

RESOLUTION # 34

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 acre of wetlands taken for the project, and this runs contrary to
33 the ongoing state policy of trying to keep as much farmland as possible in production; and

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

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

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

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

50 **WHEREAS**, that left the remaining sending-district property owners whose land was
51 "down-zoned" from two acres to 15 acres with depressed land values, effectively "preserving"
52 that land without compensation similar to that involved in the Farmland Preservation

53 Program, where the landowner receives a monetary value for selling the non-agricultural
54 development rights of the land; and

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

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

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

66 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 107th State
67 Agricultural Convention, assembled in Atlantic City, N.J., on February 9-10, 2022, do hereby
68 endorse the Department's Agricultural Smart Growth Plan and its five-part approach to land
69 use and conservation, balanced with economic development initiatives and encourage the
70 Department to incorporate these concepts into the Department's Strategic Plan based on the
71 State Plan goals and objectives with guidance from the Office of Planning Advocacy.

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

78 **BE IT FURTHER RESOLVED**, that we urge the Department to support and advance
79 the use of current and new wastewater technologies to allow for the implementation of

80 sound, innovative planning techniques to assist municipalities and counties with the
81 implementation of the objectives and strategies of the Agricultural Smart Growth Plan.

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

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

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

94 **BE IT FURTHER RESOLVED**, that we support the SADC’s provisions that provide
95 for landowners involved in all preservation programs (municipal TDR, PDCs, HDCs,
96 clustering, etc.) to be eligible for the same package of benefits or state incentive programs
97 available through the state Farmland Preservation Program, and that tenants be eligible for
98 those programs that are appropriate to them.

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

104 **BE IT FURTHER RESOLVED**, that we continue to oppose any hard and fast caps on
105 impervious cover, but instead support a threshold trigger, tied to a percentage of the land
106 with impervious cover, for new impervious cover and the use of science-based criteria, which

107 is evaluated on a site-specific basis, and that such a trigger should be used to begin a
108 conversation about the amount of impervious cover, instead of automatically causing any
109 particular action to take place.

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

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

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

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

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

131 **BE IT FURTHER RESOLVED**, that we strongly urge any municipality or regional
132 entity establishing or with established TDR programs to ensure that landowner equity is
133 given the utmost consideration, and protected in the long term, by either creating lasting,

134 viable markets for TDR credits or discontinuing TDR programs promptly if found to be
135 inoperable, consistently with the State TDR Act.

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

140 **BE IT FURTHER RESOLVED**, that we urge government agencies at all levels to limit
141 the transforming of farmland into wetlands as a way to replace wetlands lost to public works
142 projects.