

Guide to Historic Preservation Easements

2018 Main Street Conference

Melissa Wyllie
July 31, 2018

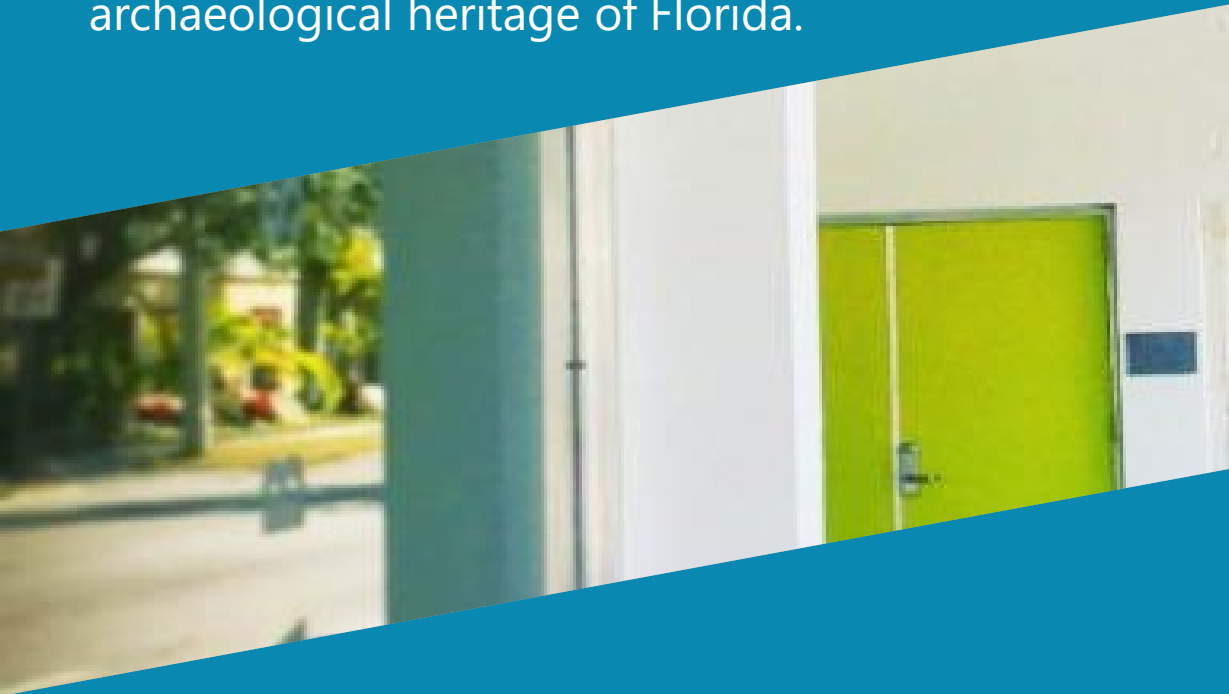
The Dupont Center
Jacksonville





The Florida Trust

Florida's nonprofit dedicated to promoting the preservation of the architectural, historical and archaeological heritage of Florida.



Center for
Architecture
Sarasota

Our Mission



Archaeological

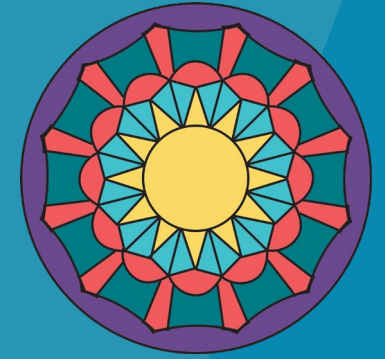
Architectural

Historic Preservation



Belleview
Biltmore Hotel
Clearwater

Our Core Focus



Advocacy

Advocate for historic preservation at the local, state and national level.

Education

Provide preservationists across the state with the education they need.

Stewardship

We are responsible stewards for the Florida Trust House, the Bonnet House and our easement properties.

Florida Trust Easement Program

Easement donations are important tools for historic preservation.

The Florida Trust Easement Program supports our focus on historic property stewardship through the carefully considered acceptance of easements that provide permanent protection of historic resources.

