Application for Farmland Preservation

12/10/2019

NEW JERSEY
State Agriculture Development Committee

⇨ **Section I:** ***To be completed by Landowner or Applicant*** ☐ **SADC Direct Easement**

⇨ **Section II:** ***To be completed by*** ☐ **County** ☐ **Municipality** ☐ **Nonprofit** (☐ **Easement** ☐ **Fee)**

Section I

FARM INFORMATION

Landowner Name(s): _____

Mailing Address: _____

Farm Address: (If different) _____

Email: _____

Phone: _____ Alternate Phone: _____

County: _____ Total Farm Acreage: _____

Municipality: _____ Block & Lot_____ Acres _____

Municipality: _____ Block & Lot_____ Acres _____

Municipality: _____ Block & Lot_____ Acres _____

Municipality: _____ Block & Lot_____ Acres _____

Municipality: _____ Block & Lot_____ Acres _____

Please note: The SADC may request a lot consolidation, for ease of future taxation and monitoring, on applications that include multiple lots in one block.

Primary Contact ☐ Same as Above ☐ Other: Please fill in primary contact information below.

Name: _____ Relation: _____

Phone: _____ Email: _____

Mailing Address: _____

Contact for Farm Visits ☐ Primary Contact ☐ Landowner ☐ Other: List below

Name: _____ Relation: _____

Phone: _____ Email: _____

Please don't hesitate to contact the SADC Regional Acquisition Coordinators (RAC) for your County listed in the reference section.

SADC ID# _____

Date Received _____

NEW JERSEY STATE AGRICULTURE DEVELOPMENT COMMITTEE
Farmland Preservation
Right to Farm
1983

LANDOWNER ELIGIBILTY

Pursuant to N.J.A.C. 2:76-6.18(z) an applicant or the applicant's immediate family defined as applicant's spouse, child, parent, or sibling residing in the same household cannot be a current CADB board member or Municipal Agriculture Advisory Committee member at the time of application to sell their development easement.

1. Are you or anyone in your immediate family a current member of the CADB? ☐ **YES** ☐ **NO**
2. Are you or anyone in your immediate family a current member of a Municipal Agriculture Advisory Committee (AAC)? ☐ **YES** ☐ **NO**
3. Are you or anyone in your immediate a current member of the Township Committee or Board of Chosen Freeholders? ☐ **YES** ☐ **NO**

   If Yes, Position _____ Term_____

If you said YES to any of the above questions, please stop and contact your SADC Regional Acquisition Coordinator at (609) 984-2504.

AGRICULTURAL PRODUCTION

1. Is the farmland rented or leased? ☐ **YES** ☐ **NO** **If Yes,** please provide a copy of the lease or, if verbal, describe the terms of the lease _____

   _____
2. Are there horses on the farm? Please contact the local coordinator to see if you need to complete an equine questionnaire. Check all that apply: ☐ **none** ☐ **personal use** ☐ **breeding** ☐ **boarding**

   Other:_____
3. Do you have livestock? ☐ **YES** ☐ **NO**

   If Yes, do you have an Animal Waste Management Plan? ☐ **YES** ☐ **NO**
4. Are there greenhouses/hoop houses on the farm? ☐ **YES** ☐ **NO** **If Yes,**
   a. What is the composition of the floor of the greenhouse/hoop house? ☐ **soil** ☐ **gravel** ☐ **weed block over soil** ☐ **concrete** ☐ **other** _____
   b. Are agricultural/horticultural products grown ☐ **in the ground** ☐ **in pots** ☐ **in hydroponics** ☐ **in something else?** _____
   c. How many months of the year are the greenhouses/hoop houses covered? _____months
   d. Was any grading done to level the ground for the greenhouse/hoop house? ☐ **YES** ☐ **NO**
5. Is any part of the farm enrolled in a Federal Program (e.g., EQIP, CREP, CRP, WRE)?

   ☐ **YES** ☐ **NO** **If Yes,** describe & please provide map of restricted areas: _____

   _____

6. Is there any agricultural production currently taking place on the farm that is not covered on the current Farmland Assessment Form you provided with this application? ☐ **YES** ☐ **NO**
   If Yes, please describe _____

7. The Farmland Preservation Deed of Easement protects the farm from activities which would be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, and continued agricultural use. To avoid unnecessary delays in the process, please let us know so we can be of assistance to address any resource concerns:
   - Are there areas of the farm that have been or are being mined? ☐ **YES** ☐ **NO**
   - Are there areas of the farm that have or have a history of erosion? ☐ **YES** ☐ **NO**
   - Are there existing conservation practices on the farm? If Yes, please describe.

     _____

     _____

     _____

     What year were they installed? _____

NON-AGRICULTURAL ACTIVITIES

It is important to identify existing non-agricultural uses so they can continue after preservation. Examples of non-agricultural uses are:

- An existing business, not related to your farm's agricultural production, located in your barn or home.
- A facility used to process or sell items not produced on the farm.
- A portion of the farm or structure on the farm that is rented or used by someone else for a use or business not related to the production of your farm (e.g., equipment storage, vehicle parking, office).

