



Action Requested/Required:

- Vote/Action Requested
 - Discussion or Presentation Only
 - Public Hearing
- Report Date: 5/2/24
Hearing Date: _____
Voting Date: 5/16/24

Department: Housing & Urban Development **Presenter(s) & Title:** Ken Patton
Housing Initiatives Director

Agenda Item Title:

Discussion of Canton Housing Team Recommendation that the City Create a Canton Community Land Trust

Summary:

The Canton Housing Team heard presentations about Community Land Trusts and how they operate. A Community Land Trust is a nonprofit community-based organization that acquires, owns and stewards land permanently for the common good. CLTs are best known for providing affordable homeownership opportunities that last generations. They do this by retaining ownership of the land and selling the housing on the land to lower-income households (utilizes long-term land lease). In exchange for below-market prices, purchasers agree to resale restrictions that ensure the homes will remain affordable to subsequent buyers. The CLT model allows lower-income households to build wealth through homeownership, while providing the community with a stock of homes that will remain affordable for generations.

Budget Implications:

Budgeted? Yes No N/A

Total Cost of Project: Check if Estimated

Fund Source: General Fund Water & Sewer Sales Tax Other:

Staff Recommendations:

Reviews:

Has this been reviewed by Management and Legal Counsel, if required? Yes No

Attachments:

1. Council Agenda Cover Sheet
2. Community Land Trust definition
3. How a Community Land Trust Works
4. What is a Land Trust?
5. Land Trusts in Georgia
6. Possible Land Trust Properties

A COMMUNITY LAND TRUST is a nonprofit, community-based organization that acquires, owns and stewards land permanently for the common good. CLTs are best known for providing affordable homeownership opportunities that last for generations. They do this by retaining ownership of a plot of land and selling the housing on that land to lower-income households. In exchange for below-market prices, purchasers agree to resale restrictions that ensure the homes will remain affordable to subsequent buyers. The CLT model allows lower-income households to build wealth through homeownership, while also providing the community with a stock of homes that will remain affordable for generations.

How does a Community Land Trust work?

1



Community land trusts use various sources of capital to acquire/develop homes in a geographic focus area.

Funding sources include:

- Foundations
- Public entities (federal, state, and local)
- Financial institutions
- Private donors

2



CLT

A new income-qualified resident buys and owns their house outright, but the CLT retains ownership of the land.

The homeowner leases the land beneath the house from the CLT, which maintains permanent affordability.

3



As long as the homeowner stays in the house, they are building equity.

Residents have the opportunity to serve on the CLT board of directors

When they are ready to sell, the CLT sets a price that allows them to **earn a portion of the equity** while maintaining an affordable price.

4



CLT

The new resident is still able to buy a home at a price that's been kept affordable, and agrees to the same requirements around the resale.

63% of CLT homebuyers go on to buy a market rate home, using the equity they gained by being a CLT homeowner.

What Is a Land Trust?

A land trust is a legal entity that takes ownership of, or authority over, a piece of property at the request of the property owner. Land trusts are living trusts that allow for the management of property while the owner is alive. However, like other [types of trusts](#), each land trust's terms are unique and can be tailored to individual needs.

The main positives of land trusts are that they generally protect landowner anonymity and keep property out of [probate](#). However, these protections aren't always guaranteed, and there is a risk of losing [redemption rights](#) and being disqualified from secondary market loans.

Land trusts are similar to other trusts but are meant exclusively for real estate. Land trusts can also hold other property-related assets, such as [mortgages](#) and notes. Any land can be used for a land trust, although they're mostly used for land conservation or developmental property.

KEY TAKEAWAYS

- Land trusts are organizations that take legal ownership, stewardship, or partial control over property at the request of the landowner.
- Title-holding land trusts, also known as Illinois land trusts, protect landowner anonymity and keep property out of probate.
- However, liability and privacy protections aren't always guaranteed, and there's a risk of losing redemption rights and being disqualified from secondary market loans.
- Land trusts are commonly used by real estate investors and estate planning property owners.
- Another form of land trust is a conservation land trust, used for managing undeveloped land to maintain natural resources, historical sites, and public recreational areas.

How a Land Trust Works

Land trusts, which are trusts tied to real estate, are often used for [estate planning](#). They are [revocable trusts](#), meaning they can be terminated or changed, and are meant to be used during your lifetime for managing properties.

Land trusts can include real estate (e.g., buildings or homes) or property notes and mortgages. They are typically used for the land involved in conservation or wildlife purposes, or for real estate development purposes.

Land trusts have three key parts—the grantor, trustee, and [beneficiary](#). The grantor is the person who creates the trust and [transfers the property](#). The trustee manages the trust, and the beneficiary is the one that benefits from the land trust.

