

New Jersey  
State Agriculture Development Committee  
Farmland Preservation Program



# 2022 APPRAISAL HANDBOOK

PURSUANT TO N.J.A.C 2:76-10.1 ET SEQ.

Available on the SADC Website:  
<https://www.nj.gov/agriculture/sadc/appraisals/>



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# INTRODUCTION

The SADC appreciates the work its approved appraisers undertake on behalf of the New Jersey Farmland Preservation Program and the prompt responses to the agency's review questions. Unbiased appraisals provide the connection to market value, which is a critical component of the program.

The SADC's appraisal review staff is available to help the program's appraisers at any time. Additional helpful information is available in the appraisal section of the SADC website <https://www.nj.gov/agriculture/sadc/appraisals/> and agency staff will notify program appraisers of updates as they become available.

For your convenience, an Appraiser Handbook Checklist has been created as a quick reference guide. It is posted in the appraisal section of the SADC website, or by using the following link:

<https://www.nj.gov/agriculture/sadc/appraisals/>

Holcombe Barn, *Image*  
Courtesy of Stefanie Miller

Please contact the SADC's appraisal staff if you have any questions, comments or concerns. Contact information is as follows:

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# OVERVIEW



*Image Courtesy of Stefanie Miller*

The Agriculture Retention and Development Act of 1983, as amended and supplemented, provides the basis for the public purchase of development easements on farmland in New Jersey. The voluntary sale of a development easement by a landowner results in the placement of a permanent deed restriction on the preserved property. The program is entirely voluntary both on the part of the landowner (i.e., seller) and the qualifying government entity or nonprofit organization (i.e., purchaser).

Acquisitions made utilizing state funds are prohibited from occurring through the use of eminent domain. The State Agriculture and Development Committee (SADC), created by the Right to Farm Act, is responsible for administering the Farmland Preservation Program. The SADC is in, but not of, the Department of Agriculture. Chaired by the Secretary of Agriculture, the SADC consists of 11 members who represent the State and general public's agricultural, fiscal, community and environmental interests.

In November 2014, voters approved a constitutional amendment that would dedicate funding from the corporate business tax (CBT) to New Jersey's conservation programs. The amount of funding appropriated for the Farmland Preservation Program is determined by the Legislature. The SADC may utilize these funds for purposes including:

- Providing grants to local government units for up to 80% of the cost of acquisition of development easements on farmland, and to qualifying tax-exempt nonprofit organizations for up to 50% of the cost of acquisition of development easements on farmland;
- Providing grants to local government units for up to 80% of the cost of acquisition of fee simple title to farmland from willing sellers only, and grants to qualifying tax-exempt nonprofit organizations for up to 50% of the cost of acquisition of fee simple titles to farmland from willing sellers;
- Funding the cost of acquisition by the SADC of development easements on farmland; and
- Funding the cost of acquisition by the SADC of fee simple title to farmland from willing sellers only, which shall be offered for resale or lease with agricultural deed restrictions.

The SADC may provide Planning Incentive Grants to eligible counties and municipalities for the purchase of development easements on farmland<sup>1</sup>. The objective of the program is to preserve significant areas of reasonably contiguous farmland that will promote the long-term viability of agriculture as an industry.

To date, the majority of landowner participation has been through the County grant programs in which landowners apply to their respective County Agriculture Development Board (CADB) to sell the development easement on their land to the county. Compensation for this sale is based on the appraised value of the development easement on the land. The landowner retains ownership of the land and is eligible for certain benefits and protections.

<sup>1</sup> P.L. 1999, C.180 (C4:1C-43.1 ET. SEQ.)

# DEVELOPMENT EASEMENT VALUATION

The full ownership of real property is often referred to as comprising a “bundle of sticks” in which each stick represents a distinct right. Any or all of the bundle of rights that make up the ownership of real property can be sold, leased, or restricted individually or together (e.g. water rights, mineral rights, right of access, hunting and fishing rights). Within this concept of ownership, the development rights of a property may be sold to restrict the use of the property. This concept is the basis for estimating the market value restricted (commonly known as “After” value) of properties participating in the Farmland Preservation Program.

The rights acquired on farm property in this program are described as development rights. These rights are conveyed by the landowner to the purchaser by means of a “Deed of Easement” containing restrictions that will be placed on the property. The restrictions are set forth in SADC regulations at N.J.A.C. 2:76-6.1, et seq., “Acquisition of Development Easements”. The “Deed of Easement” is also referred to as a “development easement” because the landowner is conveying to the purchaser only a portion of the bundle of sticks: the rights to develop and use the property for nonagricultural uses.

The general intent of the deed restrictions is to limit the use of the property for agricultural purposes and to conserve the farm’s soil and water resources. The owner of record may continue to own, farm, sell, or lease the property to others for agricultural purposes. Other uses, which are compatible with agricultural pursuits, are permitted, such as defined residential uses and certain recreational activities. In certain instances, the value of the property for these uses may be primary in the marketplace, while agricultural value is secondary. This point is frequently illustrated by properties in areas undergoing heavy development pressure, affluent areas and in situations where the land parcel is relatively small in size.

A development easement’s value is calculated as the difference between the land value if its use were unrestricted, the Before calculation, and the value of the land restricted under the terms of the Deed of Easement, the After calculation.

While commercial agriculture may not be the primary motivating force in the purchase of lands being considered for farmland preservation easements, the property may be very desirable as a “rural residence with acreage” or as a “country estate”, with the property’s value coming from the existing residence on the property or the ability to construct a residence in the future with a residual dwelling site opportunity. In such cases, land value is rooted in the open space amenity provided to the residence or anticipated residence.

*Image Courtesy of Stefanie Miller*



# PROGRAM PROCEDURES FOR THE PURCHASE OF DEVELOPMENT EASEMENTS



*Image Courtesy of Stefanie Miller*

The County and Municipal Planning Incentive Grant, Non-profit, SADC Direct Easement and SADC Fee Simple programs have varying administrative procedures in several respects. However, the following appraisal processes are consistent throughout all programs:

1. A landowner may apply to one of the above-mentioned programs to sell a development easement pursuant to regulations contained at N.J.A.C. 2:76-1.1 et. seq.
2. The client must review, evaluate and approve the easement purchase application based on relevant rules.
3. The client shall contract with two independent appraisers approved by the State Agriculture Development Committee (SADC) to conduct an appraisal of each of the farmland preservation applications, pursuant to N.J.A.C. 2:76-1.1 et. seq. Appraisals must be completed in an “Appraisal Report” format, estimating the values of the land both before and after the preservation easement is considered, with a brief description of the improvements, if any.
4. The appraisers shall estimate the market value of the “as-is” condition of the development easement. The development easement value is the difference between the market value of the unrestricted, “as-is” condition of the subject property (commonly known as “Before” value) and the market value based on the hypothetical condition that it is restricted via the deed of easement (i.e., the After value).

# SADC APPRAISAL POLICY

## 1. Typical Certification of Value:

a) The SADC Review Appraiser(s) shall examine the appraisals for format errors, omissions, appropriate comparable sales, adjustments, reasonable value judgments, and bases for value conclusions.

b) The Review Appraiser(s) may request additional information, explanations, and clarifications as needed. The client shall be informed of such requests and is responsible for conveying the information to the Reviewer in a timely manner.

c) The Review Appraiser(s) shall make a value recommendation to the SADC based on two independent appraisals submitted by the client.

d) The SADC shall certify or reject the recommended fair market value of the development easement.

e) The SADC's certified market value of the "as is" condition of the development easement shall not be greater than the highest appraised value of the development easement or be less than the lowest independent appraised value of the development easement.<sup>2</sup>

## 2. Invalidation of Appraisals:

The SADC may find an appraisal invalid if the appraisal does not comply with the appraisal handbook standards at N.J.A.C. 2:76-10, or the Uniform Standards of Professional Appraisal Practice (USPAP).

## 3. Policy P-52 and Updated Appraisals:

The State Agriculture Development Committee maintains the following policy (P-52) with respect to the timeframes/validity of appraisals:

<https://www.nj.gov/agriculture/sadc/documents/rules/P52%20CMV%20update%20timeline.pdf>

<sup>2</sup> N.J.A.C. 2:76-6.8

*Image Courtesy of Kelly Doyle*



# APPRAISERS

**Approved Appraisers:** Appraisers authorized to conduct appraisals of farms must be approved by the State Agriculture Development Committee and re-certified every year.<sup>3</sup> Inclusion on the SADC approved appraiser list applies to individual appraisers only, not to entire appraisal firms.

For information regarding appraiser selection, retention and removal guidelines, please see the Appraisal section of the SADC website, or use the following link and instructions:

1. Visit <http://www.lexisnexis.com/hottopics/njcode>.
2. Click on “I Agree” on the N.J. Administrative Code page.
3. Click on the plus sign next to Title 2: Agriculture.
4. Click on the plus sign next to Chapter 76: State Agriculture Development Committee
5. Click on the plus sign next to Subchapter 6: Acquisition of Development Easements.
6. Click on the provision you would like to open:
  - a. For Appraiser Selection, click on 2:76-6.21
  - b. For Appraiser Retention and Removal, click on 2:76-6.22

**Contracting with Appraisers:** The client shall be responsible for contracting directly with the two independent fee appraisers. The contract should stipulate compliance with the SADC’s Appraisal Handbook, as well as any standards and specifications required by the client and other stipulations contained in the Appraisal Order Checklist. It is recommended that the type of report, number of copies, amount and structure of fee, and a completion date be specified. Each appraiser shall use the same acreage, as specified in the Appraisal Order Checklist (AOC), found in the addenda to this handbook. If, during the appraisal process, the appraiser notices differences in the acreage, these issues shall be relayed to the client. However, the specified acreage shall not be modified unless and until the client notifies the appraiser that the application shall be amended. A written contract is highly recommended for the protection of both the client and the appraiser. The client should provide the appraisers with as much information as possible such that informed bids for appraisal services can be formulated.

Under **no** circumstances shall the client:

1. Attempt to influence the independent appraiser’s opinion of value, in any way.
2. Make an appraisal fee contingent upon concluding a predetermined result or value.
3. Suggest appraisal techniques or philosophies inconsistent with those expressed in this handbook or inconsistent with USPAP.
4. Encourage or manipulate the independent appraisers to reconcile their final easement values to a predetermined result.

<sup>3</sup> N. J. A. C. 2 : 7 6 - 6 . 2 2

*Image Courtesy of Kelly Doyle*





Babinsky Farm, Warren County. *Image Courtesy of Stefanie Miller*

# APPRAISAL SUBMISSION PROCEDURE

Prior to or following the SADC's certification of the market value of the "as is" condition of the development easement, the appraiser shall provide a copy of the appraisal report to the client in the required format(s). The appraiser will send, at the same time, an electronic copy of the completed report (not individual pages) in Portable Document Format (PDF) to the SADC using the approved secure data transfer website.

If paper (hard copy) originals are required by the client, the appraiser shall contact the client for specific requirements.

If an appraisal is submitted electronically:

1. The appraisal must be submitted to the client in Portable Document Format (PDF) or a similar format as approved by the SADC.
2. The client will submit the appraisal to the SADC for review via the State of New Jersey Office of Information Technology approved secure data transfer website (MOVEit).
3. Any required or requested alterations, corrections or other changes to the appraisal must be made to the entire document, and the revised appraisal must be resubmitted in its entirety using the above procedure. Single pages with changes may not be submitted.
4. The SADC only requires electronic copies, which shall be downloaded to the SADC's secure data transfer website (MOVEit) as a complete document (not individual sections or pages).

# APPRAISAL FORMAT

The appraisal must be written and presented in a narrative “Appraisal Report” format, as defined in USPAP<sup>4</sup>. “Restricted” appraisal formats will not be accepted.

The appraisal must also:

1. Be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale for the estimates.
2. Provide detail and depth of analysis that reflect the complexity of the real estate appraised.
3. Be valued or formatted as requested. Any factual or mathematic errors, which could result in a value change, may be referred to the client for correction and/or clarification.

The following is a sample Table of Contents that illustrates the SADC-required appraisal format. The order of these topics is recommended; reasonable modifications to the order are permitted provided all of the required information is contained in the report. **Explanations and guidelines for each topic follow on subsequent pages.**

\*SAMPLE\*  
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<sup>4</sup>UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE (USPAP), 2020-2022, STANDARDS RULE 2-2

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# GUIDANCE FOR REQUIRED APPRAISAL TOPICS

## SUMMARY

**Letter of Transmittal:** The appraiser’s letter of transmittal to the client must contain the Before, After and Easement estimated values on a per acre basis as well as the total values for the net acreage (gross acreage if there are no exception areas; see also section titled “Exception Areas and Residential Opportunities”), the rights appraised, and any special instructions that were given to the appraiser (typically in the AOC), all clients and intended users of the appraisal.

**Certification of Appraisal:** Must be in conformance with USPAP requirements<sup>5</sup>. Be sure to include the market value unrestricted per acre and total value, market value restricted per acre and total value, easement value per acre and total value, date of valuation, a statement that the appraisal conforms to the Standards for Appraisals contained in N.J.A.C. 13:40A-6.1 and the signature of the appraiser responsible for the report. The appraiser must additionally certify that no services, appraisal or otherwise, regarding the subject property have been performed by the appraiser over the past three years. If the appraiser has provided any such services, then the appraiser must explain the nature of any such services and for whom they were performed. It is preferred that this be disclosed to the SADC prior to the acceptance of the assignment.

**Summary of Salient Facts:** According to the Appraisal Institute’s *The Appraisal of Real Estate*, this is a summary of the major points and important conclusions in the report. Include the unrestricted Before value, the restricted After value, and the easement value on both a per acre basis and total value based on net acreage (gross acreage if there are no exception areas). This is a sample format and must include the following at a minimum:

| SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS                     |                 |              |
|--|-----------------|--------------|
| PROPERTY ADDRESS (including municipality and county)                   |                 |              |
| PROPERTY BLOCK AND LOT   |                 |              |
| OWNERSHIP  |                 |              |
| PROPERTY TYPE (including type of farm)                                 |                 |              |
| LAND SIZE (gross and net, if applicable)                               |                 |              |
| ZONING (with a brief description of minimum lot size)                  |                 |              |
| RESIDENTIAL OPPORTUNITIES ONCE RESTRICTED (RDSOs and others)           |                 |              |
| EXCEPTION AREAS ONCE RESTRICTED (identify severable and non-severable) |                 |              |
| HIGHEST AND BEST USE (Before and After)                                |                 |              |
| EFFECTIVE DATE OF VALUATION  |                 |              |
|  | <u>PER ACRE</u> | <u>TOTAL</u> |
| ESTIMATE OF PROPERTY VALUE BEFORE:                                     | _____           | _____        |
| ESTIMATE OF PROPERTY VALUE AFTER:                                      | _____           | _____        |
| ESTIMATE OF DEVELOPMENT EASEMENT VALUE:                                | _____           | _____        |

**Table of Contents:** Required format is included on the previous page.

<sup>5</sup> USPAP 2020-2022, STANDARDS RULE 4-3

## GENERAL INFORMATION

**Appraisal Purpose:** The purpose of the appraisal is to estimate the market value of a development easement on the subject property per the restrictions of the New Jersey Agriculture Retention and Development Program.

**Scope of Work:** The scope of work for SADC assignments will be consistent with the requirements of the SADC appraisal handbook and USPAP. Appraisers shall be provided with the project application, the Appraisal Order Checklist (AOC) and, in most cases, SADC staff's preliminary "Green Light Approval" letter identifying any special requirements, restrictions or limitations associated with the appraisal assignment. Appraisers must identify the client and other intended users of the appraisal, intended real estate transaction for which the appraisal report will be used (e.g., fee simple, easement acquisition), definition of value (market), hypothetical conditions/extraordinary assumptions, effective date of the appraisal, salient features of the subject property, methodologies to be used, extent of investigation, and the applicable approaches to value.

**Hypothetical Conditions and Extraordinary Assumptions:** All atypical hypothetical conditions to be considered must be authorized by the client and SADC in written form with authorized signature and should identify any special instructions to the appraiser inconsistent with the "as is" condition of the property being appraised. See also the Hypothetical Conditions and Extraordinary Assumptions section of this handbook.

**Hypothetical Conditions** are defined in the Appraisal Institute's *The Appraisal of Real Estate* as "contrary to what exists, but the conditions are asserted by the appraiser for the purposes of analysis."

**Extraordinary Conditions**, according to the Appraisal Institute's *The Appraisal of Real Estate*, "presume uncertain information to be factual. If found to be false, these assumptions could alter the appraiser's opinions or conclusions."

Hypothetical conditions associated with dual zoning valuations (1/1/2004 and current) in the Highlands Regions and the After value (as though restricted) are considered typical in the farmland preservation program and do not require client and SADC authorization. Eligibility for this provision will be noted in the AOC.

Hypothetical conditions associated with Pinelands and Pinelands Development Credits (PDCs) being severed in the After valuation are considered typical in the farmland preservation program and do not require client and SADC authorization. Eligibility for this provision will be noted in the AOC.

Extraordinary assumptions may be used only when necessary for completion of the assignment. All extraordinary assumptions shall be submitted to and approved by the SADC review staff prior to the completion of the assignment. All extraordinary assumptions shall be reasonable. Extraordinary assumptions that change the risk level or the market value are prohibited. In general, the appraiser shall estimate the market value based on the subject's existing conditions (as-is) with the buyer assuming the risk of future approvals and/or events.

**Estate Appraised:** This is a statement of the rights being valued. For Market Value, the Fee Simple Estate will apply in most cases. The majority of the valuations include the value of the land only. All appraisals are for surface rights only.

