

# Farmland Preservation for Practitioners: Process and Best Practices

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New Jersey Department of Agriculture  
State Agriculture Development Committee (SADC)  
2018 New Jersey Land Conservation Rally  
March 2, 2018



# What We Will Cover Today



## Planning for Farm Preservation

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## Getting Your Farm Preserved

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## Preparing for Closing

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## Closing

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## Q&A

Visit us online:  
<http://www.nj.gov/agriculture/sadc/>





# Planning for Farm Preservation

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Steven Bruder, Supervising Planner  
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# Agriculture Retention and Development Act

(N.J.S.A. 4:1C-11 et seq.)

- Established County Agriculture Development Boards (CADBs)
- Established Agricultural Development Areas
- Established basis for farmland preservation programs
  - Easement Purchase
  - Fee Simple
  - 8-Year
- Provision for soil and water conservation grants
- Eminent domain protection for preserved farms

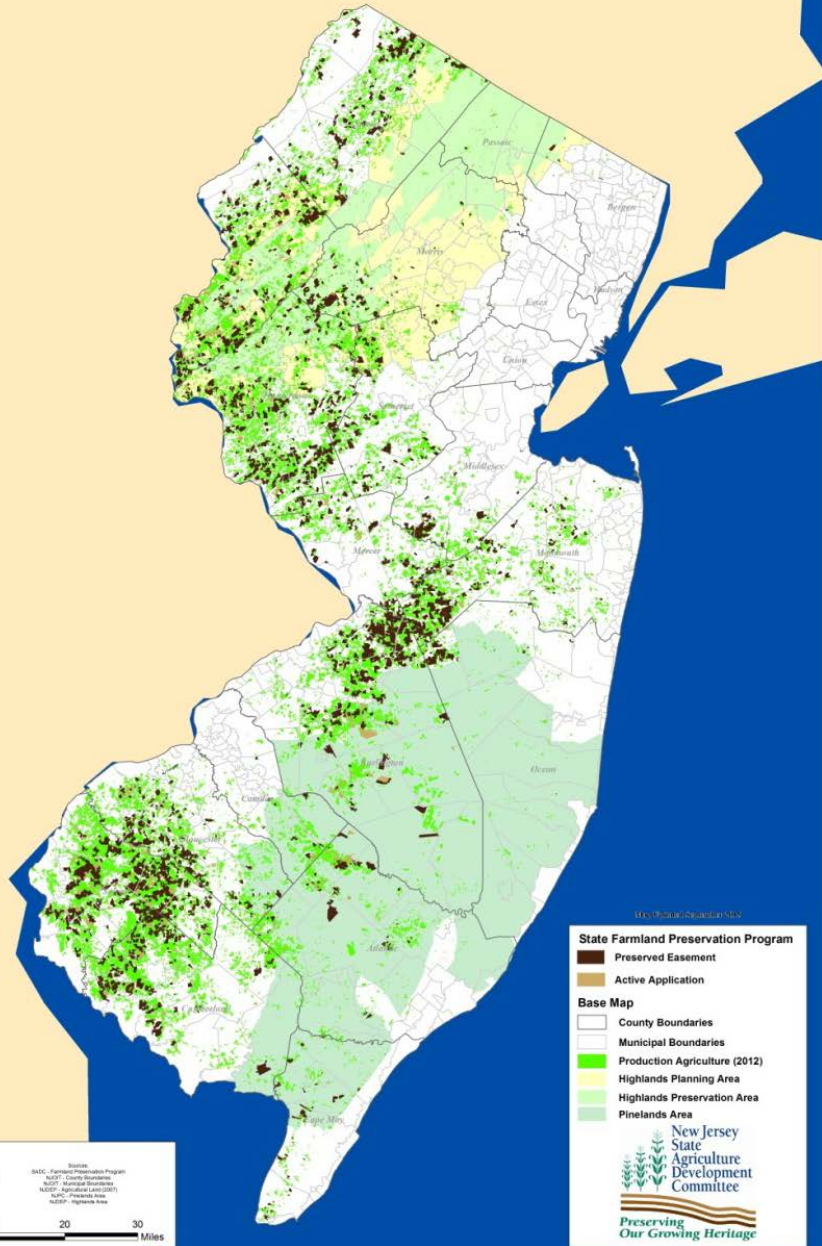
*“The strengthening of the agricultural industry and the preservation of farmland are important to the present and future economy of the State and the welfare of the citizens of the State ...”*

*“It is necessary to authorize the establishment of State and county organizations to coordinate the development of farmland preservation programs within identified areas where agriculture will be presumed the first priority use of the land ...”*





