Topics to be discussed

• What is a Conservation Easement
• Donated Easements
• Maryland Agricultural Lands Preservation Foundation (MALPF)
• Rural Legacy
• Forest Legacy
• Transfer of Development Rights (TDR)
• Installment Purchase Agreements (IPA)
Protected Lands to Date in MD

- MALPF – 296,682 acres
- Rural Legacy – 84,555 acres
- Local PDR/TDR/IPA – 191,091 acres
- Forest Legacy – 1,622 acres
- Donated Easements – 181,334 acres

TOTAL EASEMENT ACREAGE: 755,284 ACRES
What is a conservation easement?

Conservation Easement: a legal agreement between a landowner and a land trust or governmental agency that permanently limits the uses of the land to protect its conservation values, while the landowner continues to own it.
Types of Conservation Easements

• Purchased Easements (PDRs)
  – Lump Sum Payment
  – Installment Purchase Agreement

• Donated Easements

• Transfer of Development Rights (TDRs)
Conservation Easement – “Bundle of Sticks”

- Property “rights” can be viewed as a bundle of sticks.
- Conservation easements extinguish the development rights associated with the property, but the owner still retains title and ownership of property.
Conservation easements typically protect...

- Prime agricultural soils
- Contiguous blocks of forested land
- Scenic viewsheds
- Designated historic structures/resources
- Environmentally sensitive lands and habitat
A conservation easement typically prohibits...

- New subdivision of the property*
- Residential and commercial development (certain agri-tourism uses are permitted)
- Dumping
- Gravel Pits
- Billboards
Calculating the value of the conservation easement

**Hypothetical Scenario***

Full-Market Value (Before) - $1,000,000
Agriculture/Forestry Value (After) - $600,000

Difference - $400,000 (Value of Conservation Easement)
Tax Benefits for Donated Easements

• Federal Income Tax Deduction
• State Income Tax Credit
• Federal Estate Tax Benefit
• Property Tax Credit
Federal Income Tax Deduction

Deduction of 50% of Adjusted Gross Income (AGI) in the year of the donation and for 16 years forward, or until the value of the donation is reached. Full-time farmers and ranchers are permitted to deduct 100% of their income over the same period.
Federal Income Tax Benefit – Hypothetical Scenario*

Landowner John Doe - $150,000 filing HOH

Year 1 (50% AGI Deduction): $75,000 ($15,178)
Year 2 (50% AGI Deduction): $75,000 ($15,178)
Year 3 (50% AGI Deduction): $75,000 ($15,178)
Year 4 (50% AGI Deduction): $75,000 ($15,178)
Year 5 (50% AGI Deduction): $75,000 ($15,178)
Year 6 (50% AGI Deduction): $25,000 ($6,250)
TOTAL: $400,000 in tax deductions ($82,975)
Maryland State Income Tax Credit

Credit of up to $5,000 per year, for each individual landowner. A $5,000 credit may be taken for each of the following 15 years, for a maximum total of $80,000 in credit, not to exceed the value of the donation.

* Note – this benefit is only available if the easement is donated to MET.
Estate Tax Benefits

- Reduction: An easement limits the amount of development that can occur, thus lowering the appraised value of the land.
- Exclusion: Of 40% of the land value up to $500,000 per owner, for certain land that is subject to a donated conservation easement.
State Property Tax Credit

Properties protected by a qualified conservation easement in Maryland are eligible for a 15-year state property tax credit on the value of unimproved land subject to a conservation easement.
Process for donating a conservation easement

1.) Field visit
2.) Background research & evaluation
3.) Conservation easement negotiation
4.) Appraisal process
5.) Lien subordination
6.) Board review and approval
7.) If approved - All parties sign the Deed of Conservation Easement
8.) Maryland Board of Public Works ratification (MET and DNR)
9.) Deed of Conservation Easement recorded in County Lands Records Office
Costs of donating a conservation easement

- Appraisal
- Attorney or other financial advisor
- Stewardship Contribution
Stewardship

Stewardship deals with all aspects of the land trust’s ongoing inspection of land in order to determine compliance with the terms of the conservation easement and the documentation of the organization’s finding.
Maryland Agricultural Land Preservation Foundation (MALPF)

- Created by the Maryland General Assembly in 1977, and is the second-oldest state PDR program in the country.
- Governed by a Board of Trustees, but administered locally through County Agricultural Preservation Commissions.
- Each funding cycle has two “rounds”: one based on ranking and county preference, and the second based upon discounting (lowest bidder).
MALPF Easement Acquisition Process

