

Henderson County Farmland Preservation Taskforce

Thursday, May 30, 2024 - 6:00 PM King Street Meeting Room 100 N. King Street, Hendersonville, NC 28792

Agenda

- 1. Call Meeting to Order
- 2. Adjustment and approval of agenda
- 3. Public Comment
- 4. Approval of May 13, 2024 Meeting Minutes
- 5. Guest Speakers
 - Evan Davis, Director NC Dept Agriculture & Consumer Services, Farmland
 Preservation Division
 - b. Kieran Roe Executive Director, Conserving Carolina
 - c. Tom Fanslow Land Protection Director Conserving Carolina
- 6. Continued Discussion Taskforce Goals & Outcomes
- 7. Next Meeting: June 10, 2024
- 8. Adjourn

Henderson County Farmland Preservation Taskforce: May 13, 2024

The Farmland Preservation Taskforce held a meeting on May 13th, at 6:00 PM in the King Street Meeting Room located at 100 N. King Street.

Taskforce Member	Present	Absent
Commissioner Rebecca McCall, Chair	✓	
Commissioner David Hill, Chair	√	
Hunter Marks – Planning Board	\checkmark	
Danny McConnell – Soil & Water Conservation District	✓	
Gary Steiner – NC Cooperative Extension	✓	
Jimmy Cowan – NC Farm Bureau	✓	
Joffrey Merrill – AgHC	✓	
Randy Newman – Hendersonville Board of Realtors	√	
Jason Edney – At large	√	
Justin Patwin – At large	√	
Linda Pryor – At large	✓	
Alan Ward – At large	✓	
Danielle McCall – At large	\checkmark	

Also present:

Chris Todd, Business & Community Development Director Autumn Radcliff, Planning Director Liz Hanson, Planner I Jonathan Wallin, Soil & Water Conservation District April Hoyt, Soil & Water Conservation District Dr. Terry Kelley, NC Cooperative Extension Kieran Roe, Conserving Carolina Tom Fanslow, Conserving Carolina Jeffrey Darnell, NC Department of Agriculture & Consumer Services

Commissioner Rebecca McCall, Chair, called the meeting to order at 6:00 PM.

Welcome & Introductions

Chairwoman Rebecca McCall called the meeting to order at 6:00 PM and began the meeting with taskforce member introductions. All taskforce members, resource partners, and staff support gave a brief introduction of themselves and their background and/or experience related to agriculture.

Taskforce Background

Liz Hanson, Planner I and Staff Coordinator, gave a brief presentation on the history and formation of the taskforce. Miss Hanson shared past farmland preservation efforts in the County and agricultural goals in the County's 2020 Comprehensive Plan and 2045 Comprehensive Plan.

Taskforce Goals & Outcomes

The taskforce spent most of the meeting discussing possible goals for the taskforce to accomplish. Staff noted reoccurring goals or ideas members of the taskforce mentioned. Several topics discussed included agricultural conservation easements, succession/estate planning, and farmer education. The taskforce agreed to continue working through the main goals and outcomes at future meetings. The taskforce requested staff to organize guest speakers to educate members on topics discussed at the meeting.

2024 Meeting Schedule

The taskforce discussed the proposed 2024 Meeting Schedule. The taskforce agreed to meet on the second Monday of each month at 6:00 PM in the King Street Meeting Room. The taskforce may also hold other meetings in addition to the set monthly meeting if necessary.

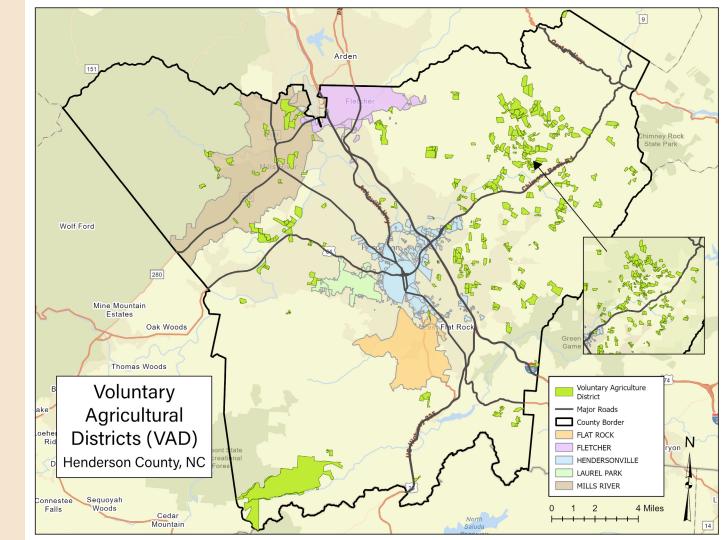
Next Meeting:

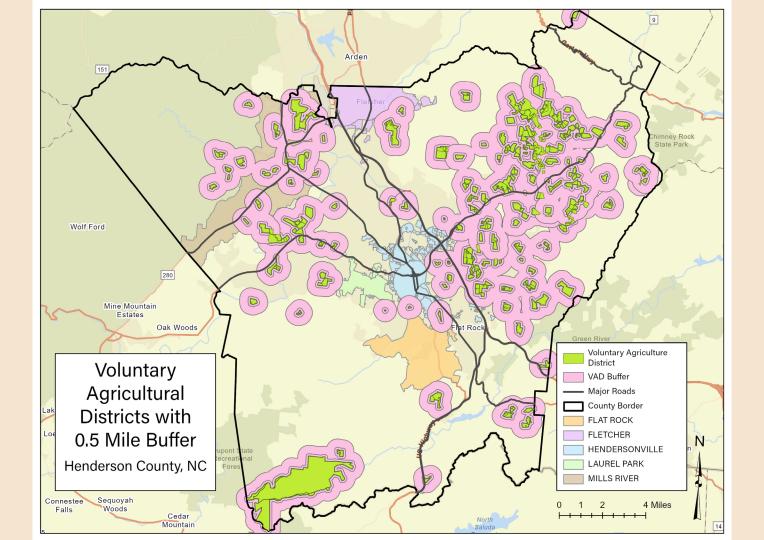
The Taskforce agreed to meet prior to the regularly scheduled June 10th meeting to discuss certain topics and listen to guest speakers. The taskforce will meet again on Thursday, May 30, 2024 at 6:00 PM in the King Street Meeting Room at 100 N. King Street. Guest speakers will include the NC Department of Agriculture & Consumer Services and Conserving Carolina. The taskforce will also meet on June 10th at 6:00 PM in the King St Meeting Room.

Commissioner Rebecca McCall, Chair and Commissioner David Hill, Chair Henderson County Farmland Preservation Taskforce

Voluntary Agricultural Districts

- Areas of Henderson County set aside by landowners for agricultural use only. These landowners recognize the importance of agriculture to the economic and cultural life of Henderson County and desire to preserve and protect their land from nonfarm development.
- Administered by Soil & Water





VAD Totals

Date	Parcels	Landowners/Farm s	Acres
September 2021	364	149	10901.96
December 2021	377	156	11331.64
December 2022	390	158	11525.02
April 2023	381	152	11116.35
December 2023	382	153	11143.15

Agricultural Conservation Easements with the N.C. Department of Agriculture and Consumer Services

Evan Davis – Farmland Preservation Director evan.davis@ncagr.gov – 919-707-3072

North Carolina Department of Agriculture and Consumer Services Farmland Preservation Division

Steve Troxler, Commissioner



Mission

- The Farmland Preservation Division's mission is to preserve working farms and forests throughout North Carolina and foster the growth, development, and sustainability of family farms.
- The Agricultural Development and Farmland Preservation (ADFP) Trust Fund is the primary program inside the division.
 - The ADFP Trust Fund supports North Carolina's agricultural economy by providing grants to county governments and non-profit organizations for conservation easements, agricultural development projects, and agricultural plans.

