

Determining Conservation Purposes Worksheet

Each land trust has its own perception of what types of property will meet the conservation purposes test; however, the IRS does not determine conservation purposes based on our perceptions. It is essential to remember that conservation purposes *must* be measured against the requirements of the Treasury Regulations. Therefore, the conservation purposes test is not an exercise to describe why you believe the conservation purposes exist on the property. The conservation purposes test is to explain how the conservation easement meets one or more of the conservation purposes set forth in IRC §170(h) and as further described by the Treasury Regulations.

This exercise may be done either in a training or through self-study. Read the examples, and use the worksheet that follows to evaluate whether conservation purposes exist in each example pursuant to the Treasury Regulations.

Guidance on using the worksheet with these examples follows.

Example 1: A parcel of land with the following attributes:

- The property is 640 acres in size.
- It is located in a rural area not immediately surrounded by development, but with some development pressures.
- The property is currently used in part for grazing and in part for irrigated hay meadows.
- The property provides winter range habitat for a local elk herd.
- The property is visible from a nearby state highway.
- There are five other ranches of generally comparable size in the vicinity that are already protected by conservation easements.
- The county comprehensive plan includes a policy for general protection of agricultural lands and a policy for the protection of the view corridor visible from the state highway.
- A portion of the property is a breeding ground for a threatened grouse species.
- The property has a ranch headquarters of approximately three acres with one residence and associated agricultural buildings.
- The landowner is proposing to expand the ranch headquarters area in order to add an additional residence and additional agricultural buildings.

Example 2: A parcel of land with the following attributes:

- The property consists of 160 acres.
- It is substantially surrounded by development.
- It is the last remaining active dairy farm in its portion of the county, which once had a thriving dairy industry.
- The property is bisected by a ditch easement that includes a public trail.
- There is an intermittent creek that runs through the property and there are associated wetlands with the creek.
- The property currently has one house, a dairy barn and several associated agricultural buildings, all within a three-acre farm headquarters area.

Example 3: A parcel of land with the following attributes:

- The property consists of 20 acres.
- The property is adjacent to a natural urban wildlife area of approximately 50 acres.
- Except for the adjacent 50-acre wildlife area, the property is completely surrounded by urban development.
- The property has no structural improvements, minimal fencing and is otherwise in a natural state.
- There are significant wetlands on the property.
- The property includes a small great blue heron rookery.
- In its undeveloped state, the property and the adjacent 50-acre natural area provide an island of natural habitat for coyotes, raptors and many other bird and animal species.

Conservation Purposes Worksheet

This worksheet is adapted from one used by Colorado Open Lands. Use it to help you determine whether conservation purposes exist pursuant to the Treasury Regulations, for examples 1–3 on pages 44 and 45. Visit The Learning Center to download a PDF file of this document.

Overall:

What are the conservation values?

Are the conservation values equal or are some more important than others?

- Equal? Prioritized?

If conservation values are prioritized, please list them in order of priority:

What conservation values are most important to the land trust and to the landowner?

To the land trust?

To the landowner?

Yes No

- | | | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Is the property of a sufficient size and location to protect the conservation values? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the property large enough so that conservation resources remain intact in the face of potential development on adjacent properties? If not, what are these threats and how immediate are they? |
| <input type="checkbox"/> | <input type="checkbox"/> | Will the water rights remain with the property? If not, describe how the conservation values might be jeopardized if the water is removed: |

Natural Resources Conservation Values [from IRS regs §1.170-14(d)(3)]: The protection of a relatively natural habitat for fish, wildlife or plants, or similar ecosystem as well as the protection of critical species.