- Our Easement program is more than 25 years old
- We currently hold 10 conservation easements around the state
- Administered by the Easement Committee of the Florida Trust Board of Trustees



Florida Trust House
Tallahassee

Protects Different Architectural Styles & Stories



Independent Life Building

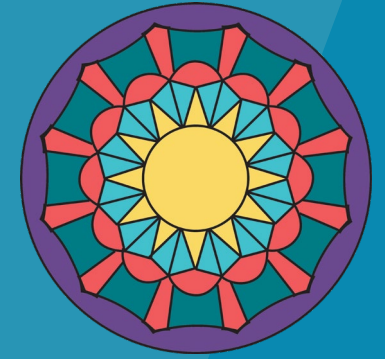
- Jacksonville
- Built 1955
- Modern style
- Originally used as insurance office building
- Currently vacant
- Proposed use: Hotel



Porter Mansion

- Jacksonville
- Built 1901
- Classic Colonial style, designed by Henry Klutho
- One of the last residential homes downtown
- Current use: Office space

What is an Easement?



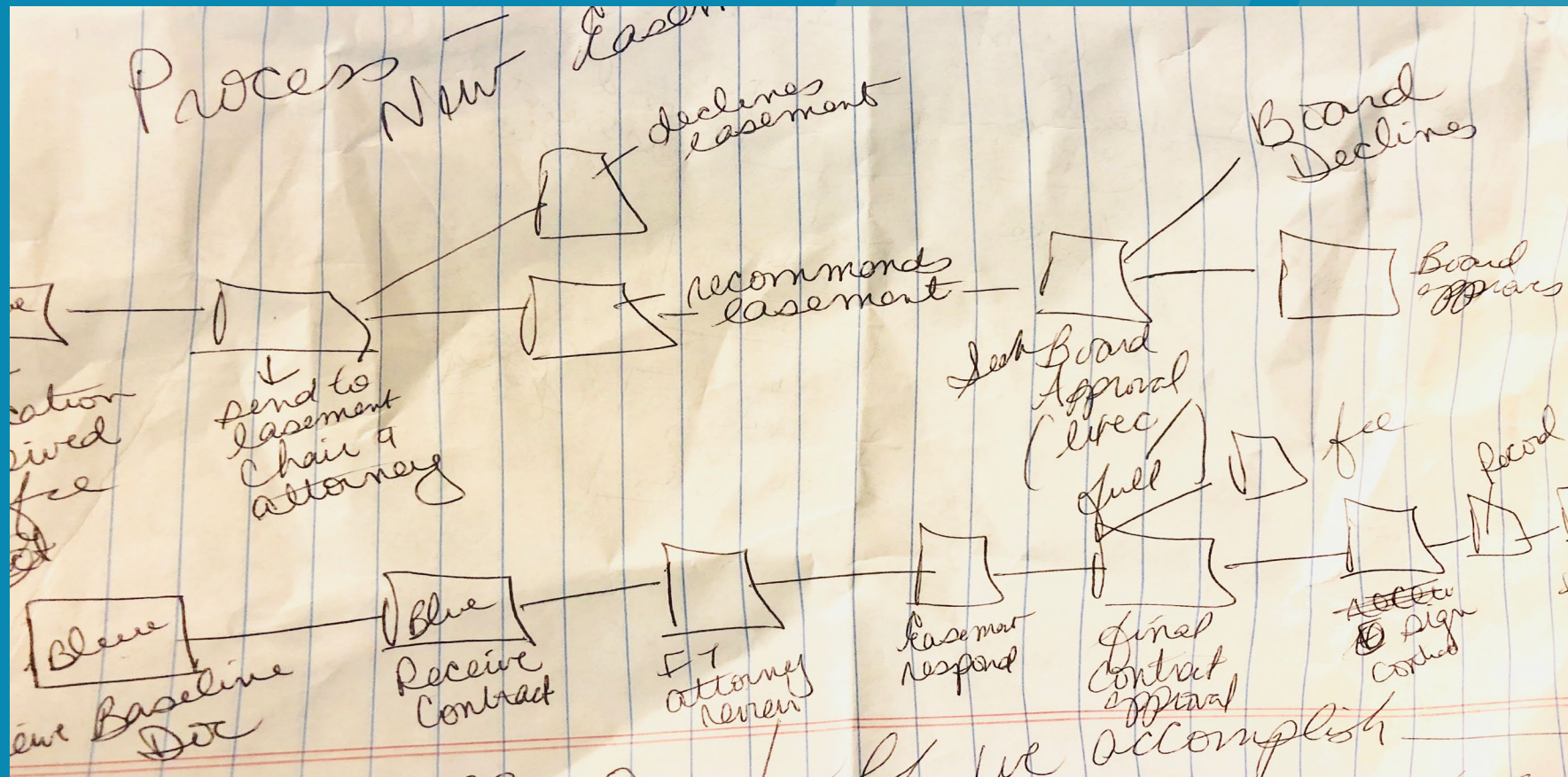
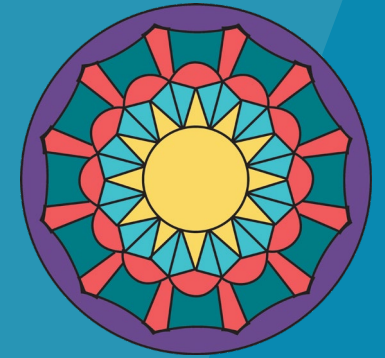
The term “preservation easement” is commonly used to describe a type of conservation easement — a private legal right given by the owner of a property to a qualified nonprofit organization or governmental entity for the purpose of protecting a property’s conservation and preservation values.

