



Their Land, Their Legacy

A GUIDE TO HELP INFORM PENNSYLVANIA LANDOWNERS'
DECISIONS ABOUT THE FUTURE OF THEIR LAND



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■ PREFACE

This publication is for estate attorneys, accountants, financial planners, community-based peers, natural resources professionals, land protection specialists, community leaders, and family and friends of forest landowners who want to help them plan for the next generation of ownership of their land.

For an overview of conservation-based estate planning, why it's important, and the basics of how it's done and how you can help, see Chapter 1. Chapter 2 covers what trusted advisors need to understand about woodland owners and their wishes for their land to most effectively help them in the conservation-based estate planning process. Chapter 3 discusses the steps that typically occur in conservation-based estate planning, as illustrated by research conducted at Penn State. Chapter 4 suggests ways professionals, advisors, and peers can engage with forest landowners seeking advice while working through their woodland ownership succession planning efforts.



INTRODUCTION TO CONSERVATION-BASED ESTATE PLANNING

Decisions landowners make about the future ownership and use of their land can be some of the most significant drivers of landscape change that will determine the benefits these lands provide in the future.

We are in the midst of the biggest intergenerational shift in land ownership that our country has ever seen. Nationally, roughly 2.7 million family forest owners who are over 55 years old and reflect 80% of all family-owned forestland will soon be deciding the future ownership and use of their land. In fact, according to the USDA Forest Service’s National Woodland Owners Survey (see Resources list, inside back cover), almost one-third of forest landowners in the Northeast report that they will be making decisions about their land’s future ownership and use in the next five years. The result of these decisions (or non-decisions) will determine whether the land is conserved, developed, broken into smaller parcels (“parcelized”), or unchanged.

Private forests provide many societal benefits—from wildlife habitat and clean water to boundless recreational opportunities, carbon sequestration, and timber. These benefits are best ensured through properties that maintain their forest use as intact, working woodlands. Therefore, the decisions landowners make about the future ownership and use of their land can be some of the most significant drivers of landscape change that will determine the benefits these lands provide in the future. Because land is often one of a landowner’s most valuable assets, these decisions also often have significant financial and personal implications and can affect family relationships. Informed, well-planned decisions will help maintain both the public benefits produced by the land and family well-being.

Research from across the eastern United States has shown that most current forest landowners would like to keep their woods intact and functioning as woodlands. With forestland most at risk from being subdivided or developed at the time of ownership change or transfer, many are looking for tools that will help them ensure the continuity and, hopefully, stewardship of the land. This long-term objective is referred to as “conservation-based estate planning.” But forest landowners need help to get through this planning process.

2.7 million

The number of U.S. family forest owners who will soon be deciding the future ownership of their land.



Trusted Advisers, Community Leaders, Planning Professionals, and Peers Play Critical Roles

To equip landowners with the tools they need to make informed decisions, we need an all-hands-on-deck approach. We need people who work with landowners in a variety of capacities and who are outside traditional forest stewardship networks. We need estate attorneys, accountants, financial planners, community-based peers, family, and friends—in conjunction with natural resources professionals, land protection specialists, and community leaders—to help inform these critical decisions.

The intended audience for this publication is those of you in these important roles. (Many other publications and resources target forest landowners themselves; see Resources list, inside back cover, for a few). The goal of this publication is to help you help landowners, using whichever strategy is most appropriate for you and your role in the community. Familiarizing yourself with the issues surrounding land transition planning will help you better serve the needs of your clients, peers, and fellow community members.

There are many ways to help inform these critical landowner decisions. The strategy you choose (see Chapter 4) will depend on the ways you interact with landowners, your interests, your expertise, and how much time you have. No matter your strategy, it will be most effective if it is developed with a solid understanding of landowners and their long-term objectives underlying and driving these decisions.

The information in this publication is adapted from a publication of the same name authored by a team from the University of Massachusetts Amherst, the University of Maine, the University of Vermont, and Cornell University Cooperative Extension (see Markowski-Lindsey et al. 2017 for more information about this study). In this adaptation, we draw upon studies, research, and programs conducted within the James C. Finley Center for Private Forests at Penn State over the past two decades to integrate relevant Pennsylvania-focused data and perspectives. Unless indicated otherwise, the data reported about Pennsylvania woodland owners are derived from a 2010 survey of landowners across the state (see Metcalf et al. 2012 for more information about this study). The research and lessons learned are relevant to any landscape with characteristics similar to our region.



Introduction to Conservation-based Estate Planning

Conservation-based estate planning (CBEP) is a planning approach that involves using a suite of legal and financial tools to achieve the current landowner's goals while providing to the next owner, whether known or not, the largest, most intact, undeveloped, and functioning natural land possible. CBEP requires landowners to work with planning professionals to complete the plan. We'll go into greater detail about CBEP below.

Two Initial Decisions about Passing on the Land

When it comes to CBEP, there are two important decisions that every landowner must make:

- 1) Do they want to determine who will own the land when they are gone?

In Pennsylvania, 75% of landowners believe their beneficiaries will maintain the land, but at the same time believe the decision is up to the next owner, leading to some potential uncertainty. Only 17% have made legal arrangements using estate planning tools to maintain their forestland after they pass. Taking these steps can help reduce the likelihood of parcelization—the breaking up of larger properties into smaller parcels—by explicitly defining who will own the land, and may reduce forest conversion by passing the land on to a single ownership structure that will most likely keep it undeveloped, if that is the goal.

- 2) Do they want to determine how the land will be used in the future, when they no longer own it?

In Pennsylvania, 69% of forest landowners say they are willing or very willing to protect their forestland from development. These responses show that there is interest among landowners to control both the future ownership and the future use of their land. Most want the land to be left in a natural state, with little or no commercial or residential development, and two-thirds want their land to remain mostly or completely intact.

A Note about Values

CBEP can require cultivating a shift in landowner perspective from a “mutualistic” relationship with the land, in which landowners are motivated to own and care for the land by, for example, their enjoyment of it and the opportunities for solitude that the land provides (the intrinsic value of nature), to more of a utilitarian relationship with the land, in which the land's economic value figures more prominently in the planning process. Some landowners may feel discomfort and emotional resistance to this shift. Some landowners may need more assistance pushing past their initial hesitancy to address the utilitarian and economic-based values of the land in preparation for CBEP. This hesitancy can be because the landowners are “land rich and cash poor” and don't want to confront the real challenges they may face holding onto the land or successfully transferring it to the next generation. This hesitancy can lead individuals to want to put off difficult decisions, often leaving the beneficiaries little option but to make the decision out of necessity to sell, parcelize, or liquidate some or all of the land to cover the associated capital costs of inheriting the property once they are gone. We can help landowners see that by pushing past the discomfort to consider the economics of their land and moving forward with estate planning, using its common language to conserve their land as they prefer, they increase the likelihood that their stewardship and legacy objectives will be easier for their beneficiaries to carry on. Future generations will be able to establish or continue a nourishing, mutualistic relationship with the land.

What Is Conservation-based Estate Planning?