Because non-agricultural uses on the easement area CANNOT be expanded or intensified after the farm is preserved, it is important to document details to protect the activity and landowners should consider taking an exception area instead, to provide the most flexibility. Exception areas are explained on Page 5 and in the guidance documents on Exception Areas and Non-Agricultural Use.

Appraisers must be aware of non-agricultural uses and determine the impact on the development easement value in their reports pursuant to the SADC Appraiser's Handbook. If you have any questions regarding non-agricultural uses, please address them with your local and/or SADC coordinator prior to submission of the application.

1. Are there existing non-agricultural uses on the farm?

☐ **YES** ☐ **NO** **If Yes,** please answer the following. **If No**, please skip to the next page.

   Please describe the non-agricultural use and the frequency it occurs: _____

   _____

2. Please provide a map or list the approximate dimensions and locations of any structures and/or areas utilized for a non-agricultural use.
3. Does the non-agricultural use involve a lease with another party? ☐ **YES** ☐ **NO**
   If Yes, please provide a copy of the lease.
4. Describe how the non-agricultural use is and will be accessed on the farm: _____

   _____

RESIDENTIAL INFORMATION & IMPROVEMENTS

The "Easement Area" is the area of the farm that will be covered by the Deed of Easement and preserved for agricultural use and production. Existing residences may remain on the easement area.

A "Residential Opportunity" means any existing or future residential unit on the easement area of the farm and/or those to be located inside a severable or non-severable exception area.

Residential opportunities include:

- **Existing or future residential units and ancillary improvements (garage, pool, utilities, etc.) in Exception Areas***
  - An Exception Area is an area not covered by the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved.
  - Ancillary improvements must stay within the exception area, unless additional SADC policies apply.
  - Non-agricultural uses may occur within the exception, subject to municipal ordinances.
- **Existing residential units and ancillary residential structures (garage, pool, utilities, etc.) on the Easement Area**
  - May be improved, subject to municipal ordinances. They also may be relocated subject to SADC and County and municipal approval.
  - Non-agricultural uses may not occur within the structures, unless additional SADC policies apply*
- **Future residential units and ancillary residential structures (garage, pool, utilities, etc.) on the Easement Area**
  - A Residual Dwelling Site Opportunity (RDSO) is the opportunity for the future construction of a single-family residential unit for agricultural purposes. For every 100 acres without an existing residence or residential exception area, the farm is eligible for one RDSO.
  - To be eligible for approval and continued use, at least one person living in the residence must be regularly engaged in common farm site activities on the farm. Should a person no longer be able to engage in common farm site activities they and their immediate family may continue to reside in the residence only if they have:
    - Retired, but were engaged in common farm site activities for at least 5 years; or
    - Suffered a disability and can no longer engage in common farm site activities as a result.
  - RDSOs are allocated to the farm at the time of application and are subject to future approvals by the CADB, SADC, and/or agency that purchases the easement.
  - You do not need to designate the area for the future residence until you are ready to "exercise the RDSO" – meaning construct the residential unit. The residence is not sited on the farm until approval is granted.

Residential units for agricultural labor can be designated at the time of application and/or requested after the farm is preserved. There must be a need shown for the labor residences and the units cannot be rented to a family member, of lineal descent, or someone not working on the farm.

EXCEPTION AREA INFORMATION

Why should I take an exception area?

- Do you wish to give or sell a building lot to someone?
- Do you have a barn where you might want to operate a business that might not be permitted under the farmland Deed of Easement (i.e. a non-agricultural use)?
- Do you want the flexibility to replace your home without farmland preservation program approvals?
- Are you entertaining the idea of operating a small business in the house or barns someday?

These are just a few common reasons why landowners choose to take exception areas. If your plans for future use of the farm includes any non-agricultural commercial uses, you should consider an exception area.

Exception Areas are not covered by the Deed of Easement or restricted to agricultural use. Primary residential development rights retained for an exception area must be specified and considered in the appraisal process. Ancillary residential and non-residential uses are not restricted, unless requested, but such uses are subject to applicable municipal, county, state, and federal laws and regulations.

Landowners will not be paid for acreage within severable or non-severable exception areas. Exception areas cannot be moved or expanded once the farm is preserved.

