benefit, as the Federal Tax Years 2006, 2007, 2008 and 2009 included the more expanded federal tax benefits, as approved by the US Congress. Prior to 2006, the “30% adjusted gross income/up to 5 years of deduction for excess value” rule applied for donated conservation easements, and will return to those levels in 2010.

- Property taxes and estate taxes will typically be reduced because the conservation easement adds value to the property’s assessment, as certain development rights are severed from the property.

Planning and legal assistance should be obtained before targeting areas for conservation easements.

Resources: Photos, maps and other media of the property should be developed and are an excellent manner by which to document the conservation and historic preservation values of the property, including natural and scenic resources, historic and cultural resources. This baseline documentation often becomes a part of the easement agreement.

Partnerships between land trusts and conservancies, local community land preservation programs, local Historic District Commissions, and the Michigan Historic Preservation Network (MHPN) can complement one another and help local easement acquisition efforts. Communities and preservation organizations should seek legal counsel for developing conservation easements. As stated above, monitoring and enforcement of the conservation easement are required to ensure that the property meets the conservation requirements of the property. Annual monitoring is typically carried out by the easement-holding organization.

CASE EXAMPLES:

Merriman Farm, Manchester Township Washtenaw County, Michigan

The Merriman Farm is a 78-acre historic farm, including a farmhouse, two barns, an outhouse, and a pig house in a setting of rolling acreage. Wetlands and woodlands are included on the property as well as large open fields. The twentieth century farmhouse is situated on a rise on a treed lane of mature sugar maples. The views from the farmhouse encompass farmland to the south and east.



In 2004, the Merriman Farm was designated as a Washtenaw County Local Historic District. In 2007, the Washtenaw Land Trust acquired a conservation easement on the farm. The easement covers two parcels totaling 83.5 acres, including the 78- acre parcel with Local Historic District designation.

The Conservation Easement provides protection in addition to the local historic district by preserving important characteristics representing the surrounding agricultural landscape and the historic resources located on the property. The conservation easement provides a reference to the local historic district ordinance in the conservation easement and in the property deed, and provides a legal reference to both historic preservation mechanisms enacted for property protection.



**Conant Farm, Salem Township
Washtenaw County, Michigan**

This 95-acre, former dairy and truck farm features a tremendous mix of habitats including old growth forest, high quality wetlands, farm fields and meadow habitat. A wonderful array of spring wildflowers can be found on the property, as well as ancient oak trees over 200 years old. Two historic farm houses date from the 1830s.



The Southeast Michigan Land Conservancy acquired a conservation easement on the property in 2007. The Farmstead was designated as a Washtenaw County Local Historic District in 2008.

The historic resources of this rural farmstead consist of two early nineteenth century farmhouses and over a dozen agricultural outbuildings/objects. The development of the Willow Run Bomber Plant to the south necessitated the removal of some of the farm structures to the current site. It is representative of the mid-twentieth century truck farm as it evolved from an early nineteenth century homestead to a twentieth century dairy farm. The farm's history mirrors that of many family-owned farms that operated in the rural areas surrounding the growing population of Southeast Michigan. The pastoral setting evokes the rural landscape and serves as a significant backdrop to the agricultural heritage portrayed by historic resources on the farmstead.

**Gordon Hall, Scio and Webster Townships
Washtenaw County, Michigan**

Located west of Dexter on Island Lake Road, this site is situated on two parcels in two Washtenaw County townships.



The property was designated as a Washtenaw County Historic District in 2001, and consists of approximately 67 acres. Two conservation easements were acquired through the two Township's respective land preservation programs, which purchased the development rights on both properties, and cover a combined area of 50 acres. The conservation easement on the Scio Township parcel was acquired by Scio Township in 2007, and the conservation easement on the Webster Township parcel was acquired in 2008. The conservation easements preserve the 50 acres of land in the local historic district.

