

Second Gen Landowners

Acquiring Land Already Protected by a Conservation Easement

By Michael Heneghan



Photo by Ben Brown

The Georgia-Alabama Land Trust (GALT) protects land to benefit both natural ecosystems and human communities. With these two objectives in mind, it is easy to see why conservation easements are the primary land protection mechanism GALT utilizes. Conservation easements can help landowners achieve their land management and other objectives while simultaneously protecting critical habitat, high-priority species, important soils, and other conservation values. And each property is unique, just as each landowner's conservation objectives are unique. Thus, conservation easements are unique and specific to each protected property. In turn, landowner motivations for protecting a property may include a desire to protect inter-generational family land, to see high-priority species retain needed habitat, to guide

future generations as part of an estate planning tool, and to potentially receive certain tax benefits pursuant to federal and state law.

However, there is another aspect of owning a conservation easement property that is less obvious but equally beneficial. By default, conservation easements are perpetual, meaning the easement exist in perpetuity ("runs with the land"). As a result, when an easement property is sold (or gifted, or inherited), the conveyance is subject to the conservation easement. Second generation landowners, as we refer to them, are those who acquire land that is already protected by a GALT conservation easement.

Because the conservation easement runs with the land, the new owner needs to understand the easement's terms and be willing to manage the land consistent with those

terms. Fortunately, many buyers view the easement terms and restrictions as already compatible with their own intentions and uses for the land. Though second generation landowners are removed from any potential tax benefits the original donor of a conservation easement may have received, a property protected by a conservation easement may present a buying opportunity.

As GALT enters its 25th year of land conservation, we are seeing many easement-protected properties change hands, with a new batch of (often first time) landowners becoming the next generation of land stewards. Though we typically think of a legacy property as land which has been in one family for generations, all land has the potential to become legacy land, and many of these new second generation landowners have a vision of making their new property a place for their families to enjoy for generations.

Learning as You Go

Chattooga County, with its impressive natural resources, may be the embodiment of rural North Georgia. Located at the southern end of the Cumberland Plateau, just north of the metropolitan region of Rome, and far enough south that it isn't yet affected by the expansion of Chattanooga, nearly a quarter of Chattooga County land is in agricultural use; another fifty percent is in natural forest cover. The eastern half of the county contains nearly 20,000 acres of the Chattahoochee National Forest, including portions of Johns Mountain, Little Sand Mountain and Taylor Ridge, and nearly 20 miles of the increasingly popular Pinhoti Trail. The James H. "Sloppy" Floyd State Park, a popular camping and fishing destination just off of the Pinhoti, is located minutes from downtown Summerville, the County

Seat, with its population of less than 5,000 people. On the western side of the County, atop Lookout Mountain, is the small community of Cloudland and the East and Middle Forks of Little River, which snake across the Alabama line before converging and flowing through Desoto State Park and Little River Canyon National Preserve.

Ben Brown is a business owner based out of Summerville who was born and raised in Chattooga County. Though he moved around the tri-state area as a young man, spending some time living in Rome and Chattanooga, he eventually returned home to Summerville in 2003.

In 2017, while Ben was living on a 10-acre property in the small community of Gore, he was contacted by Dr. Steven Morganstern, a former work client who became a close friend, who was trying to sell his nearby land. Dr. Morganstern was an early donor to GALT, placing a conservation easement on his 230-acre farm in 2001; this was the 24th easement that GALT – then known as the Chattowah Open Land Trust – acquired. Though Ben wasn't actively looking for something like this at the time, the idea of owning a large piece of land was something Ben had often considered, and the easement-protected property presented a purchase opportunity Ben didn't want to pass up. Ben was somewhat familiar with conservation easements and didn't find the easement's restrictions inconsistent with his goals and intended land usage. After reviewing the easement documents with his advisor, Ben made the choice to move forward with the purchase. "Finding this was such a blessing. I never could have bought this farm unencumbered." Ben said.

