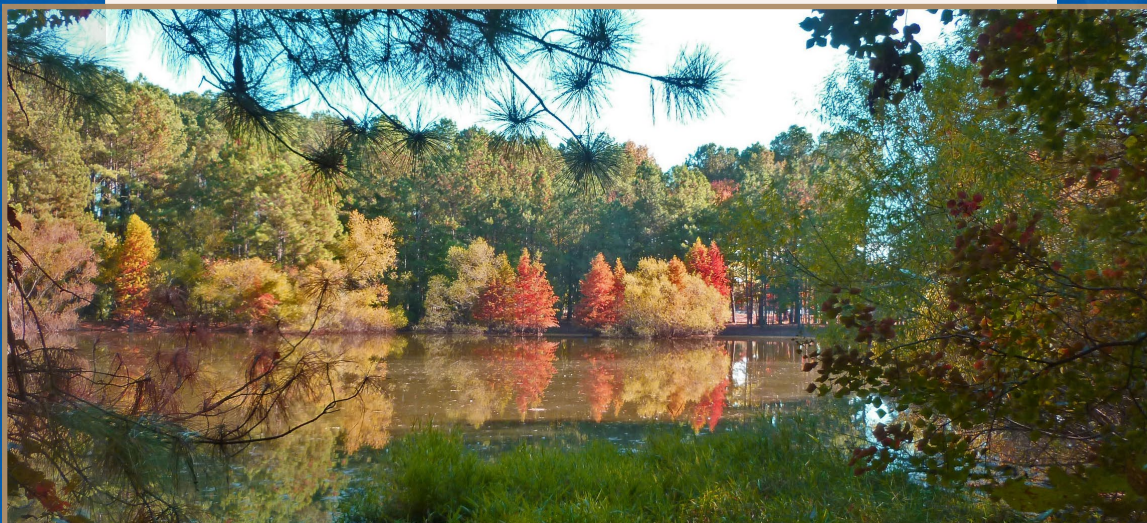




## Aiken Land Conservancy



*A guide to land protection and conservation easements*



Aiken Land Conservancy

## OUR MISSION

The mission of the Aiken Land Conservancy is to preserve Aiken's unique character and natural and historic resources for present and future generations through advocacy and land protection.

## PROTECTING THE PLACES YOU LOVE

ALC is passionate about Aiken. We believe that progress and conservation go hand in hand. We believe beautiful landscapes, nature, and abundant wildlife enhance our quality of life and support our physical and emotional health. We believe the natural and historic resources that define Aiken's unique character are worth preserving for future generations.

# Aiken: Rich in History, Natural Beauty, and Southern Charm

The Aiken Land Conservancy believes Aiken is a special place, and for good reason.

In October 1833, the first steam-powered passenger train in the world pulled up to a platform in a small crossroads settlement that would soon become Aiken, having traveled 136 miles from Charleston. The Best Friend (as the little locomotive and two open coaches was called) was owned and operated by the South Carolina Canal and Railroad. Recognizing the value of this upland location, the railroad charged a young Frenchman named C. O. Pascalis to develop a new town. The railroad acquired the land, and Pascalis laid out a design of 27 city blocks named after South Carolina counties with wide avenues separated by green spaces, or as we know them today, parkways. The city was incorporated in 1835 and named after William Aiken, the President of the Railroad.

In the late 1800s, Aiken became a popular winter retreat for wealthy northerners thanks to the railroad and the mild winter weather. Families whose names graced the Social Register (names like Hitchcock, Whitney, Grace, Vanderbilt, Post, Knox, Stoddard, Phelps, Bostwick, and Corey, to name a few) built architecturally significant homes in downtown Aiken as their seasonal residences. Each winter, they loaded up their private railroad cars with their luggage, silver, China, horses, hounds, and golf clubs, and made the trek to Aiken to spend the winter months enjoying all manner of outdoor equestrian and sporting pursuits.

