E Conservation Toolbox

This toolbox has been created to provide Charleston County and its member communities with a quick reference of land conservation strategies. Many of the tools defined can be used in combination, or separately to conserve greenspace throughout the County. This toolbox is divided into several distinct sections: regulatory, acquisition, land donation and management strategies. For each strategy, advantages and disadvantages of each is listed to help define the most appropriate strategy for a given opportunity.The Toolbox is provided on the following pages.

GREEN SPACE TOOLBOX

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REGULATORY MECHANISMS

There are inherent disadvantages to preserving greenspace through regulatory mechanisms. First, regulations normally apply when the land development process begins. The adverse impacts of land clearing, road building and other development activities (including fragmenting of habitat) often result in resource loss, essentially making greenspace 'protection through regulation' an after the fact exercise. Another disadvantage is that regulations are subject to change. Just as a governing body can adopt stricter regulations, a future governing body could relax or not enforce those rules. The following is a listing of regulatory strategies that have been used throughout the United States to conserve greenspace.

DESCRIPTION OF STRATEGY	BENEFITS	DRAWBACKS
Development Impact Fee: Impact fees are also known as exactions. In its simplest form, the developer is charged an easy to calculate fee. A formula may be created to decide the cost that development will impose on the community. The formula can account for the area of land affected, the number of units built, the expected market value of those units, the distance from the fire and police stations, costs of building roads, and the expected population growth resulting from the construction. The exaction can come in forms other than money. The developer can be required to provide streets, sewers, street lights, parks, or other infrastructure or amenities. The developer might also be required not to develop some portion of the land. In some cases, builders of expensive homes have been required to build some proportional number of low cost homes. The town or county can develop a comprehensive system or formula or exactions can be formulated on a case by case basis from more general criteria.	A "pay-as-you-grow" program that really has been proven to help cities keep pace with rapid land development. A particularly useful tool for Charleston County, due to its fast pace of growth and rate of change.	Can be difficult to implement, as it must meet Supreme Court rulings on "essential nexus," fair and equitable implementation. Politically challenging because impact fees are generally not favored by the development community.
Transfer of Development Rights: In some cases, a local government may want to steer development toward areas where it is more appropriate and easier to serve. Generally, the intent is to steer development away from rural areas, agricultural preservation zones, and environmentally sensitive areas and guide it towards existing cities and towns. Transferable Development Rights (TDR) programs are one way to do that. In a voluntary TDR program, the county would designate certain parts of its territory as "sending zones" and other areas as "receiving zones." " Landowners in the sending zones can sell their rights to develop houses or commercial uses to other landowners in the receiving zones, or to a third party who will eventually buy land in the receiving zone. Or, landowners in the receiving zone can buy additional development rights from someone in the selling zone.	Potentially an effective growth management tool. Resources can be protected without huge capital expenditures. Large tracts of protected land can be created in "sending" areas. Great example of this tool: Chattahoochee Hill County, Georgia.	Complicated program to establish and administer. High administrative overhead; requires professional staff assigned to program. Landowner resistance to downzoning in "sending" or higher densities in "receiving" areas. An unproven technique. Requires state enabling legislation.
Right To Farm: Since the 1970s, all fifty states have enacted "Right to Farm" laws to help protect existing agricultural operations from suits brought by people who move nearby, then claim the neighboring farm is a nuisance. Common complaints revolve around odor, noise, dust, flies, application of agricultural chemicals and slow moving machinery. Most statutes have exemptions that do not protect farms and ranches that 1) begin operation after other neighboring land uses already exist; and/or 2) are out of compliance with local, state or federal regulations. Most statutes have not been challenged in court.	Good program for protecting farm land in rapidly growing communities. Encourages farmers to continue their operations and offers legal protection for these land uses.	Depends on farmers to continue their operations, so it is not a method for long term protection of this greenspace resource.

