Henderson County
Farmland Preservation Taskforce

Thursday, May 30, 2024 - 6:00 PM
King Street Meeting Room
100 N. King Street, Hendersonville, NC 28792

Agenda

1. Call Meeting to Order
2. Adjustment and approval of agenda
3. Public Comment
4. Approval of May 13, 2024 Meeting Minutes
5. Guest Speakers
   a. Evan Davis, Director – NC Dept Agriculture & Consumer Services, Farmland Preservation Division
   b. Kieran Roe – Executive Director, Conserving Carolina
   c. Tom Fanslow – Land Protection Director – Conserving Carolina
6. Continued Discussion – Taskforce Goals & Outcomes
7. Next Meeting: June 10, 2024
8. Adjourn
The Farmland Preservation Taskforce held a meeting on May 13th, at 6:00 PM in the King Street Meeting Room located at 100 N. King Street.

<table>
<thead>
<tr>
<th>Taskforce Member</th>
<th>Present</th>
<th>Absent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner Rebecca McCall, Chair</td>
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<tr>
<td>Commissioner David Hill, Chair</td>
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<tr>
<td>Hunter Marks – Planning Board</td>
<td>✔️</td>
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<tr>
<td>Danny McConnell – Soil &amp; Water Conservation District</td>
<td>✔️</td>
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<tr>
<td>Gary Steiner – NC Cooperative Extension</td>
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<tr>
<td>Jimmy Cowan – NC Farm Bureau</td>
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<tr>
<td>Joffrey Merrill – AgHC</td>
<td>✔️</td>
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<tr>
<td>Randy Newman – Hendersonville Board of Realtors</td>
<td>✔️</td>
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<tr>
<td>Jason Edney – At large</td>
<td>✔️</td>
<td></td>
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<tr>
<td>Justin Patwin – At large</td>
<td>✔️</td>
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<tr>
<td>Linda Pryor – At large</td>
<td>✔️</td>
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<tr>
<td>Alan Ward – At large</td>
<td>✔️</td>
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<tr>
<td>Danielle McCall – At large</td>
<td>✔️</td>
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</tbody>
</table>

Also present:
Chris Todd, Business & Community Development Director
Autumn Radcliff, Planning Director
Liz Hanson, Planner I
Jonathan Wallin, Soil & Water Conservation District
April Hoyt, Soil & Water Conservation District
Dr. Terry Kelley, NC Cooperative Extension
Kieran Roe, Conserving Carolina
Tom Fanslow, Conserving Carolina
Jeffrey Darnell, NC Department of Agriculture & Consumer Services

Commissioner Rebecca McCall, Chair, called the meeting to order at 6:00 PM.

Welcome & Introductions
Chairwoman Rebecca McCall called the meeting to order at 6:00 PM and began the meeting with taskforce member introductions. All taskforce members, resource partners, and staff support gave a brief introduction of themselves and their background and/or experience related to agriculture.

Taskforce Background
Liz Hanson, Planner I and Staff Coordinator, gave a brief presentation on the history and formation of the taskforce. Miss Hanson shared past farmland preservation efforts in the County and agricultural goals in the County’s 2020 Comprehensive Plan and 2045 Comprehensive Plan.

Taskforce Goals & Outcomes
The taskforce spent most of the meeting discussing possible goals for the taskforce to accomplish. Staff noted reoccurring goals or ideas members of the taskforce mentioned. Several topics discussed included agricultural conservation easements, succession/estate planning, and farmer education. The taskforce agreed to continue working through the main goals and outcomes at future meetings. The taskforce requested staff to organize guest speakers to educate members on topics discussed at the meeting.

2024 Meeting Schedule
The taskforce discussed the proposed 2024 Meeting Schedule. The taskforce agreed to meet on the second Monday of each month at 6:00 PM in the King Street Meeting Room. The taskforce may also hold other meetings in addition to the set monthly meeting if necessary.

Next Meeting:
The Taskforce agreed to meet prior to the regularly scheduled June 10th meeting to discuss certain topics and listen to guest speakers. The taskforce will meet again on Thursday, May 30, 2024 at 6:00 PM in the King Street Meeting Room at 100 N. King Street. Guest speakers will include the NC Department of Agriculture & Consumer Services and Conserving Carolina. The taskforce will also meet on June 10th at 6:00 PM in the King St Meeting Room.

Commissioner Rebecca McCall, Chair and Commissioner David Hill, Chair
Henderson County Farmland Preservation Taskforce
Areas of Henderson County set aside by landowners for agricultural use only. These landowners recognize the importance of agriculture to the economic and cultural life of Henderson County and desire to preserve and protect their land from non-farm development.