There are two kinds of exception areas:

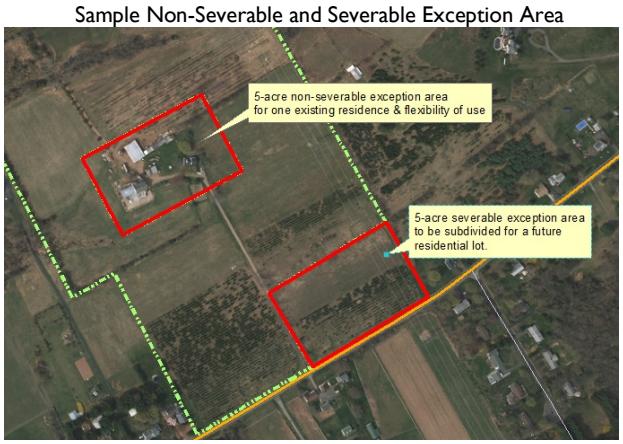
- **Non-severable exception**: an area of the farm which is not covered by the Deed of Easement and remains tied to the farm and cannot be subdivided, transferred, or conveyed separately.

- **Severable Exception:** an area that can be subdivided and sold separately from the farm provided it meets local subdivision requirements. It is not necessary to sever (subdivide) a severable exception prior to preservation, but it is recommended since it cannot be changed once the farm is preserved.

Exception areas shall be permitted only if they do not cause a substantially negative impact on the continued use of the farm for agricultural purposes. Factors for determining if there is an adverse effect to the agricultural operation are as follows: location, severability, number requested, size, percent of farm, Right to Farm language, and potential uses. Adjustments can be made to an exception area up until the Deed of Easement is signed. If the exception is for a future residence, you are encouraged to do perc tests and other due diligence to make sure the area will accommodate a future residence.

Sample Residence in Easement and Non-Severable Exception Area

Sample Non-Severable and Severable Exception Area



RESIDENCES ON THE EASEMENT AREA

Are there any residences on the farm within the easement area (outside of any exception areas)?

☐ **YES** ☐ **NO** If Yes, please describe how many and the type of residences (single-family, duplex, apartment(s), trailer, etc.) and accessory buildings (garages, barns, pools, etc.) are within the easement area. _____
_____
_____
_____

1. Are any of the existing residences used for agricultural labor? ☐ **YES** ☐ **NO**
   If Yes:
   a. Which and how many units are used for agricultural labor? (apartment, single-family, etc.)
      _____
   b. How many occupants? _____
   c. When and how many months of the year are the units occupied? _____ months
      Do all the occupants work on this farm? ☐ **YES** ☐ **NO** **If No**, please explain:
      _____
   d.
2. Are any of the existing residences rented or leased? ☐ **YES** ☐ **NO**
   If Yes, please provide copy of the lease.

3. Do you want to or has the county or municipality placed a size limitation on any of the residences?
   ☐ **YES** ☐ **NO** **If Yes**, please list: _____

4. Do any of the residences also contain a non-agricultural use? ☐ **YES** ☐ **NO**
   If Yes, please describe:
   _____
   _____

RESIDUAL DWELLING SITE OPPORTUNITIES

For every 100 acres without an existing residence or residential exception area, the farm is eligible for one RDSO. For example:

- Your farm is 120 acres and you request a 3-acre exception area for a residence, the net acreage of the preserved farm is over 100 acres and eligible for one RDSO.
- Your farm is 102 acres and you request a 3-acre exception area for a residence, the net acreage of the preserved farm is over 99 acres and not eligible for an RDSO.

If eligible, how many Residual Dwelling Site Opportunities (RDSOs) would you like to reserve? _____

EXCEPTION AREAS

If you are requesting exception areas, please answer the following and indicate the location on an aerial map. Contact your local and/or SADC coordinator if you need a copy of an aerial map.

It is recommended that the acreage and frontage of severable exceptions should meet local zoning minimum area, bulk, and dimension requirements for the proposed use. Road frontage and driveway access must be included within the severable exception area.

Since non-severable exceptions cannot be sold separately from the preserved farm, the zoning for minimum lot size is based on the entire farm. Driveway access to non-severable exceptions do not need to be included in the exception area. Driveways for future residences must be approved either at the time of application or by CADB and SADC staff after preservation. Please review the policy on Access to Exception areas in the reference section.

Please be aware that the number of permitted residences within an exception can impact the appraisal values.

Exception Area 1: # _____ Acres ☐ Non-severable ☐ Severable

1. Is the exception area for ☐ existing or ☐ future residences? Or ☐ not for residential use.
2. Please describe any existing residences: _____
3. If the exception is for future residences, please describe what number and type of primary residences are being requested: _____

   _____

   _____

4. The exception area will be restricted to:
   ☐ One single-family residence or #_____ residences / type of residence_____
   ☐ Zero single-family residences: this exception is for flexibility of use.
   ☐ I do not wish to restrict the number of primary residences. If so, please explain: _____

   _____

   _____

5. Does the exception contain the existing/proposed septic & utilities for the residence(s) or other uses?
   ☐ **YES** ☐ **NO** Please review the Septic Policy in the reference section for additional information.
6. Does the exception contain any other buildings? ☐ **YES** ☐ **NO** **If Yes,** please describe:

   _____

7. Is the Exception area for a Trail or Open Space? ☐ YES ☐ NO If Yes, please provide maps showing how it connects to a trail system or an open space plan within the municipality or county and provide detail on width, buffers, improvements, and maintenance. _____

   _____

8. Additional comments or questions? _____

   _____

ADDITIONAL EXCEPTION AREAS

Copy page as needed

Exception Area 2: # _____ Acres ☐ Non-severable ☐ Severable

1. Is the exception area for ☐ existing or ☐ future residences? Or ☐ not for residential use
2. Please describe any existing residences: _____
3. If the exception is for future residences, please describe what number and type of primary residences are being requested: _____

   _____

   _____

4. The exception area will be restricted to:
   ☐ One single-family residence or #_____ residences / type of residence_____
   ☐ Zero single-family residences: this exception is for flexibility of use
   ☐ I do not wish to restrict the number of primary residences. If so, please explain: _____

   _____

   _____

5. Does the exception contain the existing/proposed septic & utilities for the residence(s) or other uses?
   ☐ **YES** ☐ **NO** Please review the Septic Policy in the reference section for additional information.

6. Does the exception contain any other buildings? ☐ **YES** ☐ **NO** **If Yes,** please describe:

   _____

7. Is the Exception area for a Trail or Open Space? ☐ YES ☐ NO If Yes, please provide maps showing how it connects to a trail system or an open space plan within the municipality or county and provide detail on width, buffers, improvements, and maintenance. _____

   _____

8. Additional comments or questions? _____

   _____

   _____

OTHER BUILDINGS ON THE EASEMENT AREA

Are there any other buildings on the farm outside the exception area? ☐ **YES** ☐ **NO**

If No, please skip to the next section.
If Yes:

1. Please describe any non-residential structures (barn, run-in sheds, garage, trailer, etc.) on the area to be preserved.

   _____
   _____
   _____
   _____

2. Do any of the structures also contain a non-agricultural use? ☐ **YES** ☐ **NO**

   If Yes, please describe and provide copies of any written leases for any buildings.

   _____
   _____
   _____
   _____

EASEMENTS AND RIGHTS OF WAY

Are there any easements or rights of way associated with the land being preserved? ☐ **YES** ☐ **NO**

If No, please skip to the next section.
If Yes, please check all easements that apply:

☐ Power Lines	☐ Water Lines	☐ Sewer Lines
☐ Gas Lines	☐ Sight Triangle	☐ Telephone Lines
☐ Bridge/Road ROW	☐ Other: _____	☐ Other: _____

1. Are there access easements on or for the farm? ☐ **YES** ☐ **NO** **If Yes**, please describe:

   _____
   _____

2. Do you have existing or approvals for solar, wind, or biomass energy generating installations?

   ☐ **Existing** ☐ **Approvals** ☐ **None** **If Existing or Approvals,** please describe:

   _____
   _____

FARM HISTORY

Has this farm been the subject of an application for subdivision? ☐ **Major** ☐ **Minor** ☐ **None**

If **None**, please skip to the next page.

If **Major** or **Minor**, **COPIES OF THE RESOLUTIONS & MEETING MINUTES ARE REQUIRED.**
Supporting documentation should be submitted (surveys, municipal ordinances applicable at time of approval, etc.).

1. If approved, the subdivision application was ☐ **Preliminary** ☐ **Final**
2. Type of development (residential, commercial, office, mixed): _____

   # units or square footage _____

   Preliminary Approval Date: _____ expiration _____

   Final Approval Date: _____ expiration _____
3. Are all the parcels included in the final subdivision approval in the preservation application?
   ☐ **YES** ☐ **NO**
4. Have any extensions been obtained? ☐ **YES** ☐ **NO** **If Yes,** please describe:

   _____
5. Are there any outstanding and/or expired permits needed to perfect the approvals and/or build?

   ☐ **YES** ☐ **NO** **If Yes,** please describe and provide supporting documentation:

   _____

   _____
6. What conditions of approval have not been addressed? How likely are they to be resolved and what are the obstacles and costs involved?

   _____

   _____

   _____
7. List and discuss any past, current and/or ongoing litigation involving this project, including bankruptcy and foreclosure, or "builder's remedy" actions. Any litigation that needs resolution in order to proceed with the project?

   _____

   _____
8. Are there any conservation easements other than what was already provided in the application?

   _____

   _____
9. Please provide details & estimates to remediate/clean up all environmental contamination and materials in order to build housing, if applicable:

   _____

   _____
10. Please provide any sewer/septic information, capacity, status, costs, soil logs, or related documents.
11. Please provide any NJDEP approvals.
12. Please provide any water permits and capacity.

ADDITIONAL APPLICANT INFORMATION

1. Is the farm for sale? ☐ **YES** ☐ **NO**

2. Is the owner of the farm involved in an estate situation? ☐ **YES** ☐ **NO**
   If the land is held by an Estate, please provide:

   ☐ Will ☐ Probate and Tax Waiver **or** ☐ statement that no waiver is needed and why

   If the land is held in a Trust please provide: ☐ Will **and** ☐ Trust Documents

3. Has the landowner filed for bankruptcy? ☐ **YES** ☐ **NO**
   If Yes, provide documentation from the Court authorizing the application for farmland preservation.