The storied history of Aiken continues to influence its pace, charm, and daily life. The street design created by Pascalis endures to this day: 27 city blocks of wide avenues separated by parkways planted with magnificent live oaks, magnolia trees, azaleas, and longleaf pines. Not only are these public green spaces beautiful to the eye, this tapestry of green throughout the city creates an urban canopy that provides much needed relief from steamy Aiken summers, as well as habitat for all sorts of urban wildlife, such as barred owls, squirrels, Carolina wrens, woodpeckers, chatty mockingbirds, scrappy blue jays, squabbling crows, and mourning doves.

Moreover, the continued influence of the Winter Colony is a hallmark of modern Aiken. The city is a seasonal and year-round destination for equestrian pursuits of all kinds; indeed, the streets in Aiken's downtown historic horse district remain unpaved to this day to accommodate equestrian traffic. Many of the graceful cottages and lovely large estates built by the Winter Colony families are identified in the National Register of Historic Places. Those homes still stand in Aiken's downtown historic district—well-loved and maintained by generations of new owners.

The Aiken Polo Club, one of the oldest and most historic polo clubs in the country, has been hosting polo matches on the Whitney Field in downtown Aiken continuously since 1882. The Aiken Hounds, established in 1914 and one of the oldest drag hunts in the country, continues to meet in the Hitchcock Woods every Tuesday and Saturday from October 15th through March 15th. The Aiken Tennis Club, located in the historic Court

Tennis Building on Newberry Street, has been producing champion court tennis players since 1898 and is one of only ten court tennis venues in the United States. The Palmetto Golf Club, located downtown on the eastern boundary of the Hitchcock Woods and founded in 1892, is the oldest, continually operated eighteen-hole golf club in the Southeast and the second oldest in the United States.

Aiken's natural resources and beauty are equally as impressive as its history. Located on the ancient coastal plain in the Sandhills Region, the greater Aiken landscape is one of rolling hills of equestrian farms and agricultural lands punctuated by stands of pine and oak trees.

Aiken County is bordered on the west by the Savannah River at the fall line, which is a source of drinking water for over 6 million people in the CSRA. The greenways along the banks of the river in North Augusta are delightful places to bike and walk and enjoy the views of the egrets and hawks drifting in the thermals over the river. Along the bluffs of Beech Island overlooking the marshes of the Savannah can be found ancient settlement sites of the Chickasaw Indians, evidence of settlements of the lost Swiss colony dating back to 1737 (including Zubley Cemetery, with graves dating back to 1790), and an old burial ground for slaves.

The Hitchcock Woods, located in the center of the city of Aiken, is the largest, naturally preserved urban forest in the country. Privately owned and maintained, the Hitchcock Woods is open to the public from dawn to dusk, seven days a week. Horseback riders, hikers, dog walkers, bird watchers, and forest bathers wander the Woods' 46-miles of trails through longleaf pine ecosystems, swamp lands, and pine/oak savannahs where a restored population of endangered red-cockaded woodpeckers forage for food and fox squirrels with black heads scurry among the trees.

Moreover, Aiken County sits above the recharge zones for the region's four major, interconnected aquifers—the Floridan, Gordon, Crouch Branch, and McQueen Branch. This geological circumstance is a great benefit for Aiken County and the entire SC coastal plain in terms of a plentiful water supply; however, it also obligates government and the private sector alike to protect and preserve the quality of the water.



While at first the process of putting one's land in a conservation easement seemed daunting, "it was surprisingly easy as ALC understands the process and was able to walk me through it," said Lisa Darden. "If you love your land and want your vision to last into perpetuity, you should put an easement on it."

#### **LISA DARDEN**

Ms. Darden's decision to preserve True Bleu Farm and Shaws Fork Preserve was informed by the fate of a farm she previously owned in Vermont. "I had sold my farm in Vermont some years ago and recently learned that the new owner had subdivided it into numerous parcels. I was shocked as I just never considered that happening. I do understand it, but it made me wish I had put a conservation easement on it," she notes.





