

# INNOVATIVE CONSERVATION PLANNING



*Under the innovative conservation planning approach, land conservation is the central organizing principle around which livable communities are created. Purchase of development rights programs coupled with innovative conservation planning efforts help New Jersey grow in ways that consume less land and strike a balance between preservation and growth.*

## Overview

New Jersey is the most densely populated state in the nation. Farmland is disappearing at an average rate of 10,000 acres a year. Fields where dairy cows once grazed and peach trees once blossomed are now home to shopping malls, houses and highways.

Many New Jersey towns are fed up with this development and want to stop growth completely. Some scramble to preserve any parcel of land slated for development. Others downzone open land – typically active farmland – to reduce the number of homes that are built and to limit infrastructure costs associated with residential development.

But these random and reactionary preservation efforts actually encourage sprawl and result in the loss of farmland.

Downzoning and large lot zoning may reduce the number of homes that can be built, but it also spreads out those homes in such a way that consumes more land, with none of the remaining land useable for farming, forestry or recreation. Lots become “too large to mow, but too small to plow.”

Downzoning also devalues agricultural land by reducing its development potential. When a municipality decreases the land’s development potential, it is also reducing a farmer’s net worth and hurting the farmer’s ability to obtain flexible financing at competitive interest rates. This in turn increases the pressure on New Jersey’s farmers whose land is often their primary financial asset.

The American Farmland Trust found the problem does not lie in growth itself, but in wasteful and destructive land use. From 1982 to 1997, the population in the United States grew by 17 percent, while urbanized land grew by 47 percent. Furthermore, the nation’s farmland disappeared 51 percent faster in the 1990s than it did in the 1980s. Clearly, New Jersey is not alone in its struggle with the difficult task of managing growth.

While New Jersey should not stop growth, it can plan for it in a way that protects the state’s most valuable farmland and other natural resources and ensures the continued viability of its agricultural industry.

A primary goal of the State Agriculture Development Committee's Strategic Targeting Project is to encourage counties to coordinate farmland preservation and agricultural retention efforts with local proactive planning initiatives that consider growth, open space, recreation and historic preservation. This type of land use planning can be accomplished using an array of planning techniques that accommodate growth in rural areas while retaining productive agricultural lands.

Because agriculture is an industry in which land is the primary instrument of production, it is important to retain the land base by identifying and prioritizing key parcels for preservation. Once these critical agricultural areas are identified, efforts can be made to steer development away from them and into areas with existing infrastructure or to marginal lands where infrastructure can be provided. Prioritizing the importance of agricultural lands in a regional context, as called for in the Strategic Targeting Project, allows for the coordination of farmland preservation and agricultural retention efforts with proactive land use planning at all levels of government.

The New Jersey State Development and Redevelopment Plan outlines many agricultural policies and specific land use techniques that should be implemented in the agricultural regions of the state. These are areas with most of New Jersey's prime farmland, which has the greatest potential of sustaining the agricultural industry in the future. In these planning areas, growth should be focused in existing and new rural centers where development is mixed in use and compact. Ideally, the areas outside of these centers are maintained for agriculture by using planning techniques that address landowner equity and support farming.

Municipalities and counties have the option of using tools such as capacity analysis and build-out analysis to determine opportunities for – as well as the implications of – future growth and preservation. Capacity analysis evaluates the ability of the environment and infrastructure, such as water supply, to support projected growth. Build-out analysis illustrates what a town, region or county will look like if built to the full extent allowed by existing zoning. Such an illustration can be an effective way to demonstrate the importance of proactive planning that balances the need to accommodate future growth and preserve natural resources.

Below are some of the land use techniques and infrastructure systems that support development and redevelopment. These techniques and systems enable the accommodation of growth, the preservation of farmland and the continued viability of the agricultural industry. These techniques must be used in tandem with the other components of the Agriculture Smart Growth Plan to sustain agriculture in New Jersey.

Agriculture-Friendly Zoning: Agriculture- friendly zoning is a comprehensive land use practice that coordinates zoning and land use policy in a proactive way to encourage agribusiness and reduce the incidence of farmer-homeowner nuisance issues. The agricultural land use zone identifies active farms, farm product processing and farm support businesses as permitted uses. The zoning regulations would consider the needs of farm operations and permit increased lot coverage, housing for agricultural labor, reduced front setbacks and less restrictive signage regulations.

