
Forest Conservation, Conservation Easements, and the DOF Easement Program

5th Annual Forest Landowners' Retreat
Holiday Lake 4-H Educational Center
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Beth Burnam
Forest Conservation Specialist
Virginia Department of Forestry



Virginia's Forests

- *What image comes to mind when you think of Virginia's woodlands?*













Photo Credit: Mark Godfrey/The Nature Conservancy

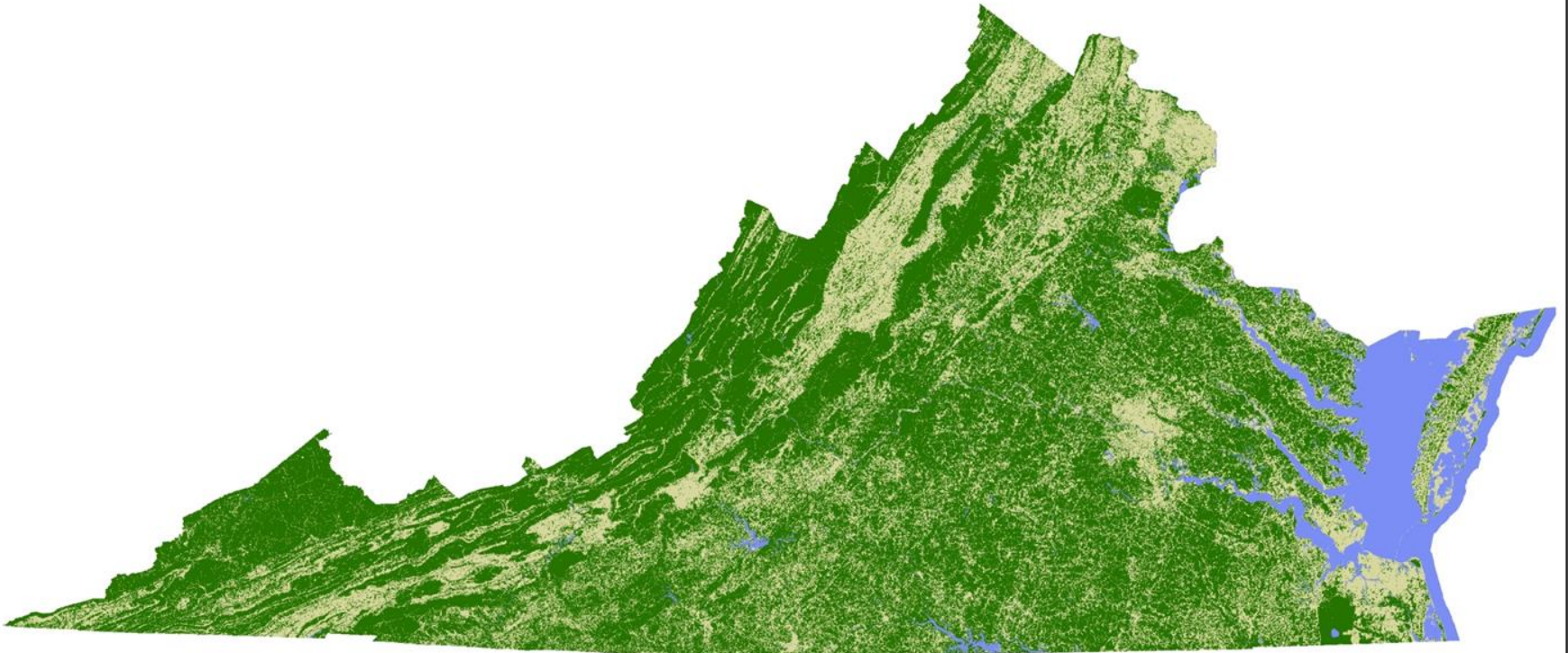








Current Forest Cover



- **15.7 million acres**
 - **62% forested**

Virginia's Forests

- *Who owns a majority of Virginia's woodlands?*
 - *Government?*
 - *Private Industry?*
 - *Private families?*

Family Forest Landowners Hold the Key



- 373,600 family forest landowners
 - Control 10.1 million acres of VA's forestland (64%)
 - Control 75% of Virginia's timber supply
- Family forest landowners
 - 2/3 aged 55 years and older
 - 70% of woodland in private ownership
- Unprecedented future intergenerational transfer
 - Easements are an option

VA Family Forest Landowners



“Strong Feelings”

- Care about their woods
- Desire to do the ‘right thing’
- Want to leave a woodland legacy

YOU are most important part of conserving Virginia’s forest resources.

Challenges of Family Forest Ownership



- Intergenerational “disconnect”
- Diminished profitability
- Burdensome tax structures
- Changing societal values