Conservation-based estate planning, or CBEP, is a unique approach and specific process for estate planning. A legal “estate,” whether for an individual or a couple, is the total collection of one’s assets. This may include a person’s land, house, automobiles, bank accounts, pensions, stocks, and other items of monetary value. Estate planning protects assets during ownership transition, organizes the legal structure to convey an asset at the time of transfer, and identifies opportunities for minimizing tax obligations (see Table 1 for examples).

Table 1: Common CBEP Tools and the Professionals Who Help Implement Them

CBEP Tool	Professional Who Can Assist
Discussing wishes for the land with family	Facilitator/mediator (if needed for a healthy conversation)
Formalizing wishes in a will/trust	Estate planning attorney
Ownership types: <ul style="list-style-type: none"> • Direct (for example, ownership by the entirety [names on deeds]) • Indirect (for example, limited liability company) 	Estate planning attorney
Current use tax program	Pennsylvania Department of Agriculture
Conservation easement/restriction	Land trust or conservancy land protection specialist
Land donation/sale	Conservancy, land trust, or state agency
General financial management, including planning for investing, retirement, education costs, and insurance	Certified financial planner
Help in reaching financial goals, including tax preparation	Certified public accountant



Estate planning protects assets during ownership transition, organizes the legal structure to convey an asset at the time of transfer, and identifies opportunities for minimizing tax obligations.

A simple estate plan consists of three documents: a will, power of attorney, and medical power of attorney.

CBEP goes a step beyond traditional estate planning. The CBEP process uses additional legal and financial tools with the explicit intent to maintain some or all of a property in its natural, undeveloped state. The overarching goal of CBEP is to achieve the current landowners' estate planning goals while keeping as much of the property undeveloped and in as large a parcel as possible.

Examples of Legal Tools for Conservation-based Estate Planning

Will: A legal document detailing a person's wishes for the disbursement of their property after their death.

Trust: Legal arrangement that can hold and own virtually any asset. Length of existence can be limited or limitless. One person manages the trust for the benefit of the beneficiaries. Income is taxable. Beneficiaries can lose control over the assets.

Partnership: The Internal Revenue Service (IRS) defines a partnership as "the relationship between two or more people to do trade or business." Income and loss go on the owners' personal tax returns. Taxes and accounting are simple. Ownership can be transferred by interest instead of by deed. Normally a partnership ends when one partner dies, unless the remaining partners agree to go on. A partnership requires annual reporting to the IRS.

Limited liability company (LLC): The IRS describes an LLC as "a business structure allowed by state statute." This type of business structure carries limited liability responsibilities, and it's easy to transfer ownership interests. Liability obligations are limited to the assets of the corporation. Taxes may be lower at the corporate level than at the individual level, but can potentially cause double taxation of income. A professional's guidance is recommended. An LLC can go on indefinitely but requires formal paperwork and annual reporting.

Current use tax programs: Pennsylvania's Clean and Green program is an example of a current use tax program. The Pennsylvania Department of Agriculture defines the Clean and Green program as "a preferential tax assessment program that bases property taxes on use values rather than fair market values. This ordinarily results in a tax savings for landowners." Clean and Green tax rates are assessed and administered at the county level.

Conservation easement: The voluntary legal transfer of land subdivision and/or development rights to a qualified nonprofit or government agency for the purposes of conservation.

CBEP should be thought of as an à la carte menu of legal and financial tools from which landowners choose to adopt those options that best meet their needs. CBEP includes many of the same tools as standard estate planning, plus additional tools that help landowners keep the land undeveloped. For example, current use tax programs such as Pennsylvania's Clean and Green program, legal and financial tools that provide the benefits of indirect ownership, and conservation easements are tools that can be used for this purpose.

Common CBEP Tools

CBEP tools can define future land ownership. Examples of such tools include a will, a trust, or an ownership type that specifies how the land will be conveyed to the next owner. Additionally, CBEP tools can designate how the land will be used in the future. Some of these tools determine land use temporarily, such as a state's current use tax program (see Examples of Legal Tools for Conservation-based Estate Planning text box). Other tools, such as a conservation easement or donating the land to a conservation organization, allow a landowner to determine the future land use permanently. Combinations of these tools can be used to meet the unique personal legacy, legal, and financial goals of each landowner.



A will is just one tool available to landowners as they plan the future of their land.

A Note about Conservation Easements

Many people tend to think of conservation easements when they think about preserving land in a natural state, but it's important to recognize that a conservation easement is not going to meet every landowner's needs. In the 2010 survey, only 9% of Pennsylvania landowners reported already having a conservation easement on their land. Even if landowners are interested in permanent conservation, their land may not be in a high priority area (high ecological, recreational, or watershed protection value) or in a land trust's focal geographic area. Because everyone is working with limited time, energy, and resources, it is wise to match CBEP tools with the property's landscape context. For example, you may want to encourage landowners to connect with local or regional conservancies to understand and evaluate the market value and interest in their parcel for longer term easement opportunities. Landowners outside areas of high priority should be encouraged to consider a combination of other non-permanent tools, unless they are interested and able to incur significant personal financial expense to achieve their long-term conservation and stewardship objectives.

Depending on the landowner's goals and the ecological, recreational, or cultural value of the land, CBEP options may appropriately focus on permanently conserving the land or using tools that will pass the land on without permanent restrictions. It may mean no residential or commercial development, or it may mean limited development. The combination of tools must fit the landowner's particular needs.

Trusted advisors, community leaders, planning professionals, and peers are critical in connecting interested forest landowners to the help they need to achieve their CBEP goals.

The Importance of Making Connections

Connecting a landowner to a local professional who understands land or to another landowner who has experience with CBEP may be the most important thing you can do on this issue.

Again, you don't need to be an expert in estate planning.

You have a valuable role—that of a trusted professional or peer. Let landowners know that they have options, and connect them with a local professional or peer who can help.



There is strong interest among landowners in controlling both the future ownership and the use of their land. You can help them move from good intention to action.

Chapter 2 discusses why the typical Pennsylvania forest landowner owns land, their status with estate planning and their goals for the land, life events that tend to trigger the desire for estate planning, and the factors and impediments involved in CBEP decisions.

9% of surveyed Pennsylvania landowners have placed a conservation easement on their land.

WHO ARE PENNSYLVANIA'S FOREST LANDOWNERS AND WHAT MOTIVATES THEM TO OWN AND CARE FOR THEIR LAND?

Survey data revealed that Pennsylvania woodland owners as a group are older (average age 59) and well educated—many hold advanced degrees—and they have higher than average incomes. Many engage directly with their forestland, even absentee forest landowners.

Forests dominate Pennsylvania's landscape. More than 16.5 million acres of forests provide clean air, protect watersheds, and host myriad species of wildlife, plants, fungi, and, increasingly, human populations. These forests are the backdrop for many of our communities, our playgrounds for outdoor activities, and a refuge where people find spiritual renewal, refreshment, and solitude.

Of these acres, private forest landowners control 69.4%, or about 11.5 million acres. The 2010 survey showed that there are 738,000 woodland owners in Pennsylvania. The individual decisions of these private owners collectively have an outsized influence on the future of Pennsylvania's forests and the many public benefits they provide.

Who Are Pennsylvania's Private Forest Landowners?

