

BENCHMARK ADVISORS

Conservation Strategies

January 2022

Firm Overview

Since 1995, BenchMark Advisors has focused on providing services to the design and development communities in three areas of expertise:

- Conservation Strategies;
- Development Management; and
- Design Management.



Conservation Strategies
Homestead Preserve
Hot Springs Valley, VA

Working with landowners, developers and consultants, BenchMark incorporates an environmentally sensitive approach to a wide variety of development and design applications.

Richard W. Dickinson launched BenchMark Advisors after 23 years of management and marketing experience as managing principal of Edward D. Stone Jr. and Associates (EDSA), an internationally known firm of planners and landscape architects. Since its inception, BenchMark has assisted numerous development entities and professional design firms, with an enviable record of success in each of our practice areas.

While BenchMark's goal is to decipher the many complex land planning options and opportunities that are available, it is our management approach, personal service and focused attention to detail that is making the biggest impact on our clients.

Conservation Strategies

With the continued emphasis on smart growth and sustainable environments, landowners and developers recognize the value of utilizing conservation strategies in land planning now more than ever.

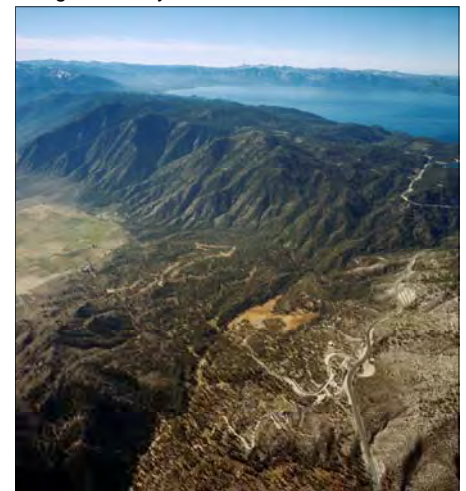
By bringing clarity to the many complicated approaches to land management, BenchMark counsels owners on the use of various conservation tools that can enhance the development and financial performance of a project while also meeting their long-term goals.

BenchMark's years of experience in land planning, design management and marketing combined with its expertise in determining and implementing the most appropriate conservation efforts, make BenchMark a powerful support system for owners pursuing a plan of this nature. We offer a systematic approach to executing a conservation strategy and assist with the selection of vari-

ous professionals whose services will be needed such as appraisers, engineers, land planners, surveyors, environmentalists, attorneys and accountants. Ultimately, we have the expertise and experience to deliver desired results.

After the development team has been assembled, BenchMark defines the scope of services needed from each discipline and coordinates their input into a comprehensive plan. Throughout the entire process, BenchMark assists owners in the management of the project to assure compatibility among team members, including the sharing of technology to foster the most efficient program at the least cost.

Conservation Strategies
Clear Creek Tahoe
Douglas County, NV



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Internet: benchmarkadvisors.com



*Development Management
Conservation Strategies
Flitner Ranch
Shell, WY*

Development Management

A second area where BenchMark acts as an outside resource is in the procurement of professional design and planning services for development entities. We assist with selection, procurement, delivery and coordination of the various services required in today's complicated planning and design environment.

Our specialized services include:

- Initial Coordination
- Compatibility Analysis
- Charette Facilitation
- Pre-qualification
- Requests for Proposals
- Responsibility Matrix
- Selection and Negotiation

BenchMark handles a variety of detail-oriented tasks, which can include monitoring and coordinating schedules, and tracking payment approval, allowing developers to focus on the larger picture.



*Development Management
New River Gorge Preserve
Fayetteville, WV*

Design Management

Mr. Dickinson has provided leadership in the marketing and management of professional design services since 1972. And, shortly after establishing BenchMark, he continued to assist architects, land planners, engineering firms, attorneys, golf course architects and other specialty consultants.



*Design Management
EDSA Voted 1 of 10 "Great Places to Work"*

The firm assists with the improvement of services in such areas as:

- Marketing Strategy
- Building a Marketing Database
- Teaming
- Project Management
- Productivity Analysis
- Financial Management Overview

In addition, BenchMark facilitates techniques that improve services delivery and human resource management.

Through well-established management and marketing techniques, BenchMark remains committed to finding creative solutions to the challenges faced by clients in the areas of design and land development. It's our emphasis on strategies for a more sustainable future, however, that's proven to have the greatest impact on our clients.

Richard W. Dickinson

Founder and President

Background and experience over the past 35 years has included general practice of landscape planning, administration and management of professional society (8 years) and management of major planning / landscape architectural firm (22 years) and consulting services to development entities and design professionals.

EXPERIENCE:

BENCHMARK ADVISORS – multi-faceted company serving development entities and design professionals.

Founder and President, (1995 – Present) BenchMark has assisted a number of development entities and professional design firms with management and marketing services. Range of services performed has included conducting a management audit, structuring of a design team for a development project and management of the professional services required for conservation projects.

BenchMark has assisted a number of development entities in planning for “limited development” projects. Limited Development utilizes conservation easements and other conservation tools to encourage the protection of significant open space. This technique can result in substantial economic benefit.

Productivity and profit planning has been another primary area where BenchMark has contributed to the success of a development or design entity. BenchMark’s efforts have frequently resulted in a 30-50% increase in productivity.

Organization and management of marketing activities has been another focus of the firm’s activities. Benchmark specializes in providing customized software applications to meet specialized marketing objectives.

EDWARD D. STONE JR. AND ASSOCIATES (EDSA) - One of the leading planning / landscape architectural firms in the U.S. with an increasing international practice.

Managing Principal, (1972 –1995) Responsible for overall firm operations, overview of finance, contracts and negotiations, administration and marketing.

During his 23 years with the firm, the firm’s practice averaged 11% growth per year – from \$1.1 million in 1972 to a high of \$9.4 million. The firm’s role in the international markets expanded to a level of 45%. In 1991 the firm was Featured by Landscape Architectural Magazine as one of the leading firms and the Third largest firm in the U.S. Based upon the scope of their practice, benefits and general work environment EDSA became well known in the professions as one of the most desirable places to work. In 1989 they were named by Florida Trend Magazine as one of the 10 best places to work in Florida.