“There is somewhat of a misconception around conservation easements that a property under easement can no longer be used or sold or left to future generations. Rather than seeing the easement as a restriction, though, we viewed it as a way to preserve a piece of property for the future and still be able to use it exactly how we want to now. People should be aware that they can sculpt their easement to allow many uses.”

## **GREG AND MICHELE PASCHAL**

*donated this mostly wooded tract that extends 1.7 miles along Town Creek and contains a large portion of McElmurray Pond. Along with Long Leaf Pine, Loblolly Pine and many other hardwood species there is a very large Chinkapin that could be a state champion for this increasingly uncommon plant.*



## **Why we do what we do...**

The Aiken Land Conservancy is committed to protecting the places you love in Aiken. There is so much to cherish and protect—from the historic equestrian district with its stately homes and properties, to the grand trees and majestic parkways, the urban canopy, the open spaces and forested rolling hills in and around the county, equestrian and agricultural farms, and the unique and significant watersheds harboring diverse ecosystems that flow through the county.

Today Aiken is a thriving, modern, prosperous city in the throes of inevitable growth and expansion. As more and more people move to Aiken to enjoy its beauty and charm, the pressures associated with increased housing needs and economic development present a challenge to preserving the very qualities that sparked the growth to begin with.

It was this challenge that caused ALC’s founders, Dr. Harry Shealy, Jr. and Iris Freeman, to form the land conservancy in 1990, after the federal government announced its intention to spend \$10 million on a new production reactor at the Savannah River Site. At the time, many in Aiken were excited about the potential economic boon to the city, particularly to the southside, which was anticipated to be the epicenter of new growth and opportunity. Shealy and Freeman, however, were more circumspect in their optimism. They had witnessed, firsthand, the effects of unmanaged growth in the 1950s when the Savannah River Site was built—whole neighborhoods and acres and acres of forested natural areas simply disappeared from the landscape.

Today the Aiken Land Conservancy (previously the Aiken County Open Land Trust, or ACOLT) is a nationally accredited organization with a diverse portfolio of conservation holdings ranging from historic properties, to important public recreational parks and green spaces, to equestrian and agricultural farms, primarily in Aiken County with a handful of holdings in Barnwell County. ALC also supports other important community projects, like protecting Aiken’s grand trees and parkways, the urban canopy, the city’s drinking water sources in the Shaws Creek Watershed, and the development of new public green spaces in partnership with the city, the Hitchcock Woods Foundations, and Aiken Streetscapes.



## **What is a conservation easement?**

A conservation easement is a legal document representing a voluntary negotiated agreement between a landowner and a qualified conservation organization (like the Aiken Land Conservancy) to protect the natural resources (e.g., forestland, open space, special habitat) or historic character of the landowner’s property. This negotiated agreement:

- 1) identifies the specific natural resources (or historic property) to be protected;
- 2) defines the specific measures to be taken or avoided to protect the identified

natural resources (or historic property); and

- 3) establishes the rights reserved by the landowner to continue his or her use of the property while protecting the identified natural resources.

Once executed, the conservation easement is filed in the county land records as a public document. A conservation easement is an interest in property that is perpetual and “runs with the land,” meaning all the rights and obligations set forth in the conservation easement are binding on subsequent owners of the property in perpetuity as well.

In other words, the landowner is free to sell his or her property at any time. However, the landowner’s decision to protect the property with a conservation easement guarantees the property will be protected forever *no matter who owns the property*.