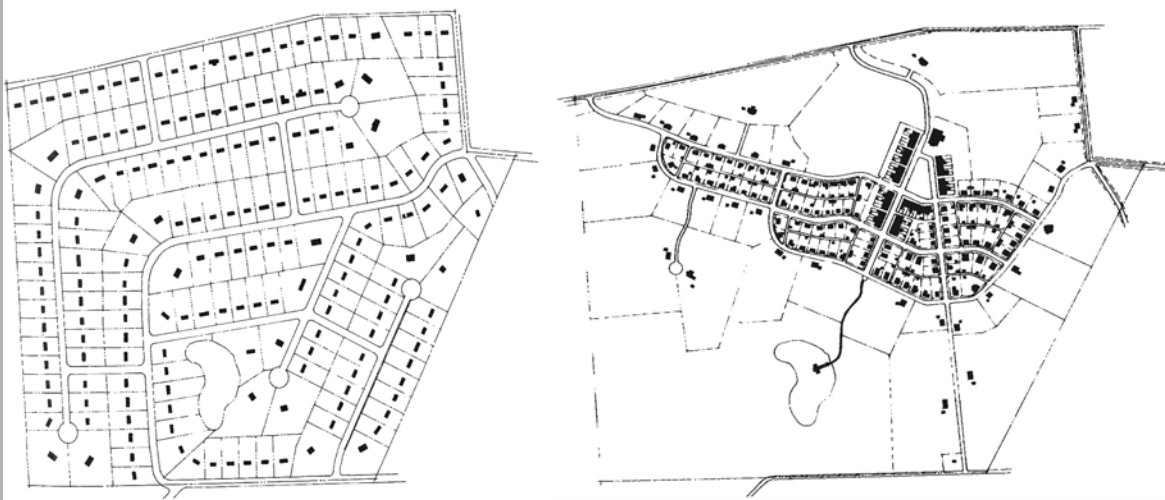
These regulations can significantly reduce the regulatory obstacles, fees, fines, and nuisance complaints faced by many farmers when trying to comply with regulations designed for residential development, not farms.

Clustering: Clustering is a development design technique that concentrates buildings on a portion of land to allow the remainder to be preserved for agriculture, recreation, or environmental purposes. Clustering is most effective when applied regionally as a component of a larger, overarching land use planning strategy, but the technique can be effectively applied on a single parcel of land. When administered correctly,

as an application of consistent land-use policy, clustering conserves land, cuts infrastructure costs, maintains landowner equity, and reduces the cost of government services. It is also important for a municipality to require a developer to include state Right to Farm Act language in the deeds to the developed portion of a cluster project and ensure that the homeowners' association regulations specifically do not prohibit farming

#### **Incentives for Clustering**

- Increased building densities and higher impervious cover limits, which allow developers to build more units on less land.
- More liberal height restrictions.
- Increased capacity for sewer and water infrastructure.



### **Conventional Versus Cluster Development**

Clustering is particularly appropriate in rural areas that wish to remain rural while accommodating additional growth. (Plans from *Rural By Design* by Randall Arendt, 1994.)

The plan on the left illustrates a conventional development pattern, in which uniform-sized large lots (typically 2.5 acres or greater) blanket an entire development site, consuming all the land and obliterating the distinctive, natural features that made the site a special place. The small pond at the center is hidden behind private lots, off-limits to most residents. In contrast, the cluster development plan at right uses a greater variety of lot sizes (generally 1/4 to 1 acre in size) to accommodate the same number of units, while preserving substantial areas as open space. The pond is preserved as an accessible amenity, linked with roadways to a trail. As a result of more connections and linkages between streets, travel distances are shorter throughout the development. The sparse arrangement of homes along the main roads on the perimeter allows an attractive, unobstructed view of the development's rural surroundings. (From *Growing Smart in Minnesota*, The St. Croix Valley Development Design Study, prepared for the Metropolitan Council by Calthorpe Associates, January 2000)

activities on the remaining parcel when the remainder is specifically set aside for agricultural preservation.

