

A Critical Mass Approach to Farmland Protection

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Introduction: The Limitations of Conservation Easements

One of the challenges of relying on conservation easements to protect farmland is to ensure that protected farms are able to remain viable...in short, to keep “working landscapes” working. Yet conservation easements are, by design, instruments of prevention: they preclude development, rather than affirmatively ensuring that something such as farming occurs on a property. Conservation easements forever preserve the opportunity to farm, which is a tremendous public benefit in and of itself. But it is important to the future of agriculture in this country to find ways within an easement program to move beyond merely preventing development, to encourage the retention of farming as a land use and economic activity on the land.

The Critical Mass Approach to Farmland Protection

One such way of helping ensure farm retention is to create a “critical mass” of farmland protected by conservation easements. This entails securing conservation easements on a core or cluster of farms in a community or region, thereby assuring a setting favorable for farming. This provides the farmer who granted the easement with some security that the land surrounding the protected farm will also remain open and in farming, and that vital farm support services will find it economical to remain in the vicinity. In short, securing a critical mass of protected farms helps each protected farm by keeping the community as a whole a place where agriculture has a fighting chance.

Seen in isolation, an individual farmer’s decision to place a conservation easement on their farm represents a statement of faith in either of two things: 1) that they and their families will always remain in farming; or 2) that they will be able to sell the encumbered farm to another farmer. This can be a hefty decision, especially in suburbanizing locales, where high taxes, increasing conflicts with residential neighbors, dwindling farm support services, and other obstacles tend to dampen confidence in the future of farming.

If a critical mass of farms is secured, however, each farmer's decision to place their land under easement is reinforced by their neighbor's decision to do so as well. This can breed a confidence in the future, as a collective decision takes hold in the community. The critical mass ensures that a pool of affordable and protected land will always be available for farming, and also tends to increase local appreciation for the community's agricultural heritage. Non-farmers begin to understand the realities faced by farmers today, which can lead to decreased conflicts between suburban and agricultural land uses, and hopefully to farm-friendly planning and zoning decisions at the local level. All of this makes an area more favorable for farming to survive and thrive.

What is "Critical Mass"?

There is no universal definition of a critical mass of protected farmland. Professor Howard E. Conklin of the Cornell University College of Agriculture and Life Sciences was discussing the importance of critical mass to agriculture as early as the 1960's. More recently, the idea was discussed at a March 1998 farmland preservation conference in Boiling Springs, Pennsylvania, where panelists at a workshop were asked the question, "how much preserved farmland is necessary to assure a viable agricultural economy?" The overall consensus was that critical mass is "a locally determined margin of viability," with characteristics that will reveal themselves in each individual situation (Farmland Preservation Report, unpublished reportage from the Boiling Springs conference, Bowers Publishing, Inc., March 1998). This flexible definition implies that there is no "one size fits all" yardstick to measure critical mass; it is reminiscent of the now-famous definition of obscenity delivered in the 1980's by then-United States Attorney General Edwin Meese: "you know it when you see it."

Building on prior thinking on the topic, Scenic Hudson considers critical mass to be the conservation of the land resources of a sufficient number and configuration of farms to help assure their sustainability. The benefits of protecting a critical mass of farms include creating a pool of farmland that is affordable to farmers; stabilizing the land base, assuring a favorable environment for farm families to make the investments and take the risks necessary to farm; and protecting a community of farms, immediately creating a degree of invulnerability to suburban encroachment.

Scenic Hudson's Pilot Project: A Case Study of the Critical Mass Approach

Scenic Hudson began working on the critical mass approach after conversations with many farmers in New York's Hudson River Valley revealed a deep concern that a purchase of development rights program not simply result in a collection of protected scenic landscapes scattered across the Hudson Valley, a collection of "farm museums," i.e., remnant farms or "reservations," surrounded by suburban sprawl, visited by a curious public interested in learning about the rural life of a bygone era. We also heard from the Hudson Valley's farmers of their need to find strength in numbers, to avoid the vulnerability of "going it alone" in putting their land under easement.

The message was clear: many of the Valley's farmers hoped for a long-term commitment to the protection of working landscapes, at a scale which would help keep agriculture alive in the region as an industry. In response, Scenic Hudson began looking for farming communities in the Hudson River Valley which would be appropriate and interested in a purchase of development rights project aimed at protecting a critical mass of farms.

Agriculture in the Hudson River Valley

Perhaps surprisingly, agriculture and tourism remain the top two revenue-generating industries in New York State. There are 7.5 million acres of land in agriculture statewide, which constitutes roughly 25% of the land base. In the Hudson River Valley region, which runs north-south from the Albany area to New York City, agriculture remains a significant land use, but has been in decline in recent decades. Total farm sales in 1994 had a market value of over \$200 million market value, but between 1982 and 1992, the Valley experienced almost a 25% loss in farmland to development. A report by the Hudson River Valley Greenway Council in 1991 found that approximately 18,600 acres per year of farmland were lost to development in the mid- to late-1980's ([A Hudson River Valley Greenway: A Report to Governor Cuomo and the New York State Legislature](#), Hudson River Valley Greenway Council, February 1991).