Survey data revealed that Pennsylvania woodland owners as a group are older (average age 59) and well educated—many hold advanced degrees—and they have higher than average incomes (when compared with state averages). Many engage directly with their forestland, even absentee forest landowners. Firewood cutting is very common—over half of all woodland owners have done so at least once—and there is great concern and care for wildlife, wildlife habitat, and the effects of various activities on wildlife.

69.4%

of Pennsylvania's more than 16.5 million acres of forests—about 11.5 million acres—are controlled by private forest landowners.

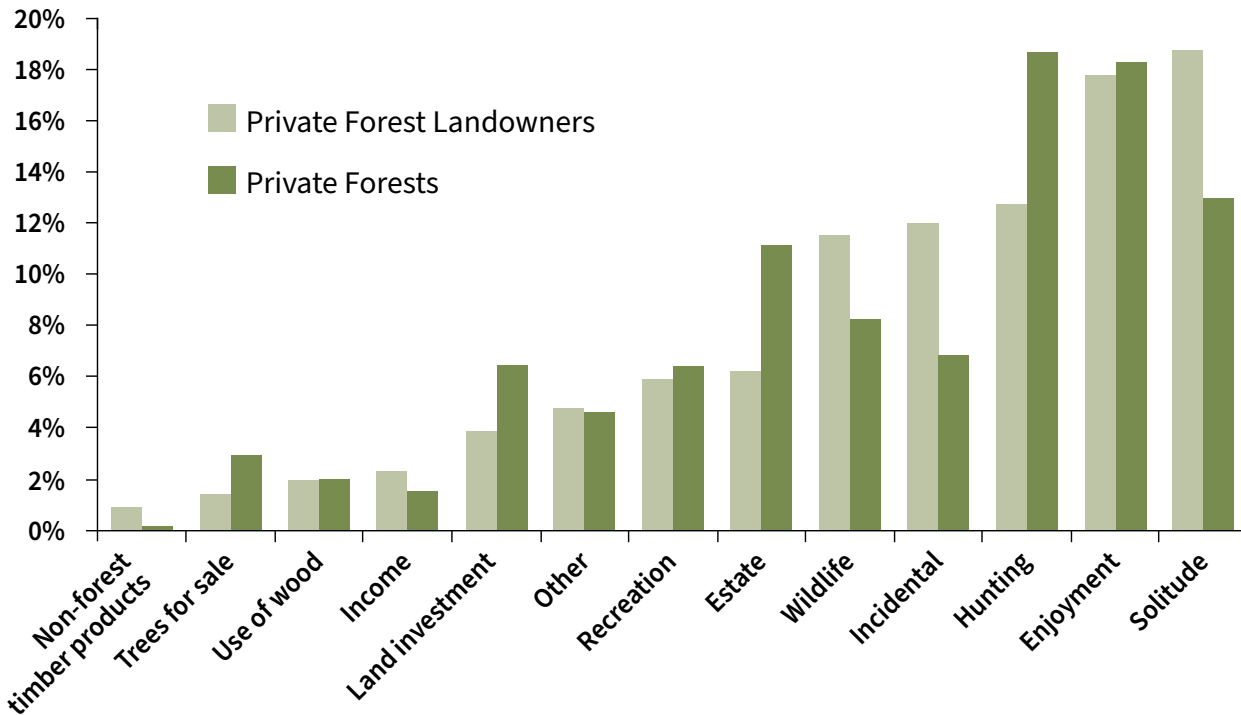


The individual decisions of 738,000 private forest landowners are shaping the future of Pennsylvania's forestland.

Reasons for Owning Forestland

Forest landowners have many reasons for owning their woods. Figure 1 shows the top reasons landowners indicated they owned their forests in the 2010 survey. The lighter colored bar represents the percentage of woodland owners indicating that reason as their top reason for owning. The darker colored bar is the percentage of forestland those owners hold who responded to those reasons. For example, the top reason woodland owners indicated they owned their forest was solitude (19% of landowners), but this 19% owns just 12% of Pennsylvania's private forestland.

Figure 1: Top Reason for Owning Forestland
(from a 2010 survey of Pennsylvania forestland owners)



From solitude and enjoyment to wildlife to income from trees and non-timber forest products, Pennsylvania's forest landowners have deep connections to their land.

Gender Differences in Reasons for Owning Forestland

Research in Pennsylvania shows that there are some gender differences in the reasons people own land. Men were significantly more likely than women to rate “hunting opportunities,” “growing trees for sale,” “personal uses of wood,” and “income other than from selling timber” as important ownership objectives. Women tended to be more often motivated by a “protectionist” view of the intrinsic value of nature, whereas men tended to be more focused on the production of forest products useful to people.

Breaking Up Forestland Reduces Its Ecological Value

Over the years we’ve seen increases in the number of forest landowners in the state. With land being a fixed resource, that means parcelization of forestland has been occurring at rapid rates. Research conducted over decades demonstrates that, as forestland is parcelized into smaller and smaller pieces, its functionality—and the services it provides—degrade. To preserve the many public benefits provided by private forests, significant effort is needed to prevent further parcelization across the forested landscape. Particularly problematic for slowing this trend are forest landowners’ plans to leave their forestland to multiple beneficiaries.



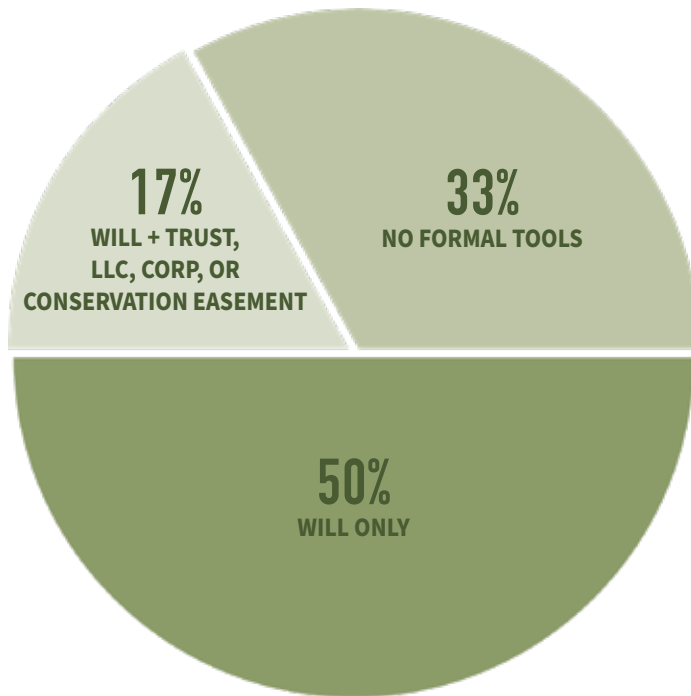
As more large forested tracts become subdivided into smaller and smaller parcels, threats to the health, function, and value of forestland continue to grow.

Land Legacy Intentions

Many forest landowners (49.3%) intend to leave their forestland to more than one beneficiary, which could present a significant challenge to keeping woodlands intact and functional. In many instances, forestland owned by or bequeathed to multiple owners is subdivided to equally distribute assets. Although woodland owners who leave their forestland to multiple beneficiaries probably do not intentionally degrade their forests’ functionality, the resulting effect on the landscape is the same: smaller parcels of forestland, loss of forestland, reduced forest ecosystem function, and potential loss of access for recreation and timber production.