As managing principal he led the expansion of the firm’s role in Pre-Development Project Management, whereby EDSA assumed the leadership role on interdisciplinary project teams. He participated in developing overall marketing strategy for key projects and for the firm. He was responsible for establishing subsidiaries in the United Kingdom and France. He represented the firm at major industry meetings and was a frequent speaker on the topic of the Team Approach to Planning.

AMERICAN SOCIETY OF LANDSCAPE ARCHITECTS – Professional organization of more than 10,000 land planners and landscape architects in the U.S.

Associate Executive Director, Washington, D.C. (1969-1972) - Varied duties, overall administration of the organization, membership services, organization of continuing education programs, long range planning activities and legislative liaison with Federal Agencies.

COUNCIL OF LANDSCAPE ARCHITECTURAL REGISTRATION BOARDS- Coordinating organization for State Registration Authorities. **Executive Secretary**, Washington, DC (1969-1972) - Varied duties, overall administration of the organization, membership services, organization of continuing education programs, long range planning activities and legislative liaison with Federal Agencies.

M. PAUL FRIEDBERG AND ASSOCIATES – Leading firm for Inner City Projects. **Senior Associate**, New York, New York (1966-69) - Responsible for Project Management on variety of Urban Planning Projects in the New York City Area.

EDUCATION:

College of Environmental Science & Forestry at Syracuse University, BLA, 1966;
State University of New York, Associate in Applied Science, 1963

PROFESSIONAL:

American Society of Landscape Architects (ASLA) - Former Chairman of Private Practice Committee, Former Vice-Chairman of the Council of Professional Practice, Florida Chapter, Chairman Examining Board.
Urban Land Institute – Member, International Council
American Land Development Association – Former Board Member
Council of Landscape Architectural Registration Boards – Uniform National Examination Committee

CIVIC AND BUSINESS:

Broward Workshop – Board of Directors 1992-95, Executive Committee 1995-96, Treasurer 1995-96
Fort Lauderdale Chamber of Commerce – Trustee 1990-95
Stranahan House – Board of Directors 1989-present, Executive Committee 1990-92, President 1992-93
Broward Economic Development Council – Member 1989-96
The Executives' Association of Fort Lauderdale – Board of Directors 1991-95, President 1995
Professional Services Management Association (PSMA) - Florida Chapter (Founding Member).

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Conservation Strategy Services

Mr. Dickinson has provided conservation strategy services to numerous land-owners and development entities. Services have included a broad range of overall project management, development management and conservation strategy services. From 1995 to the present, these services were performed as Founder and President of Benchmark Advisors. Following is a selected list of these projects:

Bluff Point

Chesapeake, VA

Braffits Creek

Cedar City, UT

Buffalo Horn Ranch

Meeker, CO

Callaway Gardens

Pine Mountain, GA

Clear Creek Tahoe

Douglas County, NV

Collier Properties

Naples, FL

Cousins Properties

Atlanta, GA

Crosland Company

Durham, NC

Flitner Ranch

Shell, WY

Foster Creek Preserve

Tryon, NC

Greenlefe

Haines City, FL

Hiwassee River Club

Murphy, NC

Flitner Ranch
Shell, Wyoming



Clear Creek Tahoe
Douglas County, NV

Homestead Preserve

Hot Springs, VA

Jackson Fork Ranch

Jackson Hole, WY

New River Gorge

Fayetteville, WV

Quail Creek Ranch

Fort Pierce, FL

Ragged Mountain

Danbury, NH

Ridges Communities

Lake Chatuge, NC

River Rock

Jackson County, NC

Rock Creek Cattle Co.

Deer Lodge, MT

Rockville Trails

Napa Valley, CA

Royal Gorge

Truckee, CA

Sky Carolina

Wilkes, NC

Walker River

Douglas County, NV

Yellowstone Club

Big Sky, MT

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Conservation Easements / Definition of Terms

Limited Development: Generally defined as a project that builds less density than would otherwise be allowed under current zoning and entitlements.

An Easement: An easement is the exchange of certain rights from the landowner to someone who does not own the land. Easements are typically used to provide governments, utilities, etc. with certain rights to use otherwise private property. Ownership of the land remains with the private property owner.

A Conservation Easement: A conservation easement is a perpetually binding restriction placed on land in favor of a qualified organization (usually a land trust), which prevents its development. Conservation easements are sometimes purchased by land trusts, but are more often donated. The purpose of a conservation easement is designed to restrict certain activities on private land, most commonly some form of development. As the name implies, it's primary purpose is to conserve natural or man-made resources.

Granting A Conservation Easement: Like other easements, only the owner of the property can grant a conservation easement on their property.

Determining Value Of The Conservation Easement: Most often the value of the conservation easement is determined by appraisal. The difference between the "as of right" appraisal and the appraisal of the proposed limited development determines the value as a charitable deduction.

Charitable Contribution: A properly structured conservation easement on qualifying land and donated to a qualified organization entitles the donor of the land to a charitable contribution equal to the value of the conservation easement as determined by a qualified appraiser. The charitable contribution allows the donor to reduce adjusted gross income (AGI) by the value of the easement, up to 50% in any given year if the land is appreciated property. Any charitable contribution amount that exceeds 50% of AGI can be carried forward for up to 15 additional years. By reducing a donor's AGI the amount of income on which taxes are paid is reduced for both federal and state calculations.

Applicable Section Of The Tax Code That Permits The Conservation Easement Deduction: Section 170 (h) of the Internal Revenue Code requires that the grant of an easement be a "qualified conservation contribution" to be eligible for an income tax deduction.

Conservation Purposes: Under § 170(h)(4) and the Regulations, permitted "conservation purposes" include:

- The preservation of land areas for outdoor recreation by, or the education of, the general public.
- The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem;
- The preservation of open space (including farmland or forest land) where such preservation is for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit; and
- The preservation of an historically important land area or a certified historic structure.

The Easement Holder: Most commonly, a conservation easement is held by a nonprofit entity that exists for the purposes of holding lands for conservation purposes. This entity is responsible for the monitoring and maintenance of the easement. Most often this entity is a qualified Land Trust with considerable experience with monitoring conservation easements.

The Land Trust: A qualified organization with significant experience with conservation easements. The land trust takes on the responsibility to monitor and enforce the restrictions set out in the conservation easement document. While the land trust holds the conservation easement, the donor is still owner of the land.

