

Watershed Agricultural Council

Agriculture ♦ Forestry ♦ Conservation Easements ♦ Economic Initiatives

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Watershed Agricultural Council's (WAC) Forest Conservation Easement Land Planning Guideline

The Easement Committee (EC) adopts the following guideline pertaining to development of land plans. This guideline is intended to provide general guidance to WAC Staff and to help inform the candidacy and process for Forest Conservation Easement (CE) applicants. Because each property is unique, the thresholds established here, may not be appropriate for the development of all land plans. Where land plans do not conform to the standards established in these guidelines, Easement Program staff will seek further guidance from EC for consideration on a case by case basis.

1. Total Number of Easements

When possible, only one easement should be developed per property and/or landowner. Creating more than one easement under common ownership only increases stewardship obligations and may affect the conservation gains afforded by the easement. WAC understands, however, that estate planning and reluctance to enroll all qualified lands at one time.

2. Total Number of Tax Parcels per Easement

As per the Forest Deed of Conservation Easement (CE) and with consideration to Section 4.A.;

- A. Subdivision of the Easement Property is prohibited.
- B. The conveyance, transfer or grant of less than the total acreage comprising the Easement Property is prohibited.
- C. Boundary line adjustments that reduce the number of tax parcels but do not alter the common boundary lines with tax parcels that are not covered by this Conservation Easement are allowed with prior written notice to the Grantee.
- D. Any act not specifically allowed above or elsewhere in this Conservation Easement, that changes the size or configuration of the Easement Property or the size or configuration of any tax parcel that in whole or in part constitutes the whole or a portion of the Easement Property is prohibited.

Since a landowner may not convey individual tax parcels (i.e.- this is not considered a municipal subdivision but still constitutes a division of the easement), planners should consider the total number of tax parcels that will be in the easement encumbered portion of the property and discuss conveyance restriction implications with landowners. Given issues limiting conveyance and those surrounding future enforceability, all parcels to be encumbered, should be merged into a common unit, as may be practicable.

3. Outparcels

For properties that do not conform to the standards established in Section 2, "Total Number of Tax Parcels Per Easement," the Land Conservation Specialist and landowner may discuss utilizing outparcels as a planning tool to identify and establish additional or future tax parcels.

- A. An Outparcel defined herein, is a property (tax parcel) not encumbered by a WAC CE.
- B. Outparcels are either existing stand-alone tax parcels, or those proposed prior to appraisal and those approved/ recorded before a subsequent Purchase & Sales Contract with WAC.
- C. Outparcels may be created on the adjacent outer boundaries of the proposed Easement, and may not be located within the easement so the outparcel is surrounded by easement encumbered lands.
- D. Landowners must check with their municipal planning departments to ensure that all proposed outparcels conform to local land use regulations and include sufficient road frontage, access and acreage where required by a local ordinance.
- E. Landowners should be aware that creating outparcels may affect the status of a landowner's agricultural assessment and/or enrollment 480A, as well as other individual tax implications.
- F. Outparcels may be used as a planning tool so long as the change of acreage (for which they applied) and/or natural resources to be encumbered does not affect General Eligibility or the score/rank of the project.

4. Easement Use Areas

The Easement Property is divided into three distinct Designated Use Areas referred to as the Acceptable Development Area (ADA), the Multiple Use Area (MUA) and the Forest Area (FA), the locations of which are defined and depicted in the Survey. Within each of these Designated Use Areas, certain activities, described in detail herein, are either allowed without restriction, allowed only with prior written notice to Grantee, allowed only with prior written notice to and approval of Grantee, or prohibited hereunder.

Use Areas (as defined by the CE) are intended for specific uses and have specified restrictions. Landowners need to be made aware of the specific restrictions associated with each use area to ensure that the landowner is comfortable with the activities and uses allowed and restricted for certain areas of their property.

Proposed Use Areas should be reconciled against geographic features, current land uses, as well as anticipated activities

Acceptable Development Areas (ADA)

ADA: The ADA is the Designated Use Area within which any activity is allowed subject only to the restrictions set forth in Section 4 of the CE. It is the only Designated Use Area within which a residential structure and/or Sewage Treatment System is allowed.