1. Identify the habitat.
2. Identify the extent to which the habitat or environment has been altered by human activity.
3. Identify habitats for rare, endangered or threatened species of animals, fish or plants.
4. Identify natural areas that represent high quality examples of terrestrial or aquatic communities.
5. Identify natural areas which are included in, or contribute to, the ecological viability of a local, state or national park, nature preserve, wildlife refuge, wilderness area, or other similar conservation area.
6. Identify the type of public access to the property.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Contains relatively natural wildlife habitat ecosystems?
		<input type="checkbox"/> Grasslands <input type="checkbox"/> Alpine Tundra <input type="checkbox"/> Forests <input type="checkbox"/> Shrublands <input type="checkbox"/> Riparian Area <input type="checkbox"/> Other:
		Comments:
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<input type="checkbox"/>	<input type="checkbox"/>	Contains significant hydrological features?
		<input type="checkbox"/> Wetlands <input type="checkbox"/> Floodplains <input type="checkbox"/> Bogs <input type="checkbox"/> Springs <input type="checkbox"/> Ponds/lakes <input type="checkbox"/> River/stream Corridor <input type="checkbox"/> Fens <input type="checkbox"/> Aquifer Recharge Area <input type="checkbox"/> Other:
		Comments:
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Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Contains an Endangered/Threatened Species listed by the Feds or the state? <input type="checkbox"/> Unknown at this time Name of Species: Name of Species: Name of Species:
<input type="checkbox"/>	<input type="checkbox"/>	Contains a species of special concern to the Feds or the state? <input type="checkbox"/> Unknown at this time Name of Species: Name of Species: Name of Species:
<input type="checkbox"/>	<input type="checkbox"/>	Contains a unique natural feature important to the area? Type of Feature: Type of Feature:
<input type="checkbox"/>	<input type="checkbox"/>	Buffers relatively natural habitats? Describe: _____ _____ _____
<input type="checkbox"/>	<input type="checkbox"/>	Buffers or is close to existing protected land? Describe: _____ _____ _____
<input type="checkbox"/>	<input type="checkbox"/>	Provides connection to other protected or open space lands important for movement of wildlife between habitats? Describe: _____ _____ _____

Open Space Conservation Values *[from IRS regs §1.170-14(d)(4)]*: The preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the public or pursuant to a clearly delineated federal, state or local governmental conservation policy.

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Is there a clearly delineated federal, state or local governmental policy for open space preservation in the area? Describe:
<hr/>		
<hr/>		
<hr/>		

Yes	No	
<input type="checkbox"/>	<input type="checkbox"/>	Does preservation of the property further a specific, identified conservation project?
<input type="checkbox"/>	<input type="checkbox"/>	Is the property contiguous to, or an integral part of, the surroundings of existing recreation or conservation sites?
<input type="checkbox"/>	<input type="checkbox"/>	Does the government program involve a significant commitment, including preferential tax assessments or zoning, by the government?
<input type="checkbox"/>	<input type="checkbox"/>	Is it funded?
<input type="checkbox"/>	<input type="checkbox"/>	Does the project preserve a wild or scenic river?
<input type="checkbox"/>	<input type="checkbox"/>	Will the easement be accepted by a government agency?
<input type="checkbox"/>	<input type="checkbox"/>	If so, does the agency have a review process?
<input type="checkbox"/>	<input type="checkbox"/>	Does the project set an important precedent for resource or open space protection in an area of importance to the federal, state or local governments?
<input type="checkbox"/>	<input type="checkbox"/>	Does this open space project yield a significant public benefit? How?
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P U T T I N G I T I N T O P R A C T I C E

	Yes	No	
	<input type="checkbox"/>	<input type="checkbox"/>	Provides scenic views from public roadways, waterways or recreation areas?
	<input type="checkbox"/>	<input type="checkbox"/>	Is unique to the area?
	<input type="checkbox"/>	<input type="checkbox"/>	Is there existing or foreseeable intensity of development in the vicinity?
	<input type="checkbox"/>	<input type="checkbox"/>	Is consistent with existing public programs?
	<input type="checkbox"/>	<input type="checkbox"/>	Is consistent with existing private programs?
	<input type="checkbox"/>	<input type="checkbox"/>	Prevents the degradation of the scenic, natural or historic character of the area?
	<input type="checkbox"/>	<input type="checkbox"/>	Provides opportunity for the general public to use the property or appreciate its scenic values?
	<input type="checkbox"/>	<input type="checkbox"/>	Contributes to preserving a local or regional landscape or resource that attracts tourism or commerce?
Yes	<input type="checkbox"/>	No	<input type="checkbox"/>
			Is there a likelihood the donee will acquire equally desirable and valuable substitute property? If so, describe:

	<input type="checkbox"/>	<input type="checkbox"/>	Is the cost of enforcement excessive? If so, describe:

	<input type="checkbox"/>	<input type="checkbox"/>	Does the population density of area affect this project? If so describe:

	<input type="checkbox"/>	<input type="checkbox"/>	Is this project consistent with legislatively mandated program identifying particular properties for future protection? If so, describe:

- Does the easement permit a degree of intrusion or future development that would interfere with the governmental conservation policy that is being furthered by the use? If so, describe:

Agricultural Lands Conservation Values *[IRS regulations do not speak directly to the preservation of agriculture. For whatever information needed, look in IRS regs §1.170-14(d)(4).]*

- | Yes | No | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Does the project preserve farmland pursuant to a state program for flood prevention and control? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is in active agricultural use or is an example of historic agricultural use? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the agricultural operation viable as a stand-alone entity according to the landowner? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is any portion of the property irrigated?
<div style="margin-left: 40px;"> <input type="checkbox"/> Hayfield(s)? <input type="checkbox"/> Pasture(s)? </div> |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the agricultural operation depend on leasing other lands?
Describe: |

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Is the property adjacent to other agricultural and/or leased lands? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is it important that the property is adjacent to other agricultural lands? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there sufficient infrastructure in the area to support a viable agricultural operation? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the property possess soils of national, state or local importance? |

- Does the property have adequate water rights to support the agricultural operation? If not, what contingency measures can be included to permit the land to be restored to native vegetation?

Scenic Conservation Values [from IRS regs §1.170-14(d)(4)]: Identify the significant public benefits the general public will enjoy through preservation of the property.

- | Yes | No | |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Development of the property would impair the scenic character or a scenic panorama. |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the land use compatible with other land use in the vicinity? |
| <input type="checkbox"/> | <input type="checkbox"/> | Will the general public enjoy sufficient visual access to or across the property? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the easement permit a degree of intrusion or future development that would interfere with the essential scenic quality of the land? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the property open? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the property provide relief from urban closeness? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the scenic view consistent with a regional or local landscape inventory? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the scenic view consistent with a methodical state scenic identification program? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the land use maintain the scale and character of the urban landscape to preserve open space, visual enjoyment and sunlight for the surrounding area? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a degree of contrast and variety provided by the visual scene? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a harmonious variety of shapes and textures? |

Historic Conservation Values [from IRS regs §1.170-14(d)(5)]: The preservation of an historically important land area or certified historic structure.

- | | | |
|--------------------------|--------------------------|---|
| Yes | No | |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the project preserve an independently significant land area including any related historic resources that meets the National Register Criteria for Evaluation in 36 CFR 60.4? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the project preserve any land area within a registered historic district including any buildings on the land area that can reasonably be considered as contributing to the significance of the district? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the project protect any land area adjacent to a property listed individually in the National Register of Historic Places, but not within a registered historic district? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the project protect a historic structure listed in the National Register? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the project protect a historic building located in a registered historic district of historic significance to the district? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there visual public access to the land area or historic structure? |

Outdoor Recreation and Education Values [from IRS regulations §1.170-14(d)(2)]: The preservation of land areas for outdoor recreation by, or the education of, the general public.

- | | | |
|--------------------------|--------------------------|--|
| Yes | No | |
| <input type="checkbox"/> | <input type="checkbox"/> | Contains or has potential to contain natural features of recreational, educational or scientific significance? If yes, describe: |
| | | _____ |
| | | _____ |
| | | _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Provides public access for education or recreation?
Identify the outdoor recreation or education opportunities: |
| | | _____ |
| | | _____ |
| | | _____ |

Identify the type of public access to the property and limitations on the access:

Guidance

Example 1

The key findings in the worksheet for this example are:

- The property contains relatively natural wildlife habitat in its grasslands;
- It provides a connection to other protected or open space lands;
- There is a foreseeable intensity of development in the vicinity;
- Development would impair the scenic character of the area;
- The scenic view is consistent with the state's program;
- The public will enjoy visual access across the property;
- The property contributes to the conservation of a local and regional landscape; and
- There is a clearly delineated governmental policy for protecting this scenic view.

Example 2

The key findings in the worksheet for this example are:

- Protection of the property would provide relief from urban closeness;
- There would be access for outdoor recreation on the public trail;
- The property is in active agricultural use; and
- Protection of the property would prevent the degradation of the natural character of the area.

Example 3

The key findings in the worksheet for this example are:

- The property contains a relatively natural wildlife habitat ecosystem;
- It buffers and is adjacent to existing protected land;
- Protection of the property would provide relief from urban closeness;
- Development of the property would impair the scenic character of the property and the adjoining urban wildlife area; and
- The property contains wetlands.