## State Farmland Preservation Program with Production Agriculture

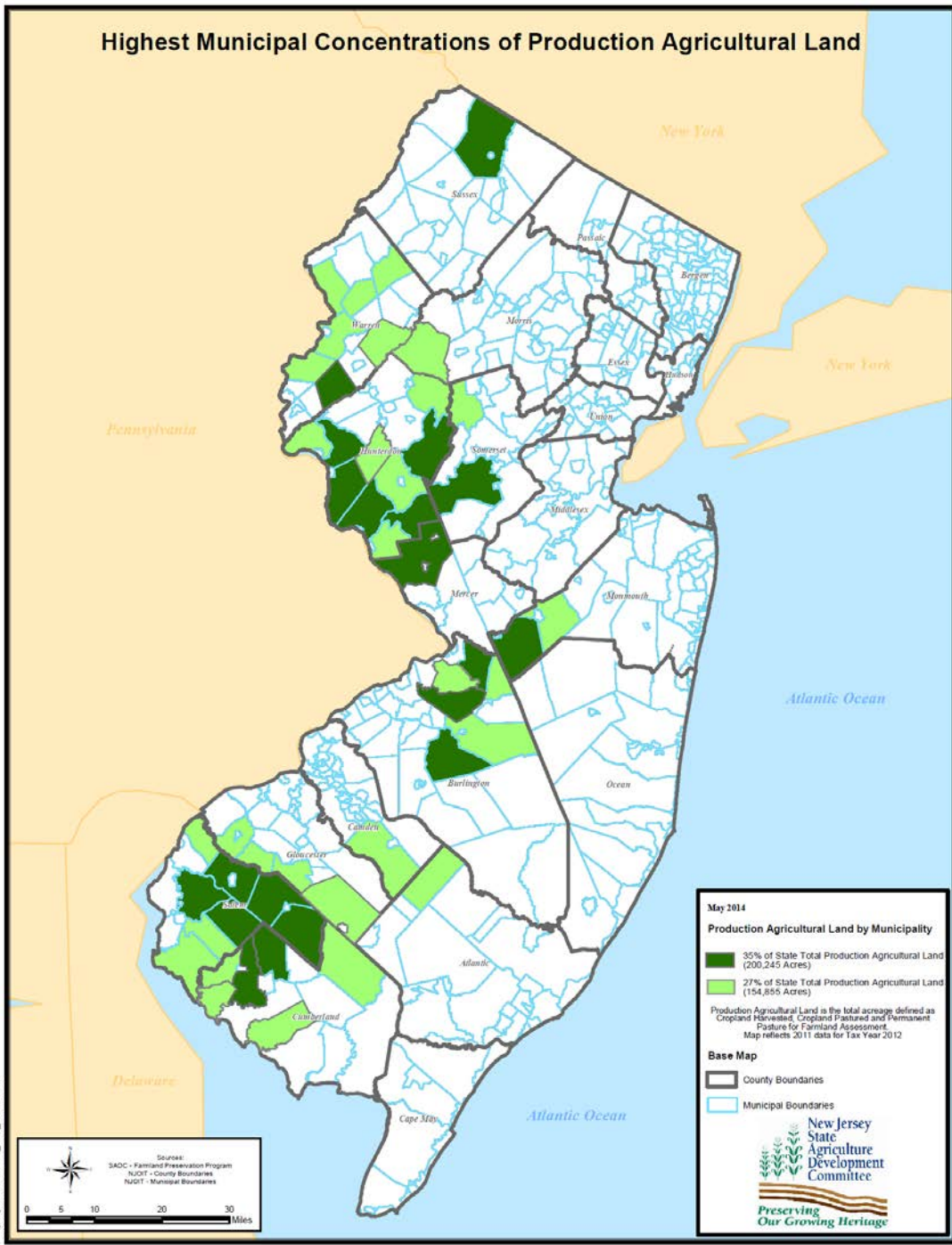


# Farmland Preservation in “The Garden State”

- USDA National Ag. Statistics Service (2017)
  - 9,100 farms / 720,000 acres
  - 15% of NJ Land Area in Farms
  - Average farm size = 79 acres
- Total preserved to date:
  - 2,515 farms / 227,739 acres
  - 32% of agricultural land base protected
    - Highest % in the nation
- Goal: ~550,000 preserved acres
- Geographic diversity
  - 201 municipalities
  - 18 counties



## Highest Municipal Concentrations of Production Agricultural Land



- Top 20 municipalities = 35% of active agricultural land in NJ (200,245 acres)
- Top 50 municipalities = 62% of active agricultural land in NJ (355,100 acres)





# New Jersey URBAN GROWTH CHANGE ANIMATION

NJDEP Land Use/Land Cover  
Data Series: 1986 - 2012

>1986

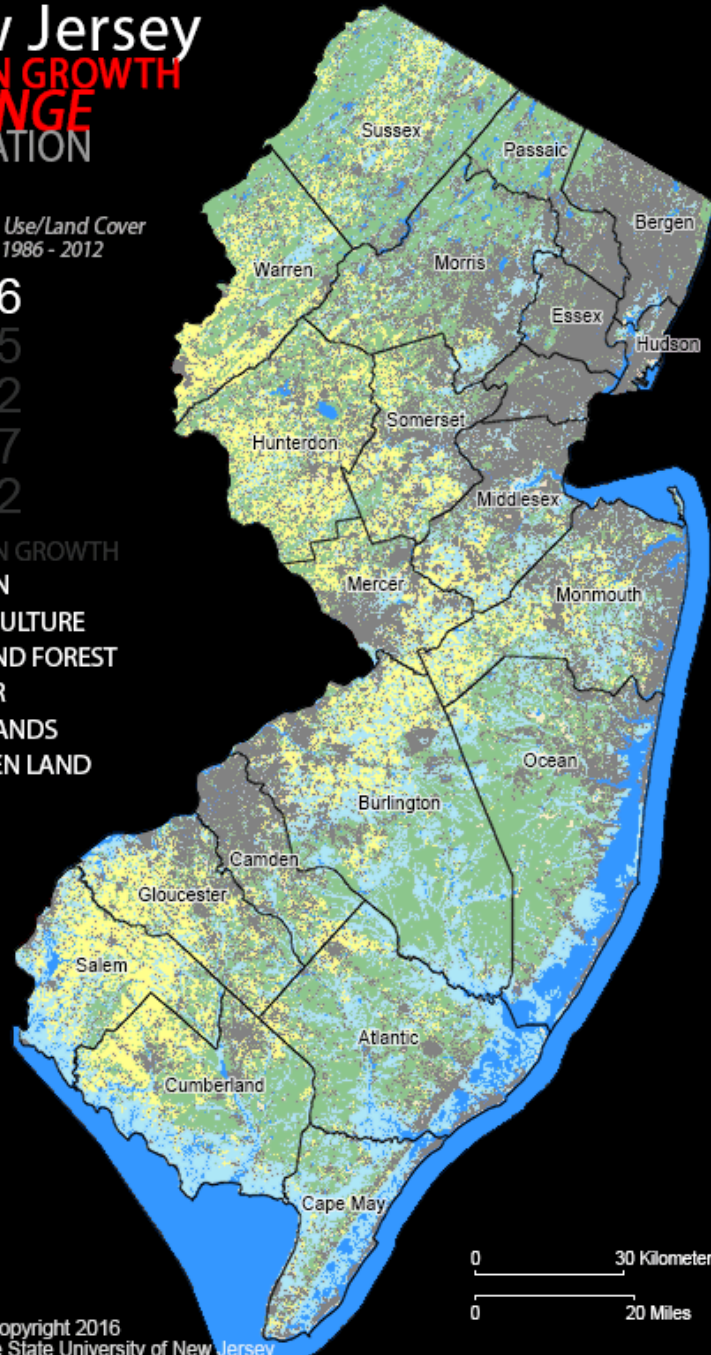
>1995

>2002

>2007

>2012

- URBAN GROWTH
- URBAN
- AGRICULTURE
- UPLAND FOREST
- WATER
- WETLANDS
- BARREN LAND



Animation Copyright 2016  
Rutgers, The State University of New Jersey  
Grant F. Walton Center for Remote Sensing and Spatial Analysis (CRSSA)  
<http://crssa.rutgers.edu>

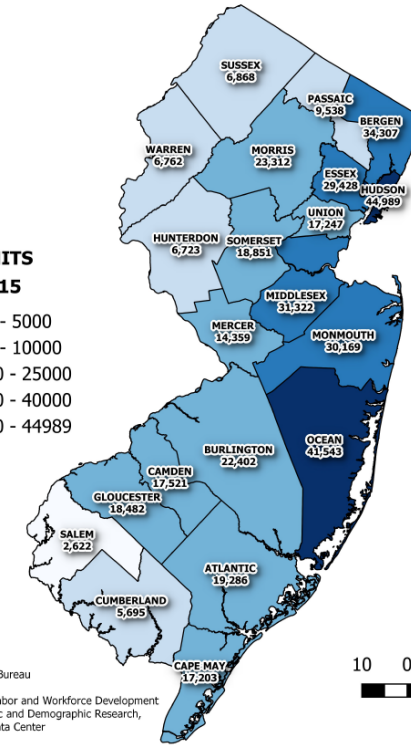
NEW JERSEY STATE DATA CENTER  
**NJSDC**

