

# 'Protected for perpetuity'

Land preservation shields acres from development, provides tax benefit, but also affects value and salability

By Susan Shackelford

**D**ave Hoyle Jr. is a real estate appraiser and developer in Gaston County. Several years ago as he considered the 60 acres he owned along the South Fork River, he thought about three options: Develop it, preserve it for future generations or keep the land to pass along to his sons.

He chose the latter two options, and he used a Charlotte-based land trust to make it happen.

"The land was along about a mile of riverfront on the South Fork, the vast majority of which you can't build on," says Hoyle, a principal in Pearson, Gary & Hoyle Realty and the owner of Hoyle Appraisal Services and Land Development. "The land had been in my family for a long time, and I didn't anticipate ever selling it. I wanted to leave it to my kids."

## A place for heirs to hunt and fish

Hoyle is also a great lover of the outdoors. He hunts and fishes and serves on the N.C. Wildlife Resources Commission.

With all that in mind, he began to ponder what he could do to protect the land poorly suited for development and still have property for his sons. "I thought, 'Hey, I could get the tax benefit for protecting 40 acres along the river, which meant a lot to my grandfather, my

grandmother and my dad, and my boys can go there to hunt and fish," recalls Hoyle, whose father is N.C. Senator David Hoyle Sr. The remaining 20 acres could go to his sons to do with what they please.

And that's exactly what Hoyle did in 2006. He worked with the land trust, the Catawba Lands Conservancy (CLC), to make it happen. CLC works in Catawba, Gaston, Iredell, Lincoln, Mecklenburg and Union counties and has preserved more than 7,500 acres since its incorporation in 1991.

CLC and other land trusts are small nonprofits that assist landowners with preserving land for forests, wetlands, watersheds, plants, wildlife, farmland, scenic beauty, recreation, historical significance, etc. Through various conservation tools, landowners give up, or extinguish, development rights on all or a portion of the property. The landowner continues to own the property and can sell it if desired.

Hoyle donated the development rights on the 40 acres to CLC, which in turn put a conservation easement on the land. The easement gave Hoyle a tax credit and helped protect the water quality along the river, a high priority for CLC. The South Fork is a major branch of the Catawba River, which is the major source of drinking water for the region.

"I'm proud of it — this land is protected for perpetuity," Hoyle says. "If CLC were ever to go out of business, it (the easement) will

roll to another group. The acres will never revert back to land that could be developed.”

### **Easier to protect, harder to sell**

Land conservation is attractive in many ways, but Hoyle quickly notes it's not for everyone. When development rights are given up on land, it usually makes it harder to sell. “Most people don't like to buy property that's restricted,” Hoyle says.

The easement also reduces the value of the land, at least initially. “There are a lot of people who want to protect the family farm,” Hoyle says. “But when they find out it will be worth \$300,000 when the easement is placed on it and \$1 million without it, there are 7,000 reasons why they change their minds. I can't fault them for that. They have to make the best financial decision for themselves, and sometimes it's not to do a conservation easement.”

Conversely, an easement will often raise the value of adjoining land because development is prohibited or severely restricted by the easement. Realtors® selling neighboring properties need to “understand it (an easement) as an amenity,” says Robin Underwood, who is based in Huntersville and owns the South Carolina Conservation Credit Exchange.

Easements are the most common way land trusts work with landowners. Landowners either donate or sell development rights to receive the easement, which will greatly restrict or prohibit the land from development and can provide the landowners federal  
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Robin Underwood,  
S.C. Conservation  
Credit Exchange

## Area land trusts

Land trusts are nonprofits that work with landowners to conserve property. The land trusts listed serve the Charlotte region and nearby areas.

There is also good overall information on land trusts at [www.landtrustalliance.org](http://www.landtrustalliance.org) and [www.openspaceprotection.org](http://www.openspaceprotection.org).

