



# Conservation Easements

NC Dept of Revenue – 2017 Advanced Personal/Real Property Seminars  
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**Welcome to Fall 2017!**



# What is a Conservation Easement?

## Conservation Easement Defined”

*“An interest in real estate restricting future land use to preservation, conservation, wildlife habitat, or some combination of those uses. A conservation easement may permit farming, timber harvesting, or other uses of a rural nature as well as some types of conservation-oriented development to continue, subject to the easement.”*

Source: The Dictionary of Real Estate Appraisal, published by The Appraisal Institute, 6<sup>th</sup> Edition, 2015

# Elements of a Conservation Easement

- C.E. is legally binding document – recorded in Register of Deeds
- Restrictions are perpetual
- C.E. will restrict or limit development
- C.E. specifies allowable uses
- Typically donated/bargain sold to a land conservancy
- Land conservancy charged with policing easement
- Easement donors eligible to receive income tax credits
- Complex rules related to eligibility for tax credits (State and Federal)
- Have been controversial/contested by taxing authorities in some situations

# Conservation Property

The Owner of this property has granted a conservation easement that ensures that the natural resources, wildlife habitat, and scenic values of this property will be preserved.

Tar River Land Conservancy  
Louisburg, NC  
919-496-5902  
[www.tarriver.org](http://www.tarriver.org)



# Examples of C.E. Restrictions

- Agricultural/timber purpose only
- Agricultural with residential farmstead
- Agricultural/open space with a specified # of homesites
- Recreational Use including golf course or open space
- Open space only
- Others?

# Appraisal Problems Related to C.E.s

- Valuation of the C.E. for Donation Purposes – tax credits
- Valuation of Properties Subject to Existing C.E.
- Tax Assessor – Valuation of Properties Subject to a C.E.



# Valuation of Easement for **Donation** Purposes

- Process Used to Establish Value of Charitable Contribution
- Value of Property Before Easement Restrictions
- Value of Property After Easement Restrictions
- Difference Before and After = Value of the Easement
- Tax Assessment – Valuation of the “After” Property

# Valuation of Property that is Subject to Existing Conservation Easement

1. Review C.E. document to understand limitations on use
2. C.E. is “legal” restriction similar to zoning – though more permanent – zoning can be changed
3. Value property based on H&B Use as dictated by easement
4. How does C.E. affect Highest and Best Use of the Property?
5. Recognize that C.E. can impact current as well as future
6. Example – some buyers of agriculture/timberland may be willing to pay premium prices based anticipation of higher and better uses in the future. However, the presence of a C.E. may take this future option away, thus diminishing the present value of the property. Requires more careful consideration/analysis of comparable sales.

# Fee Simple - Bundle of Rights

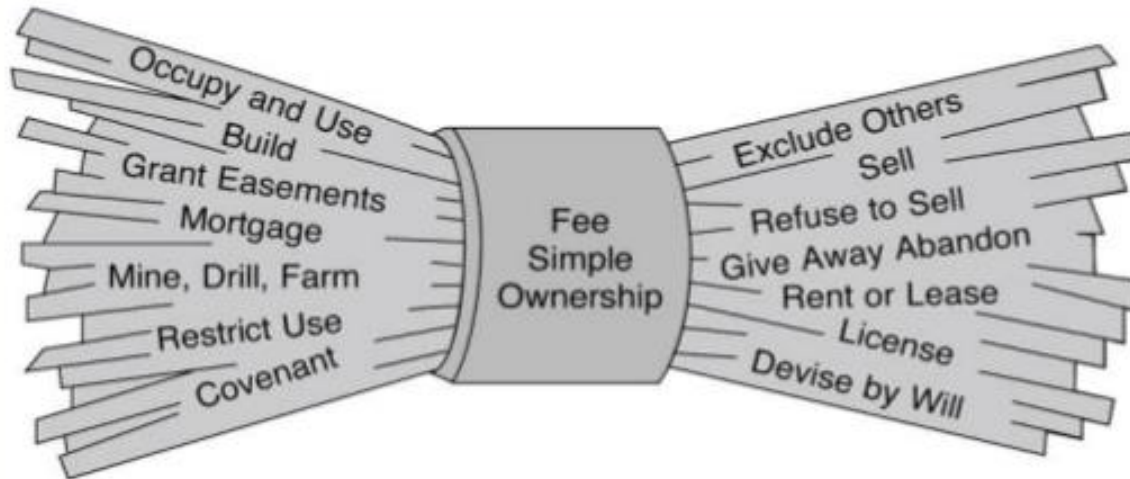
## Fee Simple – Defined

*“Absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by governmental powers of taxation, eminent domain, police power, and escheat.”*