## RESIDENTIAL HOUSING UNITS AUTHORIZED BY BUILDING PERMITS 2000 - 2015

### TOTAL UNITS

### TOTAL UNITS 2000 - 2015

- 2622 - 5000
- 5000 - 10000
- 10000 - 25000
- 25000 - 40000
- 40000 - 44989



Source: U.S. Census Bureau  
Prepared by:  
NJ Department of Labor and Workforce Development  
Division of Economic and Demographic Research,  
New Jersey State Data Center  
October 2016

### UNIT STRUCTURE DISTRIBUTION W/ POPULATION CHANGE

- #### UNIT CATEGORY
- 1 Unit Structures
  - 2 Unit Structures
  - 3-4 Unit Structures
  - 5+ Unit Structures

#### PERCENT CHANGE (%) 2000 - 2015

- 7% - 0%
- 0% - 3%
- 3% - 7%
- 7% - 12%
- 12% - 15%

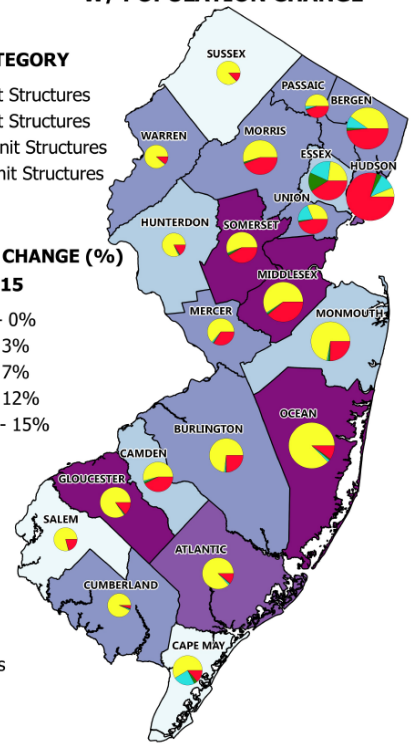


Table 2.2 Annualized rates of land use change.

	Annualized rates of change			
	T1('86-'95)	T2('95-'02)	T3('02-'07revised)	T4('07revised-'12)
Urban	13,999	16,852	16,422	4,850
<b>Agriculture</b>	<b>-10,227</b>	<b>-8,234</b>	<b>-7,016</b>	<b>-2,760</b>
Forest	-2,751	-6,816	-7,536	-751
Water	1,928	368	1,657	-206
Wetlands	-3,002	-2,374	-2,160	-454
Barren Land	-58	349	-1,384	-678



# Planning Incentive Grant (PIG) Program

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- “Block grants” to eligible municipalities and counties
- SADC funding decisions based on designated project area’s ability to:
  - Provide opportunity to preserve a significant area of contiguous farmland
  - Promote long term agricultural viability
- Eligibility Requirements:
  - Identify project areas of multiple, reasonably contiguous farms in an ADA
  - Establish an agricultural advisory committee. (CADB for counties)
  - Dedicated source of funding for farmland preservation
  - Farmland preservation plan element under Section 28 of MLUL
  - Right to Farm Ordinance

*“The State Agriculture Development Committee shall make decisions regarding suitability for funding of development easement purchases for planning incentive grants based on whether the project area provides for an opportunity to preserve a significant area of reasonably contiguous farmland that will promote the long term viability of agriculture in the municipality or county.”*

*- Planning Incentive Grant Statute, 1999 (N.J.S.A. 4:1C-43.1 et seq.)*





# Municipal and County Comprehensive Farmland Preservation Plan Guidelines

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**BURLINGTON COUNTY  
COMPREHENSIVE FARMLAND  
PRESERVATION PLAN  
(2009-2018)**

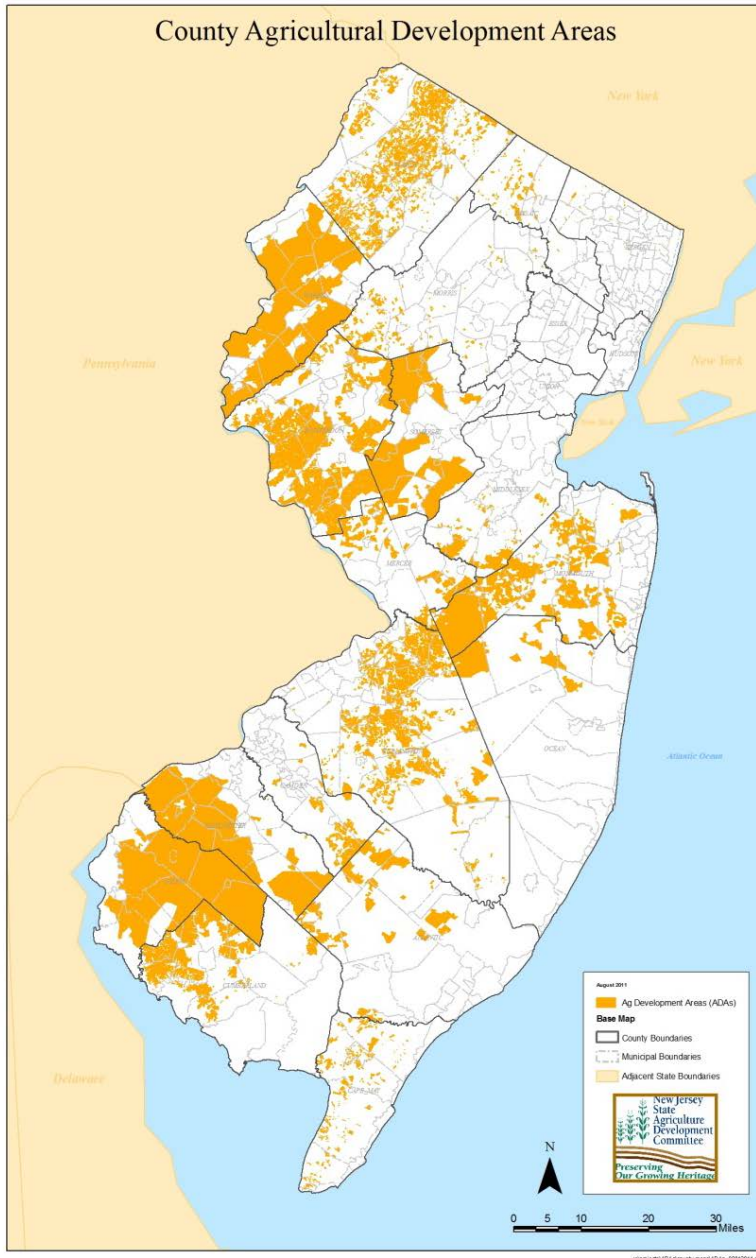


Adopted by the Burlington County Board of Chosen Freeholders  
By Resolution No. 1014 - December 30, 2008

- I. Agricultural Land Base
- II. Agricultural Industry Overview
- III. Land Use Planning Context
- IV. Current Farmland Preservation Program
- V. Future Farmland Preservation Program
- VI. Agricultural Economic Development
- VII. Natural Resource Conservation
- VIII. Ag Industry Sustainability, Retention and Promotion



## County Agricultural Development Areas



# Agricultural Development Areas (ADAs)

Regions of productive agricultural lands that have a strong potential for future production and where agriculture is the preferred but not necessarily the exclusive use.