Public Access: An easement does not have to permit public access. The decision to allow public access is left to the individual property owner who places the easement on the property.

BenchMark Advisors

Planning and Conservation Strategy

Survey/Mapping

- PHASE 1
- Assimilate Data Available from local municipalities or from public domain sources.
- PHASE 4
- Survey final easement boundary for plat purposes

Land Planning

- PHASE 1
- Land Resource Analysis
- Topography
 - Vegetation
 - Hydrology
 - Geology and Soils
 - Ecological And Wildlife
 - Adjacent land uses
 - Other
- PHASE 2
- Yield/As-of-Right Plans
 - Conservation Plans
- PHASE 3
- Final Exhibits for Land Resource Analysis
- PHASE 4
- Compile Final Report for Appraisal Back-Up

Appraiser

- PHASE 1
- Preliminary Analysis
- Research
 - Preliminary Valuation
- PHASE 4
- Final Appraisal
- Before Easement
 - After Easement
- Final Appraisal Must be done within 30 days of Easement being placed.

Land Trust

- Review Local, Regional and National Land Trusts for Most Viable Trust to Accept Easement.
- Site Visits with 2-3 Candidates.
 - Determine Best Alternative.
 - Review "Model" Easement.
 - Select Land Trust
 - Negotiate Terms of Easement.
 - Monitoring Strategy

Legal

- Select Legal Counsel with Knowledge and Experience with IRS Code Requirements.
- Ownership Requirements
 - Beneficiaries

Accountant

- Owners Accountant to Review and Advise on Owners Tax Status and Eligibility. Knowledge and Experience with IRS Code Requirements.
- Charitable Contributions
 - Adjusted Gross Income
 - Carry Forward Eligibility

Engineering

- Review of Planning Documents and Providing Cost Data as may be Required by Appraiser

Review Appraiser

- Not a Second Appraisal
This is a "Desk Review" of Appraisal for Compliance

Easement Legal

- Possible Legal Costs by Land Trust Counsel to Draft Easement Document

Endowment

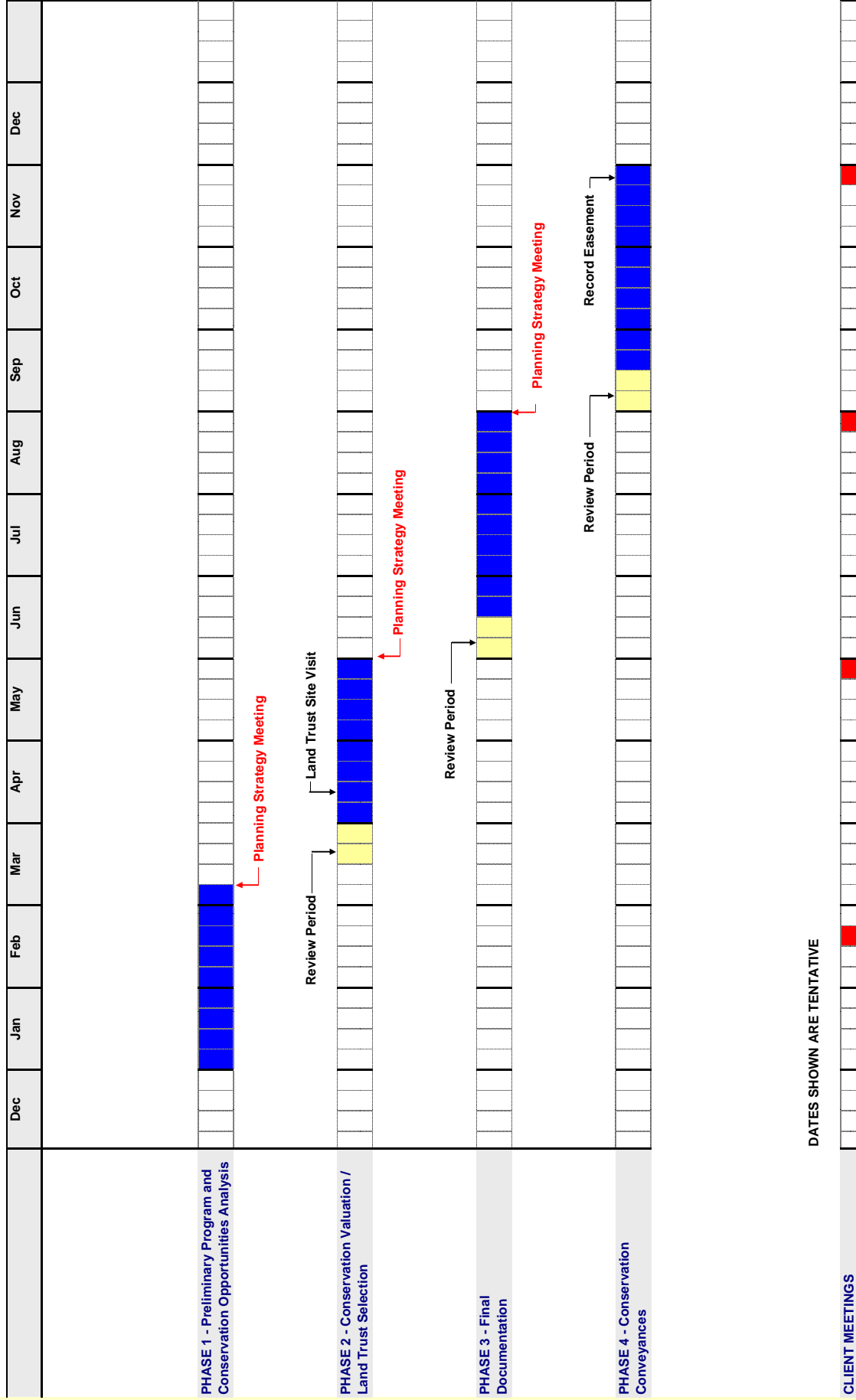
- Endowment May Be Required To Fund Ongoing Monitoring

Organization Chart

For Placement of a Conservation Easement

Typical Schedule for Planning and Conservation Benefits Analysis

07-Apr-11



Homestead Preserve

Bath County, VA

Homestead Preserve embodies more than 11,500 acres of rugged Allegheny peaks, sweeping valleys, wooded hillsides and verdant pastures in historic Bath County, Virginia.

