

STATE AGRICULTURE DEVELOPMENT COMMITTEE

POLICY

DIVISION OF PERMANENTLY PRESERVED FARMLAND

I. PURPOSE:

A landowner requesting any division of a Premises permanently deed restricted pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32, as amended, must receive the joint approval, in writing, of the county agriculture development board, (CADB) and the State Agriculture Development Committee, (SADC).

The SADC's objective is to retain large masses of viable agricultural land. The SADC recognizes that agricultural parcels may become less viable if reduced in size. Therefore the SADC will carefully consider the criteria contained in this policy to evaluate whether a permanently preserved farm should be divided. The SADC criteria will determine whether the division is for an agricultural purpose and whether the resultant parcels are agriculturally viable.

II. AUTHORITY:

N.J.S.A. 4:1c-11 et seq., P.L. 1983, c. 32
N.J.A.C. 2:76-6.15(a)

III. SUPERSEDES:

Policy P-30, effective 12/19/91

IV. POLICY:

Background:

Since the inception of the program, the provisions for the SADC and CADB to review a request for the division of permanently preserved farmland have been further clarified. The specific language related to the division of the Premises must be verified in the landowner's Deed of Easement.

There are three variations of deed restrictions depending upon the Deed of Easement used at the time the development easement was acquired. They are as follows:

1. **Development Easements Acquired prior to 9/22/86.
(Section #3)**

“The land and its buildings which are affected hereby may be sold collectively or individually for continued agricultural uses as defined in Section 2 hereof. However, no subdivision of the land shall be permitted without the joint approval in writing of the board and the committee. Such approval is in addition to necessary local approvals.”

2. **Development Easements Acquired subsequent to 9/22/86 but
prior to 11/5/90. (Section #13)**

“The land and its buildings may be sold collectively or individually for continued agricultural uses as defined in Section 2 of this easement. However, no subdivision of the land shall be permitted without the joint approval in writing of the Grantee and the Committee. The subdivision shall be consistent with agricultural management practices recommended by the Committee. Subdivision means any division of the Premises, for any purpose, subsequent to the effective date of this easement.”

3. **Development Easements Acquired subsequent to 11/5/90
(Section #15)**

“The land and its buildings may be sold collectively or individually for continued agricultural uses defined in section 2 of this easement. However, no subdivision of the land shall be permitted without the joint approval in writing of the Grantee and the Committee. In order to give approval, the Grantee and Committee must find that the subdivision shall be for an agricultural purpose and result in agriculturally viable parcels. Subdivision means any division of the Premises, for any purpose, subsequent to the effective date of this easement.”

For the purposes of this policy, “**Agriculturally viable parcel**” means that the parcel is capable of sustaining a variety of agricultural operations that yield a reasonable economic return under normal conditions, solely from the parcel’s agricultural output.

V. **APPLICATION PROCESS:**

The deed owner(s) of the Premises or legally authorized person must apply directly to the CADB. (Record owner; trustee; officer of the Corp., Executor; etc.) The applicant is responsible for completing the SADC/CADB “Application Form for Division of Permanently Preserved Farmland”:

- A. Documents to be submitted
1. Completed SADC/CADB Application Form (DIVPP-2)
 2. Current municipal tax map with the Premises outlined
 3. Soil survey map with the Premises outlined
 4. Any other maps or graphic representations needed to address the questions. (A tax map may be used as the base map.)
- B. Issues to be addressed in the application form
1. Division Request
Specify the type(s) of division being proposed.
 - a. Division along pre-existing lot lines.
 - b. A new division of the Premises.
 - c. Combination of creating new lot lines and division along pre-existing lot lines.
 2. Use of the Premises
Questions:
 - a. Described the current agricultural use of the Premises. Describe the agricultural use of the Premises for the previous two years if it is different from the current use.
 - b. Do you farm the land or do you lease the land to someone else?
 - c. Do you currently reside on the farm? If so, for what portion of the year?
 3. Agricultural Purpose
Questions:
 - a. Why are you requesting a division of the Premises?
 - b. What is the “Agricultural Purpose” for the division of the Premises?
 - c. How is the agricultural use of the farm preserved by the division of the Premises?
 - d. Explain why you would rather divide the Premises instead of maintaining the existing boundaries?
 - e. Do you intend to reside on any of the farms? Will you farm the land or would you lease the farm to someone else?

- f. How would the division of the Premises affect the current and future agricultural operation?
 - i. Have any soil and water conservation projects been installed on the Premises which would be impacted by the division? If so, which practices and how?
 - ii. Are there any water rights or other water access points which are impacted by the division?
 - iii. Have any State funds been obligated or expended for soil and water conservation projects approved on the Premises as authorized under the NJ Farmland Preservation Program?
 - iv. How would the existing farm structures, barns and infrastructure be partitioned and contribute to the respective farms?
 - v. What types of agricultural uses are proposed for the new or existing farms?
 - g. Could the existing agricultural operation be continued if the division were denied?
 - h. Have any Residual Dwelling Site Opportunity(ies), (RDSO) been allocated to the Premises?
 - i. How do you intend to reallocate the RDSO(s) to the respective farms?
 - ii. Do you intend to apply to exercise an RDSO? If so, what is your estimated time frame?
4. Agricultural Viability as measured using criteria from Policy P-14-B:
- a. How will access be provided to the new farms? Identify all of the proposed and existing access drives on the tax map.
 - b. Soils:
 - i. Identify the boundaries of the proposed division(s) on the USDA, SCS soil map.

- ii. What is the acreage and percent of Prime and Statewide Importance soils on each of the respective farms?
 - c. Boundaries:
 - i. Identify the boundaries of the proposed division(s) on the tax map.
 - ii. Identify the adjacent land use on each of the boundaries of the proposed divisions. (List on the Tax Map.)
 - iii. Identify any hedgerows, streams, water bodies or other features which exist on the boundaries or interior of the Premises.
 - d. Size:
 - i. What is the acreage on each of the proposed parcels?
 - ii. How many acres would be taken out of production to provide access systems as identified in (a) above?
 - iii. On each of the proposed farms, identify the proposed agricultural use and extent. (Provide a general sketch of the uses and extent on a map.)
- 5. Other information requested by the CADB.
- 6. Any other information that the applicant deems appropriate.

VI. CADB REVIEW:

- A. Upon receipt of the completed application, the CADB is responsible for the following:
 - 1. Ensure completeness of the application.
 - 2. Review of the application in conformance with the provisions contained in the Deed of Easement and SADC Policy P-30-A.

- B. A copy of the completed SADC/CADB application and the CADB's reasons for granting approval of the request must be forwarded to the SADC.

VII. SADC REVIEW:

- A. The SADC will only consider requests which have been approved by the CADB. It is the responsibility of the CADB to provide a copy of the completed SADC/CADB application and to fully justify its action for granting approval to divide the Premises.
- B. To grant approval, the SADC must find that the subdivision of the Premises is for an agricultural purpose and result in agriculturally viable parcels.
- C. The SADC reserves the right to request any other information it deems necessary to arrive at its decision.
- D. Other considerations:
 - 1. The CADB will ensure that the SADC receives a copy of the recorded deed(s) depicting the division of the Premises.
 - 2. The SADC's approval is conditioned upon municipal approval when appropriate.
 - 3. The SADC will consider restrictions limiting or prohibiting the future division of the Premises.
 - 4. The SADC will consider restrictions limiting or prohibiting the future construction of a residential unit.

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