4. Is the farm involved in a foreclosure? ☐ **YES** ☐ **NO**

5. Is there a mortgage on the farm? ☐ **YES** ☐ **NO** Please note that if the farm proceeds to preservation, any mortgages or liens will have to be paid off or subordinated to the deed of easement prior to closing. Please contact your local and/or SADC Coordinator with questions.

6. Is the landowner a Corporation? ☐ **YES** ☐ **NO** If **Yes**, please provide:
   ☐ Corporate Resolutions (authorizing application and contact person(s))
   ☐ Copy of Certificate of Incorporation
   ☐ Copy of By-Laws any amendments and schedules

7. Is the landowner an LLC? ☐ **YES** ☐ **NO**
   If **Yes**, please provide ☐ Operating Agreement **and** ☐ Certificate of Formation

8. Is the applicant a Contract Purchaser? ☐ **YES** ☐ **NO** If **Yes**, please provide:
   ☐ Copy of the Contract Date of Contract Expiration: _____
   Is the landowner aware of the application for preservation? ☐ **YES** ☐ **NO**

Changes can be made throughout the preservation process.
However, changes may result in delays and changes to the easement offer.

All applicants must sign here to acknowledge submission of the application and to confirm you've received and signed copies of the Guidance Documents on Exception Areas, Non-Agricultural Uses, and Division of the Premises.

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

QUESTIONS? Please contact your location or SADC Regional Acquisition Coordinator

FARM CONSERVATION PLAN

Pursuant to paragraph 7 of the Farmland Deed of Easement, every farm preserved must obtain a Conservation Plan within a year of closing on the easement purchase.

A Farm Conservation Plan is a FREE site-specific plan developed by the Natural Resources Conservation Service (NRCS) that guides you through a variety of conservation and environmental farming practices and explain how each practice helps improve your land. They help you inventory the resources on your land and consider which conservation practices could contribute to an environmentally and economically sound farm. The implementation of these conservation practices is voluntary, although the NRCS may have grants available to implement the conservation practices and enhance the viability of your farm operation. More detail on Conservation Plans can be found here:

https://www.nj.gov/agriculture/sadc/farmpreserve/resources/summit07conservationplanning.pdf

Does the farm currently have a Conservation Plan? ☐ YES ☐NO Please sign the release below even if you do not currently have a conservation plan. This release is necessary to allow SADC staff access to the current or future plan.

AUTHORIZATION TO RELEASE CONSERVATION PLAN TO SADC

I request and authorize the USDA - Natural Resource Conservation Service (NRCS), the USDA - Farm Service Agency (FSA) and/or a Technical Service Provider (TSP) to provide the State of New Jersey, State Agriculture Development Committee (SADC), with a copy of my conservation plan and all associated documents, including geospatial data, as needed. I further understand that SADC will not release these documents to any person or organization without my permission. I understand from time to time, SADC may request additional or updated information, if available, from NRCS, FSA, or a TSP for the Block and Lots or Farm and Tracts listed.

This request and authorization apply to the blocks and lots contained within this application and the surrounding lands that may be part of the same conservation plan, which may include, but is not limited to:

☐ The following Farm/Tracts: _____

☐ All Farms/Tracts on record with NRCS in my name.

☐ Other: _____

Name and address of TSP, if applicable:

_____

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

References

NEW JERSEY
State Agriculture Development Committee

CONTACTS

Please don't hesitate to contact the Regional Acquisition Coordinators with any questions

(609) 984-2504 or SADC emails are firstname.lastname@ag.nj.gov

- Northwest (Warren & Hunterdon): **Stefanie Miller** stefanie.miller@ag.nj.gov
- Northeast (Sussex, Passaic, Bergen, Morris, Somerset, **Middlesex, Mercer, Burlington & Monmouth):** Amy Mandelbaum amy.mandelbaum@ag.nj.gov
- South (Camden, Gloucester, Cape May): Cindy Roberts (acting) cindy.roberts@ag.nj.gov
- Southwest (Atlantic, Ocean, Salem & Cumberland): Katie Mazzella katie.mazzella@ag.nj.gov

REFERENCES

SADC REGULATIONS AND POLICIES https://www.nj.gov/agriculture/sadc/rules/

- Minimum Eligibility Criteria N.J.A.C. 2:76-6.20(c),-6.23 (a), 6.20(d), -17.4(a)
- Residual Dwelling Site Opportunities (RDSOs) N.J.A.C. 2:76-6.17
- SADC Policy: Exercising a Residual Dwelling Site Opportunity
  - https://www.nj.gov/agriculture/sadc/rules/p31RDSOpolicy.pdf
- SADC Guidance Library: http://www.nj.gov/agriculture/sadc/publications/guidance.html