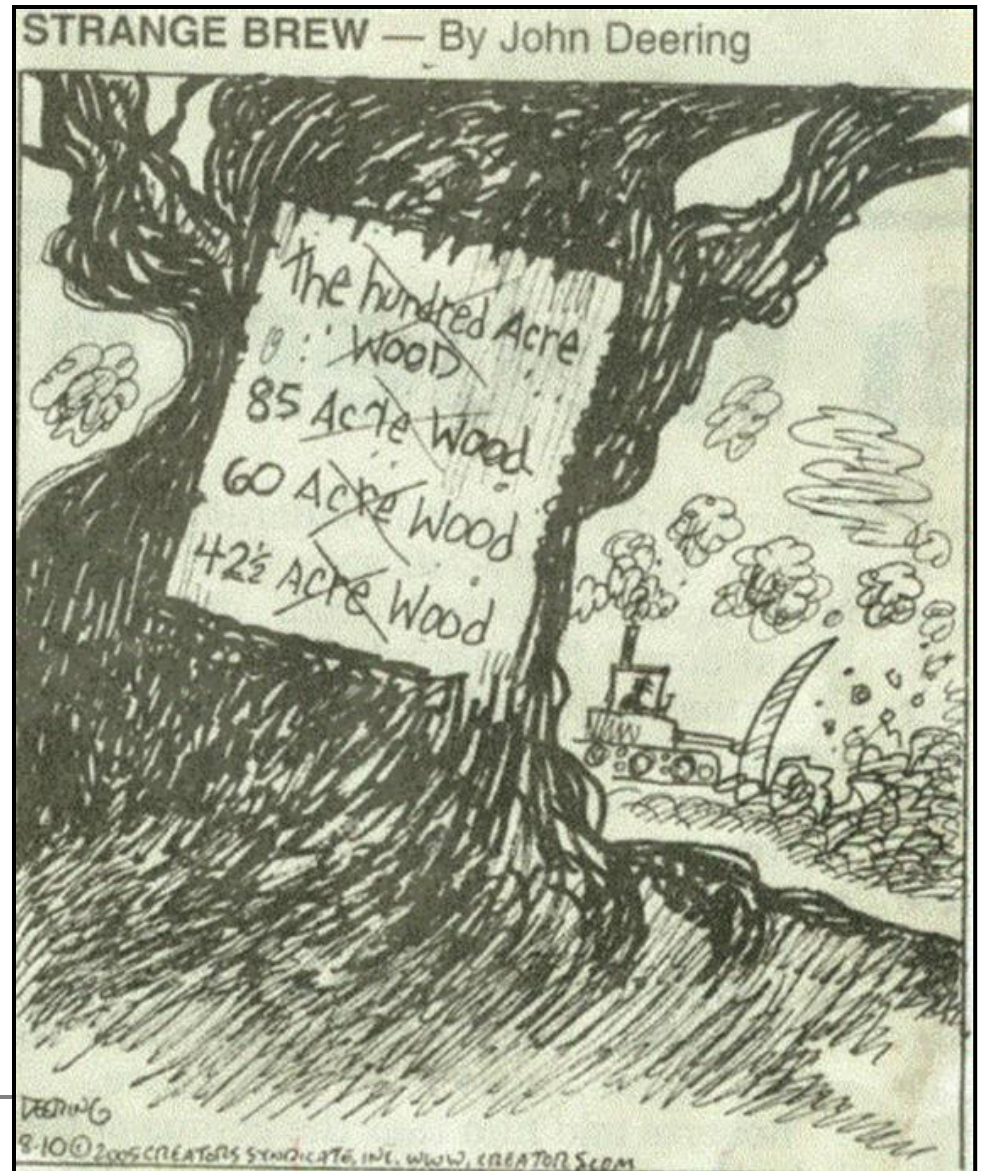
Forestland Base is Decreasing

- \pm 16,000 acres annually
 - \pm 600,000 acres since 1977
- 75% due to development
 - Most from family-owned forestlands



Family Forests Becoming More Fragmented

- LESS THAN 100 ACRES
 - 95% of ownerships
 - 47% of forest acreage
- Average size = 27 acres

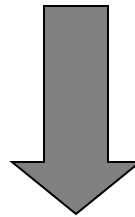




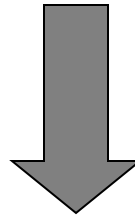
Graphic credit: USDA Forest Service

The Conversion Progression

Parcelization



Fragmentation



Conversion

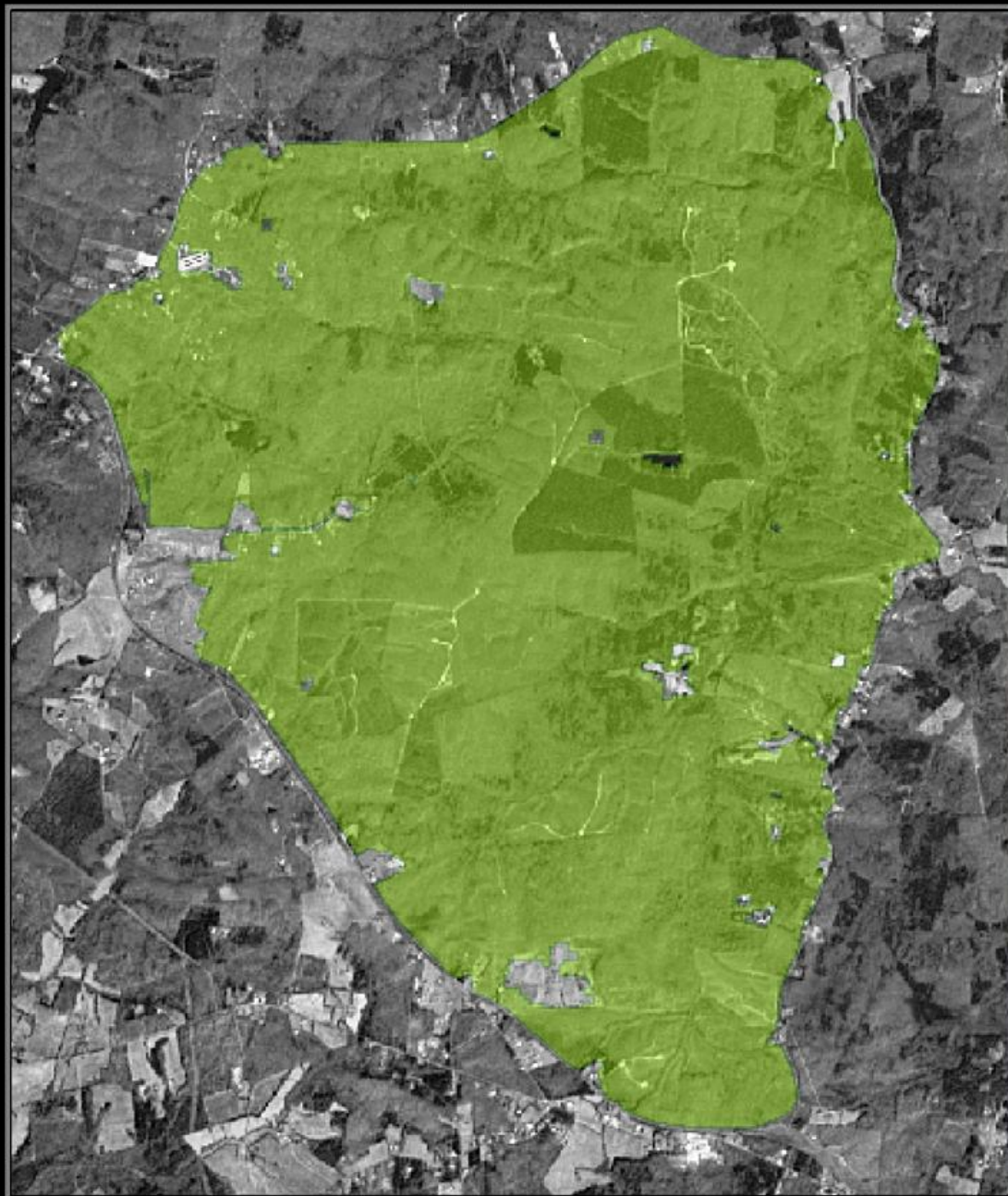
Forest Parcelization

- Division of large, contiguous forest tracts into smaller properties
- Generally tied to ownership
- Promotes
 - Fragmentation
 - Conversion