Regulatory Mechanisms (continued)

Urban Growth Boundary: Demarcation of the limit of urban infrastructure (water and sewer extensions). UGB usually identifies a 10-20 year 'land supply' of buildable land. This has already been established in Charleston County and has been an effective tool to date.	Limits sprawl and encourages more compact development. Allows integration with a TDR program to preserve greenspace.	Requires strong countywide cooperation. Can be controversial; downzoning required outside of UGB. Raises land and housing costs inside boundary.
Large Lot Zoning: Provides for large minimum lot sizes, such as five or ten acres per dwelling unit. Development is spread over a large area, reducing density.	Maintains low density and reduces impact on certain resources, such as water resources, in rural and forested areas. Provides flexibility in building design and location to allow site protection.	Contributes to suburban sprawl. Greenspace included within each private lot. Resource areas may be scattered and noncontiguous, fragmenting forest cover and wildlife habitat. Contributes to high real estate prices. Zoning can be changed to allow in-fill development.
Cluster Development: Cluster development allows land developers to develop in a compact form at higher densities, thereby preserving greenspace within the same tract that would not be developed.	Allows for flexibility in design to protect natural resource areas located on the parcel. Construction and infrastructure costs for land developers are reduced.	Voluntary. If not implemented correctly, protected lands are often scattered and non-contiguous. Clustering may not be a preferred option for Charleston County developers. Long-term management of common greenspace may become problematic for homeowner association.
Mandatory Dedication of Greenspace: Developers are required to dedicate a portion of subdivided property (1/35 acre per dwelling unit) or pay fee for open space, greenway, or parkland.	Greenspace is protected, and recreation lands are acquired at little cost to the public.	Applies only to residential subdivision and PUD's. Limited effectiveness in preserving large tracts or corridors.
Performance Zoning: Zoning categories are based on permissible impacts to natural or historic resources, instead of a list of permitted uses. Requires impact assessment of proposed development projects.	The local land use plan directs the location of development to resource-compatible areas. Provides flexibility in types and designs of projects – many uses may be permitted in a single zone.	Effectiveness is based on knowledge of resources and the effects of impacts. Requires a detailed land use plan and staff to administer the program.
Bonus/Incentive Zoning: Provides density bonuses; i.e., developers can build additional units in exchange for preserving designated resource lands. Technique usually applied to cluster developments and transfer of development rights programs.	Encourages sensitive site design to protect resources. Helps maintain greenspace and rural character, particularly for residential developments on the urban fringe.	Requires careful infrastructure planning to prevent sprawl and 'leapfrog' development. Dependence on wells and onsite septic systems in fringe areas. Conservation value limited if high number of units permitted.
Conservation Overlay Zoning: Additional or stricter development standards and criteria are established to protect particular features of an existing zone, such as historic districts, landscape features, scenic views, agricultural areas, or watersheds. Local Historic District designation is commonly used form of overlay zoning.	Standards and criteria are developed to meet needs ofspecific resources within the zoning district. Effective in protecting specific resources from development pressures. Used widely to create historic districts.	Standards must be defined clearly to ensure that greenspace can be protected. Zoning regulations can be changed. Does not address resource preservation outside the zoning district. Not often used for greenspace.
Voluntary Agricultural District: Special districts established to promote continuation of agricultural and forestry activities.	Maintains land in agricultural and forestry use. Provides some protection from nuisance lawsuits against agricultural operations.	Voluntary participation. Minimum acreage criteria. Does not provide long-term protection. Most effective when several contiguous farms participate in areas with development pressure.

Acquisition of Greenspace

Acquisition and management of resource lands can be combined with regulatory measures to broaden the effectiveness of a conservation program. If land regulation is temporal, then acquisition of greenspace is permanent. For conserving greenspaces and their functions, acquisition is the strongest and surest means of protection. Acquisition methods can be divided into two strategic categories: those methods where landowners retain ownership of the land and preserve a resource through an easement or other mutual agreement, and those methods involving a transfer of title from the owner to a conservation agency. (Note: conservation agency refers to a local government, land trust, or other conservation organization that holds easement or title on the land and is involved in its conservation management.)