Conservation easements are used to protect land that has outdoor recreational value, natural environmental value (including natural habitat), open space (including farmland, forestland, and land with scenic value), or land that has historic, architectural, or archaeological significance.

Preservation easements are conservation easements whose principal purpose is to protect a property with historic, architectural, or archaeological significance, although the easement may also protect natural land values as part of a property’s historic setting. (Correspondingly, other types of conservation easements held by conservation organizations or land trusts typically are given for the purpose of protecting natural characteristics of a property, but they may also protect historic resources, such as historic farmland or archaeological sites.)

— *Excerpt from “Preservation Easements, An Important Legal Tool for the Preservation of Historic Places,”*
(National Trust 2006)

Easements are Complex





Preservation Easements

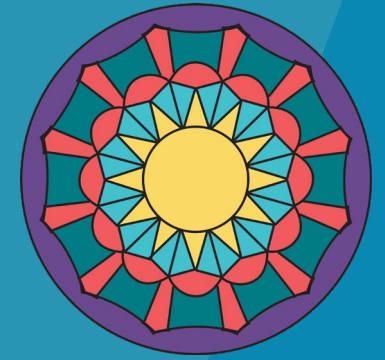
An easement is a private legal arrangement between a property owner and a qualified preservation organization (or government agency) that serves to protect the character-defining features of a historic building by putting certain restrictions

Most easements are perpetual and bind both current and future owners to protect the property.

Preservation easements may also be referred to as "preservation covenants" or "preservation restrictions."

Florida Trust Easement:
The Matheson House
Gainesville

What do Preservation Easements Protect?

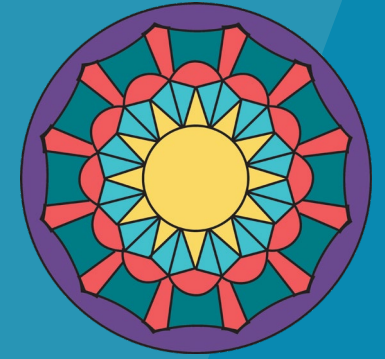


Each easement is unique, and reflects the special characteristics of the property it protects

Examples are:

- Most preservation easements protect at least the exterior character-defining features of historic buildings.
- May also preserve the historic setting of the protected buildings, sometimes including natural as well as designed landscape features.
- Some preservation easements can protect interior features of historic buildings.
- Some can also control (or, in some instances, prohibit) additions to existing buildings or the construction of new buildings and structures on the property.
- Façade easements control exterior elevations of building.