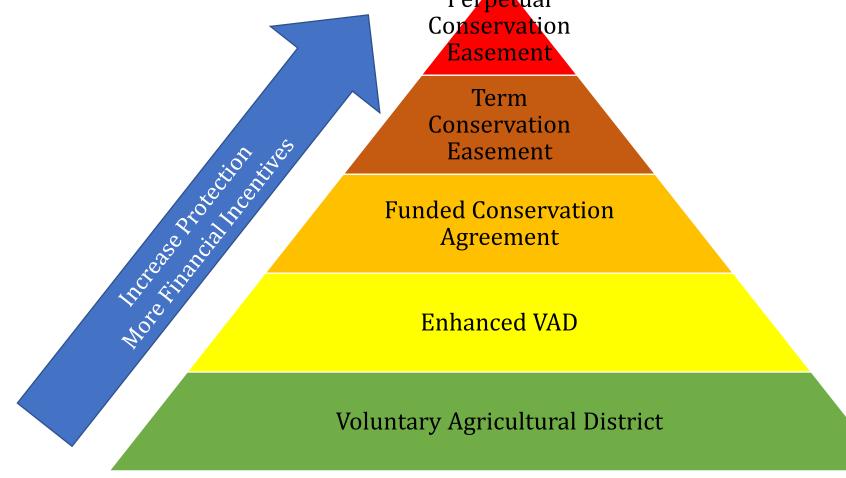


Responsibility

- Administering all functions of the ADFP Trust Fund, including grant application evaluation, open grant contract administration, and postaward monitoring.
- Collaborate to enact strategies and policies to preserve working farms and forests throughout the state.
- Clearinghouse for the Voluntary Agricultural Districts program, county Farmland Protection Plans, and Cost of Community Services Studies.



Hierarchy of Farmland Preservation



Agricultural Conservation Easements

- Voluntary legal tool that restricts residential, commercial, and industrial development of land to maintain its agricultural production capability.
- Most grants awarded by the N.C. ADFP Trust Fund are for agricultural conservation easements.
 - These grants remove the development rights from the property and provide funds for other costs associated with the recording of the conservation easement.
 - If awarded a grant in which there are funds for the easement purchase value, landowners will be compensated for a portion of the development rights.
- All properties subject to these agricultural conservation easements remain in private ownership.
 - No fee simple, land transfers, or condemnation.
- If the property is sold or inherited, the terms and conditions of the conservation easement move with the land to the new owner.



What are the Primary Restrictions of a Conservation Easement?

- Primary restrictions
 - Residential development*
 - Commercial development
 - Industrial and commercial uses outside of agricultural and customary rural enterprises
 - Subdivision of the property
 - Mining
 - Dumping and trash
 - Commercial signage
 - Military: large towers, upward-facing lights, and other developments that hinder military training



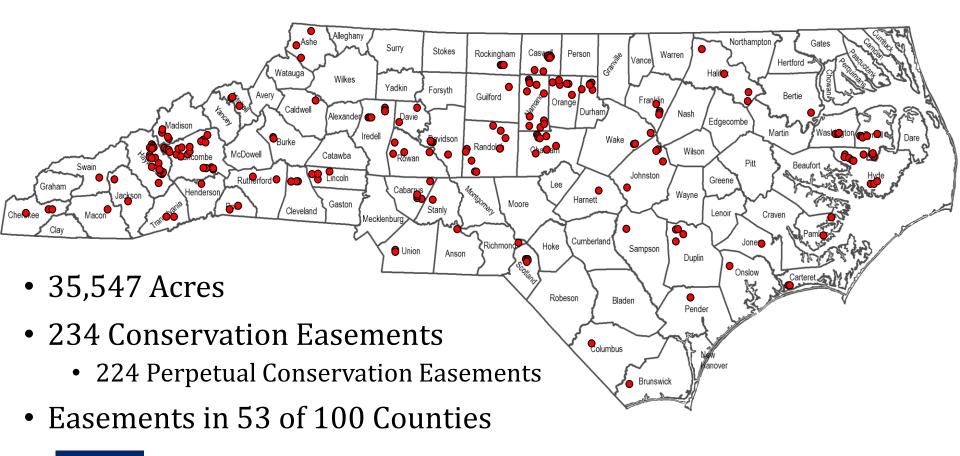
What Rights are Retained under a Conservation Easement?

- Right to Privacy
 - The land remains in private ownership. The easement does not grant public access to land.
- Right to Farm
 - Ability to change uses of the land (ag, horticulture, forestry)
- Timber harvest
- Right to Customary Rural Enterprises
 - Agritourism, Ecotourism
- Construction as permitted in easement language and within farmstead building envelopes
 - Ag structures, residential, farm support housing, accessory structures
- Low-impact, non-developed recreational activities
 - Hunting, fishing, birdwatching, hiking
- Water rights



North Carolina Department of Agriculture and Consumer Services Farmland Preservation Division

Agricultural Conservation Easements Funded by the ADFP Trust Fund



North Carolina Department of Agriculture and Consumer Services Farmland Preservation Division

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What are the Funding Options?