Description of Strategy	Benefits	Drawbacks
Purchase of Development Rights (PDR): The owner's rights to develop a parcel of land are sold to the local government or to a land trust. Most PDR programs are voluntary and offer a viable financial option to interested landowners.	A proven technique for local communities with strong support to acquire lands for preservation. Owners who sell development rights receive an income and continue to use their land while retaining all other right Property taxes should be reduced.	Purchasing development rights can be expensive. Rarely protects enough land to relieve development pressure on resource land. Funding may not meet demand for easement purchases. Voluntary program means some resource areas may be lost.
Purchase of Rights and Other Easements: In addition to purchasing development rights, other rights, such as the right to timber or extract minerals, could also be purchased. Other 'customized' easements could be developed as needed depending upon the resource in question.	For protection of scenic viewshed or forested buffer. Less expensive than fee-simple acquisition or PDR. Provides desired income to owner while keeping resource intact.	Mineral rights or timber rights management issues must be resolved. Limited applicability for protecting greenspace.

ACQUISITION OF GREENSPACE (CONTINUED)

Conservation Easement: A legal agreement between a landowner and a qualified conservation organization or government agency to voluntary restrict the use and development of the property. Easement grantee (i.e. local government) would hold a partial interest or some specified right in a parcel of land. A conservation, historic preservation, greenspace, or scenic easement is designed to protect a specific sensitive natural, historic, or cultural resource. An easement may be in effect for a specified period of time but is usually perpetual.	Can be effective in preserving greenspace if it meets mutual goals of landowner and agency. Easement provisions are tailored to needs of landowner and site preservation goals. Landowner retains ownership and use of the land. Potential property, income, and estate tax benefits for donation or bargain sale of an easement. Easements run with the land, despite changes in ownership. Reduces costs for site protection when easements are acquired at less than fair market value for the protected area.	Baseline survey required to identify the extent of natural,historic, or cultural resources within the easement. Less protection than outright acquisition. Easement purchases may be costly. Terms must be carefully and clearly outlined. Management intensive: easements must be monitored and enforced; grantee agency must work closely with landowners. Easement grantee must possess technical expertise and financial wherewithal to monitor and enforce easement. Easement restrictions may limit property resale opportunities. Tax benefits may not be sufficient motivation for landowner to donate or sell easement.
Lease: An agreement between an agency and landowner to rent the land in order to protect and manage a sensitive resource.	Low cost approach to site protection. Landowner receives income and retains control of property. An alternative for preservation minded landowners not ready to commit to sale of easement. Restrictions can be included in the lease to direct the activities of the conservation agency on the land.	Short-term protection strategy. Leases are not permanent.
Fee Simple Acquisition: Usually the sale of land at full market value. Ownership and responsibilities are transferred completely to the buyer.	The most straight forward acquisition method. Provides agency with full control over future of property.	Most expensive. Buyer assumes full responsibility for care and management of property. Loss of revenue when land is removed from tax rolls. Capital gains issues for seller.
Bargain Sale: Land is purchased at less than fair market value. The difference between the bargain sale price and the land's fair market value becomes a donation.	Reduced acquisition costs. Seller may qualify for tax benefits for charitable donation. May offset capital gains.	Difficult and time-consuming to negotiate. May still be costly to acquire land.
Installment Sale: A percentage of purchase price is deferred and paid over successive years.	Possible capital gains tax advantages for seller.	Complicates budgeting and financing of acquisitions.
Right of First Refusal: Agreement giving conservation agency the option to match an offer and acquire the property if the landowner is approached by another buyer.	Agency can gain extra time to acquire funds for purchase.	Resource may be lost if offer can't be matched by conservation agency. Some landowners are unwilling to enter into this kind of binding agreement.
Undivided Interest: Several parties share ownership in a parcel of land, with each owner's interest extending over the entire parcel.	Changes to property cannot be made unless all owners agree.	Property management can be complicated.
Land Banking: Land is purchased and reserved for later use or development. Land could be leased for immediate use (i.e. agriculture or athletic field) or held for eventual resale with restrictions. Local government functions as a land trust. Many programs are funded through real estate transfer taxes.	Local government proactively identifies and purchases resource land. Lowers future preservation costs by working as a defense against future increases in land prices, speculation, and inappropriate development.	Expensive. Requires large upfront expenditures. Public agency must have staff to handle land trust functions of acquisition, management, lease, or resale. Real estate transfer tax for land acquisition would require local enabling legislation.
Acquisition & Saleback or Leaseback: Agency or private organization acquires land, places protective restrictions or covenants on the land, then resells or leases land.	Proceeds from sale or lease can offset acquisition costs. Land may be more attractive to buyer due to lower sale price resulting from restrictions. Management responsibilities assumed by new owner or tenant.	Complicated procedure. Owner retains responsibility for the land but may have less control over the property. Leases may not be suitable on some protected lands.