Forest Fragmentation

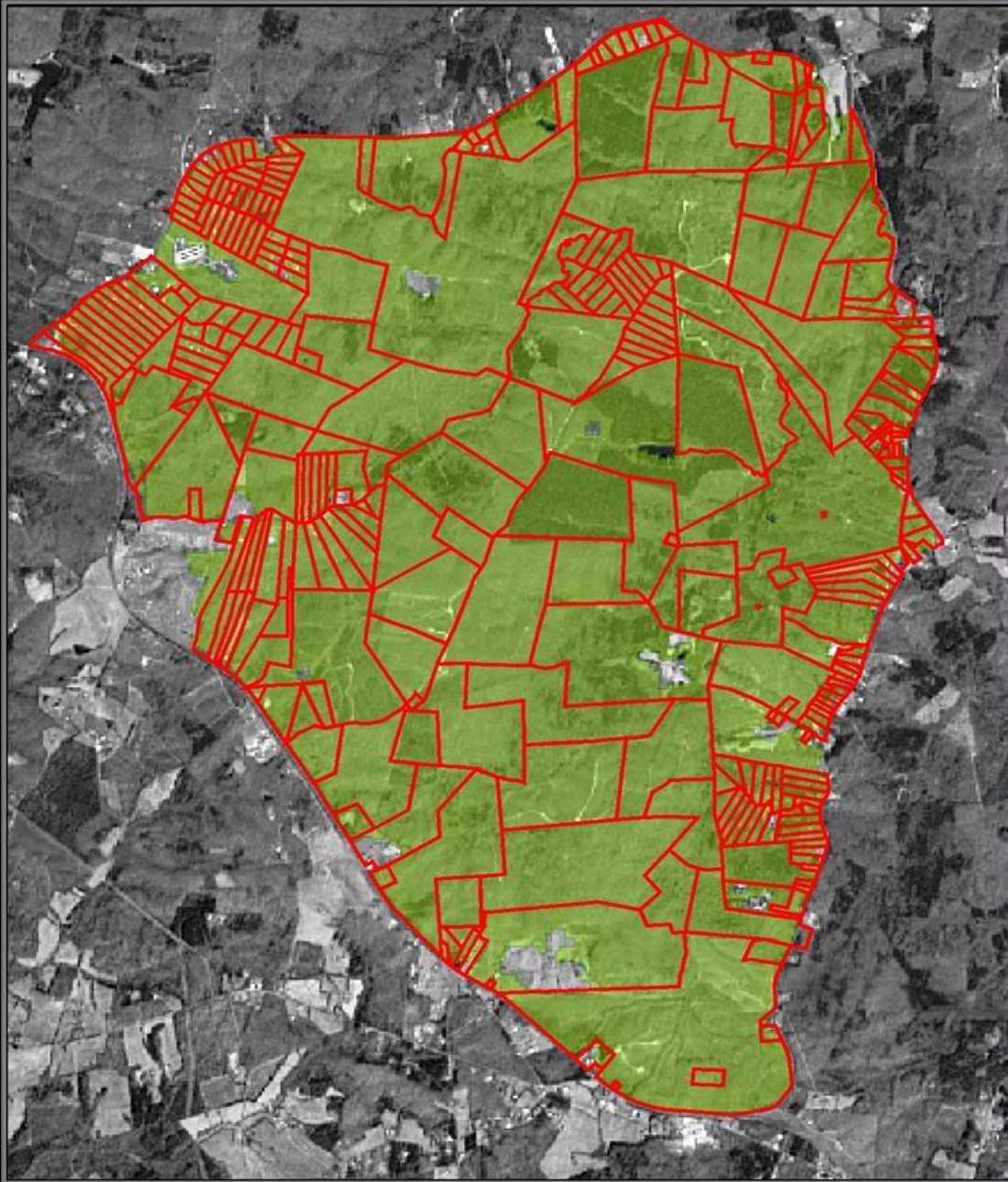
- Can be a reflection of:
 - Ownership
 - Land cover
 - Land use
- Often leads to conversion
- Tends to isolate and separate forested tracts from each other
 - Active forest management less likely
 - Forest no longer looked at as a 'whole'