Grantors handle the transferring of assets into the trust and set the terms of the trust, while trustees handle the intimate details of the property. For example, if a [rental property](#) is held in a land trust, a trustee might be responsible for overseeing maintenance and collecting rent payments.

Types of Land Trusts

There are two key types of land trusts—title-holding and conservation land trusts. Title-holding trusts allow individuals or entities to hold land anonymously. The big difference with a conservation land trust is that the owner must give up some land use and development rights.

Title-Holding Land Trust

A title-holding trust allows the property owner to anonymously maintain all rights over the property and direct the actions of the land trust. These trusts are also commonly called "Illinois land trusts" because they were first popularized in Chicago during the 1800s. At that time, property owners were not allowed to vote on city projects in the same places they owned land. To circumvent this law, wealthy businessmen and politicians would use land trusts to purchase land anonymously, thereby protecting their voting rights.¹

Not all 50 states have a legal structure in place for title-holding land trusts. However, most states defer to the Illinois land trust laws if they don't have their own.²

In a title-holding land trust, the landowner signs a document called a [Deed in Trust](#), which transfers legal ownership of the property. When setting up the trust, the landowner (who is both the trust grantor and the beneficiary) can specify how the land is to be managed, who has control over it, and how any income it produces is distributed. This means that, while the trust is the title-holder on paper, the landowner maintains complete control over the property.

Title-holding trusts are used as a way for property owners to maintain anonymity and keep valuable assets out of probate. They can also provide a number of other estate-planning benefits and [protect assets from judgments](#) or liens. This can be especially useful for the very wealthy, celebrities, and large companies who may want to keep development plans under wraps.

Conservation Land Trust

Conservation land trusts require that the property owner give up some rights over land use and development. The goal of a conservation land trust is to protect wildlife, historical or cultural sites, and natural resources from commercial development or other activities that may lead to disruption or pollution.³

In a conservation land trust, the trust doesn't necessarily take over the land title unless the property is donated in its entirety. Instead, a landowner can enter into a legally binding agreement, called a conservation [easement](#), thereby "donating" their development rights to the trust. The trust is tasked with ensuring that the easement is enforced and, in some cases, managing the property.⁴

Conservation easements can be tailored so that the landowner retains ownership and usage rights—such as the right to continue farming or raising livestock—while still ensuring that the land remains undeveloped in perpetuity. Conservation easements "follow the land," which means that the terms of the easement remain in force even if the land is sold or passed to heirs.⁵

Examples of Land Trusts

An example of a title-holding land trust is The Walt Disney Company's ([DIS](#)) resort in Florida. The Walt Disney World Resort in Orlando, Florida, was initially purchased in 1965 using a title-holding land trust. The original owners of the Florida swamplands, where the resort was built, had no idea that Disney (already a household name at the time) was behind the purchase. Had they been aware of the buyer's identity, they likely would have increased their asking price.⁷

Meanwhile, there are plenty of examples of conservation land trusts across the U.S., including the Ozark Land Trust, which covers dozens of projects across 28,000 acres through the Ozark region. The trust is a [non-profit](#)

[organization](#) that helps landowners preserve land in the Ozark area and protect it from urban development. The Ozark Land Trust helps accomplish this with nature preserves and conservation easements.⁸

Advantages and Disadvantages of Land Trusts

The key advantage of land trusts is that they provide liability and privacy protections, allowing real estate investors to keep property separate from personal finances. Using a land trust helps keep the details of [net worth](#) private. Real estate investors often use land trusts to keep property separate from other assets.

However, there are downsides to a property trust. Firstly, if you purchase the property under a land trust, any redemption rights are lost—that is, the right to reclaim the property just before (or after) [foreclosure](#). Second, most land trusts are automatically disqualified from secondary market loans.

The other issue with land trusts is that they give the illusion that there is no liability. Land trusts still have liability, even in Illinois. The real property owner, and not just the trust or trustee, can be found liable for things. Privacy isn't guaranteed, either, as court orders can pierce the privacy veil.

Pros

- Separate personal finances from real estate
- Privacy—anonymous property ownership
- Certain liability protections
- Ease of probate process

Cons

- Lose redemption rights
- May not qualify for secondary market loans
- No foolproof liability protections
- Privacy veil can be pierced

What's Unique About Land Trusts?

There is one other important distinction between title-holding and conservation land trusts: a donation to the latter could earn you a big tax break.

If a landowner donates their development rights to a conservation trust, they can receive a tax deduction equal to the difference between the value of the land as encumbered (with the easement in place) and what it could be worth if it were developed for its "highest and best use." In some cases, this deduction can be worth millions of dollars.⁹

Typically, landowners are either farmers and ranchers who have owned the property for generations or very wealthy individuals, families, or businesses that can afford to buy tracts outright. Recently, however, an investment niche has developed that is designed to open up the tax benefits of conservation to a larger portion of the population.

