

## RESOLUTION # 17

### LAND USE

1           **WHEREAS**, a sufficient land base must exist for agriculture to remain viable in New  
2 Jersey, and of the approximately one million acres of remaining developable unpreserved  
3 open space in New Jersey, approximately 700,000 acres are unpreserved farmland and  
4 privately held forest land actively devoted to agricultural and woodland production; and

5           **WHEREAS**, New Jersey voters previously approved a state constitutional change  
6 that dedicates a portion of the Corporate Business Tax revenues for the purposes of  
7 preserving farmland and open space; and

8           **WHEREAS**, preservation of land is only one component of preserving New Jersey's  
9 farmers and agricultural industry, hence the Department's approach to smart growth  
10 coordinates farmland preservation efforts with economic development strategies at the  
11 county and municipal levels; and

12           **WHEREAS**, land devoted to agriculture greatly fulfills the need to offset increasing  
13 impervious cover, wherever possible, that is inevitably a byproduct of residential, commercial  
14 and industrial development, thereby having a positive impact in recharging groundwater; and

15           **WHEREAS**, the State Planning Commission (SPC) reconvened in February 2011  
16 and announced a new State Strategic Planning project to transform the existing land use  
17 planning framework into one that prioritizes and supports sustainable economic growth; and

18           **WHEREAS**, after seven public hearings, the State Planning Commission was  
19 scheduled to adopt the new State Strategic Plan in November 2012, but the vote was  
20 delayed due to the state dealing with the aftermath of Hurricane Sandy, allowing for  
21 additional public comment on the draft plan; and

22           **WHEREAS**, the proposed final draft of the State Strategic Plan focuses the state's  
23 policies and investments on vibrant regions by fostering targeted job growth, supporting  
24 effective regional planning and preserving critical resources, but has yet to be adopted by the  
25 SPC after a series of public hearings; and

26           **WHEREAS**, in 2019, the Murphy administration reactivated the SPC and the Center  
27 Designation/Plan Endorsement process; and

28           **WHEREAS**, in some recent road and other public works projects, government  
29 agencies administering the projects have purchased land from farmers to replace wetlands  
30 taken for the projects; and

31           **WHEREAS**, these agencies have made a practice of buying three acres of farmland  
32 to turn into wetlands for every one acre of wetlands taken for the project, and this  
33 counteracts the ongoing state policy of trying to keep as much farmland as possible in  
34 production; and

35           **WHEREAS**, this creation of additional wetlands expands wildlife habitat and can lead  
36 to wildlife crop damage on farms adjacent to the farms from which the land was purchased to  
37 make wetlands, harming the production of a farmer who did not benefit from the purchase of  
38 his neighbor's land; and

39           **WHEREAS**, under the State TDR Act, Woolwich Township, Gloucester County, and  
40 Berkeley Township, Ocean County, have enacted TDR ordinances, however neither have  
41 yet successfully either marketed their receiving areas or provided the infrastructure  
42 necessary to create a viable market for credits; and

43           **WHEREAS**, particular concerns have been raised in Woolwich Township about a  
44 decision to continue with the program, with no ability for a landowner to "opt out," even as  
45 TDR credits have yet to sell for receiving area development during the ten-year trial period;  
46 and

47           **WHEREAS**, to provide landowner relief the Woolwich TDR Bank held a credit  
48 auction in 2016 leveraging \$5,000,000 from the State TDR Bank for the purchase of 274.5  
49 credits from 16 properties, at a total cost of \$6,978,000, and resulting in the preservation of  
50 817 acres bought at auction; and

51           **WHEREAS**, that left those remaining property owners whose land was "down-  
52 zoned" from two acres to 15 acres with falling land values, effectively "preserving" that land

53 without an investment similar to that involved in the Farmland Preservation Program, where  
54 the landowner receives a monetary value for selling the non-agricultural development rights  
55 of the land; and

56 **WHEREAS**, acknowledging the difficulty municipalities have had establishing TDR  
57 programs, a State TDR Task Force, which included staff of the State Agriculture  
58 Development Committee, NJDA and New Jersey Farm Bureau, was created to discuss ways  
59 to foster use of TDR and other cluster provisions; and

60 **WHEREAS**, efforts of the State TDR Task Force culminated in an August 2010  
61 report that outlined specific recommendations, which included amending the Municipal Land  
62 Use Law to create enhanced provisions for tools such as non-contiguous clustering and lot-  
63 size averaging; and

64 **WHEREAS**, on August 7, 2013, P.L. 2013, c.106 amended the Municipal Land Use  
65 Law to specifically authorize use of these density transfer techniques to provide  
66 municipalities a variety of development options as recommended in the Task Force report.

67 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 105<sup>th</sup> State  
68 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 5-6, 2020, do  
69 hereby endorse the Department's Agricultural Smart Growth Plan and its five-part approach  
70 to land use and conservation, balanced with economic development initiatives and  
71 encourage the Department to incorporate these concepts into the Department Strategic Plan  
72 based on the new State Strategic Plan goals and objectives with guidance from the Office of  
73 Planning Advocacy.

