

C Mountain Courier

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The Island Ford Farm as seen from Rt 601, with the Massanutten Mountain looming beyond, was recently designated as a conservation easement property. This should ensure that in years to come this beautiful setting will remain the same. *Photo by Linda Wheeler*

Protecting the Beauty and Bounty of the County

The farms and the people behind conservation easements

BY JOAN ANDERSON

Patrick Felling tells the story of a couple who looked out their window one day and saw that someone was running perc tests on the open hillsides around them. The two rushed to find out who owned the property, as perc tests for septic systems are the first step to building on a piece of

land. The two hoped they could afford to buy the property and then apply for a conservation easement on it, so the views from their home would never be spoiled.

Patrick Felling is the Shenandoah County planner responsible for helping property owners who want to have land put into conservation easements. He implements the

program of the Shenandoah County Conservation Easement Authority (CEA). Easements not only protect the views of owners like the couple mentioned above, they provide more open space and scenic vistas for everyone. They also specifically preserve farmland and historic areas, such as battlefields, and help protect the health of rivers and streams.

Property owners who put land into conservation easements benefit in a variety of ways, but not in the sense of making a lot of money from it, Felling says. Because a conservation easement means that a piece of property can never be developed, it lowers the value of that property. As a result, the owner generally gets federal tax breaks, state tax credits, and estate tax reductions.

What is less well understood is that everyone in the county gets a break. Studies in Virginia show costs for residential development average \$1.30 for every \$1 collected in local taxes while open space costs roughly 33 cents for every \$1 collected in taxes. Put another way, open space helps pay for the services in residential developments. So when a farmer puts his land into a conservation easement, he is assuring the rest of the county's taxpayers that his land will continue to ease, not add to, the county's burden of tax-funded services.

Why conservation easements?

- Lands protected from residential development cost less in community services (taxes).
- Protected lands preserve the beauty of Shenandoah County's rural landscape.
- Protected lands keep space available for farming and forestry into the future.
- Protected lands preserve historic sites such as Civil War battlefields.
- Protected lands help reduce pollution on rivers and streams.

When the Shenandoah County Comprehensive Plan was developed with intensive citizen input, a key wish and goal was that the county should sustain its rural character. Conservation easements are one way to assure that. Cluster housing around current towns is another. Together, they allow growth while still preserving the desirable quality of life in the county.

Just what is a conservation easement?

A conservation easement is a voluntary agreement between a landowner and a public agency (CEA) or nonprofit conservation organization (such as the Potomac Conservancy or Shenandoah Valley Battlefields Foundation), in which the landowners agree to place specific restrictions on the use and development of their property. The terms of easements vary and are negotiated but generally mean that the land cannot be subdivided or converted to more intensive uses. Some easements allow lots to be reserved for family members.

An easement can cover an entire parcel or just a portion of the property. The owner can still farm the land, hunt on it, allow intelligent timbering, and generally continue its current use. The land remains in private ownership and on the local tax rolls. The property can be sold or bequeathed but the easement restrictions remain.

What are the tax benefits to donated easements?

Local, state and federal laws provide incentives to landowners who protect their land by donating conservation easements. Below are rough guidelines, but landowners need to consult a tax expert for how the provisions apply to them.

- The donation of a qualifying conservation easement can be deducted from federal taxable income, just like other tax-deductible gifts to nonprofit organizations. For 2014, the deduction is limited to 30% of adjusted gross income but can be carried forward for five years.

- Virginia offers a state income tax credit, an actual dollar-for-dollar reduction of taxes owed. The current credit is for 40% of the value of the easement, not to exceed \$100,000 in a given tax year.

- When the value of a property is reduced by a conservation easement, so too are the estate taxes. Further, heirs may be allowed to donate a conservation easement on the land they inherited and get estate tax benefits post-mortem.

- Local property taxes may also be reduced by the donation of a conservation easement if the land was not already in a land use tax program.

