

# Lessons from the Road



## Case #5: Private Actions Define Byway Character

While communities may limit or influence the amount and type of development along roadways, the decisions of individual property owners will define much of the corridor's character and the traveler's experience into the next century.

Buildings, driveways, signs, screening, and landscaping have an immediate effect on the byway, and a landowner's decision whether to hold, develop, sell or conserve the land will have a lasting effect.

To manage intrinsic qualities along corridors, planners must recognize the need for complementary tools, both regulatory and voluntary, that government, institutional, and private landowners can use.

Because individual landowners can so influence the character and experience of a byway, this case study will focus on the role voluntary tools can play in protecting scenic corridor resources. Top among the conservation techniques that have been proven to

work for private landowners are:

- Full sale or donation of development rights
- Partial sale or easement
- Conservation planning (also known as limited development).

This case study is based on the experience of a private land trust, the Leelanau Conservancy, which worked to conserve the intrinsic qualities of Michigan's State Highway M-22.

### About Lessons from the Road

This case study features lessons learned by scenic byway advocates across the country that are applicable to many scenic byway initiatives.

Scenic byways are public roads with special scenic, historic, recreational, cultural, archaeological, and/or natural qualities that have been recognized as such through legislation or some other official declaration.

Nomination guidelines for National Scenic Byway designation require a series of planning and management elements. Some byway efforts lead to nomination, and possibly national designation; the rest choose other paths for implementation. These case studies show how various byway managers address planning and management issues in distinctive ways.

Each case study in this series concludes with a resource list of helpful publications and details on how to contact the National Scenic Byways Clearinghouse.

Good luck with your byway.

#### The Series

1. Mapping
2. Design and Maintenance
3. Assess Intrinsic Qualities
4. Telling the Story
- 5. Conserving Intrinsic Qualities**
6. Visitor Experience & Services
7. Manage Development
8. Signage
9. Marketing
10. Public Involvement
11. Action Plans
12. State Program Management

# Outreach to Landowners

## Michigan State Highway M-22

The highway has evolved during this century from a wagon track to a major transportation link between the coastal villages of Leelanau and Benzie Counties, which sit at about the little finger of Michigan's famous "mitt."

The 60-mile-long stretch of State highway is never more than 2 miles from the shore of Lake Michigan and often offers vistas of the lake. The road accommodates local traffic and more than 1.5 million visitors a year to the Sleeping Bear National Lakeshore.

Along the M-22 corridor, many homes are set back and separated from the highway right-of-way by undeveloped farmland, woodland, wetland, or other natural features. This strip of "greenbelt" land provides residents with a buffer from traffic noise while adding to the scenic attraction for visitors.

Recognizing the value of M-22 to the region, the planning departments in Leelanau and Benzie Counties, the Leelanau Conservancy, and the National Park Service inventoried intrinsic qualities of the scenic corridor and promoted private action—rather than regulatory action—to protect valued resources.

Professional staff and volunteers catalogued and mapped natural, scenic, cultural, and historic features (known as intrinsic qualities) along M-22's route. Local governments, property owners, and organizations used the inventories to evaluate development projects or community actions.

Staff also conducted educational workshops to discuss the many tools available to the community for corridor resource protection. A handbook entitled *The M-22 Scenic Corridor—Preserving our View from the Road* complemented the public workshops.

## The Handbook

The handbook includes six case studies of private landowners who protected valued features of the M-22 corridor with land conservation tools suggested by the Leelanau Conservancy. The Conservancy mailed the 15-page handbook to nearly 1,000 landowners along the highway. It introduces a number of practical ideas and tools:

- ✓ Full sale or donation: Landowners can receive income and/or significant tax benefits by conveying land through donation or sale (at a fair market or a bargain price) to a land trust.
- ✓ Partial sale or easement: Instead of selling their full interest in the land, property owners can sell only the development rights or special easements to preserve conservation values of the property while they retain title and use of the land.
- ✓ Conservation planning: Sometimes called "limited development," this technique allows landowners to apply proceeds from development of a carefully selected portion of the site to cover costs of protecting scenic landscapes and natural resources on the majority of the property.

# Conservation Easements

## Advantages & Options

A conservation easement is a negotiated, legal agreement between a landowner and another party, such as a land trust or public agency, that permanently transfers certain land use rights from the owner to the easement holder to protect specific conservation values.

Conservation easements are a good tool for people who can answer yes to the following statements:

- ✓ We would like to see our land's special qualities kept intact for future generations.
- ✓ We want to continue owning the land and pass it on to our heirs.