A local pioneer and abolitionist, Judge Samuel W. Dexter commissioned Calvin Fillmore, brother of Millard Fillmore, to construct the impressive Greek Revival house (1841-1843). The six Doric columns of the temple-like portico look out over the open areas of the property, which include gently rolling acres of farmland. The property is all that remains of the former 1700-acre estate. The original house featured 22 rooms, nine fireplaces and 55 windows with interior shutters.



HISTORIC PRESERVATION EASEMENTS

Background: A Historic Preservation Easement is a voluntary easement agreement that protects a significant historic, archaeological, or cultural resource. Much like a conservation easement, this agreement between the property owner and the protecting organization grants certain rights associated with the use and enjoyment of a property to the protecting organization. However, all remaining private property rights not restricted by the easement remain with the property owner and may be exercised to the fullest extent not inconsistent with the easement.

Properties Eligible for a Preservation Easement:

Historic or cultural properties eligible for protection may include agricultural, industrial, commercial, or residential structures and historically important acreage.

Historic preservation easements are flexible instruments which can be tailored to the resources, the interests of the property owner, and the objectives of the protecting organization. They may be applied to historic buildings, structures, or landscapes, battlefields, traditional cultural places, or archaeological sites – even a historic structure’s façade or interior may qualify.

The candidate property must meet at least one of the following requirements:

1. Listed individually on the National Register of Historic Places or as a National Historic Landmark; or
2. Properties located within a National Register Historic District and certified by the Secretary of the Interior as a contributing element of that

district or deemed to constitute an “historically important land area;” or

3. Buildings, structures, or sites considered Potentially Eligible for the National Register; or
4. Buildings, structures, or sites of local historical or architectural significance.

Historic preservation easements must be donated to a qualified organization recognized by the IRS to receive such easements, one which has the resources to enforce the restrictions. Qualified organizations may include a governmental unit or a charitable organization (501(c)(3)) such as a community land trust or a historic preservation organization. **If tax benefits are sought, owners are advised to verify with the IRS that an organization is qualified prior to conveying an easement.**

Criteria for Significance: Documentation of a property’s historic significance is a prerequisite for eligibility to convey a historic preservation easement. The property in question must meet at least one criteria of significance, as set forth by the Secretary of the Interior. In Michigan, this set of criteria is the measure for both National Register and Local Historic District designation.

The criteria for significance build upon themes in American history, architecture, archeology, engineering, and culture. These themes may be present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and meet one or more of the following criteria:



(a) **that are associated with events** that have made a significant contribution to the broad patterns of our history; or

(b) **that are associated with the lives of persons** significant in our past; or

(c) **that embody distinctive characteristics** of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) **that have yielded, or may be likely to yield, information** important in prehistory or history.

Criteria Considerations: Some special site types ordinarily would not be considered eligible for the National Register. Such site types include: cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(a) **A religious property** deriving primary significance from architectural or artistic distinction or historical importance; or

(b) **A building or structure removed from its original location** but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(c) **A birthplace or grave** of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his productive life; or

(d) **A cemetery** which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

(e) **A reconstructed building** when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(f) **A property primarily commemorative** in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or

(g) **A property achieving significance within the past 50 years** if it is of exceptional importance. Further information is available from the National Park Service, www.cr.nps.gov.

Legal Basis:

The legal basis of a Historic Preservation Easement is similar to that of a Conservation Easement. At the state level, both easement types are enabled through the same legislation, PA 197 of 1980.

Historic Preservation Easements are enabled by the original Conservation and Historic Preservation Easement Act, P.A. 197 of 1980 [MCL 399.251], and this act subsequently became a part of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, Subpart 11 [MCL 324.2140 – 324.2144].



Use with Other Historic Preservation Tools:

A historic preservation easement can provide permanent preservation for an historic resource(s) that is contained on the same property or adjacent to the same property. Additionally, references can be made to the *Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* within the easement document related to any alterations to the historic resource(s).

Layers of Protection:

Historic Preservation Easements can be used in conjunction with Local Historic District designations as well as listing on the National Register of Historic Places.

If the property contains a local historic district, the easement language can identify the process by which any alterations of the historic resource(s) can occur, which includes the process by which to obtain a Certificate of Appropriateness from the Local Historic District Commission, and indicate that no alterations shall occur without obtaining a Certificate of Appropriateness.