GUIDANCE DOCUMENTS

- Exception Areas: http://www.nj.gov/agriculture/sadc/publications/exceptionsSign.pdf
- Non-agricultural Uses: http://www.nj.gov/agriculture/sadc/publications/nonag%20usesonepagerWsignoff.pdf
- Division of Preserved Land: http://www.nj.gov/agriculture/sadc/publications/divisionSign.pdf
- Septic Policy (P-49): http://www.nj.gov/agriculture/sadc/rules/pol49.pdf
- Access to Exception Areas https://www.nj.gov/agriculture/sadc/rules/P41%20_Access%20to%20Exception%20Areas_.pdf

MAPPING RESOURCES **https://www.njmap2.com/**

Exception Areas

An exception is an area free from the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved. It is very important to consider exception areas prior to preservation because they will not be granted, moved or expanded once the farm is preserved.

Types of Exceptions

There are two types of exceptions: non-severable and severable.

Non-severable Exceptions:

A non-severable exception is an area of the farm which is excepted from the easement restrictions but remains tied to the farm and cannot be subdivided, transferred or conveyed separately from the farm.

Severable Exceptions:

A severable exception is an area that can be subdivided and sold separately from the farm provided it meets local subdivision requirements. It is not necessary to sever (subdivide) a severable exception prior to preservation. A landowner will not be paid for areas designated as a severable or non-severable exception because the Deed of Easement restrictions will not apply to the area(s).

Why should I take an exception area?

- Do you wish to provide a building lot for a child?
- Do you have a barn where you might want to operate a business that might not be permitted under the farmland Deed of Easement (i.e. a nonagricultural use)?
- Would you like to have the flexibility to replace your home without farmland preservation program approvals?
- Perhaps you are entertaining the idea of operating a Bed & Breakfast in the main farmhouse someday?

These are just a few common reasons why landowners choose to take exception areas. If your plans for future uses of the premises include any nonagricultural production based activity you should consider an exception area.

Although nonagricultural uses existing and recognized at the time of preservation are allowed, did you know they cannot be expanded in the future unless they are within an exception area?

Locating an Exception Area

It is very important to consider the number, size and location of exception areas. Exception area requests which negatively impact the farm or are found to allow excessive housing around the agricultural operation may not be approved. Therefore, balancing landowners' needs with a sensitivity to the agricultural operation, now and into the future, is important. The SADC considers the following in evaluating exceptions:

- Number of exceptions requested – is it excessive?
- Size of exception(s) – is it a very large area of the farm?
- Purpose of the exception(s) – will future uses negatively impact the farm?
- Location and planned use of the exception area – sensitive to the farming operation?

NEW JERSEY
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

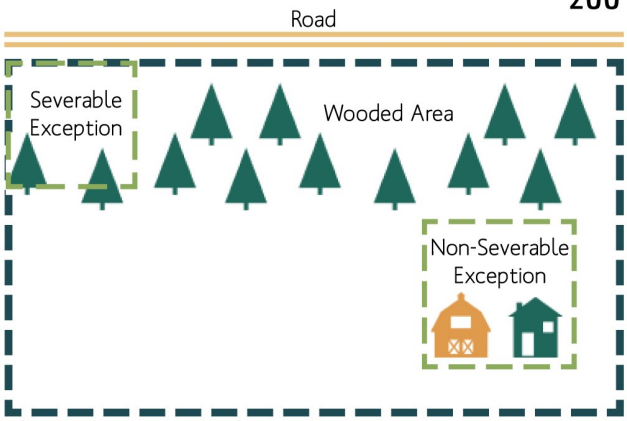
phone: 609-984-2504
fax: 609-633-2004
email: sadc@ag.nj.gov
web: www.nj.gov/agriculture/sadc

Locating an Exception Area continued…

If you are requesting an exception for a future housing opportunity, you are strongly encouraged to thoroughly explore the feasibility of that location including septic suitability, ability to obtain water, road access, wetlands, wetland buffers and special regulations that may apply in your area, such as the Highlands or Pinelands. If the access to an exception area is used exclusively for nonagricultural purposes, the access must also be included in the exception area. Residential use is not considered a nonagricultural purpose, so, if the exception is being used for a residential use the driveway does not have to be included within the exception area. Remember - you must make decisions about exceptions at the time of application, prior to appraisals being conducted. If you change your mind during the preservation process, this could result in delays in processing your application.