Conservation easements also offer:

## Flexibility

Each easement is a customized agreement between a landowner and the easement holder that limits the amount, type, and placement of future development on the land, according to the landowner's needs.

## Management & Control

The landowner retains ownership and control of the property, but generally guarantees that certain important conservation values or land uses are permanently protected.

## Tax Benefits

Easements can lower estate taxes, sometimes enabling families to keep land in the family rather than selling to pay tax debts. And sometimes, easements can provide



income tax and property tax Leland Village Green benefits.

## Compliance

Conservation easements are permanent and remain in force even when the land changes hands. Unlike deed restrictions which lack the oversight of a third party, the owner of the easement (often a land trust) can ensure compliance with easement conditions. Indeed, that is the business of effective land trusts.

## Tips for Success

Working with private landowners who wish to protect their land along scenic corridors is only one of several conservation tools for important resources. Land use planning and zoning, conservation planning, and the efforts of private conservation organizations must operate in concert.

✓ Land use agreements and transfers require expertise. Enlist, or

contract with, the experts necessary for legal and financial tasks.

✓ Land use agreements and transfers usually need funding. Protection of high profile parcels are good candidates for community fundraising campaigns.

✓ Land use agreements and transfers demand both speed and patience. Family decisions may take years to crystallize, but often need quick

implementation. Expect to “hurry up and wait.”

## A Success Story

Let's look at a conservation easement success story highlighted in the handbook that shows how cooperation among owners of relatively small parcels of land led to significant land protection along the M-22.

Three families have owned neighboring second homes along the shore of Lake Michigan since the 1950s.

All together, they own nearly 120 acres of forested dunes with abundant wildlife habitat and scenic frontage between their homes and the M-22. The land is used mostly for passive recreation by the families and their neighbors: hiking, cross-country skiing, and some hunting.

As the waterfront throughout Leelanau County was developed, properties near the lake, or with views, rose in value. Each year, more developers called and wrote with offers to buy. As land values rose, so did annual property taxes and projected estate taxes.

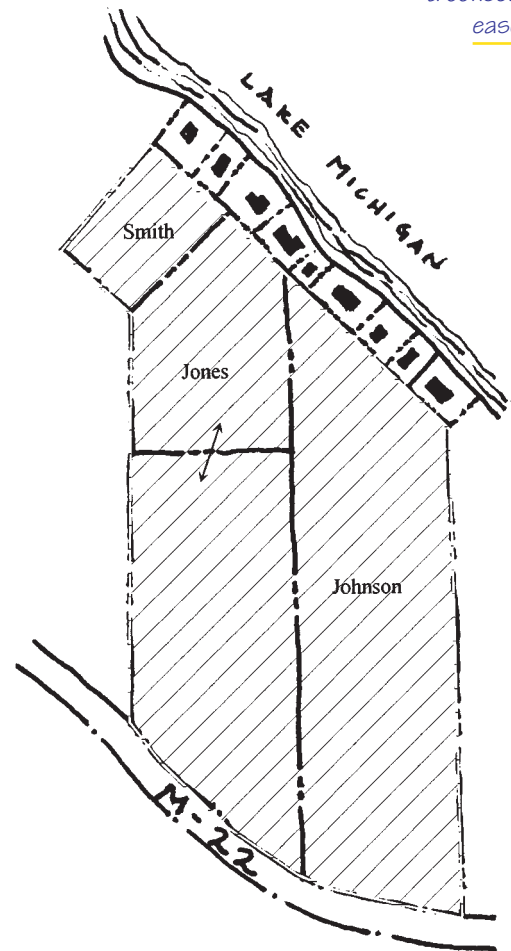
The question for each family became "How do we keep the land while minimizing property taxes and assure that our heirs can inherit the land without paying a large inheritance (or estate) tax?"

The solution was a conservation easement, signed in 1995, permanently restricting the 120 acres from any future development. The properties' newly limited uses lower the owners' property taxes and the properties' worth for estate tax calculations.

These families ensured that their land, and a quarter-mile of M-22 frontage, will remain in its natural state for generations to enjoy.

By working together, these three families managed to enhance their own properties while also conserving a mile of scenic woodland, recreation area, and wildlife habitat fronting M-22.

Working together, adjacent landowners can create larger open spaces worthy of protection under a conservation easement.



## Lessons Learned

### Purchase Secures Public Values

Leland, Michigan straddles a strip of land between two lakes (one of which is Lake Michigan). When commercial development threatened to create a tunnel effect on the last large parcel of open land, land trust members raised money to buy the property and create a public park.

