

## Working Lands Easement Programs

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### *Introduction to Conservation Easements*

*Janice L. Allen  
Deputy Director  
North Carolina Coastal Land Trust*

## HOW LAND TRUSTS WORK

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- Land Trusts acquire land by
  - donation
  - purchase
    - at fair market value
    - bargain sale (less than fair market value)

**Conservation Easements are the primary tool of land trusts!**

## What is a Conservation Easement?

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- ❑ A Conservation Easement is a voluntary legally binding agreement between a private landowner and a conservation organization or agency in which the landowner continues to own the property but agrees to restrict certain uses of the property.
- ❑ May reserve such productive uses of the land as farming, forestry, recreation, and limited development.

## STATUTORY AUTHORITY

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- ❑ Enabling Legislation  
North Carolina:  
Historic Preservation  
and Conservation  
Agreements Act  
*N. C. G. S. Section 121-34 et. seq.*
- ❑ Authorizes acquisition of  
conservation easements by state  
agencies, counties, municipalities,  
public corporations or trusts having  
corporate purposes of conservation  
and preservation



## THE ANATOMY OF AN EASEMENT I

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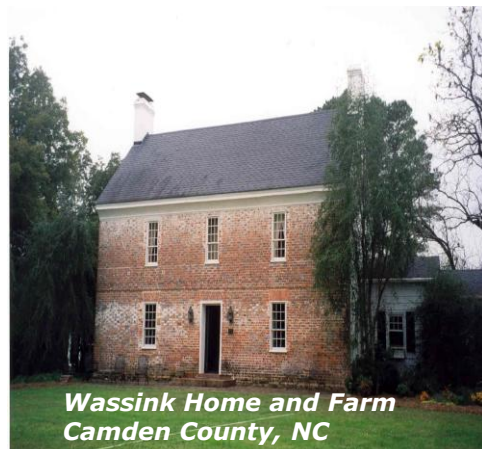
- ❑ Drafting Considerations
- ❑ Perpetual Duration
- ❑ Recitals/Purposes
- Design is Based on Conservation Purpose



## THE ANATOMY OF AN EASEMENT II

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- ❑ Landowner's Reserved Rights/Uses
- ❑ Restrictions on Use/Restricted Rights
- ❑ Enforcement
- ❑ Remedies



## KEY POINTS ABOUT CONSERVATION EASEMENTS

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- ❑ Strictly voluntary
- ❑ Allow land to remain in private ownership
- ❑ Tailored to meet the landowner's financial needs
- ❑ Drafted to protect the land's conservation values
- ❑ Do not imply public access
- ❑ Do not have to include the entire property
- ❑ Perpetual and run with the land
- ❑ May result in significant tax savings



## What are the Tax Incentives?

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- ❑ Federal income taxes
- ❑ Estate taxes
- ❑ Property taxes

*Another Added Incentive. . .*

- ❑ North Carolina Tax Credit Program



## The Gospel According to the IRS – 4 Conservation Purposes

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- Landowner can only get tax incentives if the easement is
  - Perpetual
  - Protects either land for public outdoor recreation; natural habitats for fish, wildlife; open space including working farm and forest land; or historic lands or structures
  - No surface mining allowed.
  - Proper Partner or qualified grantee!



*Photo courtesy of  
Joe Young*

## Conservation Easements- What is required?

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- Conservation easement document
- Inventory of the property – Baseline report
- Title work
- Survey and legal description
- Appraisal
- Form 8283



## How are Easements Valued?

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- An appraisal is necessary to establish the value of the easement for tax purposes.
- Appraisers consider the nature of the restrictions, the character of the property, and the market value of the property with and without the easement.
- Difference between the “before” and “after” values is the value of the easement for charitable contribution purposes.

## Appraisal Example- 200 acres of waterfront on the Pamlico River

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- “Before” value (fee title as is): \$1,000,000; highest and best use is residential development (\$5,000/acre).
- “After” value (with CE) – no residential development, only passive recreation (e.g., hunting and fishing) - \$200,000 or (\$1,000/acre).
- Easement Value = \$1,000,000 - \$200,000 = \$800,000 Difference between before and after values.

## NC Coastal Land Trust Conservation Easement Philosophy

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- ❑ Working with landowners to protect identified conservation values on property.
- ❑ Striving to help landowners meet their economic and land use objectives.



## Stewardship – A Commitment in Perpetuity

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- ❑ A promise to the donor and,
- ❑ A promise to our members and general public that we will protect this property and its special resources.



*White Oak River/Barker Tract –  
Onslow County  
Photo courtesy of George  
Mitchell*

## Why is Stewardship So Important?

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***"To negotiate, sign, and record a conservation easement and then to neglect its stewardship is a little like working hard to buy a sleek sports car and then abandoning it to rust in the rain. . . Of course, you have the right to neglect your Porsche if you wish, but an easement is different because there's a public trust involved."***

***Jean Hocker, Past President  
Land Trust Alliance***



## Case Study I – Donated Conservation Easement

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- ❑ No development
- ❑ Working forest
- ❑ Working farm



***Jubilee Farm, Chowan County***



## Case Study II - Purchased Farmland Easement

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*Rayburn Farm, Perquimans County*

## Case Study III - Be Creative!

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*J. Frank Parker, Jr.  
Preserve, Pitt County*

## North Carolina Farmland – A Disappearing Resource

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- We Must Work Together to Protect Our Working Farms



## Forging New Partnerships

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- Working with Greene and Sampson SWCD to acquire farmland easements on two agritourism-based farms – Jackson Farm and Bynum Farm.



*Tom and Jan Jackson*

## “DO IT RIGHT, OR DON’T DO IT AT ALL!”

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**Stephen Small, Attorney at Law, Landowner  
Planning Center, Boston, MA and  
Author of *Preserving Family Lands I and II***



□ *Photo courtesy of Joe Hughes*

## North Carolina Coastal Land Trust’s Conservation Record

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***41,000 acres protected to date!***



## Where to Get More Information

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- North Carolina Coastal Land Trust  
([www.coastallandtrust.org](http://www.coastallandtrust.org))
- Conservation Trust for North Carolina  
([www.ctnc.org](http://www.ctnc.org))
- The Land Trust Alliance ([www.lta.org](http://www.lta.org))
  - Training
  - Books and Publications
  - Magazine