**Note:** The subject's agricultural improvements are required to be valued if **all** of the following apply:

1. If a property is located in the Pinelands region
2. It qualifies for Pinelands Development Credits (PDCs)
3. It has agricultural improvements on the proposed easement area

(See also Pinelands Region section of this handbook)

**Definitions:** Define the legal and technical terms of the report including, but not limited to, Market Value and Highest and Best Use.

The following definitions will help identify distinctions in value:

### 1. Market Value Unrestricted (Before Value) of the “as is” condition

Market Value unrestricted means the value that the property will bring in the open market under all conditions requisite for a fair sale and which includes all rights of fee simple ownership.

The specific definition of Market Value<sup>6</sup> to be used in all appraisal reports shall read as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition are the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated
2. Both parties are well informed or well advised and acting in what they consider their own best interests.
3. A reasonable time is allowed for exposure in the open market
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto, and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted

by anyone associated with the sale.

For properties appraised for federally funded projects requiring reports compliant with the Uniform Appraisal Standards for Federal Land Acquisitions (formerly known as “Yellow Book”) (see Appraisal Order Checklist), the definition of market value must be used as set forth in Section A-9 of the federal standards:

“Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.”

<sup>6</sup> THE APPRAISAL OF REAL ESTATE, 14TH EDITION, PAGE 59



## 2. Market Value Restricted (After Value)

Market Value Restricted is the market value of property subject to the deed restrictions placed on the title of a property.<sup>7</sup> These restrictions preserve the property for agricultural use, which forms the basis for the After valuation. This term may be synonymous with agricultural market value, although in areas under heavy development an increment of value may be inherent for residential and/or recreational uses with agricultural use being secondary. The restrictions placed on the premises run with the land forever.

## 3. Agricultural Market Value

Agricultural Market Value can be defined as the market value of property with a present and future highest and best use for agricultural production. This includes consideration of exposure on the market and competition for agricultural property between farmers. In most cases this value will not be used in farmland preservation reports.

## 4. Agricultural Value

Agricultural Value is a value in use. It can be defined as the value of property based solely on its agricultural productivity. This value does not take into account alternative uses for the property. In most cases this value will not be used in farmland preservation reports.

For the New Jersey Farmland Preservation Program, Market Value Unrestricted and Market Value Restricted are of primary concern. The value of the development easement is calculated as the Market Value Unrestricted of a property less the Market Value Restricted of that property. Market Value and Agricultural Market Value may be equivalent in areas under nominal development pressure, (i.e. limited alternative uses) although this condition may exist only in limited areas of New Jersey. Theoretically, Market Value Restricted must be some portion of Market Value Unrestricted, since a portion of the bundle of rights, and presumably value, has been acquired by the grantee. In reality, the acquisition of a portion of the bundle of rights simply changes the composition of the buyer pool (i.e. developers and speculators are all but eliminated). Thus, Market Value Restricted could conceivably range from a low approaching Agricultural Value to a high approaching Market Value Unrestricted, depending on the motivations and financial well-being of the buyer pool seeking restricted properties. **It is essential that the appraiser understand the composition of the buyer pool and their motivations for purchasing a restricted parcel** (i.e. oversized home site/country estate, recreation, nursery, horses, vegetables, space, privacy).

Based on investigation and analysis of restricted property sales occurring in New Jersey and other northeastern states, it is clear that the Market Value Restricted of agricultural properties often reflects a value increment over and above agricultural value. Agricultural value (i.e. value in use) is estimated solely on the economic productivity of the land utilizing the income capitalization method.

As development pressure in an area increases, increases in market value can be anticipated. Concurrently, agricultural value (value in use) may remain relatively constant. Agricultural Market Value would increase moderately as the supply of available farmland is diminished and the competition among farmers for the remaining farmland increases.

<sup>7</sup> N. J. A. C. 2:76-6.15



*Image Courtesy of Stefanie Miller*

However, Market Value Restricted may be expected to increase proportionately to the increase in market value as development pressure increases if the property's potential residential use (or estate use, recreational use) as restricted increases over and above its agricultural use. This increase in marketability continues to reflect the limitations imposed by the development easement.

**Assumptions and Limiting Conditions:** The Appraisal Institute publishes a sample list of assumptions and limiting conditions a sample list<sup>8</sup> for use by appraisers. The list may be edited by the appraiser to suit specific assignments if necessary. Depending on the assignment, the appraiser may need to provide additional data, analysis and work product not called for in this recommended list.

**History, prior sales, listings and contracts of sale of subject:** This shall include any title changes of the subject in the last 5 years, including easements, agreements for sale or options. The appraiser shall consider a recent subject sale for use as a comparable sale as it may require less adjustment than other sales being considered. If the appraiser does not use the subject sale as a comparable sale, the reasons for not including it shall be specifically stated. Analyze and report in reasonable detail any listings or contracts of sale on the subject property.

Failure of the appraiser to comply with this analysis is considered a USPAP violation and may result in the appraisal being invalidated.

**Community and Neighborhood Data:** The appraiser shall prepare a description of the subject property's county and municipal demographic data including but not limited to: relevant transportation, employment, income, housing, construction (building permits), education systems, shopping, environmental, and other factors the appraiser deems relevant. The immediate neighborhood description shall include any structures or sites that may have an impact on the subject property that was not addressed in the municipal description.

This section shall lay the foundation for the discussion of Highest and Best Use later in the appraisal report.

**Market Trends and Analysis:** Report current market conditions, trends and analyze these impact on the subject. This shall include, but is not limited to, character of the community, land use trends, degree of development pressure in the area, and any other information, which may significantly impact the fee simple market value.

**Exposure Time Before and After:** Estimate exposure time (as defined in USPAP) for the subject for both the Before and After valuations.<sup>9</sup> The concept of Exposure time implies that the valuation is based on the subject property selling on the effective date of value. This concept reinforces the instruction that the appraiser must value the gross land as of the effective date of value to establish Before and After per acre rates.

<sup>8</sup> THE APPRAISAL OF REAL ESTATE, GENERAL ASSUMPTIONS AND LIMITING CONDITIONS  
<sup>9</sup> USPAP 2020-2022 STANDARDS RULES 1-2(C)

**Subject Property Identification and Description:** Identify the subject property by Block/Lot, physical address and other appropriate means. Describe the property and its current use. The description of the subject property must include all physical attributes and improvements. It is recommended that a tax map be included in this section to assist the reader. A subject tax map (not a tax map overlay of other maps) must be included in the appraisal.

The client will indicate, in the AOC, the acreage on which the value is to be based. The subject size in the appraisal report must be exactly as stated in the AOC and not rounded. If there is a large discrepancy between the actual subject acreage and what is indicated in the AOC, please notify the client.

Comments regarding, e.g., topography, soils characteristics, hydrologically limited areas, riparian lands (State owned or privately held), frontage, configuration, dwellings and outbuildings, are appropriate. Building sketches are not necessary. Approved, denied, or pending subdivision plans, if any, should be noted here. Existing residences, agricultural labor housing, exceptions and/or Residual Dwelling Site Opportunities (RDSO) and pre-existing non-agricultural uses must be noted.

The description of the existing and proposed residential opportunities should be provided by the client to the appraiser within the AOC. The information should include maps that identify the size and location of any existing residences and/or exception areas. Any information associated with the proposed exception areas, including conditions, intended uses, and any additional restrictions, should also be included in the AOC. These details are important for the appraiser to consider when making adjustments to the comparable sales. For more information regarding residential opportunities and exception areas, please refer to the section titled "Exception Areas and Residential Opportunities" in this Handbook.

**A. Soil Characteristics/Interpretative Tables:** There is a free website available to obtain soils data, which is through NRCS called Web Soil Survey, see link to website:

<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

Another free website called NJ Conservation Blueprint that also offers soils information but is not as detailed as Web Soil Survey. However, it also offers information on preserved farms in the area, wetlands, and a measuring tool, and can be a great resource, see link to website:

<https://www.njmap2.com/blueprint/>

For instructions on using these websites, please see the Appraisal section of the SADC website or use the following links:

Link to instructions for WebSoilSurvey:

<https://www.nj.gov/agriculture/sadc/appraisals/WebSoilSurveyInstructions.pdf>

Link to instructions for Blueprint:

<https://www.nj.gov/agriculture/sadc/appraisals/NJBlueprintInstructions.pdf>

Appraisers must rely on these websites for all soils data that are not provided to them by the client, including comparable sales data. These websites can be used to identify the soil types for the subject property as well as for the comparable sales. Information can be obtained from the above websites for septic compatibility.

**B. Wetlands and/or Hydrologically Limited Areas:** The client should provide the appraisers with a copy of state wetlands maps or any other more detailed wetlands analysis when appropriate. If the mapping is not provided, the appraiser may reach out to their client to request mapping. Discussion shall include the type of wetlands (e.g., modified agricultural wetlands may have utility in the After Value), location of wetlands, the amount of the wetlands as a percentage of the total area, and any other factors of significance. This analysis will form the basis for adjustments to the comparable sales used in the report.

**C. Flood Zone:** Maps identifying the Flood Zone must be provided. The subject location must be clearly identified, and the appraiser must estimate (on a percentage basis) the areas of the subject property that are impacted by Flood Hazard Areas and consider their importance when making adjustments to sales.

**D. Riparian Lands (Tidelands):** Tidelands (a/k/a Riparian Lands) are land areas located below the mean high-water line. In New Jersey, all tidelands not designated in a Riparian Grant are owned by the State (see also Tidelands Act N.J.S.A. 10:3 and Coastal Zone Management Rules N.J.A.C. 7:7). Therefore, these areas must be removed from the gross land calculation in farmland preservation applications. The Appraisal Order Checklist (AOC) should clearly indicate this deduction. Waterfront real estate may be a positive locational factor, but Tidelands shall not add to the subject land area. If this deduction is not made in the AOC, the appraiser shall notify the client to clarify this issue and get the proper land size calculations.

On occasion, there are riparian grants, leases or licenses, which are instances where the owner retains rights under the mean high-water line. If this is the case, the land area must still be excluded from the gross; however, its impact on value shall be considered. Large areas of non-riparian border water may also be treated in a similar fashion if the appraiser believes the per acre value would be impacted. Whenever possible, these types of atypical rights associated with riparian land should be disclosed to the appraiser in the “Special Instructions” section of the AOC.

**E. Pre-Existing Nonagricultural Uses:** The appraiser must consider and explain any pre-existing nonagricultural uses that will remain in the After valuation. The appraiser shall consider if the non-agricultural use adds to the underlying land value when making adjustments to the comparable sales in both the Before and After valuations. The client should note in the AOC the nonagricultural use(s) that will remain on the property after it is preserved. An appraiser who notices a nonagricultural use that is not indicated on the AOC shall inform the client and get instructions on how to proceed.

**F. Improvements:** Appraisers must briefly describe the improvements located on the subject property, which includes those within exception areas. Most valuations include land only (see Pinelands Region appraisal instructions) but there may be times where significant improvements impact the underlying land value. If the appraiser believes that a demolition cost would be expected by the typical buyer, a deduction from the underlying land value may be necessary.

**Zoning and Assessment Information:** The appraiser must identify and describe the subject’s zoning. This shall include the minimum lot size, width or frontage, and other bulk area requirements as well as permitted uses. It is required that a copy of the zoning ordinance referring to the subject’s zoning district be included in the appraisal report. An analysis of the impact on value regarding zoning must also be included. A copy of the zoning map with the subject’s location clearly identified is required. This can be located within the zoning section or in the addenda.



## PROPERTY VALUATION: BEFORE DEVELOPMENT EASEMENT ACQUISITION (MARKET VALUE UNRESTRICTED)

The following topics must be applied to the Before Valuation. Values in the report must be expressed in dollars per acre and a total value based on net area (gross area if there are no exception areas).

**Highest and Best Use:** Building upon previous sections of the appraisal report describing the zoning, community, and the property, discuss in some detail the basis for the opinion of the highest and best use. Both the Highest and Best Use as Vacant and as Improved are required, even though only the land is required to be valued.

Occasionally, significant improvements to the property may impact the value or highest and best use of the underlying land. This shall be discussed; however, the appraiser is only required to value the land.

As explained in *The Appraisal of Real Estate*, the Highest and Best Use Analysis considers the following criteria:

1. Is the use legally permissible?
2. Is the use physically possible?
3. Is the use financially feasible?
4. What is the maximally productive use of the property?

**Valuation Approaches:** The development easement purchased by the Farmland Preservation Program is an interest in land only. As a result, it is solely the land value that needs to be derived and reported. Therefore, in most cases, only the Sales Comparison Approach will be used in both the Before and After valuations. Other approaches to value shall be considered, and the appraiser must include a brief explanation as to why the other approaches were inappropriate. As noted in previous sections of this Handbook, the appraiser must consider if there is an increment of value attributed to the land as a result of residential opportunities, exception areas, or other existing improvements on the premises.

**Listings of Comparable Properties for Sale:** The appraiser shall include at least one but no more than three most relevant and comparable active listings from the subject's immediate market. Each listing shall be described and briefly analyzed as to how it compares to the appraiser's value conclusion.

**A. Sales Comparison Approach:** This method is based on a comparison of the land component of comparable sales to the subject land.

**Comparable Sale(s) Write-up:** These shall, at a minimum, include the following information:

- a. Grantor/Grantee
- b. Deed date
- c. Deed book/page
- d. Sale price
- e. Property size
- f. Location (include County, Municipality, Block & Lot)
- g. Soil types/ % septic limitations\*
- h. Frontage/access including the frontage ratio based on gross acreage (feet per acre)
- i. Wetlands
- j. Conditions of sale
- k. Color photographs\*\*
- l. Improvements
- m. Utilities
- n. Verification
- o. Legible copy of tax map \*\*\*
- p. Zoning including brief description with minimum lot size requirement
- q. Intended use of sale

\*This must include a summary with totals, such as the following:

| <u>Soil Type</u> | <u>Area %</u> | <u>Quality for Septic Suitability</u> |                         |                     |
|------------------|---------------|---------------------------------------|-------------------------|---------------------|
| SSURGO           | 75%           | Very Limited                          |                         |                     |
| SSURGO           | 5%            | Not Limited                           |                         |                     |
| SSURGO           | 10%           | Very Limited                          |                         |                     |
| SSURGO           | 10%           | Somewhat Limited                      |                         |                     |
|                  |               | <b>Not Limited</b>                    | <b>Somewhat Limited</b> | <b>Very Limited</b> |
| <b>Total</b>     |               | <b>5%</b>                             | <b>10%</b>              | <b>85%</b>          |

(This information can be obtained from the application and confirmed using USDA, NRCS Soil Survey Geographic Data Base (SSURGO) Web Soil Survey).

\*\*While many helpful photographs (such as wetlands or aerial maps) are available from internet sources such as Google maps and can greatly enhance comparable sale(s) information, at least one original photo must be taken by the appraiser and included in the report to prove that the appraiser inspected the sale from the street. If possible, include significant improvements in the photo(s). The SADC review staff understands that the view from the street has limitations. The only exception to this would be in the case of landlocked parcels where the appraiser cannot view the property at all from the road. In this case, an aerial photo would suffice; however, the property needs to be outlined.

\*\*\*A legible tax map showing lot dimensions with the comparable property indicated/highlighted is a requirement. Tax map overlays of other mapping can be included but are not a substitute for an actual tax map.

A detailed, comparable sales write-up is one of the most important aspects of a farmland preservation appraisal. All of the sale characteristics on the adjustment grid must be clearly listed in the comparable sales write-up in order to minimize errors and allow the SADC review appraisers to check comparable sale characteristics.

The adjustment grid shall not contain any information that is not also included in the sales write-up. The SADC review appraisers reserve the right to require the appraiser to provide such information that is omitted from the sale writeup or adjustment grids.

Characteristics in the adjustment grid such as minimum lot size (zoning adjustment) and frontage ratio (feet per acre) that can be quantified help the reviewer and appraiser determine whether adjustments are appropriate.

Any adjustments to the comparable sale price, such as, for example, improvement value, demolition cost, auction commission and PDC value, must be clearly stated and calculated in the sales write-up. The price per acre stated in the write-up must reflect any of those adjustments. Finally, the sale price and price per acre on the adjustment grid must match what is explained in the sales write-up.

The following is a sample format to be contained in the sale(s) write-up. Using this example, the adjustment grid shall reflect a sale price of \$325,000 and price per acre of \$6,500:

\$400,000 Sale price per deed  
+ 20,000 Auction commission paid by buyer  
- 20,000 Value of the PDCs  
- 75,000 Contributory value of the improvements  
**\$325,000 Adjusted Sale Price**  
**\$6,500 per acre (50 acres)**

*Image Courtesy of Stefanie Miller*



**Minimum Number of Comparable Sales:** The appraisers are required to use a minimum of **four (4)** comparable sales in the Before and After valuations. If less than four comparable sales are used, the appraiser must explain why. SADC review staff will consider if there is a reason that sales are scarce but reserves the right to require the appraiser to add a sale or sales if available. Appraisers are encouraged to share comparable sales data with one another, as it is public record, to improve the overall appraisal work product with the best information available. The SADC also maintains a list of sales on the Appraisal portion of the SADC website.