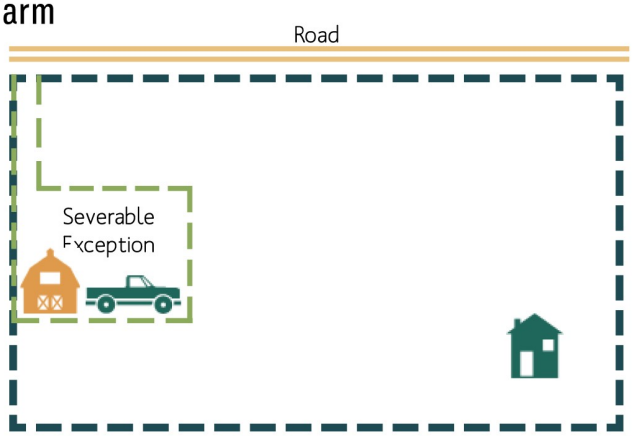
Sample Exception Area Layouts

200 Acre Farm



Example #1

A 200 acre farm with a non-severable exception around an existing barn and house and a severable exception along the road for the landowner's child to subdivide and own separate from the farm.



Example #2

A farm with a severable exception around a nonagricultural use and driveway, and a house on the farm outside of an exception area.

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web: www.nj.gov/agriculture/sadc

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Nonagricultural Uses

The restrictions in the Deed of Easement limit a preserved farm to agricultural uses. Once your farm has been preserved, no nonagricultural uses will be allowed, except if otherwise outlined in the Deed of Easement or if they occur within an exception area. Because nonagricultural uses are not related to agricultural production, they cannot continue unless recorded in a Schedule B in the Deed of Easement or contained within an exception area. Both of these options are designed to protect you and allow you to continue your nonagricultural use into the future.

Do you have a nonagricultural use on your farm?

Some examples of a nonagricultural use include:

- An existing business, not related to your farm's agricultural production, located in your barn or home
- A lumber processing business that uses timber produced/grown by other farmers
- A facility used to process or sell agricultural products not raised on the farm or by the owner's farming operation
- A portion of your farm or structure on your farm that is rented or used by someone else for a use or business not related to the production of your farm e.g., equipment, vehicle parking, office)
- A portion of your farm or structure on your farm that is used for the storage of agricultural products or materials not derived from or intended for use on your farm (e.g., grain/cold storage, parts,

Schedule B Nonagricultural Use

This option allows you to continue your nonagricultural use following the preservation of your farm at the same scale and location it is at the time of preservation.

Before appraisals and surveys are conducted, you will be asked to identify and describe any nonagricultural uses occurring on your farm. Details of the use(s), such as the type, frequency, intensity, size and location, will be recorded as a Schedule B and attached to the Deed of Easement. This document binds your use to its current parameters so that you cannot expand or change it in the future.

Although you will still be paid for the land under the use, this option provides you with little flexibility and no opportunity to expand the use, change the use, or start a new use in the future. Additionally, if the current nonagricultural use ceases at some point, you are not permitted to resume it in the future.

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Nonagricultural Uses in Exception Areas

You also have the option of excepting out some of your land under and surrounding a nonagricultural use(s) from the Deed of Easement. This option provides you with maximum flexibility for your use in the future since the land in exception areas is not subject to the restrictions of the Deed of Easement. Although you will not be paid for the land in an exception area, you will be able to change, improve and expand your use within the exception area as you wish, subject to all applicable local and state regulations.

An exception area around a nonagricultural use is ideal if you can foresee the use or an area of your farm changing in the future. For instance, you may have an older barn that is becoming too small for modern tractors and your agricultural operation. Rather than razing it or allowing it to go into disrepair, you may want to rent this space out to a carpenter or other small business. By including the structure in an exception area, you maintain the flexibility to repurpose an agricultural structure and adapt to the changes of your farm.

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Division of the Premises

The Deed of Easement sets forth the legal restrictions that will apply to your farm once it is preserved. The survey metes and bounds description of your farm has the effect of tying all of your lots together as one preserved "premises."

Although your farm may consist of multiple lots, after preservation they cannot be divided, transferred individually or conveyed to other owners without written approval of the State Agriculture Development Committee (SADC) and the easement holder, which may be the County Agriculture Development Board (CADB) or a non-profit agency.

The SADC's objective is to retain large masses of viable agricultural land. Agricultural parcels may become less viable if reduced in size. Therefore, the SADC will carefully consider the criteria to evaluate whether a permanently preserved farm should be divided.