This Conservation Easement limits the number of square feet of Impervious Surface that are allowed on the Easement Property and restricts the location thereof. These limitations, set forth below, are cumulative and include the total of: (a) the number of square feet of Impervious Surface that existed on the Easement Property as of the date of this Conservation Easement and (b) the number of square feet of Impervious Surfaces constructed since the date of this Conservation Easement.

ADAs (Acceptable Development Areas) should be utilized as a planning tool to ensure that particular areas, such as house/infrastructure areas, are defined and have sufficient space to accommodate existing as well as future development. Within the ADA: a total of 43,560 square feet (one acre) of Impervious Surface is allowed. Subject to this limitation, the construction of Impervious Surfaces within the ADA does not require prior notice to or approval of Grantee.

A) Size of ADA

1. The aggregate acreage for all ADA's (combined) generally should not exceed 5 percent of the total property size (in acres).

Ex: 500 ac. CE ≤ 25 ac. ADA
400 ac. CE ≤ 20 ac. ADA
300 ac. CE ≤ 15 ac. ADA
200 ac. CE ≤ 10 ac. ADA
100 ac. CE ≤ 5 ac. ADA

B) Number of ADAs

1. When considering the total number of ADAs that are appropriate for a given property, planners will locate all structures on a property and draw ADAs around existing residential and farm and or commercial forestry structures.
2. Once the number of ADAs with existing structures has been identified, planners should discuss with landowners to determine if anticipated structures are planned and if they may be located in a previously identified ADA or if an expanded or new ADA is required.
3. The total acreage of all ADAs should not exceed the aggregate acreage identified in section 4. 1A.
4. LCS should review with the landowner how the location of ADA may affect the appraised value of the easement.
5. LCS should ensure that the ADAs support the landowner's current and future objectives and operations for the Property, including succession.

Forest Area (FA)

Forest Area (FA): Forest Activities, Commercial Forestry, and other activities that are conducted in conformance with the prohibitions and restrictions set forth in Section 4 of the CE are allowed within the FA.

1. FA should minimally should include WAC FMP acreage, 480a and/or lands committed to silviculture practices.
2. Impervious Surfaces:
 - a. A cumulative total of 5,000 square feet of Impervious Surface is allowed within the MUA and FA combined, subject to the following conditions:
 - b. Any Impervious Surface constructed after the date of this Easement must be located beyond 100 feet of a Watercourse or Wetland:
 - c. A cumulative total of 1,000 square feet of Impervious Surface is permitted with prior notice to but not approval of Grantee. The construction of Impervious Surfaces which when combined with existing Impervious Surfaces totals more than 1,000 square feet is allowed only with prior notice to and approval of the Grantee.

Multiple Use Area (MUA)

Multiple Use Area (MUA): The MUA is the area in which activities, including but not limited to those allowed in the FA, are allowed unless they are specifically prohibited by this Conservation Easement, provided such activities are conducted in conformance with the restrictions set forth in Section 4 of the CE.

1. Forest Activities: Allowed anywhere in the MUA. Commercial harvest with approved FHP.
2. Agricultural Activities:
 - a. Agricultural Activities shall not occur on more than 20 acres of the MUA during the course of one calendar year, except for Brush hogging and haying which may occur on more than 20 acres but is prohibited within 25 feet of a Watercourse or Wetland.
3. Impervious Surfaces:
 - a. A cumulative total of 5,000 square feet of Impervious Surface is allowed within the MUA and FA combined, subject to the following conditions:
 - b. Any Impervious Surface constructed after the date of this Easement must be located beyond 100 feet of a Watercourse or Wetland:
 - c. A cumulative total of 1,000 square feet of Impervious Surface is permitted with prior notice to but not approval of Grantee. The construction of Impervious Surfaces which when combined with existing Impervious Surfaces totals more than 1,000 square feet is allowed only with prior notice to and approval of the Grantee.