Administered by Soil & Water

Voluntary Agricultural Districts (VAD)

Henderson County, NC
Voluntary Agricultural Districts with 0.5 Mile Buffer
Henderson County, NC
### VAD Totals

<table>
<thead>
<tr>
<th>Date</th>
<th>Parcels</th>
<th>Landowners / Farms</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 2021</td>
<td>364</td>
<td>149</td>
<td>10901.96</td>
</tr>
<tr>
<td>December 2021</td>
<td>377</td>
<td>156</td>
<td>11331.64</td>
</tr>
<tr>
<td>December 2022</td>
<td>390</td>
<td>158</td>
<td>11525.02</td>
</tr>
<tr>
<td>April 2023</td>
<td>381</td>
<td>152</td>
<td>11116.35</td>
</tr>
<tr>
<td>December 2023</td>
<td>382</td>
<td>153</td>
<td>11143.15</td>
</tr>
</tbody>
</table>
Agricultural Conservation Easements with the N.C. Department of Agriculture and Consumer Services

Evan Davis – Farmland Preservation Director
evan.davis@ncagr.gov – 919-707-3072
Mission

• The Farmland Preservation Division's mission is to preserve working farms and forests throughout North Carolina and foster the growth, development, and sustainability of family farms.

• The Agricultural Development and Farmland Preservation (ADFP) Trust Fund is the primary program inside the division.
  • The ADFP Trust Fund supports North Carolina's agricultural economy by providing grants to county governments and non-profit organizations for conservation easements, agricultural development projects, and agricultural plans.
Responsibility

• Administering all functions of the ADFP Trust Fund, including grant application evaluation, open grant contract administration, and post-award monitoring.

• Collaborate to enact strategies and policies to preserve working farms and forests throughout the state.

• Clearinghouse for the Voluntary Agricultural Districts program, county Farmland Protection Plans, and Cost of Community Services Studies.
Hierarchy of Farmland Preservation

- Voluntary Agricultural District
- Enhanced VAD
- Funded Conservation Agreement
- Term Conservation Easement
- Perpetual Conservation Easement
Agricultural Conservation Easements

• Voluntary legal tool that restricts residential, commercial, and industrial development of land to maintain its agricultural production capability.

• Most grants awarded by the N.C. ADFP Trust Fund are for agricultural conservation easements.
  • These grants remove the development rights from the property and provide funds for other costs associated with the recording of the conservation easement.
  • If awarded a grant in which there are funds for the easement purchase value, landowners will be compensated for a portion of the development rights.

• All properties subject to these agricultural conservation easements remain in private ownership.
  • No fee simple, land transfers, or condemnation.

• If the property is sold or inherited, the terms and conditions of the conservation easement move with the land to the new owner.
What are the Primary Restrictions of a Conservation Easement?

• Primary restrictions
  • Residential development*
  • Commercial development
  • Industrial and commercial uses outside of agricultural and customary rural enterprises
  • Subdivision of the property
  • Mining
  • Dumping and trash
  • Commercial signage
  • Military: large towers, upward-facing lights, and other developments that hinder military training
What Rights are Retained under a Conservation Easement?

• Right to Privacy
  • The land remains in private ownership. The easement does not grant public access to land.

• Right to Farm
  • Ability to change uses of the land (ag, horticulture, forestry)

• Timber harvest

• Right to Customary Rural Enterprises
  • Agritourism, Ecotourism

• Construction as permitted in easement language and within farmstead building envelopes
  • Ag structures, residential, farm support housing, accessory structures

• Low-impact, non-developed recreational activities
  • Hunting, fishing, birdwatching, hiking

• Water rights
Agricultural Conservation Easements
Funded by the ADFP Trust Fund

- 35,547 Acres
- 234 Conservation Easements
  - 224 Perpetual Conservation Easements
- Easements in 53 of 100 Counties

North Carolina Department of Agriculture and Consumer Services
Farmland Preservation Division
What are the Funding Options?