Diagram of a Non-Contiguous Division

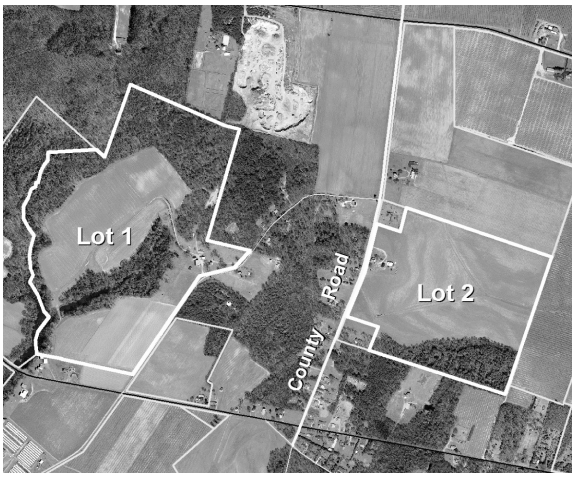
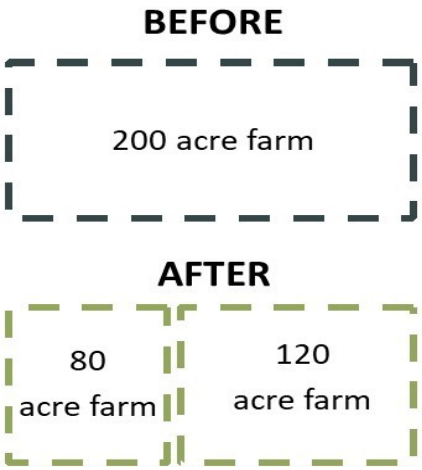


Diagram of a Contiguous Division



Major SADC Considerations

- Total Tillable Acreage
- Quality of Soils
- Configuration of New Parcels
- Historical Agricultural Uses
- Existing Agricultural Infrastructure
- Proximity to Other Farms/ Preserved Farms
- Proposed Agricultural Uses
- Benefit to Production Agriculture

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Division of the Premises

To request approval to divide the preserved premises, you need to submit an application to the easement holder demonstrating that the division would meet both of the following tests:

The Agricultural Purpose Test

First, the proposed division must be for an agricultural purpose. The SADC considers enhanced agricultural production activities, such as agricultural expansion, diversification and/or intensification resulting from a division as typically meeting the agricultural purpose test.

The Agricultural Viability Test

Second, the division must result in agriculturally viable parcels, each capable of sustaining a variety of agricultural operations that produce a reasonable economic return under normal conditions, solely from the parcel's agricultural production. So, the SADC would need to be confident that each newly created farm has sufficient agricultural resource value (soil quality, tillable land, size, etc.) to support a variety of agricultural operations into the future. Additionally, any parcel not meeting the minimum eligibility criteria for new applications to the program set forth in the SADC regulations will not be approved.

Division Procedure

1. Submit completed application and required maps to the easement holder.
2. The easement holder will ensure that the application is complete and evaluate it based on the Deed of Easement and the agricultural purpose and viability tests.
3. If approved, the easement holder will forward the application to the SADC for its review based on the Deed of Easement and the agricultural purpose and viability tests.
4. If approved by the SADC, new surveys and legal descriptions may be required as a condition of approval. In addition, the SADC may request to review any deed which transfers a portion of the Premises to a new owner. Upon review and approval of all necessary documents, the SADC will record its approval resolution with the appropriate County Clerk's office.

Application and additional information can be found under Policies at http://www.nj.gov/agriculture/sadc/rules/

Why might an application for a division of the Premises be denied?

- Each parcel does not meet the minimum eligibility criteria on its own – For example, the newly created farms may not be of sufficient size or may have a lack of tillable acres on at least one parcel.
- Large wooded areas or areas of marginal soils render the tillable land of one parcel insufficient or unable to support a variety of agricultural production activities.
- Lack of a concrete plan for agricultural production for one or both of the new parcels to be created.
- The purpose of the division is speculative resale of one or multiple preserved parcels.
- The purpose of the division is to accomplish *estate planning*.

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Application for Farmland Preservation

12/10/2019

NEW JERSEY
State Agriculture Development Committee

SECTION II

⇨ **Section II:** ***To be completed by*** ☐ ***County*** ☐ ***Municipality*** ☐ ***Nonprofit***

APPLICATION ELIGIBILITY

☐ This application is not being considered in any other farmland preservation program at this time.

☐ The Municipality, Board, or County has not owned title to the land for more than three years.

☐ The landowner has not rejected an offer for an amount equal to or greater than the certified market value under any farmland preservation program within the past 2 years. (This provision applies only to an application from the same landowner for the same farm.)

☐ The application is located within an adopted Agricultural Development Area.

☐ The application is a targeted farm within the County's or Township's approved Planning Incentive Grant Project Area. **Project Area:** _____

☐ The subject farm is eligible for farmland assessment.

☐ County PIG Only: This application meets the minimum eligibility criteria established by the County in its comprehensive farmland preservation plan and has a **rank score of** _____out of _____ points based on the County's adopted ranking criteria.

1. Has the Municipality, Board, or County pre-acquired the farmland easement? ☐ **YES** ☐ **NO**
   If Yes: Easement Holder: _____ Date of acquisition: _____
   Purchase Price: _____ Acreage of the easement: _____
2. Has the Municipality, Board, or County purchased the land in fee? ☐ **YES** ☐ **NO** **If Yes:**
   Date of acquisition: _____ Purchase Price: _____ Total Acreage: _____
3. Has the Municipality identified this farm for affordable housing?

PREPARED BY: _____ Phone: _____

Email: _____