49.3%
of Pennsylvania’s forest landowners intend to leave their forestland to more than one beneficiary.

Figure 2: Distribution of the Amount of Estate Planning Forest Landowners in Pennsylvania Have Done



A better understanding of landowners and their conservation-based estate planning behavior will help ensure that your time, energy, and resources can produce the greatest impact when working to inform landowner decisions.

Current Level of Estate Planning

Of Pennsylvania forest landowners who have done formal estate planning, wills are the most popular tool (see Figure 2). Sixty-seven percent of landowners report having a will or a will combined with some other tool, usually a trust. Though many landowners have at least some formal tool in place, a third of surveyed landowners report having done no formal planning for the future of their land. This is a significant outreach opportunity.



Encouraging landowners to plan for the future of their land may mean updating or amending an existing estate planning tool to include the land or to better reflect current goals and circumstances.

Goals for the Land

Landowners often rate beauty, privacy, wildlife, recreation, legacy, and a place to raise a family as reasons for owning their land. This preference for intrinsic values over financial goals is well documented in many landowner studies. In fact, very few landowners are making a significant proportion of their annual income from their land.

Intrinsic values likely play an important role in helping landowners develop a strong emotional attachment to their land. And the stronger the emotional attachment, the more likely they will be to want to conserve it.

Estate Planning Goals

Landowners are typically trying to balance the personal goals of keeping some or all of their land undeveloped with the financial goals of providing for their own needs and being able to pass on assets to their beneficiaries.

Understanding the goals landowners are trying to achieve through conservation-based estate planning can help us package programs and resources (see Chapter 4) in a way that will meet their specific needs. Planning outreach that addresses the goals of particular landowners and highlights the tools that may be a good fit for these goals is a strategic way to inform these decisions. For example, providing educational programs on current use tax programs as a temporary approach to determining future land use may be a good fit for landowners who want to give the next owner more options.

Triggers to Estate Planning

For many landowners, identifying long-term land use goals can be very challenging. And even when they do, it often isn't enough to motivate them to take the next concrete step to plan for the future of their land. It can be difficult for landowners to find the time, money, and motivation to undertake the estate planning process, and not every landowner is ready to do so. It is common for landowners to let years or even decades go by without doing any planning for the future of their land.

The stronger their emotional attachment to the land, the more likely landowners will be to want to conserve it.



Rather than try to engage landowners who are not ready to think about the future of their land, it can often be more effective and efficient to focus on landowners who are at a decision point about their land. Research indicates that landowners who have experienced some sort of motivating life event or circumstance, also called a trigger, may be actively evaluating or open to starting future land use consideration discussions. Triggers are often related to one another, so it may be the convergence of several events or circumstances that causes a landowner to begin the process.

Colleagues in New England identified the following triggers that often catalyze landowners to consider future land use and/or estate planning (see Markowski-Lindsey et al. 2016 for more information about this study):

- Age. The older the landowner is, the greater likelihood they will engage in the process of estate planning, as the circumstances described below are more likely to happen.
- Health issues. Poor personal health, or even the poor health of a friend or family member, often reminds landowners of their mortality and could trigger interest in CBEP.
- Finances. Ensuring that there will be enough money to live on, especially in retirement or as a precautionary measure should health issues arise, could trigger decision-making, as could a change in financial circumstances, such as losing a job, or changes in the larger economic landscape (estate tax policy, national economy, etc.).

- Significant life events. Births, deaths, marriages, and divorces could compel a landowner to begin the estate planning process.
- Family dynamics. Struggles with how to equitably divide the asset or concern about beneficiaries' long-term marital stability, mental health, or substance abuse issues can spur a landowner to act.
- Other families. Seeing a family friend or fellow community member struggle with the decision of what to do with the land or witnessing a negative outcome (such as the forced sale of land resulting from a lack of planning or decision-making) can trigger landowners to start planning.
- Nearby development. Seeing development of nearby land can motivate landowners to start planning for the future of their land.

Knowing the trigger that may cause a landowner to begin the process of estate planning may help provide direction on which issues to address. For example, if family dynamics are the issue, then connecting the landowner to professional mediators or family coaches may be a good way to help. If figuring out finances is the primary issue for a landowner, connecting them with a financial planner may be an effective way for the landowner to get an accurate estimate of their assets and to get the CBEP process started.

For many woodland owners, their ownership values are not purely financial. The challenge of planning around an illiquid (hard to transfer into cash) asset that also has emotional and relational connections can provide barriers to engaging in the process or accessing the help needed to successfully complete a CBEP process. As professionals engage these landowners and support their goals of a successful CBEP process, flexibility and recognition of those intrinsic and actionable values are key.

THE CONSERVATION-BASED ESTATE PLANNING PROCESS

Researchers at Penn State’s Finley Center recognized the extremely important role that professional planners play as they assist landowners in developing their estate plans and worked to develop a road map to illustrate the general steps and stages involved in successfully completing a conservation-based estate plan.

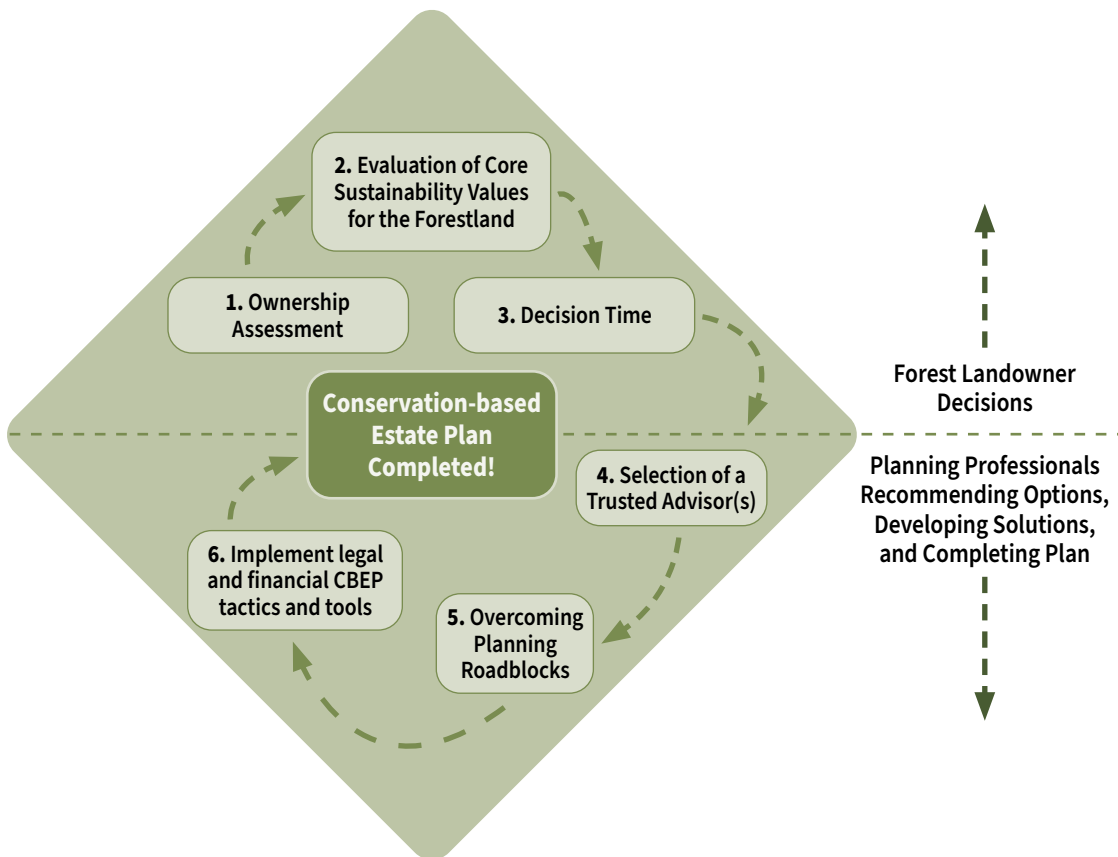
In the two previous chapters we’ve discussed opportunities to inform landowners’ decisions about the future of their land, what they desire from their estate planning efforts, some life events that may trigger decisions, and some challenges they can encounter in this process. In this chapter, we will walk through a research-based model developed at Penn State to illustrate the general steps and stages involved in successfully completing a conservation-based estate plan (CBEP).