Preservation Easements & Rights



Once recorded, easement owners retain many rights. Other rights are transferred to the easement-holding organization.

Owners Rights

- Right to live in and/or use property
- Right to maintain the property
- Right to sell, or give away ownership of the property

Transferred Rights

- Serve to protect a historic property from activities that would imperil the preservation of the property
- Demolition
- Inappropriate alteration
- Obstructing the historic street view of a building, such as by building a structure in front of the property



Who is eligible?

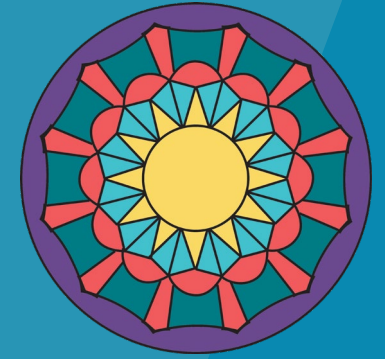
According to the Internal Revenue Code, an income tax deduction may be available for a preservation easement protecting a certified historic structure or a historically important land area.

A property is considered a certified historic structure if it is a building, structure, or land area individually listed in the National Register of Historic Places, or if it is a building located in a registered historic district and is certified by the National Park Service as contributing to the historic significance of that district.

For tax credit, properties must be income-producing (not residential).

Florida Trust Easement:
Anderson Cottage
St. Augustine

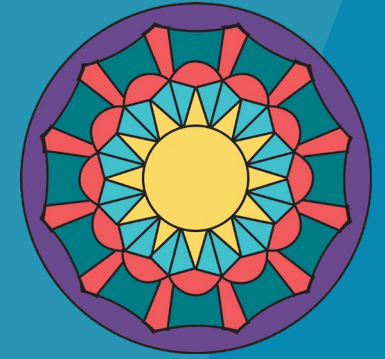
Our Eligibility Requirements



What we consider when reviewing an easement application:

- Historic significance: National Register listing individually or as part of a National Register district.
- It must be in the state of Florida
- The extent to which an easement will contribute to the preservation of the property
- The condition of the building and plans for future restoration and use, including a maintenance plan for the building

Preservation Easement Motivations



There are generally two motivators that trigger the donation of an easement:

Long-term Preservation

- Easements are perpetual, so a historic property will be protected after they are gone
- Buffer against development pressure
- Securing preservation best-practices for the property
- The property's historic character will be preserved.

Economic Incentives

- Developers often use this incentive as a way to make the numbers work for projects
- Property owners who donate qualified preservation easements may be eligible for tax incentives provided the contribution meets the standards of the IRS



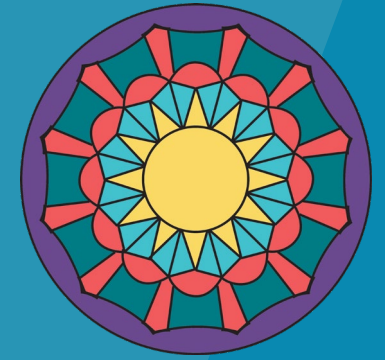
Preservation Easements

“The use of preservation easements is supported by state and federal preservation policies and laws that encourage public participation in the preservation of America's historic resources by providing an **important economic incentive**: property owners who donate qualified preservation easements to qualified easement-holding organizations may be eligible for a federal charitable tax deduction based on the value of the preservation easement, as provided for in the standards set forth by the Internal Revenue Service (IRS).”