Source: The Dictionary of Real Estate Appraisal, published by The Appraisal Institute, 6<sup>th</sup> Edition, 2015

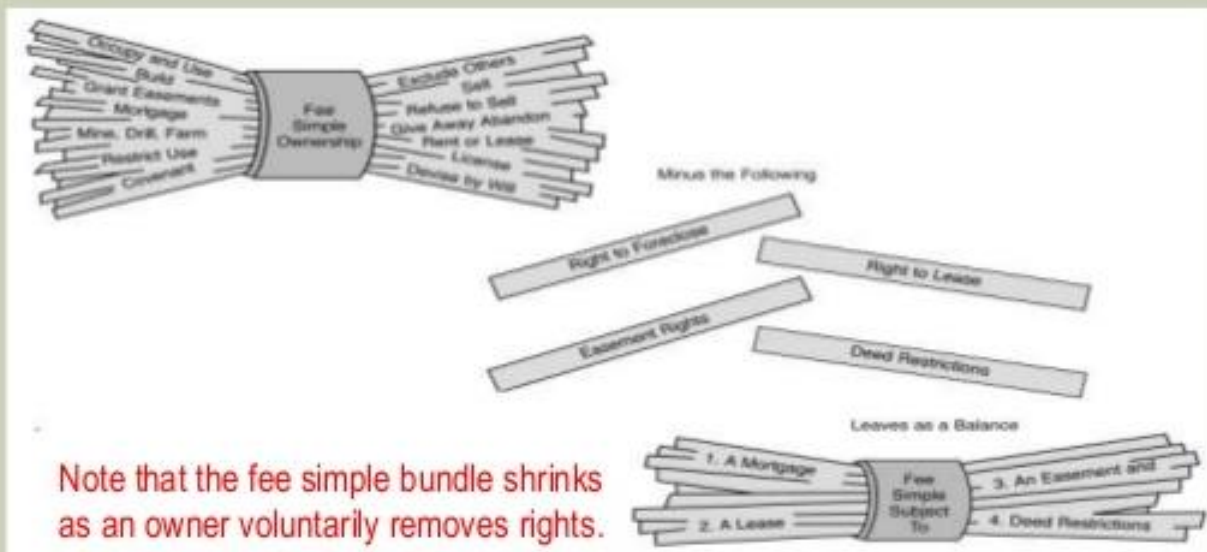
# Fee Simple - Bundle of Rights

## The Fee Simple Bundle of Rights



# C.E. Removes a Stick from the Bundle

## Removing Sticks from the Fee Simple Bundle



# Value and the Bundle of Rights

What happens to market value as “sticks” are removed from the bundle of rights?

