

Though it may be tempting to move past this section and delve into the more concrete parts of estate planning, family communication can play a very influential role in a successful estate plan. If you do want to include your family and ensure that your decisions about the land will meet their needs, good family communication is crucial.

Having a family conversation about the future of family land can be very difficult. Talking about your eventual death can be uncomfortable, and it is often compounded by family dynamics that make it difficult for families to have these kinds of conversations. Unfortunately, there are countless examples of landowners who put off a decision about their land until it is too late, *as in Alma Jones's story found on page 11.*

Beginning these conversations now is necessary to be able to agree on answers to questions regarding the future of your land (for example, What are the goals you will be trying to achieve? What are the methods you will use to meet these goals?). Involving your family from the beginning and getting their buy-in to the plan can make for a better solution for all those involved and help avoid conflict when you are gone. An example of the importance of good family communication is illustrated by *the Riley family story found on page 7.*



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Holding a Family Meeting

An excellent first step to engaging your family in deciding the future of your land is to convene a family meeting. The goal of this meeting, as with all future communications, is to create an open, honest, and respectful conversation in which family members can communicate their personal feelings about the land and their needs. By doing this, you can gain a better understanding of the needs of your family, allowing you to develop an estate plan to address them without having to guess or to “let the kids fight it out” after you are gone.

Tips for Conducting Your Meeting

Below are some tips for holding a comfortable and productive family meeting. These suggestions are meant as a guide. You know your family best. Use the tips in the way that will be most effective for your family and the level of involvement your family will play.

When?

It often takes years to complete the estate planning process. Waiting until your family is grieving or dealing with health issues is not the time to start planning. Grief and stress can derail and complicate the decision-making process. The time to start is now!

Ideally, your family meeting will not coincide with a holiday or family celebration. Separating the traditions and pressures of a holiday or family celebration from the business of estate planning

Riley Family • Barre, Massachusetts

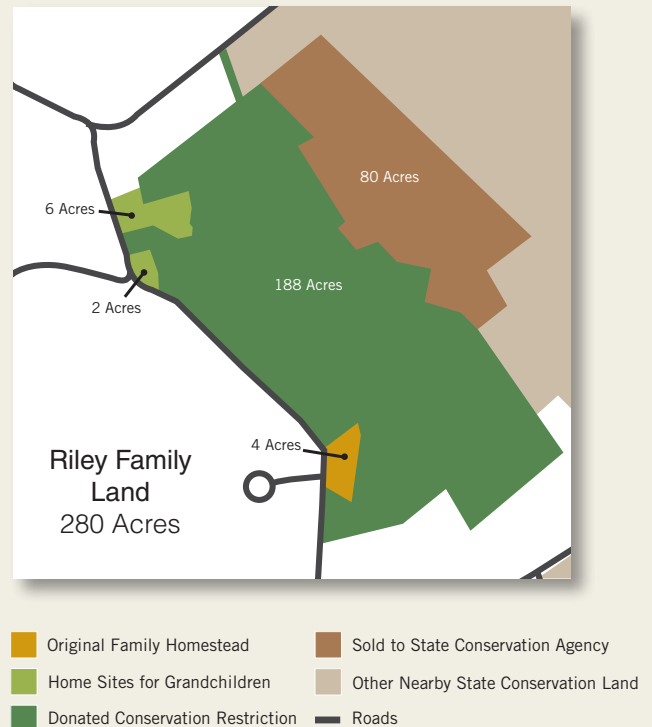
Tools used:

- Sale of land to a conservation agency
- Donation of a conservation restriction (CR)
- Reserving house lots for family members

Communicating your wishes for your land to your heirs is a critical first step in estate planning. Even more importantly, your wishes should be codified in your will. Luckily for Beatrice Riley, because she clearly and persistently communicated her wishes to her heirs, they worked hard to carry her wishes through, even in the absence of a legal imperative in her will.

Beatrice owned a house with 280 acres of land in Barre, Massachusetts. She loved the land and tried to instill a strong land ethic in her grandchildren by bringing them blueberry picking, canoeing, fishing, and jeep riding on the trails. As the years passed, she would often talk to her family members about the land and ask them if they would care for it like she had. When she grew older, two of her three grandchildren moved back to the house to take care of her. She became very ill, and when her death was imminent, the grandchildren needed to make a decision about what to do with the property. There was no direction in the will. Fortunately for Beatrice, one of her grandchildren who had power of attorney wanted to follow her grandmother's wishes to protect the land. Still, the family was concerned that the estate, capital gains, and other taxes would be too great to bear, forcing them to sell the land for development. All three grandchildren had a number of conversations about the future of the land and agreed that they wanted to honor their grandmother's wishes and conserve the land, but also hoped to be able to afford to live there with their families by somehow reducing the taxes associated with the inheritance.