FOREST PATCH

7,500 Acres
Continuous Forest Cover

Derived from
Year 2000
Landsat Satellite
Image Analysis



FOREST PARCELIZATION

*Ownership Patterns
affect Forest
Fragmentation*

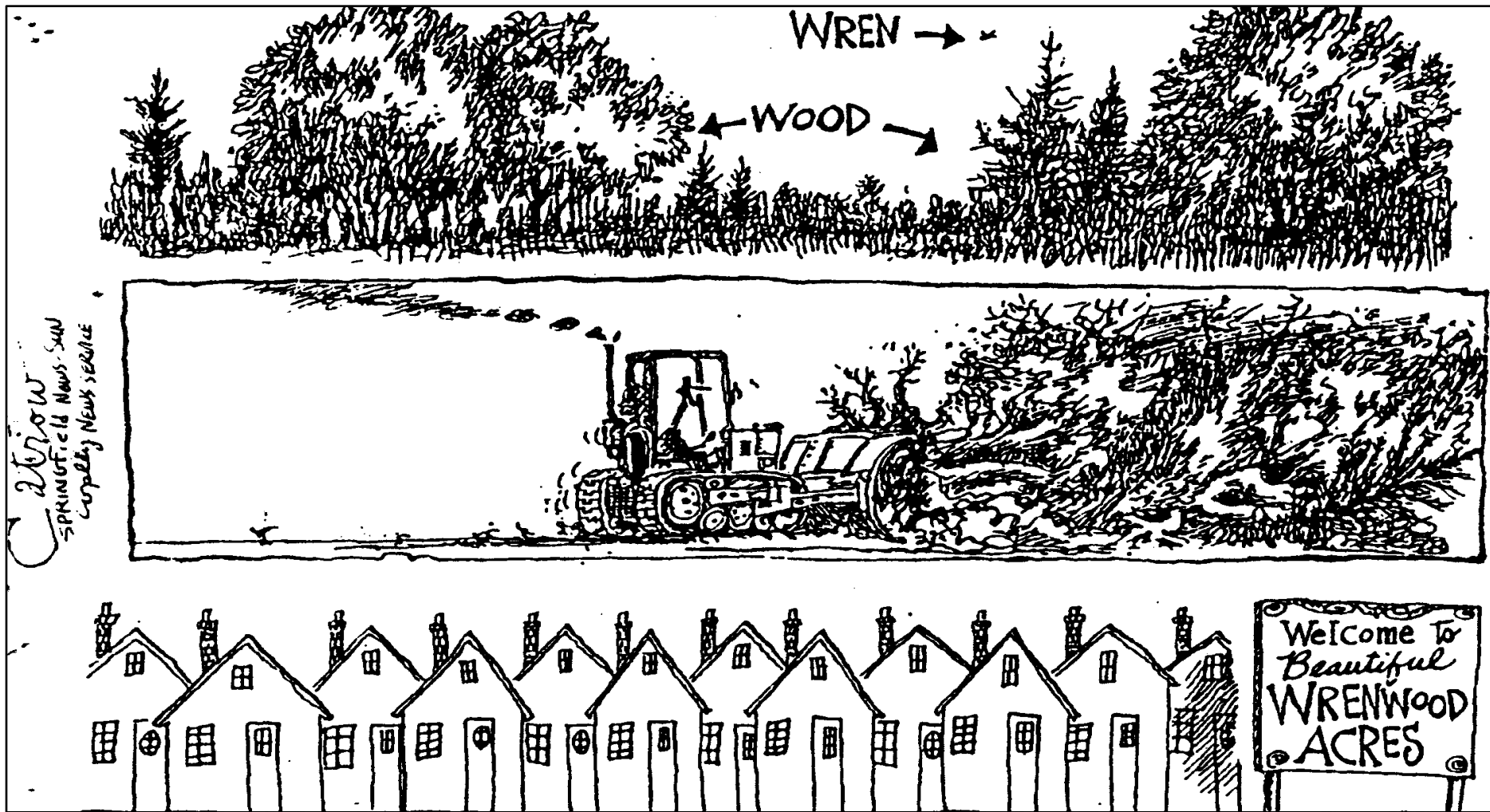
7,500 Acre Forest Patch

328 Ownership Parcels
22 Acre Average

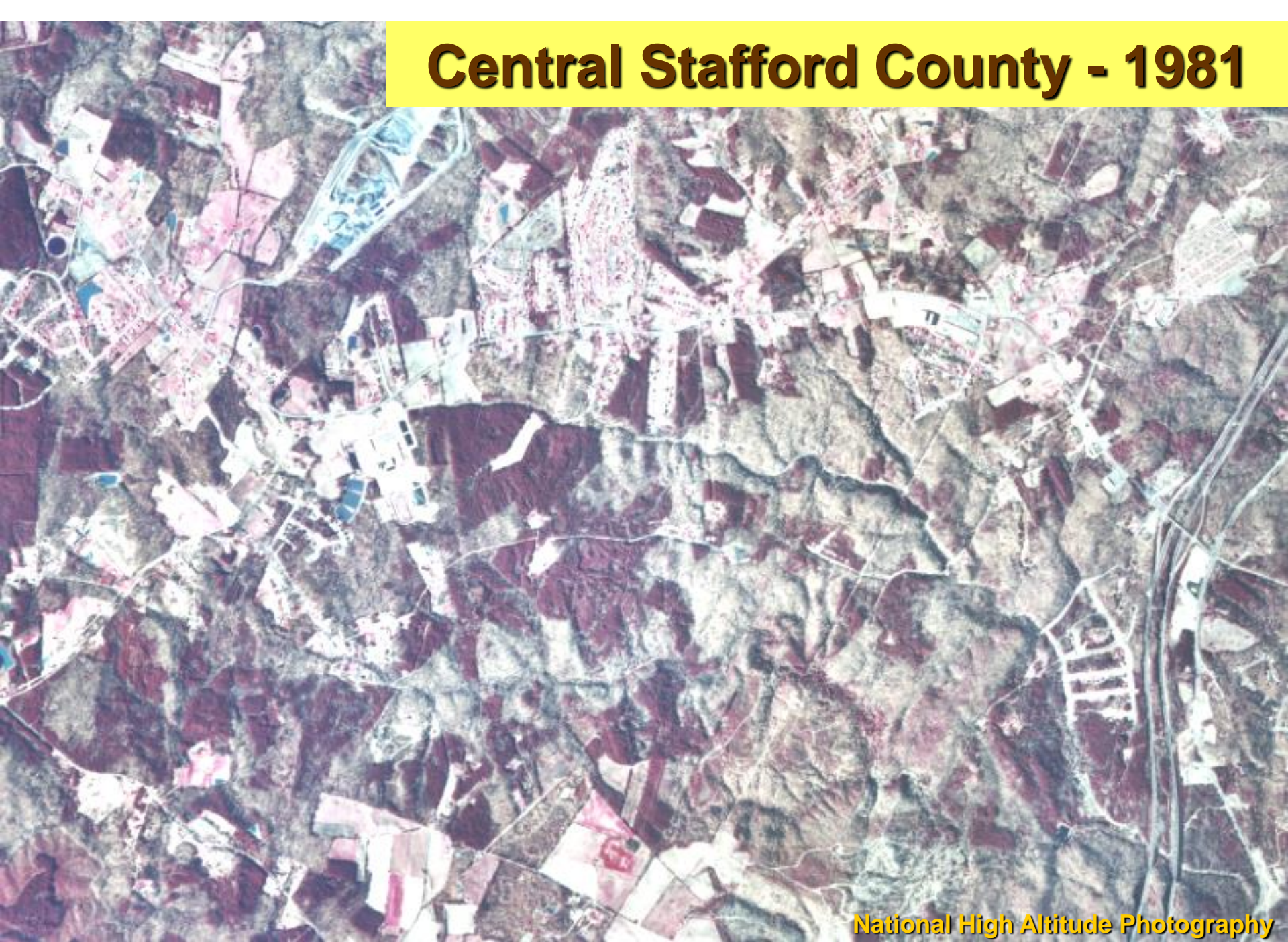
Range:
0.07 Acre
to 518 Acres

Conversion

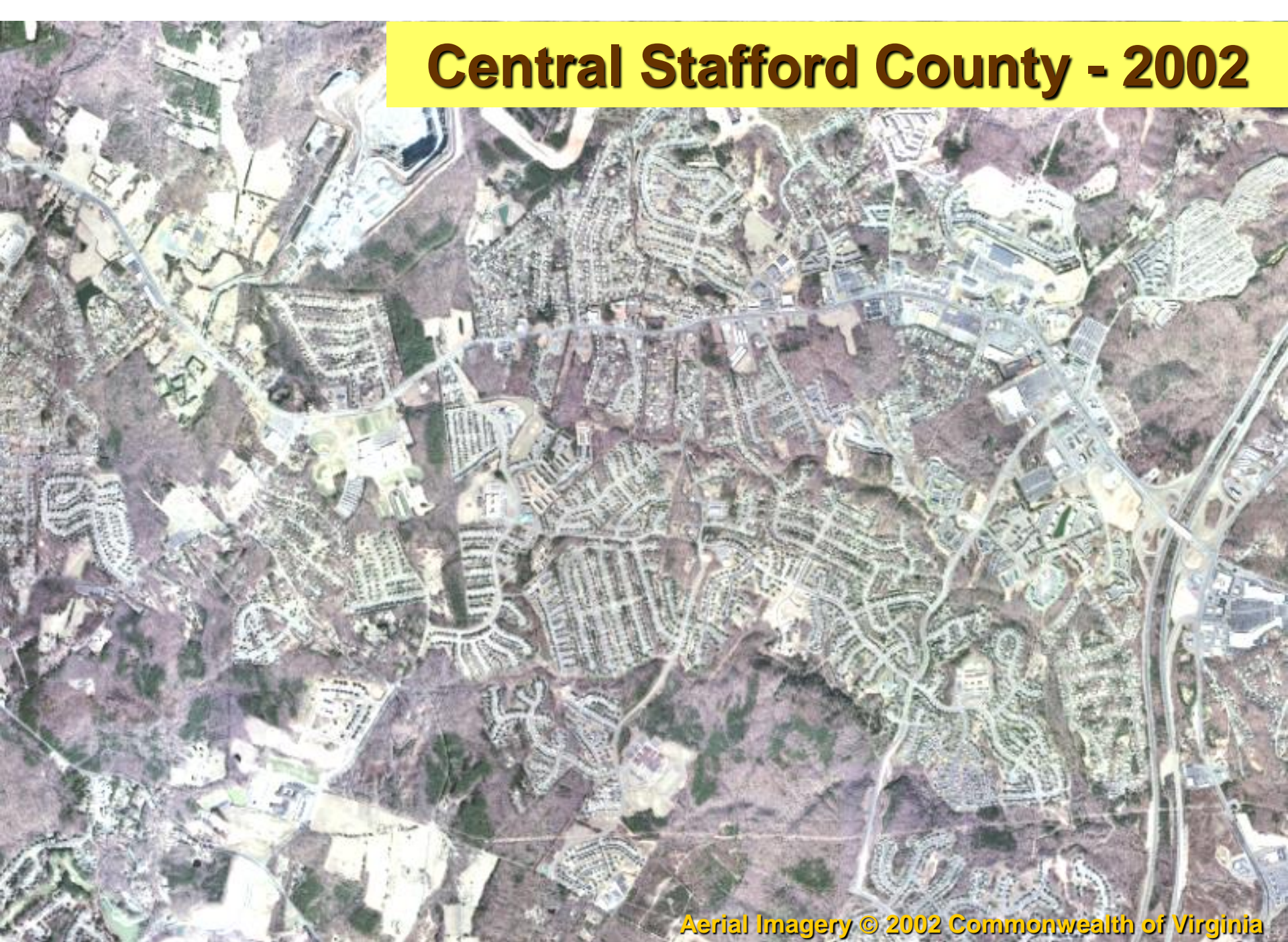
Change from forest use to non-forest use