### **Why do people choose to protect their property with a conservation easement?**

Landowners protect their land with conservation easements for a variety of reasons. In most cases, the landowner’s deep, emotional connection and love of their land provide the incentive to protect it with a conservation easement for the benefit of their children, grandchildren, and future generations. Conservation easements are powerful estate planning tools that provide families the opportunity to plan together for the future of their land and reduce the potential for dispute among heirs. In addition, neighboring landowners who protect their properties with conservation easements on contiguous parcels provide mutual protection against unwanted or unplanned development while sharing the benefits of conserving larger resource areas for wildlife, scenic landscapes, and recreational uses.

In Aiken, conservation easements appeal to private property owners who understand that the quality of life in Aiken is directly related to its unspoiled natural resources, rivers, wetlands, open spaces, rich soils, and historic character. As a landowner recognizes the importance of his or her property’s unique and special natural features or location and the difficulty of holding onto family land in the face of rising land values and taxes, protecting the land with a conservation easement presents an attractive option.

The federal government and the State of South Carolina encourage the protection of private land by providing tax benefits to landowners who place conservation easements on their property. Those tax benefits take the form of deductions from federal income and estate taxes and adjustments to South Carolina income and property taxes so long as the conservation easement meets federal and state regulatory standards. *A more detailed description of the potential federal and state tax benefits is discussed in the Tax Impact of a Conservation Easement booklet.*



ALC was excited when Mrs. Jacqueline Ohrstrom decided to place a conservation easement on Toad Hall, an important fixture in Aiken history and in the local horse district. She was persistent in her dream to get the property back to its original state and through much effort; she was able to acquire both parcels that made up the original larger property.

It was important to Ohrstrom to put the two pieces of property back together as they were in the beginning. The Toad Hall property on Magnolia Avenue sits prominently on 3.48 acres in Aiken’s historic horse district.

### **JACQUELINE OHRSTROM**

*“So many of these precious properties have been divided over the years and I am proud to put this one back to the way it was,”  
said Ohrstrom.*





“We’ve given up some timber income, and some future development potential. But we know the things we love the most about this farm will always be there. It is so worth it to us that we plan to expand the easement in the not too distant future. It’s worth it indeed.”

### LEE AND ROGER DANE

*Located near Ridge Spring, SC, along a pristine stretch of the South Edisto River, this tract encompasses forested slopes, rich bottom land, an active flood plain, extensive marshes and wetlands providing vital habitat for rare birds and plant species. Edisto Farm Reserve includes the only known waterfall on the South Edisto River.*



## Do conservation easements prohibit the landowner’s use of the property?

No—conservation easements are flexible documents tailored to the specific conservation values of the land and the landowner’s continued use of the property as a residence, farm, or even a revenue-generating asset. Once the conservation values of the property have been identified (for example, wildlife habitat, sensitive ecosystems, scenic open space, and high-quality farmland, to name a few), those values and the landowner’s needs will guide the agreed-upon restrictions on the property and the landowner’s reserved rights that will be memorialized in the conservation easement.



## What rights does the landowner maintain?

The landowner retains all the customary rights and responsibilities of land ownership that are not specifically prohibited or restricted by the *negotiated* terms of the conservation easement. For example, the landowner retains the right to engage in passive or low-impact recreational activities, including hunting and fishing. A landowner may retain the right to engage in agricultural activities, including selling crops or harvesting timber, or to otherwise generate revenues on or from the property, provided such activities do not adversely impact the conservation values.

In addition, some landowners may reserve the right to construct new structures or renovate existing structures on the property, such as a primary residence, a guest house, a barn, garage, or pool in areas specified in the conservation easement.

The landowner retains all responsibilities for paying taxes on their land and for liabilities associated with landownership.



## What are Aiken Land Conservancy’s rights and responsibilities?

The Aiken Land Conservancy retains the right to conduct routine monitoring of the property (typically annually unless special circumstances arise) and to enforce the terms of the conservation easement if the landowner is not observing his or her negotiated responsibilities to protect the conservation values. Additionally, if the landowner agrees, the land trust may coordinate scientific or historical research on the property.