The family attorney who had a long-time relationship with Beatrice wasn't sure how best to help the grandchildren conserve the land, so he recommended that they contact Mount Grace Land Conservation Trust. The land trust was able to help the family understand their options and advised the family attorney. Because the Riley land had important natural resource values, the Massachusetts



Department of Conservation and Recreation purchased 80 acres of land to protect the water quality of the Quabbin Reservoir. But no funding source was available for the remaining 200 acres. To protect the rest of the property, the family donated a conservation restriction (CR) on the remaining land to the land trust, except for an area around the original homestead and two additional areas where the grandchildren could build houses in the future. Placing a CR on the property was also in their financial interest: the CR significantly reduced the value of the land and the taxes associated with the inheritance, and the donation of the CR was taken as a charitable gift and reduced the taxes even further. As a result, the three grandchildren and their families were able to afford to keep and to live on the land. Even though the land surrounding the houses is permanently conserved, the CR allows them to continue to use the land for recreation, gardening, and forestry.

Tools used:

- Donation of a conservation restriction (CR)
- Reserving building lots

Finding out what your heirs need can be helpful in deciding what to do with your land. But being fair with your heirs does not always have to mean providing them with an inheritance that is financially equivalent, as demonstrated by Mrs. Smith's example.

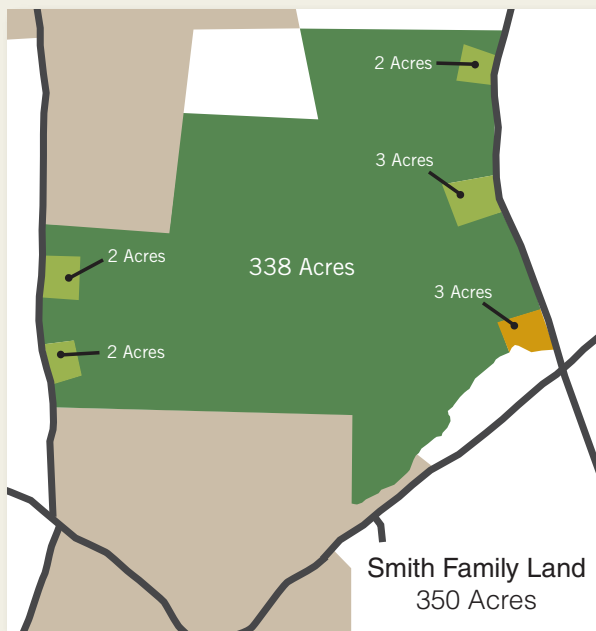
Mrs. Smith inherited a 5-bedroom house, a barn, and 350 acres that had been in her family for over 200 years. Her two daughters had spent summers with their grandparents and loved the land. In her 70s, Mrs. Smith wanted to see that her daughters could continue to enjoy the property after her passing and liked the thought that it would remain much the way it had always been—fields and woods.



Photo courtesy of Jackie Cooper

After open conversations with her daughters about the land, Mrs. Smith learned that her younger daughter Jane was interested in retiring, living at the homestead, and running a bed and breakfast business. The older daughter Sue lived in Vermont and wanted to stay there. To decide on a fair split of her assets for her daughters, Mrs. Smith first had the property appraised. The appraised value of her house and land was so high that federal estate tax would be due, and there wasn't enough cash in the family to pay for it, so some of the land would need to be developed to cover the estate taxes. Thankfully, after Mrs. Smith discussed the situation with a tax attorney and her accountant, another option emerged to keep most of the land in its natural state, while also providing a fair inheritance for her two daughters.

Mrs. Smith donated a conservation restriction (CR) on 338 acres to the local land trust, reserving 3 acres around the house as well as four additional house lots. The original homestead and 3 acres will pass to Jane so that she can pursue her business plans. Sue will inherit the remainder of the family land and receive money from the sale of the house lots. Sue and Jane will not be burdened with an excessive estate tax when their mother passes away because the CR reduced the value of the land. And Mrs. Smith received an immediate income tax deduction from the donation of the CR and the peace of mind that the land will largely remain as fields and woods.



- | | |
|----------------------------|----------------------------------|
| Original Family Homestead | Donated Conservation Restriction |
| Unrestricted Building Lots | Other Nearby Conservation Land |
| Roads | |

can ease some tension and create the right tone for these conversations. Of course, this may not be possible if holidays are the only time that family members get together. If this is the case, try to separate the family meeting from the events of the celebration.

Who?

It is best to err on the side of inclusiveness, especially in the beginning of the process. Extending invitations to all family members, including spouses, ensures that everyone hears the same information firsthand.

Many families have one or two members who do not want to be involved in the meeting. In this case, it is important to at least try to include them in the meeting by letting them know that you value their opinion and would like to hear their thoughts. It can also be helpful to include reluctant family members in a way that will make them feel comfortable and welcomed. For example, if they like to cook, ask them to help with the food, or if they know the land really well, ask them to lead a walk on the land.

Where?

Have your initial family meeting in person. There is no substitute for having everyone in the same room and hearing the same information at the same time. Though it is common for family members to live far apart, a face-to-face meeting is best, especially for the first meeting, which sets the tone for how the family will move forward and communicate in the future.

