

Conservation Easements 101

Jane Myers, Land Conservation Manager | October 26, 2022



Capital Region Land Conservancy's Mission is

...to conserve and protect the natural and historic
land and water resources of Virginia's Capital
Region for the benefit of current and future
generations.

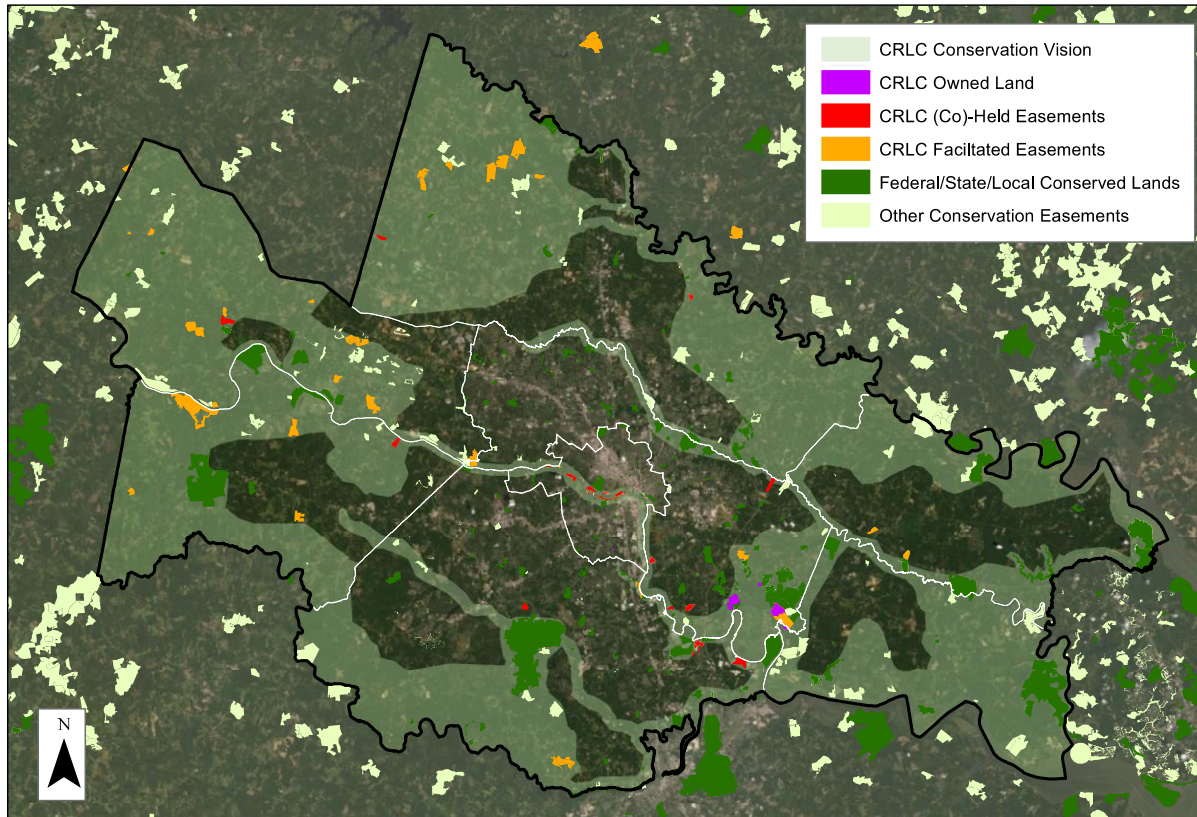
Capital Region Land Conservancy

Formed in 2005, CRLC is the *only* land trust dedicated *solely* to protecting the Richmond Region's water quality and scenic, ecological, and wildlife resources through private land conservation.