Typical Concerns: In 2006, the IRS increased scrutiny of historic preservation easement applications and the use of associated tax credits. This shift in policy was due to a small percentage of past abuses related to exaggerated appraisals. Extreme care must be taken in obtaining an accurate appraisal from qualified professionals.

As stated above, particular challenges may arise if a residential structure is within the conservation easement, as mortgage lenders are often reticent to place a mortgage in subordination to an easement.

Benefits to the Community:

- The use of an historic preservation easement may allow for the classification of an historic resource or collection of resources as a recognized historic site in a locale without a local historic district commission or other options for historic designation.
- The use of an historic preservation easement may be a pragmatic method to accomplish the protection goals of an historic preservation organization in a manner which is often substantially cheaper than the actual purchase of the property.
- The protected historic resources remain on local and state tax rolls.
- Historic resources visible from the public right-of-way are preserved, assisting in maintaining the presence of historic buildings amid development pressures, and insuring the integrity of historic landscapes such as view sheds, field patterns, and historically significant vegetation.

Benefits to the Property Owner:

- Property owners will gain the assurance that the property's intrinsic values will be preserved in perpetuity regardless of subsequent ownership.
- As historic preservation easements do not automatically allow public access to the land, privacy and many private property rights are maintained unless that is part of the easement agreement. Landowners enjoy all the other rights associated with the property, including their right to lease or sell the land.
- Once recorded, an easement of any type "runs with the land," which means that it continues even when the property is sold or inherited.



Additional Benefits to the Property Owner:

- Landowners may realize substantial tax benefits. The caveat with this tool is that the property must be open to the public, for as little as a few days per year, and also must be reviewed yearly as part of proper monitoring. The donor and the protecting organization can normally find a balance between the owner's privacy and the need to offer a benefit to the public.
- According to the IRS, when an easement is donated on a property undergoing a certified rehabilitation the owner must adjust the depreciable basis to reflect the diminution in value of the building that occurs when an easement is conveyed. This reduction may impact the amount of rehabilitation credit that an owner is allowed to take. Timing plays a crucial role when combining an easement donation with any applicable rehabilitation tax credits, and may impact one or both of the benefits.
- If a property owner is interested in claiming tax benefits from the historic preservation easement, paperwork to document the property's significance must be filed prior to the donation of the easement. The owner must obtain a Historic Preservation Certification Application, available through the State Historic Preservation Office (SHPO). The SHPO forwards the application to the National Park Service, the issuing office for certification. This certification is required before the owner may claim a deduction on a Federal income tax return for donation of an easement. For more information on the Federal and Michigan tax credit programs, visit the Michigan SHPO at www.michigan.gov/shpo

Property owners are urged to consult an accountant or legal counsel with questions specific to their unique situation.

Resources:

This resource is intended to provide an overview of the basic practices associated with historic preservation easements. Interested parties are strongly urged to fully research the instrument and the receiving organization before entering into any binding contract. Trusted resources include, but are not limited to, the Michigan SHPO and the Michigan Historic Preservation Network.

It should be understood that some cost is associated with the donation of an easement to a reputable steward organization. Many easement-holding organizations require the easement donor to make an additional donation of funds to help administer the easement. These funds help further the goals of the protecting organization, and are often held in an endowment that generates an annual income to pay for easement administration costs such as staff time and travel expenses, or necessary legal services.

CASE EXAMPLES:

Bower's Harbor Inn, Old Mission Peninsula Traverse City, Michigan

The 1880s historic inn, now solely a dining venue, sits on the Grand Traverse Bay on the Old Mission Peninsula in northwest Michigan. The region is the subject of a publicly-supported land preservation effort, spanning 20 years. Because of its unique microclimate, the region's rich agricultural lands produce much of the world's tart cherries, along with apples, grapes, and other stone fruits. The 16,000-acre peninsula attracts tourists, vacationers, and new residents seeking a high quality of life, scenic beauty, water access, working agricultural lands, and vineyards.