The reasons for this decline are familiar: high property taxes (among the highest in the nation), low prices for farm commodities, the temptation to sell land for development, and increasing conflicts with non-farm neighbors...one of the most visible symptoms of suburban sprawl.

These trends continue today. A 1996 report by the American Farmland Trust, "Farming on the Edge," designated the Hudson River Valley as one of the nation's agricultural "hot spots," where development pressures and prime farmland are on a collision course. All of this is symptomatic of the Hudson Valley's location: many of its most productive farms are within a two-hour drive of New York City, making them attractive for exurban development on the fringes of the metropolitan area.

Yet this proximity to one of the largest metropolitan areas in the world has advantages for agriculture as well: a transition is apparent in the Hudson Valley, in which some dairy farms are being retooled into niche markets which can take advantage of direct sales to consumers, restaurants and the like through farmers markets, pick-your own operations, etc. Although only a small part of the market to date, the trend is growing as farmers take advantage of consumer desire for fresh, locally-grown produce provided by known growers.

Choosing a Community

After thorough examination, in 1997 Scenic Hudson chose the Town of Red Hook for its pilot project. This community in northern Dutchess County, within a two-hour drive from New York City, was chosen for a variety of reasons based on well-thought out criteria. These included: farmer receptiveness to selling development rights; the existence of a critical mass of farmland not already overtaken by suburban sprawl (Red Hook has over 8,000 acres of land in state-designated agricultural districts); the likelihood of farm conversion, based on long-term development pressures and individual ownership situations; the excellent productive qualities of the soils in the community; local attitudes toward farmland protection, as demonstrated by the advocacy work of local community organizations; the overall quality of the candidate farms, in terms of land and business management and resource stewardship; and finally, the location of the community within a highly scenic and historically-significant stretch of the Hudson River corridor, an important criteria for an organization whose mission is the protection of the scenic, natural, and historic resources of the Hudson River Valley.

We also determined that 1,000 protected acres was an achievable and appropriate threshold for reaching a critical mass. Although protecting 1,000 acres would not in and of itself be sufficient to create all of the conditions necessary for agriculture to thrive, it would be a significant positive step, a building block or foothold of farmland protection in the community. This achievement could be built upon by local community efforts to keep agriculture alive. In short, it would be the “shot in the arm” that many agricultural communities need.

The Advisory Committee

In response to feedback from area farmers, Scenic Hudson established an advisory committee early on in this process, made up of farmers from different agricultural sectors, as well as representatives from farm service agencies, the Hudson River Greenway Council and Conservancy, local land trusts, and farm advocacy groups such as American Farmland Trust. The committee was instrumental in assisting Scenic Hudson in hashing out various issues, including the restrictions to be included in conservation easements, and in increasing the comfort level of farmers in dealing with a land trust that also is an environmental advocacy organization.

The Model Conservation Easement

One of the most tangible contributions of the Farmland Protection Advisory Committee was the creation of a model conservation easement which was then tailored to individual farms. The easement prevents development, protects sensitive environmental resources, and provides broad flexibility to the farmer to be able to adapt and change the farm in response to market needs. The easement includes the following unique provisions:

- * Division of the property into 3 units with different restrictions for each of: the nucleus of the farm’s built-up area (“farmstead complex”); cultivated areas; and sensitive environmental areas;
- * “Agriculture” is defined using the definition contained in the New York State Agricultural Districts Law, which has evolved over time and is subject to adaptation as farming evolves. This removes the concern that a conservation easement will forever preserve agriculture in whatever mode was customary during the era in which the easement was developed;
- * Farms must be managed according to “sound agricultural practices,” as defined by the NYS Agricultural Districts Law;

- * Flexibility for agriculture-related commercial activities, cottage industries, home occupations, farm labor housing, and recreational uses;
- * Subdivision is prohibited except to create smaller parcels of farmland, to allow for agriculture's changing acreage needs.

Project Accomplishments

1. Execution of the Conservation Easements. Conservation easements have been successfully executed on seven farms in Red Hook, protecting over 1,000 acres within an area known as the "Red Hook Breadbasket," defined by its diversity of viable fruit, vegetable, livestock and crop farms. The protected farms include four active orchards, including a "bicentennial" family farm of six generations, and three crop farms. The easements were acquired with funding from the Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands, established by the founders of The Reader's Digest Association, Inc. to support the preservation of land in the Hudson River Valley for the benefit of the public.

2. Farmer-to-Farmer Sales. For our project's farmers, their land is now permanently protected and affordable for farming. This factor of affordability has already played out in the case of three orchards, which changed hands to younger farmers on the day the conservation easements closed. Two of the farmer buyers were adjoining owners, who now have more than doubled their productive acreage, and the third has achieved a greater economy of scale through expanding his regional base of production.

These sales help reinforce agriculture's presence in Red Hook, bringing new energies to the cultivators of the land. Without easement-encumbered land, it would have been unlikely that these farmers could have afforded to expand their land base. Without the infusion of cash from the sale of easements and without the reduced land value resulting from the easements' restrictions, there would be no such farmer to farmer sales.