DONATION OF GREENSPACE

DESCRIPTION OF STRATEGY	BENEFITS	DRAWBACKS
Outright Donation: Owner grants full title and ownership to conservation agency.	Resources acquired at very low costs to the agency. Agency may receive endowment for long-term land stewardship. Donor may qualify for income tax deductions, estate tax relief, and property tax breaks.	Landowner loses potential income from sale of land. Receiving agency must accept responsibility and long-term costs of land management. Stewardship endowments may make donations cost prohibitive for landowner.
Donation via Bequest: Land is donated to a conservation agency at the owner's death through a will.	Reduces estate taxes and may benefit heirs with reduced inheritance taxes. Allows owner to retain full use and control over land while alive; ensure its protection after death.	No income tax deduction for donation of land through a will. Requires careful estate planning by the landowner.
Donation with Reserved Life Estate: Owner retains rights to use all or part of the donated land for his or her remaining lifetime and the lifetimes of designated family members.	Allows owner to continue living on and using the property during his or her lifetime while ensuring the land's protection. Allows designation of family members to remain on land.	Tax benefits may be limited; some types of open space may not qualify. May delay transfer of title to the conservation agency for a long period of time.

Management Agreements for Greenspace

Description of Strategy	Benefits	Drawbacks
Intergovernmental Partnership: Federal, state, and local agencies form joint partnerships to own and manage land.	Sharing the responsibilities and costs of acquisition and management can protect larger or more expensive properties. Can foster countywide cooperation to preserve greenspace.	Partners must agree on management strategies in order to reduce potential for conflict. Agency budgets and acquisition criteria may restrict acquisitions. Slower response time: acquisition opportunities may be lost due to agency procedures. May remove land from tax base.
Agency Transfer: Government transfers excess land to another agency that can assume resource protection and management responsibilities.	Resource protection and management with little additional expenditures.	Excess property may not be suitable for resource protection. Obtaining fair market value for the property may be agency's priority.
Land Exchange: Land may be exchanged for another parcel that is more desirable for resource protection.	Lower acquisition costs. Scattered properties can be exchanged for a single, larger parcel.	Complicated process; not widely known and rarely used. Subject to IRS regulations. Property owners must be willing to participate, and properties must be of equal value.
Nonprofit Acquisition and Conveyance to Public Agency: Nonprofit organization (such as land trust) buys a parcel of land and resells it to a local government or other public agency.	Nonprofits can often move more quickly to purchase and hold land until the public agency is able to buy it. Could reduce acquisition costs for public agency.	Local government must be willing to purchase land and assume management responsibilities.
Joint Venture Partnership: Strategy used by public agencies and private organizations to accomplish projects serving mutual goals. For example, some government grant programs could be matched with both private contributions and public funds.	Partners share benefits, responsibilities, and costs of acquisition and management. Creates a coalition of support for protecting diverse resources. Brings diverse sources of knowledge and expertise to solve resource protection issues.	More complicated property management and decisionmaking. Conflicts in acquisition criteria and funding priorities must be resolved.
Management Agreement: Agreement between landowner and conservation agency to manage property to achieve resource conservation goals.	Owner may be eligible for direct payments, cost-share assistance, or other technical assistance from the agency. Management plan is developed based on owner's preservation aims.	Mutual agreement is more easily terminated than a lease. Agreements are not permanent.
Mutual Covenants: Agreement between adjoining landowners to control future land uses through mutually agreed upon restrictions.	Permanent: covenants can be enforced by any of the landowners or future landowners of the involved properties. Significant incentive to comply with restrictions, since all parties are aware of use controls. Can reduce property taxes.	Loss in market value from mutual covenants does not qualify as a charitable deduction for income tax purposes.