For the SADC's most current list of Before sales, use the following link:

[https://www.nj.gov/agriculture/sadc/documents/appraisals/2021\\_Unrestricted\\_farm\\_sales.pdf](https://www.nj.gov/agriculture/sadc/documents/appraisals/2021_Unrestricted_farm_sales.pdf)

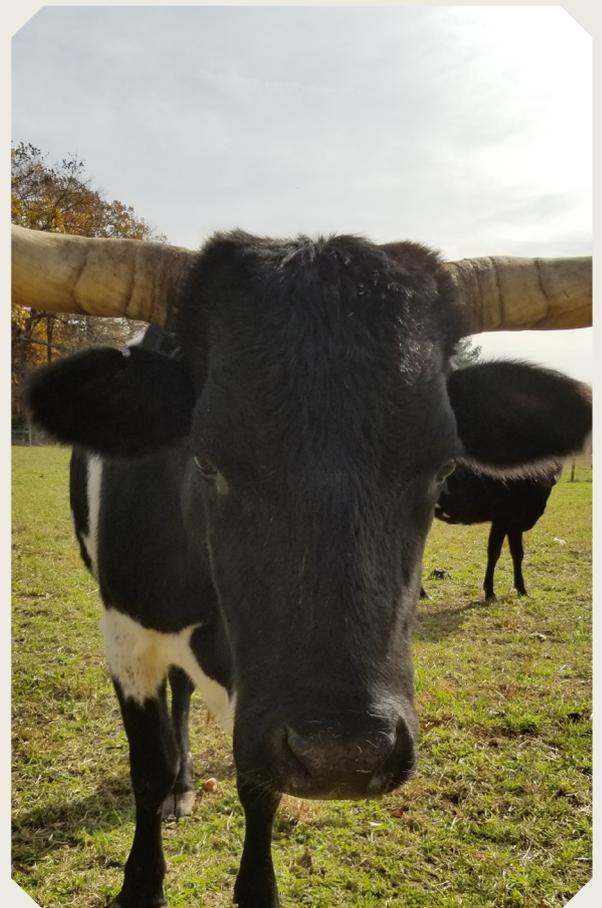
**Age of Comparable Sales:** The appraisers are required to use a minimum of three sales that took place within five years of the effective date of value. There are situations where older sales are excellent comparable sales that could be used, but at least three sales within the past five years are required. The SADC review staff will consider if there is a reason that recent sales are limited and reserves the right to require the appraiser to add a sale or sales if available.

**Adjustments:** Adjustments shall be made for salient characteristics in the market, which may or may not include, e.g., date of sale, financing, location, soil characteristics and zoning (See recommended adjustment grid on a following page). If a sale is improved, the appraiser must consider making appropriate adjustments when comparing the sale to the subject farm. A sufficient explanation for the adjustments must be contained in the report. When the subject property has no subdivision approvals, comparable sales that have received approval for subdivision or that were sold on a contingency basis (subject to approvals) should be adjusted accordingly with appropriate reasoning stated.

Large adjustments (in excess of 20%) may be necessary, but a more detailed explanation of the adjustment shall be provided. The appraiser must be aware of the gross adjustment to sales, as it may be a measure of the appropriateness of the sale itself. The appraiser shall add reasoning when there are unusually high single and gross adjustments.

The appraiser must utilize sales that most closely resemble the characteristics of the subject property. In the reconciliation, discuss sales thoroughly and indicate which sales were emphasized when appropriate.

The use of the following adjustment grid is highly recommended when the highest and best use of the subject is current/future residential development. These are the suggested adjustment categories; however, others may be included to suit the specific characteristics of the subject property.



*Image Courtesy of Kelly Doyle*

| UNRESTRICTED LAND SALES ANALYSIS |                          |                        |    |                        |    |                          |    |                         |    |
|----------------------------------|--------------------------|------------------------|----|------------------------|----|--------------------------|----|-------------------------|----|
|                                  | SUBJECT                  | SALE 1                 |    | SALE 2                 |    | SALE 3                   |    | SALE 4                  |    |
| Property Address                 | Spring Road<br>Millstone | Long Road<br>Millstone |    | Lamp Road<br>Millstone |    | Beaver Road<br>Millstone |    | Downe Road<br>Millstone |    |
| Owner / Grantor                  | Farmer Chen              | Farmer Smith           |    | Farmer Jackson         |    | Farmer Ramirez           |    | Farmer Patel            |    |
| Size in Acres                    | 100.0                    | 100.0                  |    | 100.0                  |    | 100.0                    |    | 100.0                   |    |
| Date of Sale                     | NA                       | 00/00/00               |    | 00/00/00               |    | 00/00/00                 |    | 00/00/00                |    |
| Sale Price - Land Only           |                          | \$100,000              |    | \$100,000              |    | \$100,000                |    | \$100,000               |    |
| Sale Price / Acre                | NA                       | \$1,000                |    | \$1,000                |    | \$1,000                  |    | \$1,000                 |    |
| Property Rights                  |                          | Fee Simple             | 0% | Fee Simple             | 0% | Fee Simple               | 0% | Fee Simple              | 0% |
| Adjusted Value                   |                          | \$1,000                |    | \$1,000                |    | \$1,000                  |    | \$1,000                 |    |
| Condition of Sale                |                          | Arms Length            | 0% | Arms Length            | 0% | Arms Length              | 0% | Arms Length             | 0% |
| Adjusted Value                   |                          | 1,000                  |    | 1,000                  |    | 1,000                    |    | 1,000                   |    |
| Financing Terms                  |                          | At Market              | 0% | At Market              | 0% | At Market                | 0% | At Market               | 0% |
| Adjusted Value                   |                          | 1,000                  |    | 1,000                  |    | 1,000                    |    | 1,000                   |    |
| Market Conditions                |                          | Similar                | 0% | Similar                | 0% | Similar                  | 0% | Similar                 | 0% |
| Adjusted Value                   |                          | 1,000                  |    | 1,000                  |    | 1,000                    |    | 1,000                   |    |
| <b>ADJUSTED PRICE / ACRE</b>     |                          | <b>\$1,000</b>         |    | <b>\$1,000</b>         |    | <b>\$1,000</b>           |    | <b>\$1,000</b>          |    |
| Location                         | Average                  | Average                | 0% | Average                | 0% | Average                  | 0% | Average                 | 0% |
| Size in Acres                    | 100.0                    | 100.0                  | 0% | 100.0                  | 0% | 100.0                    | 0% | 100.0                   | 0% |
| Front Feet / Acre                | 37.5                     | 37.5                   | 0% | 37.5                   | 0% | 37.5                     | 0% | 37.5                    | 0% |
| Topography                       | Gentle Roll              | Gentle Roll            | 0% | Gentle Roll            | 0% | Gentle Roll              | 0% | Gentle Roll             | 0% |
| Zoning                           | AR (3 ac min)            | AR (3 ac min)          | 0% | AR (3 ac min)          | 0% | AR (3 ac min)            | 0% | AR (3 ac min)           | 0% |
| Easements                        | None                     | None                   | 0% | None                   | 0% | None                     | 0% | None                    | 0% |
| Wetlands ( % )                   | 25%                      | 25%                    | 0% | 25%                    | 0% | 25%                      | 0% | 25%                     | 0% |
| Soils ( % Severe )               | 25%                      | 25%                    | 0% | 25%                    | 0% | 25%                      | 0% | 25%                     | 0% |
| Public Water / Sewer             | None                     | None                   | 0% | None                   | 0% | None                     | 0% | None                    | 0% |
| Other                            | None                     | None                   | 0% | None                   | 0% | None                     | 0% | None                    | 0% |
| Net Adjustment                   |                          |                        | 0% |                        | 0% |                          | 0% |                         | 0% |
| <b>INDICATED VALUE PER ACRE</b>  |                          | <b>\$1,000</b>         |    | <b>\$1,000</b>         |    | <b>\$1,000</b>           |    | <b>\$1,000</b>          |    |
| Total Gross Adjustments          |                          |                        | 0% |                        | 0% |                          | 0% |                         | 0% |
| Total Net Adjustments            |                          |                        | 0% |                        | 0% |                          | 0% |                         | 0% |
| Mean Price/Acre Unadjusted       |                          | \$1,000                |    |                        |    |                          |    |                         |    |
| Mean Price/Acre After Adjustment |                          | \$1,000                |    |                        |    |                          |    |                         |    |
| <b>Estimated Value per Acre</b>  |                          | <b>\$1,000</b>         |    |                        |    |                          |    |                         |    |

The above grid is in Excel format. A copy is available on the Appraisal portion of the SADC website. Use the following link:

<https://www.nj.gov/agriculture/sadc/documents/appraisals/appraisalsBEFOREadjustment%20grid.xlsx>

**B. Subdivision Method: The subdivision method for calculating value is generally not recommended.** However, it may be used when the subject property has preliminary or final development approvals, but only as a check on the Sales Comparison Approach. In the absence of approvals, the client may, with prior SADC approval, develop a site plan and engineering report for the appraiser to consider in analyzing the property using this method.

The SADC will consider a request to use the subdivision method only if the appraisers provide the following to the client and to the SADC:

- (1) written certifications that there is a compelling need for this method,
- (2) a detailed description of the reasons justifying the compelling need.

Should a client seek to use the subdivision method and the SADC approve it, the client is responsible for hiring the appropriate professionals to produce the detailed engineering and environmental assessment work called for in this handbook. The SADC will not accept work done by, or for, the landowner for these purposes.

In order to accept such an assignment, the appraiser must satisfy the competency rule in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and notify the client prior to acceptance of the assignment if they are unable to satisfy the competency rule.

The appraiser must perform a full feasibility analysis of the proposed project in accordance with standards outlined and approved by the SADC. The following steps must be completed:

1. A full development report must be completed by an appropriate professional, such as an engineer or planner. The report shall include plans, septic suitability tests, Environmental Analysis, and detailed infrastructure costs. This report must include language indicating that there is a reasonable probability of site plan and subdivision approval without the need to obtain variances.
2. The appraisal must contain or reference a full Feasibility Study on the project, including property productivity analysis, market delineation, demand analysis, competitive supply analysis, supply and demand study and capture rate.
3. The appraiser must certify that the site plan utilized was provided by the client and that the appraiser was instructed to consider the site plan for purposes of the analysis as of the effective date of the appraisal, using an extraordinary assumption that it could be subdivided as per the plans (as stated in #1).
4. The appraiser must complete an analysis of raw land sales as well as the lot value analysis and reconcile the two approaches.



*Image Courtesy of Stefanie Miller*

**C. Income Capitalization Approach:** The appraiser may consider this approach; however, it has been the experience of the farmland preservation program that the Income Capitalization method has yielded generally unreliable value estimates for this type of assignment. Generally, farm properties are not purchased by the typical buyer based on rental income. The range of variables, including expenses, enterprise, crop value and methods of depreciation, can result in greater room for error. Additionally, sales comparisons are an actual analysis of buyer/seller transactions. For these reasons, the income capitalization approach is not emphasized. This method may be considered in Fee Simple assignments involving income-producing properties, which rarely arise in the farmland preservation program.

**D. Cost Approach:** The appraiser may consider this approach in some instances; however, the farmland preservation program generally requires land value and, therefore, this approach usually does not apply. This method may be used as a means of demonstrating the contributory value of improvements with comparable sales to extract the land value. This method must be considered in Fee Simple assignments requiring improvement value and in valuing agricultural improvements in Pinelands appraisals (see Pinelands appraisal instructions).

**VALUE CONCLUSION:** Indicate final value estimate for the land and discuss how this conclusion was reached. It must express the value per acre as well as the total value based on the subject's net acreage (or gross acreage if there are no exception areas).

*Image Courtesy of Kelly Doyle*



## PROPERTY VALUATION: AFTER DEVELOPMENT EASEMENT ACQUISITION (MARKET VALUE RESTRICTED)

**Subject Property Description:** The appraiser must discuss, without repeating the Before property description, items that are particularly significant to the valuation of the property as encumbered by a development easement. Such items include, but are not limited to, a “plain English” discussion of the deed restrictions and their effect on the subject property, as well as the subject’s agricultural characteristics such as, but not limited to, tillable acreage, irrigation, soils and their classification (i.e., Prime, Statewide, or other soil class). The appraiser shall also discuss the proposed exception areas and residential opportunities. The appraiser can refer to the sample deed of easement found on in the appendix of this document or on the SADC website for general information regarding the restrictions, or use the following link:

<https://www.nj.gov/agriculture/sadc/farmpreserve/resources/standarddeeds.html>

**The subject farm appraised as though deed restricted must be identified as a hypothetical condition in the After valuation.**

*For information regarding exception areas and residential opportunities, see the section of this document titled “Exception Areas and Residential Opportunities”.*

**Soil Characteristics/Interpretative Tables:** There is a free website available to obtain soils data, which is through NRCS called Web Soil Survey, see link to website:

<http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

Another free website called NJ Conservation Blueprint that also offers soils information but is not as detailed as Web Soil Survey. However, it also offers information on preserved farms in the area, wetlands, and a measuring tool, and can be a great resource, see link to website:

<https://www.njmap2.com/blueprint/>

For instructions on using these websites, please see the Appraisal section of the SADC website or use the following links:

Link to instructions for WebSoilSurvey:

<https://www.nj.gov/agriculture/sadc/documents/appraisals/WebSoilSurveyInstructions.pdf>



Link to instructions for Blueprint:

<https://www.nj.gov/agriculture/sadc/documents/appraisals/NJBlueprintInstructions.pdf>

Appraisers must rely on these websites for all soils data that are not provided to them by the client, including comparable sales data. These websites can be used to identify the soil types for the subject property as well as for the comparable sales. Information can be obtained for agricultural classifications.

In addition, the impact of the following issues previously identified and discussed in the Before valuation shall be identified and discussed in the After valuation. They are as follows:

**Highest and Best Use:** Discussion of highest and best use as though the subject is deed restricted. This is a result of the required hypothetical condition that the subject has been deed restricted. In most cases, this will result in agricultural use being the highest and best use.

Careful attention must be paid to the nature of the subject area and the motivating factors typical for buyers in the market for restricted properties. Both the highest and best use as vacant and as improved are required, even though only the land is required to be valued.

As explained in *The Appraisal of Real Estate*, the Highest and Best Use Analysis considers the following criteria:

1. Is the use legally permissible?
2. Is the use physically possible?
3. Is the use financially feasible?
4. What is the maximally productive use of the property?

Again, the highest and best use forms the basis for the valuation and the selection of appropriate comparable sales. The hypothetical condition that the farm is restricted in the After valuation will simplify the highest and best use discussion as, in general, the farm will be restricted to agricultural use. The appraiser can discuss what type of agricultural uses are most appropriate and shall discuss the use flexibility associated with any proposed exception areas and/or dwelling opportunities that will be available, all of which will form the basis for selecting and adjusting comparable sales. Appraisers shall consider and discuss the typical buyer profile (e.g., crop farmer, estate farm) for the subject restricted farm as it will help with selecting appropriate sales.

**Valuation Approaches:** Only the value of the land is sought in the After valuation. The appraiser must consider the effect of exception areas, residential opportunities and improvements when conducting the valuation, but only the market value of the land is required to be identified. Proposed residential opportunities and/or exception areas are rights associated with the land (not the improvement value) and their value must be considered when comparing the subject to the comparable sales. The appraiser must determine if there is an increment of value attributed to the proposed exception areas and/or residential opportunities as it relates to the value of the gross land value.

**Listings of Comparable Properties for Sale:** The appraiser shall include at least one but no more than three most relevant and comparable active listings from the subject's immediate market. Each listing shall be described and briefly analyzed as to how it compares to the appraiser's value conclusion.

*Image Courtesy of Kelly Doyle*

**A. Direct Sales Comparison Approach:** The general procedure for estimating restricted value is the same as estimating unrestricted values. The intent of this valuation is to demonstrate value for a land parcel, which is limited in utility (by virtue of legal restrictions). The following categories of land sales are recommended as useful value indicators:

**Deed Restricted Properties:** The comparable sales utilized in the Sales Comparison Approach should be properties that are limited by a development easement, conservation easement or similar deed restriction placed against the title of the property.

**Limited Utility Properties:** The comparable sales can also be limited for development potential due to their zoning requirements or physical constraints. Be sure to understand the nature and limits of the restrictions on these sales so appropriate comparisons can be made.

**Comparable After Sale(s) Write-up:** These shall, at a minimum, include the following information:

- a. Grantor/Grantee
- b. Deed date
- c. Deed book/page
- d. Sale price
- e. Property size
- f. Location/block/lot (including approximate distance to the subject)
- g. Agricultural soil types/% Prime & tillable\*
- h. Wetlands
- i. Conditions of sale
- j. Color photograph(s)
- k. Residential Opportunities/Exceptions (discuss type and number of residential opportunities and exception areas; if none, this must be noted)
- l. Utilities
- m. Verification
- n. Legible copy of tax map
- o. Zoning – Only needed if it is not a deed restricted sale.

\*This must include a summary with totals, such as the following:

| <u>Soil Type</u> | <u>Area %</u> | <u>Quality</u>   |                 |
|------------------|---------------|------------------|-----------------|
| SSURGO           | 75%           | Prime            |                 |
| SSURGO           | 5%            | Other            |                 |
| SSURGO           | 10%           | Statewide        |                 |
| SSURGO           | 10%           | Prime            |                 |
|                  | <b>Prime</b>  | <b>Statewide</b> | <b>Tillable</b> |
| <b>Total</b>     | <b>85%</b>    | <b>10%</b>       | <b>85%</b>      |

(This information can be obtained from the application and confirmed using USDA, NRCS Soil Survey Geographic Data Base (SSURGO) Web Soil Survey).

\*\*While many helpful photographs (such as wetlands or aerial maps) are available from internet sources such as Google maps and can greatly add to comparable sale(s) information, at least one original photo must be taken by the appraiser and included in the report to prove that the appraiser inspected the sale from the street. If possible, include significant improvements in the photo(s).