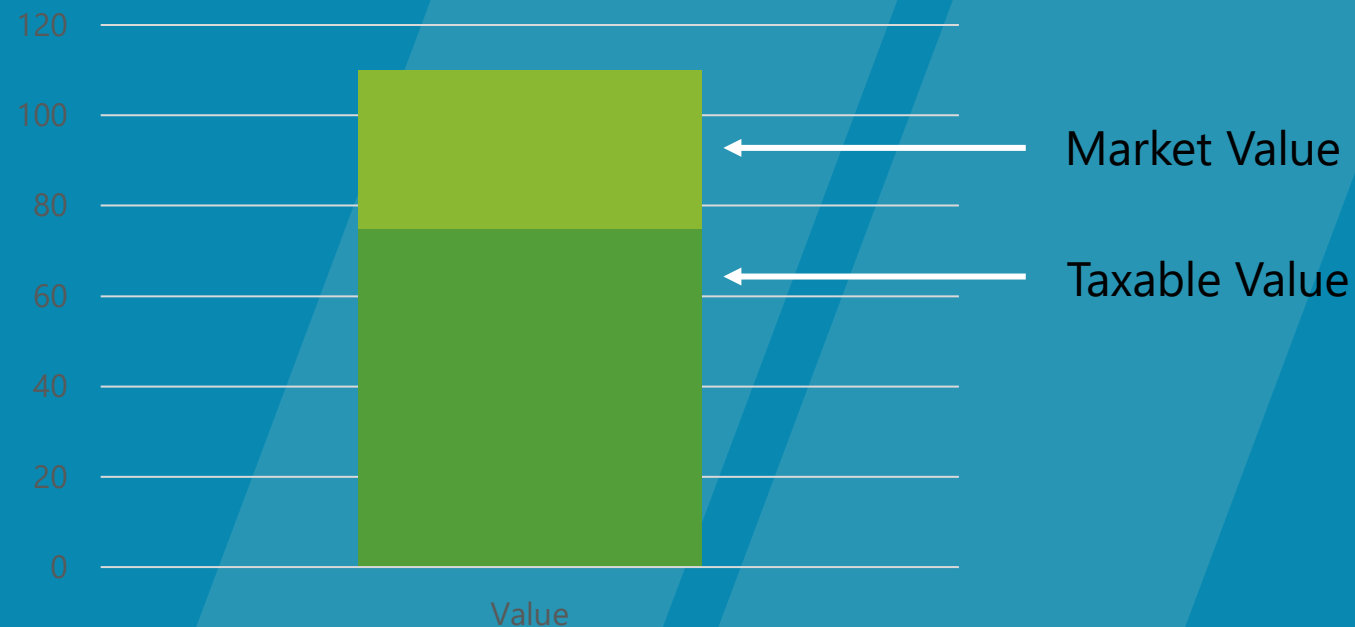
- National Trust for Historic Preservation

Florida Trust Easement:
Colony Theater
Miami

Economic Incentives



Property owners who donate a qualified preservation easement may be eligible for a federal charitable tax deduction based on the value of the preservation easement, as provided for in the standards set forth by the IRS.



How is this helpful for Main Streets?

Making the Numbers Work

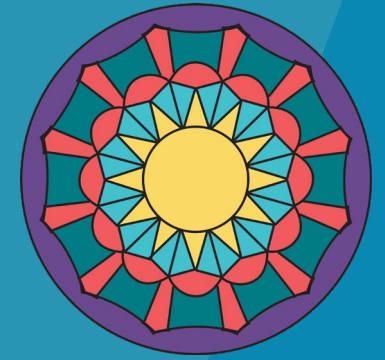
Preservation Easements can be part of the financial mix that allows developers to invest in preservation projects, versus other options such as demolition and new construction.

Developers often pair with other economic incentives such as the federal historic tax credit, new market tax credits and local incentives.



Florida Trust Easement:
Marion Hotel
Ocala

How Our Process Works



Donors wishing to seek a charitable tax deduction should seek the advice of a qualified attorney and/or tax advisor

- Most easement programs have administration fees as well as a stewardship gift required with the gift (remember, part of the threshold for being a qualified nonprofit is that you have the capacity to protect the easements in perpetuity).
- Easement donors are likely to incur some additional costs beyond those costs as well. These additional costs can include fees charged by attorneys, appraisers, and perhaps tax advisors; banks will occasionally charge fees for executing mortgage subordination agreements (for properties on which there is a mortgage).
- Easements require an application and baseline documentation – this is done by the donor
- Baseline documentation refers to photographs, site plans, floor plans and any other material that is incorporated into the preservation easement to document the scope of the preservation easement's protection and the existing conditions of the property and protected features at the time of the easement donation.

QUESTIONS?

Castillo de San Marcos
St. Augustine



THANK YOU!

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Historic Preservation

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FloridaTrust.org

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