ALC strives to maintain good relationships with its landowners. ALC’s stewardship committee is always available to assist landowners with any issues, questions, or problems related to the easement and the maintenance of the protected land.



## What about forestry practices or changes in agricultural uses?

Conservation easements that permit agricultural or forestry activity on the property are designed to permit changes in agricultural land uses from one type of farm practice to another and to allow for changes in acceptable agricultural technology over time. For example, a farm that has traditionally been cultivated for soybeans or cotton could be converted to other crops, pasture for livestock, or timber farming. The conservation easement will require the landowner to adhere to best management practices for agriculture, timber farming, and wildlife management, and some conservation easements may require additional protections around streams and other water bodies, such as a wide vegetated buffer where the landowner is not permitted to timber or clear for farmland.



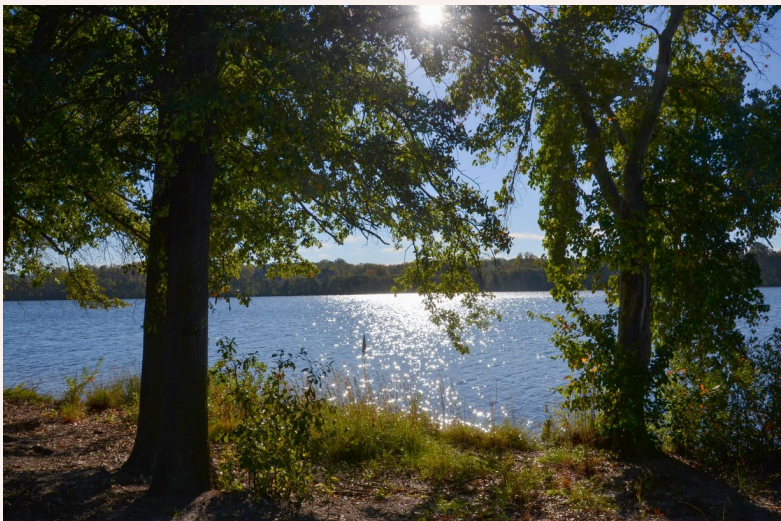
## Is the landowner required to open his land protected by a conservation easement to the public?

No, not unless the property was specifically preserved for public recreational use.



## Can a conservation easement be changed after it is executed?

Generally, no. Amendments to conservation easements are strictly regulated by the IRS and the State of South Carolina and permitted only under very limited circumstances, specifically: 1) to correct an administrative mistake or error in the document, or 2) in cases where the amendment results in a net conservation gain (for example, additional land or new protections are added to the easement). Any amendment for a purpose other than these two limited circumstances may result in the disallowance and payback of any tax benefits previously taken by the landowner (plus interest and penalties), and the revocation of the land trust's qualified status.

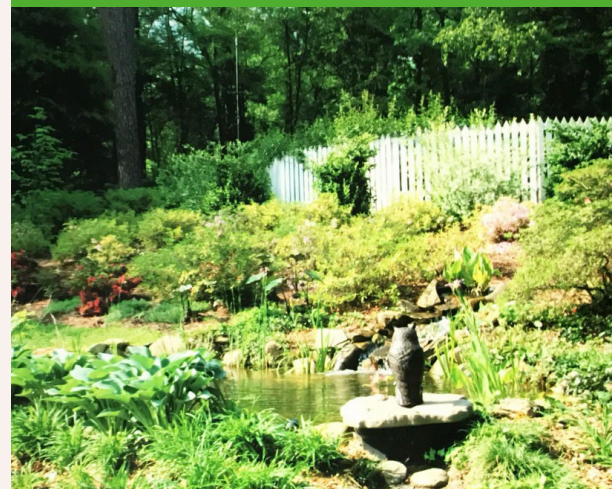


“It’s nice to know that our land will never succumb to development of any kind, that the red tail hawks that soar over the pool in an elegant display of flight, that the deer and other animals that come to visit, hang out and play have a forever home. Such treasures deserve to be preserved well into the future and we are happy to be part of this.”