The SADC review staff understands that the view from the street has limitations. The only exception to this would be in the case of landlocked parcels where the appraiser cannot view the property at all from the road. In this case, an aerial photo would suffice; however, the property needs to be outlined.

\*\*\*An actual legible tax map with the comparable property indicated/highlighted is a requirement. Tax map overlays of other mapping can be included but is not a substitute for an actual tax map.

As indicated in the Before valuation section, a detailed, comparable sale(s) write-up is one of the most important aspects of a farmland preservation appraisal. All of the sale characteristics on the adjustment grid must be clearly listed in the comparable sale(s) write-up in order to minimize errors and allow the SADC review appraisers to check comparable sale characteristics.

The adjustment grid shall not contain any information that is not also included in the sale(s) write-up. The SADC review appraisers reserve the right to require the appraiser to provide such information that is omitted from the sale writeup or adjustment grids.

Characteristics that can be quantified in the grid, such as agricultural soils and tillable percentages, help the reviewer and appraiser check if adjustments are appropriate.

Any adjustments to the comparable sale price, such as, for example, improvement value, demolition cost or auction commission, must be clearly stated and calculated in the sales write-up. The price per acre stated in the write-up must reflect any of those adjustments. Finally, the sale price and price per acre on the adjustment grid must match what is explained in the sale(s) write-up.

The following is a sample format for the sale(s) write-up. Using this example, the adjustment grid shall reflect a sale price of \$345,000 and price per acre of \$6,900.

\$400,000 Sale price per deed  
+ 20,000 Auction commission paid by buyer  
- 75,000 Contributory value of the improvements  
**\$345,000 Adjusted Sale Price**  
**\$6,900 per acre (50 acres)**

*Image Courtesy of Kelly Doyle*



**Minimum Number of Comparable Sales:** The appraisers are required to use a minimum of **four (4)** comparable sales in the After valuation. If less than four comparable sales are used, the appraiser must explain why, and the SADC review staff will consider if there is a reason that sales are scarce and reserves the right to require the appraiser to add a sale or sales if available. Appraisers are encouraged to share comparable sales data with one another, as it is public record, to improve the overall appraisal work product with the best information available. The SADC also maintains a list of After sales on the Appraisal portion of the SADC website.

For the SADC's most current list of After sales, use the following link:

<https://www.nj.gov/agriculture/sadc/documents/appraisals/Restricted%20Farm%20Sales.pdf>

**Age of Comparable Sales:** The appraisers are required to use a minimum of three sales that took place within five years of the effective date of value. There are situations where older sales are excellent comparable sales that can be used, but at least three sales within five years are required. The SADC review staff will consider if there is a reason that recent sales are scarce and reserve the right to require the appraiser to add a more recent sale or sales if available.

**Adjustments:** Adjustments must be made for salient characteristics in the market as it relates to restricted properties. This may or may not include, for example, date of sale, financing, location, agricultural soil characteristics, tillable acreage and residential opportunities/exceptions. If a sale is improved, the appraiser must consider making appropriate adjustments when comparing the sale to the subject farm. Reasonable explanation of adjustments must be contained in the report.

Large adjustments (in excess of 20%) may be necessary, but a more detailed explanation of the adjustment must be provided. The appraiser shall be aware of the gross adjustment to sales as it may be a measure of the appropriateness of the sale itself. The appraiser shall add discussion/reasoning when there are unusually high single and/or gross adjustments.

The appraiser shall utilize sales that most closely resemble the characteristics of the subject property as though deed restricted. In the reconciliation, discuss sales thoroughly and indicate which were emphasized when appropriate.

The use of the following grid is highly recommended for the After valuation. These are the suggested adjustment categories; however, others may be included to suit the specific characteristics of the subject property.

*Image Courtesy of Kelly Doyle*



## RESTRICTED LAND SALES ANALYSIS

|                                  |  | SUBJECT                  | SALE 1                   |    | SALE 2                 |    | SALE 3                   |    | SALE 4                     |    |
|----------------------------------|--|--------------------------|--------------------------|----|------------------------|----|--------------------------|----|----------------------------|----|
| Property Address                 |  | Spring Road<br>Millstone | Uptown Road<br>Millstone |    | Main Road<br>Millstone |    | Sutton Road<br>Millstone |    | Hillside Road<br>Millstone |    |
| Owner / Grantor                  |  | Farmer Williams          | Farmer Rodriguez         |    | Farmer Cho             |    | Farmer Patel             |    | Farmer Miller              |    |
| Farm Size in Acres               |  | 100.0                    | 100.0                    |    | 100.0                  |    | 100.0                    |    | 100.0                      |    |
| Date of Sale                     |  | NA                       | 00/00/00                 |    | 00/00/00               |    | 00/00/00                 |    | 00/00/00                   |    |
| Sale Price - Land Only           |  |                          | \$100,000                |    | \$100,000              |    | \$100,000                |    | \$100,000                  |    |
| <b>Sale Price / Acre</b>         |  | NA                       | <b>\$1,000</b>           |    | <b>\$1,000</b>         |    | <b>\$1,000</b>           |    | <b>\$1,000</b>             |    |
| Property Rights                  |  |                          | Restricted               | 0% | Restricted             | 0% | Restricted               | 0% | Restricted                 | 0% |
| Adjusted Value                   |  |                          | \$1,000                  |    | \$1,000                |    | \$1,000                  |    | \$1,000                    |    |
| Condition of Sale                |  |                          | Arms Length              | 0% | Arms Length            | 0% | Arms Length              | 0% | Arms Length                | 0% |
| Adjusted Value                   |  |                          | 1,000                    |    | 1,000                  |    | 1,000                    |    | 1,000                      |    |
| Financing Terms                  |  |                          | At Market                | 0% | At Market              | 0% | At Market                | 0% | At Market                  | 0% |
| Adjusted Value                   |  |                          | 1,000                    |    | 1,000                  |    | 1,000                    |    | 1,000                      |    |
| Market Conditions                |  |                          | Similar                  | 0% | Similar                | 0% | Similar                  | 0% | Similar                    | 0% |
| Adjusted Value                   |  |                          | 1,000                    |    | 1,000                  |    | 1,000                    |    | 1,000                      |    |
| <b>ADJUSTED PRICE / ACRE</b>     |  |                          | <b>\$1,000</b>           |    | <b>\$1,000</b>         |    | <b>\$1,000</b>           |    | <b>\$1,000</b>             |    |
| Location                         |  | Average                  | Average                  | 0% | Average                | 0% | Average                  | 0% | Average                    | 0% |
| Size in Acres                    |  | 100.0                    | 100.0                    | 0% | 100.0                  | 0% | 100.0                    | 0% | 100.0                      | 0% |
| Topography                       |  | Gentle Roll              | Gentle Roll              | 0% | Gentle Roll            | 0% | Gentle Roll              | 0% | Gentle Roll                | 0% |
| Tillable Acres ( % )             |  | 75%                      | 75%                      | 0% | 75%                    | 0% | 75%                      | 0% | 75%                        | 0% |
| Soils ( % Prime )                |  | 75%                      | 75%                      | 0% | 75%                    | 0% | 75%                      | 0% | 75%                        | 0% |
| Resid Opp/Except                 |  | 1 RO/2 Exc               | 1 RO/2 Exc               | 0% | 1 RO/0 Exc             | 0% | 1 RO/2 Exc               | 0% | 1 RO/1 Exc                 | 0% |
| Other                            |  | None                     | None                     | 0% | None                   | 0% | None                     | 0% | None                       | 0% |
| Net Adjustment                   |  |                          |                          | 0% |                        | 0% |                          | 0% |                            | 0% |
| <b>INDICATED VALUE PER ACRE</b>  |  |                          | <b>\$1,000</b>           |    | <b>\$1,000</b>         |    | <b>\$1,000</b>           |    | <b>\$1,000</b>             |    |
| Total Gross Adjustments          |  |                          |                          | 0% |                        | 0% |                          | 0% |                            | 0% |
| Total Net Adjustments            |  |                          |                          | 0% |                        | 0% |                          | 0% |                            | 0% |
| Mean Price/Acre Unadjusted       |  |                          | \$1,000                  |    |                        |    |                          |    |                            |    |
| Mean Price/Acre After Adjustment |  |                          | \$1,000                  |    |                        |    |                          |    |                            |    |
| <b>Estimated Value per Acre</b>  |  |                          | <b>\$1,000</b>           |    |                        |    |                          |    |                            |    |

The above grid is in Excel format. A copy is available on the Appraisal portion of the SADC website. Use the following link:

<https://www.nj.gov/agriculture/sadc/documents/appraisals/appraisalsAFTERadjustment%20grid.xlsx>

**B. Income Capitalization Approach:** The appraiser may consider this approach; however, it has been the experience of the farmland preservation program that the Income Capitalization method has yielded generally unreliable value estimates for this type of assignment. Generally, farm properties are not purchased by the typical buyer based on rental income. The range of variables, including expenses, enterprise, crop value and methods of depreciation, can result in greater room for error. Additionally, sales comparisons are an actual analysis of buyer/seller transactions. For these reasons, the income capitalization approach is not emphasized. This method may be considered in Fee Simple assignments involving income-producing properties, which rarely arise in the farmland preservation program.

**C. Cost Approach:** The appraiser may consider this approach in some instances; however, the farmland preservation program generally requires land value and, therefore, this approach usually does not apply. This method may be used as a means of demonstrating the contributory value of improvements with comparable sales to extract the land value. This method must be considered in Fee Simple assignments requiring improvement value and in valuing agricultural improvements in Pinelands appraisals (see Pinelands appraisal instructions).

**VALUE CONCLUSION:** Indicate final value estimate for the land and discuss how this conclusion was reached. It must express the value per acre as well as the total value based on the subject's net acreage (or gross acreage if there are no exception areas).

*Image Courtesy of Kelly Doyle*



# FINAL ESTIMATE OF DEVELOPMENT EASEMENT VALUE

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The difference between market value unrestricted (Before) and market value restricted (After) of the land represents the value of the development easement. This conclusion must be presented on a per acre basis and as a total dollar figure calculated on the net acreage (or gross acreage if there are no exception areas).

The calculation of the total Development Easement Value is as follows:

$$\text{Easement value per acre} \times \text{Net acreage} = \text{Development Easement Value Total}$$

**Note:** The Development Easement Total should not be the difference between the Before and After totals as rounding can skew the total easement value. Minor mathematical differences resulting from calculating the easement value based on multiplication versus subtraction of totals are acceptable.

Discussion of the rights represented by this value conclusion shall be recapitulated as well as changes in highest and best use of the unrestricted property versus the restricted property. In short, the major points of the report must be summarized leading the reader to the same conclusion as the appraiser.

The following is a sample format that can be used:

|   | PER ACRE | TOTAL |
|---|----------|-------|
| ESTIMATE OF PROPERTY VALUE BEFORE:      | _____    | _____ |
| ESTIMATE OF PROPERTY VALUE AFTER:       | _____    | _____ |
| ESTIMATE OF DEVELOPMENT EASEMENT VALUE: | _____    | _____ |



*Babinsky Farm, Warren County. Image Courtesy of Stefanie Miller*

## ADDENDUM

This section of the report must include, but is not limited to, the following items:

**Subject Location Map:** This map must clearly indicate the subject location and its relevant region.

**Comparable Sales location map (Before):** This shall be one map that includes both the location of the subject and the location of all the comparable sales so that the relative distance of all the sales from the subject can be viewed.

**Comparable Sales location map (After):** This shall be one map that includes both the location of the subject and the location of all the comparable sales so that the relative distance of all the sales from the subject can be viewed.

**Subject property tax map:** This can be in the addenda or in the body of the report. This must be a legible tax map with lot measurements and clearly indicate/highlight the subject tax parcel(s). Tax map overlays of other mapping or aerial photos can be included but are not a substitute for an actual tax map.

**Soils/flood/topographic maps:** These maps can be obtained from NRCS Web Soil Survey, NJ Conservation Blueprint, FEMA website, or other authoritative source, and shall clearly indicate the location of the subject either with outlining, highlighting, or other appropriate method. Indicate the approximate percentage of the subject property that is impacted by flood plain area.

**State Wetlands Map:** This can be an SADC or county issued map, or also obtained from NJDEP's GeoWeb or NJ Conservation Blueprint websites. A wetlands LOI may also be included.

**Subject property photos:** Photos must include the following and be labeled appropriately:

1. Views of the subject street(s)
2. Overall view of the farm from the street(s)
3. Different farm views from various points and directions within the farm
4. Individual photos of all significant subject buildings, including buildings in proposed exception areas. This not only serves the appraisal, but it is also helpful for stewardship of the farm in the future.

If significant structures (especially dwellings regardless of condition and possible non-agricultural uses) are found on the premises to be preserved or in the exception area that are not in the application or Appraisal Order Checklist, the appraiser shall contact the client to determine how they should be treated.

**Reference materials, studies, articles, or other data:** This refers to whatever relevant sources the appraiser may have used in the report, including but not limited to the subject deed, resolutions, or other important source materials .

**Sample Deed of Easement:** This can be found in the appendix of this handbook or on the SADC website:

<https://www.nj.gov/agriculture/sadc/farmpreserve/resources/standarddeeds.html>

**Property Owner's Application:** This should be provided by the client. If not, the appraiser shall ask the client to provide it.

**SADC preliminary or "Green Light Approval":** If applicable, this should be provided by the client. If not, the appraiser shall ask the client to provide it.

**Appraiser's Qualifications:** A resume-type document that indicates the appraiser's experience and qualifications to perform the appraisal.

**Appraiser's License:** A legible copy of the appraiser's current license.

**Signed Appraisal Order Checklist:** This should be provided by the client. If not, the appraiser shall ask the client to provide it.



*Image Courtesy of Stefanie Miller*

# EXCEPTION AREAS AND RESIDENTIAL OPPORTUNITIES

Exception areas (often referred to as “exceptions”) and residential/dwelling opportunities are different concepts. At times these rights overlap, and both can have advantages to the proposed restricted farm. Exceptions often will have dwelling opportunities, but that is not always the case. Conversely, one exception area can have multiple dwelling opportunities. Therefore, understanding these concepts, and the distinction between them, is important when adjusting restricted comparable sales.

When analyzing restricted farm sales, it is beneficial for the appraisers to read the original deed of easement to determine what type and how many exceptions areas and/or dwelling opportunities apply. This information must be included in the sale write up.

**Exception Areas:** An exception area is a defined portion of the subject property that will be excluded from the deed of easement restrictions. Many farmland preservation applications have designated exception areas. The most common reasons for exception areas are for future residential opportunities and flexibility for nonagricultural uses. However, there can be other reasons, which should be noted in the AOC. Some exceptions have designated restrictions such as being “restricted to one single family residence”. There are two types of “exceptions”:

- 1. Severable Exception:** The exception may be subdivided and sold as a separate lot, subject to municipal approval. There is typically no requirement to subdivide a severable exception prior to, or after, the deed of easement is executed. The easement holder does not guarantee the approval of the subdivision. **It represents a potential lot without approvals, not a subdivided lot.**
- 2. Non-Severable Exception:** The exception cannot be subdivided or sold separately from the remaining premises.

**Valuing Properties with Proposed Exception Areas:** It is important to understand how to treat exceptions in the valuation process. In both the Before and After, the gross land area is valued.

**Before valuation:** The appraiser must value the subject as though there are no exception areas. Therefore, all the adjustment characteristics (e.g., size, frontage, shape, soil percentages) shall be based on a gross land valuation and the exception does not impact the per acre rate at all. However, when calculating the total Before value, the per acre rate must be applied to the net area as the farmland preservation program does not pay/compensate the owner for the acreage in exception area(s).

**After valuation:** The gross land is appraised under the hypothetical condition that the deed of easement restrictions and the exception areas are included in the gross property. The farm is valued based on the gross land selling with the proposed deed restrictions and the positive factors associated with exception area(s) and/or other residential opportunities. These conditions form the basis for comparison to the comparable sales in the After valuation. Therefore, all the adjustment characteristics (e.g., size, tillable acreage, soil percentages) must be based on the gross land size. However, when calculating the total After value, the per acre rate must be applied to the net area as the farmland preservation program does not pay/compensate the owner for exception areas.



*Image Courtesy of Kelly Doyle*

**Note:** There may be situations where the appraiser is instructed to not value the gross land area in the Before and After situations. This may happen when there is a very large exception (such as for wetlands) and appraising the gross land area will distort the value of the proposed easement area. This will be listed as a special instruction in the AOC.

**Value considerations for the Exception Areas:** The value contribution of exception areas is an After value consideration. Appraisers must decide how to adjust for the exception areas depending on whether it is severable or non-severable. Since severable exceptions offer the opportunity to sell off land separately, they may be more valuable than non-severable exceptions. Necessary adjustments can also depend on the specific property and location. Listed below are some value considerations that appraisers may find helpful:

- Consider what type of exception (severable vs. non-severable) the property will have once preserved.
- Consider if the exception provides for a residential opportunity.
- Consider the type of exception, the opportunities it provides, and whether those opportunities warrant an adjustment to the sales compared to the subject. If so, the appraiser must determine how much of an adjustment is appropriate.
- The potential value associated with the exception areas must be adequately captured by the adjustments, especially with a severable exception that could be subdivided and sold off in the future. The appraiser must determine what the quantitative basis is for this adjustment.
- When there is a severable exception that could be sold off in the future, the appraiser shall consider if there is any other opportunity to reside on the farm and what impact that has.