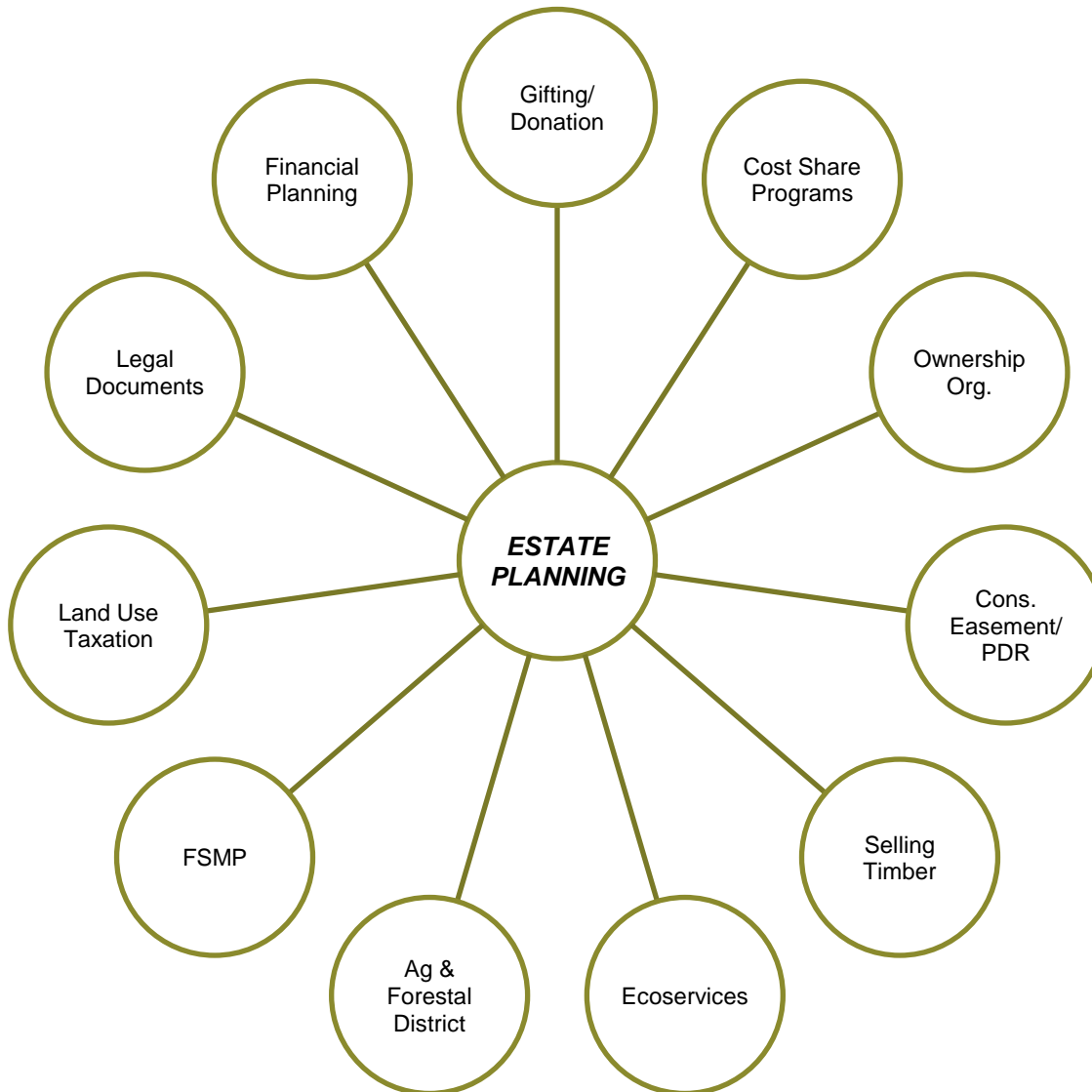
Central Stafford County - 1981



Central Stafford County - 2002



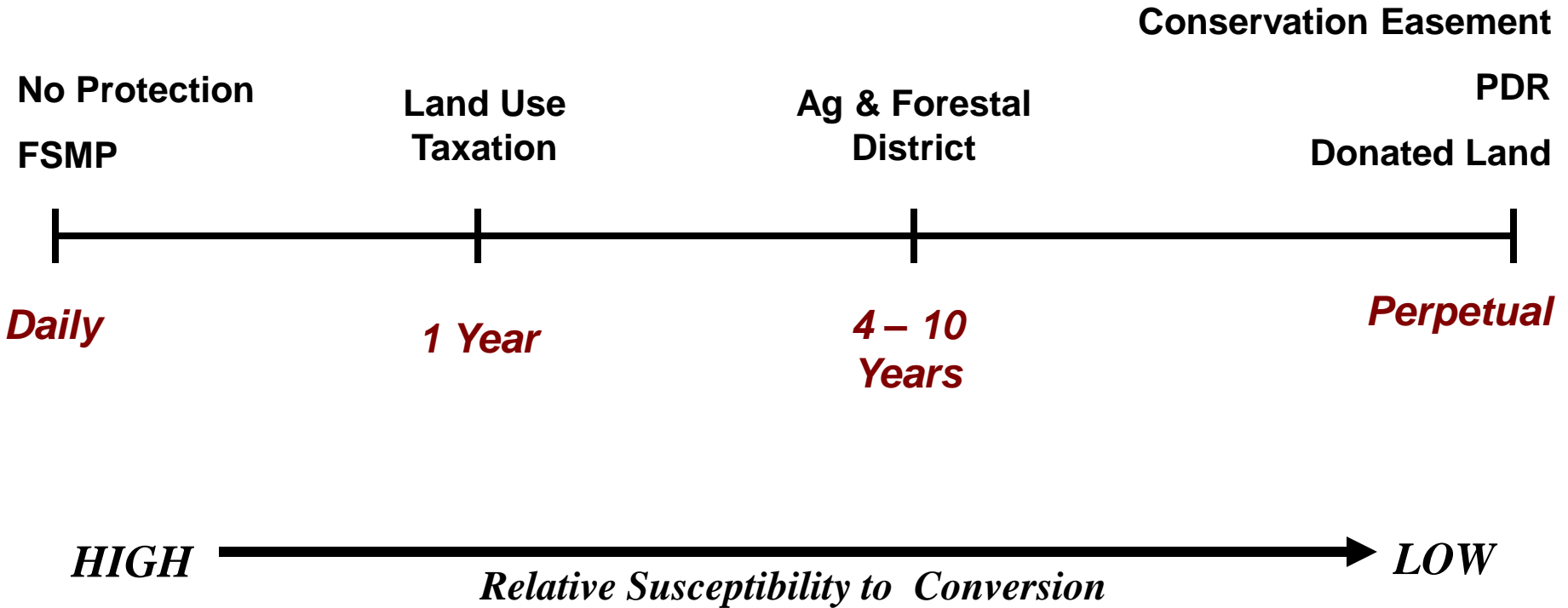
Conservation Tools



What is Your Objective?

- Minimize tax liabilities?
- Maintain family ownership?
- Revenue stream?
- Environmental ethic?
- Legacy?

Comparative Threat to Conversion





What is a Conservation Easement?