• NC Department of Agriculture and Consumer Services – Agricultural Development and Farmland Preservation (ADFP) Trust Fund
  • Standard Appraisal Program
  • Present-Use Value Program

• US Department of Agriculture – Natural Resource Conservation Service (NRCS)
  • Agricultural Conservation Easement Program (ACEP) – Agricultural Land Easement (ALE)
  • Regional Conservation Partnership Program (RCPP)

• Department of Defense – Readiness and Environmental Protection Integration (REPI)
  • US Air Force
  • US Navy/US Marine Corps

• County Programs

• Landowner In-Kind Donation of Value
  • Eligible for a federal tax deduction for qualifying perpetual conservation easements
Farmland Preservation Starts with the Landowner

- Without willing landowners, there is no farmland preservation
- Without local support and willing partners, like county governments and land trusts, agricultural conservation easements cannot be created
- Without funding sources, like local, state, and federal easement programs, there are no financial incentives to compete with offers for other land uses
Local Funding for Farmland Preservation

Current Examples in North Carolina

• Rollback Tax from Withdrawal From Present-Use Value
  • Direct connection between land loss and land preservation
  • Varies by year and subject to development and economic trends
• Bonds
  • Supported by voters
  • Known, and usually large, amount for a set number of years
  • Future of the program may be uncertain
• County Sales and Use Tax
  • Increasing population drives funding levels and preservation needs
  • Trust fund helps secure funding for conservation projects
  • Higher taxes
“Food Requires Agriculture. Agriculture Requires Land.”

**Why Preserve Farmland?**

<table>
<thead>
<tr>
<th>Agricultural</th>
<th>Economic</th>
<th>Environmental</th>
<th>Public Policy</th>
<th>Quality of Life</th>
</tr>
</thead>
<tbody>
<tr>
<td>Food Security, National Security</td>
<td>Supporting NC’s Top Industry - Agriculture</td>
<td>Reducing Runoff, Impervious Surfaces</td>
<td>Voluntary Program, Private Ownership</td>
<td>Our Shared Agricultural Heritage</td>
</tr>
<tr>
<td>Long-term Viability of Farms and Forests</td>
<td>Stabilization of Ag Operations</td>
<td>Management to Improve Soil and Water Quality</td>
<td>Revenue Neutral for Counties</td>
<td>Family Legacies</td>
</tr>
<tr>
<td>Reducing Fragmentation and Sprawl</td>
<td>Giving Landowners a Choice</td>
<td>Climate Resiliency</td>
<td>Ag Lands are Net Providers of Tax Revenue</td>
<td>Recreation, Agritourism, and Rural Viewscapes</td>
</tr>
</tbody>
</table>
Why Choose Agricultural Conservation Easements?

• The land remains in private ownership
  • Voluntary legal agreement
  • All agricultural conservation easements remain on the county tax rolls
  • Agricultural lands use fewer tax dollars than they generate. Working lands are net providers of local tax dollars, rather than net users.
• 98 percent of Cycle 17 applications were enrolled in Present-Use Value
• Agricultural conservation easements allow land to remain in Present-Use Value
Why Choose Agricultural Conservation Easements?

- Landowners are compensated for the removal of the development rights from the property
  - Real estate transaction while maintaining ownership
  - Federal tax deduction of donated value that is supported by a qualified appraisal
  - IRC Section 1031 like-kind exchanges of conservation easements
- Payoff or subordination agreement required
- Taxable event
- Pay down debt, expand operations, purchase additional property, savings and investments
Why Choose Agricultural Conservation Easements?

• “Food requires Agriculture. Agriculture requires Land.”
  • Agriculture is North Carolina's top industry, accounting for one-sixth of the state's economy and employees
  • Agriculture and agribusiness amount to almost 16 percent, or $111.1 billion of the $716 billion gross state product
  • Working lands provide fresh, local foods to North Carolina residents and quality products across the country and around the world
Questions?

www.ncadfp.org
# Conservation Easement Application Materials Checklist

## Identifying Information
- All applicants must be a private nonprofit conservation organization or a county
- Project Title
- Primary county of proposed conservation easement
- Landowner(s) agreeing to the restrictions of the conservation easement (available for review at [https://www.ncadfp.org/downloads.htm](https://www.ncadfp.org/downloads.htm))
- Length of term of the proposed conservation easement (perpetual; 30, 40, or 50-year term)
- Number of total acres in the proposed conservation easement

## Private Conservation Nonprofit Eligibility
- Have you previously received a contract from the ADFP Trust Fund before?

## Applicant Information
- Applicant Organization
- Applicant organization mailing address
- UEI Number
- Applicant Tax ID Number
- Applicant Fiscal Year End (Month and Day)
- Primary applicants contact name
- Primary applicants contact title
- Primary applicants phone number (Office and Mobile)
- Primary applicants contact email

## Property Location
- Property physical address
- Latitude and longitude coordinates of the proposed property's physical location ([https://www.latlong.net](https://www.latlong.net))
- Parcel Identification Numbers (PIN) for each parcel included in the proposed conservation easement ([https://www.nconemap.gov/pages/parcels](https://www.nconemap.gov/pages/parcels))
- Is the entire parcel accessible from a public road or is there an insurable, unconditional, and transferable legal right of recorded access for the term of the easement? Attach map showing access from a public road or evidence of an insurable, unconditional, and transferable legal right of recorded access.