### **Catawba Lands Conservancy**

704-342-3330, [www.catawbalands.org](http://www.catawbalands.org)  
Serves Catawba, Gaston, Iredell, Lincoln, Mecklenburg and Union counties

### **Foothills Conservancy of North Carolina**

828-437-9930, [www.foothillsconservancy.org](http://www.foothillsconservancy.org)  
Serves Alexander, Burke, Caldwell, Catawba, Cleveland, Lincoln, McDowell and Rutherford counties

### **Katawba Valley Land Trust**

803-285-5801, [www.kvlt.org](http://www.kvlt.org)  
Serves Chester, Kershaw and Lancaster counties in South Carolina

### **LandTrust for Central North Carolina**

704-647-0302, [www.landtrustcnc.org](http://www.landtrustcnc.org)  
Serves Anson, Cabarrus, Davidson, Davie, Iredell, Montgomery, Randolph, Richmond, Rowan and Stanly counties

### **Nation Ford Land Trust**

803-547-8140, [www.nationfordlandtrust.org](http://www.nationfordlandtrust.org)  
Serves York County, South Carolina

### **Trust for Public Land**

704-376-1836, [www.tpl.org](http://www.tpl.org)  
Serves North and South Carolina

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and tax credits, provided they make enough money to benefit from them. For more on tax incentives and conservation options, go to [www.openspaceprotection.org](http://www.openspaceprotection.org).

“We work with willing landowners who want to donate (development rights),” says Jeff Updike, executive director of Nation Ford Land Trust, which focuses on York County. “You’re not forcing people. You’re working with people to accomplish something they want to do. They need to seek their own legal guides and tax advisers. We are (the organization) where the rights are donated, and it is our job to monitor it to make sure nothing happens on the land that shouldn’t.”

Hoyle strongly recommends that landowners seriously considering conservation measures talk to their accountants about the pros and cons. “‘Sentimental’ is a tough, tough thing,” he says. “It can cost people a lot of money because they let their heart get in the way of a smart business deal. I appreciate the value of land conservation, but it will cost you money if you’re not careful. Few people think about the fact their kids are going to be inheriting their land, and they don’t look at what the impact is going to be on them in 20 years.”

**Some development rights can be bought**

While most local conservation easements result from landowners donating development rights to all or a portion of their property, land trusts occasionally buy development rights.

“When CLC first started, a lot of people were able to donate development rights,” says Rhea Kelley, CLC outreach and education director. “Now a lot of people need to be able to access funds from their land,” especially with the downturn in the economy. “If they have land they want to conserve, we may be able to write a grant application if there is high conservation value to the land. We try to access money from trust funds so we can pay landowners for the development rights.”



Rhea Kelley,  
CLC outreach and  
education director

But access to such funds is severely reduced in today’s economy. Land trusts generally depend primarily on donations and memberships to run their operations. When they want to buy development rights, they often apply for grants from state or local trust funds.

In North Carolina, state trust funds come from the state’s portion of deed stamps that sellers pay in real estate transactions. With real estate transactions down, there are fewer dollars. Furthermore, North and South Carolina government leaders have already signaled that funds that would normally go to the trust funds to conserve

land will be diverted because of budget deficits. The budget for York County Forever, a trust fund for York County, won’t be determined until after press time.

**Calls from developers, individuals on upswing**

“Funds are hard to come by,” says Jason Walser, executive director of the LandTrust for Central North Carolina, a Salisbury-based land trust that serves 10 counties (see page 31). “At the end of the day, selling their development rights is what a lot of people would like. They get some money in their pocket and maybe some tax benefits. We’ve done several of those ... but we get almost three times more requests than we can accommodate.”

Developers unable to move ahead with projects in today’s market are among those calling land trusts. They “are under a lot of financial pressure, especially if they’ve leveraged the property, and they are not interested in anything but a complete, wholesale purchase,” says Davis Cable, CLC executive director. “They are feeling some heat from the bank and are interested in getting out.”



Davis Cable,  
CLC executive  
director

Families and individuals are also calling. “They have looked at the family or hunting land as a luxury and now they don’t have that luxury with stocks crashed,” Walser says.

In early March, CLC’s Cable was working on a way to take advantage of the burgeoning land opportunities. “Nothing is moving, and there is a big spread between ‘bid’ and ‘ask’ right now,” he says. “I think we have demand on our side. We are looking into establishing a private equity fund.

“We would corral private capital into a revolving acquisition fund, where we put in place the opportunity to conserve key properties by buying them and holding them, and then selling them for a reasonable return,” Cable explains. “Investors would make a return and provide a great return to the community.”

Michelle Delapp, broker-in-charge (BIC) at Coldwell Banker Triad Realtors® in Lexington, invited the LandTrust’s Walser to speak to her agents. She believes in a balance between development and open space.

“It gets down to individual rights,” she says. “People have a right to put their land with a land trust, or to sell and develop it. I appreciate both, and we need both. If you take out one spoke of the wheel, the wagon is going to break down. We need all of it to work together.” 