**Residential Opportunities:** The term “Residential (or Dwelling) Opportunity” is a general term used in the farmland preservation program. It means any opportunity to reside on the property and the appraiser must define all the residential opportunities that the preserved farm will have. Residential opportunities may be located on the proposed easement area and/or the exception area(s). They may be a house that already exists on the farm or could be an opportunity for future construction. The gross land is appraised as of the effective date of value, so all residential opportunities are important, regardless of their location within or outside of exception areas.

For each appraisal assignment, a summary of residential opportunities can be found on page 2 of the Appraisal Order Checklist and the corresponding detail for these opportunities follows the summary in the AOC. Residential opportunities are positive property rights associated with a preserved farm. The residential opportunities will form the basis for the residential opportunity adjustments to the restricted comparable sales. Therefore, it is important to define the residential opportunities on the restricted comparable sales as well.

Exception areas and residential opportunities are different concepts although they are often considered in the same adjustment category. The different forms of residential opportunities may involve slightly different adjustments, but that is for the appraiser to consider.

The types of residential opportunities and some value considerations follow:

**1. Existing Dwellings:** Existing dwellings can be located within an exception area or on the proposed easement area. The value of the improvements is not included but the residential opportunity may contribute to the land value of restricted farms. The appraiser must photograph existing structures and notify the client if it is not listed on the AOC. Be careful of homes that are not occupied or are in disrepair that are not listed on the AOC as potential residential opportunities. The appraiser needs to confirm with the client as to how the improvement should be treated. The owner may or may not have the right to renovate, expand or completely rebuild that home. Therefore, an existing dwelling may be an important residential opportunity in the After valuation. Generally speaking, existing dwellings (even on the proposed easement area, outside of any exception area) have no restrictions to occupancy.

**2. Future Dwellings:** In many cases, future residential opportunities are designated within an exception area(s). The easement holders do not guarantee approval of future dwellings, but it will be permitted if the owner can obtain other necessary building approvals from the municipality. These are important residential opportunities that are common in farmland preservation applications. If a future dwelling opportunity is located outside the exception area, it is known as a Residual Dwelling Site Opportunity or RDSO (see #3).

**3. Residual Dwelling Site Opportunities (RDSO):** An RDSO refers to a future residence(s) on the easement area (outside an exception area). Each RDSO requires approval from the easement holder and/or the SADC and a minimum of 100 acres (without an existing residence). RDSOs were designed to enhance the agricultural operation. Therefore, at least one person living in the residence must be actively involved in the farming operation where the RDSO is located. Other than an existing residence and agricultural labor housing (with approvals), an RDSO is generally the only future residence on the preserved acreage that is available. The RDSO’s location on the farm is not specified at the time of preservation. Approval of an RDSO by the easement holder and/or the SADC includes consideration whether the location will minimize disturbance of the most agriculturally productive areas.

Some RDSOs have a livable area size restriction (most do not) that should be indicated in the AOC and discussed in the appraisal report. For these reasons, many appraisers consider these dwelling opportunities more restrictive, and contributing less to the land value, than other dwelling opportunities. This can be considered on a case-by-case basis, as an RDSO may be the owners' future home without size restrictions.

**4. Apartments:** Appraisers must also indicate what existing and future apartments are available to owners after preservation. These may be indicated on the AOC and they can be on the proposed easement area or exception areas. Appraisers can decide if they contribute enough to the land value to warrant adjustment. Generally, these would be considered to have a more subtle contribution to land value than other dwelling opportunities.

**Additional Value considerations for Residential Opportunities:** The value contribution of residential opportunities is an After value consideration. They can be important, as single family residential opportunities will be limited permanently once the property is preserved. The appraisers must make comparisons between the subject and the comparable sales and adjust accordingly. Appraisers shall decide how to adjust for residential opportunities as it will change based on specific property characteristics and location.

The following are some value considerations that appraisers may find helpful:

- In most cases, the appraiser will be appraising the gross subject land to establish a per acre value, so the percentage adjustments associated with residential opportunities may be tempered based on the size of the farm.

For example, one residential opportunity adjustment may be worth more on a 15-acre farm than on a 200-acre farm on a percentage basis.

- Consider the number of residential opportunities when making percentage or dollar adjustments. An adjustment for a third dwelling opportunity may have less of a value impact than the first dwelling opportunity.

For example, an adjustment for the difference between 0 and 1 dwelling opportunity may be significant, as it represents the ability or inability to reside on the farm. The adjustment between 2 and 3 dwelling opportunities, on the other hand, may be more subtle (law of diminishing returns).

- Consider the typical buyer of the subject farm and the residential desirability of the area. Typical buyers may weigh residential opportunities differently.

For example, a production crop farmer in a rural area with relatively low residential values may not find residential opportunities that important, and therefore, they may carry less value. In expensive residential areas the typical buyer may not be interested in production farming and may be purchasing it for an estate farm where the residential component is more important. In fact, a farm sale with no residential opportunity in an expensive residential area may not be a good comparable sale, as the adjustment could be too high.

# HYPOTHETICAL CONDITIONS AND EXTRAORDINARY ASSUMPTIONS



*Image Courtesy of Kelly Doyle*

**Use of Hypothetical Conditions:** As previously stated in the Hypothetical Condition section of this handbook, atypical Hypothetical Conditions and Extraordinary Assumptions are **prohibited**, unless ordered by the client **and** approved by the SADC.

However, some hypothetical conditions do not require advance approval in the farmland preservation program, such as:

- The hypothetical condition that the property is already restricted by the deed of easement in the After valuation. If the property is already preserved, the hypothetical condition becomes a Before value consideration, which assumes that the property is not preserved.
- In a New Jersey Pinelands appraisal involving Pinelands Development Credits (PDCs) the After value requires a hypothetical condition that a given number of PDCs have already been sold/severed from the subject property.
- In a New Jersey Highlands appraisal involving a dual valuation, one of the values is based on a hypothetical condition that the zoning and environmental conditions in place as of January 1, 2004 are still in effect.

Atypical hypothetical conditions that have been ordered/approved by the client and the SADC should be clearly indicated in the special instructions/conditions in the Appraisal Order Checklist and noted in the appraisal report. An example is a hypothetical condition specifying that a portion of the property is already subdivided. In that case, the subject property is different than what currently exists, so a hypothetical condition is necessary.

**Note:** An assumed subdivision is different than a typical severable exception. A severable exception is part of the gross subject property for valuation purposes. It is the right to attempt a subdivision, but not a guarantee. Severable exceptions represent potential lots, not assumed existing lots.

A Hypothetical Condition or an extraordinary assumption must be prominently identified as such in the Letter of Transmittal, Scope of Work, Certification of Value and Assumptions and Limiting Conditions sections of the appraisal<sup>10</sup>.

**Use of Extraordinary Assumptions:** Extraordinary assumptions are also **prohibited**, unless ordered by the client **and** approved by the SADC. Extraordinary assumptions often involve an assumed future event that can change the risk level of the highest and best use and, therefore, possibly the value. Except for specifically approved conditions, appraisal values must represent the value of the property “as is” where the buyer accepts the risk of future events (such as land use approvals). This may be difficult in areas where there is significant development pressure as typical buyers purchase property “subject to approval” to minimize their risk. Many comparable sales may be purchased “subject to approval” but an adjustment is generally warranted. The appraiser can add an approval adjustment category to the Before adjustment grid to apply such adjustments. Also, if some sales do exist where there were no approval conditions, they may add to a credible valuation. Every buyer does some due diligence before purchasing a property but conditions that involve assuming future events will occur are prohibited.

**Access Conditions:** Appraisers cannot assume access to a subject property over other lands not included in the application, even if owned by the applicant. The appraiser may only consider such access when required by the client, with SADC approval. This condition should be included in the special instructions/conditions in the Appraisal Order Checklist. If there is an existing access over adjoining lands and the appraiser is instructed to assume that it can continue, it may be an extraordinary assumption. If there is a proposed access, and the value is based on it being in place, then such access may be a hypothetical condition. Either way it must be clearly noted as a condition of the valuation.

The following rules apply to conditions for access:

1. The appraiser must condition his or her value upon an access agreement being in place prior to the conveyance of the deed of easement.
2. If the land required for access is not already owned by the applicant, then the appraiser cannot assume access will be granted.
3. If the land needed for access is already preserved, then such an access easement cannot be assumed.
4. Access shall specify a roadway adequate to accommodate development of the highest and best use in the unrestricted condition. For example, if an appraiser believes that highest and best use is for residential development across another parcel of land owned by the applicant same owner and the township requires a 50’ wide road, then the value will be contingent upon a 50’ wide access easement of such width being in place prior to the conveyance of the deed of easement.

<sup>10</sup>USPAP 2020-2022, Frequently Asked Questions #232-236



*Image Courtesy of Stefanie Miller*

# OTHER APPRAISAL CONSIDERATIONS, GUIDELINES AND REQUIREMENTS

**SADC Appraisal Review Considerations:** Appraisal review considers the completeness, accuracy, adequacy, relevance and reasonableness of the appraisal under review.<sup>11</sup> All the review considerations are important but based on the information provided in the appraisal report, the conclusions must be reasonable.

**Subject Sales and Listings:** Recent subject sales must be considered for use as a comparable sale as they are direct market evidence that may help with the overall valuations and can form the basis for checking the reasonableness of the valuations. Recent subject sales and listings must be fully analyzed, not just reported<sup>12</sup>, regardless of their use as a comparable sale. The appraisers are not required to use the subject sale, but if not used, the appraiser must include the detailed reasons for excluding it.

For example, while the subject may have sold at a 20% discount for condition of sale, if the other sales available require gross adjustments of, for example, 40% or more, the subject sale still may be one of the best indicators of value.

**Gross Adjustment as a Measure of the Quality of a Comparable Sale:** Appraisers shall be aware of the gross adjustment of the comparable sales, not just net adjustments. There are times when sales are scarce and, therefore, less comparable sales are necessary. While there is no restriction on adjustments, the appraiser should consider if more tempered adjustments may be applicable.

For example, if values in a given area are generally between \$7,000 and \$10,000 per acre, and the unadjusted rates of the comparable sales are within that range, then gross adjustments of over 90% should not be necessary. A typical buyer may not make such adjustments when making a buying decision. Further, if such large gross adjustments are necessary, that sale may not be truly comparable to the subject.<sup>13</sup>

<sup>11</sup>USPAP 2020-2022, STANDARDS RULE 3-3

<sup>12</sup>USPAP 2020-2022, STANDARDS RULE 1-5 AND ADVISORY OPINION 1 (AO-1)

<sup>13</sup>THE APPRAISAL OF REAL ESTATE, APPLICATIONS OF THE SALES COMPARISON APPROACH – CONSIDERATIONS FOR MULTIPLE ADJUSTMENTS

**Multiple Lot Applications:** A subject property containing multiple lots must be valued as though the entire property (all lots, including non-adjointing lots) are being sold in a single transaction. It is not the value of the lots individually and then totaled, which does not consider a typical market discount for the “bulk” sale. Multiple subject lots may have a positive value increment to the typical buyer of the overall property that must be considered. We note that USPAP Standards Rule 1-4 cautions against concluding to a value as a sum of the parts that supports this premise.

**As Is Value:** It is a requirement of the farmland preservation program that the subject be appraised in its “as is” condition, which considers current subdivision approval status. If the subject does not have any development/subdivision approvals, the property is to be valued “as is” where the buyer pays the appropriate price to take on all the risk, time and expense associated with obtaining future approvals.

This “as is” value concept is very important when comparing the subject property to comparable sales with different approval status. For example, a property purchased subject to the buyer obtaining approvals involves less risk than one without any approvals. Likewise, a property with final development approvals already in place involves even less risk.

**Pre-existing nonagricultural uses:** Any pre-existing nonagricultural uses identified in the AOC must be noted in the appraisal report. The appraiser must determine if there is an effect on the values based on the nonagricultural use(s). These are identified as uses that can continue after the preservation of the farm, so they are important to document and consider. If the appraiser notices any other nonagricultural uses that are not listed in the AOC, please notify the client so their treatment can be considered. Nonagricultural uses in exception areas must also be noted and considered as to their impact on value, as the gross land is being appraised as of the effective date of value.

**Professional Inspection and Owner Interview:** The farmland preservation program expects the appraisers to do a professional inspection of the subject property. This includes an on-site inspection with photographs (see Subject Property Photo section of the report Addendum). The appraiser’s inspection is an excellent check of the details listed on the AOC (e.g., dwelling opportunities, nonagricultural uses) and any significant discrepancies shall be reported to the client.

The appraiser is also expected to interview the owner. Since the owner is the best source of information for the subject farm, the interview is the appraiser’s opportunity to gather and confirm information. Farm owners can confirm and provide information such as available utilities, wells and irrigation, dwellings and apartments, nearby farm sales, and existing easements. It is helpful to note in the report who was present during the inspection (possibly in the effective date of value section) as it confirms the appraiser’s proper due diligence. The owner’s unavailability for an interview must be disclosed in the report.

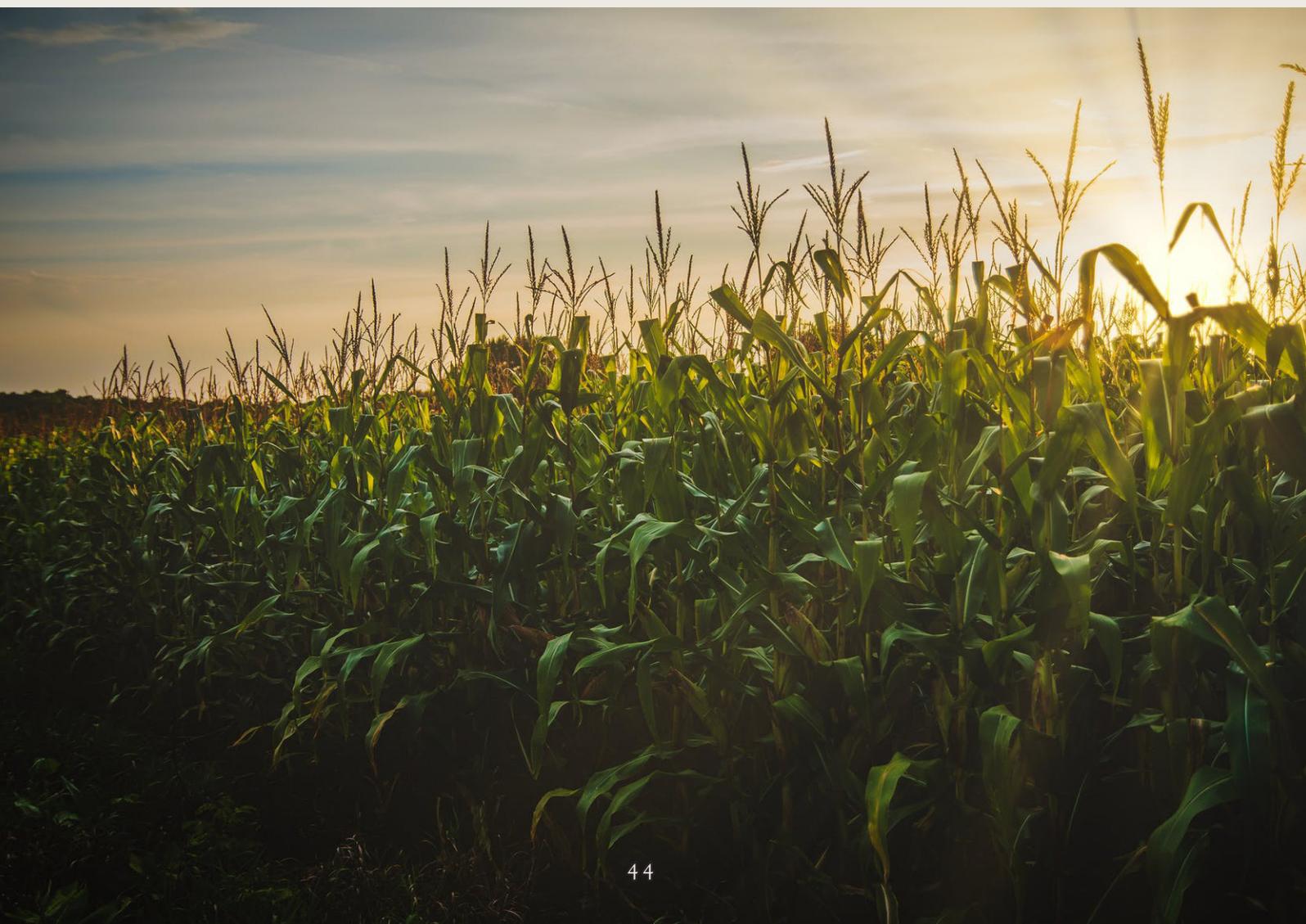
Appraisers represent the farmland preservation program, which is a voluntary program where owners are selling a large portion of their equity in the farm. The program prides itself on transparency and on owners fully understanding the program. The appraiser can answer general appraisal questions regarding the program but cannot provide any value conclusions. Appraisers must also understand that a proper inspection and owner interview can avoid costly and time-consuming appraisal revisions.

**Think Like a Typical Buyer of the Specific Farm:** When appraising real estate, it is important to think like the typical buyer and the characteristics that are important to buyers in the subject area. Consider if it would generally be purchased for a crop farm or as an “estate farm” based on residential location. Certain adjustment categories in the Before and After valuations are recommended, but the appraiser can modify or add categories (e.g., irrigation, subdivision approval status) based on the typical buyer profile. Providing some additional discussion for unusual situations will be very helpful to the reviewer.