## Land Ownership Information
- Specification of ownership structure of property (one individual owner, two or more individuals, C Corp, S Corp, Partnership, Trust/Estate, LLC)
- List of all parties that have an interest in ownership of the property (marital interest, members of LLC, partners, shareholders, beneficiaries, etc.)
- Certification that all land parcels in the proposed conservation easement are in the same ownership structure

## Property Ownership
- Mailing address the same as the property address
- A General Warranty Deed or Last Will and Testament to verify ownership of property (Quit Claim Deeds are not accepted as proof of ownership)
- Written and signed authorization from all properties with an interest in the ownership of the property
An Option to Purchase an ADFP Agricultural Conservation Easement signed by all parties with an interest in
the ownership of the property
Acknowledgement of a lien on the property

Description of Land Unit Subject to Proposed Conservation Easement

- If part of a larger operation, number of acres in the total operation
- Number of acres in the proposed conservation easement based on land use (cropland, pasture, forestry, horticulture, aquaculture, water/natural areas, farm support areas)

Map of proposed conservation easement that includes the following:
Prime, unique, or soils of statewide importance
Conservation Easement Boundary
All Existing Structures
All Proposed Farmstead Building Envelopes broken down by:
a. Existing Residential
b. Future Residential
c. Farmstead
d. Farm Support Housing

- Species and approximate number of livestock, poultry, and aquaculture on the farm
- Species and acres of crops and forestry
- Letter from USDA-NRCS or a local soil and water conservation district (SWCD) certifying percentage of prime, unique, or soils of statewide importance within the boundaries of the proposed conservation easement

Landowner Information

Upload one of the following documents from calendar years 2022 or 2023 to verify economic interest as a producer of an agricultural/horticultural operation:
- 578 producer print/crop report
- Livestock bill of sale
- Fertilizer bill
- CCC-902 form
- Farm lease agreement
- Proof of crop insurance

or

Upload one of the following documents to verify economic interest as a producer of a forestry operation:
- Forestry management plan
- Receipt of timber sale

Specify if there are any other private entities with an economic interest as a producer in the agricultural production as defined in NC Statute 160D-903

CCC-860 form that has been filed with USDA to certify status for any producer listed in the application as any of the following:
- a limited resource farmer or rancher (https://lrftool.sc.egov.usda.gov/)
- a beginning farmer or rancher (https://www.farmers.gov/your-business/beginning-farmers)
- a socially disadvantaged or veteran farmer or rancher (https://www.usda.gov/partnerships/socially-disadvantaged-farmers-and-ranchers)

One of the following documents to verify membership with the Got to Be NC program:
- A copy of a Got to Be NC membership acceptance letter
- A screenshot of the specific company/farm/group on the Got to Be NC website (https://gottobenc.com/find-local/)

One of the following documents to verify membership with the American Tree Farmers program:
| **A certificate of participation**  
| **A forest stewardship program that is no more than ten (10) years old**  
| **One of the following documents to verify active participation in the Century Farm Family program:**  
| - A certificate of participation  
| - A screenshot of the specific farm on the NCDA&CS website (http://www.ncagr.gov/paffairs/Century/location.htm)  
| **Are the proposed agricultural conservation easement acres currently enrolled in Present-Use Value (PUV) taxation?**  
| **A 2021 or 2022 tax card or property record card to verify the property’s current county zoning**  
| **A signed letter from the county VAD administrator to verify membership in the county’s VAD/EVAD program**  
| **Specify if the proposed agricultural conservation easement acres are in the immediate vicinity of other agricultural commodities as defined in NC Statute 160D-903**  
| **A proximity map showing the proposed property and other agricultural conservation easements within 4 miles (https://www.ncmhtd.com/adfp/conservation/)**  