### Donations Can Add Up

Even small parcels of land can be critical to a corridor when they are thresholds for vistas and gateways. After years of using lakefront land for canoe launching and occasional picnics, the Kramer family lost interest in maintaining and owning the parcel sandwiched between the M-22 and Lake Michigan. They decided to donate the land to the Leelanau Conservancy. During the assessment the Kramers were delighted to learn that this unbuildable lot was valued at \$10,000—yielding a significant tax deduction.

### Sale of Development Rights

Development right “sticks” can be sold to public agencies, private land trusts, or even neighbors as happened along the M-22. When an owner reluctantly put on the market seven acres by a key intersection, neighbors realized how much they valued the open feel of the property. With money raised in conjunction with the Leelanau Conservancy, the neighbors bought the development rights. The result:

the owner has his beloved property, the cash he needs, and a lower property tax bill; the open space is protected forever; and the neighbors keep the view along 800 feet of road frontage.

Conservation  
Planning  
(or Limited

Ownership:

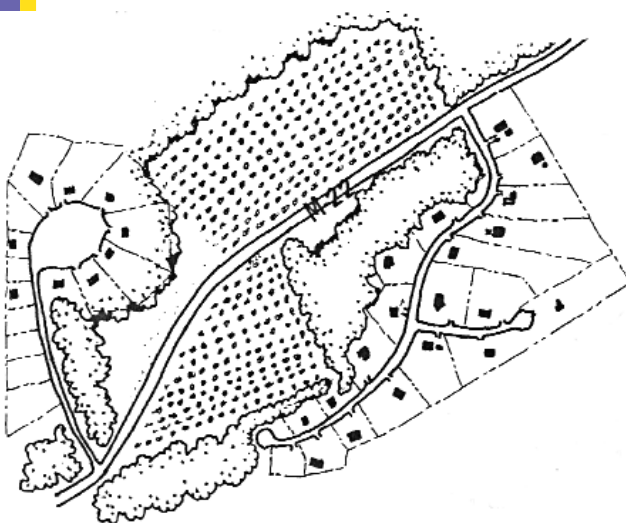
### A Bundle of Rights

Land ownership rights can be likened to a “bundle of sticks.” An owner may sell or give away the whole bundle (as in a house, the surrounding lot, and the right to perform all legal land uses such as agriculture and logging, among many others). Or the owner may wish to sell or give away only a stick or two (as in the right to subdivide and develop the property, which is known as a development right).

### Development)

Development of land adjacent to a scenic corridor is part of normal economic development and can be beneficial to overall land-use objectives, particularly if proceeds from limited development of the site can pay for conservation of more sensitive portions of the site. See *Rural by Design* for a description of innovative site planning that minimizes scenic and open space impacts while also maximizing return on investment for the developer.

Creative development often clusters housing, maintains natural vegetation as a visual buffer, and allows more of the site to be conserved as a community and natural resource.



# Individuals Make a Difference



The M-22 is the primary road through Leland, and private landowners' decisions about how to manage their property sets the tone along the road-way.

Individuals can and do choose to preserve their land using a variety of conservation tools. When they do, they enhance the experience of travelers for generations to come, they advance community goals, and they help to provide a convenient, safe route of transportation for the future.

Poorly planned development along highway corridors throughout America reminds us of what inappropriate growth can do to formerly scenic landscapes. Zoning and development design standards can only go so far, and can often encourage the very development communities wish to avoid.

(See *Rural by Design* for a compelling explanation of how and why.)

While conservation tools must work in concert with publicly driven initiatives, private landowners as individuals and as neighbors can control the destiny of their land and ensure that land resources remain intact. Not only are they protecting their self-interest, they are contributing to the view of their community from the road.

## Additional Resources

*Rural by Design: Maintaining Small Town Character*, Randall Arendt, APA Planners Press, Chicago, 1994.

*The M-22 Scenic Corridor: Preserving Our View from the Road*, Leelanau Conservancy, Inc., Leelanau Conservancy, 1997.

*Preserving Family Lands*, Stephen J. Small, Stephen J. Small, Esq., Boston, 1998.

Contact the National Scenic Byways Clearinghouse for these and other resources (see below).

## About this Series

The National Scenic Byways Program of the Federal Highway Administration and the Rivers, Trails & Conservation Assistance Program of the National Park Service collaborated to research, write, and produce **Lessons from the Road**. The series was written in 1998.

For information on resources mentioned in this series, contact the National Scenic Byways Clearinghouse: 1-800-4-BYWAYS (1-800-429-9297), press 2, or visit our website at [www.byways.org](http://www.byways.org).

The Rivers, Trails & Conservation Assistance Program works beyond national

park boundaries to bring conservation assistance to communities, serving as a catalyst for tangible results.

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