- NC Department of Agriculture and Consumer Services Agricultural Development and Farmland Preservation (ADFP) Trust Fund
 - Standard Appraisal Program
 - Present-Use Value Program
- US Department of Agriculture Natural Resource Conservation Service (NRCS)
 - Agricultural Conservation Easement Program (ACEP) Agricultural Land Easement (ALE)
 - Regional Conservation Partnership Program (RCPP)
- Department of Defense Readiness and Environmental Protection Integration (REPI)
 - US Air Force
 - US Navy/US Marine Corps
- County Programs

- Landowner In-Kind Donation of Value
 - Eligible for a federal tax deduction for qualifying perpetual conservation easements



Farmland Preservation Starts with the Landowner

- Without willing landowners, there is no farmland preservation
- Without local support and willing partners, like county governments and land trusts, agricultural conservation easements cannot be created
- Without funding sources, like local, state, and federal easement programs, there are no financial incentives to compete with offers for other land uses



Local Funding for Farmland Preservation

Current Examples in North Carolina

- Rollback Tax from Withdrawal From Present-Use Value
 - Direct connection between land loss and land preservation
 - Varies by year and subject to development and economic trends
- Bonds
 - Supported by voters
 - Known, and usually large, amount for a set number of years
 - Future of the program may be uncertain
- County Sales and Use Tax
 - Increasing population drives funding levels and preservation needs
 - Trust fund helps secure funding for conservation projects
 - Higher taxes



North Carolina Department of Agriculture and Consumer Services Farmland Preservation Division

"Food Requires Agriculture. Agriculture Requires Land."

Why Preserve Farmland?

Agricultural	Economic	Environmental	Public Policy	Quality of Life
Food Security, National Security	Supporting NC's Top Industry - Agriculture	Reducing Runoff, Impervious Surfaces	Voluntary Program, Private Ownership	Our Shared Agricultural Heritage
Long-term Viability of Farms and Forests	Stabilization of Ag Operations	Management to Improve Soil and Water Quality	Revenue Neutral for Counties	Family Legacies
Reducing Fragmentation and Sprawl	Giving Landowners a Choice	Climate Resiliency	Ag Lands are Net Providers of Tax Revenue	Recreation, Agritourism, and Rural Viewscapes

Why Choose Agricultural Conservation Easements?

- The land remains in private ownership
 - Voluntary legal agreement
 - All agricultural conservation easements remain on the county tax rolls
 - Agricultural lands use fewer tax dollars than they generate. Working lands are net providers of local tax dollars, rather than net users.
 - 98 percent of Cycle 17 applications were enrolled in Present-Use Value
 - Agricultural conservation easements allow land to remain in Present-Use Value



Why Choose Agricultural Conservation Easements?

- Landowners are compensated for the removal of the development rights from the property
 - Real estate transaction while maintaining ownership
 - Federal tax deduction of donated value that is supported by a qualified appraisal
 - IRC Section 1031 like-kind exchanges of conservation easements
 - Payoff or subordination agreement required
 - Taxable event
 - Pay down debt, expand operations, purchase additional property, savings and investments



Why Choose Agricultural Conservation Easements?

- "Food requires Agriculture. Agriculture requires Land."
 - Agriculture is North Carolina's top industry, accounting for one-sixth of the state's economy and employees
 - Agriculture and agribusiness amount to almost 16 percent, or \$111.1 billion of the \$716 billion gross state product
 - Working lands provide fresh, local foods to North Carolina residents and quality products across the country and around the world



North Carolina Department of Agriculture and Consumer Services Farmland Preservation Division



www.ncadfp.org









Identifying Information

All applicants must be a private nonprofit conservation organization or a county
Project Title
Primary county of proposed conservation easement
Landowner(s) agreeing to the restrictions of the conservation easement (available for review at
https://www.ncadfp.org/downloads.htm)
Length of term of the proposed conservation easement (perpetual; 30, 40, or 50-year term)
Number of total acres in the proposed conservation easement

Private Conservation Nonprofit Eligibility

Have you previously received a contract from the ADFP Trust Fund before?

Applicant Information

Applicant Organization
Applicant organization mailing address
UEI Number
Applicant Tax ID Number
Applicant Fiscal Year End (Month and Day)
Primary applicants contact name
Primary applicants contact title
Primary applicants phone number (Office and Mobile)
Primary applicants contact email

Property Location

Property physical address		
Latitude and longitude coordinates of the proposed property's physical location (<u>https://www.latlong.ne</u>		
Parcel Identification Numbers (PIN) for each parcel included in the proposed conservation easement		
(https://www.nconemap.gov/pages/parcels)		
Is the entire parcel accessible from a public road or is there an insurable, unconditional, and transferable		
legal right of recorded access for the term of the easement?		
Attach map showing access from a public road or evidence of an insurable, unconditional, and transferable		
legal right of recorded access.		