**Land Management and Use**

| **One of the following documents to verify current use of a land management plan on the proposed property:**  
| - A signed letter from USDA-NRCS or a local SWCD that there is a current conservation plan on file  
| - A copy of the current conservation plan signed by the landowner and USDA-NRCS  
| - A signed letter from the NC Forest Service or a private forester stating that a current forest management plan is on file  
| - A copy of the current forest management plan signed by the landowner and the NC Forest Service or a private forester  
| **Specify when the last time the proposed conservation easement property was used for agricultural production as defined in NC Statute 160D-903**  
| **A proximity map identifying public lands used for agriculture, plants, forestry, wildlife, historic, or cultural sites within two (2) miles?**  
| **Screenshots from https://repi.osd.mil/map/ to verify that the proposed property falls under a designated military training route or adjoins a military base or training parcel. To provide documentation for the military question on the conservation easement application, please follow the guidance below:**  
| Navigate to https://repi.osd.mil/map/, and turn the following layers on:  
| - Military Training Routes (MTRs)  
| - Special Use Airspaces (SUAs)  
| Under Eastern North Carolina, click the right point arrow beside the checkbox to show additional options:  
| - Select REPI Partnership Opportunity Area(s) and DoD Installations.  
| - Unselect Counties and North Carolina Counties.
A proximity map identifying the proposed property in relation to nearby or adjoining city limits, extraterritorial jurisdiction, or residential developments (a tax card or property record card may also show the extraterritorial jurisdiction).

Photos of any non-compatible land uses on the proposed agricultural conservation easement acreage such as trash piles, waste dumps, soil erosion, or alternative management that has diminished soil production which will inhibit or demise future agricultural production.

### Overview of Proposed Conservation Easement and Scope of Work

- Background on the ownership and use of the proposed easement property. Include information on the history of the operation, local agricultural economy, and regional interests.
- Brief description of the proposed conservation easement.
- Any threats that may convert the proposed conservation easement to non-agricultural development within the next five (5) years, including condemnation, loss of supply and market infrastructure, inheritance, or estate issues, etc.
- Describe any conservation or environmental practices currently implemented on the property.
- Explain any limitations on production due to lack of, or distance from, farm and agribusiness infrastructure (e.g. equipment parts and repair, feed, seed, fertilizer, chemicals, markets, processing, etc.).
- Explain any actions to transition the land to future farmers or foresters.
- Provide specific outcomes to be achieved through this conservation easement project.
- Provide any community needs that this conservation easement project serves.
- Photographs of typical landscape, structures, and equipment on the proposed conservation easement.
- Permission to publicly use photos submitted with the application and photos taken during site visits.
- Any additional supplemental documentation to support the application.

### Budget

*Please review the “Conservation Easement Application Budget Instructions” and “Conservation Easement Budget Worksheet” prior to proceeding with this portion of the application.*

- Yes or No if donating the full value of the proposed conservation easement.

### Determining the Estimated Easement Purchase Value

- Yes or no if there is a Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or “Yellow Book”) appraisal of the proposed conservation easement land parcel that determines the development rights value that will be removed (appraisal current as of January 1, 2022)?
- Yes or no if there is a Letter of Opinion or Restricted Use Report by a Qualified Appraiser with an effective date since January 1, 2022?

### ADFP Funds for Present Use Values of Property

- Select primary county.
- Yes or No for your property having approved Present Use Value County property tax values.
- Upload a current or 2022 tax card or property record card verifying the property's market and agricultural land use values.
- Present use value (PUV) of the property.

### Entity Eligibility

- List of current Board Members, Board of Supervisors, or other oversight council.
- Organization’s current conflict of interest and certification policy statement.
- Determination of any conflicts of interests.
- Describe all relevant conflicts of interest pertaining to this conservation easement application and the process for how your organization will mitigate these conflicts throughout the grant timeline.
**Required Items for Private Conservation Non-Profit Applicants**

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<thead>
<tr>
<th>Item</th>
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<tbody>
<tr>
<td>Articles of Incorporation</td>
</tr>
<tr>
<td>Sworn Statement of No Overdue Taxes</td>
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<tr>
<td>Organization By-laws</td>
</tr>
<tr>
<td>List of current grants held by the non-profit organization</td>
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</tbody>
</table>

**Required Items for New Private Conservation Non-Profit Applicants**

<table>
<thead>
<tr>
<th>Item</th>
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</thead>
<tbody>
<tr>
<td>IRS Federal Tax-Exempt Letter and 501(c)(3) Certification Form</td>
</tr>
<tr>
<td>Articles of Incorporation</td>
</tr>
<tr>
<td>Organization By-laws</td>
</tr>
<tr>
<td>Letter from legal staff certifying the organization can legally hold agricultural conservation easements</td>
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</tbody>
</table>

These documents should be emailed separately from the application to evan.davis@ncagr.gov and jonathan.lanier@ncagr.gov with the subject line “ADFP Trust Fund Grant Eligibility Review.”

*Refer to the Conservation Easement Application Budget Instructions document for information on the budget section of the application.*