3. Synergy with State Programs; Leveraging Public Funds. Dutchess County, where Red Hook is located, was recently awarded \$365,000 from the New York State Department of Agriculture and Markets to purchase a conservation easement on a Red Hook orchard in the vicinity of our easement-

encumbered farms. This grant was precipitated in part by the existence of our protected core of farms nearby. This synergy between Scenic Hudson, the State of New York, local/county government and the farming community represents a potential for partnership, given our mutual objective of securing the land base for agricultural sustainability.

4. Model Conservation Easement. The foundation of a successful farmland protection project is an effective conservation easement. Scenic Hudson, benefitting from its own expertise and the wisdom of its Advisory Committee, has created an innovative conservation easement that balances resource protection with management flexibility for farming. Various municipalities in the Hudson Valley are now using Scenic Hudson's farmland conservation easement as their model in developing their own purchase of development rights programs.

5. Long-Term Achievements. The long-term goal of the pilot project is to help agriculture remain a viable land use and economic activity in the community, thereby maintaining a significant resource for Red Hook and for the larger Hudson River Valley community. It will take years to determine conclusively if this goal has been attained. But certain indicators will provide us, over time, with tangible benchmarks to measure long-term success. These include the extent of farm retention in the community, the growth of new farm enterprises, and the stemming of suburban sprawl, as measured by new subdivision activity in the rural areas of Red Hook. Scenic Hudson will continue to monitor these trends over time as a means of assessing the degree of ultimate success of our farmland protection efforts.

Lessons Learned

1. Building trust helps build the project. Building a successful farmland protection project requires building a relationship of trust with farmers. From the outset our approach was direct and inclusive, which has gained Scenic Hudson respect within the farming community.

2. Critical mass, not contiguous blocks. Assembling a critical mass of a 1,000 acres or more doesn't necessarily mean a contiguous cluster of farms. The purpose of securing a critical mass is to protect a

land base rich in agricultural resources and economically viable. Although desirable, to insist on strict contiguity, i.e., a “block” of farms, would have created an unrealistic hurdle for the project, since not all landowners are ready to commit to a conservation easement at the same time. “Critical mass” has more to do with overall community fabric than with geographic contiguity.

3. The importance of good references. Farmer-to-farmer dialogue is an important factor in gaining confidence and endorsement within the community. Supportive farmers act as spokespeople for the project in ways that Scenic Hudson staff could not, helping build interest among other farmers through individual conversations among peers.

4. The importance of forging alliances. Developing linkages with allied organizations -- local land trusts, county farmland protection boards, farm advocacy groups -- contributes to a grass-roots constituency supportive of farmland protection, and of the project specifically.

5. The vital role of the Farmland Protection Advisory Committee. Another of the project’s strengths has been the creation and involvement of the Farmland Protection Advisory Committee. Collectively the Committee represents a wealth of expertise involving farming, land conservation, credit issues, and land use planning, with its members known and respected throughout the greater community.

6. Involve local government. Working to protect 1,000 acres or more is a considerable project for any community. It is important in this context to keep local elected officials informed as the project develops. By being informed, local government can become a cheerleader, an advocate, and even a participant.

7. The focus on one community required substantial private funding. Funding from The Lila Acheson and DeWitt Wallace Fund for the Hudson Highlands provided the unique opportunity to focus exclusively on securing a critical mass of protected farmland in one community. Other PDR programs are usually publicly funded and lack the political flexibility to focus on a cluster of farms in solely one community; their mandate essentially requires “spreading the wealth.”

8. Farming is an industry. An easement that protects farmland and farming will look different than a traditional “scenic” easement. Provisions that are standard fare in a scenic easement, such as height

restrictions on structures, or limitations on exterior color choices, may not be acceptable to those involved in working “working landscapes.” Yet regardless of whether the easement protects scenic views or prime agricultural soils, the commonality is the protection of an open space resource.

Conclusion

The accomplishments of Scenic Hudson’s project in protecting a critical mass of farms are real. Uncertainties obviously exist regarding the long-term survival of our easement-encumbered farms as farms. But the project has secured for these farms, and for Red Hook, a foothold: the opportunity to sustain agriculture into the future without the threat of development, and with the knowledge that a significant number of other farms in the community have made the same commitment.

The project’s success can be attributed in part to good timing. Northern Dutchess County still possesses a rural character and an important agricultural economy, yet it is less than a two-hour drive from New York City. Its farmland has been worked by generations of farmers who love to farm. Protecting the land base now, while still intact, is fundamental to realizing the goal of a critical mass of protected farmland.

Opportunities now exist to replicate these successes at a time of rising public expectation across the country for saving farms and thereby stemming suburban sprawl. Collectively, communities are realizing that working landscapes are significant both to local economies and to local environments. By capitalizing on the increasing public distaste for suburban sprawl, farming advocates and open space proponents can hopefully foster increased public awareness of, and support for, purchase of development rights programs.