The meeting should be held in a place where everyone feels comfortable. Sometimes familiar places reinforce old habits and perpetuate unhealthy dynamics. If your home is not a neutral location, for whatever reason, then the meeting can be held in a restaurant, conference room, or other location where everyone is equally comfortable.

If the meeting will be held near the land, visiting or walking it together before the meeting helps everyone prepare for the meeting; it is a good opportunity for each family member to see the land and to reflect on what the land means to each of them.

How to prepare?

Collecting information about your land before the meeting can help inform the conversations by answering questions that people may have. This information will also be very helpful in future meetings involving the professionals listed in **Section Two**. A list of suggested information to collect can be found in the Deciding the Future of Your Land Checklist on page 38.

Communicating with Your Family

It is helpful to keep in mind that every family has its own unique dynamics, based on things such as birth order and past events, which can affect family members' ability to communicate openly and honestly with one another. Your goal is to create an atmosphere in which family members can put "old family baggage" aside and contribute their voice to a vision for the future of the land.

Asking everyone to avoid making assumptions of any kind, especially early in the process, and to stay open to new ideas starts the meeting off in a positive way. You should



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Grief and stress can derail and complicate the decision-making process. The time to start is now!



Does your family need help having a conversation about the land?

Sometimes a family's history and dynamics prevent the family from having a healthy conversation about what to do with the land. However, avoiding these important conversations about the future of your land and letting your family "figure it out" after you are gone will likely lead to even more tension in the family. Sometimes a neutral person can help your family with these difficult conversations. A **mediator** is a certified professional who is trained to assist families in conducting these conversations and can help your family reach consensus. A mediator can organize meetings, make sure each family member is being heard, and move the process forward by setting deadlines and following up with family members. To find a mediator, visit the "Find A Local Professional" page on www.masswoods.net.

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encourage family members to be respectful of one another by giving everyone an equal opportunity to share their thoughts. This may mean encouraging quiet family members to talk and asking more vocal ones to listen. **Most important, ask family members to commit to helping you find a solution that works for everyone.**

Starting the Conversation

The goal of the first family meeting is to give each family member the opportunity to express what the land means to him/her and what his/her financial or practical needs are. This can be accomplished by simply asking each person to talk about how he/she feels about the land. Is it a priceless family legacy to be protected at all costs? Is it a financial asset and nothing more? Or is it something in between? By listening to these comments, family members may learn that they share common feelings and needs. The differences are also important to know. Together, this is information that can guide your next steps and inform your work with estate planning professionals.

This exercise is also an excellent opportunity for you to share with your family your feelings about the land. **Communicating with your children about what the land means to you may help them make decisions about the land in the future by using your feelings as a guide.**

Getting a clear sense of the feelings and needs of family members can help define personal and financial goals for the land (e.g., keep the land undeveloped or keep most of the land undeveloped for one family member while providing income or a place to live for another).

An estate planning professional can help match your goals with the tools necessary to achieve them. *See the Smith family story on page 8* for an example of how one landowner was able to provide for the different needs of her children.

As you discuss your family's goals, you may develop a list of questions and information needed to take the next step in deciding the future of your land. These questions will be very helpful in determining what type of professional to contact. For example, if one of your family's goals is to maintain all or some of the property as undeveloped, contacting a land protection specialist (see page 16) to find out your land conservation options is an excellent next step after the family meeting.



You need to be prepared to take the input you have received, work with the necessary estate planning professionals, and do what you believe is right for yourself, your family, and the land.

Defining the Next Steps

Maintaining momentum is very important. Take the list of questions and information needs developed at the meeting and assign people and timelines to specific next steps to help ensure that the effort is moving forward. If possible, to keep people engaged and included, everyone at the meeting should be responsible for at least one action item.

Convening Future Meetings

How long the estate planning process takes is really up to you and your family. If your goal is to have your family reach consensus about the future of your land, this may require more than one family meeting.

While everyone is together, the family should agree on how family members should meet and communicate in the future. Having the meeting in person with everyone included is the best option, though this is not always possible. The important thing is to keep everyone communicating and to keep the process moving forward, one step at a time. *See the Brown family story on page 15* to see how a large family reached consensus on the future of their family land.

As the meetings move forward and the family works to figure out a particular aspect of the estate plan (e.g., land conservation, tax implications), it may be helpful to have an estate planning professional present who can provide technical information and suggestions as well as answer questions. To find an estate planning professional, visit www.masswoods.net.

Moving Forward Despite Family Disagreement

Your goal may be to keep your family in agreement about the future of the land throughout the entire estate planning process. However, despite your best intentions and efforts, there may be situations where families are not able to work together or agree on a plan. In these cases, you need to be prepared to take the input you have received, work with the necessary estate planning professionals, and do what you believe is right for yourself, your family, and the land. Do not be paralyzed by family disagreements. If you do not make decisions about your land's future, it is likely that the disagreements will only get worse when you are gone and the decisions are left to your family.