Answer: It depends

What is the Highest and Best Use of the Property

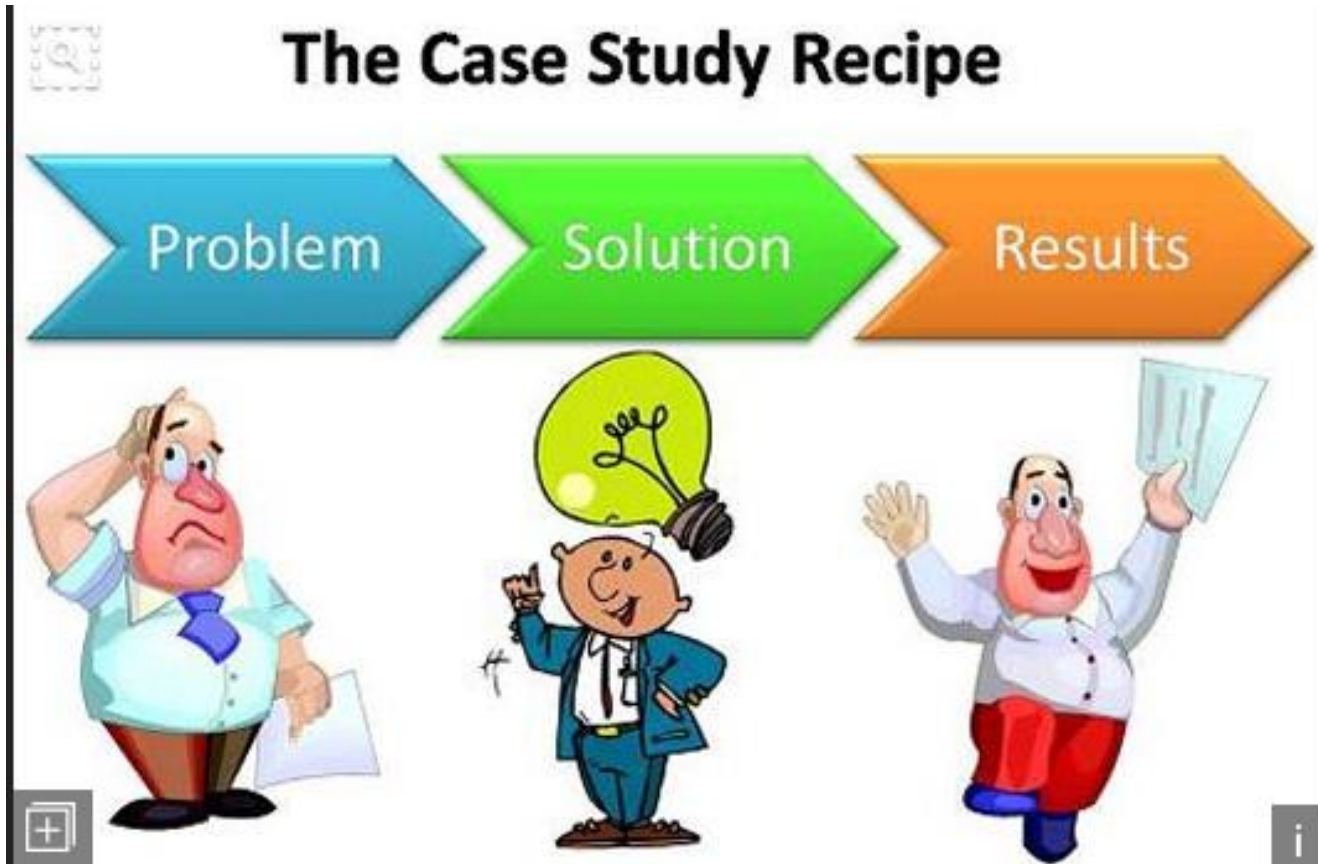
Does the conservation easement limit the H&B Use of the property

# Highest and Best Use Process



Conservation easements are a legally binding restriction

# Case Studies







How Should This Property Be Valued?  
What is its Highest and Best Use?  
Surrounding Land Uses?









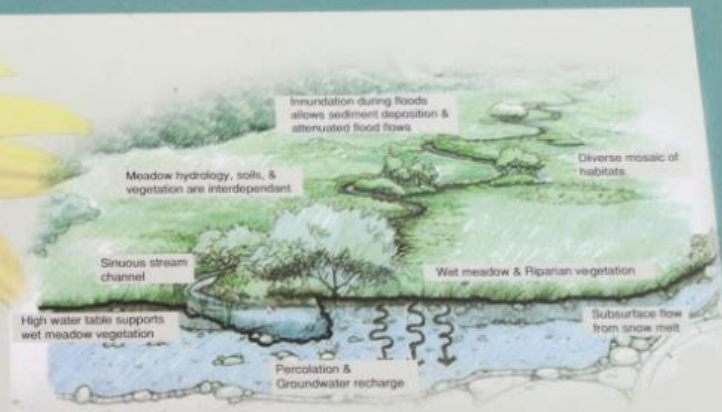
Sign

## DIXON MEADOW PRESERVE

# STORMWATER MANAGEMENT

Creation of this Preserve serves many important environmental functions. Stormwater management is one where rainwater flowing from higher elevations is captured and directed to basins. There, water is retained for a period of time and allowed to flow at a slower rate to the nearby Wisahickon Creek.

The Preserve can now store over 575,000 cubic feet of stormwater. Pre-installation, water flowed from the site at a rate of approximately 200 cubic feet per second (cfs) and is now at less than 30 cfs.



This management results in less soil erosion, reduced flooding, improved water quality, and enhanced aquatic and terrestrial habitats. The Preserve meets PA Best Management Practices (BMPs) and creates an aesthetic and valuable environment.