## ARDA Statutory Criteria Include:

- Agriculture is a permitted or permitted nonconforming use
- Is reasonably free of suburban and conflicting commercial development
- Comprises not greater than 90 percent of the agricultural land mass of the county
- Incorporates other characteristics deemed appropriate by the CADB

## ARDA Local Criteria Considerations Include:

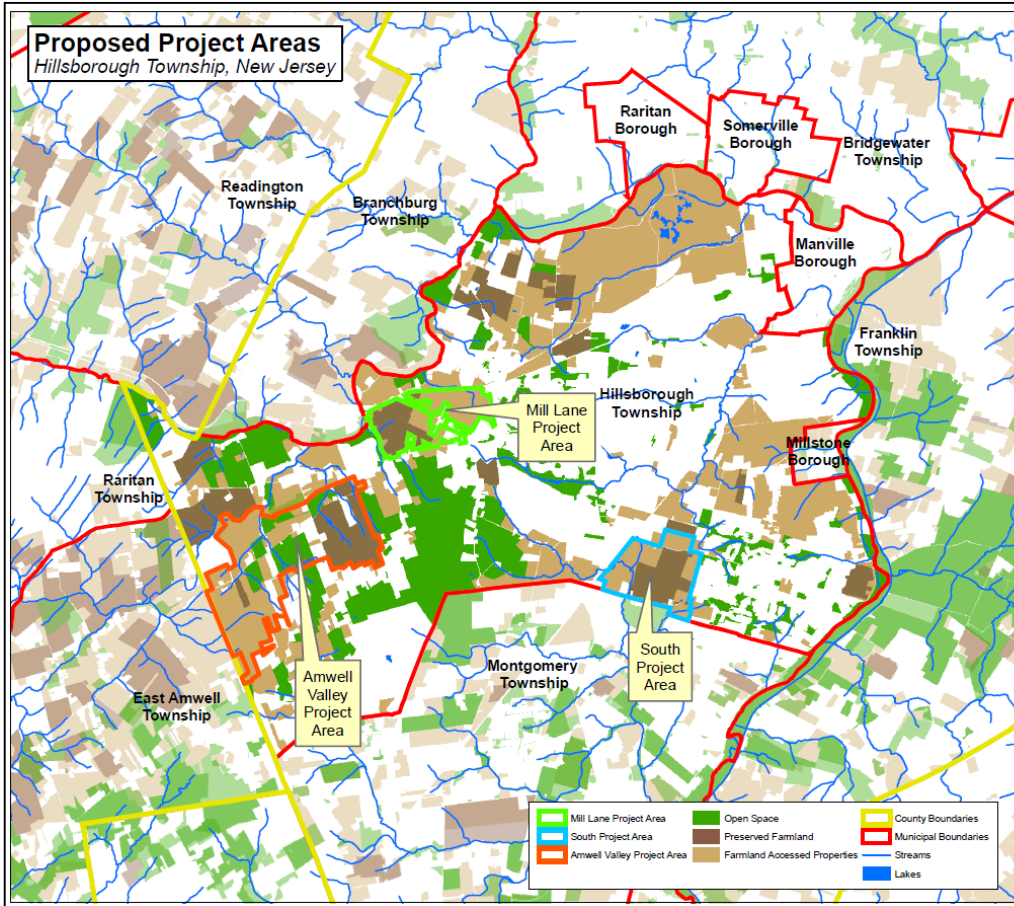
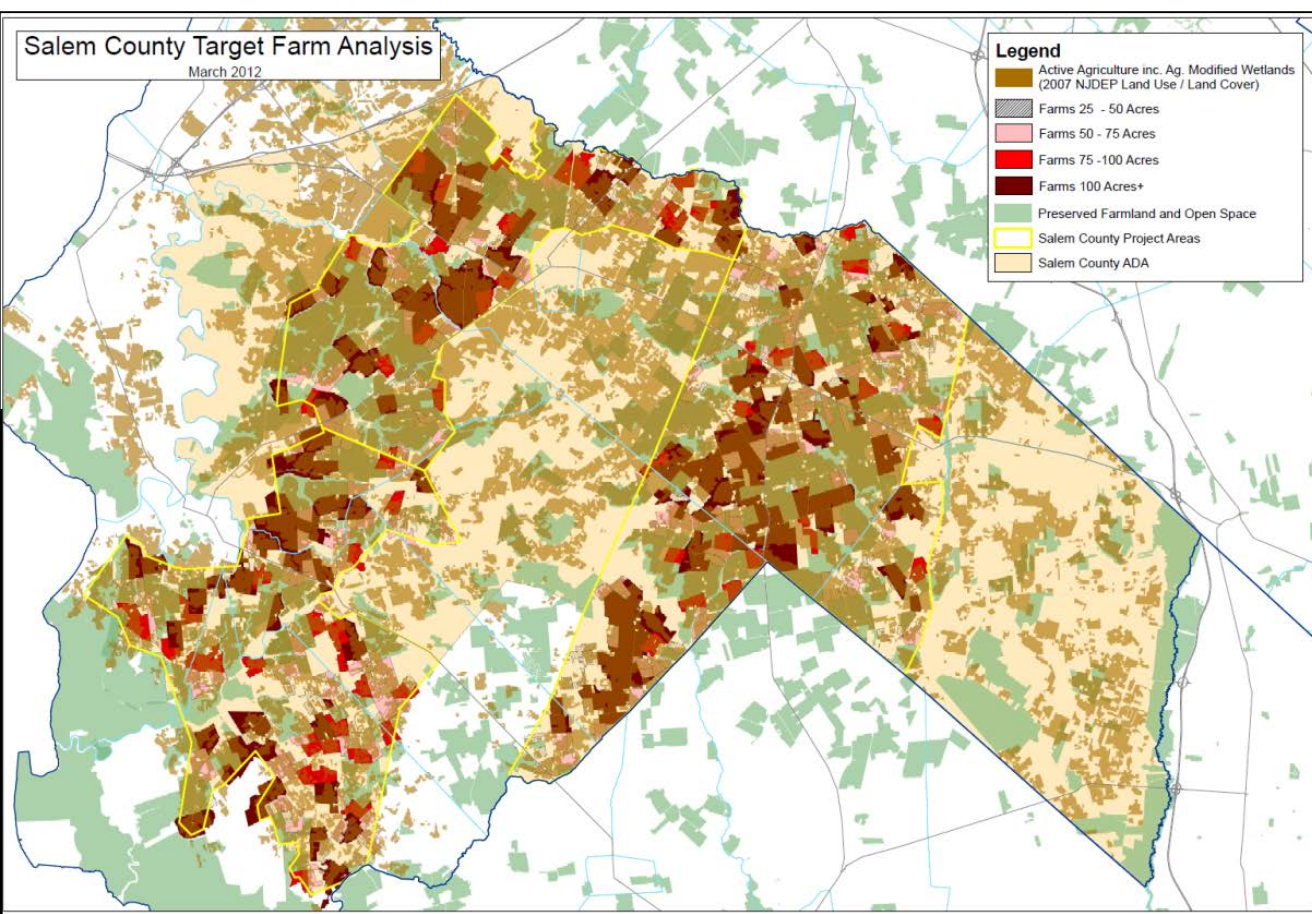
- Current and anticipated local land use plans and regulations
- Accessibility to publicly funded water and sewer systems
- Compatibility with comprehensive and special purpose county and State plans