About the Capital Region Land Conservancy



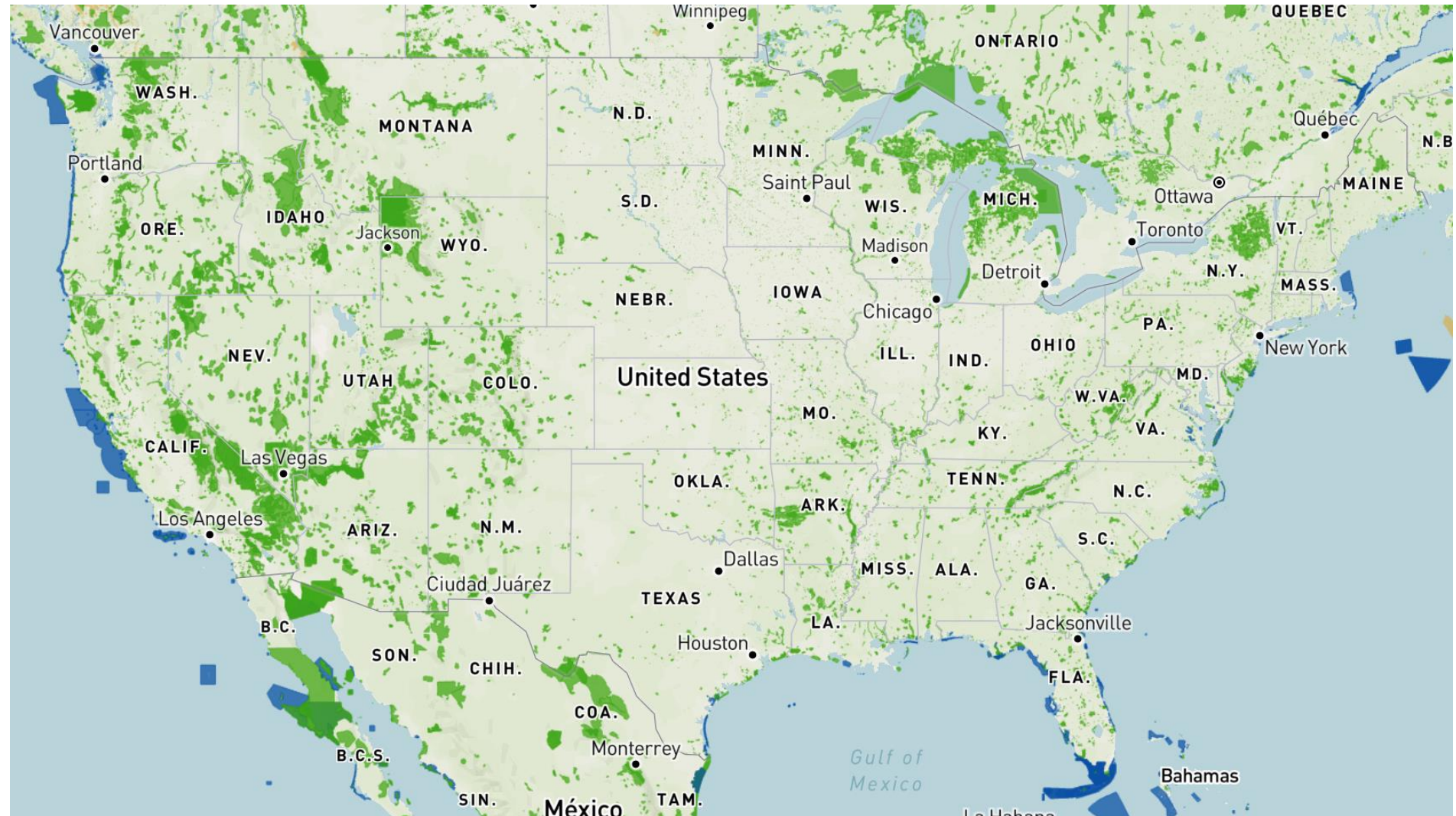
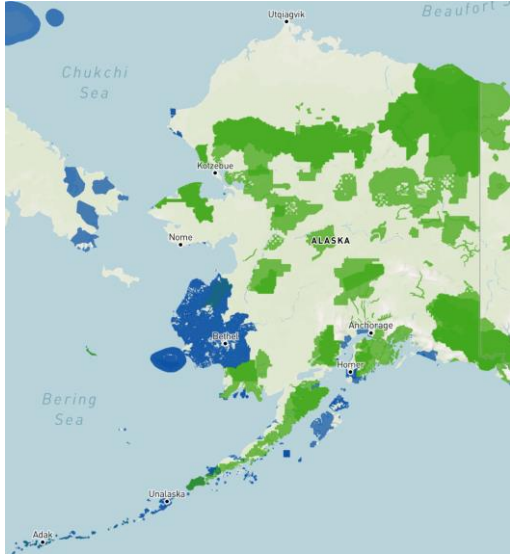
Conservation Vision Map for Virginia's Capital Region



CRLC has helped protect over 13,000 acres across our region!
We have 5 people on staff and
are growing!

