

RESOLUTION

**BEAUFORT COUNTY RURAL AND CRITICAL LANDS PRESERVATION PROGRAM
POLICIES AND GUIDELINES**

1. Applicability and General Process.

a. Land that is to be considered for acquisition through the Rural and Critical Lands Preservation Program (RCLP) shall first be investigated by the Program management staff. Background information including property surveys, if available, property tax information, site investigation and ranking using the RCLP criteria will be assembled as part of the staff report to the Rural and Critical Lands Preservation Board (RCLPB).

b. Among other things, the staff will determine that:

1. The owner wishes to preserve the property;
2. The owner is agreeable to the sale of an interest in the property; and
3. Whether or not the owner is willing to consider a bargain sale or other form of charitable donation for the planning, development and stewardship of the property.

c. Any property proposed for acquisition and/or sale under the RCLP shall first be reviewed by the RCLPB. Following its review, the RCLPB shall prepare its recommendation and forward it to the Land Management Committee (LMC) of the Beaufort County Council (Council). In making its recommendation to the LMC, the RCLPB shall consider the following:

1. Location in relation to the focus areas established by the Greenprint approved by Council;
2. Ranking of the property by the RCLPB in accordance with criteria established by the RCLPB;
3. Suitability of the property for other public purposes;
4. Relationship to priorities for allocation of available funding through the RCLP; and
5. Availability of other public or private funds to assist in the acquisition including donation of land value by the seller (owner).

d. Any property proposed for acquisition under the RCLP and reviewed by the RCLPB shall be considered by the LMC for recommendation to Council for appropriate action.

e. In making its recommendation to Council, the LMC shall:

1. Consider the recommendation of the RCLPB;
2. Consider County financial resources available;
3. The economic impacts of the acquisition to the tax base of the County; and
4. The costs of managing the property if the County would own the property.

2. **Types of Acquisitions.**

There are two types of property interests that can be acquired under the provisions of this Ordinance. They are Purchase of Development Rights (PDR) and Purchase of Fee Simple Interests (PFSI).

a. Purchase of Development Rights (PDR) - Development rights will typically be purchased in areas designated Rural, although there may be instances where PDR may be appropriate for purchase in other zoning designations. Generally, properties considered for PDR are those areas of the County where:

1. There are conservation values in or on the property to be preserved;
2. Public access to the property is not required or desirable;
3. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property;
4. The character of the property and its surrounding area would be threatened by proposed or possible future development;
5. The owner wishes to retain ownership of the property.

b. If the development rights are to be purchased, the property will also be subject to the provisions of a conservation easement which will assure that the property is protected from development other than what is permitted by the PDR agreement and the conservation easement. Conservation easements will normally be assigned by the County to an appropriate Land Trust.

c. Any PDR will be subject to all due diligence being satisfactorily completed, reviewed and approved by the County.

d. Purchase of Fee Simple Interests (PFSI) – Fee simple interests may be purchased from property owners willing to sell in those instances where:

1. There are conservation values in or on the property to be acquired and the owner is only willing to sell all of their interest in the property;
2. Public access to the property is required or desirable;
3. Development of the property for public access and passive recreational use is desirable; and
4. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property.

e. Any PFSI in property will be subject to all due diligence being satisfactorily completed and approved by the County.

3. **Due Diligence.**

Before any property interest is acquired through the RCLP, all necessary due diligence shall be completed, reviewed and approved by the County. Due diligence shall include:

- a. Title Search and Title Insurance Commitment with only normal title exceptions. Title Insurance will not normally be required for PDR.
- b. A boundary survey completed by a South Carolina Registered Land Surveyor. In those instances where the County will own the property to be acquired, a topographic survey, tree survey and archaeological survey shall also be obtained when appropriate.
- c. A Phase I environmental Assessment shall be obtained. In instances where the Phase I report so indicates, a Phase II report including a plan for any remediation, by the seller or purchaser, required for the property to remove any and all environmental concerns
- d. An appraisal of the value of the interest being acquired prepared by a qualified real estate appraiser, preferably a Member of the Appraisal Institute (MAI) or with equal qualifications in the opinion of staff.
- e. All due diligence shall be reviewed by the Program management staff and by the appropriate County staff before being sent to County Council for action.

4. Conservation Easement Requirements.

- a. Conservation easements shall be placed on property where development rights are purchased through the RCLP. The development rights sold shall be transferred to Beaufort County by a Deed of Development Rights.
- b. The Conservation easement placed on the property by the owner shall govern the future use and maintenance of the property consistent with the rights retained by the owner which may include limited future development of portions of the property.
- c. Generally, there would be no public access granted in a conservation easement placed on any property.
- d. The conservation easement may be granted directly to an appropriate Land Trust by the owner or assigned by the entity acquiring the development rights. The selection of the Land Trust to hold the easement shall be recommended by the RCLPB to the Beaufort County Council.
- e. The endowment required by the Land Trust to defend and provide the necessary annual due diligence required for the easement shall be granted by the donor of the easement or by the RCLP depending on the nature of the agreement reached with the donor.

5. Covenants and Restrictions.

- a. Covenants and restrictions shall be placed on Property where the fee simple interest has been acquired by the RCLP and in those instances where the seller has required such covenants or restrictions or where the RCLPB determines that such are appropriate.

b. Generally, covenants and restrictions will describe in some detail how a property is to be developed, used and maintained as a public space consistent with the conservation value of the property.

6. Resale or Lease of Property Acquired.

There may be instances where property acquired under the program for its conservation value(s) and possibly to mitigate the impacts of development, may not be suitable or needed for county ownership in the future. In such cases, the County Council may request the RCLPB evaluate leasing or selling the property, in whole or in part, for limited development consistent with the conservation values that are to be retained and make a recommendation to the LMC. In those instances, the RCLPB shall be guided by the following:

a. That the resale or lease of the property, or a portion of the property, for a use to be determined not have any adverse impact on the conservation values(s) of the property, can be assured through the placement of a conservation easement on the entire property.

b. That the development of the property for use(s) permitted under a conservation easement will be carefully monitored by the county and the easement holder.

Any property considered for sale or lease would require appropriate action by Council following prescribed procedures for sale or leasing county-owned land.

7. Rural and Critical Lands Preservation Board Report.

The Rural and Critical Lands Preservation Board shall submit to the County Council an annual report in December based on all of the activities carried out pursuant to the Rural and Critical Lands Preservation Program. The report shall include but is not limited to the following:

- a. Map indicating the location of the total parcels of lands that have been acquired;
- b. Total number of acquired lands, number of acres and type of acquisitions of each of the acquired lands throughout the county;
- c. Number of landowners contacted or properties received for consideration for Program in the given year;
- d. Number of lands acquired, number of acres of each and type of acquisitions of each land acquired throughout the county in the given year.
- e. Total dollars spent in the Program and total dollars leveraged with the Program;
- f. Dollars spent and leveraged in a given year for the Program.

Adopted this 9th day of January, 2006.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: Wm. Weston J. Newton
Wm. Weston J. Newton, Chairman

Attest:

Suzanne M. Rainey
Suzanne M. Rainey, Clerk to Council