

FARMLAND AMENITY PROTECTION

A Brief Guide To Conservation Easements



FARMLAND AMENITIES

The purpose of this guide is to help landowners access their land amenity value and to provide direction to be compensated for this value.

Farmland value is based on many factors such as size, soil quality, land-use, existing infrastructure and amenities. These amenities, included in the unaccounted land value, are often socially beneficial with attributes of farmland uniquely provided by actively farmed land. Examples include wildlife habitat, groundwater recharge, flood/fire control, historic preservation, open-scenic views and carbon sequestration.



Motivation

Environmentally conscious farmers perform a public service to society by preserving rich arable land, wildlife, and wetlands. Conservation of natural resources may reduce input costs associated with agriculture. Furthermore, preserving agricultural production on conserved land, as well as having support from government agencies or non-profit organizations against is significant for farmlands located near urban fringes.

A landowner may transfer development rights property through many programs provided by government and non-profit organizations. As an example, a conservation easement is a voluntary, legal agreement that restricts the development of land to protect environmentally sensitive lands. Charitably donating all or a portion of the easement can reduce estate taxes and offset income taxes.

In addition, once the property is a conservation easement, the land market value is typically lowered because it can no longer be developed for non-agricultural uses. With the decreased land value, property taxes are reduced, giving owners a financial incentive to keep the farmland within the family or make the land more affordable for young farmers or others who want to continue farming on the land.

Planning

An interested landowner willing to contractually preserve their property against the pressures of development can submit a proposal to the Natural Resources Conservation Service (NRCS) state office. The location and the unique qualities of the land are factors that make the land eligible for an easement. This may be negotiated with local or state government contracts with funding that NRCS's Agricultural Conservation Easement Program (ACEP) provides.

However, planning for a conservation easement is a difficult decision and must be thoroughly calculated consulting with family members, the family lawyer and accountant and possibly a specialized property appraiser.

The following questions should be considered to assist the landowner before deciding on the type of easement, applying for a conservation easement or participating in a conservation program:

Land-Use Goals

- Do you plan on constructing another residence on the property one day for ranch hands or for family members?

- Will you need another building on the property to store inventory or equipment?
- What kind of financial goals do you have for your property?
- What agricultural operations do you want to continue on the land or pursue in the future?
- Do you plan on changing the land-use on your property?
- What activities do you want to prohibit on the land now and in the future?
- What other activities might you or your heirs want to add in the future that coincide with your conservation objectives?

Land Characteristics

- Does your land harbor threatened or endangered plants or animals?
- Does the land contain unique water resources or is it part of a larger water system?
- Is it adjacent to government land and/or urban fringe?
- Was this land a prior converted wetland?
- How much acreage do you wish to conserve?
- Is the land in an “Area of Critical State Concern” (Examples include, but are not limited to, The Green Swamp and The Big Cypress Swamp)

Affordability

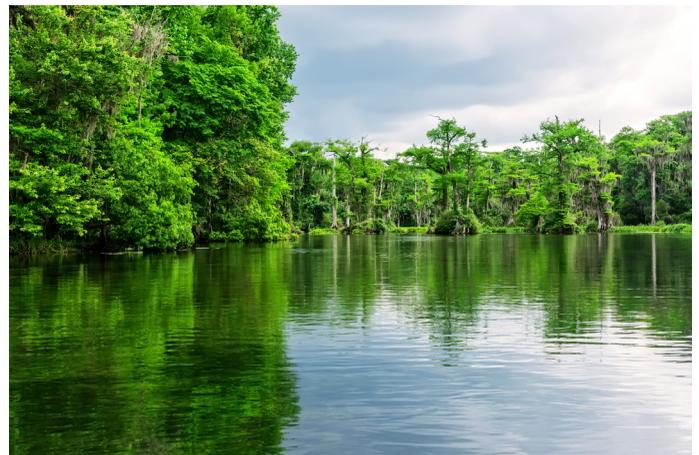
Once a landowner decides that a transfer of development rights meets his or her financial and land-use goals, it is time to establish the costs associated with implementing an easement. The amount of time and the expenditures for land surveys, legal fees, tax advising, and application fees are among the many factors that must be considered to ensure a fair value for the property. A landowner

applying for a conservation easement should decide on the specific type that is appropriate. It can conserve of of a variety of property types.

Cost Considerations

It is in the owner’s best interest to consult with the NRCS state office as well as participating land trusts to obtain more detailed information during the planning process. Additionally, the landowner should consider the following steps:

1. If it is the landowner’s intent to donate all or a portion of the land, hiring a land trust company is the good choice.
2. To carry out the terms of the agreement, an endowment fee may be necessary. It may be included in the costs of the land trust or it may be paid separately.
3. A property appraisal is necessary which may be the costliest expenditure and the most time-consuming part of the process. The state appraises wetland properties, so this step is not needed for wetland easements.
4. A title search is necessary after the easement is finalized. The search outlines title rights to the property such as mineral rights, if applicable.
5. It is common for an ecologist to document the conservation value and the condition of the property.



Cost Benefit Analysis

Pros

- Revenue for current farming needs or for retirement
- Farmland remains in production
- Reduction of the property's overall value, making the land more affordable for young farmers
- Maintenance of a sustainable farm stewardship as a treasured legacy
- A good way to get some cash out of the property
- Tax benefits or incentives
- Peace of mind that a beloved property will not be commercially developed
- Unique agreement tailored to the landowner's needs

Cons

- Limited number of conservation easement holders for donations
- Limited funds available from federal and state agencies for conservation easements
- Continuation of agreement on all future landowners including heirs which may counter family planning
- If not detailed in the contract, disagreement between the conservation easement holder and the farmer's vision
- Reduction of the landowner's asset value, making the land worth less for future sales
- Limited options when applying for a loan which can result in the amount of the loan can be reduced



Should an easement be too much of a commitment to conserve amenities on your property, the NRCS offers short-term financial assistance for landowners participating in sustainable land management. Programs offered by the NRCS under the Regional Conservation Partnership Program (RCPP) include the Environmental Quality Incentives Program, the Conservation Stewardship Program, the Wildlife Habitat Incentive Program, the Healthy Forests Reserve Program and the Watershed and Flood Prevention Program.



External Links

1. About Florida Fish and Wildlife Commission Landowner Assistance Program
<http://myfwc.com/conservation/special-initiatives/lap/advantages/>
2. Sample Deed of Conservation Easement Standard
https://floridadep.gov/sites/default/files/62-330_301_8.pdf
3. Florida Statutes: Title XL, Chapter 704-Easements
http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0704/0704.html
4. Property Tax Oversight Forms
<http://floridarevenue.com/property/Pages/Forms.aspx>
5. UF/IFAS Conservation Easement Planning
http://www.sfrc.ufl.edu/Extension/florida_forestry_information/planning_and_assistance/conservation_easements.html
6. University of Maryland College of Agriculture and Natural Resources Blog: Understanding Easements on Farmland
<http://agrisk.umd.edu/blog/understanding-easements-on-farmland>
7. USDA Service Center Employee Directory
<https://offices.sc.egov.usda.gov/employeeDirectory/app>
8. NRCS
<https://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/>

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