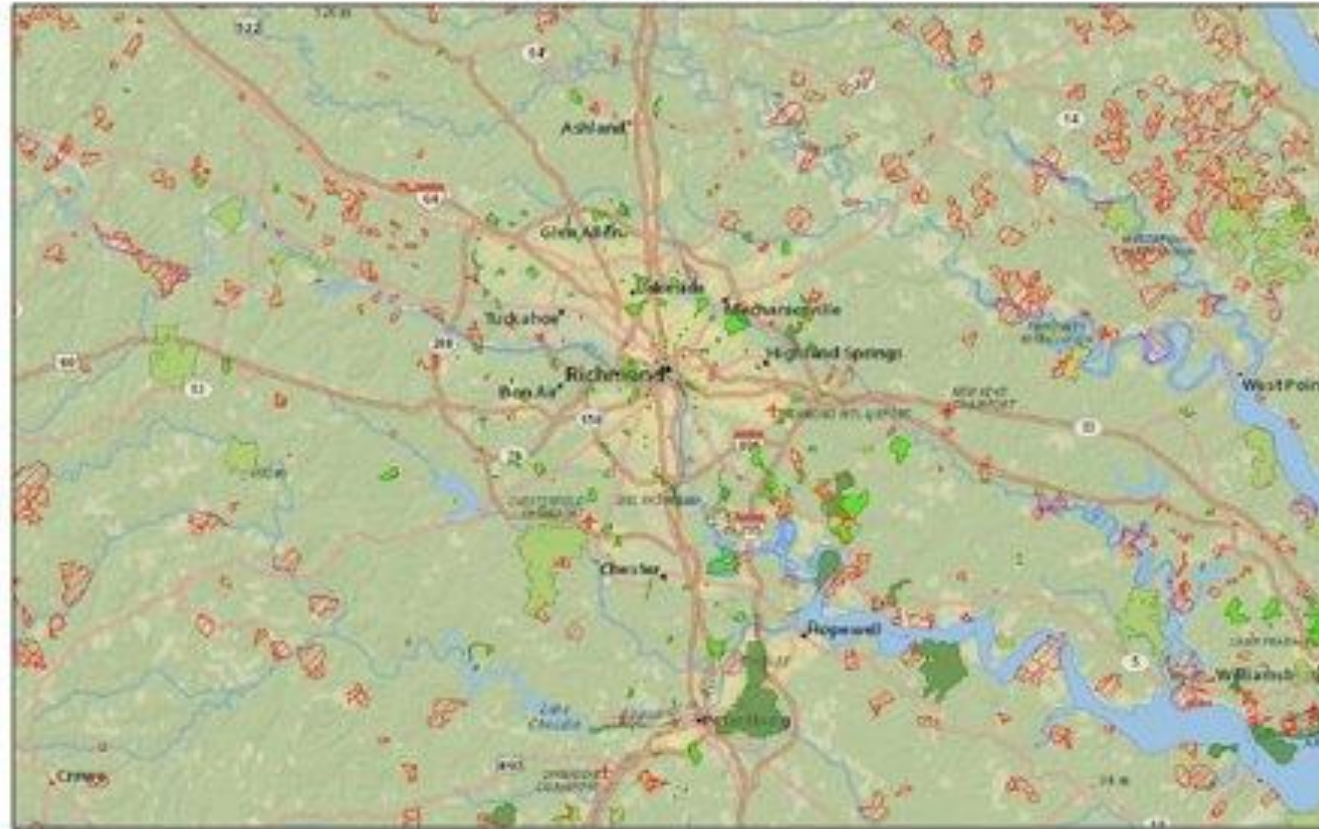


In the United States, 13% of the land is protected.



Only 5.5% of land in the Richmond Region is permanently protected.