Of those 11,500 acres, 9,250 are forever entrusted to The Nature Conservancy for preservation to guarantee the future enjoyment of Homestead Preserve owners and their guests.

The remaining acres make up Homestead Preserve community, America's #1 conservation-based mountain destination for sportsman, artists, adventurers and families in all stages of life. This distinct highland region offers breathtaking forests, waterways and parks, as well as phenomenal music venues, eateries and local art galleries.

Before Easement: After sale of 9,250 acres to The Nature Conservancy a Master Plan was developed for the remaining 2,250 acres allowing for 2,222 residential housing sites.

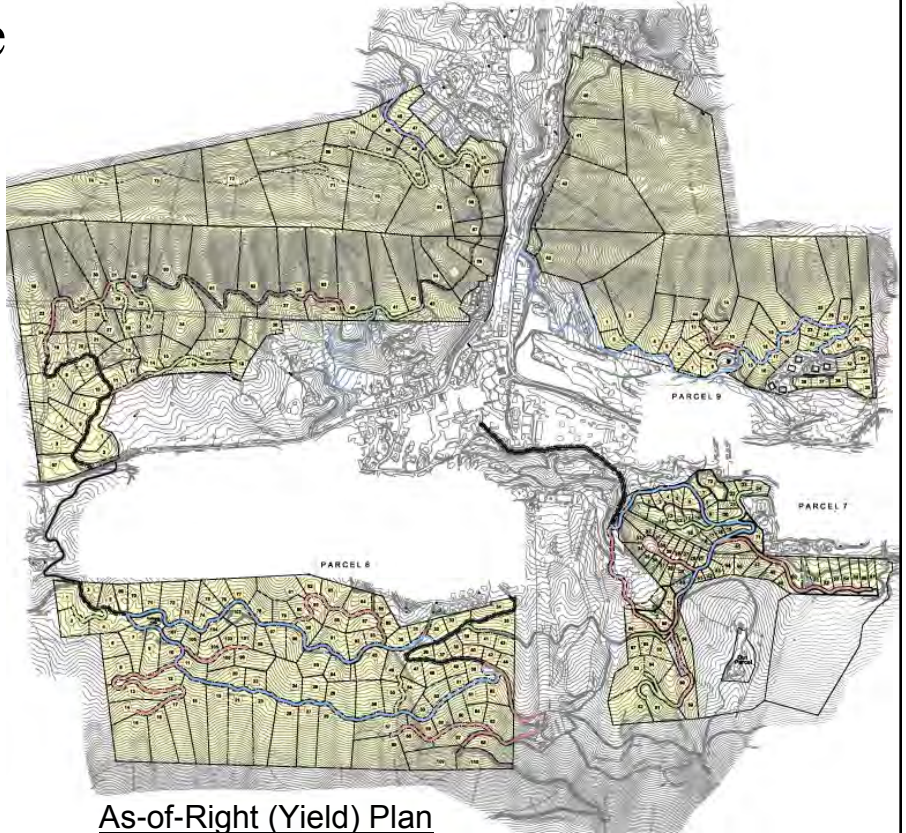
After Easement: Client determined to place 900 acres of the approved development into a conservation easement protecting valuable ridgelines and forever preserving the viewshed in the Hot Springs and Warm Springs Valleys.

Owner: Virginia Hot Springs Land Co.

Land Trust: Virginia Outdoors Foundation

Under Easement: 900 Acres

Year: 2004



As-of-Right (Yield) Plan

Permitted By Current Approvals



Conservation Plan

Preserving Significant Portion
Of Otherwise Developable
Lands

Clear Creek Tahoe

Douglas County, NV

Clear Creek Tahoe is a 1,695 acre site along Clear Creek on the eastern slope of the Carson Range between Carson City, Nevada and Lake Tahoe.

Before Easement: Site was designated as a receiving area by Douglas County, Nevada and would have allowed several thousand Residential units.

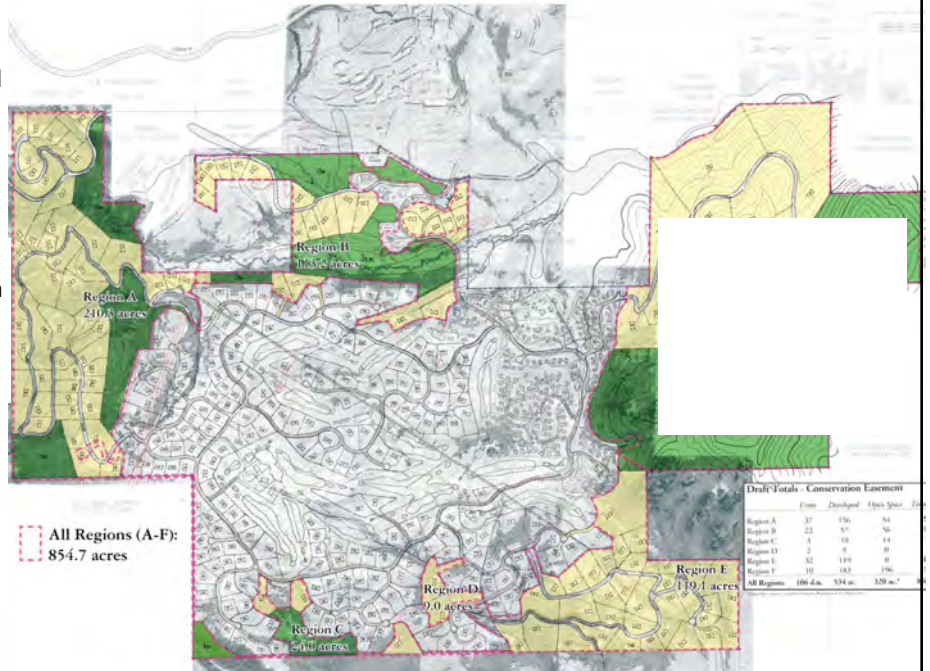
After Easement: Client determined to place 50% of the project into a conservation easement as part of an partnership of preservation with the Nature Conservancy.