Clustering can be implemented on a voluntary or mandatory basis. Typically, in voluntary situations, strong incentives are provided to encourage the use of clustering as opposed to existing conventional zoning. Clustering in agricultural areas should be accompanied by land use policy that ensures that the most productive farmland is preserved while accommodating development on marginal land.

Most successful clustering schemes involving lots smaller than ½ acre use alternative wastewater treatment systems. Towns in New Jersey and across the country are using a variety of wastewater technologies that provide treatment for small-scale communities ranging from 10 units to several hundred. These systems can be utilized to enable compact growth patterns and can improve water quality in areas where septic systems are failing. These systems produce clean water at the point of discharge that can replenish critical groundwater resources or can provide effluent for irrigation, municipal-street cleaning and other suitable uses.

When these systems are used to cluster development on marginal lands, with the majority of the remaining land set aside with an easement restricting development, hundreds of acres of farmland can be preserved at no cost to the public. Having pre-approved designs for these “stand-alone” wastewater treatment systems can reduce the cost and limit the number of hookups. The use of innovative infrastructure systems gives municipalities and counties the ability to plan for the future development of their community according to their own vision. More than 30 of these systems have been serving several New Jersey communities for a number of years and are functioning well.

Density Transfer: New Jersey amended its Municipal Land Use Law (MLUL) in 1996 to encourage flexibility regarding density, intensity of land use and design. Density transfer techniques can be used to engage landowners in a specific region of a municipality to change traditional land use patterns. For example, the development potential from four farms can be transferred to one farm, allowing for the accommodation of growth and the permanent protection of four out of five farms.

Lot Size Averaging: Lot size averaging is a simple method to permit flexibility in lot size on a parcel of land. This is an effective technique for smaller parcels (10-20 acres) that are proposed for subdivision where flexibility in lot size may help to preserve resources. The overall density remains the same. Only the lot sizes vary.

Transfer of Development Rights (TDR): Transfer of development rights (TDR) programs can protect farmland by shifting development from agricultural areas to areas targeted for growth. TDR is the clustering of development, a tool that can be implemented in a portion of a township, township-wide or regionally. TDR allows landowners to transfer the right to develop from one parcel of land – called a sending area, the area to be preserved – to a different parcel of land – called a receiving area, the area to accommodate growth. At present, only Burlington County is empowered to implement TDR programs in New Jersey. However, the Department of Agriculture collaborated with other state agencies to develop draft legislation to enable all counties in New Jersey to implement TDR. To implement TDR, receiving areas and sending areas are designated and mapped in accordance with a comprehensive plan. The sending area may include agricultural land, but the receiving districts must have the capacity and infrastructure necessary to support increased development and must be designed to meet other smart growth principles. As a result, identifying the receiving area is the most challenging aspect of TDR, as specific guidance is needed regarding infrastructure criteria in the receiving area. The state is committed to working with municipalities to assist in all aspects of TDR implementation.

Once the development rights are transferred from the sending area, the land is permanently restricted from development. For this program to succeed, communities must agree on its use as a tool to protect special resources and direct future growth. A market must exist for both the development rights and the higher density development that will result.

TDR programs can be voluntary or mandatory depending on the municipality's goals and needs. In a voluntary program, the owner of property in a sending area can either transfer the development potential of that property to a receiving area or develop the property in accordance with the land use ordinance in effect prior to the adoption of the TDR ordinance. In a mandatory program, the owner of property in a sending area can either transfer the development potential of that property at the full value to a receiving area or develop the property at a much-reduced density.

*Chesterfield, Burlington County: A TDR Success Story*

Established in 1997, Chesterfield Township's voluntary TDR program reflects the desire of its residents to promote the agricultural industry and retain the rural landscape of the township while encouraging planned economic and residential development.

The program aims to steer development from a 7,000-acre sending area to a 500-acre receiving area. Through the use of creative land use and design techniques, the township created a planned village center with a mix of housing types, commercial businesses, offices and public spaces.

Critical to the success of the project was the extension of the sewer line from the Wagner Correctional Facility to the receiving area.

The township participated in the State Planning Commission's Center Designation process, designating the receiving areas as planned villages, Crosswicks as an existing village and Chesterfield and Sykesville as existing hamlets.

Chesterfield already had a strong farmland preservation program under which it preserved 4,000 acres of out of the 14,000 that make up the township.