Managed Conserved Lands



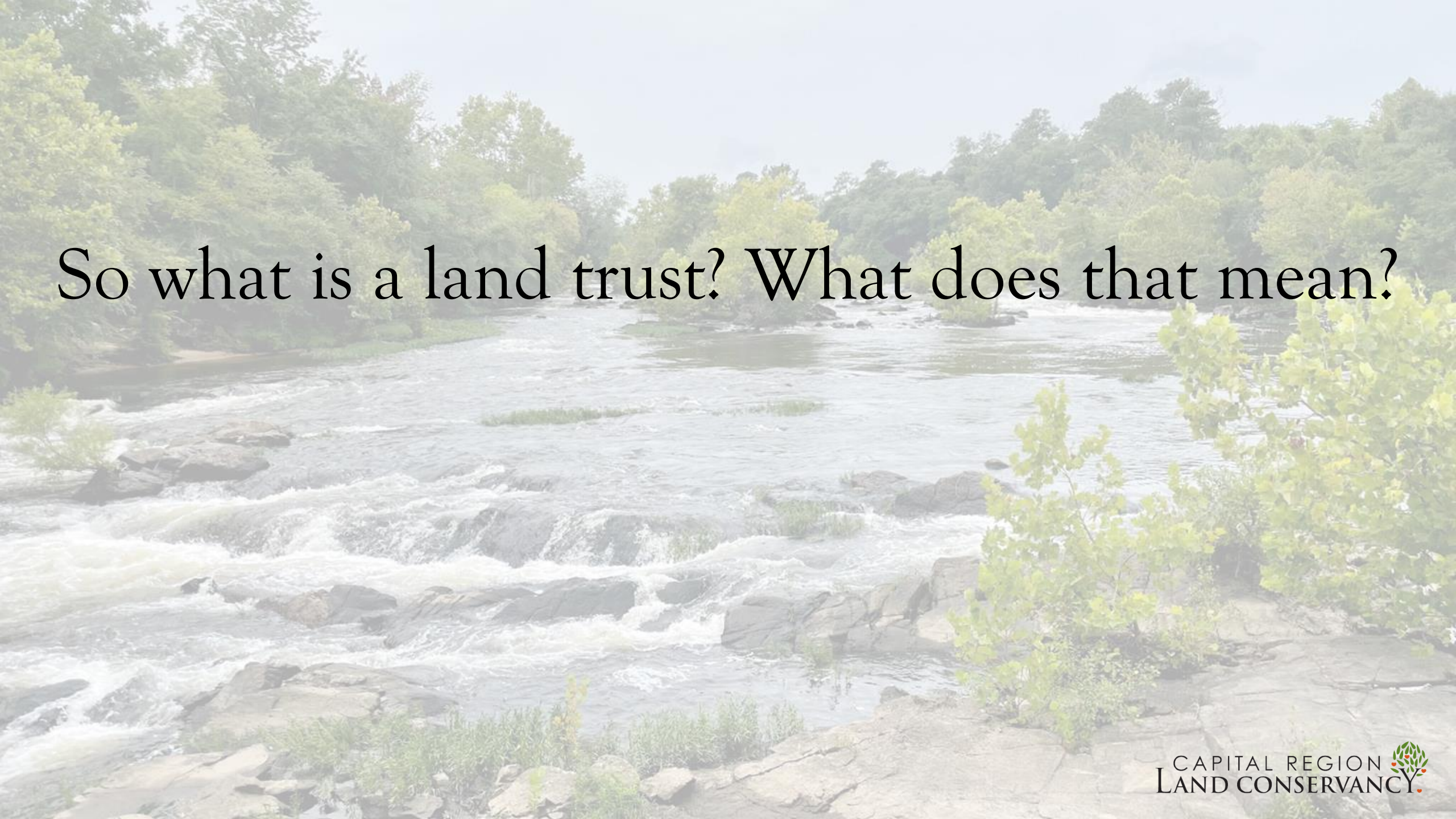
At least 21% of the land along the Appomattox is protected!

FOLAR Land Conservation Analysis



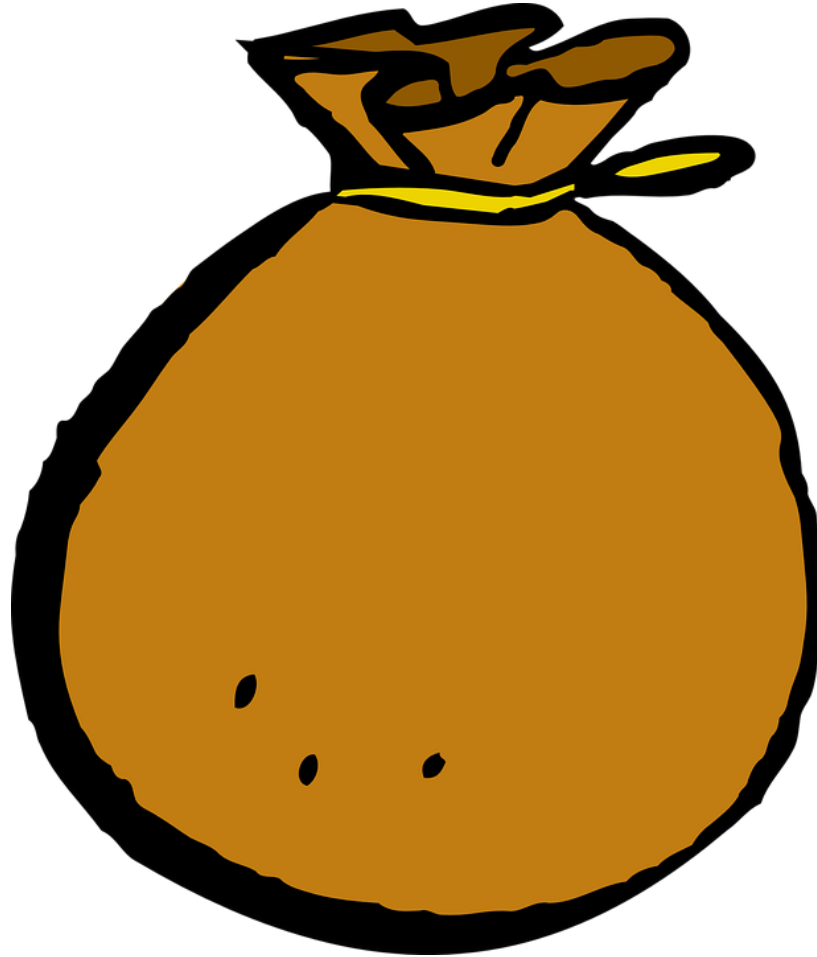
“Every 30 seconds, a football field worth of America’s natural areas disappears to roads, houses, pipelines, and other development.”

