



Durham County Review Criteria for Acceptance of Conservation Easements for Impervious Surface Transfers

In conformance with Unified Development Ordinance Section 8.7.2, Durham County may occasionally accept a conservation easement on property for “donor parcels” in exchange for the “receiving parcel” to be built with a greater percentage of impervious surfaces than would be permitted without the transfer.

In accepting these easements, Durham County is taking on a perpetual monitoring and management responsibilities for the open space easement. Therefore, impervious surface easements will only be accepted where the proposed easement is located on property for which the County would have an ongoing perpetual interest in managing for open space or for the property’s significant water quality benefits.

The proposed easement / donor parcel will be reviewed for the following:

1. Factors supporting acceptance of an easement:

- The parcel is shown on an adopted Open Space Plan for protection.
- The parcel connects to a broader open space or trails network.
- The parcel contains Natural Heritage elements, Durham Inventory of Natural Areas and Rare species, or contains archeological sites or other culturally significant features.
- The size of the proposed easement is commensurate with the benefits of accepting the perpetual responsibility for the monitoring an easement. Larger parcels are easier to maintain and generally have greater environmental benefits.
- For properties without features listed above, does it contain other factors that would make its preservation as open space in the public interest? For instance, does it have potential suitability for a future park, preserve a significant stand of mature hardwoods, or provide water quality benefits such as a large amount of open space offered versus what would be required to meet the impervious surface need.

2. Factors against acceptance of an easement:

- The parcel abuts a significant residential area such as an existing or proposed subdivision. Open space that abuts existing smaller lot residential development will typically require much more intensive and on-going monitoring and the open space or water quality benefits derived from the acceptance of such an easement would need to be very clear to take on the overall perpetual monitoring of the property and the potential enforcement issues.
- The proposed development that wants to transfer the impervious surface has an existing or proposed Homeowners Association that could manage the open space. The easement

dedication to the County is not intended to be a way to avoid a Homeowners Association's responsibility to manage their open space.

- The property lack adequate access to the proposed land that is needed for monitoring purposes.
- The property shows evidence of likely land management problems, such as trash dumping, adjoining landowner encroachments, previous uses that might cause environmental or management concerns, or related issues.

Parcels not Appropriate for acceptance:

- Parcels within a subdivision that includes an established Homeowner Association.
- Small isolated tracts without factors listed in #1 above.
- Properties that have previously met some other ordinance requirement such as being used for a previous open space dedication requirement.

Land that will not Count Towards Donor Amount:

The portion of parcels covered by surface waters should be subtracted from the calculation