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Land trusts protect legacies

By Stan Lilley
Executive Director of Chippewa Watershed Conservancy

At a time when members of The Greatest Generation (those who experienced the Great Depression and World War II) are passing away in ever increasing numbers, we are seeing the greatest generational transfer of wealth, including ownership of land, in the history of our nation.

Many of these people are also intent upon leaving a family legacy in the form of land or conservation easement donations intended to preserve the scenic, natural and historic character of their land, and they are turning to land trusts to make this happen.

A land trust is a private, nonprofit organization that actively works to conserve and steward land to protect and enhance conservation values such as wildlife habitat, scenic views or open space, prime farmland or a historical aspect. Land trusts (in Michigan a land trust is typically called a conservancy) may own land outright, and/or hold conservation easements on private land.

A preserve is land that the conservancy owns. Preserves are generally open to the public so long as public use does not conflict with the conservation purposes of the preserve. Preserves may be managed for the benefit of wildlife, scenery or recreation.

Land in a conservation easement is not owned by the conservancy. A conservation easement is a voluntary legal agreement between a landowner and the conservancy which contains permanent restrictions on the use or development of the land in order to protect clearly defined conservation values. In it, the landowner voluntarily gives up one or more of the rights associated with ownership. These rights may include the right to harvest timber, build structures, or subdivide the land. An easement is not eliminated by a change of ownership, but "runs with the land."

It is filed with the Register of Deeds and its existence will show up in a title search. Along with this permanence comes a responsibility for the conservancy to monitor the land in perpetuity to ensure the terms are being met, and to protect against any violations.

This creates a burden on the conservancy to make sure that the funds to conduct monitoring and to defend the easement in court if necessary, are permanently available. But this is both the conservancy's promise to the grantor of an easement and the conservancy's legal responsibility in the eyes of the Internal Revenue Service.

It is important to know several things about conservation easements. First, an easement does not

allow public access to the land. The landowner still controls who can access the property. It does not prevent the transfer of ownership. A landowner can sell or lease the land, but the terms of the easement remain in effect. Finally, the easement does not restrict any property rights that don't negatively impact the conservation purposes. The conservancy works with willing landowners to place voluntary conservation easements on land with important conservation values. There is no coercion, pressure or trickery involved.

So why are the Greatest Generation and other conservation minded people donating land or conservation easements to land trusts? There are potential tax advantages. Some donors claim a charitable contribution on their income tax. Property taxes may be reduced. Since 2006, Michigan Public Act 446 has protected the tax cap on land under conservation easement when transfers of ownership occur, rather than "popping up" to the full market value. But most donors have more deeply personal reasons.

Dr. Don and Nancy Nagler donated a 78-acre parcel of land along the Chippewa River west of Mt. Pleasant in 1996 for what became the Sylvan Solace Preserve for use as a wildlife sanctuary, and for the public enjoyment of nature. "We share a common interest (with the conservancy) in keeping the land as it was when we purchased it," said Nagler.

Gerald Carter donated an easement on his 39-acre property in 2005. This property, that he calls "Hawkshurst," provides nesting habitat for two endangered species of raptors. "I've wanted to do this for a long time. I am happy to know that my property will always exist in pretty much the same condition as it is now."

Winifred Sponseller donated an easement on 13.3-acres in Union Township, including over 500 feet of frontage along both sides of Johnson Creek, in memory of her parents, Alva and Tressa Smith, who were great lovers of nature.

Reflecting back on his 1,648-acre easement donation in 1998, Delos F. "Fred" Hamlin noted that if more easements such as his were not created, there would be few large tracts of undeveloped and undivided land left 50 or more years into the future.

"I've always had a sacred feeling about growing things from seed. One of my greatest pleasures in life is creating a sustainable forest. I've always wanted to see this land remain natural and be able to demonstrate what effective timber management can do to keep the land healthy. My conservation easement has allowed me to do both."

The Chippewa Watershed Conservancy (CWC), a Mt. Pleasant-based land trust working in Isabella, Clare, Gratiot, Montcalm and Mecosta counties, is permanently protecting more than 5 square miles of open space and wildlife habitat, including the properties described above, through 14 preserves and 24 conservation easements. The group is a member of the Land Trust Alliance, a national level coalition of more than 1,700 land trusts.

For more information, see www.ChippewaWatershedConservancy.org, or call 989-644-5045.