Purchased conservation easements

Some governmental and non-profit orga-

nizations have established Purchase of Development Rights (PDR) programs that pay for landowners to place conservation easements on property. A few highly competitive programs target specific resources, such as prime farmland, historic sites, or natural heritage protection. Most states in the mid-Atlantic region have statewide PDR programs aimed at farmland preservation. Virginia has a statewide PDR program that provides matching funds to local programs.

Among organizations involved in direct purchase of easements are the Shenandoah County Easement Authority, the Virginia Outdoors Foundation, the Potomac Conservancy, the Shenandoah Valley Battlefields Foundation, the Virginia Department of Historic Resources, and the Nature Conservancy. A landowner can seek a purchaser for the entire easement or can sell part and donate part.

The Shenandoah County Easement Authority has purchased some easements in the county but currently has no funds available and is looking for more financial support. In most cases, funds from other sources must have local matching money. So, in order to access matching funds, the Authority requested that Shenandoah County allocate rollback tax collections for easements. The Board of Supervisors approved the request and capped the amount to be used for easements at \$50,000 annually.

Rollback taxes occur when a property that has received a tax break under a land use program has been taken out of that program. The CEA suggests that using taxes derived from farm and forest land taken out of that use is most appropriate to use to preserve other farm and forest land.

In a recent year when the CEA did receive some rollback funds from the county, it was able to obtain \$10 from outside sources for every \$1 of local funds.

How is an easement value determined?

The value of an easement is the change in fair market value of the property once restrictions of the easement are put in place.

For example, a property of 150 acres might be valued at more than \$1.5 million were it broken down into five-acre home sites. Put a conservation easement on it and that reduces

the price the landowner could get, should he sell the land. Let's say the land is now valued at \$1 million. That means the easement value is \$500,000, which would be the charitable contribution should the easement be donated, or the purchase price of the easement should a source be found.

Where does the county stand now?

More than 5,000 acres in Shenandoah County are protected by conservation easements, representing less than 2% of Shenandoah County's land area. In comparison, more than 65,000 acres of Fauquier County have been preserved in conservation easements, representing 15% of the county's area.

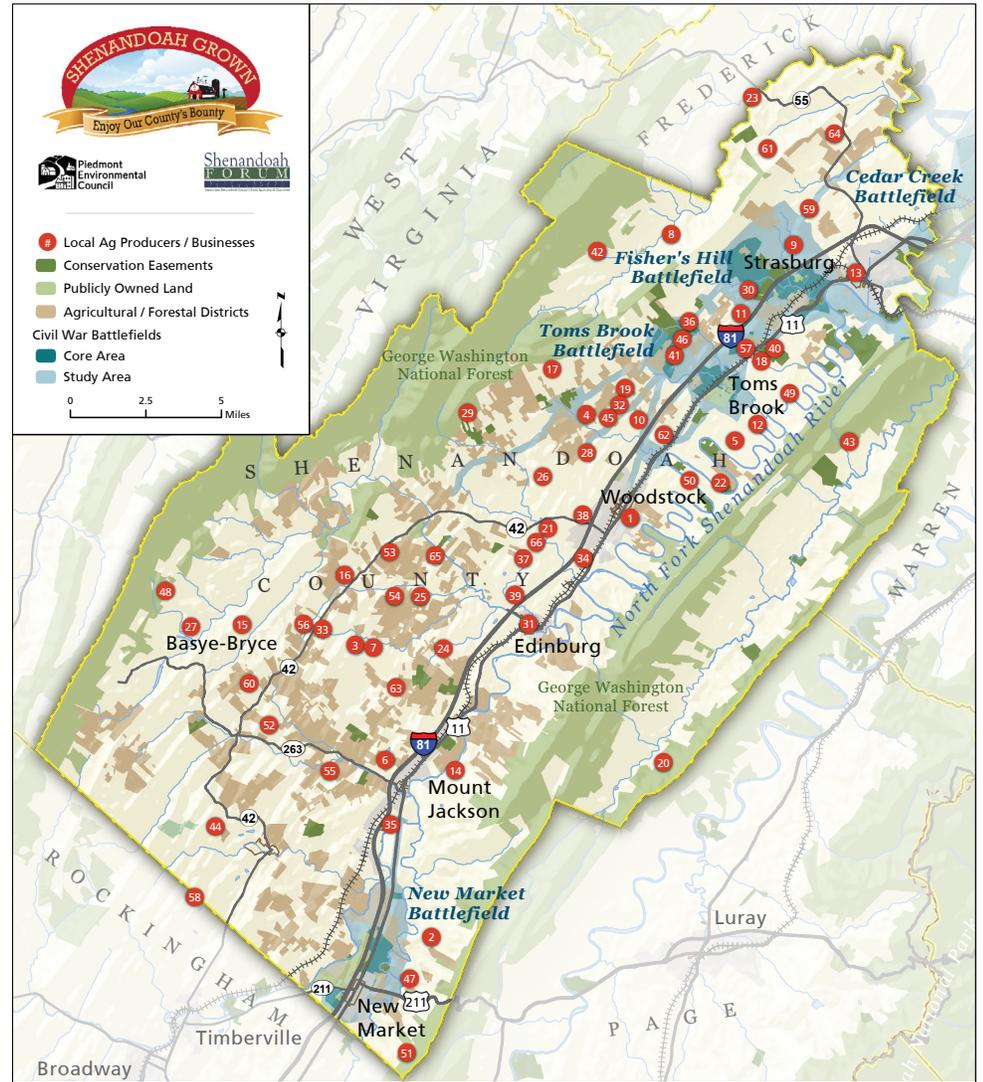
What is the Conservation Easement Authority (CEA)?