Land Ownership Information

	Specification of ownership structure of property (one individual owner, two or more individuals, C Corp, S
	Corp, Partnership, Trust/Estate, LLC)
	List of all parties that have an interest in ownership of the property (marital interest, members of LLC,
	partners, shareholders, beneficiaries, etc.)
	Certification that all land parcels in the proposed conservation easement are in the same ownership
	structure

Property Ownership

Mailing address the same as the property address
A General Warranty Deed or Last Will and Testament to verify ownership of property
(Quit Claim Deeds are not accepted as proof of ownership)
Written and signed authorization from all properties with an interest in the ownership of the property

An Option to Purchase an ADFP Agricultural Conservation Easement signed by all parties with an interest in the ownership of the property

Acknowledgement of a lien on the property

Description of Land Unit Subject to Proposed Conservation Easement

If part of a larger operation, number of acres in the total operation
Number of acres in the proposed conservation easement based on land use (cropland, pasture, forestry,
horticulture, aquaculture, water/natural areas, farm support areas)
Map of proposed conservation easement that includes the following:
Prime, unique, or soils of statewide importance
Conservation Easement Boundary
All Existing Structures
All Proposed Farmstead Building Envelopes broken down by:
a. Existing Residential
b. Future Residential
c. Farmstead
d. Farm Support Housing
Species and approximate number of livestock, poultry, and aquaculture on the farm
Species and acres of crops and forestry
Letter from USDA-NRCS or a local soil and water conservation district (SWCD) certifying percentage of
prime, unique, or soils of statewide importance within the boundaries of the proposed conservation
easement

Landowner Information

	Upload one of the following documents from calendar years 2022 or 2023 to verify economic interest as a
	producer of an agricultural/horticultural operation:
	- 578 producer print/crop report
	- Livestock bill of sale
	- Fertilizer bill
	- CCC-902 form
	- Farm lease agreement
	- Proof of crop insurance
	or
	Upload one of the following documents to verify economic interest as a producer of a forestry operation:
	- Forestry management plan
	- Receipt of timber sale
	Specify if there are any other private entities with an economic interest as a producer in the agricultural
	production as defined in NC Statute 160D-903
	<u>GS 160D-903.pdf (ncleg.gov)</u>
	CCC-860 form that has been filed with USDA to certify status for any producer listed in the application as
	any of the following:
	- a limited resource farmer or rancher (<u>https://lrftool.sc.egov.usda.gov/</u>)
	- a beginning farmer or rancher (<u>https://www.farmers.gov/your-business/beginning-farmers</u>)
	- a socially disadvantaged or veteran farmer or rancher (<u>https://www.usda.gov/partnerships/socially-</u>
	disadvantaged-farmers-and-ranchers)
	One of the following documents to verify membership with the Got to Be NC program:
	- A copy of a Got to Be NC membership acceptance letter
	- A screenshot of the specific company/farm/group on the Got to Be NC website
	(https://gottobenc.com/find-local/)
	One of the following documents to verify membership with the American Tree Farmers program:

- A certificate of participation
- A forest stewardship program that is no more than ten (10) years old
One of the following documents to verify active participation in the Century Farm Family program:
- A certificate of participation
A screenshot of the specific farm on the NCDA&CS website
(http://www.ncagr.gov/paffairs/Century/location.htm)
Are the proposed agricultural conservation easement acres currently enrolled in Present-Use Value (PUV)
taxation?
A 2021 or 2022 tax card or property record card to verify the property's current county zoning
A signed letter from the county VAD administrator to verify membership in the county's VAD/EVAD
program
Specify if the proposed agricultural conservation easement acres are in the immediate vicinity of other
agricultural commodities as defined in NC Statute 160D-903
<u>GS 160D-903.pdf (ncleg.gov)</u>
A proximity map showing the proposed property and other agricultural conservation easements within 4
miles (https://www.ncmhtd.com/adfp/conservation/)