For example, if a farm is in a rural area where the typical buyer is a crop farmer, the agricultural soils characteristic may be as or more important than the septic characteristics. In that case, the appraiser may have both agricultural soil characteristics and septic characteristics in the Before adjustment grid for consideration.

**Existing Conservation Easements and Other Restrictions:** The appraiser shall consider the impacts on value resulting from any existing conservation easements recorded on the property, or any other restrictions on development or use of the property in both the Before and After valuations. The appraiser shall not rely on any assurances that such recorded conservation easements or use restrictions can be removed unilaterally by municipal governing bodies, land use boards and/or property owners unless a specific instruction from the client to do so is noted in the AOC.

*Image Courtesy of Stefanie Miller*



# APPRAISAL ORDER CHECKLIST (AOC)

The Appraisal Order Checklist (AOC) is the primary instruction to the appraiser for the farmland preservation appraisal assignment. A copy of the current (AOC) is located in Appendix A. Although we occasionally make improvements to the AOC, we make every effort to get the most up to date copy to our funding partners (your clients). Please read this sample AOC carefully as it may trigger some questions you may have for your client and avoid costly review revisions.

The following are important points to remember about the AOC:

- Do your due diligence when completing an appraisal assignment and report to your client any significant discrepancies between the AOC and your findings.
- Always confirm zoning and minimum lot size requirements as they can change at any time.
- Use the exact gross and net acreage noted in the AOC to calculate the total values in your report. You can report significant size differences to your client, but the SADC certifies per acre rates (not total values) and the property will be fully surveyed before being preserved.
- Carefully read the summary and detail of residential opportunities to avoid costly review revisions.
- Read the “special instructions” in the AOC carefully as there may be atypical instructions.

See Appendix A for a copy of the AOC.



Cairone Farm, Gloucester County. *Image Courtesy of Stefanie Miller*

# PINELANDS REGION

**Valuation of Farmland in the Pinelands:** Whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any Pinelands Development Credits (PDC) allocated to the parcel pursuant to P.L. 1979, c.111 (C.13:18A-1 et. seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the SADC shall determine the value of the development easement pursuant to The Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq. and N.J.A.C. 2:76-19 (Valuation of Development Easements in the Pinelands).

The SADC shall determine the value of the development easement as well as the “fee simple” value as determined by the Committee of farmland in the Pinelands in accordance with The Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq. and N.J.A.C. 2:76-19 (Valuation of Development Easements in the Pinelands). Appraisers should refer to SADC Appraisal Handbook Supplement Pinelands Area and Agricultural Use Applications. In the instance of a highest and best use as agriculture in the Before and After conditions, the appraiser shall value the property improvements in accordance with SADC guidelines for appraising improvements on farms in the Pinelands dated January 22, 2003, in which the SADC is instructing appraisers to consider and value certain agricultural improvements including irrigation systems, agricultural buildings (except for agricultural labor housing) and permanent plantings if the highest and best use is agriculture. Appraisers are not to consider structures within exception areas, residential structures and agricultural labor housing. From these appraisals the Committee will determine a “fee simple” based on the two appraisers’ Before Values. The Committee shall also determine an easement with consideration of the before specified agricultural improvements included. Consideration shall be given to the value of any Pinelands Development Credits associated with the property and if deemed appropriate by the appraiser, any other incremental value that may exist.

In addition to the above appraisal procedure to establish a Before valuation, the appraiser is directed to conduct an appraisal under a Before and After scenario, resulting in an easement value pursuant to N.J.S.A. 4:1C-31 and N.J.A.C. 2:76-19.3. In the instance of a highest and best use as agriculture in the Before and After conditions, the appraiser shall value the property improvements in accordance with SADC guidelines for appraising improvements on farms in the Pinelands dated January 22, 2003.

Appraisers are required to value all properties under a Before and After scenario with an easement value conclusion.

## **Pinelands Development Credits (PDCs):**

Consideration shall be given to the value of any Pinelands Development Credits (PDCs) associated with the property and if deemed appropriate by the appraiser, any other incremental value that may exist. The Letter of Interpretation (LOI) issued to the property owner will indicate the number of PDCs for which the subject property qualifies. The LOI will also indicate the number of PDCs, if any, need to be retained for existing residential improvements. The appraiser must use the number of PDCs indicated in the LOI when valuing the subject.

**Note:** The subject’s agricultural improvements are required to be valued if all of the following apply:

1. If a property is located in the Pinelands region
2. It qualifies for Pinelands Development Credits (PDCs)
3. It has agricultural improvements on the proposed easement area

If the subject qualifies for PDCs, the appraiser will have separate valuations for the underlying land, the depreciated value of agricultural improvements and the value PDCs. The total of all these components must then be converted to a per acre rate. We certify per acre rates so the overall per acre rate is very important. The following is a sample format:

|   |                  |
|---|------------------|
| Summary of the “Before” value:                              |                  |
| Land Value “Before” (105 acres @ \$4,600 per acre)          | \$483,000        |
| Plus: Depreciated Value of Agricultural Improvements        | \$31,500         |
| Plus: Value of 14 Severable PDC’s                           | <u>\$273,000</u> |
| <b>Total Before Value</b>                                   | <b>\$787,500</b> |
| <b>\$787,500 Divided by 105.00 Acres = \$7,500 per acre</b> |                  |

If the subject property does not have PDCs (it does not qualify, or they have been severed), it is treated as any other farmland preservation appraisal where the agricultural improvements are not valued.

**Note:** The following improvements are never be valued:

1. Residential improvements
2. Agricultural labor housing
3. All structures on exception areas, both severable and non-severable

The After valuation is based on the hypothetical condition that PDCs indicated in the Letter of Interpretation associated with the subject have been sold. In cases where there is a residential opportunity, one Right (¼ PDC) per residential opportunity must be deducted and retained with the farm.

In the comparable sale(s) write-up, any deductions of PDC value must be clearly stated and calculated. The adjusted sale price and price per acre shown on the adjustment grid must match what is stated in the sale(s) write-up (see Comparable Sale(s) Write-up sections).

The SADC adopted a supplement to the Appraiser Handbook to assist appraisers when determining the fair market value of property in the Pinelands region, which is titled SADC Appraiser Handbook Supplement Pinelands Area and Agricultural Use Applications. The SADC also provides a guide of on-site development opportunities available to landowners in the Pinelands Agricultural Production, Special Agricultural Production and Preservation Areas.

**For the Pinelands Appraiser Handbook Supplement, see the SADC website:**

<https://www.nj.gov/agriculture/sadc/appraisals/Pinelands%20Appraiser%20Handbook%20Supplement.pdf>

For the Pinelands Onsite Development Worksheet, see the SADC website:  
<https://www.nj.gov/agriculture/sadc/farmpreserve/appraisals/Pinelands%20Worksheet.pdf>

## PINELANDS ONSITE DEVELOPMENT GUIDE

|  | Area Type - No Deed Restriction |                                 |                            | SADC Deed Restriction                      |                                   |
|--|---------------------------------|---------------------------------|----------------------------|--|-----------------------------------|
|  | Agricultural Production         | Special Agricultural Production | Preservation Area          | Permitted on SADC DEED RESTRICTED PREMISES | Permitted on SADC EXCEPTION AREAS |
| <b>Development Opportunity</b>   |                                 |                                 |                            |  |                                   |
| 3.2 ACRE CULTURAL HOUSING - 1 EVERY 5 YEARS  | X                               | X                               | X                          | NO   | YES                               |
| 1DU/40 ACRE CLUSTER OPTION   | X                               |                                 |                            | NO   | NO                                |
| 1DU/10 ACRE ACCESSORY TO AGRICULTURE EVERY 5 YEARS   | X                               |                                 |                            | NO   | YES if pre reserved - only once   |
| 1DU/40 - ACCESSORY TO AGRICULTURE EVERY 5 YEARS  |                                 | X                               |                            | NO   | YES - if pre reserved - only once |
| SEASONAL AGRICULTURAL LABOR  | X                               | X                               | X                          | YES  | YES                               |
| RDSO - Residual Dwelling Site Opportunity  | N/A                             | N/A                             | N/A                        | Yes -with approval                         | N/A                               |
| AGRICULTURAL STRUCTURES  | X                               | FOR BERRY AGRICULTURE ONLY      | FOR BERRY AGRICULTURE ONLY | YES  | YES                               |
| FARM MARKETS UP TO 5,000 SF  | X                               |                                 |                            | YES - with approval                        | YES                               |
| LOW INTENSITY RECREATIONAL USES INCLUDING HUNTING /FISHING   | X                               |                                 | X                          | YES per CADB/SADC review                   | YES                               |
| EXPANSION OF INTENSIVE RECREATIONAL USES IN EXISTENCE AS OF 2/7/79   | X                               | X                               | X                          | NO   | YES                               |
| ACCESSORY USES(EG. SMALL FARM MARKETS/CARTS, SOLAR FACILITIES  | X                               | X                               | X                          | YES  | YES                               |
| <b>ALL DEVELOPMENT IS SUBJECT TO PINELANDS REVIEW AS WELL AS MUNICIPAL APPROVAL</b>  |                                 |                                 |                            |  |                                   |
| <b>WETLANDS AND WETLANDS BUFFERS STANDARDS APPLY TO AGRICULTURAL STRUCTURES AND ARE SUBJECT TO MUNICIPAL REVIEW</b>                          |                                 |                                 |                            |  |                                   |
| <b>EXCEPTION AREAS ARE SUBJECT TO PINELANDS AND MUNICIPAL REGULATIONS INCLUDING WETLAND AND BUFFER REGULATIONS.</b>                          |                                 |                                 |                            |  |                                   |
| <b>MUNICIPAL ORDINANCE SHOULD BE CHECKED TO VERIFY WHETHER A USE LISTED ON THE ABOVE CHART IS PERMITTED IN A PARTICULAR ZONING DISTRICT.</b> |                                 |                                 |                            |  |                                   |



*Image Courtesy of Kelly Doyle*

# HIGHLANDS PRESERVATION AND PLANNING AREAS

## Zoning as a Valuation Factor:

Garden State Preservation Trust Act, N.J.S.A. 13:8C-38j as amended by P. L. 2015, c.5 effective February 5, 2015. If instructed by the client, appraisers of farmland in the Highlands region shall provide appraisals considering (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and ( b ) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the committee, a local government unit or a qualifying tax-exempt nonprofit organization as the basis for negotiation with the landowner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of the proposed acquisition is the same person who owned the lands on the date of enactment of P.L.2004, c.120 (C.13:20-1 et. seq.), and who has owned the lands continuously since that enactment date or is an immediate family member of that person. The SADC also considers governmental entities (counties or municipalities) and non-profit Farmland Preservation Program easements, or a property in fee simple, to be eligible for such “dual appraisal” consideration.

**Confirmation of Ownership (See N.J.A.C. 2:76-10.5):** For lands subject to the Highlands Water Protection and Planning Act, (August 10, 2004), in order to qualify for a dual appraisal, the appraiser shall receive confirmation from the contracting party that the land to be appraised at the time of proposed acquisition has been owned continuously by the same individual or entity since the enactment of, or is an immediate family member of the person.

(a) A governmental unit or a qualifying tax-exempt nonprofit organization may be eligible for the dual appraisal valuation procedure set forth in N.J.S.A. 13:8C-38j, provided that it:

1. acquired land or an interest in land or is a contract purchaser to acquire land or an interest in land, for farmland preservation purposes pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq.; and
2. submitted a farmland preservation application to the Committee for a grant pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq. within three years of the date of acquisition of the land or interest in land.

(b) If an owner of land transferred ownership to a business entity, such as a corporation, limited liability company, partnership, or trust, after the date of enactment of P.L. 2004, c.120 (August 10, 2004), the new owner shall be eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j, provided that the transferring owner, or an immediate family member of the owner, as defined in this subchapter, continues to hold an interest in the business entity or trust.

1. Documentation to be provided by the farmland preservation applicant shall include, but not be limited to, deeds of ownership, Federal tax forms, or other official documentation showing that the original owner has an interest in the business entity or trust.

(c) If the ownership of land has been transferred from a person to an estate after the date of enactment of P.L. 2004, c.120 (August 10, 2004), the estate may be eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j:

1. Documentation to be provided by the farmland preservation applicant shall include, but not be limited to, deeds of ownership, Federal tax forms, or other official documentation verifying the estate's ownership of the land, and sales receipts and federal tax forms providing proof that the original owner was a farmer as defined in N.J.A.C. 2:76-10.5(c).

(d) The landowner shall submit all required documentation set forth in (b) through (c) above to: the appropriate board, which is the CADB if it has submitted a farmland preservation application to the CADB; to the SADC, if it has submitted a farmland preservation application to the SADC; to a municipal governing body, if it has submitted a farmland preservation to the municipal governing body; and to a non-profit organization, if it has submitted a farmland preservation application to a non-profit organization which intends to apply to the Committee for a grant. SADC and the CADBs are empowered to advise appraisers on whether the subject land is eligible for Dual Appraisal, pursuant to N.J.S.A. 13:8C-38j. Municipal governing bodies and non-profits shall forward the above-listed documentation to the SADC for a determination of whether the subject land is eligible for Dual Appraisal, pursuant to N.J.S.A. 13:8C-38j

**The Environmental land use laws in Effect as of 1/1/04 include:** the “Freshwater Wetlands Protection Act” P.L. 1987 c.156 (C.13:9B-1 et seq.), the Water Supply Management Act.” P.L. 1981, c. 262 (C. 58:1A-1 et seq.), the “Water Pollution Control Act” P.L. 1977, c. 74 (C.58:10A – 1 et seq.), “The Realty Improvement Sewerage and Facilities Act (1954), “ P.L. 1954, c. 199 (C.58:11-23 et seq.), the “Water Quality Planning Act, “ P.L.1977, c.75 (C58:11A-1 et seq.), the “Safe Drinking Water Act, “ P.L.1977, c. 224 (C. 58:12A-1 et seq.), and the Flood Hazard Area Control Act” P.L. 1962, c. 19 (C.58:16A-50 et seq.)



*Image Courtesy of Kelly Doyle*

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# APPENDICES



*Image Courtesy of Kelly Doyle*

APPENDIX A



# Appraisal Order Checklist



**NEW JERSEY**  
State Agriculture Development Committee

An appraiser shall not bid on or accept any SADC funded appraisal assignment without this checklist filled out and signed.

### **Property Information**

|              |  |                |  |
|--------------|--|----------------|--|
| County       |  | SADC ID#       |  |
| Municipality |  | Block and Lots |  |
| Municipality |  | Block and Lots |  |
| Municipality |  | Block and Lots |  |

|                         |  |                 |  |
|-------------------------|--|-----------------|--|
| Landowner Name(s)       |  |                 |  |
| Contact for Farm Visits |  |                 |  |
| Email                   |  |                 |  |
| Phone                   |  | Alternate Phone |  |
| Farm Address            |  |                 |  |
| Landowner Address       |  |                 |  |
| Cross Streets           |  |                 |  |

Project Area \_\_\_\_\_

### **Farmland Preservation Program**

- |  |   |
|--|---|
| <input type="checkbox"/> County Planning Incentive Grant (PIG) | <input type="checkbox"/> Municipal Planning Incentive Grant (PIG) |
| <input type="checkbox"/> SADC Direct Easement Purchase         | <input type="checkbox"/> SADC Resale Fee Simple                   |
| <input type="checkbox"/> Nonprofit Grant Program (Easement)    | <input type="checkbox"/> Nonprofit Grant Program (Fee)            |

## Acreage

|  |                   |                  |
|--|-------------------|------------------|
| <b>Gross Acreage of Property</b> <i>Please confirm the acreage matches the map parcel data or other best available information - do not round the acreage.</i>   |                   | Acres            |
| <b>Total Acreage attributed to Tidelands, Riparian, or Border Water</b><br>Do not deduct freshwater, mod-ag wetlands, or interior water. Consult SADC for acreage.   | <b>(SUBTRACT)</b> | Acres            |
| <b>Adjusted Gross Acreage</b><br>Appraisers shall base their per acre analysis on the adjusted gross acreage of the subject tax lot(s) including all exception area acreage. Only riparian, tidelands and border water shall be excluded.  |                   | Acres            |
| <b>Total Acreage of Exceptions</b><br>Do not deduct freshwater, mod-ag wetlands, or interior water. Consult SADC for acreage.  | <b>(SUBTRACT)</b> | Acres            |
| <b>Acreage to be reported in Appraisers Certification</b><br>Appropriate direction concerning significant tidal, riparian or boundary waters shall be provided to the appraiser. The landowner will only be paid on the net acreage. While the per acre value is based on the adjusted gross acreage, the certification should only apply that per acre figure to the net acreage preserved to give the client an accurate assessment of the total dollars that will be associated with the preservation project. The SADC certifies dollars per acre, not the total dollars, as all projects are subject to a final survey. |                   | <b>Net Acres</b> |

## Date of Value

If there is no need for a specific date, **always** check the date of inspection.

All Planning Incentive Grant appraisals should have a similar date (within one month +/- of each other).

