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Preserving land for the future

Landowners turn to conservation easements

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Landowners across the county are turning to conservation easements to help them preserve their land for future generations.

Conservation easements are voluntary and permanent legal agreements between the landowner and a nonprofit land trust or government agency limiting certain development on property in exchange for possible federal, state and local tax benefits, cash payments or a combination of these.

The easements can be tailored to suit landowners' present and future needs. For instance, a working land conservation easement allows a property owner to continue farming- and forestry-related activities currently taking place on the property.

Easements can vary from property to property and owner to owner depending on the wishes of the owner and the conservation value of the land.

Easements explained

A conservation easement is a voluntary agreement where a landowner agrees to place certain restrictions on the use of his or her property, explained Lynn Cox, an Asheville attorney and conservation easement specialist.

"As a landowner you have a lot of things you can do with your property," she said. She calls these land uses, such as running a farm, building structures, subdividing, cutting timber or selling for profit, the bundle of sticks.

"All of these sticks make up the value of your property. All of these have a tangible economic value," said Cox. "You can sell your sticks, give away your sticks or sell and give away all your sticks."

When a landowner places land into a conservation easement, he or she gives up the rights to do certain things on the property, but a landowner can structure the easement agreement in such a way as to restrict some uses of the property and allow others.

Conservation easements reduce the market value of land included in the agreement because they limit the potential for development, but this devaluation in turn lowers estate and property taxes.

The landowner chooses a conservation agency with which to partner, which locally include organizations such as Haywood Soil and Water Conservation District, Haywood Waterways Association and Southern Appalachian Highlands Conservancy among others, and the agency becomes responsible for ensuring that the easement is enforced. Someone with the partnering conservation agency will visit the land at least once a year to ensure adherence to the conservation agreement.

The process

Finalizing a conservation agreement can take anywhere from six months to two years, but the process normally takes about one year to complete, said George Ivey, coordinator of the Bethel Rural Preservation Project.

"I think that they (the landowners) have survived the process and lived to tell about it," he said. The process is worth it because the landowners are "looking at permanent decisions to protect their land."

Canton landowner Charles Henson wanted to protect a piece of his property so it could be used in the future for farming, an important issue since development pressures are causing farmland to disappear at an alarming rate across the state. According to the latest U.S. Census of Agriculture, the state lost more than 600,000 acres of farmland from 2002-2007.

"We've got to protect this land," Henson said.

"We can only hope to have sustainable communities by protecting the land where the food is grown," said Cameron Farlow, a Farmland Protection AmeriCorps Project Conserve member of the Southern Appalachian Highlands Conservancy.

There is a cost involved in the process to cover things such as surveys, appraisals and legal fees.

"If your property is conservation worthy and meets the IRS criteria for having significant conservation values, there are people who can find the money to do this," Cox said.

Most organizations will also ask for a donation that will go toward an endowment that will cover the cost of enforcing the easement in the future.

Once the restrictions are in place they cannot be removed, but restrictions can be added if they add to the conservation value of the land, Cox said.

The benefits

"A long time ago the state of North Carolina and many other states decided it would be good public policy to encourage preservation of open space," Cox said. "North Carolina was one of the first states to give a tax incentive to people who placed easement on their property."

The process got started to deal with disappearing public beach access, Cox said. People were buying up beach property and closing it off to public access.

The state wanted to allow people to access the beaches so it offered tax breaks and incentives to encourage people to donate land to conservation easements. People in the mountains wanted similar tax breaks, so the state began offering tax incentives for preserving open space here as well.

The state of North Carolina offers a tax credit of 25 percent of the value of the donated easement up to \$250,000, which can be spread out over six years.

Congress recently renewed an incentive through the end of this year that enhances the tax benefits of protecting land by donating a voluntary conservation easement. The legislation raises the minimum deduction landowners can take for donating an easement from 30 percent of their adjusted gross income to 50 percent. The legislation also allows qualified farmers or ranchers to deduct up to 100 percent of their adjusted gross income. The deduction can also be spread out over 16 years.

"These changes allow many modest income landowners to deduct much more than they could under the old rules, bringing increased fairness to the tax code," Cox said.