The Shenandoah County Conservation Easement Authority was authorized in 2007 to help county landowners protect and preserve farms and forests, open space and natural resources. The authority consists of seven members appointed by the Board of Supervisors. The CEA can work with landowners to place property in conservation easements and become the easement holder. The CEA can also direct landowners to non-profit land trust organizations, as appropriate.

What's involved in applying for an easement?

The process is detailed, can be lengthy, and is not without some cost to the applicant, Felling cautions. If working with the county Easement Authority, it involves an application to the County Director of Planning and Zoning, a site visit, a review, an agreement with the county on proposed terms, acceptance by the Easement Authority, possible adjustments to the terms, and finally presentation to the Board of Supervisors for approval. Not all easements are accepted. An example would be properties next to town that have been slated for development.

If the landowner is seeking to sell development rights, the easement authority has a sheet of ranking criteria assigning points based on how the property features relate to farm and forest, natural resources, and open space protection, or cultural, historical, recreational, and scenic resources. The landowner is



A map of Shenandoah County's land use. Map supplied by Shenandoah Forum

responsible for hiring an independent appraiser to determine the value of a donated easement for tax purposes.

The steps for working with a non-profit land trust are similar.

Once a family has decided to place an easement on their property, it takes about a year to complete the process, Felling says.

What does an easement holder do?

An easement holder is a nonprofit organization or government agency that accepts a conservation easement and assumes the long-term legal responsibility for monitoring and enforcing its terms. Generally the easement holder inspects the land annually and insures that the easement terms are met if the land passes on to heirs or new owners.

What can you do?

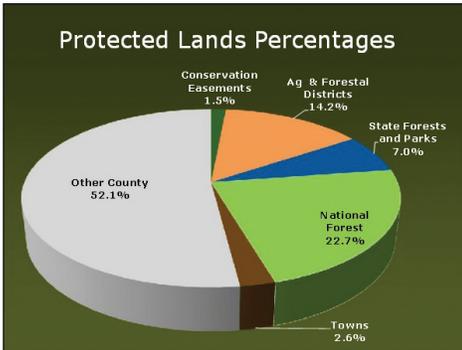
If you have land that qualifies for a con-

servation easement, donating the easement is the simplest and most ideal for the county. Entering into a PDR purchase agreement with a non-profit, however, might be best for you. The Shenandoah County Easement Authority can provide you with information to help you decide.