Required review of eminent domain or other non-agricultural project by a public body or utility for agricultural impact





# Project Areas and Target Farms



D&R GREENWAY  
LAND TRUST

D&R Greenway Land Trust  
1 Preservation Pl  
Princeton, NJ 08540  
Map Created October 3, 2007



The Land Conservancy of New Jersey  
Aesth. Mapping Center  
19 Boonton Ave  
Boonton, NJ 07005



0 0.5 1 2  
Miles

\* Note that some farm assessed lots have dual tax classes. For example, a lot might be assessed as part farm, part vacant or part farm, part tax-exempt. Although all lots are shown as being fully farm assessed, some may have only partial acreage under farm assessment.

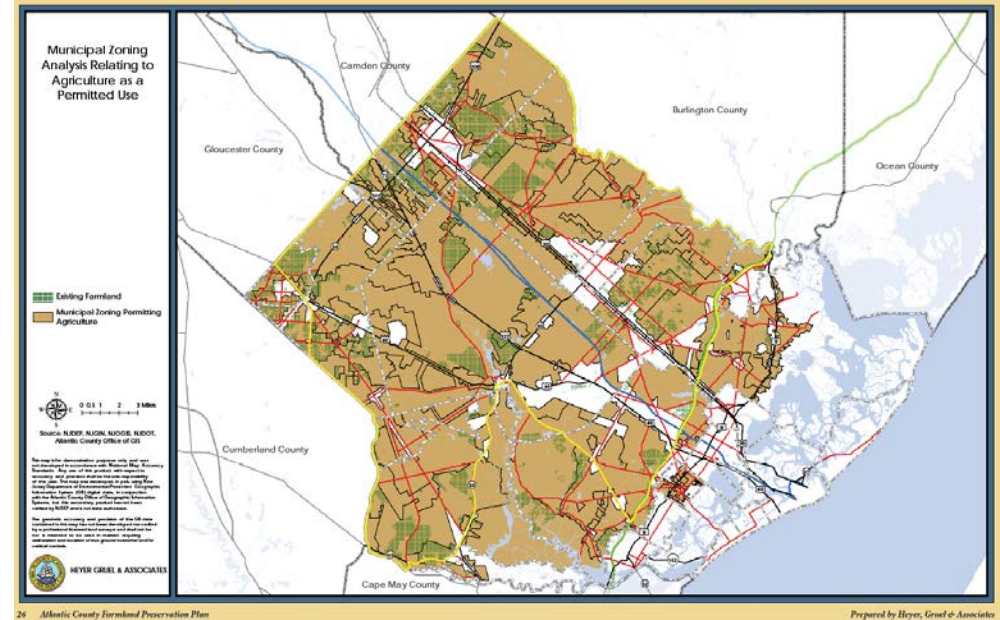
Data Sources: Somerset County GIS, NJDEP

Data acquired from the New Jersey Department of Environmental Protection but this secondary map product has not been verified or authorized by that agency.



# Delineating ADAs, Project Areas and Target Farms

- Context Sensitive!
- Agricultural Resources:
  - Active agricultural land: continuity, size, ownership
  - Proximity to existing preservation
  - Soils: Prime, Statewide, Local and Unique
  - Adjacent land uses
- Planning Context:
  - Sewer service and other infrastructure availability
  - State Development and Redevelopment Plan designations
  - Highlands and Pinelands Subzones
  - Local zoning and redevelopment / rehabilitation designations
  - Affordable housing or other planning conflicts?
- Be strategic!
  - Funding and staffing limitations
  - Not every acre appropriate for farmland preservation





# PIG Annual Application

- Due December 15<sup>th</sup> each year
- Municipal / county coordination
- Updates to:
  - Target farm list / project area boundaries
  - Preservation goals
  - Funding assumptions
  - 1, 5 & 10 year goals
  - Policies
  - Preservation status
  - Ag. Advisory Committee / CADB member list
- Required submissions:
  - Annual application
  - Project area summary form
  - Digital GIS data



## Municipal Planning Incentive Grant APPLICATION

Municipality:  
County:

### STATE AGRICULTURE DEVELOPMENT COMMITTEE

Farmland Preservation Program  
Municipal Planning Incentive Grant Program  
2019 Planning Round

For information regarding the Planning Incentive Grant Program please reference the following statutes and regulations:

- Agriculture Retention and Development Act – N.J.S.A. 4:1C-11, et seq.
- Planning Incentive Grant Statute – N.J.S.A. 4:1C-43.1
- Farmland Preservation Program Regulations – N.J.A.C. 2:76
  - Municipal Planning Incentive Grant Regulations – N.J.A.C. 2:76-17A

For additional questions please contact the SADC at (609) 984-2504.

