

# **Conservation Easements: Providing Economic Incentive for the Conservation of Open Space and Farmland in the United States**

Joseph K. Sowers

## **Abstract**

The intensification of land uses in the United States results from population growth, rapid expansion in the service sector, and residential land use growth. These trends cause diminishment of open space and increase sprawl-type land development. So-called “livability” issues are of growing importance in many metropolitan and rural areas across the country. Exasperating this transformation of land use, current demographic trends in the U.S. imply a near-future turnover of a large percentage of farmland and open space land in the form of estate transfer. Current U.S. estate tax policy could be accelerating the transfer of open spaces to developed land uses. Local zoning ordinances, as well as state and federal infrastructure subsidies are also compounding this trend.

To date, no method exists which evaluates the economic feasibility of open space preservation. This thesis proposes to establish such a method.

A landholder may conserve their land parcel in a non-developed use in perpetuity by placing a Conservation Easement on the property. This land value, the development rights of the land parcel, can be donated to a non-profit organization. The landowner may then deduct the development right value from their income tax as a charitable donation. This thesis compares the economic viability of a landholder that donates a Conservation Easement and invests the tax benefits, with that of a landholder that sells their land parcel to development interests. Further, this thesis explores the demographic profile for which preserving open space may be economically beneficial for the donor of a conservation easement.

This thesis is the intersection of three literatures, drawing together three separate land preservation paradigms. First, the altruistic philanthropy landowners exhibit when donating development rights without economic impetus. Second, the thesis introduces the income tax benefits, and their investment potential, available in the Internal Revenue Code for charitable donations. Third, federal land preservation mandates and subsequent funding availability is examined. These tools function together to provide implications for facilitating the deterrence of sprawl-type development.

Further, these tools will be compared to the current methods of land preservation, consisting of local zoning ordinances and the purchase of development rights by governmental agencies. These current policies possess serious shortcomings in ameliorating conflict between land uses, as well as diverting sub-urban development from prime farm and open space land. Conservation Easements are shown to have applications in the protection of land subject to estate turnover, control of land uses that cause nuisance externalities, and general local land policy.

A spreadsheet algorithm in Microsoft Excel Solver format is included that determines the economic feasibility of performing an easement at the individual landholder level.