Investing in Conservation Easements

Using a multi-member [partnership](#) (or "syndicate"), these investment companies allow multiple [accredited investors](#) to pool their money to purchase land for conservation. After donating the property development rights to a land trust via a conservation easement, the members of the partnership split the tax deduction pro-rata. Thanks in part to these conservation partnerships, it is estimated that land conservation increased by 175% between 2005 and 2015.¹⁰

Conservation Easement Controversy

Of course, any time there's the potential for profit, someone will abuse the system. There have been some high-profile cases of people taking very large deductions for donating easements on golf courses, housing developments, and other properties that don't actually have much ecological or cultural value.¹¹

In response, there has been an aggressive backlash against syndicated investments, specifically, and the land trusts that accept their easement donations. However, this singular focus may not paint a complete picture of the issues at play. Whether donated by farmers, billionaires, or syndicated investors, it is clear that conservation easement donation laws require a closer look to ensure that the risk of abuse is minimized without removing the incentive to conserve.

How Does a Land Trust Work?

Land trusts work like other trusts, allowing grantors to set unique terms and conditions that fit their needs. Land trusts have three key parts—the grantor,

trustee, and beneficiary. Grantors create the trust and transfer the property into it, trustees manage the trust, and the beneficiary benefits from the trust.

What Is the Purpose of a Land Trust?

Land trusts are meant to create liability and privacy protections for landowners. Real estate investors, individuals, and entities use land trusts to help create separation for personal finances and property.

Who Purchases the Land in a Land Trust?

The land is generally purchased by an individual or business that will then transfer the property into a land trust. The grantor of the land trust is the individual or entity that creates the trust and transfers the property.

How Long Does a Land Trust Last?

Land trusts generally last for a set period of time, such as 20 years. It's up to the beneficiary to extend the trust term when it expires. If they do not, the property is sold.¹²

COMMUNITY LAND TRUSTS in GEORGIA

Athens Land Trust

685 North Pope Street

Athens, GA 30601

706-613-0122

admin@athenslandtrust.org

athenslandtrust.org

Date Incorporated: 1994

Purpose: Stewardship of land for affordable housing, conservation, agriculture, and economic development.

Land Holdings: 19,000 acres protected through conservation easements, 67 homes, 2 urban farms, 12 community gardens. Uses 99-year renewable ground lease structure to ensure affordability.

Governance Notes: Hybrid organization which acts as both a community land trust and a conservation land trust.

Additional Information: Their urban farms work to develop a sustainable local food system as well as strengthen the local economy and community. They also run the West Broad Farmers Market.

Garden property held by Athens Land Trust

Atlanta Land Trust

245 North Highland Avenue NE, Suite 230-724

Atlanta, GA 30307

404-257-6866

info@atlandtrust.org

atlantalandtrust.org

Date Incorporated: 2009

Purpose: Provide permanently affordable housing to combat gentrification and displacement in areas near the Atlanta Beltline.

Land Holdings: They have a number of single-family homes in addition to 7.5-acres on which they are in the process of developing 118 units.

Partners

Media Coverage

Decatur Land Trust

Decatur, GA

DecaturLandTrust@decaturga.com

decaturlandtrust.org/

Date Incorporated: 2021

Purpose: Create permanently affordable housing for low to moderate income residents of Decatur.

Land Holdings: They currently have 3 condo units, with 6 additional units nearing completion. 99-year renewable ground lease.

Governance Notes: Uses democratically elected tripartite governing structure.

HELP Organization Inc.

541 10th Street, No. 312

Atlanta, GA 30318

info@helporginc.org

helporginc.org/

Date Incorporated: 2004

Purpose: Promote systems which improve the social, economic, educational and spiritual conditions of local and global communities

Land Holdings: They have three programs, one in Westside Atlanta, GA (WALT), one in Ghana (Youth Development Division), and one called in Sapelo Island, GA called the Sapelo Ancestral Land Trust (SALT).

Governance Notes: Bylaws

Additional Information: Their SALT and WALT programs are specifically community land trusts, while YIST is more of an educational community-based organization.

Savannah Community Land Trust Inc.

3304 Iantha Street

Savannah, GA 31404

912-257-9839

savcomlandtrust@gmail.com

<https://savannahclt.org/>

Date Incorporated: 2020

Purpose: Create long term affordable housing for under-served communities and prevent gentrification. In addition, they hope to educate these communities financially and foster entrepreneurship for upward mobility.

Land Holdings: In the process of fundraising and obtaining land. They plan to start in West Savannah Communities and expand through the whole county of Chatham. Uses CLT homeownership model to ensure affordability.

Governance Notes: Uses democratically elected tripartite governing structure.