**ROLF AND LIZ TURNQUIST**

*This beautiful 2 acre property at the South Boundary entrance to Hitchcock Woods was donated by*

**MS. HOLLY HOUGHTON.**





According to Don and Sandie Nicolaisen, “our goals in restoring the barn were consistent with those of the Aiken Land Conservancy.

We wanted to “preserve the historical character and appearance of the barn, while bringing it up to today’s codes and usage demands.” ALC’S “support was critical to successful completion of the project, and their support was prompt and unwavering.” An ice storm in 2014 “had damaged many trees and great care was taken to preserve the beautiful live oaks.”

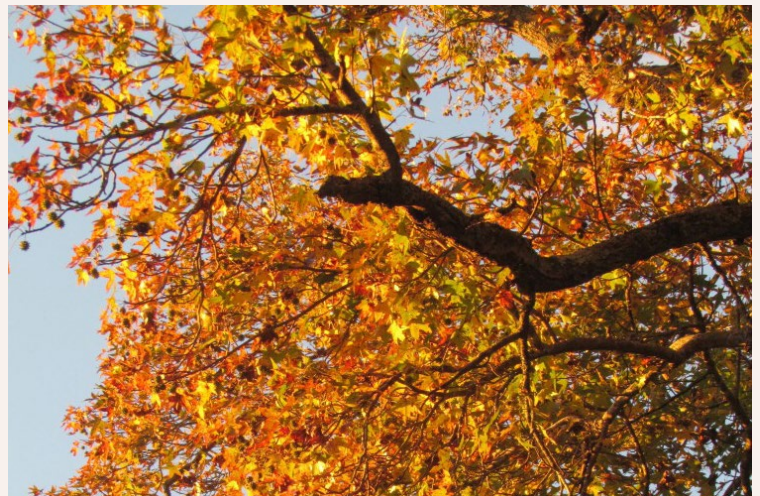
**DON AND SANDIE NICOLAISEN**



## Aiken Land Conservancy Criteria for Accepting Easements:

Aiken Land Conservancy will consider accepting easements that further the mission of the organization – to preserve Aiken’s unique character and natural and historic resources for present and future generations through advocacy and land protection. More specifically, ALC seeks easements that are:

- Located within Aiken County or outside the county but complementary to the ALC’s mission and purpose
- A conservation contribution qualifying under the terms of the IRS regulations
- Of sufficient size to protect the conservation values associated with it
- Feasible and within the capacity and ability of the ALC to fulfill the perpetual stewardship responsibility
- Accompanied by an endowment to the ALC (based on the ALC’s endowment calculator)
- Consistent with one or more of the following IRS criteria:
  - \* Preservation of land areas for outdoor recreation by, or the education of, the general public
  - \* Protection of a relatively natural habitat of fish, wildlife, plants of similar ecosystem
  - \* Preservation of certain open space, including farmland and forest land, for its public scenic value or pursuant to a clearly delineated Federal, State or local government conservation policy
  - \* Preservation of a historically important land area or certified historic structure



# What is the process for planning and executing a conservation easement?

*Protecting your property with a conservation easement is a noble, long-term commitment designed to preserve the natural and historic character of your property in perpetuity. As discussed above, the Aiken Land Conservancy works closely with landowners to craft a sustainable conservation easement that achieves the designated conservation goals and ensures the owner's continued and/or anticipated use of the property.*

*Federal and state statutory and regulatory requirements strictly govern the placement of a conservation easement on private land. The Aiken Land Conservancy (a nationally accredited conservation organization) follows the Land Trust Alliance's standards and procedures to ensure that all its transactions are properly developed and executed. Moreover, the Land Conservancy strives to continuously educate trustees, staff, and contractors on the current standards.*

The process for completing a conservation easement project can take from 4 to 8 months to complete depending on the size and complexity of the land, the use of the land, and the natural features to be preserved. The Land Conservancy's project team (consisting of one or more assigned members of the Board of Trustees and/or staff) works with the landowner (and his or her professional team) every step of the way to make the whole process—from first contact to the execution of the conservation easement—easy to understand and accomplish.