The following elements are critical to a successful TDR program:

- Identification of "sending" and "receiving" areas.
- Consideration for the protection of landowner equity in the sending area when creating a basis for credit allocation.
- Economic balance between the capacity of the receiving and sending area to ensure that development credits are used and that they have the appropriate market value. Growth must be feasible, permitted, well designed and coordinated with infrastructure investments in the receiving area.
- Permanent development restrictions on lands in the sending area when the credit option has been used.
- Performance standards, such as progress reports, sunset provisions and economic analysis, to ensure a TDR program will be implemented.
- An appropriate level of state agency review to assure that performance measures are met and program components are working effectively.
- Distinction between voluntary and mandatory programs to clarify program criteria and ensure the use of proper safeguards for landowners.



County Involvement in Preliminary Subdivision Review: Although New Jersey is a home rule state wherein local governments have adopted the enabling legislation that grants them sole responsibility over the development of their land, a significant benefit to regional land use management may be realized by enabling the County Agriculture Development Boards (CADBs) to review and comment on subdivision and development proposals.

Planned Unit Developments (PUDs): Under planned unit developments, zoning provisions permit large lots to be developed in a more flexible way than allowed by the underlying zoning. These ordinances may allow developers to mix land uses and develop at greater densities with more design flexibility, including by concentrating infrastructure needed to service the development or offering other community facilities and services. Local governments can utilize these ordinances to negotiate significant design and use changes in development applications, while requiring developers to compensate for the impacts of their projects by setting aside the undeveloped portion to be permanently maintained as agricultural land or open space.

Ordinance Reform: Municipalities have the ability to reform local zoning ordinances to encourage more compact growth and mixed-use development patterns in and around existing town centers or in new centers. These techniques can be used in ways that consider land equity. To encourage this type of development pattern, municipalities can:

- Provide incentives to cluster development in centers.
- Reduce lot sizes, setbacks and yard requirements.
- Allow a mix of commercial and residential uses in centers.
- Increase permitted building heights.
- Encourage pedestrian and bicycle-friendly features.
- Provide for shared parking areas.
- Permanently preserve a majority of the area's farmland.
- Plant street trees and develop parks and recreation facilities to make town centers more attractive places to live and work.

(More information is available in the Office of Smart Growth publication, "Designing New Jersey." This document offers design principles and guidelines as a tool to build better communities.)

## Objectives & Strategies

- Municipalities, counties and regions where significant farmland exists should work on a regional level to ensure that innovative conservation planning techniques are employed to help accommodate growth in an equitable manner that preserves and supports agriculture.
  - Work aggressively to promote and facilitate the State Planning Commission’s plan endorsement process to encourage consistent land use plans at all levels of government.
  - Use tools such as build-out analysis and capacity analysis to help land-use planners make informed decisions about accommodating growth and preserving agriculture and natural resources.
  - Strengthen and promote the use of existing alternative planning tools and create new tools that facilitate the accommodation of growth in ways that consume less land and allow for the preservation of the most productive farmland.
  - Develop a technical support network that will promote and facilitate the use of innovative conservation planning efforts.
  - Work to identify and promote the use of “pre-approved” alternative wastewater treatment systems as a feasible and cost-effective way to facilitate less land consumptive land-use patterns.
  - Develop an agriculture-friendly “Planners Tool Kit,” with model ordinances and geographical representations of a variety of land-use planning techniques, for rural municipalities and counties.
- The conservation of land and resources should be a key organizing principle upon which state agency infrastructure decisions are made.
  - Work with the Department of Environmental Protection to encourage the use of alternative wastewater treatment systems in their wastewater rules.
  - Use the data of the Strategic Targeting Project to make informed land use planning decisions regarding the preservation of farmland and the accommodation of growth.

- Work with the Department of Transportation to identify potential Transit Village locations to encourage compact, mixed-used development around transit hubs in rural areas.
- Work with land-use organizations to explore constructive approaches to refining and encouraging land-use techniques outlined in this plan.

By integrating growth planning with preservation planning, New Jersey will be able to ensure the continued viability of its agricultural industry and rural communities. With the appropriate tools, towns will be able to control their own destinies, residents will take comfort in knowing what their town will look like in 20 years and farmers will have peace of mind knowing that their investment in their land is secure.