Researchers at Penn State’s Finley Center for Private Forests recognized the extremely important role that professional planners play as they assist landowners in developing their estate plans and became interested in how they view and engage in the process with their clients. They developed a qualitative research project that interviewed estate attorneys and financial planners (“planning professionals”) with the intention of identifying a theoretical model for how planning professionals work with private forest landowners during the estate planning process. Following the development of the theoretical model, the Within the Decision Point model (see Roth et al, 2024 in the Resources list, inside back cover) was adapted into an applied model that represents the planning process and stages that forest landowners encounter in developing a CBEP. The goal of the research was to identify what was a previously undelineated and otherwise ambiguous process to provide landowners a road map to what is involved and the challenges that may be encountered along the way, with the underlying aspiration that the increased transparency and familiarity will help overcome the apprehension and inertia that often prevent the planning process from advancing.



As highlighted in the previous chapter, certain life events—such as the birth of a child, divorce, retirement, illness, or death—can force landowners into making decisions, in many cases in a reactive moment without having a plan. When landowners find themselves in this situation, they have arrived at a decision point (see Kittredge 2004 for more information about the decision points). The model we are about to discuss is a representation of what a landowner may experience when they find themselves “within the decision point” (Figure 3). The overall goal or endpoint of the model is successfully completing a CBEP as a desire and objective identified and expressed by the landowners. This is represented in the center of the model.

Figure 3: Representation of the *Within the Decision Point* Model (Roth et al, 2024)



We’ll now walk through the steps of conservation-based estate planning as shown in Figure 3.

Step 1: Ownership Assessment

To begin the CBEP process, interested landowners will need to collect information on their forested property, as well as their personal or family finances. Important details about the property often include items such as:

- How many owners are there?
- How are the ownership rights defined?
- Does the current owner control both the surface and subsurface rights?
- Are there deed restrictions on the property?

Shifting to the “on the ground” physical characteristics of the property:

- Where is the property located?
- Is there a current map and/or aerial photography of the property?

- How much of the property is forested?
- What types of trees are present?
- Are there rights of way across the property?
- Does the property have road frontage or access issues?
- Is there stream frontage or water access?
- What additional features would the owners like to highlight about the property?

All of these details will be important for planning professionals to know as they begin putting together the framework of a long-term plan.

Additionally, interested landowners will need to consolidate relevant personal and family details to help provide more context for starting the planning process, and help estate attorneys or financial planners evaluate what options may be most practical or the best fit. Some planning professionals may have a questionnaire that they may ask the potential client to fill out; having this information already consolidated will be helpful. This information will often include the names, ages, and addresses of the current owners (some may be absentee owners) and whether they are related (siblings, cousins, etc.); their marital status; the names and ages of potential beneficiaries (possibly children, grandchildren, etc.); and the owners' income levels, financial status (employed, retired, etc.), and place of residency. This is not intended to be an exhaustive list but is offered to illustrate the types of information landowners should consider and inventory to be as prepared as possible to engage in the planning process.



During Step 1, landowners collect detailed property, financial, and other important information to share with their planning professionals.

The next step in CBEP considers the landowner's long-term wishes for the land.

Step 2: Evaluation of Core Sustainability Values for the Forestland

Social, economic, and ecological values are often referred to as the “three pillars of sustainability.” They represent major value systems often considered in long-term conservation planning. As landowners evaluate what is most important to them to plan for the future of their land, it is important they consider and prioritize the social, economic, and ecological factors they most strongly associate with their property. Below are some common examples.

Social:

- **Heritage**—The land may have been in the family for many years or generations. Are there traditions they wish to carry on? Are there important family memories or locations on the property that an aspect of planning can protect or sustain into the future?
- **Legacy**—Do the landowners wish to leave the land for future generations as a part of their legacy to their children, grandchildren, or other beneficiaries?
- **Recreational events**—Was it a place the family gathered during particular times of the year, for specific purposes?

Economic:

- Is the property actively managed as a working forest for timber products?
- Are there additional income opportunities from the land that can help offset the carrying costs moving forward, such as leasing options (for hunting, mineral rights, etc.)?
- Does the property produce other marketable products from the land (for example, mushrooms, ginseng) that they wish to sustain into the future?

Ecological:

- Is there an explicit interest in conserving particular species of plants or animals on the property?
- Is there an interest in implementing practices or making investments to enhance wildlife habitat?
- Is there surface water present and are any stream or watershed protection actions desired?
- Is controlling or eliminating invasive species a priority?

A Land Mission Statement

Once landowners have assessed these values for their forestland, they should ideally write a land mission statement—an overarching land goal. This allows them to communicate their values and aspirations for the woods now and for future owners.

Writing a land mission statement requires the current landowners to understand their hopes and intentions for their woodland and, later, to consider how to turn intentions into reality through concrete actions. Essentially, the question is, what are the desired future conditions of their property that they would like to ensure? The mission statement would likely include words such as “protect,” “use,” “manage,” “conserve,” or “sustain.” It would reflect values that resonate with the landowners and their family, including terms such as “wildlife,” “beauty,” “recreation,” “forest products,” “health,” and “privacy.” It would likely include words indicating a future that looks better than the current condition, such as “improve,” “enhance,” or “create.”

For continuity and ease in the future, ideally the land mission statement should represent expectations and goals that both current and future landowners can fully support, so it's best if landowners can include in this process the voices and values of the people they hope will become the next caretakers of the land.



In Step 2, landowners evaluate what is most important to them as they plan for the future of their land. From this assessment, landowners are encouraged to develop a land mission statement and forest management plan.

Forest Activities Plan

Ideally, before starting the estate planning process, landowners should flesh out the land mission statement into a forest activities plan, also called a forest stewardship or forest management plan. This step-by-step plan of how the mission will be carried out on the ground to reach the end goal is often developed by a professional forester in consultation with the landowners. It should be rooted in the landowners' values and focused on the landowners' objectives for their land and what they hope for its future (the desired future conditions). Some landowners may not be interested in harvesting trees or in active forest management but may be interested in activities such as controlling invasive plants or improving wildlife habitat. For example, maybe they want to have patches of young forest habitat that attract a larger variety of birds.