Appraiser Date of Inspection                       Specific Date:

## Summary of Dwelling Opportunities

|   |   |
|---|---|
| # | RDSOs   |
| # | Existing Single-Family Residential Units in Proposed Easement Area                      |
| # | Existing and/or Future Single-Family Residential Units on Non-severable Exception Areas |
| # | Existing and/or Future Single-Family Residential Units on Severable Exception Areas     |
| # | Other (List any additional Dwelling Opportunities such as apartments, etc.)             |
| # | <b>Total Dwelling Opportunities Once Preserved</b>                                      |

## Housing Opportunities on Proposed Easement Area

|   |  |
|---|--|
| Number of Existing Residences on<br><b>Proposed Easement Area:</b>                  |  |
| Number of Requested RDSOs:<br><i>(Eligibility = one per 100 Net Easement Acres)</i> |  |
| Describe any Agricultural Labor Housing:  |  |
| Please describe any house size limitations or restrictions in detail:               |  |

## Exception Areas

Please note the Exception Area shall not be subject to the development easement, and the Grantor shall retain all nonagricultural development rights and credits on the Exception Area, except as follows:

- i. the Exception Area shall not be moved to another portion of the Premises and shall not be swapped with other land.
  - ii. the Exception Area shall not be severed or subdivided from the Premises.
- OR the Exception Area may be severed or subdivided from the Premises.

Other than specific limitations on residential uses, the Exception Area is limited to any other residential units or non-residential purposes as may be permitted pursuant to applicable municipal, county, state, and federal laws and regulations, and subject to the conditions of Section 13(b) of the Deed of Easement.

|  |  |  |  |
|--|--|--|--|
| <b>Exception #1</b>  | <b>acres</b>   |  |  |
| Is this Exception Area Severable or Non-Severable?   |  | <input type="checkbox"/> Nonseverable <input type="checkbox"/> Severable |  |
| <b>Purpose:</b><br><i>Check one or multiple. Indicate the number of residential units that exist or are being requested.</i> | <input type="checkbox"/> the exception contains #__ existing single-family residential unit(s)<br><input type="checkbox"/> note any additional residential units _____ |  |  |
|  | <input type="checkbox"/> the exception is for #__ future residential opportunities   |  |  |
|  | <input type="checkbox"/> the exception will be restricted to one or #__ single-family residential unit(s)  |  |  |
|  | <input type="checkbox"/> the exception will not restrict residential opportunities   |  |  |
|  | <input type="checkbox"/> Describe existing non-agricultural uses:  |  |  |
|  | <input type="checkbox"/> Future flexibility  |  |  |
|  | <input type="checkbox"/> Conservation Easement (please provide existing or proposed deed of easement)  |  |  |
|  | <b>Other Conditions or Restrictions</b>  |  |  |
| <b>Exception #2</b>  | <b>acres</b>   |  |  |
| Is this Exception Area Severable or Non-Severable?   |  | <input type="checkbox"/> Nonseverable <input type="checkbox"/> Severable |  |
| <b>Purpose:</b><br><i>Check one or multiple. Indicate the number of residential units that exist or are being requested.</i> | <input type="checkbox"/> the exception contains #__ existing single-family residential unit(s)<br><input type="checkbox"/> note any additional residential units _____ |  |  |
|  | <input type="checkbox"/> the exception is for #__ future residential opportunities   |  |  |
|  | <input type="checkbox"/> the exception will be restricted to one or #__ single-family residential unit(s)  |  |  |
|  | <input type="checkbox"/> the exception will not restrict residential opportunities   |  |  |
|  | <input type="checkbox"/> Describe existing non-agricultural uses:  |  |  |
|  | <input type="checkbox"/> Future flexibility  |  |  |
|  | <input type="checkbox"/> Conservation Easement (please provide existing or proposed deed of easement)  |  |  |
|  | <b>Other Conditions or Restrictions</b>  |  |  |

**Duplicate this page if there are additional exception areas.**

## Subdivision Approval

Does the subject property have subdivision approval?     YES     NO

*If Yes, please describe.*

|   |  |   |  |
|---|--|---|--|
| Date of Preliminary Approval  |  | Extensions (if applicable)              |  |
| Date of Final Approval  |  | Extensions (if applicable)              |  |
| <b>The subdivision approval may or may not be considered in the appraisals for this application. In either case, any engineering and studies may be shared with appraisers.</b>   |  | <input type="checkbox"/> <b>May</b>     |  |
|   |  | <input type="checkbox"/> <b>May not</b> |  |
| <p>If the property is the subject of final site plan approval, the appraisals must address the unique details of these approvals.<br/> <b>At a minimum the following shall be specifically addressed:</b></p> <ol style="list-style-type: none"> <li>1) When comparing the subdivision with comparable properties, the appraisers should thoroughly consider and address any significant atypical outstanding contingencies or permits in the subdivision resolutions.</li> <li>2) If available specific septic testing supporting building on any of the proposed lots should be submitted and results included in the analysis.</li> <li>3) As per the SADC appraisal handbook the appraiser shall consider the impacts on value resulting from any conservation easements recorded on the property, or any other restrictions on development or use of the property. <i>For example, "It appears a ____ acre parcel included in the subdivision was reserved for open space."</i> The Township should provide the SADC and appraisers documentation regarding any recorded easements.</li> <li>4) The appraisers must fully address if the approvals are still in effect and any possible impacts due to permit expiration of the New Jersey Permit Extension Act.</li> </ol> <p style="text-align: center;"><b>Pursuant to N.J.A.C. 2:76-6.10 (b) and 2:76-6.11(c)1., the SADC may disapprove of an application if it determines that the applicant has initiated proceedings in anticipation of applying to sell a development easement or during the application process that have the effect of increasing the applicant's appraised development easement value.</b></p> |  |   |  |

## Existing Easements

Are there any existing easements on the property?     YES     NO

*If Yes, please describe.*

|  |  |
|--|--|
| <b>Access/Driveway</b>   |  |
| <b>Conservation</b>  |  |
| <b>Utility</b>   |  |
| <b>Buffer/Ordinance Restrictions</b>   |  |
| <b>Slope/Drainage</b>  |  |
| <b>Other</b>   |  |
| <p>Note: Appraisers may not assume that easements that specifically prohibit disturbance and development can be reversed or receive variances.</p> |  |

## Pinelands

Is the subject property located within the Pinelands?     YES     NO

*If Yes, please provide the below.*

|  |  |
|--|--|
| <p><b>LOI Required-</b> All Pinelands appraisals should have an LOI from Pinelands Commission indicating the number of Pinelands Development Credits (PDCs) the property qualified for (outside of exception areas).<br/>         All Pinelands Appraisals should include value of agricultural improvements as per the special memorandum and SADC Policy 42 issued in August 2002 to appraisers authorized to appraise Pinelands Properties.</p> |  |
| <b>Agricultural Improvement Value</b>  |  |

### Transfer of Development Rights

Is the subject property eligible for a transfer development rights program?  YES  NO

*If Yes, please describe.*

|  |  |                 |  |
|--|--|-----------------|--|
| Is the subject property in a sending zone or receiving zone? | <input type="checkbox"/> Sending Zone                          |                 |  |
|  | <input type="checkbox"/> Receiving Zone                        |                 |  |
| Is the TDR program regional or local?                        | <input type="checkbox"/> Regional (Pinelands, Highlands, etc.) |                 |  |
|  | <input type="checkbox"/> Local                                 |                 |  |
| How many credits are allotted?                               |  | Verified Source |  |
| How many credits are estimated?                              |  | Verified Source |  |
| How many credits are retired by preservation?                |  |                 |  |
| How many credits are retained by the landowners?             |  |                 |  |

### Zoning

|   |  |                             |  |
|---|--|-----------------------------|--|
| All Appraisals must be appraised under current zoning code(s):<br><b>Appraiser should <u>always</u> confirm zoning and report any discrepancies to the client immediately.</b>  |  |                             |  |
| Dual Appraisal Eligible?  | <input type="checkbox"/> YES               | <input type="checkbox"/> NO | see <b>SADC green light approval for clarification</b> |
| The dual appraisal provision of the Highlands Act has been extended by the Governor and NJ Legislature until June 30, 2024 <b>only for properties located within the boundaries of the Highlands Preservation or Planning</b> . Appraisal assignments should identify the 1/1/04 valuation as a Hypothetical condition. |  |                             |  |
| Property is in the Highlands:<br><i>Check one</i>   | <input type="checkbox"/> Preservation Area |                             |  |
|   | <input type="checkbox"/> Planning Area     |                             |  |
| Zoning and environmental conditions in place as of 1/1/04 (Hypothetical) – code(s):   |  |                             |  |

### Category I Stream

Is the subject property located within 300 feet of a Category I waterway?  YES  NO

*If Yes, please describe.*

|  |      |
|--|------|
| Is the Category I waterway within the property boundary?   |      |
| How many feet is the subject property from the Category I waterway?  | feet |
| If present, the C-1 stream 300' buffer limitation must always be taken into consideration in any appraisal considering current environmental regulations. Only appraisals under the hypothetical condition that environmental and zoning regulations as of 1/1/04 are in place may ignore this fact. |      |

### **Federal Agricultural Land Easement (ALE)**

Is this farm in application for or have an approved ALE cost share grant?    YES       NO

**If Yes, please indicate in the appraisals what impact the ALE restrictions would have on your valuations. An easement comparison chart is available on the appraisal section of our website.**

<https://www.nj.gov/agriculture/sadc/farmpreserve/appraisals/appraisalresources.html>

|  |  |
|--|--|
| Number of Permitted Subdivisions   |  |
| Impervious Cover Limitation %  |  |
| See attached Comparison Chart highlighting the differences in the deeds between an SADC easement and an ALE easement. Appraisal treatment of exception areas will be consistent with SADC regulations, but federal ALE deed restrictions must be considered for the premises to be preserved. Please provide appraisers with the specific ALE deed of easement that will be recorded upon closing. |  |

### **Conditions**

Please provide any conditions that were listed in Green Light Approval or in the Option Agreement.

### **Special Instructions**

Please provide any special instructions.

### **Signature**

The appraiser shall consider the impact of all exceptions, non-agricultural uses, and impacts of improvements as listed in the attached subject application in conformance with the SADC Appraisal Handbook, <http://www.nj.gov/agriculture/sadc/farmpreserve/appraisals/appraisalresources.html>.

|                                       |      |
|---------------------------------------|------|
|                                       |      |
| Program Administrator/Project Manager | Date |

\* This form shall be completed by the contracting agency and shall be contained as an addendum, along with the application and Green Light Review Letter, in the appraisal report.

## APPENDIX B

### Residential Opportunity Adjustment Guide

| Subject Has<br>↓                               | 1                                     | 2                                      | 3                                     | 4                                     | 5   |
|--|---------------------------------------|--|---------------------------------------|---------------------------------------|---|
| Subject Has<br>↓                               | Sale has<br>RDSO                      | Sale has Non<br>Severable<br>Exception | Sale has<br>Existing<br>Residence     | Sale has<br>Severable<br>Exception    | Sale has No<br>Residential<br>Opportunity |
| <b>A.<br/>RDSO</b>                             | A1 Subject is<br>Equal                | A2 Subject is<br>Inferior or<br>Equal  | A3 Subject is<br>Inferior or<br>Equal | A4 Subject is<br>Inferior or<br>Equal | A5 Subject is<br>Superior                 |
| <b>B.<br/>Non-<br/>Severable<br/>Exception</b> | B1 Subject is<br>Superior or<br>Equal | B2 Subject is<br>Equal                 | B3 Subject is<br>Superior or<br>Equal | B4 Subject is<br>Inferior or<br>Equal | B5 Subject is<br>Superior                 |
| <b>C.<br/>Existing<br/>Residence</b>           | C1 Subject is<br>Superior or<br>Equal | C2 Subject is<br>Equal or<br>Inferior  | C3 Subject is<br>Equal                | C4 Subject is<br>Inferior or<br>Equal | C5 Subject is<br>Superior                 |
| <b>D.<br/>Severable<br/>Exception</b>          | D1 Subject is<br>Superior or<br>Equal | D2 Subject is<br>Superior or<br>Equal  | D3 Subject is<br>Superior or<br>Equal | D4 Subject is<br>Equal                | D5 Subject is<br>Superior                 |
| <b>E.<br/>No Res.<br/>Opportunity</b>          | E1 Subject is<br>Inferior             | E2 Subject is<br>Inferior              | E3 Subject is<br>Inferior             | E4 Subject is<br>Inferior             | E5 Subject is<br>Equal                    |

All adjustments for residential opportunity are solely each appraiser's opinion. The above guide is merely a generalized table designed to assist the appraiser in their adjustment process. An appraiser may have a different opinion than those expressed in this guide but will likely be asked to clearly explain their rationale. For example; housing size and other limitations placed on RDSOs or exceptions could have an effect on how the appraiser interprets comparability.

## APPENDIX C

### EMINENT DOMAIN OF PRESERVED FARMLAND

There are occasions where the preserved farm may be subject to eminent domain takings by authorized government entities pursuant to N.J.S.A. 4:1C-25. In addition, certain interstate gas pipeline projects have authority to condemn preserved farmland under the Federal Natural Gas Act. This section is meant to advise appraisers as to the required techniques and conditions of appraising preserved farms that are subject to eminent domain takings.

1. All appraisals must be conducted under the hypothetical condition that the farm is unencumbered by the agricultural easement in order to secure just compensation to the easement holder and funding partners based on current value of the land. Highest and Best Use is still as of the date of the eminent domain appraisal but subject to the hypothetical condition that the property is unencumbered by the agricultural easement. This is regardless of the highest and best use conditions that the property was preserved under.
2. All takings must be appraised based on the hypothetical condition of the land as unencumbered by the agricultural easement. This includes fee takings, easements, temporary easements or temporary workspace areas as well as damages to the remainder.
3. The easement holder is not entitled to compensation for impacts to improvements, crop losses/damages or other damages unrelated to the value of the land. If the appraiser's assignment is to determine compensation for such items, it will be necessary to break out the value of those improvements or crops from the value of the lands under appraisal. In cases where appraisals are not clear as to the contributory value of land and improvements, the appraiser should discuss the need for a separate land only appraisal with his client.
4. The appraiser's client should provide the appraiser with a detailed map and description of the subject property and taking(s). In instances where takings encumber both preserved and unpreserved areas of a farm, it is not the appraiser's responsibility to determine compensation to all parties concerned, only to value the property as completely unencumbered. It is the condemnor and easement holder's responsibility to determine appropriate compensation due the easement holder or landowner.

**DEED OF EASEMENT  
STATE OF NEW JERSEY  
AGRICULTURE RETENTION AND DEVELOPMENT PROGRAM**

This Deed is made \_\_\_\_\_, 20\_\_

BETWEEN \_\_\_\_\_ whose address is \_\_\_\_\_, and is referred to as the Grantor;

AND \_\_\_\_\_ whose address is \_\_\_\_\_ and is referred to as the Grantee and/or Board.

The Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns grants and conveys to the Grantee a development easement and all of the nonagricultural development rights and credits on the Premises, located in the Township of \_\_\_\_\_, County of \_\_\_\_\_, described in the attached Schedule A, and, for the limited purpose of the restrictions contained in Paragraph 13(b), the tract of land described in the attached Schedule C, which schedules are incorporated by reference in this Deed of Easement, for and in consideration of the sum of \_\_\_\_\_ **DOLLARS (\$\_\_\_\_\_)**.

Any reference in this Deed of Easement to "Premises" refers to the property described in Schedule A, and, for the limited purpose of the restrictions contained in Paragraph 13(b), to the tract of land described in Schedule C.

The tax map reference for the Premises is:

**Township of \_\_, County of \_\_  
Block \_\_, Lot \_**

WHEREAS, the legislature of the State of New Jersey has declared that the development of agriculture and the retention of farmlands are important to the present and future economy of the State and the welfare of the citizens of the State; and

WHEREAS, the Grantor is the sole and exclusive owner of the Premises; and

WHEREAS, the Grantee believes that the retention and preservation of agricultural lands is beneficial to the public health, safety and welfare of the citizens of \_\_\_\_\_ County;

NOW THEREFORE, THE GRANTOR, GRANTOR'S HEIRS, EXECUTORS, ADMINISTRATORS, PERSONAL OR LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS PROMISES that the Premises will be owned, used and conveyed subject to, and not in violation of the following restrictions:

1. Any development of the Premises for nonagricultural purposes is expressly prohibited.
2. The Premises shall be retained for agricultural use and production in compliance with N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and all other rules promulgated by the State Agriculture Development Committee, (hereinafter Committee). Agricultural use shall mean the use of the Premises for common farmsite activities including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage and water management and grazing.
3. Grantor certifies that at the time of the application to sell the development easement to the Grantee and at the time of the execution of this Deed of Easement the nonagricultural uses indicated on attached Schedule (B) existed on the Premises. All other nonagricultural uses are prohibited except as expressly provided in this Deed of Easement.

Prepared by: \_\_\_\_\_  
Insert Name & Title under signature

Record & Return to:  
Address  
City, State, Zip

4. All nonagricultural uses, if any, existing on the Premises at the time of the landowner's application to the Grantee as set forth in Section 3 above may be continued and any structure may be restored or repaired in the event of partial destruction thereof, subject to the following:

- i. No new structures or the expansion of pre-existing structures for nonagricultural use are permitted;
- ii. No change in the pre-existing nonagricultural use is permitted;
- iii. No expansion of the pre-existing nonagricultural use is permitted; and
- iv. In the event that the Grantor abandons the pre-existing nonagricultural use, the right of the Grantor to continue the use is extinguished.

5. No sand, gravel, loam, rock, or other minerals shall be deposited on or removed from the Premises excepting only those materials required for the agricultural purpose for which the land is being used.

6. No dumping or placing of trash or waste material shall be permitted on the Premises unless expressly recommended by the Committee as an agricultural management practice.

7. No activity shall be permitted on the Premises which would be detrimental to drainage, flood control, water conservation, erosion control, or soil conservation, nor shall any other activity be permitted which would be detrimental to the continued agricultural use of the Premises.

