

# Landowner Outreach and Trail Planning

The most important part of the planning process is building relationships with the people affected by the proposed trail and its potential users

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## Skill sets you may already have for working with the public...

- Social Skills**
- Technical Skills**
- Problem-solving Skills**
- Mediation Skills**
- Administrative Skills**

Are you...

Friendly?

Patient?

Persistent?

Consistent?

A Good listener?

Do you have...

Local Knowledge?

A vested interest in the outcome?

Confidence in the project?

Time to commit to the project?

## Landowner Outreach Goals:

- Communicate your vision
- Be clear about what it is your expecting of them
- Listen and understand their values and concerns
- Address those concerns with accurate information and integrate them into your trail management
- Find mutual values and how your project enhances those values
- Work together to design a trail alignment and features that works for everyone
- Get a Public Access Easement
- Build a trail

## Setting the trail planning stage

### Cultivating Common Ground

Build Trust by listening, providing useful information, and developing goals.

Example: (meeting for the first time, having a community meeting, informative potluck)

- Remember to involve adjacent landowners first before going public with your proposed trail alignment.
- When working in an open forum, maps of the proposed trail(s) can be used to address potential difficulties.
- Do NOT bring a map to a meeting with the landowner for the first time with a trail alignment and the landowners property on it.

## Cultivating Common Ground

### Build Partnerships with trusted landowner partners.

Example: (Nature tourism coalitions, local economic forums, training workshops, field trips to cities with integrated trail systems, Trail Citizen Advisory Committee made up of multiple stakeholders- parks, planning, law enforcement, user groups, local business, landowners)

- There are numerous interest groups that will be affected by a trail and have a lot to contribute to the planning process. Many groups' focus may overlap with yours either directly or indirectly and cultivating those shared interests will create trail allies.

## Cultivating Common Ground

### Invite other trusted professionals to assist in meeting the needs and goals of landowners.

Example: (working with extension agents, brokers and agents, landscape architects)

- Prepare an information packet for local brokers and agents on conservation easements and public access easements, value of trails, trail amenities and housing trends related to trails.

## Meeting with a landowner for the first time...

- General outreach to the community through the media has been done
- Do your homework
- Evaluate your approach
- Anticipate and Prepare for their response

## How well do you know your landowners?

### Landowners Perspective

- Mistrust of government
- Land trusts get "lumped in" with government
- Differing opinions between family members regarding use and disposition of land
- Landowners are worried about:
  - Trespassers (gates left open)
  - Property damage
  - Liability
  - Fires
  - Damaged roads
  - Loss of property value
  - Restrictions on future development or subdivision

## Addressing Landowner Concerns

### Trespassers

- Share with the landowner your organization's policy on public access, a list of allowable uses on the trail and how your organization's trail rules will be enforced.
- Often trespassing occurs where public access may exist through prescriptive rights but has now been interfered with by private development. The landowner may not be aware of this use pattern and resist the idea of legitimizing public access through an easement. One argument to be made for dedication of a public access easement in such a situation is that it directs people to a designated trail corridor where public use can be better managed. Trail users tend to stay on developed trails, if the trail is well designed and leads to a point of interest (e.g. beach or coastal access, coastal view).

## Addressing Landowner Concerns

### Property Damage, Fire, Roads:

- Having an established trail invites more people, and more trail visitors allow more "eyes" on the trail to monitor behavior of users. As use increases, vandalism and other obnoxious behaviors decrease for lack of opportunity.
- Have a well designed Management Plan, Operation & Maintenance money and response system to complaints.
- The Management Plan includes a monitoring schedule for the trail, regular maintenance and trail-specific management responsibilities. This Plan may include guidelines that address various issues, such as whether smoking is allowed on the trail, hours of trail operation, seasonal closure due to sensitive species, or underlying land use. Parking for the trail is also addressed in this Plan, as are specifications for any signs and other developments for the trail.

## Addressing Landowner Concerns

### Liability:

- Recreational Use Statute shields private landowners from liability for injuries sustained by people using their property for recreational purposes, under most circumstances. The exceptions are when the landowner has willfully failed to warn or guard against peril, or granted use of the easement in exchange for admission fee.
- Any land or trail manager must carry liability insurance. When a land trust or trail group accepts the management of a public access easement trail, they take on liability for injuries associated with the trail.
- The landowner may be already trying to control illegal access to attractive areas on their property. Having a public access trail managed by a land trust alleviates them of this burden.

## Addressing Landowner Concerns

### Loss of Property Value and Restricted Development Rights:

- A landowner who donates an easement could receive a tax deduction for the value of the easement, based on a fair-market value appraisal.
- Studies also show that home buyers perceive trail accessibility as a high amenity when shopping for a home. People want to live adjacent to public trails, and have public trails connect them to desirable places in their community.
- Deeded public access may be a requirement for approval of a development permit in areas identified as highly scenic or adjacent to coastal access. The landowner can be proactive in donating an easement, if they are planning on applying for a building permit for home improvement or a lot split.

## Addressing Landowner Concerns

- Always advise a landowner to speak to an attorney and/or tax consultant who is knowledgeable about easement donations, so they can get third party advice before making a decision. You can also assist local brokers to be informed about easement donations by sponsoring a workshop or preparing an information packet. Often landowner referrals come from brokers or lawyers themselves when doing estate planning.

## Public Access Easements Defined

- Easements, licenses, and revocable permits are ways to acquire the use of land for trail purposes without obtaining full ownership of the land. A trail easement is a legally binding agreement between a landowner and a private organization or public agency in which the landowner grants the right of public access such as a trail, either for a specified period of time or permanently.
- Easements may be donated, sold, or traded.
- Full title to the land is not purchased, only those rights granted in the easement agreement, so the easement purchase price is less than full title value.

## Conservation Easements and Public Access Easements

- Note that a conservation easement differs from a trail easement but some easements grant both types of benefits. A conservation easement is orientated to the conservation of land resources, while a trail easement secures the right of public access and use. Conservation easements can include a public access component as part of the conservation packet and can be a condition of the public grants funding the project.

## Utility and Road Easements

- If an easement already exists along your trail corridor, for utilities, roads, or other purposes, investigate the terms of existing easement agreements to find out whether trail development could be considered an allowable use. Many trails are built within utility easements by modifying the existing agreement to permit trail development within the easement. Such a modification would require the permission of property owners.



## License

- A license grants access for a certain period of time with an option to renew. Make sure the term is long enough to assure a meaningful trail (e.g. 99-year lease). A revocable permit is similar to a license, but the granter retains the right to withdraw rights of access under certain conditions such as the corridor returning to rail use.

## Steps in Obtaining a Trail Easement and Right-of-Way from a Private Landowner

- Easement negotiation- site specifics, allowable uses, restrictions, monitoring, holders, enforcement, donation or purchase
- Baseline Documentation (Easement Plan)
- Easement boundary survey & possible environmental surveys
- Depending on type of conveyance, the easement may be appraised for fair market value

## Value of a Public Trail:

- Trails create walkable communities through collaborative and cooperative efforts.
- Trails provide health benefits for all users.
- Trails create green infrastructure, connecting people to nature and town centers.
- Trails are a positive legacy left for future generations.
- Trails have economic and real estate benefits.
- Trails can preserve open space and habitat protection.

## Best Practices for Working with Landowners, Don't...

- Trespass
- Talk like you know about their land
- Bad talk another landowner or agency
- Use wear down or any tricky strategy
- Talk only about your priorities
- Not listen to their concerns
- Promise more than you can deliver