- A *voluntary* land preservation agreement between a landowner and an easement holder.
 - An easement *in gross*, meaning that it does not benefit a specifically identified property owned by the easement holder like a Right of Way.
 - Landowner gives up “sticks” from their fee simple bundle of sticks.
 - In order to “qualify” for tax benefits the easement **MUST** last in *perpetuity*.
-



***WHY
WOULD A FOREST LANDOWNER
DONATE AN
EASEMENT?***

The **first** and **great** reason(s):

Landowner **loves his or her land** and wants it to stay rural.

Forest landowner wants his or her **forest to remain a forest**

Landowner wants to keep a **place for wildlife**

Parents want a **family place** to be able to stay in the family

The **other** reason: **Significant tax benefits**



Preserving Open-space: protecting the forest and farm land base from suburban sprawl and urbanization.

Easement Characteristics

- **Voluntary**
- **Flexible** to protect unique land features and allow for individual situations
- **Perpetual** (required for tax benefits)
- **Cost effective:** keeps land on tax rolls
- **Significant tax benefits**
- **Community benefits:** easements protect air quality, soil, water quality, rural character

Conservation Easement Requirements

For a charitable gift to be tax deductible, normally you must contribute your entire interest in the gifted property. A Conservation Easement is one of a few exceptions to this rule. According to section 170(h) of the IRC to qualify the donation must be:

1. A “qualified” real property interest given to,
 2. A “qualified” organization, and
 3. Exclusively for “conservation purpose”
-

What is a “Conservation Purpose”?

- Protection of land for public outdoor recreation or education;
 - Protection of natural habitat for fish, wildlife, or plants;
 - Protection of historic structures or land; and
 - Protection of ‘open space’ with significant public benefit for either scenic enjoyment or pursuant to government policy (which includes farm and forest protection).
-

Easement Structure

A low-angle photograph of a forest canopy, looking up at the dense green leaves and dark tree trunks against a bright sky. The perspective is from the ground looking up, creating a sense of height and depth. The lighting is dappled, with sunlight filtering through the leaves.

Recitals – reasons for protecting property


Restrictions – terms to protect conservation values

Responsibilities – of parties to uphold terms

Conservation Easement Terms

Terms vary depending on:

- **Property's size**
- **Physical characteristics**
- **Conservation values**



Divisions

Development

Dwellings

Outbuildings

Farm buildings

Miscellaneous structures

Forest or farm management plan

Stream buffers

Conservation Easement Myths

- You have to grant the public access to your land.
 - You can't sell your land.
 - You can't continue to farm, hunt, fish or harvest timber on your land.
 - You can't pass your land on to your kids.
 - One size fits all.
-

CONSERVATION EASEMENT

INCENTIVES

Base Value Easement Benefits

(Each Value Determined by a Special Appraisal)

■ Before Easement Value: \$1,000,000

■ After Donation Value: 700,000

■ Easement Value: **\$ 300,000**

Easement Tax Benefits

Federal

Income Tax Deduction

Estate Tax Relief

State

Income Tax Deduction

Land Preservation Tax Credit

Local

Automatic Land Use Enrollment

Reduced Property Tax

Estimated Income Tax Benefits

(Hypothetical Example)

Federal Deduction

Use rate: 50% of AGI

Carry forward: 15 + 1 years

\$300,000

Virginia Deduction

Use rate: 50% of AGI

Carry forward: 15 + 1 years

\$300,000

Virginia LPTC

40% of easement value

Transferrable or saleable

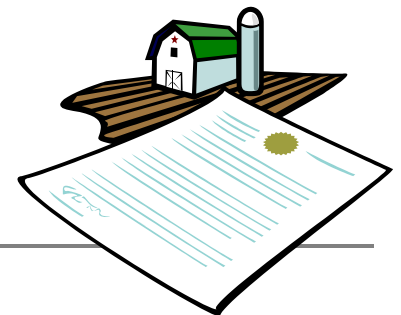
Carry forward: 10 +1 years

\$120,000

Estate Tax Benefits

Land subject to a conservation easement may qualify for two estate tax benefits:

1. The easement will reduce the value of the land in the taxable estate.
2. In addition, as much as 40% of the value of the land (up to a \$500,000 cap) may be excluded from the estate. This is a recurring benefit.



Estimated Estate Tax Benefits

(Hypothetical Example)

Taxable Estate was \$1,000,000

With easement is \$700,000

Possible Exclusion \$280,000

(Up to 40% of protected land's value, recurring)

Now Estate is taxed at \$420,000

Property Tax Benefits

Land subject to an easement in a locality that has adopted the “Land Use” valuation system shall be assessed as “Open Space” and will be taxed at “Use Value”.



DOF Conservation Easement Program Focus on Working Forests

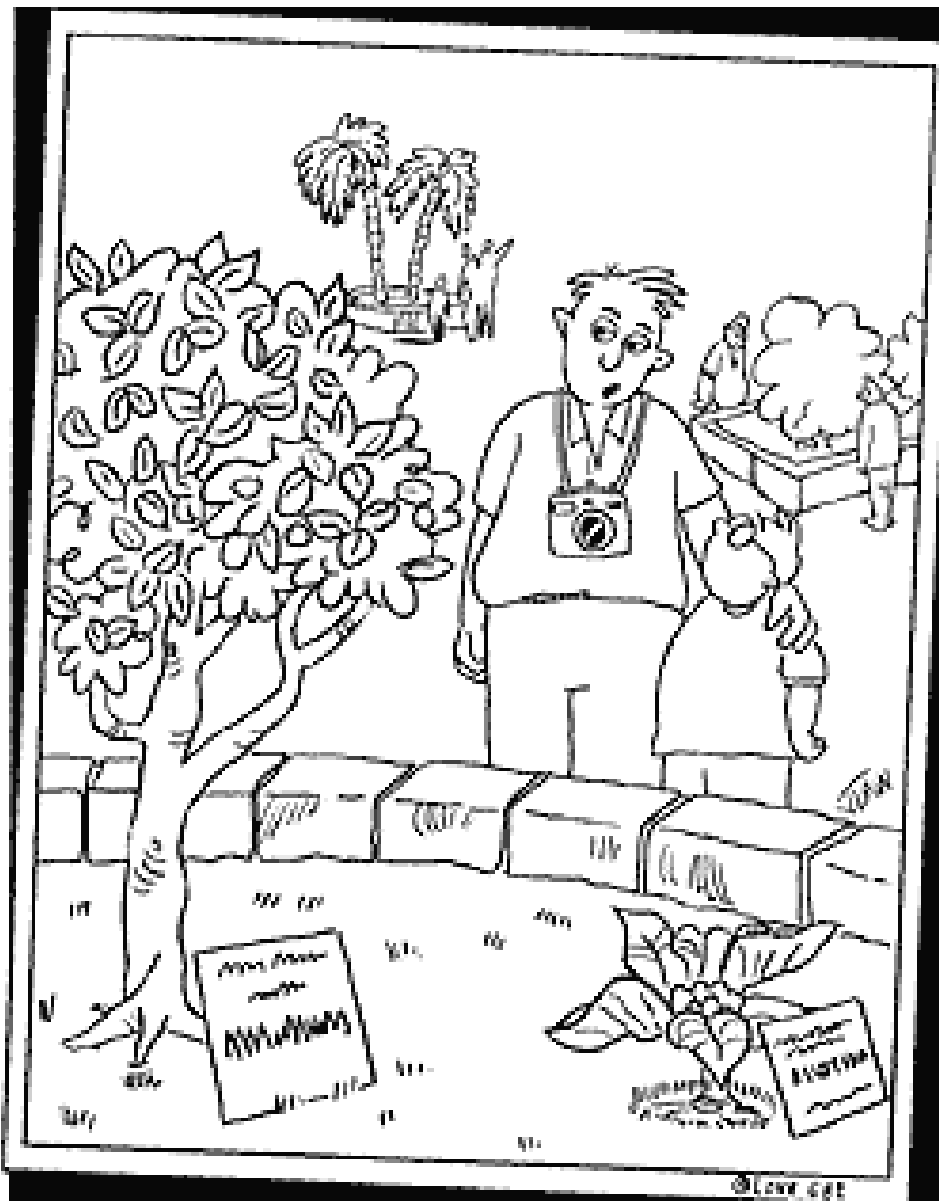
To provide:

Additional forest conservation option to
family forest landowners

To protect in perpetuity:

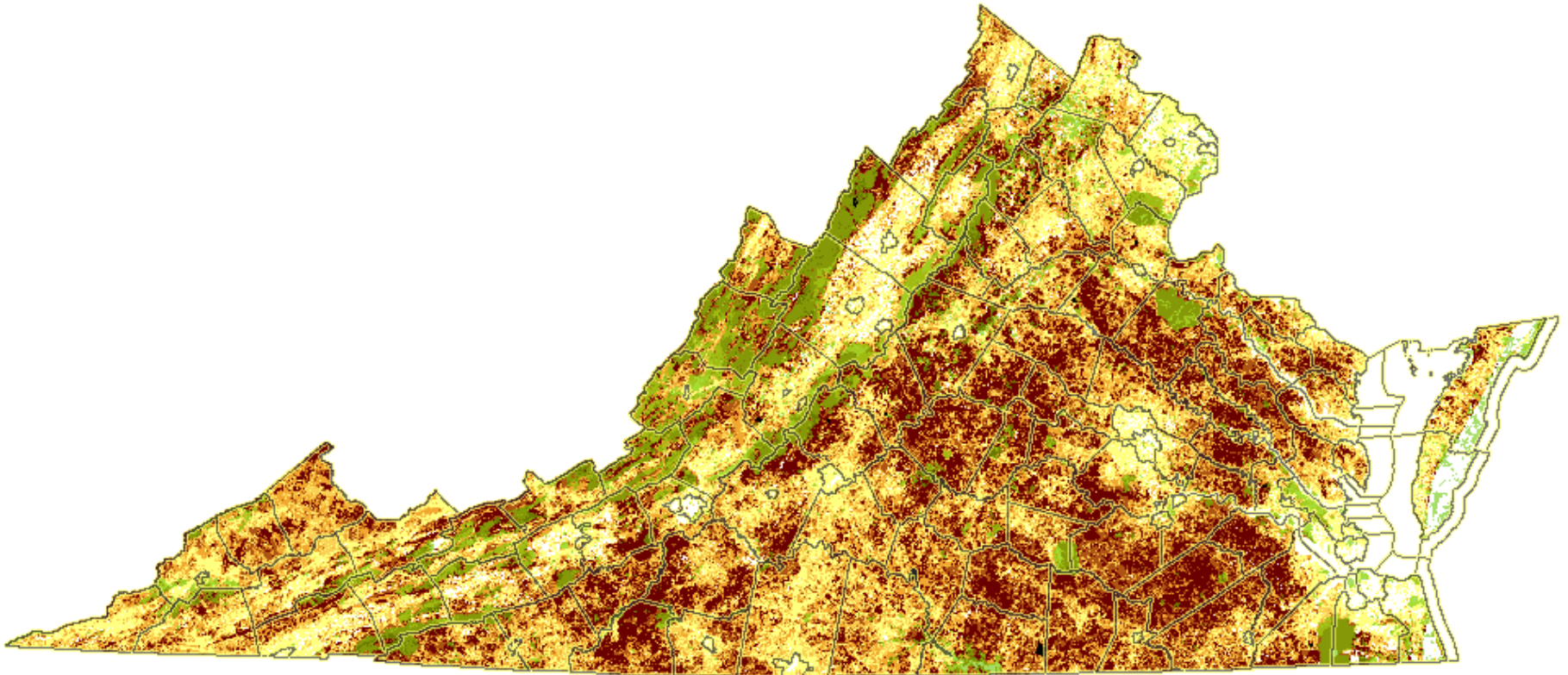
Interest & potential to manage woodlands

Sustained flow of natural goods and benefits



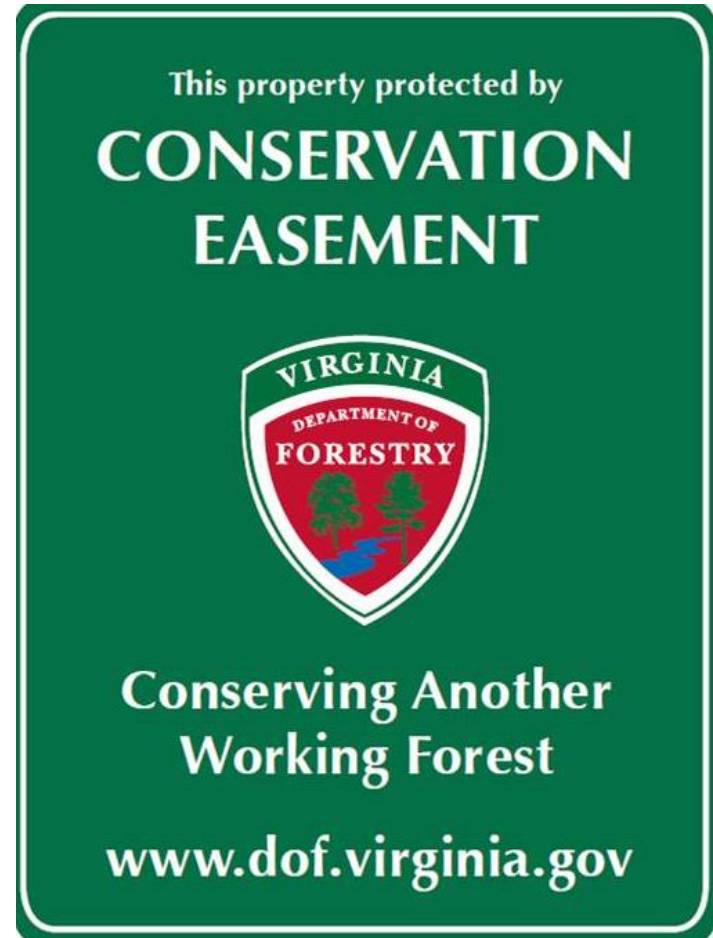
"And this here is a *tree*. They say that it will grow even larger with proper nourishment..."