The Grand Traverse Land Conservancy, a local land trust, and the Michigan Historic Preservation Network, a statewide nonprofit organization, banded together in late 2007 to preserve a beautiful 11-acre site on Lake Michigan that holds the historic Bowers Harbor Inn, a beloved local landmark. The Michigan Historic Preservation Network holds a conservation easement on the property and the Grand Travers Land Conservancy partners with the Network in monitoring the property. The project was given a 2008 Historic Preservation Community Award by the Grand Traverse Heritage Center.

SunKarest Farm, Lyon Township South Lyon, Michigan

This farm, in Lyon Township of Oakland County, was initially patented in 1835. It was owned by the Blackwood family from 1896-1918 and the Peters family from 1919-2005.



The property was acquired in 2005 by Phoenix Development Company. SunKarest Farm is located on 10 Mile Road, approximately one mile east of downtown South Lyon. The property has 19 structures and other features include roads, walkways and plantings.

As part of the development process, Phoenix created SunKarest Farmstead LLC to retain the original farm buildings. In 2008, the Michigan Historic Preservation Network partnered with SunKarest Farmstead LLC to place an historic preservation easement on approximately 17 acres, encompassing the farm complex. The remaining land parcels associated with the farm are owned by Pulte and are being developed as part of a planned development agreement with the township. Both parties have plans to eventually rent the property as a home or a working farm.



PRESERVATION TOOLS WORKING TOGETHER

Easements are inherently adaptable to the needs of the property owner and the goals of the protecting organization. Both of these conservation and historic preservation tools offer opportunities to further both land preservation and historic preservation efforts within a community.

As identified by this study, there are at least four possible combinations of conservation and historic preservation easements. In each scenario, both historic preservation and land preservation efforts can work together to achieve important goals of the property owner while accomplishing a benefit to the community:

1. *Historic Preservation Easement:*

This preservation tool can be used to preserve the structures as well as the surrounding land located on the parcel on which the structures are located. The easement includes the protection of the historic resources located on the property which are included within the conservation values of the easement document, as well as within the grantee's (preservation organization that holds the easement) rights to require the restoration of historic resources. This tool could be used to just preserve the historic structures and historic open space areas (if any), and be used solely by itself.

2. *Historic Preservation Easement [for historic resources] and Conservation Easement [for open space areas] on the same property:*

The historic preservation easement can also be used along with a conservation easement on the property, with the conservation easement

focused on the surrounding open land, and the historic preservation easement designated solely for the historic structures of the property. The two different easements on the property would need to be separate and could be held by two different preservation organizations.

3. *Local Historic District or a National/State Register Property with Conservation Easement on same property:*

A conservation easement can exist on a property that also contains a locally designated historic district, and/or resource(s) that are listed or eligible for the National Register of Historic Places or a resource that is listed or eligible for the State Register of Historic Places.

The conservation easement can include the protection of both open space areas as well as the historic resources within the conservation values of the easement as well as including the requirement of the restoration of the historic resources within the grantee's rights.

Another option is to just include the protection of the open space elements of the property within the conservation values, with the local historic district designation providing the protection device of the historic resources on the property.

The local historic district designation provides local protection of the historic resources, by requiring a certificate of appropriateness for any alterations of the property. However, it does not necessarily provide permanent protection of the historic resources on the property, unless included within the conservation values and the required restoration within the grantee's rights within the recorded conservation easement.



Although there is a lack of permanent protection of the historic resources through this application of a conservation easement, the preservation of the open space elements of the property may protect the historic resources from additional development occurring on the surrounding open space areas of the property.

Listing on the National Register of Historic Places designation does not provide as much protection as the local historic district designation, but it does provide a required review process for projects with federal involvement that evaluates impacts of federally funded or federally permitted projects on the integrity of the historic resource(s). The State Register of Historic Places provides public awareness of the historic resource(s), but no direct protection requirements.

4. Local Historic District/National and State Register Properties with Conservation Easements located on adjacent properties:

Another possibility to further the preservation goals of the community and properties with natural, agricultural and cultural resources is targeting conservation easements for properties that surround historic resources, including both locally designated historic districts and/or National and State Register properties.

