

More Families Adopting Lasting Limits to Preserve Land

By KATHARINE Q. SEELYE

CENTREVILLE, Md. — James Wood is showing off his family farm, steering his van along an emerald carpet of foot-high soybean plants, pointing out a neglected brick manor house built in 1700 and an overgrown family cemetery. The land was part of a 2,000-acre grant to Mr. Wood's ancestors from Lord Baltimore in 1667. As it has been passed from generation to generation, the original parcel has been subdivided many times.

What remains in the family is about 400 acres of farmland along the Chester River, off the eastern shore of Chesapeake Bay. With land values soaring and pressure from developers intensifying, Mr. Wood says he is able to keep this parcel intact only through a conservation easement, a legal mechanism that is an increasingly popular route families take both to protect land permanently and reduce their taxes.

As families face difficult decisions over how to hold onto their land, many are turning to conservation easements, which allow an owner to live on the land, sell it or pass it on to heirs while a land trust, financed by private donations, guarantees that it will never be developed. But skeptics question the ability of local land trusts to protect the land and the equity of conservation easements.

Local land trusts protect more than 6.4 million acres of open land, twice the size of Connecticut. This is a 234 percent increase over the acreage in local land trusts a decade ago, according to the Land Trust Alliance, which promotes voluntary land conservation. There are no accurate figures on how much land is protected by national land trusts; the Nature Conservancy alone has preserved 12 million acres.

To qualify for a conservation easement, land must have some historic, scenic or conservation value, like a wetland, farmland, forest or habitat for wildlife. The owner pledges not to build on it, which means the land loses much of its value. In exchange, the owner qualifies for a tax-deductible charitable donation. The also owner pays lower property and estate taxes. The idea is that all citi-



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Julia Wood, 10, on land that has been in her family for centuries. The family has arranged to keep 400 acres intact with a conservation easement.

zens benefit from the maintenance of open space even though the public does not have access to much of the land.

The number of local land trusts has climbed to 1,263, a 42 percent increase over 1990. And for the first time since 1891, when the nation's first nonprofit land trust was founded in Massachusetts to protect parks in Boston designed by Frederick Law Olmsted, open space is protected in all 50 states. California has the most land, 1.2 million acres, protected through local land trusts. New York has 552,000 acres, and Mon-

tana, 505,000 acres.

The most popular method of protecting this land is the conservation easement. Of the 6.4 million acres in local land trusts, 2.6 million acres are in such easements, a 476 percent increase over the number of acres protected this way in 1990.

Jean Hocker, president of the Land Trust Alliance, attributes this movement to a fierce desire by people to preserve the nation's dwindling open spaces.

"The public is increasingly not just concerned but dumbstruck by the disappearance of open space and

they aren't willing to sit by and watch it happen," Ms. Hocker said.

"The dramatic increase in property values means that people who didn't consider themselves particularly wealthy, and may not be in terms of their liquidity or income, suddenly are very wealthy," she added. "It's an asset they have to deal with."

Grover Norquist, president of Americans for Tax Reform, said mechanisms like conservation easements offer a "sweetheart deal" for the wealthy.

"The government is handing out

free tax relief for you to maintain your land," Mr. Norquist said.

He predicted that in 20 years, such mechanisms will be thwarted because the land trusts will not have been able to protect the land.

"People will say it was a quaint thought that handing land to the government was the same thing as protecting it," he said. "How many forest fires do you have to have before you realize the government isn't protecting the land?"

Mr. Norquist also objects to con-

Continued on Page B10

More Families Adopting Limits to Preserve Land

Continued From Page B1

servation easements on grounds of social equity.

"The biggest losers here are Hispanics and upwardly mobile African-Americans who want to move to the suburbs and do what other people do and are being told that in the name of the environment, we are locking up all the areas that swarthy people might move to," he said. "There's a reason the environmental movement is all white."

Julia Mahoney, an associate professor of property law at the University of Virginia law school, said a major problem with conservation easements was that they last into perpetuity.

"To speak of preserving any land forever is nonsensical," she said. "Anyone who is considering a conservation easement ought to recognize that the chances of anyone feeling bound by it 100 years from now are low."

For many families, the decision to seek an easement is complex and often divisive, for just these reasons. In addition, many families are split between those who want to profit from their land and others who want to preserve it. The idea of doing something in perpetuity can also be frightening, especially as parents worry that they might be depriving

their children of an asset they may one day need.

Rob Edgen, executive director of the Eastern Shore Land Conservancy, which arranged the easement with the Wood family farm, said easements best suit families motivated to preserve the land.

"There has to be a strong ethic for the land, an almost Puritanical scorn for someone who develops the land," Mr. Edgen said. "And nobody wants to be the generation that lost the land. There's a lot of negative energy in that."

As in many places, the pressure from development here is intense. Each year, 53,000 acres of land are developed in the Chesapeake watershed, about one acre every 10 minutes, according to the Chesapeake Bay Alliance.

At this rate, more land will be converted into houses and malls in the Chesapeake watershed in the next 25 years than in the previous three and a half centuries.

Because of the difficulty of sorting out the different interests of different family members, some families turn to facilitators or mediators to help them decide what to do with their land.

Olivia Boyce-Abel, a mediator devoted to such issues, runs a consulting firm in Santa Cruz, Calif., called Family Lands Consulting. Ms. Boyce-Abel, who said she was propelled into the field by litigation over her mother's 3,000-acre estate in South Carolina, says more and more people feel they need mediation. She



Susana Raab for The New York Times

Howard Wood, with his son James behind him and granddaughters Julia and Laura, at a 100-year-old boathouse that is part of a large parcel of land the family has protected from future development.

is booked through the end of the year.

"I try to bring people to consensus," she said, first conducting confidential interviews with each family member and often attending family meetings.

"The biggest problems I find are a lack of clear communication and not looking at the diversity of needs among family members," she said.

She added that family dynamics are often such that even sophisticated people find themselves tied up in knots. "I have top C.E.O.'s who tell me, 'I can manage my company but not my family.'"

In the Wood family, an aunt was a facilitator, and she used those skills at a major family meeting, using worksheets to show people their op-

tions.

"The family really came together and made some heavy decisions real quick," Mr. Wood said. "The way I look at it, the land, yes it has value, but it's not a commodity for us. It was more this sentimental connection to the land, the river, the summers, our ancestors, and the legacy, the long history."

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