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# Other Preservation Tools

Contiguous clustering

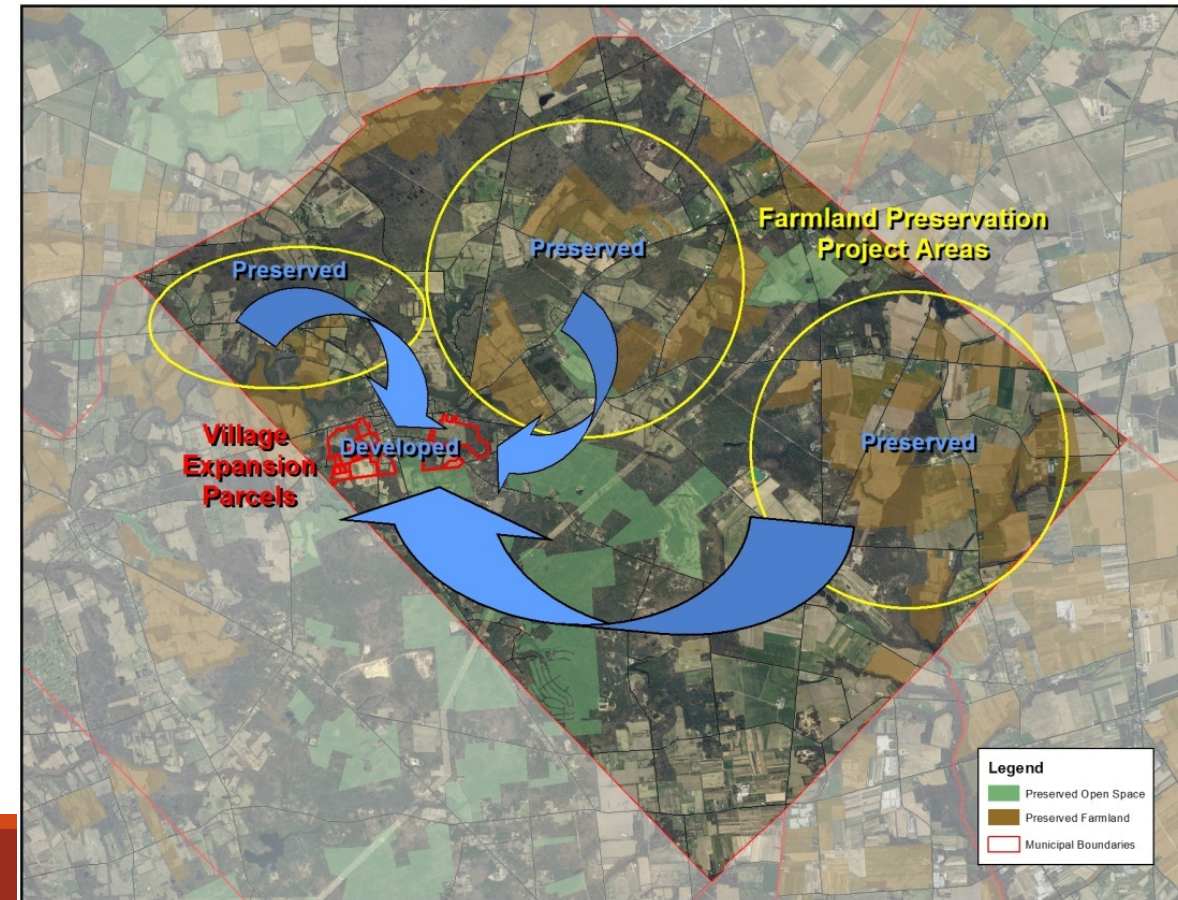
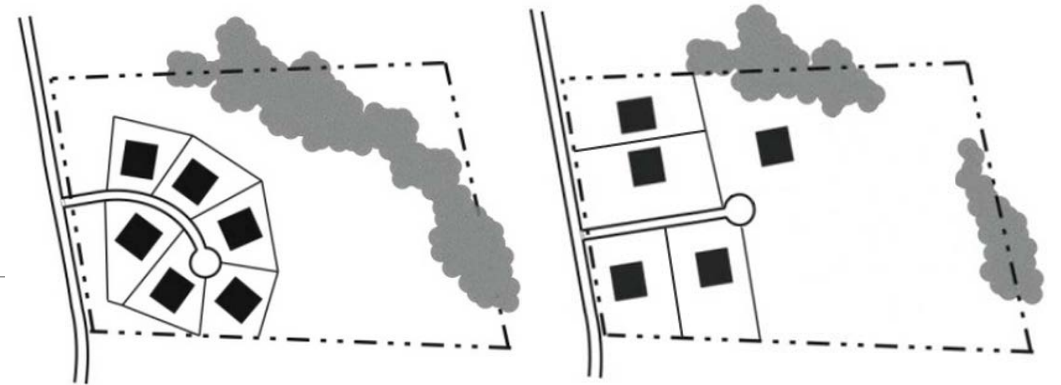
Lot size averaging

Open space subdivisions

Non-contiguous clustering

- Two or more non-adjacent parcels are treated as a single site for the purpose of clustering

Transfer of development rights





# Getting Your Farm Preserved

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Cindy Roberts, Development and Training Coordinator  
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# Farmland Preservation Programs

1. **State:** Direct Easement Program
2. **County:** Planning Incentive Grant (PIG) Program
3. **Municipal:** Planning Incentive Grant (PIG) Program
4. **Nonprofit Program**





# Finding a Home

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**STATE**

Focus is on large farms with prime soils that meet minimum acreage AND Quality Score requirements for a Priority farm.

**DIRECT EASEMENT**

**COUNTY**

If located in one of 18 counties participating in Planning Incentive Grant (PIG) program and is a targeted farm. Contact County Agriculture Development Board (CADB) for assistance.

**COUNTY PIG**

**MUNICIPAL**

If located in one of 48 municipalities participating in Planning Incentive Grant (PIG) program and is a targeted farm. Contact municipality for assistance.

**MUNICIPAL PIG**

**NONPROFIT**

Consider working with a nonprofit organization, particularly if not eligible for other programs. Contact nonprofit organization for assistance.

**NONPROFIT**



	CONTACT & FARM VISIT	APPLICATION	REVIEW	APPRAISAL	OFFER	AGREEMENT
SADC DIRECT EASEMENT PROGRAM	Contact SADC for assistance. Project Managers are available to meet on the farm.	Submit application and necessary paperwork to SADC.	SADC reviews, ranks, and selects applications 3 times a year, subject to funding availability.			
COUNTY & MUNICIPAL PLANNING INCENTIVE GRANT (PIG) PROGRAMS	Contact County or Municipal Coordinator. Suggest having a farm visit for assistance in completing application.	Submit application and necessary paperwork to county or municipality. County or Municipality submits the application to SADC.	SADC reviews, ranks the application. Draws attention to issues that will need to be addressed in the "Green Light" letter.	2 appraisals will be completed. Reviewed by SADC Review Appraiser for certification of fair market value by the SADC.	Accept or reject offer.	Enter into Agreement to purchase. Final approval resolutions are obtained.
NONPROFIT PROGRAM	Contact a nonprofit organization working in your area. Suggest having a farm visit for assistance in completing application.	Nonprofit submits application and necessary paperwork to SADC by annual deadline.	SADC reviews and ranks the applications. The SADC makes a recommendation for annual funding to nonprofit.			



# Leveraging Funding

- To assist in funding acquisitions, securing a grant from outside agencies is encouraged
  - Federal
    - USDA Natural Resources Conservation Service (NRCS) Agricultural Land Easement (ALE) and Wetland Reserve Easement (WRE) programs
  - Nonprofits
    - Open Space Institute (OSI)



# Minimum Eligibility Criteria

## Farmland less than or equal to 10 acres

## Farmland greater than 10 acres

Produce at least \$2,500 annually

At least 75% of the land or a minimum of 5 acres is tillable

At least 75% of the land, or a minimum of 5 acres, consists of soils that are capable of supporting agricultural or horticultural production

At least 50% of the land or a minimum of 25 acres is tillable

At least 50% of the land, or a minimum of 25 acres, consists of soils that are capable of supporting agricultural or horticultural production

The municipal zoning ordinance must permit at least one additional residential opportunity AND sufficient access and conditions for additional development

Lands less than 25 acres shall not contain more than 80% soils classified as freshwater or modified agricultural wetlands AND 80% soils with slopes in excess of 15%





# Farm Visit

- Getting to know the landowner and the land
  - Observe areas in active production
  - Walk-through to see current operation
  - Discuss landowner's plans for the future
  - Identify any non-agricultural uses
  - Identify any potential areas of concern
- Use data from visit to complete an accurate application



# Green Light Review Process

- SADC reviews the application for completeness and accuracy
- Resource mapping and quality scoring completed
- Review of appraisal order checklist
- Green Light Letter sent to landowner and partner





# Appraisals Conducted

- Two independent appraisals are required to determine the value of the development easement
- Fair market value is based on the difference between what a developer would pay for the land (before value) and what it is worth for agriculture (after value)
- SADC Review Appraiser recommends fair market value to the SADC
- SADC certifies value



# Offer and Contract

- With the certified value an offer is extended to the landowner
- If the offer is accepted, landowner enters into a contract to purchase the development rights
- If the offer is rejected, a landowner cannot re-apply for 2 years. There is generally NO COST to the landowner. The application is simply made inactive.