After a landowner contacts ALC, the project team will schedule a preliminary visit to the site. The purpose of the visit is for the project team to get acquainted with landowner and the property. The project team will ask questions like: What are the natural and man-made features of the property? How is the property currently used? What are the future plans for the use of the property? For example, does the landowner anticipate making an addition to, say, the residence or the barn? Or building a pool or a guest house for family and friends? Does the landowner intend to reserve a building envelope for future construction? Is the landowner farming all or portions of the land and plans to continue farming in the future?

This information allows the project team to make a preliminary assessment of the conservation values of the property and develop a proposed conservation plan (PCP) based on the landowner's specific needs. Thereafter, the Land Conservancy will discuss and review the PCP with the landowner.

When the landowner (and his or her professional team) and the Land Conservancy have agreed upon the proposed conservation plan, the parties will execute a letter of understanding (LOU) that memorializes the anticipated steps required to finalize the transaction, the tax and regulatory issues associated with donation of a conservation easement, and the expected costs going forward. *The LOU serves primarily as a notice and information document—it does not obligate either party to complete the transaction until all the preliminary steps have been completed to the satisfaction of both parties.*



## DR. HARRY E. SHEALY, JR

“There are only three things that most living organisms absolutely need to live: oxygen, water, and food, in that order of urgency.

Ultimately, all wealth comes from natural resources: minerals, soil, water, plants, and animals — things we often take for granted.

For many of us who grew up in South Carolina, we felt these things would always be with us; they were in endless abundance.”

Sadly, times are changing, and our natural resources need your help to protect them.





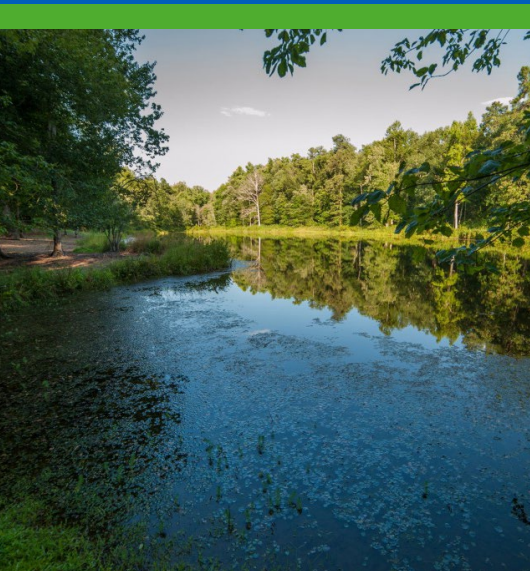
“We never could have acquired the Lyman Preserve if it hadn’t been under conservation easement because the price would have been prohibitive.

We are sure that our 100+ acres just 10 minutes from downtown Aiken would now be a housing development similar to the ones that are adjacent to us.”

**RICH AND SARA McNEIL**

*The 94-acre, Lyman Preserve was ALC’s first major conservation easement, donated in 1994 by*

**MRS. ARTHUR T. LYMAN.**



After the LOU has been executed, the transaction work begins. The following documents are required by the IRS and/or South Carolina law and must be completed before the parties can execute the deed of conservation easement.

1. A *qualified appraisal* is a specialized appraisal that puts a value on the cost of the easement, which is calculated (generally) as the *difference* between:
  - a. the value of the property if unrestricted and developed to its highest and best use; and
  - b. the value of the property if the use and development of the land is restricted by the terms of the conservation easement.

The qualified appraisal is performed by an appraiser who specializes in easement valuation on behalf of the landowner. The Land Conservancy can provide the landowner with a list of approved qualified appraisers to handle the work.