- source Center for American Progress

A scenic view of a river with rapids and a forested background. The river flows over dark, jagged rocks, creating white water and rapids. The banks are lined with lush green trees and vegetation. The sky is overcast and grey.

So what is a land trust? What does that mean?

“Estates, *Trusts*, and Wills”



“Trust” – a place in which you place something of value

A conservation easement is...

- ✦ Voluntary legal agreement between a landowner and a land *trust* or government entity – each agreement is unique
- ✦ Easements are deeds that are recorded in a county or city by the Clerk of Circuit Court
- ✦ In the deed specified uses of the land are restricted in order to protect the land's conservation values
- ✦ Landowner continues to own the land
- ✦ Easements do not require a landowner to allow public access
- ✦ Conservation easements are perpetual meaning they are forever

Landowner Benefits

- ✦ Peace of mind knowing that personal goals for your property have been achieved - priceless
- ✦ Federal Income Tax Deductions
- ✦ Virginia State Tax Credits
- ✦ Permanent reduction in local property taxes – “land use taxation”

Public benefits

- Help sustain the TOP TWO economic industries in the Commonwealth
- Help preserve Virginia's rural heritage by protecting prime agricultural soils, scenic views, wildlife habitat, and lands and water for hunting and fishing
- Protects *cultural and historic sites* before they are potentially lost forever to development
- Preserves quality of life for all of us

How does CRLC evaluate a property for a conservation easement?



Step 1

- Are there conservation values on the property worthy of protection?

Step 2

- Would a conservation easement on the property align with the City or County's current master plan, the Comprehensive Plan?