The local historic district, as described above, provides the requirement of a certificate of appropriateness for any alterations of the property. The National Register designation provides a review process for any federally involved projects that impact the integrity of the historic resource(s) listed on or eligible

properties to the National Register of Historic Places. If an easement, either conservation easement or historic preservation easement, is not possible for the property with an historic resource(s), acquiring conservation easements on adjacent properties can provide some protection of both the historic resource(s) and open space areas of the property, by providing a buffer from encroaching developing and the natural, agricultural, and cultural resources. Thus, this buffer of conservation easement(s) discourages development on the property with these resources.

CONCLUSION

Both conservation easements and historic preservation easements can be used to achieve important land preservation and historic preservation goals, both for the community and the property owner as well.

The possible uses of these two preservation tools offer opportunity for furthering preservation efforts for natural resources, agricultural lands, and historic resources.

This paper has demonstrated how they can be used together to achieve these goals. These two efforts further not only the goals, but as identified in the "Saving Bowers Harbor Inn Property: Conserving Land and Buildings," Case Study brochure by the National Trust for Historic Preservation and Land Trust Alliance, these two efforts preserve the "placated-based assets" of individual properties and communities, and are complimentary in their efforts to achieve individual property and community goals.



SOURCES/REFERENCES:

- Bidwell, Dennis P., "Negotiating with Lenders on Mortgage Subordination," *Land Trust Alliance Exchange*, Washington, D.C.: Land Trust Alliance, Spring 2002.
- Byers, Elizabeth, and Karin Marchetti Ponte, *The Conservation Easement Handbook, 2nd Edition*, The Trust for Public Land, San Francisco, CA and The Land Trust Alliance, Washington, D.C., 2005.
- Daniels, Tom and Deborah Bowers, *Holding Our Ground: Protecting America's Farms and Farmland*. Island Press, Washington, DC, 1997.
- Florio, Laurel A., "Mortgage Subordination: Why and When it is Necessary," *Land Trust Alliance Exchange*, Washington, D.C.: Land Trust Alliance, Spring 2002.
- Michigan Historic Preservation Network, Easements Committee Materials and Personal Communication with Nancy Finegood, Executive Director, September – December 2008.
- National Park Service, U.S. Department of the Interior, Technical Preservation Services <http://www.nps.gov/history/hps/tps/tax/easement.htm>. Accessed October 31, 2008.
- National Trust for Historic Preservation and Land Trust Alliance. "Saving Bowers Harbor Inn Property: Conserving Land and Buildings," Case Study, 2008.
- The Nature Conservancy. What are Conservation Easements? Article found on www.nature.org, Arlington, VA.
- Neumann, Brad. "Historic Preservation Easements." Michigan State University Extension Land Use Series, 2007.
- Planning and Zoning Center, Inc., *Community Planning Handbook: Tools and Techniques for Guiding Community Change*, prepared for the Michigan Society of Planning Officials, Lansing, MI, March 1992.
- Rentrop, Gary R. "Legal Perspective of Preservation Easements," Rentrop & Morrison, P.C., Presented at the Michigan Historic Preservation Network 28th Annual Conference, May 8, 2008.
- Rural Partners of Michigan, American Farmland Trust, Indiana Farm Bureau, Indiana Land Resources Council, Ohio Department of Agriculture, *The Ultimate Farmland Preservation Tour: The Ultimate and Last*. Purchase of Development Rights presentation, Lansing, MI, April 4-8, 2002.
- Washtenaw County Department of Planning and Environment/Washtenaw County Historic District Commission, *The Ten Historic Districts of Washtenaw County*, brochure, Ann Arbor, MI: Washtenaw County Department of Planning and Environment/Washtenaw County Historic District Commission, 2005.

Washtenaw County Government
Office of Strategic Planning
110 N. Fourth Avenue, P.O. Box 8645
Ann Arbor, Michigan 48107
(734)222-6542 (734)222-6573 fax
<http://planning.ewashtenaw.org>