2. A *baseline documentation report* (BDR), which documents in detail, both in writing and with photographs, the conservation values and condition of the property *as of* the date of the execution of the deed of conservation easement. The BDR is prepared and executed by a registered forester or other experienced professional. In some instances (depending on the size of the property and complexity of the project), the Land Conservancy can prepare the BDR for the owner for a fee.
3. Depending on the past use of the property, a *Phase I Environmental Report* may be required to ensure there are no environmental hazards or pollution on the site. The Phase I is performed by a qualified engineering company.
4. An accurate *survey* of the property is necessary to properly determine the boundaries of the conservation easement, particularly if the conservation easement is not placed on the entire property or if the owner determines to identify building envelopes for future construction.
5. A *title report* will be required at closing to establish that the landowner has clear title to the property as a whole.
6. If there is a *mortgage* on the property, the bank holding the mortgage must agree to subordinate the mortgage to the Land Conservancy. Such written subordination will be required at closing.
7. The *deed of conservation easement* is prepared by legal counsel experienced in such matters. The Land Conservancy is happy to provide the landowner and his or her counsel with one of its approved templates for conservation easements to streamline the process.

The landowner is responsible for paying the costs associated with the preparation of the documents described above. However, ALC works closely with the landowner to streamline the process to avoid excess costs.

Finally, every landowner who places a conservation easement on his or her land is required to pay ALC a “Donor’s Fee” at closing, which covers the long-term cost of stewardship and legal defense of the property in perpetuity. The amount of the Donor Fee varies with each transaction depending on the complexity of the transaction and the number and nature of the owner’s reserved rights in the conservation easement. Upon request and under certain circumstances, the Land Conservancy may allow payment of the Donor’s Fee in installments.

*Please be advised that the Land Conservancy is required by the terms of its accreditation to collect the Donor Fee, which is held in a restricted fund (along with other Donor Fees) for payment of extraordinary costs of stewardship or enforcing the terms of a conservation easement.*



### **Are there funding sources available to assist landowners interested in a conservation easement?**

Although there are significant federal and state tax benefits available to qualifying landowners who protect their property, there is very little public or private financial assistance available for the payment of a landowner’s up-front “soft costs” for appraisals, baselines, surveys, and the like.

For high-priority conservation projects, ALC works with landowners to assess financial need and identify potential bargain sale funding opportunities through the SC Conservation Bank if the project meets the bank’s eligibility requirements.



### **Are there other conservation options for protecting Aiken’s distinctive natural, historical, and agricultural heritage?**

For individuals and corporations dedicated to preserving Aiken for future generations, the Aiken Land Conservancy is glad to discuss a full range of other land conservation options. These could include donations of land, gifts of land by will, bargain sales, purchased easements, and other conservation strategies.

## **Join the Aiken Land Conservancy conservation community!**

ALC invites everyone to join our conservation community by donating annually to our membership campaign, attending an event, sponsoring an event, and/or becoming a volunteer.

We can also provide planned giving opportunities for those interested in supporting the present and future programs of ALC. Opportunities to increase the organization’s effectiveness and sustainability could include participating in a trade-lands program, making gifts of stock, or long-term pledges to support operations.

With the benefits of tax incentives, making a charitable gift to ALC may provide significant benefits to you and your family while helping you to conserve our region.

*I think that I shall never see  
a poem lovely as a tree.*

*Joyce Kilmer*

*It is not much for its  
beauty that makes a claim  
upon men’s hearts,  
as for that subtle something,  
that quality of air that  
emanates from old trees,  
that so wonderfully  
changes and renews  
a weary spirit.*

*Robert Louis Stevenson*

*Look deep into nature,  
and then you will  
understand everything better.*

*Albert Einstein*

*In all things of nature  
there is something  
of the marvelous.*

*Aristotle*



# Aiken Land Conservancy

*Protecting the Places You Love*

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