It will be up to the beneficiaries whether they carry through with the forest activities plan, but if such a plan exists, it's more likely that the landowners' objectives will carry through to the next owners. By creating a good plan, the landowners will be able to provide their vision for the land to their beneficiaries.

At a minimum, a good plan should include:

- A property map showing ownership boundaries.
- An inventory of the trees or forests and evaluation to describe:
 - The current condition of the forest and its health.
 - Forest "stands" or "management units"—defined areas of the forestland with trees of similar age, species, and history.
- The landowners' interests or wishes for their forestland expressed as "desired future conditions"—what do they hope for their forest in the future, and what actions or activities are necessary to maintain or achieve them?
- A 10-year schedule of activities to accomplish the forest activities plan—those that can be done by the landowners and those that require professional help.



A forest management plan can help ensure the landowners' objectives are carried into the next generation.

Step 3: Decision Time

Once the landowner has collected and organized many of the baseline details needed to develop an informed CBEP, it's decision time. The decisions that need to be made now depend on and integrate the objectives of the current owners and the capabilities, capacity, and interests of the people who will next own the land. Distilled from the qualitative research and development of the model at the Finley Center, three categories emerged relating to the decisions landowners will face in this stage of the planning process: barriers, long-term vision, and situational awareness. Let's dig a little into each one.

Barriers

The “barriers” category represents different types of challenges or issues that can arise during this stage. Family dynamics are a significant issue. To put it simply, can family members communicate effectively? Is this family “functional” or “dysfunctional”? These dynamics can significantly affect the ability to move forward successfully in the planning process. Another aspect of the “barriers” category is whether there is consensus among current family members or future beneficiaries on the desired future conditions of the land. Is the land to be “used” as a working forest, for example, or just “enjoyed” for recreation and aesthetic purposes? Disagreement on these issues among future beneficiaries can come to light in the forest activities planning stage and present challenges to the planning process advancing.

Long-term Vision

These challenges can be further exacerbated by the costs associated with planning and the potential complexity required to achieve the long-term vision of the current owners. Will the future beneficiaries have the monetary resources and commitment to execute the transition and continue with the activities outlined in the forest activities plan? These considerations lead into the second category of challenges identified during this stage of planning: long-term vision.

Put simply, the long-term vision category asks, “Do the future heirs or beneficiaries agree on a common long-term vision?” This builds off the previous category, but also requires the future beneficiaries to examine their “sustainability values” from the previous section and have a pragmatic, candid discussion if there is disagreement on the long-term vision, and to examine whether there are options to bridge the differences.



Who's in the Driver's Seat?

Note that the top half of the *Within the Decision Point* model (Figure 3 on page 14) represents a phase when landowners have the primary responsibility of collecting the needed information and working through a suite of decisions to arrive at what exactly they would like to do with the future ownership of their forestland. In the steps below the dashed horizontal line, planning professionals will also play a significant role and bear responsibility to ensure the process continues to move forward. In the final three steps of the CBEP process, the planning professionals will recommend options to achieve the objectives and desired future conditions that have been identified in the earlier steps, and develop the legal and financial solutions necessary to achieve them. They will work closely with the landowner each step of the way, but bring their expertise to the forefront to enable completion of the planning process.

Situational Awareness

The last category under the “Decision Time” step is focused on “situational awareness.” Situational awareness is the holistic understanding of how estate planning processes and resources work together to create a successful estate plan. The examples below can’t be considered in a vacuum. Are the individuals involved in the transfer of the forestland aware and interested that there are legal and financial planning options available to assist with the ownership transfer? Are those involved able to recognize the differences between “planning” and “reactive decision-making”? Do those involved recognize the cost-benefit of planning ahead, as well as the opportunity-cost and consequences that likely will result from inaction and a lack of planning? Planning professionals widely agree that the sooner landowners start the process and maximize the time that is available to plan without a “decision-making trigger,” the more options will be available to address any of the challenges that may arise.

Step 4: Selection of a Trusted Advisor(s)

As many of you are aware as professionals, selection of a trusted advisor(s) is one of the most critical stages within any process, no less this one. At a minimum, the landowners need to hire an estate attorney whom they trust and can work with. Depending on the complexity of the plan and the monetary resources available, the services of a certified financial planner will also likely be necessary. Other team members may include an accountant, land appraiser, land protection specialist, forester, other conservation professional, and facilitator/mediator.

Finding the right planning professionals can be challenging for landowners. There is a recognized level of variation in the awareness of the legal and financial tools available to achieve CBEP outcomes.

Landowners may have to evaluate various professional service options, and, particularly for geographically constrained rural landowners, the best solution may not be local; they may need to be or get comfortable with online meetings and document transfers or be willing to travel.



Workshops and webinars focusing on the needs and concerns of forest landowners provide opportunities for planning professionals to gain expertise in guiding their clients through the CBEP process.

Selecting trusted advisors is critical for a successful conservation-based estate planning outcome.



Given the propensity for heart-string connections to the land and sometimes challenging financial situations (land is the asset), an effective advisor for the CBEP process will need to step out of the sometimes “transactional” relationship with the client, having the personal and financial best interests of the client as their motivator while serving as a supportive guide through the complexities of the planning process. This relationship will be longer term and not just a one-time meeting. A good advisor or advising team has a breadth and depth of sophistication needed to identify and recommend the right tools to meet the defined objectives.

Some examples could include an estate attorney familiar with the benefits of indirect ownership options and associated trust structures, and a certified financial planner experienced in dealing with potential liquidity issues and various ways to address them—through investment strategies or life insurance options—to generate and/or maintain the monetary resources necessary to successfully execute CBEP.

Step 5: Overcoming Planning Roadblocks

Entering step five of the planning process, the landowners are working with one or more professional planners toward completing their plan. However, there are still a number of decisions that need to be made and a number of factors that can complicate and create inertia during this stage of the planning process.

Timing

As has been mentioned previously, timing continues to be a challenge until the plan is completed. This is rooted in the “proactive” versus “reactive” decision space that landowners may find themselves in, and the reduced number of options that may be available if this process isn’t completed prior to a “trigger” occurring that requires a reactive decision that could be counter to the landowners’ long-term interests, most often because of a liquidity challenge and the need to raise capital.

CBEP, or estate planning more generally, is not a one-time event but, more often, an iterative process across time. Changes in state or federal estate or tax law require periodic review and updates to the plan, as do potential changes within the family or planned beneficiaries, or even the long-term objectives of the overall plan itself.

Cost

The cost and complexity of the planning process at this stage can create challenges. The good news is there are many affordable legal and financial options for land transition planning. Both the legal and financial industries have become much more accessible and affordable over the last 20–30 years, and many planning options and solutions are available for landowners of various means. The bad news is these tools can be highly complex and customizable, and every situation is different, which doesn’t lend itself to a “one-size-fits-all” off-the-shelf product. This complexity can create inertia in moving forward. Moving past this inertia requires a comfort level with the options and an honest assessment of the economic feasibility of various planning options.