# Final Approval

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## State Direct Easement

- Schedules resolution for upcoming SADC meeting agenda

## Nonprofit

- Works with municipality and county for final approval resolutions
- Requests final approval from the SADC

## County and Municipality

- CADB approves a resolution supporting preservation and recommending funding
- Municipality approves resolution supporting preservation and funding, if necessary
- Freeholder Board approves a resolution authorizing acquisition and expenditure of county funds, if necessary
- Request final approval from the SADC



# Preparing for Closing

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Jessica Uttal, Acquisition Affairs Coordinator  
[jessica.uttal@ag.nj.gov](mailto:jessica.uttal@ag.nj.gov)





# What is needed for closing?

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- Order title and survey
- Provide necessary documents for:
  - Entities
  - Estates





# Identify the following on the Survey

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1. Point of Beginning with NAD coordinates
2. Acres and Square Footage
3. Adjacent Landowners
4. Surveyor Certification
5. Encroachments \*
6. Waterbodies \*
7. Structures \*
8. Non-agricultural Uses \*
9. Exception Areas \*
10. Existing Easements \*

\* = Include an acreage calculation







# Acres and Square Footage

- The following items should be stated in **acres** and **square feet**
  1. Area of individual lots
  2. Structures
  3. Waterbodies
  4. Encroachments
  5. Existing Easements
  6. Rights-of-way

Block	Lot	Twp	Gross Acreage	Acreage in ___ Road Road Right of Way	Acreage in Non/Severable Exception		Additional Acreage Notation as needed Subject to:	Acreage of Farmland Preservation Easement
							Acreage in overlap/clouded title	
							Acreage in ___ easements	
							Acreage in encroachment	
							Acreage in boundary water body	
TOTALS								





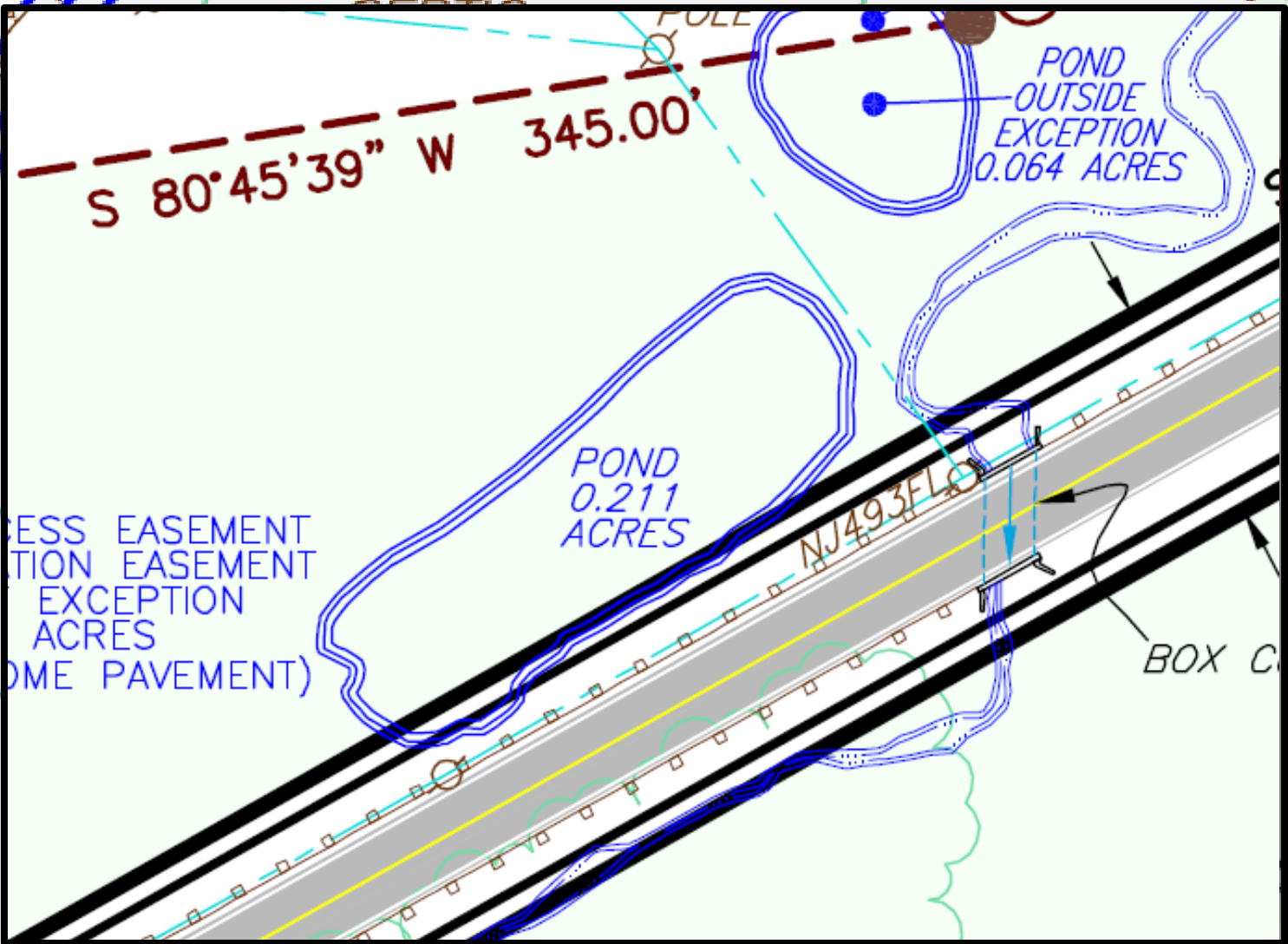
# Structures and Waterbodies

- Any permanent buildings, paved, or concrete improvements must be drawn and labeled with dimensions provided for each.
  - All residential units
  - All agricultural labor units (residences)
  - All farm buildings and other structures
- All waterbodies found on the boundary premises must be labeled (including square footage)
  - Identify watercourse





# EXCEPTION



S 80°45'39" W 345.00'

POND OUTSIDE EXCEPTION 0.064 ACRES

POND 0.211 ACRES

CESS EASEMENT  
TION EASEMENT  
EXCEPTION  
ACRES  
(HOME PAVEMENT)

NJ493 FLD

BOX C

09.14.21

KEY MAP  
USGS QUADRANGLE TRANQUILITY, NJ  
SCALE: 1" = 2000'

**NOTES**  
1. All dimensions shown are accurate to the precision shown.  
2. The owner of the land on which the proposed project is to be located is advised that the proposed project is subject to the following:  
3. The proposed project is subject to the following:  
4. The proposed project is subject to the following:  
5. The proposed project is subject to the following:

**BOUNDARY**  
1. The boundary of the project is shown on the attached map.  
2. The boundary of the project is shown on the attached map.  
3. The boundary of the project is shown on the attached map.  
4. The boundary of the project is shown on the attached map.