Owner: Clear Creek Tahoe

Land Trust: The Nature Conservancy

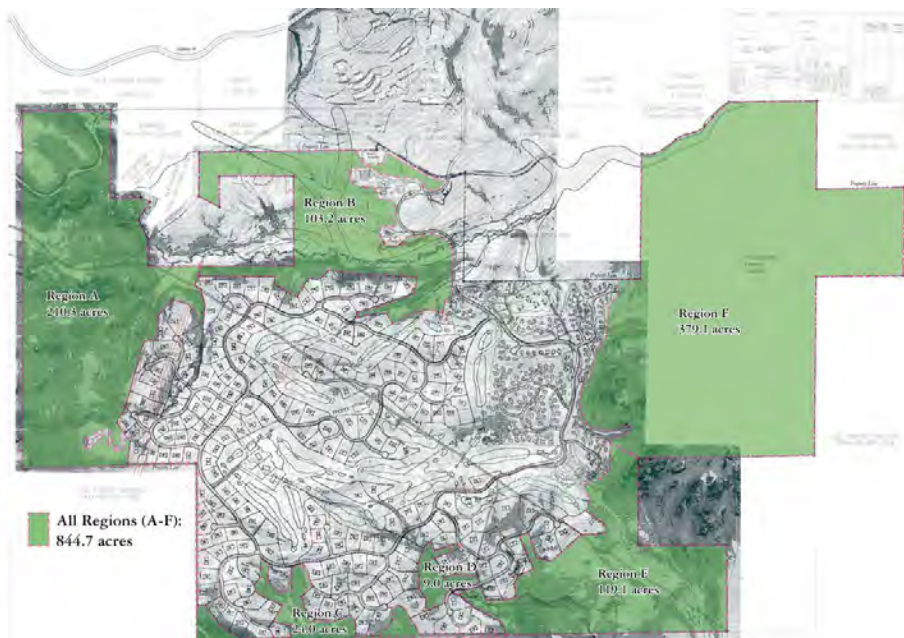
Under Easement: 850 Acres

Year: 2008



As-of-Right (Yield) Plan

Permitted By Current Approvals



Conservation Plan

Preserving Significant Portion Of Otherwise Developable Lands

Bluff Point

Northumberland County, VA

Bluff Point is 898 Acres located on Virginia's Northern Neck, the land between the "River of Swans" to the north and the "Quick-Rising Water" to the south, to loosely translate Native American terms for the Potomac and Rappahannock Rivers. To the east lies the Chesapeake, the "Mother of Waters" or the "Great Shellfish Bay".

Before Easement: Bluff Point Holdings spent several years developing a master plan for a unique waterfront community within a spectacular Chesapeake Bay environment whose inherent focus was on preserving the natural beauty and honoring the rich history of the region.

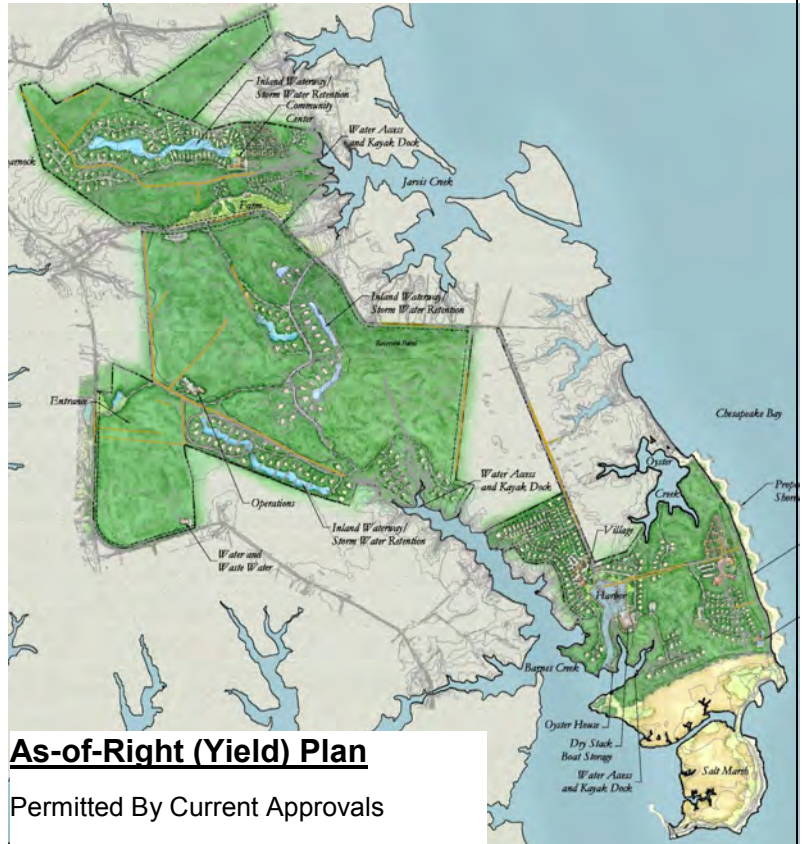
After Easement: Bluff Point Holdings determined to place this entire project into a conservation easement. In effect, a gift to all the people of Virginia with long term benefits for local water quality, including on the Chesapeake Bay.