Liquidity as a Barrier to CBEP

Many times, forest landowners are “land rich, but cash poor.” Their land assets are “illiquid,” meaning that they can’t be quickly turned into cash. This can hinder people from making some choices or progress in CBEP.

Consider a very common scenario in which the value of a parcel of land has skyrocketed over the last 20–30 years. One of the most acute challenges at the time of land transfer, if it’s directly gifted or bequeathed (in a will, for example), is dealing with the capital gains tax for a property that may have been bought in the 1960s for, say, \$40,000 and is now worth \$2 million. There can also be federal and state estate taxes on such a property.

Experienced planners and attorneys can help by suggesting certain financial and legal tools to address this issue and remove this barrier.

Family Dynamics

Once again, similar to the third step of the CBEP process, family dynamics can present challenges to completing the process. Intergenerational communication of the long-term goals and approaches can go really well, or be very challenging, depending on how “functional” or “dysfunctional” the family dynamics are, how aligned the beneficiaries’ views are, and how issues such as “equal” or “equitable” distribution are handled and communicated. How much to communicate—or not communicate—about this process with the heirs or beneficiaries is at the discretion of each individual landowner going through this process. Successful long-term efforts suggest that, the more successful the communication is throughout the process, the more likely the potential success of the plan will be years into the future.



Family dynamics can present challenges to completing the CBEP process. Effective intergenerational communication can be key to the potential long-term success of an estate plan.

It’s worth noting that several of the legal planning professionals interviewed during the research phase contributing to the development of the *Within the Decision Point* model said a lot of attorney time is spent untangling financial and probate messes that could and should have been addressed in an estate plan. When not proactively resolved during the estate planning process, these disputes are often very costly and not beneficial to any of the beneficiaries involved.

Planning Discontinued

It’s also important to realize that, in any stage of the planning process discussed here, the challenges that are often encountered can create enough inertia that planning stops. The completion of this planning process is not bound by time restrictions. If a landowner is highly motivated and very interested in CBEP, the process could take about 3–6 months in the best case. But meeting the challenges of family dynamics, cost, etc., can extend the planning process over months or years. So, completion of the process depends on the complexity of the situation and the motivation of the landowners.

Step 6: Implementing Legal and Financial CBEP Tactics and Tools

The last step in the model representing the CBEP process is the implementation and execution of the planning tools and tactics to achieve the goals and objectives of the landowners’ CBEP. This is when the estate attorney and other members of the planning team that the landowner has assembled, based on their specific needs, actualize the plan.

For the purposes of this model and illustrating the steps within the CBEP process, this step has been left purposefully oversimplified, but it is often the most technical and detail-oriented step of the entire process.

This step is where the technical legal and financial details are addressed. Financial details could include items such as the investments or life insurance options that will provide the monetary resources or “carrying costs” of the maintenance of the plan in the years ahead.

It's also within this stage that the legal ownership classifications of the property may be altered, accompanied by all the necessary legal documents and details. In some situations, changing how the land is owned—from direct to indirect ownership—can be an important step in CBEP.

In general, there are two types of ownership arrangements for land:

- Direct ownerships are those in which a person or people own the land directly. The names of the people who own the land are on the deed. Direct ownerships are easy to set up and maintain, but they do not provide protection from liability, meaningful tax benefits, or a mechanism for the gradual transfer of land.
- Indirect ownerships are those in which the land is owned by a legal entity such as a corporation, limited liability company (LLC), or trust instead of a person. They are more complex to set up, but include significant estate tax benefits, opportunities to protect individuals from liability, and the ability to gradually transfer ownership.

There can be tension within a family around the switch from direct to indirect ownership because everyone might not understand or value the benefits. It can take time to understand the benefits of changing ownership structures, but indirect ownership offers more opportunities to address liquidity challenges, taxation, asset distribution, and protection challenges at the time of ownership transfer than direct ownership does. A significant benefit of indirect ownership is avoiding a drawn-out probate process, which is often encountered when a will is used to transfer estate assets. The move to indirect ownership presents opportunities to deal with liquidity challenges that many landowners experience at the time of transfer. These occur when significant taxes come due with land ownership transfer, but the only available capital to pay the taxes is tied up in the land.

Many successful CBEP processes use tools that shift the property being transferred from direct ownership to indirect ownership. A successful CBEP will carry the current owners' vision, values, and desired future conditions forward for generations to come, and be a lasting testament to their commitment to forest conservation and stewardship.

Summary

The Penn State *Within the Decision Point* model walks forest landowners and planning professionals through the broad categories of CBEP for forestland ownership transition when one of the primary objectives is conserving and maintaining an intact, functioning forest for future beneficiaries. The intent of the model is to illustrate the steps in the process to help those engaged or involved become more familiar with a procedure that previously seemed daunting.

Each landowner should carefully consider their family situation and work with planning professionals to identify and implement the solution that best suits their circumstances.

We turn next to exploring how trusted advisors and peers can help landowners along on their process of CBEP.

IMPLEMENTING CONSERVATION-BASED ESTATE PLANNING OUTREACH

In all your interactions with landowners, remember that people own land for different reasons. Your interaction with landowners should start by asking them why they own land and what they value about it.

Whatever your role, you have an opportunity to inform the decisions of Pennsylvania's private forest landowners.

Peers and professionals can help landowners in various ways. As a representative of a conservation organization, you may be interested in hosting an outreach event that encourages landowners to learn about their conservation-based estate planning (CBEP) options. As a municipal board member, you may be interested in providing resources to your community's landowners through a mailing or an outreach event. As a forester, you may talk to your clients about the importance of planning the future of their land to ensure that their stewardship activities reach their full potential. As a community leader, you may be asked for your advice or a local contact. As an attorney, clients who own land may ask your advice on how best to pass it to beneficiaries. As a certified financial planner, you may help clients make and implement plans to meet their financial goals. As a certified public accountant, you may help clients plan tax strategies to minimize tax liabilities associated with transferring land to beneficiaries. Whatever your role, you have an opportunity to inform these decisions.

In all your interactions with landowners, remember that people own land for different reasons—for solitude, privacy, wildlife habitat, hunting, forest products, beauty and scenery, etc. Your interaction with landowners should start by asking them why they own land and what they value about it. As the need for CBEP grows more urgent, it can be stressful for landowners to shift their mindset from a focus on less tangible, more intrinsic values such as beauty, scenery, and privacy to utilitarian values such as the monetary requirements necessary to retain or transfer ownership of their land. Remind them that by focusing on utilitarian values during the estate planning process, they can help ensure that intrinsic values of the land will still exist for the next generation to enjoy.



With the right help from peers and professionals, landowners can ensure that the values they hold dear will be enjoyed by the next generation of owners.

The following sections provide tips to increase the effectiveness of your efforts, based on our experience informing these decisions.

Speaking One-on-One with a Landowner

In a role such as a forester or a municipal official, you may interact with landowners one-on-one. Or your role may include approaching individual landowners who live in landscapes with high ecological, cultural, or recreational value (for example, if you represent a land trust, an open space committee, or a watershed association). Regardless of your role, here are some considerations for approaching landowners.

The need for decisions about the future of the land often arises suddenly. One of the most valuable things you can do for landowners is let them know that you are available to provide information and contacts when they are ready to think about the future of the land.