**MAP REFERENCES**  
1. The map of the project is shown on the attached map.  
2. The map of the project is shown on the attached map.  
3. The map of the project is shown on the attached map.  
4. The map of the project is shown on the attached map.

**CERTIFICATION**  
I, the undersigned, being a duly qualified and licensed Professional Engineer, do hereby certify that the above is a true and correct representation of the facts as shown on the attached map and that the same conform to the requirements of the State of New Jersey.  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

Professional Engineer No. 30142

DATE	PREPARED BY
10/14/2021	LJB
DATE	REVISION

L. J. BRILL & ASSOCIATES, P.A.  
200 SPANGLER VALLEY ROAD, SUITE 100  
BRIDGEVILLE, PA 15005  
TEL: 724-838-1100  
WWW.LJBRILL.COM

LAURA J. BRILL  
REGISTERED PROFESSIONAL ENGINEER, STATE OF PENNSYLVANIA, No. 000000000

# Encroachments and Non-agricultural Uses



- Encroachments must be identified (including square footage)
  - A detail of the encroachment may be necessary
- Non-agricultural uses must be identified (including square footage)





LOCATIONAL MAP  
 NEW PLYMOUTH, NEW JERSEY  
 1:50,000

AREA OF  
 NON-AGRICULTURAL  
 6,162SF± / 0.14AC±

POST & BOARD FENCE WITH WIRE ④

GRAVEL DRIVE

HEDGE

SEPTIC LIDS

6.7'

SEPTIC LIDO

4.4'

23.2'

POST & BOARD FENCE

1 STORY  
 MASONRY  
 BUILDING ②

1 STORY  
 MASONRY  
 BUILDING ①

2 1/2  
 STORY

FRAME  
 SHED ③

GRAVEL DRIVE

SHED  
 8.2'

BLOCK 794  
 LOT 5.02

IRF  
 (N.E. - 0.4'  
 FROM LINE)

PLANNING & ENGINEERING  
 1000 ...

DEPT. OF LAND AND PRESERVATION  
 STATE OF NEW JERSEY  
 TWT





# Exception Areas

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- When describing an exception area in the Metes and Bounds Description, always utilize the phrase “excepting thereout and therefrom.”
- Never use the phrase “subject to.” This includes the exception area within the premises
- The surveyor must provide a separate description for the exception area and label it Schedule C
  - It is suggested the surveyor consult with the landowner and the partners to accurately determine the location of the exception area





# Surveyor Certification

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Make sure you are using our current certification language!

I hereby certify to the State of New Jersey, State Agriculture Development Committee (*and to the County, Municipality, Property Owner, Attorney(s), Title Company, etc.*) and on their behalf, to their title insurer that this plan, survey and corresponding metes and bounds description are based on an actual land survey conducted under my immediate supervision and that this survey meets or exceeds the relative positional accuracy standards as adopted by ALTA and NSPS and in effect on the date of this certification. I further declare, to the best of my professional knowledge and belief, that this plan, survey and corresponding metes and bounds description are a correct and accurate representation of conditions existing on the site as of (*insert month & year*), subject to such notes as may appear hereon.

---

Signature of Surveyor

---

Date Signed

---

New Jersey Licensed Land Survey No.



# Title Review

Title  
Review

1. Review Schedule A
2. Review Closing Requirements/ Schedule B, Section 1 (B-1)
3. Review Insurance Exceptions/ Schedule B, Section 2 (B-2)
4. Draft the Deed of Easement





# Review Schedule A

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1. Verify that the Commitment Date has not expired.
2. The Title Policy Amount must agree with the total consideration for the development easement.
3. Verify that the appropriate party is insured.
4. The final/sealed legal description prepared by the surveyor must be incorporated as Schedule A.



# Review Schedule B-1

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1. Make sure the parties identified in the title commitment are consistent with the parties from the application through final approval.
2. Identify any outstanding liens, loans, or mortgages appearing on the title.
  - These items must be released, discharged, or subordinated to the Deed of Easement:
    1. The approved SADC Subordination Agreement should be provided to lenders as soon as possible for their review and acceptance
    2. Pay-off letters should be provided prior to closing if the loan is going to be paid off.





# Review Schedule B-2

## Title Review

- Recorded easements, restrictions, and grant covenants that do not pertain to the premises must be removed.
- Copies of all deeds, easements, rights of way, restrictions, or conditions of record must be included.



# Review Schedule B-2

Title  
Review

1. Utility Easements
2. Survey and Metes and Bounds
3. Rights of the Public in Any Roadway
4. Taxes/Farmland Assessment (roll-back taxes)
5. Use Restrictions
6. Access Easements/Restrictions



# Draft Deed of Easement



Page/Section/Schedule	Component
Page 1	Grantor(s) names shall match the title commitment Consideration shall match the title commitment Tax map reference
Section 13(a)	Number of residences (residential and agricultural labor)
Section 13(b)	Exception area requirements shall match what is stated in the Final Approval
Section 14	Residual dwelling site opportunities
Section 22	Cost-share percentage
Section 23	Condemnation ratio
Schedule A	Easement legal description.
Schedule B	Non-agricultural uses, if any
Schedule C	Exception areas







# Legal Review

- A final review by in-house SADC legal counsel
- Including:
  1. Resolutions and Approvals
  2. Survey Plat and Legal Description
  3. Title Commitment
  4. Deed of Easement
  5. Additional closing documents, as needed



# Delays

1. Refusal to remove exceptions.
2. Easements and Restrictions that conflict with the deed of easement
3. Incomplete entity documents
4. Lenders who do not accept the approved Subordination Agreement template
5. Outstanding estate taxes or other judgments





# Closing

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Jessica Uttal, Acquisition Affairs Coordinator  
[jessica.uttal@ag.nj.gov](mailto:jessica.uttal@ag.nj.gov)





# Closing

- All parties attend settlement at a designated time and place
- Sign the deed of easement and all appropriate closing documents
- Compensation is disbursed
- Farm is enrolled in Farmland Preservation Program



# Post-closing and Record Retention

- Provide a copy of the recorded deed of easement, title policy, and all documents signed at closing
- Municipal PIGs and Nonprofits: Submit appropriate documents for cost-share reimbursement





# Beyond

- If desired, a “Preserved Farmland” sign is installed on request
- Stewardship of land:
  - Obtain a farm conservation plan within 1 year of closing
  - Holder of the deed of easement shall perform annual monitoring for compliance and enforcement





# Q&A

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Visit us online:

<http://www.nj.gov/agriculture/sadc/>



# For more information or questions: CONTACT THE SADC

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Steven Bruder, PP, AICP: Planning Manager

Cindy Roberts: Development and Training Coordinator

Jessica Utall: Acquisition Affairs Coordinator

State Agriculture Development Committee  
([www.state.nj.us/agriculture/sadc.htm](http://www.state.nj.us/agriculture/sadc.htm))

Phone: 609 / 984 – 2504

