



BAINBRIDGE OPEN SPACE COMMISSION INFORMATION SHEET

Alternatives to Sale of Property

June 2002

The Bainbridge Open Space Commission (BOSC) is authorized to recommend properties for purchase of properties or other protective action to preserve open space on Bainbridge Island. AOther protective action@ includes several alternatives to property purchase. The information below provides a general outline of some of these alternatives. For more information, please call the Open Space Commission at (206) 780-8665 or send an e-mail to openspace@ci.bainbridge-isl.wa.us.

- X **Conservation easement.** A conservation easement is a voluntary legal agreement that permanently restricts certain uses of privately owned property to protect specific conservation values. It does not necessarily require public access to the property. It can be tailored to apply to all or part of the property, and it can be written to fit specific desires of the property owner. The easement is recorded in the county real property records and binds all present and future owners of the land to the agreed-upon restrictions. A qualified organization, such as the Bainbridge Island Land Trust, the City, or the Bainbridge Island Park and Recreation District, must be named as the grantee or holder of the easement. The grantee is responsible for ensuring that all present and future owners of the property abide by the terms of the easement. A conservation easement may result in specific tax benefits because it reduces property value by limiting development and future uses. A reduction in the property=s fair market value may reduce the land=s assessed value for property tax purposes and may reduce estate taxes due upon the owner=s death. If donated to a qualified organization, the property owner may also be able to claim the appraised value of the easement as a charitable contribution for federal income tax purposes.

- X **Trail easement.** A trail easement is a voluntary legal agreement whereby a property owner sells or donates the right to build a trail or trails over specific parts of the property, such as along the edge of a property. A trail easement requires public access to trails established on the property. As with a conservation easement, a trail easement binds current and future owners of the property. Because a trail easement may affect the

assessed value of the property, it may reduce property taxes and estate taxes due upon the owner=s death.

- X **Sale of development rights.** Rather than selling the property itself, a land owner may wish to sell the unused development rights on the property to a qualified third party while continuing to own the actual property. As with a conservation easement, sale of development rights may result in a reduction in the value of the property and may therefore generate certain tax benefits.
- X **Life estate.** A property may be sold (or otherwise preserved) under a voluntary legal agreement whereby the seller retains the right to continue living in the existing residence on the property until death -- or for some agreed-upon long-term period. If this alternative is chosen, the seller recognizes that there is significant dollar value to the right to continue occupying the property. Consequently, the sale/preservation negotiation would include calculating the value of the life estate, and this value would be used to reduce the price paid for the property. In some situations, the life estate agreement might call for the seller to help maintain a trail or wildlife corridor passing through the property, or otherwise cooperate with the Open Space Program to maintain the open space value(s) of the property. The City has made one such life estate arrangement with a local farmer who continues to occupy and work the property in an agreed-upon manner.
- X **Sale and lease-back.** In some circumstances, a property-owner may wish to protect open space on a piece of property by selling it the City under the Open Space Program and then leasing the property for the owner=s continued use for a set period of time. Such a transaction would include limitations on the use of the property to protect open space values. The original property owner would continue to have use of the property and would pay rent to the City for the term of the lease.
- X **Installment Sale.** A seller wishing to spread their gain out over time, and receive annual income, might negotiate a sale calling for installment payments. The amount of each periodic payment would be based on the total time period over which payments were received.
- X **Donation.** An outright donation of property to the City under the Open Space program may provide a number of personal and tax advantages. It may relieve property owners of the burden of managing property they no longer use; it provides an alternative to owners who do not wish to pass the land on to their heirs; and, if coupled with a conservation easement, it provides the owner with the satisfaction that the property will be maintained in its natural state forever. Donating property may also provide federal income tax deductions and estate tax benefits, particularly in the case of property that has appreciated in value since its original purchase. As an alternative to outright donation, a landowner may choose to make a bargain sale to the City, a transaction which is part sale and part donation. The sale portion provides income, and the donation portion provides a deduction which can help offset capital gains. Land owners can choose from a variety

of other options to donate property during their lifetimes while still receiving income from the property. These options include a *charitable remainder trust*, *charitable gift annuity*, and *retained life interest in a farm or residence*. A property owner may also donate land to the City through a will, thereby reducing estate taxes. Each of these donation methods offers different tax advantages and each has different requirements. An interested property owner should consult with his/her tax advisor to make sure the desired tax benefit is achieved.

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