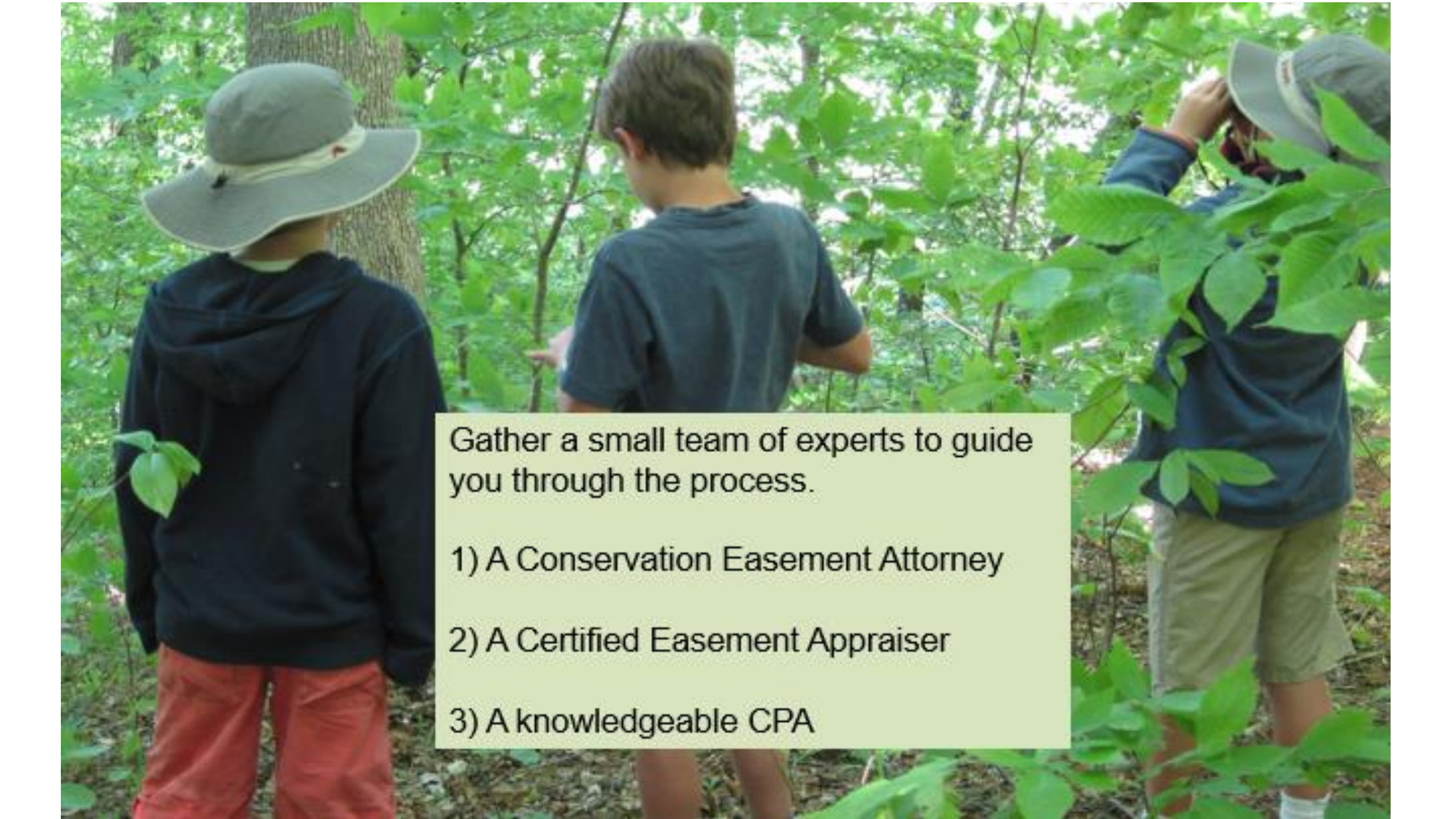
Step 3

- CRLC staff make a visit to your property to talk to you and see your property.



CRLC
visits the
property
to see it
and
discuss
your
goals



A photograph of three children standing in a lush green forest. The child on the left is wearing a dark blue hoodie, red pants, and a wide-brimmed grey hat. The child in the middle is wearing a dark blue t-shirt. The child on the right is wearing a dark blue long-sleeved shirt, khaki shorts, a wide-brimmed grey hat, and a red face mask. They are all looking towards the right side of the frame, where there are more trees and foliage. The background is filled with green leaves and tree trunks.

Gather a small team of experts to guide you through the process.

1) A Conservation Easement Attorney

2) A Certified Easement Appraiser

3) A knowledgeable CPA

Step 4 – Questions to be answered...

- Does the landowner have clear title to the property and are there any environmental issues?
- Does the property have a legal property description, accurately marked boundary corners or a survey?

Step 5 – Questions for the landowner

- What do you want to be able to do with your land?
Continue farming? Grow and harvest trees? Create wildlife habitat? Restore native habitat? Have a family retreat?
- What are your goals....the land trust you chose to hold your easement should share and understand your goals.

Negotiate/Record a Deed of Easement

CRLC Standard Template March 2019

This sample deed is provided to assist landowners and their attorneys in preparing deeds of easement to be conveyed to Capital Region Land Conservancy (CRLC). As each property contains unique conservation values, staff may recommend provisions appropriate to individual properties. Landowners should discuss present and future land management practices with staff before preparation of the deed of easement. CRLC does not provide legal or tax advice or warrant that this template will meet all IRS or Virginia Department of Taxation requirements or the Virginia Land Conservation Foundation's Conservation Value Review Criteria for easements valued \$2.5 million dollars or more. An easement will permanently change how the property may be used and its market value. Because this change can have major estate planning and tax consequences, landowners should consult legal counsel prior to submission of their proposed easement to CRLC for its consideration. Selection of alternative provisions should be made and guidance instructions in italics and brackets should be deleted.

NOTE TO TITLE EXAMINERS: This conservation easement contains restrictions on permitted uses and activities on the property described below, which run with the land and are applicable to the property in perpetuity.

Prepared by: [landowner's attorney]

Return to:

Capital Region Land Conservancy
P.O. Box 17306
Richmond, VA 23226

TAX MAP NO. or PIN: _____

Exempt from recordation tax
under the Code of Virginia (1950), as amended, Section 58.1-811 (D)

THIS DEED OF GIFT OF EASEMENT (this "Easement"), made this ____ day of _____, 20_, [between or among] _____, [Underline or capitalize surname of individual(s)] [collectively or together "Grantor"] [Include marital status of Grantor]; **THE CAPITAL REGION LAND CONSERVANCY, INC.**, a Virginia non-profit corporation, whose address is P.O. Box 17306, Richmond, VA 23226 ("CRLC"), to be indexed as Grantee (the designations "Grantor" and "Grantee" refer to Grantor and Grantee and their respective successors and assigns); [if lien] _____ ("Lender") to be indexed as Grantor; and _____ and _____

Step 6 Drafting and Recording the deed

- Recitals – All the documented reasons a property should be conserved
- Purposes – Why, by law, the property qualifies as a conservation easement
- Restrictions – all the ways the conservation values will be protected
- Enforcement – what the land trust promises the landowner they will do to protect the property forever
- Documentation – Ways that everyone knows what the property looked like when the easement was recorded

An example of a Recital:

“WHEREAS, the Property fronts on the James River for approximately 1,500 feet, and contributes to the views enjoyed by the public ...”

