

CURRENT USE, EASEMENTS, & THE HERSEY FAMILY FARM

By Tina Cotton

Andover Conservation Commission

With all the recent headlines about the grant for a conservation easement on the Hersey Family Farm, I thought it was time for a behind-the-headlines look at some land issues in general and the Hersey conservation easement in particular.

Current Use

Land and buildings are taxed according to their assessment, which is supposed to reflect what they would sell for. Land may be taxed on its potential for development. In order to reduce the tax on your land, you may put it into Current Use, regulated by state statute, which requires that it be taxed based on how the land is actually being used, not on what it might be worth if it were developed.

OK, so I put my land in Current Use and reduce my tax bill. But doesn't that mean the rest of the town's taxpayers have to pick up my slack? True, but... if I can now afford to keep my land because of reduced taxation, I won't be as tempted to sell it, especially to that developer offering me big bucks, who can subdivide it for as many house lots as the zoning regulations and the lay of the land allow.

But don't more houses mean the town can collect more taxes? True, but if each house has one child to educate from kindergarten through 12th grade, and the town has to maintain and plow the roads serving those houses, then each of those houses is actually costing the town more than it collects in taxes!

Conclusion? Current use is actually beneficial to the town as a whole because the town does not grow as rapidly. The larger the town or city, the more educational, road, and town services cost and the higher the taxes to be raised to pay for those services will be.

Conservation Easements

Simply put, a conservation easement is similar to putting your land permanently into Current Use. Some families so love their land in its undeveloped state that they want to keep it that way forever. They may treasure its scenic quality, its wildlife habitat, its unique or endangered flora and fauna, or may

want to keep a pond or waterfall pristine for future generations to enjoy.

Land in a conservation easement is still privately owned. It is still taxed at the Current Use rate, and it can be sold. To a certain extent, the landowner who grants a conservation easement on his land can dictate what are allowable uses and what uses are prohibited. Future landowners must abide by the initial easement deed, which is a legal contract, filed with the Registry of Deeds, between the landowner and the organization to which the easement is granted.

Most easements support forestry and agricultural uses and related buildings, and many allow other people to use the land for recreational use. Some landowners may forbid hunting, while others may prohibit motorized vehicles on their land. Easements must have some public conservation benefit and meet certain criteria if a federal tax deduction is involved for the donor.

For example, the 700-acre Newman conservation easement names the Town of Andover as the holder of the easement. The Andover Conservation Commission, with the help of Ron Evans and Gary Currier, convinced the Newmans that hunting should be allowed on their land. Prior to the Newman's ownership, an investment firm approached the Planning Board about the possibility of a 150 to 200 home development on the property! Subtracting land too wet or steep for development, it still would have supported 75 to 100 house lots.

Proctor Academy, Ragged Mountain Fish and Game Club, and other folks with large chunks of land in Current Use or conservation easements are a blessing to our town budget, according to Dennis Fenton, chair of Andover's Board of Selectmen.

An easement can be acquired by an organization by an outright donation from the landowner, a "bargain sale" at a reduced price, or an outright purchase of the easement at market value. The land itself may be privately owned, but the landowner is giving up all development rights to the land. Most easement donors in town had their land in Current

Use before, so there is no reduction in property taxes collected by the town.

No matter how the easement is enacted, the landowner still faces considerable costs. The land often must be surveyed by a licensed surveyor, and an appraiser may have to value the conservation easement. Lawyers are involved for drawing up the legal documents to be recorded and to protect both the landowner and the easement holder.

Most land trusts request a donation to help cover future costs of monitoring and legally defending the easement if its terms have been violated. The Andover Conservation Commission has worked to offset some of these expenses to landowners who want or need financial assistance.

This is a very simplified explanation of Current Use and conservation easements. For further information, ask to borrow *Conserving Your Land: A Guide for Landowners*, which is available at the Town Hall.

The Hersey Family Farm

Now on to some of the particulars concerning the Hersey land.

First, perceived conflict of interest. Jerry Hersey has been the chairman of the Andover Conservation Commission almost from its beginning. Sometime in 2005, Jerry approached the Ausbon Sargent Land Preservation Trust (ASLPT) about conserving his land.

The Conservation Commission first heard of it in 2006 when funding became an issue. ASLPT came to a meeting asking if the Commission could provide some financial assistance and serve as the backup easement holder. Jerry offered to resign. Jerry was present, but only provided input when asked specific questions. He never took part in any vote.

Now that the Farm and Ranchland Protection Program grant may help make the easement a reality, and after much discussion with the blessing of both the Board of Selectmen and the Conservation Commission, Jerry has taken a leave of absence until his easement becomes final, which will not happen until 2007.

Second, finances. Jerry is working

with ASLPT on a "bargain sale" of his development rights, which have been estimated at a full value of \$500,000. (Stacey Viandier has estimated that roughly 75 house lots could be developed on his land according to present zoning regulations!)

ASLPT wants to preserve the well-maintained working farm for its agricultural heritage, its scenic beauty as a gateway to our town from the east, its wildlife, its proximity to the Rail Trail, and other special qualities. Jerry is making the biggest donation of all; he has agreed to a bargain sale of the development rights to the fields and to an outright donation of development rights to the forest land.

The headlines in last month's *Beacon* stated a grant of \$173,000 had been awarded for the conservation easement on the Hersey Family Farm. In very rough numbers, this must be matched with \$87,000, and another \$40,000 will be needed to meet expenses of appraising, surveying, and legal expenses, for a total of \$127,000 to be raised.

So far, \$34,000 has already been pledged by private individuals, and a motion by the conservation commission, with the selectmen's blessing, would pay for the surveying and deed searching to be done this summer, which may be as high as \$25,000.

This leaves another \$68,000 to be raised or pledged. ASLPT hopes to have the pledges made by December 31 of this year, although most money won't be collected from those pledges until the spring of 2007.

On the Fourth of July, \$173 was stuffed in the donation jar manned by members of the ASLPT Fundraising Committee and the Andover Historical Society. Look for future fund raising efforts to make this easement a reality by June, 2007. Jerry will donate a cord of wood for a raffle. An upcoming Hersey Family Farm Day planned for September 30 should provide fun for all!

For more information about Current Use, conservation easements, or the Hersey Family Farm project, contact Ausbon Sargent Land Preservation Trust at 526-6555 or ASLPT@tds.net.

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