But even if you live on Muhlenberg Street and have no land to speak of, you can help preserve the open spaces in the county by making a monetary donation to the Easement Authority. That donation will be used to further encourage easements that help maintain the quality of life in the county.

The future

Between 1950 and 1970, almost all population increase in Shenandoah County could be attributed to natural increase, where there were more births than deaths, and few people migrated into the area. However, between 1970 and 2000, more than 90 percent of the increase has been due to in-migration.



This chart shows the current percentages of land in Shenandoah County that is protected from development.

Map supplied by Shenandoah Forum

A major reason for the tremendous in-migration, according to the County Comprehensive Plan, is the increasing number of retirees choosing to settle within the county. The plan explains: "Its beauty and rural character, with a favorable location near major cultural and economic centers, makes Shenandoah County an excellent retirement community."

It is just that beauty and rural character that conservation easement programs are designed to save. It is that beauty and rural character that makes life pleasant for native and newcomers alike. It is that beauty and rural character that bring tourist dollars to the area.

So saving a farm sows the seeds for a healthier community for all its citizens.

For more information on easements:
<http://shenandoahcountyva.us/conservation/>
 Patrick Felling, County Planner
 540-459-6204

Shenandoah County Easement Authority
 Suite 107, 600 North Main Street
 Woodstock VA 22664

Three Easements- Three Reasons



Larry Vance, one of the owners of the Island Ford Farm near Strasburg, shows us the original deed signed by Lord Fairfax. The farm has been in the family for over 100 years.

Photos by Linda Wheeler



The front porch of the farm house is very much the same as when the family had its picture taken in the early 1900s (below).





A prized hand-drawn map, passed down thru the generations, is the original deed signed by Lord Fairfax and shows property boundaries.

BY JOAN ANDERSON
WITH MARGARET LORENZ

One is for less than 10 acres, one is for more than 100 and another for about 179, yet all the property owners of these conservation easements share a love for the land.

Riparian easement protects creeks

“There is no downside. It’s all positive,” Helen Jean and Dan Smith say of the conservation easement on their property.

Back in 2001, they worked with the Valley Conservation Council and the Lord Fairfax Soil and Water Conservation District to protect nearly eight acres of their 20-acre property that borders Stony Creek and Swover Creek. There is a riparian easement that prohibits any development on the land along the creeks and requires the space to remain forested to help keep out pollution.

“It is still our land,” Helen Jean emphasizes, “and in a way, it protects us too.” Thanks to the easement, a bit of wilderness shields the Smiths’ property, making it a truly private oasis.

In a 20-plus-page booklet filled with maps and photos provided by the Valley Conservation Council, the reason for the easement and details of the restrictions are clearly explained. The reason is “to protect Stony Creek from input of upland sources of pollution thereby enhancing riparian areas and water quality in the North Fork of the Shenandoah River watershed.”

The restrictions, which were negotiated

between the Smiths and the conservation council, illustrate how they can be tailored to fit a landowner’s needs. The restrictions exclude all livestock from direct access to either creek but allow one watering point. The Smiths had horses at the time of the agreement and so provisions were made for the horses.

Other restrictions placed on the easement areas are that they will remain in forest cover; no structures of any kind can be built there; and grading, blasting, earth removal, and mining are prohibited. As with all easements, the landowners are required to allow access to the property on an annual basis for an inspection.

The booklet also has detailed descriptions of the soil and trees on the land, making it an interesting documentation of the natural resources on the property.

The Smiths received a modest payment for placing the acreage in an easement and continue to receive tax breaks. Their house is currently on the market and they have not found the existence of the easement to be of major concern to potential buyers, who themselves would benefit from lower taxes because of the land preservation.

“We believe in the purpose of the easement,” the Smiths say, as it eventually helps keep the Chesapeake Bay cleaner while enhancing the quality of life in Shenandoah County. It’s a “win, win situation,” they say, almost in unison, standing in the doorway of their peaceful, wooded retreat.