A lifelong hiker and outdoorsman, Ben is a naturally conservation minded individual; a land ethic was a part of



Photo by Ben Brown

his life from early on. Ben's father, Jerry Brown, was a local businessman who founded the Coosa River Basin Initiative (CRBI), an environmental non-profit based out of Rome, in 1991. Though Ben's father then had a 100-acre property in the area, and Ben had helped at that property for some CRBI events during his younger years, now actively managing his own land for conservation was a new endeavor. "My father became passionate about conservation and started

mental Quality Incentives Program (EQIP) and Conservation Reserve Program (CRP), which provide technical and financial assistance to landowners like Ben to improve certain natural resource systems. Through these programs, Ben has been able to begin addressing erosion issues on the property, run controlled burns, eradicate nearly all of the privet and kudzu, and plant a number of pollinator species and native grasses.



Photo by Ben Brown

CRBI, which is something to be very proud of, but he was a businessman, and I don't think he ever had the time or resources to really manage that property himself. Most of the management there was hired out to someone else."

Ben, however, wanted to immerse himself in management of his property, including getting his own hands dirty. "When I bought this land, I had absolutely no clue. I didn't know what a harvestable pine was. I couldn't identify a White Oak. I didn't imagine myself being involved to the level that I am, but I love it. I've become very passionate about it and immersed myself in it and learned from as many people as I can. I've had state foresters out, had private consultants out, aquatics guys, I've worked with GALT. I've really tried to tap into all of the resources that are available to help me with this."

Working with foresters and biologists and keeping in regular contact with GALT, Ben has been able to identify the areas on the property most in need of management intervention. Among the outside resources he speaks of are the Natural Resource Conservation Service's Environ-

It is clear that Ben is a guy who likes to leave things better than he found them, and his work has generated impressive results, both ecologically and aesthetically. A selective harvest and prescribed fire in the previously overstocked pines created a beautiful traditional savanna. Prescribed burns and mechanical treatments in the higher elevation hardwoods brought sunlight to the forest floor, increasing native groundcover and improving growth of the most desirable tree species such as oaks and maples. Erosion control measures were also implemented.

Ben and I have walked the farm many times since he purchased it in 2018, and every time he has seemed excited to show off these new projects. Last year it was the dam work and timber harvest. This year it was his newly finished home nestled at the edge of the open pastures and upland hardwoods (the conservation easement reserved the right to build this residential dwelling). I visited in April with few enough leaves on the trees that we had a perfect view of West Armuchee Valley, with Taylor's Ridge to the West and John's Mountain to the East. It's not hard to see why Ben has



Photo by Ben Brown

put so much into this place, and why he plans to stay here long term.

"When I bought the Property, I thought maybe I'd like to live out here but I wasn't 100% sure of that. The more I've gotten involved, the more I love it. I'd like to live here as long as I am physically able to do it."

That will give Ben plenty of time to see through his long-term visions for the place.

"I'd love to see these forests begin to look like what we think they looked like 300 years ago and see more native wildlife as we keep improving the habitat. Having wood ducks here year-round would be amazing and I think that is achievable."

Some of these goals are already taking shape. A newly consolidated pond has improved the erosion issues and enhanced aesthetic and scenic values. It also created quality habitat for many of the wildlife species which were specifically targeted in the original easement. Ben recently spotted a bald eagle on the property for the first time since his purchase!



Photo by Ben Brown

Though purchasing a property already encumbered by an easement requires a thorough understanding of the existing terms and restrictions, Ben says his experiences working with GALT and owning the property have been positive. In fact, he recently purchased an adjacent parcel that he plans to protect with a GALT conservation easement in the coming months.

Before leaving, we sat on the stone wall at the northwest corner of his home, overlooking the nearby mountains, and I asked Ben if he had any final thoughts that he would like included in the article. He thought for a minute before responding:

"George Doster started farming this place around the 1930s. He lived in the white house right across from my entrance. He hand-sprigged the bermuda. He did a lot of the terrace work that has really held up in the fields. At no point did he go and clearcut the property. He may not have had a word for it, but I feel like there was a conservation ethic there. Dr. Morganstern made the decision to put it into conservation easement 20 years ago; he could have come in and cut all the pines before selling it to me, but he didn't. Of course there were the Native Americans who were out here long before them. There may have been some not so good management decisions over the years, but there were a lot of good ones too, and I think that deserves recognition. I'm certainly not the first one who has cared about this land."

Ben can take comfort in knowing that he will not be the last person to care about the farm either. The GALT conservation easement will ensure that Ben's property – as well as Dr. Morganstern's original desire to place the easement – will be protected in perpetuity.