- i. Grantor shall obtain within one year of the date of this Deed of Easement, a farm conservation plan approved by the local soil conservation district.
- ii. Grantor's long-term objectives shall conform with the provisions of the farm conservation plan.

8. Grantee and Committee and their agents shall be permitted access to, and to enter upon, the Premises at all reasonable times, but solely for the purpose of inspection in order to enforce and assure compliance with the terms and conditions of this Deed of Easement. Grantee agrees to give Grantor, at least 24 hours advance notice of its intention to enter the Premises, and further, to limit such times of entry to the daylight hours on regular business days of the week.

9. Grantor may use the Premises to derive income from certain recreational activities such as hunting, fishing, cross country skiing and ecological tours, only if such activities do not interfere with the actual use of the land for agricultural production and that the activities only utilize the Premises in its existing condition. Other recreational activities from which income is derived and which alter the Premises, such as golf courses and athletic fields, are prohibited.

10. Nothing shall be construed to convey a right to the public of access to or use of the Premises except as stated in this Deed of Easement or as otherwise provided by law.

11. Nothing shall impose upon the Grantor any duty to maintain the Premises in any particular state, or condition, except as provided for in this Deed of Easement.

12. Nothing in this Deed of Easement shall be deemed to restrict the right of Grantor, to maintain all roads and trails existing upon the Premises as of the date of this Deed of Easement. Grantor shall be permitted to construct, improve or reconstruct any roadway necessary to service crops, bogs, agricultural buildings, or reservoirs as may be necessary.

13(a). At the time of this conveyance, Grantor has \_ (#) existing single family residential building(s) on the Premises and \_ (#) residential buildings used for agricultural labor purposes.

Grantor may use, maintain, and improve existing buildings on the Premises for agricultural, residential and recreational uses subject to the following conditions:

- i. Improvements to agricultural buildings shall be consistent with agricultural uses;
- ii. Improvements to residential buildings shall be consistent with agricultural or single and extended family residential uses. Improvements to residential buildings for the purpose of housing agricultural labor are permitted only if the housed agricultural labor is employed on the Premises; and
- iii. Improvements to recreational buildings shall be consistent with agricultural or recreational uses.

13(b). Grantor, their heirs, executors, administrators, personal or legal representatives, successors and assigns may use and maintain the Exception Area, as described in the attached Schedule C subject to the following conditions:

- i. The Exception Area shall not be moved to another portion of the Premises and shall not be swapped with other land.
- ii. The Exception Area shall not be severed or subdivided from the Premises. **OR** the Exception Area may be severed or subdivided from the Premises.
- iii. The Exception Area shall be limited to \_\_\_ single family residential unit(s). **OR DELETE**
- iv. (Right to Farm Language if Exception is Non-Severable) Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person who is occupying or residing on the Exception Area as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons occupying or residing on the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement.

**OR**

- v. (Right to Farm Language if Exception is Severable) Grantors, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person to whom title to the Exception Area is transferred as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that the Exception Area is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons taking title to the Exception Area are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of the Deed of Easement. This provision shall be included in any deed conveying title to the Exception Area.

14. Grantor may construct any new buildings for agricultural purposes. The construction of any new buildings for residential use, regardless of its purpose, shall be prohibited except as follows:

- i. To provide structures for housing of agricultural labor employed on the Premises but only with the approval of the Grantee and the Committee. If Grantee and the Committee grant approval for the construction of agricultural labor housing, such housing shall not be used as a residence for Grantor, Grantor's spouse, Grantor's parents, Grantor's lineal descendants, adopted or natural, Grantor's spouse's parents, Grantor's spouse's lineal descendants, adopted or natural; and

- ii. To construct a single family residential building anywhere on the Premises in order to replace any single family residential building in existence at the time of conveyance of this Deed of Easement but only with the approval of the Grantee and Committee.

\_\_\_ residual dwelling site opportunity(ies) have been allocated to the Premises pursuant to the provisions of N.J.A.C. 2:76-6.17, "Residual Dwelling Site Opportunity". The Grantor's request to exercise a residual dwelling site opportunity shall comply with the rules promulgated by the Committee in effect at the time the request is initiated.

In the event a division of the Premises occurs in compliance with deed restriction No. 15 below, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement reflecting the reallocation of the residual dwelling site opportunities to the respective divided lots. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee and Committee.

In the event a residual dwelling site opportunity has been approved by the Grantee, the Grantor shall prepare or cause to be prepared a Corrective Deed of Easement at the time of Grantee's approval. The Corrective Deed of Easement shall reflect the reduction of residual dwelling site opportunities allocated to the Premises. The Corrective Deed shall be recorded with the County Clerk. A copy of the recorded Corrective Deed shall be provided to the Grantee and Committee.

(OR)

- iii. No residual dwelling site opportunities have been allocated pursuant to the provisions of N.J.A.C. 2:76-6.17. No residential buildings are permitted on the Premises except as provided in this Deed of Easement.

For the purpose of this Deed of Easement:

"Residual dwelling site opportunity" means the potential to construct a residential unit and other appurtenant structures on the Premises in accordance with N.J.A.C. 2:76-6.17.

"Residual dwelling site" means the location of the residential unit and other appurtenant structures.

"Residential unit" means the residential building to be used for single family residential housing and its appurtenant uses. The construction and use of the residential unit shall be for agricultural purposes.

"Use for agricultural purposes" as related to the exercise of a residual dwelling site opportunity and the continued use of the residential unit constructed thereto, means at least one person residing in the residential unit shall be regularly engaged in common farmsite activities on the Premises including, but not limited to: production, harvesting, storage, grading, packaging, processing and the wholesale and retail marketing of crops, plants, animals and other related commodities and the use and application of techniques and methods of soil preparation and management, fertilization, weed, disease and pest control, disposal of farm waste, irrigation, drainage, water management and grazing.

15. The land and its buildings which are affected may be sold collectively or individually for continued agricultural use as defined in Section 2 of this Deed of Easement. However, no division of the land shall be permitted without the joint approval in writing of the Grantee and the Committee. In order for the Grantor to receive approval, the Grantee and Committee must find that the division shall be for an agricultural purpose and result in agriculturally viable parcels. Division means any division of the Premises, for any purpose, subsequent to the effective date of this Deed of Easement.

- i. For purposes of this Deed of Easement, "Agriculturally viable parcel" means that each parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from each parcel's agricultural output.

16. In the event of any violation of the terms and conditions of this Deed of Easement, Grantee or the Committee may institute, in the name of the State of New Jersey, any proceedings to enforce these terms and conditions including the institution of suit to enjoin such violations and to require restoration of the Premises to its prior condition. Grantee or the Committee do not waive or forfeit the right to take any other legal action necessary to insure compliance with the terms, conditions, and purpose of this Deed of Easement by a prior failure to act.

17. This Deed of Easement imposes no obligation or restriction on the Grantor's use of the Premises except as specifically set forth in this Deed of Easement.

18. This Deed of Easement is binding upon the Grantor, the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns and the Grantee; it shall be construed as a restriction running with the land and shall be binding upon any person to whom title to the Premises is transferred as well as upon the heirs, executors, administrators, personal or legal representatives, successors, and assigns of all such persons.

19. Throughout this Deed of Easement, the singular shall include the plural, and the masculine shall include the feminine, unless the text indicates otherwise.

20. The word 'Grantor' shall mean any and all persons who lawfully succeed to the rights and responsibilities of the Grantor, including but not limited to the Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns.

21. Wherever in this Deed of Easement any party shall be designated or referred to by name or general reference, such designation shall have the same effect as if the words, 'heirs, executors, administrators, personal or legal representatives, successors and assigns' have been inserted after each and every designation.

22. Grantor, Grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns further transfers and conveys to Grantee all of the nonagricultural development rights and development credits appurtenant to the lands and Premises described herein. Nothing contained herein shall preclude the conveyance or retention of said rights by the Grantee as may be permitted by the laws of the State of New Jersey in the future. In the event that the law permits the conveyance of said

development rights, Grantee agrees to reimburse the Committee ( \_%) percent of the value of the development rights as determined at the time of the subsequent conveyance.

23. That portion of the net proceeds, representing the value of the land only (and not the value of the improvements), of a condemnation award or other disposition of the Premises following termination of this Deed of Easement, as permitted pursuant to N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, shall be distributed among the Grantor and the Grantee in shares in proportion to the fair market value of their interests in the Premises on the date of execution of this Deed of Easement. For this purpose, the Grantee's allocable share of the proceeds shall be the net proceeds multiplied by a fraction, the numerator of which is the fair market value of the development easement as certified by the Committee at the time of the initial acquisition and the denominator of which is the full fair market value of the unrestricted Premises as certified by the Committee at the time of the initial acquisition, which is identified as ( # / # ).

Furthermore, the Grantee's proceeds shall be distributed among the Grantee and the Committee in shares in proportion to their respective cost share grants on the date of execution of this Deed of Easement. The Grantee shall use its share of the proceeds in a manner consistent with the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32.

24. No historic building or structure located on the Premises may be demolished by the grantor or any other person without the prior approval of the State Agriculture Development Committee. Historic building or structure is a building or structure that, as of the date of this Deed of Easement, has been included in the New Jersey Register of Historic Places established pursuant to N.J.S.A. 13:1B-15.128 et seq.

**[For installment purchases, please contact the SADC in advance of closing for instructions on the proper format for a deed of easement.]**

The Grantor signs this Deed of Easement as of the date of the top of the first page. If the Grantor is a corporation, this Deed of Easement is signed and attested to by its proper corporate officers.

\_\_\_\_\_(L.S.)  
Name of Seller, Name of position (if applicable)

\_\_\_\_\_(L.S.)  
Name of Seller, Name of position (if applicable)

(CHOOSE PROPER ACKNOWLEDGMENT BASED ON TYPE OF ENTITY  
LANDOWNER IS, i.e., individual, corporation, or LLC)

**(INDIVIDUAL ACKNOWLEDGMENT)**

STATE OF NEW JERSEY, COUNTY OF \_\_\_\_\_ SS.:

I CERTIFY that on \_\_\_\_\_, 20\_\_,

\_\_\_\_\_ personally came before me and acknowledged under oath, to my satisfaction, that this person (or if more than one, each person):

- a. is named in and personally signed this DEED OF EASEMENT;
- b. signed, sealed and delivered this DEED OF EASEMENT as his or her act and deed;
- c. made this DEED OF EASEMENT for and in consideration of mutual obligations and benefits to each party; and
- d. the actual and true consideration paid for this instrument is \$\_\_\_\_\_

\_\_\_\_\_  
Insert Name & Title under signature

**(CORPORATE ACKNOWLEDGMENT)**

STATE OF NEW JERSEY, COUNTY OF \_\_\_\_\_ SS.:

I CERTIFY that on \_\_\_\_\_, 20\_\_, the subscriber (WITNESSING OFFICER), personally appeared before me, who, being by me duly sworn on his or her oath, deposes and makes proof to my satisfaction, that he or she is the Secretary/VP of \_\_\_\_\_ the Corporation named in the within Instrument; that \_\_\_\_\_ is the President of said Corporation; that the execution, as well as the making of this Instrument, has been duly authorized by a proper resolution of the Board of Directors of the said Corporation, that deponent well knows the corporate seal of said Corporation; and that the seal affixed to said Instrument is the proper corporate seal and was thereto affixed and said Instrument signed and delivered by said President as and for the voluntary act and deed of said Corporation, in presence of deponent, who thereupon subscribed his or her name thereto as attesting witness; and that the full and actual consideration paid to purchase a development easement as evidenced by the DEED OF EASEMENT is \$\_\_\_\_\_ and the mutual obligations and benefits contained herein.

\_\_\_\_\_, Inc.

\_\_\_\_\_(L.S)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Witnessing Officer

**(LLC ACKNOWLEDGMENT)**

STATE OF NEW JERSEY, COUNTY OF \_\_\_\_\_ SS.:

I CERTIFY that on \_\_\_\_\_, 20\_\_\_\_,

\_\_\_\_\_ personally came before me and that this person acknowledged under oath, to my satisfaction, that:

- a. \_\_\_\_\_ is the Managing Member of the \_\_\_\_\_, LLC and has full authority to execute this Deed of Easement as the act of \_\_\_\_\_ LLC;
- b. the full and actual consideration paid to purchase a development easement as evidenced by this deed of easement is \$\_\_\_\_\_.

\_\_\_\_\_  
Insert Name & Title under signature

**(COUNTY AGRICULTURE DEVELOPMENT BOARD)**

THE UNDERSIGNED, being Chairperson of the \_\_\_\_\_ County Agriculture Development Board, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

\_\_\_\_\_  
Insert Name & Title under signature , Chairperson  
\_\_\_\_\_ County Agriculture Development Board

STATE OF NEW JERSEY, COUNTY OF \_\_\_\_\_ SS.:

I CERTIFY that on \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_ personally came before me and acknowledged under oath, to my satisfaction that this person:

- a. is named in and personally signed this DEED OF EASEMENT,
- b. signed, sealed and delivered this DEED OF EASEMENT as the Board's act and deed;
- and c. is the Chairperson of the \_\_\_\_\_ County Agriculture Development Board.

\_\_\_\_\_  
Insert Name & Title under signature

**(BOARD OF COUNTY COMMISSIONERS)**

THE UNDERSIGNED, being \_\_\_\_\_ of the \_\_\_\_\_ Board of County Commissioners, hereby accepts and approves the foregoing restrictions, benefits and covenants.

ACCEPTED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Insert Name & Title under signature  
\_\_\_\_\_ Board of County Commissioners

STATE OF NEW JERSEY, COUNTY OF \_\_\_\_\_ SS.:

I CERTIFY that on \_\_\_\_\_, 20\_\_

\_\_\_\_\_ personally came before me and acknowledged under oath, to my satisfaction that this person:

- a. is named in and personally signed this Deed of Easement;
- b. signed, sealed and delivered this Deed of Easement as the Board of County Commissioners act and deed; and
- c. Is the Administrator / Clerk of the \_\_\_\_\_ Board of County Commissioners

Signed and sworn to before me on \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Insert Name & Title under signature  
\_\_\_\_\_ Board of County Commissioners

**(STATE AGRICULTURE DEVELOPMENT COMMITTEE)**

The State Agriculture Development Committee has approved the purchase of the development easement on the Premises pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, and has authorized a grant of \_% of the purchase price of the development easement to \_ County in the amount of \$ \_

\_\_\_\_\_  
Susan E. Payne, Executive Director  
State Agriculture Development Committee

\_\_\_\_\_  
Date

STATE OF NEW JERSEY, COUNTY OF MERCER SS.:

I CERTIFY that on \_\_\_\_\_, 20\_\_\_\_,

Susan E. Payne personally came before me and acknowledged under oath, to my satisfaction, that this person:

- a. is named in and personally signed this DEED OF EASEMENT,
- b. signed, sealed and delivered this DEED OF EASEMENT as the Committee's act and deed, and
- c. is the Executive Director of the State Agriculture Development Committee.

\_\_\_\_\_  
Insert Name & Title under signature

## APPENDIX E ADDITIONAL HELPFUL DOCUMENTS

### Sales Data

- A. Unrestricted (Before Value) Farmland Sales  
[https://www.nj.gov/agriculture/sadc/documents/appraisals/2021\\_Unrestricted\\_farm\\_sales.pdf](https://www.nj.gov/agriculture/sadc/documents/appraisals/2021_Unrestricted_farm_sales.pdf)
- B. Restricted (After Value) Farmland Sales  
<https://www.nj.gov/agriculture/sadc/documents/appraisals/Restricted%20Farm%20Sales.pdf>
- C. Summary of Development Easements Purchased in New Jersey  
<https://www.nj.gov/agriculture/sadc/farmpreserve/progress/stats/index.html>

### Rules and Policies

- A. Appraiser Selection Rule - N.J.A.C. 2:76-6.21
  - 1. Visit <http://www.lexisnexis.com/hottopics/njcode>
  - 2. Click on "I Agree" on the N.J. Administrative Code page.
  - 3. Click on the plus sign next to Title 2: Agriculture.
  - 4. Click on the plus sign next to Chapter 76: State Agriculture Development Committee.
  - 5. Click on the plus sign next to Subchapter 6.
  - 6. Click on the provision 2:76-6.21.
- B. Appraiser Retention and Removal Rule - N.J.A.C. 2:76-6.22  
Follow link and instructions for A. above, except in step 6 Click on the provision 2:76-6.22.
- C. Appraisal Handbook Standards - N.J.A.C. 2:76-10.1 et seq.  
Follow link and instructions for A. above, except in step 5 click on the plus sign next to Subchapter 10.
- D. Policies  
<https://www.nj.gov/agriculture/sadc/rules/>

### Statutes

- A. Agriculture Retention and Development Act - N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32  
<https://www.nj.gov/agriculture/sadc/documents/rules/ARDA.pdf>
- B. Garden State Preservation Trust Act, P.L. 1999, c.152, N.J.S.A. 13:8C-1 et seq  
<https://www.nj.gov/agriculture/sadc/documents/rules/GSPTA.pdf>

### Miscellaneous Program Information

- A. U.S. Department of Agriculture-Natural Resources Conservation Service ALE Deed Comparison  
[https://www.nj.gov/agriculture/sadc/documents/appraisals/Deed\\_Comparison\\_Chart.pdf](https://www.nj.gov/agriculture/sadc/documents/appraisals/Deed_Comparison_Chart.pdf)
- B. County Agriculture Development Board Administrators Contact Information  
<https://www.nj.gov/agriculture/sadc/farmpreserve/contacts/cadbs.html>



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*Image Courtesy of Stefanie Miller*