The People's Community Land Trust

Peoplestown Neighborhood

Atlanta, GA 30315

512-289-9789

nikishka@theguild.community

<https://www.theguild.community/peoples-community-land-trust>

Date Incorporated: 2023

Purpose: Addressing the urgent need for permanently affordable housing in Atlanta.

Land Holdings: In partnership with the Guild, Housing Justice League, and the Atlanta Economic Justice Program, the People's Community Land Trust has already acquired a property in the Peoplestown neighborhood of Atlanta as well as a site for additional permanently affordable units to be constructed over the next 1-2 years.

Governance Notes: Uses democratically elected tripartite governing structure.

New Communities Inc.

Albany, Georgia

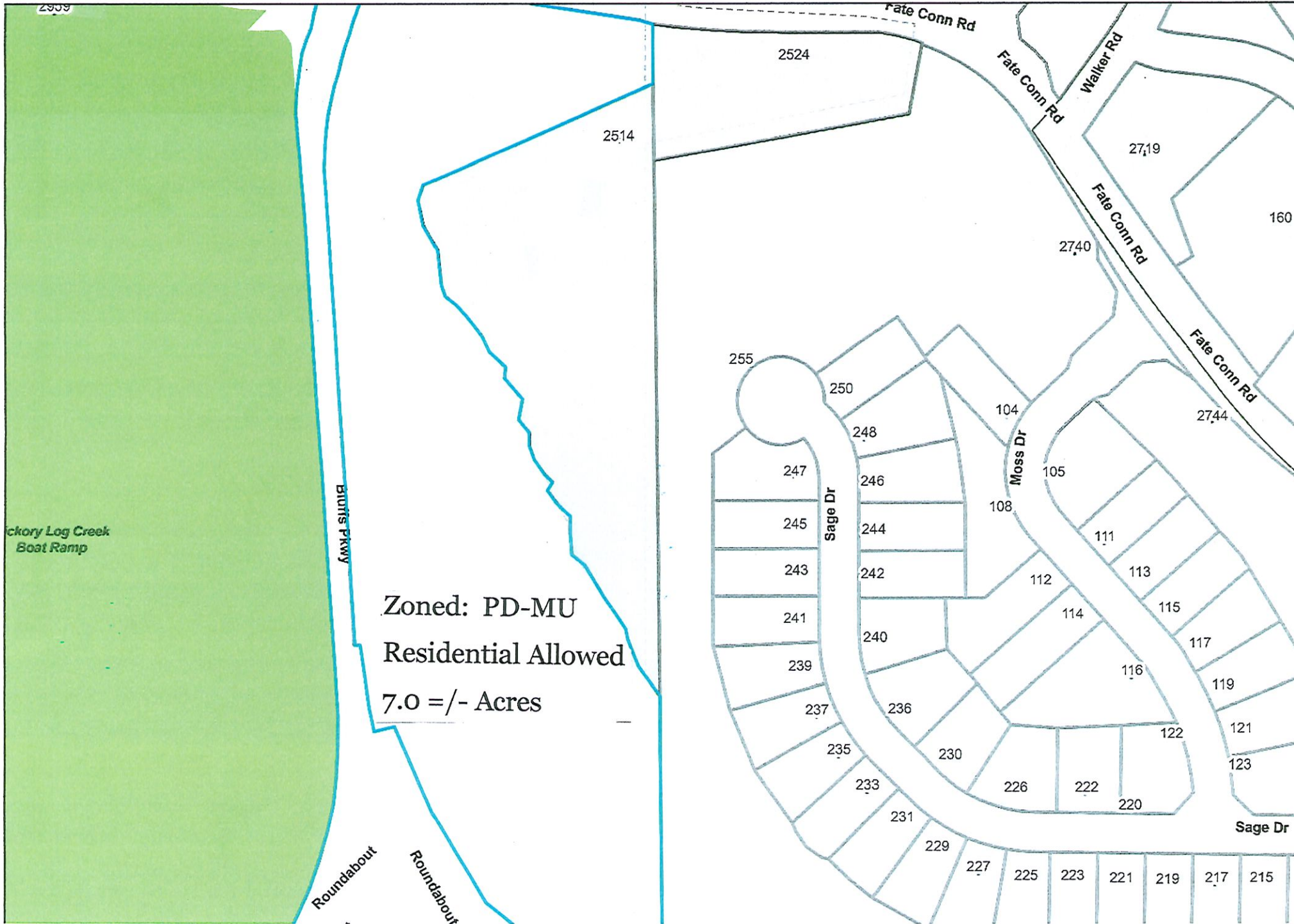
Date Incorporated: 1969

Purpose: empower African American families in Southwest Georgia and advocate for social justice.

Land Holdings: 5,700 acres

POSSIBLE LAND TRUST PROPERTY

City of Canton Map



POSSIBLE LAND TRUST PROPERTY

City of Canton Map