74 **BE IT FURTHER RESOLVED**, that we urge the Department to continue taking a  
75 lead role in supporting and advancing equitable and feasible density-transfer methods,  
76 including but not limited to clustering, regional growth zones, Pinelands Development Credits  
77 (PDCs), Highlands Development Credits and transfer of development rights (TDRs) to  
78 facilitate preservation planning in conjunction with growth planning.

79           **BE IT FURTHER RESOLVED**, that we urge the Department to support and advance  
80 the use of current and new wastewater technologies to allow for the implementation of  
81 sound, innovative planning techniques to assist municipalities and counties with the  
82 implementation of the objectives and strategies of the Agricultural Smart Growth Plan.

83           **BE IT FURTHER RESOLVED**, that we urge the Department to explore funding  
84 options to advance the development and expansion of agricultural facilities and infrastructure  
85 systems, and to explore other statewide initiatives, such as Ag Enterprise Zones, to stimulate  
86 the retention and viability of farms and the businesses that support them.

87           **BE IT FURTHER RESOLVED**, that we are opposed to “downzoning” or large-lot  
88 zoning or zoning that has the practical effect of large-lot zoning, because it fractures and  
89 consumes farmland, promotes land-consumptive sprawl, and adversely affects landowner  
90 equity, and therefore is counter-productive to the principles of smart growth.

91           **BE IT FURTHER RESOLVED**, that we oppose the adoption of restrictive land use  
92 and wildlife management or protection statutes, ordinances or regulations by the state, any  
93 municipality or other government entity in the state of New Jersey that are not science-based  
94 or that exceed the powers granted to governmental entities under existing laws and statutes.

95           **BE IT FURTHER RESOLVED**, that we recommend that all landowners involved in all  
96 preservation programs (TDR sending areas, Pinelands Development Credit sending areas,  
97 Highlands Development Credits, etc.) be eligible for the same package of benefits or state  
98 incentive programs available through the state Farmland Preservation Program, and that  
99 tenants be eligible for those programs that are appropriate to them.

100           **BE IT FURTHER RESOLVED**, that we call on the Legislature and all other  
101 appropriate officials to require that all public land acquired for open space purposes, which is  
102 farmed or can potentially be farmed, continue in an agricultural use or be placed in an  
103 agricultural use until it is needed for its acquired purpose - thereby keeping more of the  
104 state’s land base in agriculture.

105           **BE IT FURTHER RESOLVED**, that we continue to oppose any hard and fast caps on  
106 impervious cover, but instead support a threshold trigger, tied to a percentage of the land  
107 with impervious cover, for new impervious cover and the use of science-based criteria, which  
108 is evaluated on a site-specific basis, and that such a trigger should be used to begin a  
109 conversation about the amount of impervious cover, instead of automatically causing any  
110 particular action to take place.

111           **BE IT FURTHER RESOLVED**, that we support the participation of the Department  
112 and the State Agriculture Development Committee (SADC) in helping to implement a New  
113 Jersey Future Task Force report of recommendations to encourage the use of TDRs at both  
114 the municipal level and regionally through changes to relevant statutes, regulations, policies  
115 and programs as recommended in the draft State Strategic Plan.

116           **BE IT FURTHER RESOLVED**, that we support the use of municipal non-contiguous  
117 clustering pursuant to N.J.S.A 40:55D-1, et seq. as a way of achieving development  
118 transfers without disrupting underlying zoning by creating a voluntary program to transfer  
119 development potential from areas where preservation is desirable to areas intended to  
120 support new development.

121           **BE IT FURTHER RESOLVED**, that the agricultural community should monitor the  
122 implementation of this new law at the municipal level to maximize landowner protections and  
123 assess this new program's feasibility as a new equity-enhancement opportunity for  
124 agricultural landowners.

125           **BE IT FURTHER RESOLVED**, that we strongly urge coordinated efforts by and  
126 among the various New Jersey state agencies to aid municipalities interested in TDR, in  
127 particular, with regard to establishing the receiving areas and demonstrating a market for the  
128 TDRs, necessary to drive demand for TDR credits.

129           **BE IT FURTHER RESOLVED**, that we urge municipalities to engage with their  
130 planners, agricultural advisory committees and the state to identify opportunities for use of  
131 TDR, non-contiguous cluster and other density transfer techniques.

132           **BE IT FURTHER RESOLVED**, that we strongly urge any municipality or regional  
133           entity establishing or with established TDR programs to ensure that landowner equity is  
134           given the utmost consideration, and protected in the long term, by either creating lasting,  
135           viable markets for TDR credits or discontinuing TDR programs promptly if found to be  
136           inoperable, consistent with the State TDR Act, and that in lieu of a viable program, including  
137           adequate funding, with no TDRs applied, the program in that area be terminated.

138           **BE IT FURTHER RESOLVED**, that we recommend that representatives from the  
139           Department and the SADC meet with the Office of the Attorney General in order to seek full  
140           compliance with the Right to Farm requirement related to regulatory agricultural impact  
141           statements.

142           **BE IT FURTHER RESOLVED**, that we urge government agencies at all levels to limit  
143           the transforming of farmland into wetlands as a way to replace wetlands lost to public works  
144           projects, especially by limiting the purchase of farmland to turn into wetlands to a one-to-one  
145           ratio, instead of the current three-to-one ratio.