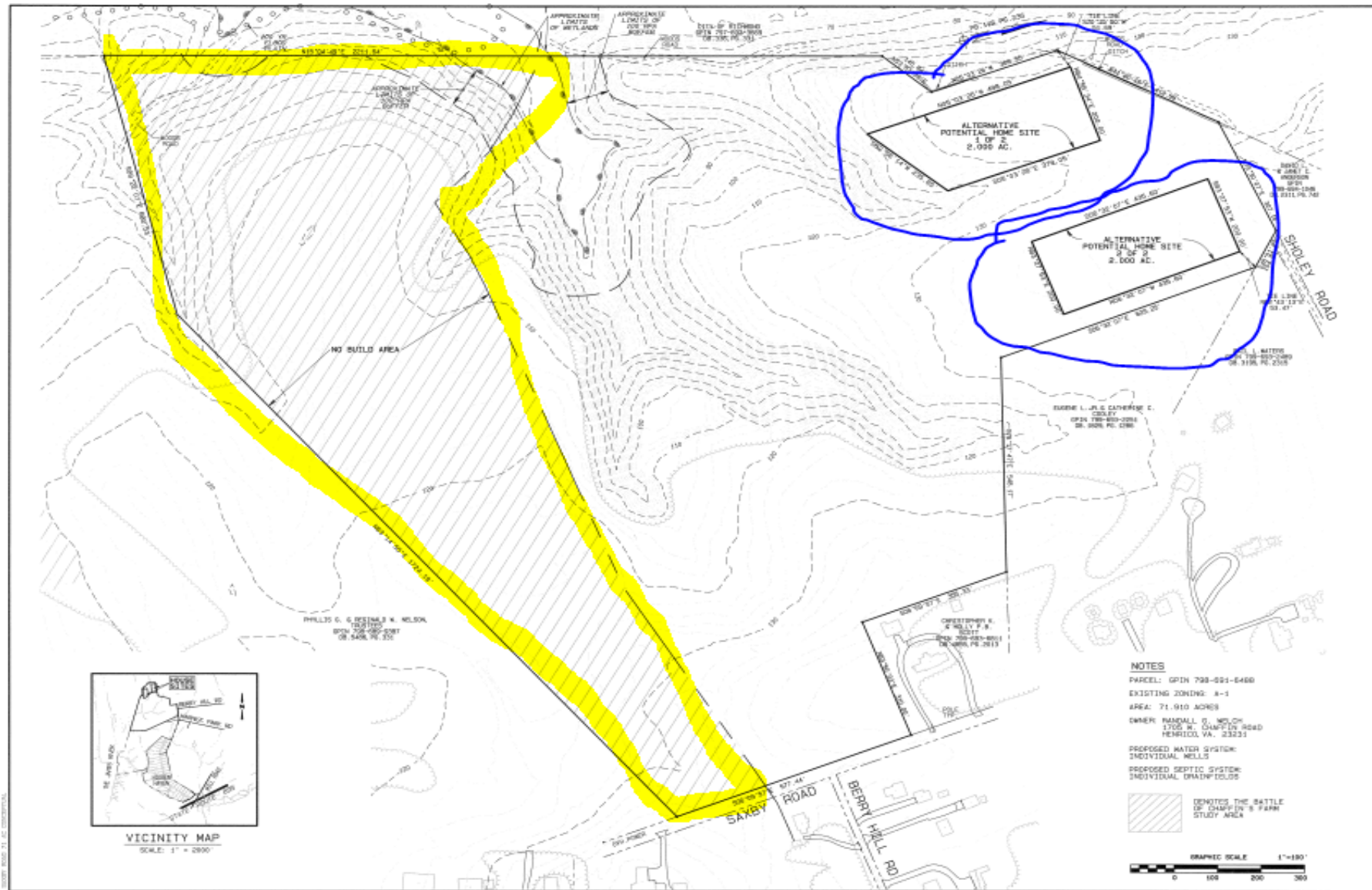
“WHEREAS, the Property contains approximately 110 acres of Prime Farmland Soils and approximately 21 acres of Soils of Statewide Importance, as classified by the Natural Resources Conservation Service of the United States Department of Agriculture, and protection of the Property from intensive development hereunder will help preserve these productive soils for agricultural production.”

Example of Restrictions: # of divisions



“Division - Separate conveyance of the Property or division of the Property is prohibited.”

Ex. of Restrictions: “No Build Areas”



An example of Enforcement:

“CONTROL OF THE PROPERTY. Nothing in this Conservation Easement shall be construed as giving rise to any right or ability in CRLC to exercise physical or managerial control over the day-to-day operations of the Property or any of the Grantor’s activities on the Property, or otherwise to “participate in management” of the Property, ...”

Back to Benefits

- ☛ Peace of Mind
- ☛ Financial benefits

Virginia Tax Credits and Federal Tax Deductions are determined by a conservation easement appraisal. The landowner works with a qualified appraiser to determine the easement value.