Saving farmland

“It is part of my soul. My soul needs it,”

says Doug French of the more than 140 acres of prime farmland he and his wife Shirley donated for a conservation easement. “We live in a beautiful part of the country,” Doug continues. “We need to protect what God created.”

Doug and Shirley were farming her family’s homeplace when 160 acres just across the river came up for sale. They purchased the property and then permanently protected 146 acres of it through a conservation easement donated to the Virginia Outdoors Foundation. Not only have they preserved some spectacular views, they have also assured that a son who is farming will have plenty of good land, and it is hoped, their grandchildren too.

At some hardship to them, they purchased the land but donated the easement. In return, they receive tax breaks, including tax credits. “We couldn’t use the credits because we didn’t have that many taxes, so we sold them,” Doug explains. Selling the tax credits eased their financial burden a bit. They also have income from the Shenandoah River Lodge, which they rent out. The lodge benefits from the lovely views that the easement assures while not actually on the easement.

Doug loves farming but knows that you can’t predict from one year to the next how you will do, so he worked for many years at the post office to have the luxury to be a farmer. His wife is in real estate and that helps too. Because farming income varies so, some years farmers don’t owe any taxes. That means that donating farming easements is more an act of love than financial gain for people like the Frenches.

Practicing what he preaches, Doug serves on the Shenandoah County Easement Authority and cautions those considering an easement to “Be sure you know what you are getting into. It’s a complicated process, but if your heart is in it, you’ll get through it.”

His heart is obviously in it. “Land is sacred,” he says. “It’s our food source,” he continues, getting down to the very basics of why saving farmland is important to us all.

A Century Farm protects the North Fork

After years of working with several government agencies and the non-profit Potomac Conservancy, Larry Vance knew for certain in July 2013 that Island Ford Farm would be free from development pressures “in perpetuity,” two of his favorite words. The easement does not stop with the sale or transfer of the property.

Larry and his brother Gary own 179 acres of land nestled along the banks of the North Fork of the Shenandoah River with views of Signal Knob to the east. The land would be worthy of conservation if only for the mile of river frontage plus an island roughly one mile around. There is much more; ninety acres of prime farmland, forested acres and an approved conservation plan for crop, livestock and nutrient management. All livestock are fenced off from the river.

The state-designated Century Farm has been in the brothers’ family since 1857. In September, the farm could have been taken from a scene of a Thomas Hardy novel with roll bales of hay scattered across the fields. Larry tells family stories handed down through generations of how the farm made it through the Civil War, especially during the burning of the Valley.

Funding to purchase the development rights to pay for costs associated with placing a property in a conservation easement came from a donation by the owners, a grant through the Virginia Land Conservation Foundation, monies from the U.S. Department of Agriculture’s Farm and Ranchland Protection Program, and a grant from the Virginia Department of Conservation and Recreation.

Larry graduated from Strasburg High School and retired earlier this year after 39 years of teaching government and history. He is fond of saying, “If I am lucky enough to get a weekend pass out of the Pearly Gates 100 years from now or later, I will come back



Photo by Linda Wheeler

Conservation Easement Resources

The National Conservation Easement Database lists 85 easements in Shenandoah County. Organizations holding easements and their contact information are below:

Civil War Trust
civilwar.org
202-367-1861

Lord Fairfax Soil and Water
Conservation District
lfswcd.org
540-465-2424

Potomac Conservancy
potomac.org
540-667-3606

Shenandoah Valley Battlefields
Foundation
shenandoahatwar.org
540-740-4545

Valley Conservation Council
valleyconservation.org
540-886-3541

Virginia Department of Forestry
dof.virginia.gov
540-459-3151

Virginia Department of Historic Resources
dhr.virginia.gov
804-367-2323

Virginia Outdoors Foundation
virginiaoutdoorsfoundation.org
804-786-9603

Land Trust of Virginia
landtrustva.org
540-687-8441