THE PROBLEM



THE SOLUTION

# Highest and Best Use of Case Study

- Physically Possible
  - Big Site
  - Gentle topography
  - Good road frontage
  - Utility access
  - Currently used as agricultural
  - High income housing on surrounding properties
  - No obvious signs of commercial development
  - Likely uses residential or agricultural
- Legally Permissible
  - Residential zoning
  - Conservation Easement allows only agricultural - farmstead/open space use
  - Only potential uses ag/farmstead/open space
- Financially Feasible
  - Ag/farmstead has some economic value
  - Hard to assign economic value to open space
- Maximally Productive
  - Ag/farmstead results in higher value than open space
- Conclusion – Highest and Best Use and Value = Agricultural Farmstead



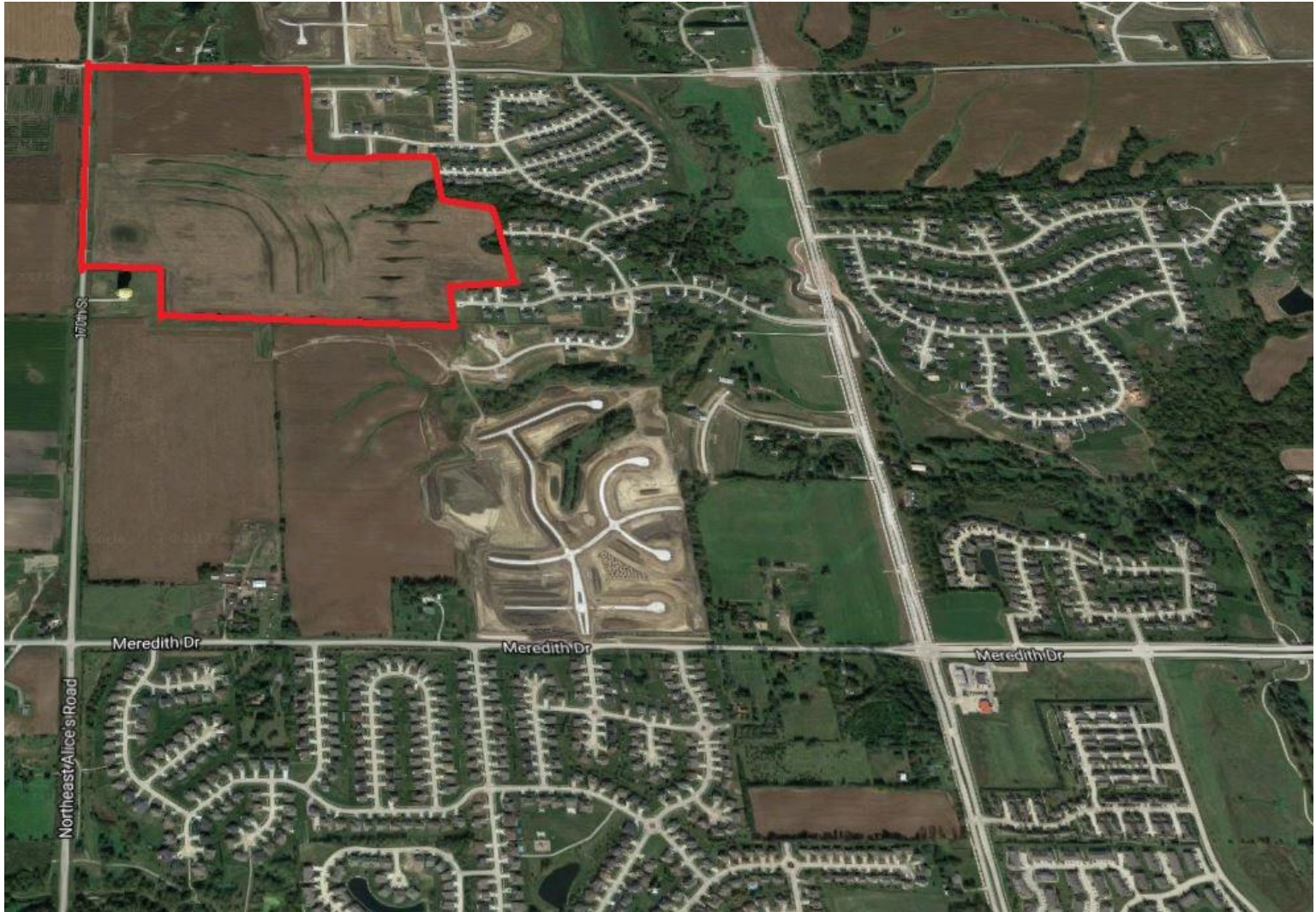
EXAMPLES



# C.E. Restricts to Ag Use Only



# Easements in a Developing Area



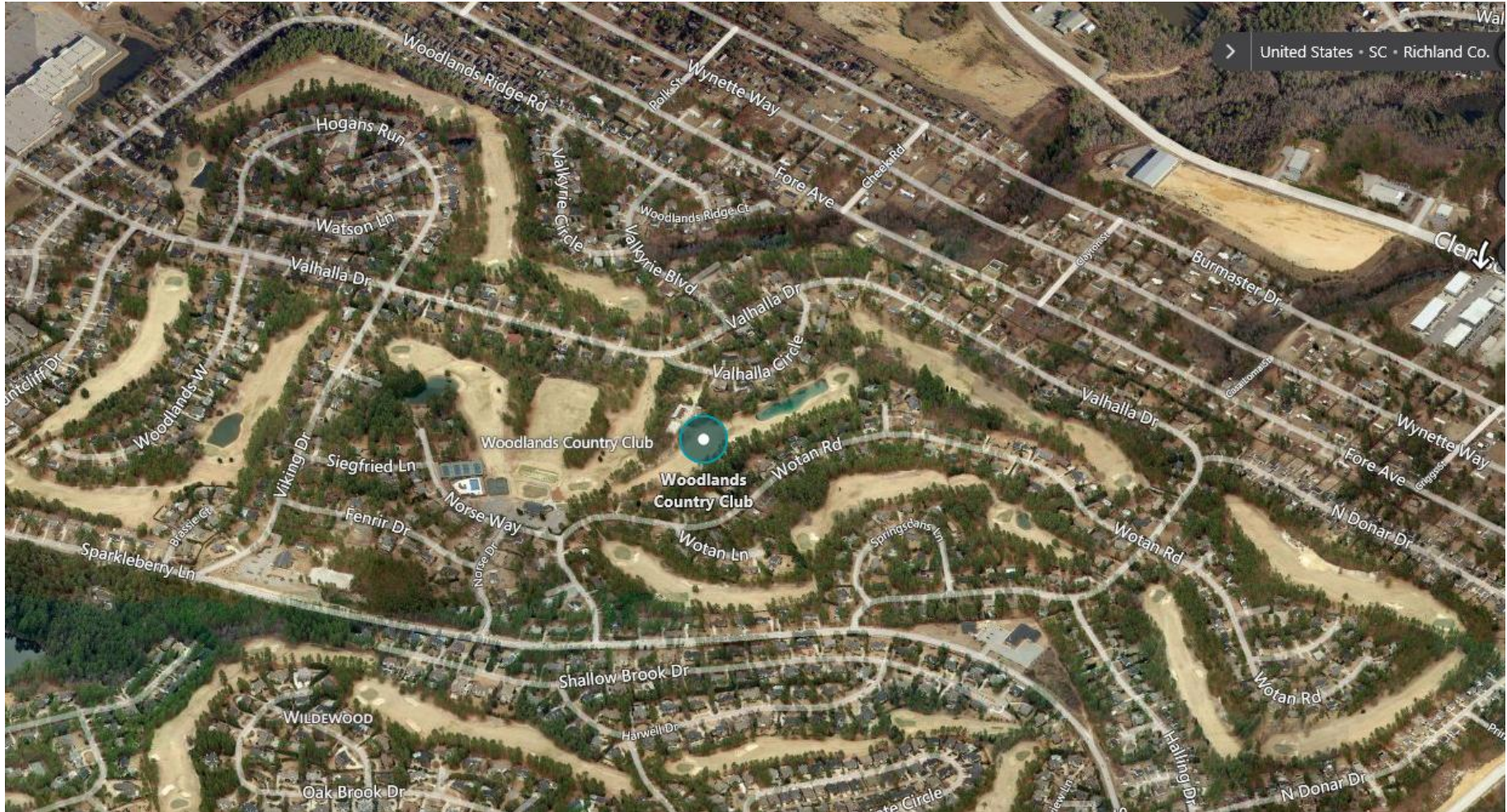
# C.E. Around Building Envelopes



# Open Space in Urban Area



# Neighborhood Golf Course



# Core Golf Course





Really?!?!?!  
That question  
couldn't be  
more stupider