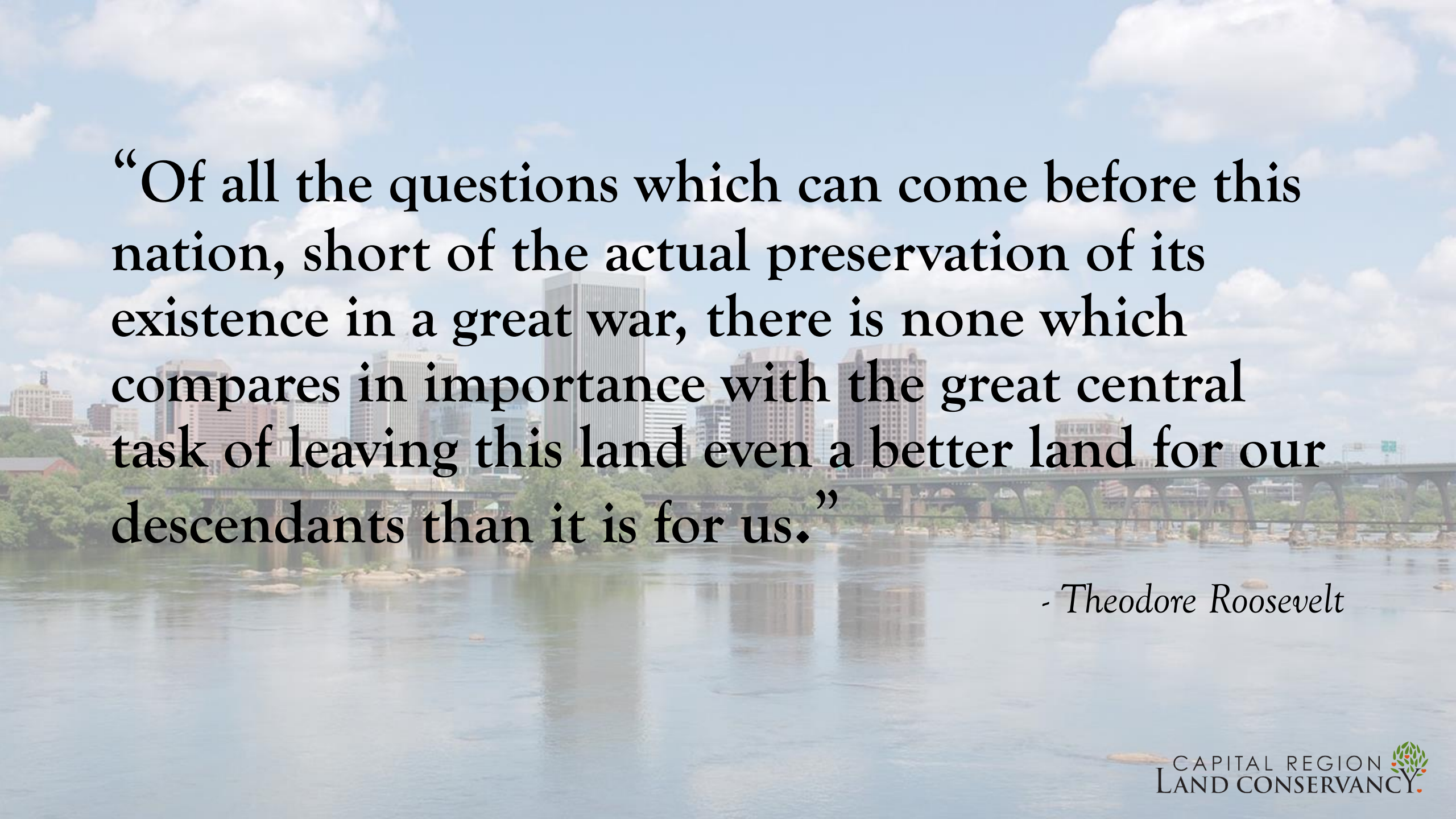
Back to Benefits

FOR EXAMPLE ONLY:

Pre-Easement value of Property	\$1,000,000
Post-Easement value of Property	\$ 600,000
Conservation Easement Value (diff between the 2)	\$ 400,000

Tax Credits are 40% of Easement Value

Federal Tax Deductions are based on total Easement Value

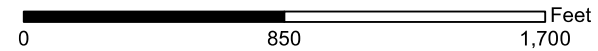
The background of the image is a scenic view of a river, likely the Potomac River, with a city skyline in the background and a bridge in the foreground. The sky is blue with white clouds. The text is overlaid on the image.

“Of all the questions which can come before this nation, short of the actual preservation of its existence in a great war, there is none which compares in importance with the great central task of leaving this land even a better land for our descendants than it is for us.”

- Theodore Roosevelt

Greenwood Location Map

Potential Fee Simple Land Acquisitions in the
Petersburg, Chesterfield, and Colonial Heights Area





422-1801