Land Management and Use

Lanu	i Management and Use
	 One of the following documents to verify current use of a land management plan on the proposed property: A signed letter from USDA-NRCS or a local SWCD that there is a current conservation plan on file A copy of the current conservation plan signed by the landowner and USDA-NRCS A signed letter from the NC Forest Service or a private forester stating that a current forest
	 management plan is on file A copy of the current forest management plan signed by the landowner and the NC Forest Service or a private forester
	Specify when the last time the proposed conservation easement property was used for agricultural production as defined in NC Statute 160D-903 GS 160D-903.pdf (ncleg.gov)
	 One of the following documents to verify that the property has been used for agricultural production within the last four (4) years: A timestamped photo of crops or crop residue in the field A 578 print/crop report A signed letter from the NC Forest Service or a private forester verifying active timber management A timestamped photo of livestock on pasture A receipt of timber sale A livestock bill of sale
	Stated if there are any local, state or federally owned lands that are managed for the protection and use for agriculture, plants, forestry, wildlife, or cultural sites within two (2) miles?
	A proximity map identifying public lands used for agriculture, plants, forestry, wildlife, historic, or cultural sites with the proposed property identified within a 2-mile radius
	Screenshots from https://repi.osd.mil/map/ to verify that the proposed property falls under a designated military training route or adjoins a military base or training parcel. To provide documentation for the military question on the conservation easement application, please follow the guidance below: Navigate to https://repi.osd.mil/map/, and turn the following layers on: - Military Training Routes (MTRs) - Special Use Airspaces (SUAs) Under Eastern North Carolina, click the right point arrow beside the checkbox to show additional options: - Select REPI Partnership Opportunity Area(s) and DoD Installations. - Unselect Counties and North Carolina Counties.

	A proximity map identifying the proposed property in relation to nearby or adjoining city limits,
	extraterritorial jurisdiction, or residential developments (a tax card or property record card may also show
	the extraterritorial jurisdiction).
	Photos of any non-compatible land uses on the proposed agricultural conservation easement acreage such
	as trash piles, waste dumps, soil erosion, or alternative management that has diminished soil production
	which will inhibit or demise future agricultural production

Overview of Proposed Conservation Easement and Scope of Work

Background on the ownership and use of the proposed easement property. Include information on the history of the operation, local agricultural economy, and regional interests.
Brief description of the proposed conservation easement.
Any threats that may convert the proposed conservation easement to non-agricultural development within the next five (5) years, including condemnation, loss of supply and market infrastructure, inheritance, or estate issues, etc.
Describe any conservation or environmental practices currently implemented on the property.
Explain any limitations on production due to lack of, or distance from, farm and agribusiness infrastructure (e.g. equipment parts and repair, feed, seed, fertilizer, chemicals, markets, processing, etc.).
Explain any actions to transition the land to future farmers or foresters.
Provide specific outcomes to be achieved through this conservation easement project.
Provide any community needs that this conservation easement project serves
Photographs of typical landscape, structures, and equipment on the proposed conservation easement.
Permission to publicly use photos submitted with the application and photos taken during site visits.
Any additional supplemental documentation to support the application.

Budget

*Please review the "Conservation Easement Application Budget Instructions" and "Conservation Easement Budget Worksheet" prior to proceeding with this portion of the application.

Yes or No if donating the full value of the proposed conservation easement

Determining the Estimated Easement Purchase Value

Yes or no if there is a Uniform Standards of Professional Appraisal Practice (USPAP) or Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA or "Yellow Book") appraisal of the proposed conservation easement land parcel that determines the development rights value that will be removed (appraisal current as of January 1, 2022)?
Yes or no if there is a Letter of Opinion or Restricted Use Report by a Qualified Appraiser with an effective date since January 1, 2022?

ADFP Funds for Present Use Values of Property

Select primary county
Yes or No for your property having approved Present Use Value County property tax values
Upload a current or 2022 tax card or property record card verifying the property's market and agricultural land use values.
Present use value (PUV) of the property

Entity Eligibility

List of current Board Members, Board of Supervisors, or other oversight council.
Organization's current conflict of interest and certification policy statement.
Determination of any conflicts of interests.
Describe all relevant conflicts of interest pertaining to this conservation easement application and the
process for how your organization will mitigate these conflicts throughout the grant timeline.

Required Items for Private Conservation Non-Profit Applicants

Articles of Incorporation
Sworn Statement of No Overdue Taxes
Organization By-laws
List of current grants held by the non-profit organization

Required Items for <u>New</u> Private Conservation Non-Profit Applicants

IRS Federal Tax-Exempt Letter and 501(c)(3) Certification Form

Articles of Incorporation

Organization By-laws

Letter from legal staff certifying the organization can legally hold agricultural conservation easements

These documents should be emailed separately from the application to <u>evan.davis@ncagr.gov</u> and <u>jonathan.lanier@ncagr.gov</u> with the subject line "ADFP Trust Fund Grant Eligibility Review."

Refer to the Conservation Easement Application Budget Instructions document for information on the budget section of the application.