Forest Conservation Value Map



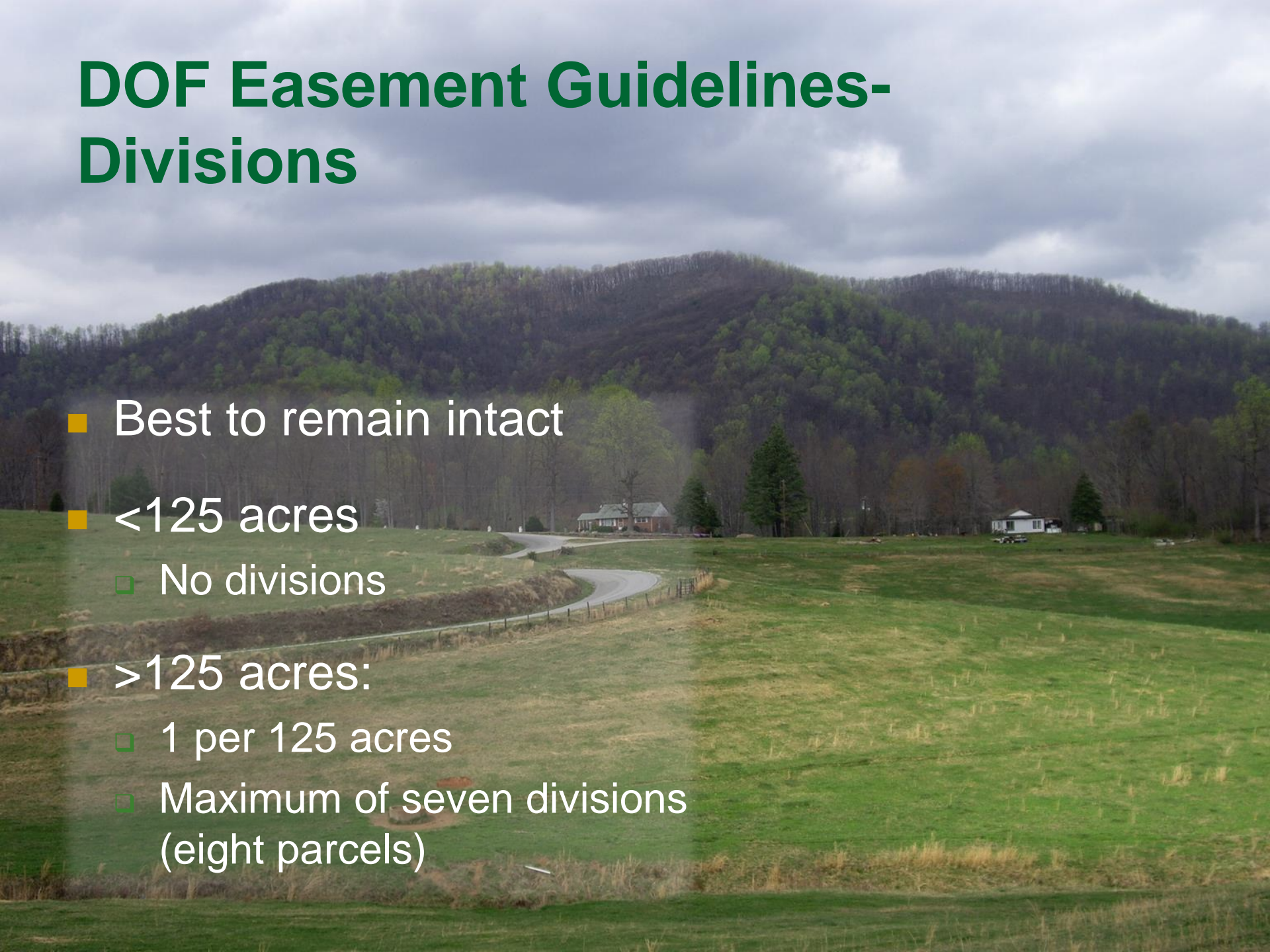
DOF Easement Criteria

- 50 contiguous acres
- 75% forested
 - 100 acres on larger properties
- High 'Forest Conservation Value'



DOF Easement Guidelines- Divisions

- Best to remain intact
- <125 acres
 - No divisions
- >125 acres:
 - 1 per 125 acres
 - Maximum of seven divisions (eight parcels)



DOF Easement Guidelines- Structures

Dwellings

Up to 2 per permitted parcel

Individual: 4000 sq. ft.

Collectively: 6000 sq. ft.

Outbuildings

2000 sq. ft.

Farm buildings

4500 sq. ft.

Misc. Structures

150 sq. ft.

Footprint

Ground area

Location

Building envelope

“No build” areas

Prior approval



DOF Easement Guidelines- Forest Management

Forest Stewardship Management Plan

Harvesting Activities

Notifications

Preharvest plan

BMPs mandatory

Forest Preservation

75% of existing forest

DOF Easement - The Process

Step 1: Referral & initial property visit

Step 1A: Obtain preliminary appraisal

Step 2: Confer with mortgage holder (if applicable)

Decide to proceed with easement



A man wearing a blue t-shirt, khaki pants, a tan cap, and glasses stands in a wooded area. He has his hands on his hips and is looking towards the camera. The ground is covered in fallen leaves, and a stream flows through the forest in the background.

Step 3: Retain attorney

Draft easement

Title insurance commitment & binder

May be Steps 3A, 3B, 3C.....

**Step 4: DOF performs Baseline
Documentation Report (BDR)**

Step 5: DOF Review & Approval

Team



ADFC



Division Director



OAG

Step 6: Signatures

Step 7: Record easement



- Allow up to 6 months to complete
- Annual monitoring

Deciding to Convey an Easement: “Heirloom Scale”

1 = My woodland is one of the financial assets in my portfolio and nothing more .

10 = My woodland is priceless family heirloom to be protected at all costs



**100%
Financial**

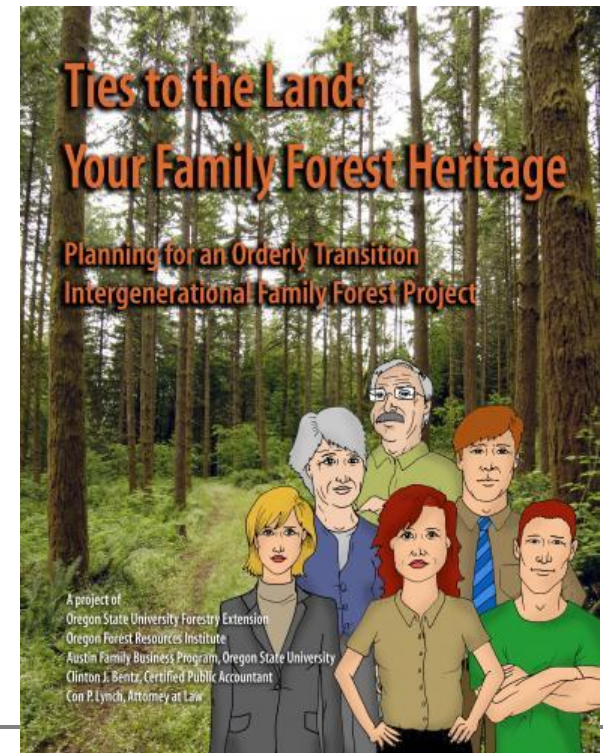
Continuum of Desire to Convey an Easement

**100%
Philanthropic**

GenerationNEXT Workshop



- **SAVE THE DATES!!**
 - 5th Annual
 - August 13th & 20th , 2013
 - Fredericksburg
 - More details soon!



For More Information:

Beth Burnam

Forest Conservation Specialist
VA Department of Forestry
Central Region
900 Natural Resources Drive
Suite 800
Charlottesville, VA 22903
434.220.9184

Beth.Burnam@dof.virginia.gov

■ **THANK YOU!!**