Owner: Bluff Point Holdings

Land Trust: North American Land Trust

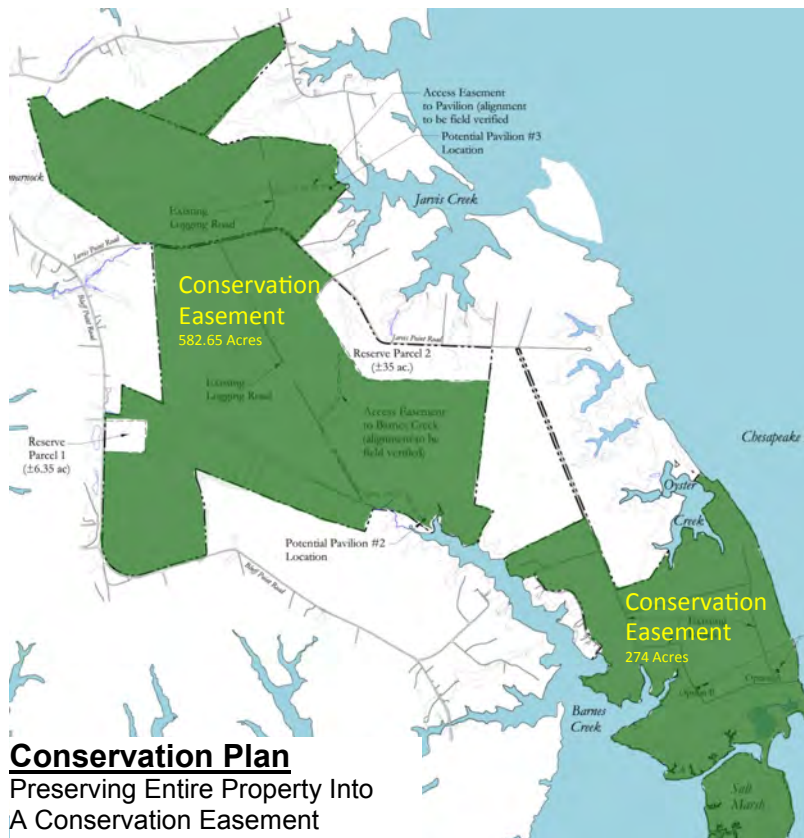
Under Easement: 898 Acres

Year: 2013



As-of-Right (Yield) Plan

Permitted By Current Approvals



Conservation Plan

Preserving Entire Property Into A Conservation Easement

Walker River

Douglas County, NV

The West Walker River is one of northern Nevada's most vital rivers – a source of life-sustaining water and one of the historic habitats of Nevada's state fish, the threatened Lahontan Cutthroat trout.

Before Easement: Client considered development of a private sporting club with more than 120 private residential housing sites.

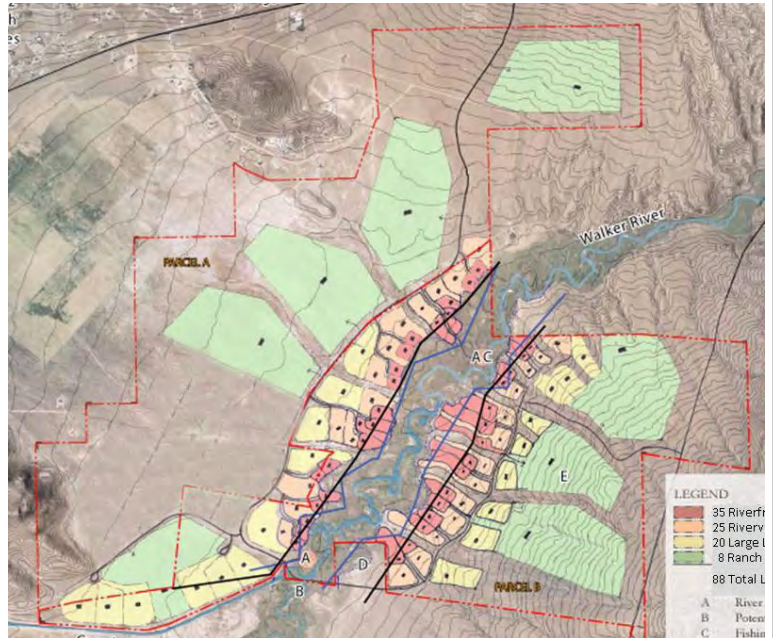
After Easement: Client determined to place this entire project into a conservation easement as part of an inspired partnership of preservation, reclamation and enterprise. The Walker River property will become not only provide a triumphal comeback for the Lahontan Cutthroat Trout but will protect habitat for the endangered Sage Grouse as well.

Owner: CCT Founders

Land Trust: The Nature Conservancy

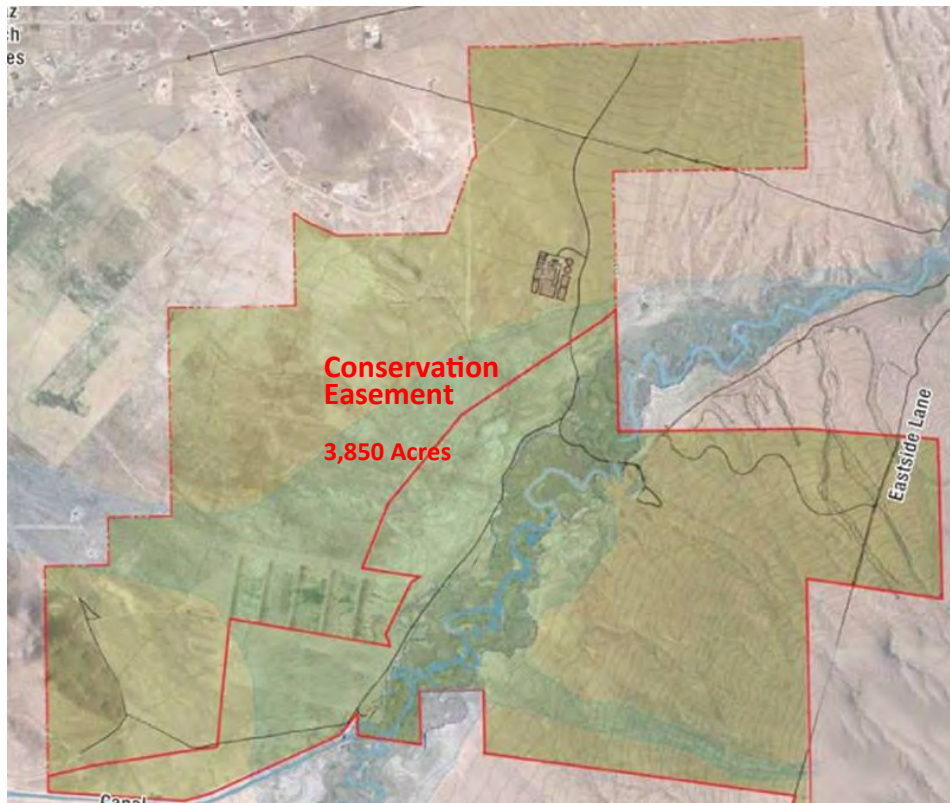
Under Easement: 3,850 Acres

Year: 2013



As-of-Right (Yield) Plan

Permitted Development



Conservation Plan

100% of Project Placed
Into Conservation Easement

CAN YOU BENEFIT FROM THE PLACEMENT OF A CONSERVATION EASEMENT?