Landowners have a strong preference for receiving information about planning the future of their land from experts. Though time-intensive, connecting landowners to an expert for a one-on-one conversation is likely to be very effective. This may be a good strategy for areas of high ecological importance.

Developing a team of trusted professionals in your area is a great way to ensure that you can quickly make a vital connection to a professional when the need for a rapid decision arises because of life events.

Conversations initiated by a trusted friend often bring about the best results. If you do not know the landowner personally, see if there is a mutual friend who will join the meeting with you.

Unless you are an estate planning attorney, don't provide legal advice. Be prepared to recommend attorneys in your area who have experience with land and land conservation tools.

When speaking with landowners, encourage them to investigate all their options. Let them know that there are people working locally who can help them learn about their conservation options. There are also some excellent resources that can help landowners and their families make a decision that is right for them (see the Resources list, inside back cover). Send them hard copies, links, or PDFs of these resources.

Unless you are an expert appraiser, don't raise a landowner's expectations by discussing dollar values. Location of the land, amount of frontage, and types of soil are all factors that influence the financial value of the land. In addition, the land's location and ecological significance may provide conservation opportunities.



One-on-one conversations with a landowner, although time-consuming, often bring about the best results for ensuring the future health and enjoyment of privately owned forestland.

Do not pressure a landowner. A decision about what to do with the land in the future is based on many factors—personal, financial, social, and familial. It is a decision that can be very difficult for some people to make. After all, we are all trying to do what’s best for ourselves and our families. These are difficult decisions that often take time. Be patient. Provide information and contacts, and give the landowner and their family time to digest everything. This process most often takes years.

Tips for Organizing an Outreach Event

Based on the experience of those who have organized conservation-based outreach programs in states across the Northeast, here are some tips to consider when planning an outreach event.

- Encourage the landowner to begin thinking about the land and talking to others in the same situation. This could occur through formal workshops, informal conversations, or even casual events, such as hikes. These events don’t have to be directly related to CBEP; often issues relevant to land ownership—such as wildlife, recreation, land management, or natural history—can be an important first step in initiating contact and discussion with a landowner.
- Many landowners have a strong preference for receiving information regarding the future of their land through print materials. One strategy to consider is to send written information about their options, then follow up the mailing by organizing a local event or setting up a private meeting with a professional.
- You are not going to teach landowners everything they need to know in a two-hour program. The goal instead is to instill in them the confidence to take the next step and connect them with local people who can help, whether a professional or a peer.
- Ask a professional to speak to provide technical information. The type of expert will vary based on the goals of the program and could include an estate planning attorney, a land protection specialist, a certified public accountant, or a land appraiser. Importantly, prepare the expert before the program to ensure that they won’t overwhelm people with facts. Turning a fire hose of information on landowners may lead to confusion or reinforce their feeling of being overwhelmed. Keep the information simple and let landowner questions guide the depth of the content. Try conducting programs with specific emphases to reach landowners in different situations and in different stages of the process. For example, programs may focus on taxes, appraisals, conservation easements, or the ecological value of the land.
- Be sure to include at least one landowner who can tell their story of CBEP. An expert is great for facts, but fellow landowners can share the reasons that motivated them, how they went about it, and the lessons they learned—all in their own, non-expert language. Landowner stories show others that it can be done and are regularly evaluated as one of the most valuable aspects of outreach events.
- Be sure to hold the program in a location that is familiar, comfortable, and neutral. Examples include a community center, restaurant, or library.
- Encourage discussion throughout the program. People typically rate the question-and-answer session as one of the most valuable parts of a program. This type of discussion covers a lot of information, ensures that people understand the important points, and gives landowners a chance to hear about the experiences of other landowners in similar situations. Remember: There is immense value in peers sharing their knowledge and experiences with one another.

- Life is messy, so stress flexibility. Land can be used in a number of ways to meet personal and financial goals. There is a solution to meet every landowner's particular goals; it's just a matter of working through those goals to find out which combination of CBEP tools will work best for them.
- When marketing the program, don't rely exclusively on e-mail blasts and newspaper announcements. Time spent on the phone personally inviting landowners will produce the best results, particularly if the landowners know the person inviting them.
- If you charge a fee to attend an outreach event, consider charging one price for a family no matter how many attend. Or consider charging less money for a family than for an individual to encourage family attendance.
- Pie and coffee are some of the most valuable conservation tools we have. Always have food and drinks available at educational events. This can be as simple as store-bought cookies or as elaborate as a catered dinner. Food creates an open atmosphere that encourages informal discussion. Orchestrating this opportunity can be a very valuable part of the program as landowners meet professionals and talk to other landowners. It also often extends the amount of time people stay at the end of the program, again increasing the likelihood of connections being made. Consider reserving the last 30 minutes of the program for dessert and conversation.
- Evaluate the program. Find out what people liked and how you can improve the next program. This need not be a scientific survey. A few simple questions—What did you enjoy most? Or, how can this program be improved?—can be very insightful. Asking landowners to indicate the number of acres they own and the action(s) they will take as a result of the program can also help you document the impact of the program.
- Follow up the program with a personal contact. The program evaluation can be used as an opportunity to see if landowners would like to provide their contact information for a follow-up call or visit. The follow-up allows you to check in with landowners on their progress and to help them in any way you can.

In Conclusion...

In many situations, land isn't like other assets. Often it may be both the most valuable asset a landowner owns and one that can carry numerous emotional attachments; perhaps it's where they have raised their family, or spent years hiking, hunting, or recreating with family members. It can have both financial and personal value.

Ultimately, families must make decisions that will meet their needs, priorities, and long-term objectives. The best you can do is identify and recommend strategies and legal and financial tools to help them make an informed decision, and/or connect them to estate planning professionals who understand the available options to conserve it. Decisions regarding one's assets can be laden with emotion and sensitive to family relationships, financial needs, death, and personal land ethics. For most landowners, this is a long and complex process. Be patient. Plant the seed, build a trusting relationship, and be available to provide information and contacts. Check in periodically, but give the family space and time to make their decisions.

Using your role as a professional or peer to connect landowners with information and resources can help protect the tremendous benefit our wooded landscapes provide and enable families to meet their personal and financial goals. Incorporating these conversations into your day-to-day work with landowners and using this research and experience as a foundation will help increase the impact of your efforts.

Land isn't like other assets.

It may be both the most valuable asset a landowner owns and one that can carry numerous emotional attachments.

Legacy Planning. Penn State Extension. <https://ecosystems.psu.edu/legacy>. This site contains many resources, including:

- *It's Your Legacy: A Pennsylvania Landowner's Guide to Conservation-based Estate Planning.*
- *Legacy Planning Stories: How Forest Landowners "Like Me" Are Ensuring the Future of Their Land.*
- *My Plans for the Land after Me.*

National Woodland Owners Survey. USDA Forest Service. <https://www.fia.fs.usda.gov/nwos>.

Women Owning Woodlands networks. National Woodland Owners Association and U.S. Forest Service. <https://www.womenowningwoodlands.net>.

The Woods in Your Backyard: Learning to Create and Enhance Natural Areas Around Your Home, 2nd edition.

Available for \$15 at extension.psu.edu/woods-in-your-backyard.

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