• Step 1 – Submit an application by July 1st
• Step 2 – County approval and ranking of applications
• Step 3 – Appraisals
• Step 4 – Establishing and Agricultural Use and Easement Value
• Step 5 – Round 1 Offers
• Step 6 – Round 2 Offers
• Step 7 – Accepting or Rejecting an Offer
• Step 8 - Settlement
MALPF Application Requirements

• All farmland and forestland owners outside of designated Sewer Service Areas statewide are eligible to apply for funding.
• Minimum parcel size of 50 acres (unless adjacent to protected lands).
• At least 50% of the property must be classified as “prime farmland” by USDA (Class I,II, III soils) or if forested be classified as Woodland Group 1 or 2 soils.
• An approved and up-to-date Forest Stewardship Plan is required for forest landowners.
Retained Residential Lot Options on MALPF Properties

• Exclude a portion of the farm from the easement.
• Choose one of three other options
  – Family Lots (up the three), or
  – Unrestricted Lot (only one), or
  – Waiver of all lot rights
Rural Legacy Program (State)

- Created by the MD General Assembly in 1997.
- Is a competitive process among the 33 Rural Legacy Areas across the state.
- Purchases conservation easements
- Must be in a designated Rural Legacy Area to apply for funding.
- Use either a “Points” system or the “Yellow Book” standards for determining the value of the conservation easement.
Rural Legacy Application Process

Step 1 – Application (typically February 1st)
Step 2 – Scoring of Rural Legacy Applications
Step 3 – DNR Staff make recommendation to Rural Legacy Advisory Board (May/June)
Step 4 – Review by Rural Legacy Advisory Board (June/July)
Step 5 – Review by Rural Legacy Board (July/August)
Step 6 – Disbursement of Funding to Sponsor (Oct-Nov)
Step 7 – Appraisals (if necessary)
Step 8 – Settlement
Forest Legacy Program (Federal)

• Created by Congress to protect large contiguous tracts of privately-owned forestland from development and fragmentation; especially in northern New England.

• States apply on a yearly basis for funding allocation, which are each scored against each other from across the country.

• Landowners apply directly to MD DNR, which selects projects for consideration.
Forest Legacy Program (Federal)

Maryland Forest Legacy Areas

Legend:
- Chesapeake Bay
- Neighboring Forest Legacy Areas

Forest Legacy Areas:
- Black Bird Creek - Upper Tuckahoe
- Lower Monocacy - Potomac
- Catoctin - South Mountain
- Liberty - Patuxent
- Southeastern
- Northeastern
- Southern
- Western

Figure 1: Maryland’s Forest Legacy Areas
Maryland Forest Legacy Contact

Justin Hynicka
Chesapeake Watershed Forester, MD DNR Forest Service
580 Taylor Ave., E-1
Annapolis, MD 21401
410-260-8589
justin.hynicka@maryland.gov
Transfer of Development Rights (TDR)
Chesterfield Township – Burlington County, NJ

Township Profile:


Area: 21.61 square miles

Setting: Predominately rural and agricultural
Chesterfield Township, NJ
Receiving Area – New Planned Community “Old York Village”
Old York Village Receiving Area
Progress to Date
Installment Purchase Agreement Program

• Developed by Howard County, MD in the late 1980’s as a means of protecting more land with less money by spreading the cost of purchasing an easement over 20 years.

• The landowner receives annual tax-free interest payments for 20 years and a balloon principal payment at the end of 20 years.

• Depending on the bond market, the respective government pays from $.20 to $.50 on the $1.00 for the value of the easement up-front.
IPA Track Record to Date

Howard County, MD (1989): 12,000 acres
-Harford County, MD (1993): 28,000 acres
-Carroll County, MD (2005): 20,000 acres
Benefits of IPA Program

- Allows the government agency to purchase a lot of conservation easements up-front and pay for them over time.
- The landowner receives a tax-free annuity for 20 years, and defer capital gains taxes.
- Can potentially attract landowners not interested in receiving a single lump-sum payment.
For More Information about IPAs

• Bill Amoss – Harford County Farmland Preservation Administrator
  wdamoss@harfordcountymd.gov
  (410) 638-3235

• Deborah Bowers – Carroll County Farmland Preservation Administrator
  dbowers@ccg.carr.org
  (410) 386-2214

• Stephen Winter – Royston, Mueller, McLean & Reid, LLP
  swinter@rmmr.com
  (410) 583-7861