By Richard W. Dickinson, Benchmark Advisors
Photos: Tony Demin/Lone Mountain Land Company

It is always surprising to me how few people are familiar with conservation easements and the tax benefits provided. The enabling legislation was first enacted in the early 1980s, and while thousands of easements have been placed since that time, it is still a relatively unknown and/or misunderstood opportunity.

Unfortunately, when conservation easements make the news, it is typically with a highly negative bias and usually arises from abuse of the system. Along with the negative press usually comes ample coverage indicating that it's a tax loophole for the rich. Bad publicity notwithstanding, Congress has reaffirmed their enthusiasm for this concept as recently as December of 2015 when the incentives for placing easements were increased.

In my view, it should not matter who places land into perpetual conservation easements. What matters is that we continue to set open space aside at a time when consideration of adding lands to our national parks and forests is not even on our country's current agenda.

Below, we set forth some of the primary considerations in the placement of a conservation easement.

SOME DEFINITIONS

An Easement: An easement is the exchange of certain rights from the landowner to someone who does not own the land. Easements are typically used to provide governments, utilities, etc. with certain rights to use otherwise private property. Ownership of the land remains with the private property owner.

A Conservation Easement: A conservation easement is a perpetually binding restriction placed on land in favor of a qualified organization (usually a land trust), which prevents its development. Conservation easements are sometimes purchased by land trusts, but are more often donated. The purpose of a conservation easement is designed to restrict certain activities on private land, most commonly some form of development. As the name implies, its primary purpose is to conserve natural or man-made resources.

Granting A Conservation Easement: Like other easements, only the owner of the property can grant a conservation easement on their property.

Determining Value Of The Conservation Easement: Most often, the value of the conservation easement is determined by appraisal. The difference between the "as of right" appraisal and the appraisal of the proposed limited development determines the value as a charitable deduction.

Charitable Contribution: A properly structured conservation



easement on qualifying land and donated to a qualified organization entitles the donor of the land to a charitable contribution equal to the value of the conservation easement as determined by a qualified appraiser. The charitable contribution allows the donor to reduce adjusted gross income (AGI) by the value of the easement, up to 50% in any given year if the land is appreciated property. Any charitable contribution amount that exceeds 50% of AGI can be carried forward for up to 15 additional years. By reducing a donor's AGI, the amount of income on which taxes are paid is reduced for both federal and state calculations.

The Easement Holder: Most commonly, a conservation easement is held by a nonprofit entity that exists to hold lands for conservation purposes. This entity is responsible for the annual monitoring and maintenance of the easement. Most often, this entity is a qualified land trust with considerable experience monitoring conservation easements.

The Land Trust: A qualified organization with significant experience with conservation easements. The land trust takes on the responsibility to monitor and enforce the restrictions set out in the conservation easement document. While the land trust holds the conservation easement, the donor is still owner of the land.

Public Access: An easement does not have to permit public access. The decision to allow public access is left to the individual property owner who places the easement on the property.

CAN YOU BENEFIT?

People are typically interested in placing conservation easements for one of two reasons:

(1) Farmer, rancher or other landholder who simply wants to protect their property in perpetuity. Many are placed without consideration of the highest and best use that can yield the most tax benefit. Many landowners in this category do not consider that valuing their property for some type of development use can add a significant tax benefit.

The term "development" can take on numerous options and the term "subdivision" can mean many things. One property we are aware of was able to be valued as a sporting club, with a significant increase in value due to the six miles of trophy fishing.

(2) Landowner/Developer who wants to undertake a limited

development of their property with less development than they are entitled to build. This is common today, with many land development projects responding to buyer preferences for larger lots and more open space.

If you are interested in pursuing a conservation easement, you should first explore the potential easement benefits that can be achieved. Keep in mind that once a conservation easement is placed, it is in perpetuity.

IRS REQUIREMENTS

As with any program that provides a tax benefit, there are technical requirements to be followed when placing a conservation easement. It does not require IRS approval before you place an easement. You simply follow the guidelines, place the easement and claim the deduction on your next tax return. There are still a myriad of guidelines to be followed.

Conservation Purpose. A fundamental requirement to qualify for tax benefits under the IRS rules is that the property meet one of the following four tests of conservation purpose.

Under § 170(h)(4) of the regulations, permitted "conservation purposes" include:

- The preservation of land areas for outdoor recreation by, or for the education of, the general public;
- The protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem;
- The preservation of open space (including farmland or forest land) where such preservation is for the scenic enjoyment of the general public or pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit;
- The preservation of an historically important land area or a certified historic structure.

Legal aspects. There are a multitude of legal requirements and considerations to qualify under the tax guidelines:

- Ownership entity if not owned personally.
- Requirement to hold for one year if land is transferred into a new entity.
- Will the easement be held by a qualified organization or land trust?
- Many others that are often tripwires that the IRS can use to



challenge the tax benefit.

Ownership Entity/Beneficiary. The beneficiary of the tax benefit are the individuals that own the land at the time the easement is placed. If the land is owned in an entity, it is preferred that the entity be an investment LLC with pass-throughs to the individuals in the entity.

Avoiding The Common Pitfalls. Here are some common pitfalls and mistakes when considering a conservation easement:

Can I use my plan to place a conservation easement to bargain with regulatory authorities for other development benefits?

Quid pro quo or “getting something for something” is prohibited under the conservation easement regulations. A charitable contribution for a conservation easement will be disqualified if there is a quid pro quo of any kind.

If I am a developer, can I decide to place an easement on land I have subdivided and offered for sale?

A developer or “dealer” is limited in the amount of tax benefit. Tax benefit is limited to the developer’s basis in his land.

VALUATION - PERHAPS THE MOST IMPORTANT CONSIDERATION

Most often when we read of challenges to conservation easements, it is because the IRS has challenged the valuation and the amount of tax benefits. We consider a properly prepared and documented appraisal to be perhaps the most important factor when placing an easement.

Conservation Value can only be determined by a qualified appraiser familiar with conservation easement appraisals required under internal revenue code section 170 (h). An appraiser will take into account a number of factors in determining conservation value. Here are a few common questions about valuation:

Is the most important factor in arriving at value "as of right" or the type of development that is permitted on the property?

Clearly, this is an important factor as it gives the maximum upside to a property’s potential development value.

Does the conservation value determined by the "as of right" determine the deduction that can be taken for tax purposes?

No, there are a number of factors that need to be taken into account. The “as of right” determines what we commonly refer to as the “before” value (value before the conservation easement is placed). The “after” value is the value determined by appraisal after development is restricted by the placement of the easement. The difference in the two appraised values determines the value of the charitable contribution for tax purposes.

Does a project actually have to be “entitled” to be able to utilize the “as of right” plan?

Not necessarily. If it can be established that there is sufficient evidence that the “as of right” plan would be approvable and the appraiser can document reasons why he feels the plan would be approvable, then the “as of right” plan can be utilized for valuation purposes.

How much of a factor is the time it takes to complete and sell out a project (Absorption Time)?

Absorption time frequently has the biggest impact on the value. We find that today, this factor alone can discount the retail sales price by as much as 50%. A good rule is that any real estate that it is not projected to sell within the first seven years of a project contributes little value to the discounted cash flows and therefore to conservation easement value.

One way we can improve the absorption pace is to include a variety of product and price. For example, an appraiser might find that there is limited demand for \$100,000 lots and that the market has too much competition, but there would be high demand for larger estate lots in the \$400,000 range. Merging these two product types could yield a higher absorption and therefore a higher overall value.

What are other factors an appraiser must take into account when arriving at values before and after the conservation easement is placed?

Most importantly, the appraiser must have a firm basis for development costs verified by a third party professional, usually a professional engineer. In addition, he must take into account the following:

- Cost of Sales
- Cost of Development
- Operating Expenses
- Developer Profit
- Physical Viability of The Land Plan

How does the actual purchase price of a property influence the value?

An appraiser must take into account when the property was purchased and at what purchase price. If there is a wide variation between the purchase price and the value arrived at by development analysis, this variation must be reconciled before arriving at a final value.

What can be done once a property is purchased to increase its value and therefore increase the conservation value for tax purposes?

Perhaps the most productive method for increasing the value of a particular property is creating a plan for development and getting that plan entitled. Other factors can be improvement of the property in other ways through re-vegetation programs, introduction of habitat and shaping the property to be more suitable for development.

How do the values of comparable properties affect the value of my property?

Values of comparable properties must be taken into account in arriving at the value of your property. However, there can be many factors taken into account in determining whether properties are in fact “comparable.” Locational factors are frequently a major consideration.

Do the comparables used for appraisal purposes have to be in close proximity to the project being appraised?

Not necessarily, but the appraisals in the area of the project are important. Frequently, it can be shown that a particular product type or attribute of the project being appraised are unusual and



comparables outside the immediate area can better determine the appropriate value. An example of this is a particular property located in close proximity to a resort hotel. Comparable properties in the area do not have this particular attribute and it is most appropriate to study other properties outside the area which are also in close proximity to a resort hotel. Sometimes these comparables extend to nationwide examples.

How does the appraiser work with the land planner to come up with the optimal result in definition of highest and best use?

The land planner defines the special attributes of a site from a physical planning standpoint (factors like topography, vegetation, soils, views, vistas etc.). The appraiser, defines the special attributes of the site, taking into account special value considerations (factors like location, area competition and unique product types) that might be suitable based upon market analysis.

As long as an appraiser is qualified to value conservation easements in accordance with the IRS code, does this value always determine the final tax benefit?

No. The tax benefit determined by the appraiser is always subject to challenge by the IRS. There are numerous requirements that must be followed to validate the conservation value. In addition, we frequently recommend that a second appraiser review the work of the initial appraiser to further validate the values and show the IRS that the taxpayer is willing to go the extra mile to validate the value.

Once the conservation value is determined with both the “before” and “after” appraisals, is this the amount that can then be deducted from taxes?

No. The value determined by appraisal is taken on a taxpayer’s return as a charitable contribution, so the benefit is determined by their tax bracket. Additionally, there are restrictions on how much you can take as a charitable contribution. In December 2015, Congress made permanent the easement incentive,

allowing 50% of the taxpayer’s adjusted gross income in the initial year of the easement with a carry forward of 15 additional years.

PLACING THE EASEMENT

Once you have decided to place the easement, there are a number of considerations, each important because they determine your rights and responsibilities once the easement is placed.

Choosing A Land Trust. There are over 1,000 land trusts in the United States. Some are national in scope like The Nature Conservancy while others have a statewide or regional focus. Still others are single-purpose land trusts that focus on things like the protection of a specific watershed.

Do research on land trusts that are active in your area. Interview them and make sure you are comfortable that you are entering into a partnership that you can live with “in perpetuity.”

Negotiating the Terms of the Easement. Land trusts will typically have a “model” easement or template that they work with to begin the terms and conditions that will govern the future restrictions for your particular easement. Each easement is different and specifically addresses “permitted and prohibited uses.” Each easement is negotiable and you should be comfortable with the terms and conditions.

Baseline Documentation. In conjunction with the easement document, a baseline documentation study will be undertaken that sets forth the unique characteristics of a conservation easement. A baseline study is frequently undertaken by the land trust that will hold your easement but can also be a document provided by a third party consultant. The baseline provides important details of an easement when it is placed and serves as a reference for the future when determining if the conditions of the easement are being upheld.

Funding the Endowment/Annual Monitoring. The land trust that holds your easement will be required to monitor the easement annually. This is typically done by land trust staff but can sometimes be carried out by a third party consultant. Land trusts will typically require some form of endowment or contribution that offsets the cost of this annual monitoring.

CHOOSE THE RIGHT TEAM

Each year, there are thousands of easements placed in the U.S. An overwhelming number are placed, reviewed and never challenged. When done properly and with great attention to detail, you should expect a favorable result. Choosing the right team of experts is key, as there are myriad detailed requirements to qualify. Experienced legal help, appraiser, tax consultant, land planner and the right land trust all play an important role in making it a seamless and successful process.

When you do place your easement, you’ll be gratified to know that you have contributed to the more than 56 million acres of protected land. Your investment in the process is well worth it, as it will help preserve land for the future.

For additional information on this topic, please contact the author at www.benchmarkadvisors.com