

## **IV. MORRIS COUNTY'S FARMLAND PRESERVATION PROGRAM**

### **A. Agricultural Development Areas**

The Morris County Agriculture Development Board (CADB) developed the Morris County Agriculture Development Area (ADA) based upon both statutory and county criteria. The ADA designates land that has the potential for long-term agricultural viability. This agricultural use would be the preferred, but not the exclusive, use.

#### *Statutory Criteria:*

- The land must be agriculturally productive or have future production potential. Also, zoning for the land must permit agriculture or permit it as a nonconforming use.
- Suburban and/or commercial development must be reasonably non-existent in the proposed ADA area.
- The land must comprise no greater than 90% of the agricultural land mass of the County.
- Any attributes deemed appropriate by the Board must also be incorporated.

Morris County initially established their ADA in 1984. As part of this Comprehensive Farmland Preservation Plan, the Morris CADB is updating the ADA, deciding to designate land on a parcel basis. The original ADA was not specific to parcels, which left the map up to interpretation on its specific boundaries. Please see the original ADA map (Map C) at the back of this report. The Morris CADB feels it is in the best interest of the program to have a parcel specific delineation of its ADA. Accordingly, the Morris CADB's policy was recently amended to address this approach.

The current criteria for lands to be included in the Morris County Agricultural Development Area are the following:

1. Permanently Preserved Farmlands.
2. Lands in Eight Year Farmland Preservation Programs
3. Lands pending permanent farmland preservation by a non-profit, Morris County or the State Agriculture Development Committee.

If none of the above has been fulfilled, then the following criteria must be met:

- a. Land that is at least 10 acres.
- b. Land that receives farmland assessment.
- c. Lands comprising the premises are adjoining and have common ownership.
- d. The land must be at least 50% tillable, or have at least 25 tillable acres.
- e. Lands less than 25 acres in size shall not contain more than 80 percent soils with slopes in excess of 15 percent as identified on a USDA, Natural Resource Conservation Service SSURGO version 2.2 or newer soils map.
- f. The land is located in a municipality that has adopted a Right to Farm Ordinance.

## **B. Farmland Preserved to Date by Program and Municipality**

The Morris County Farmland Preservation program began with the permanent preservation of the Cupo Farm, a 14-acre farm in Washington Township, on December 28, 1987.

Since 1987, an additional 99 farms have been permanently preserved. As of December 2007, 100 farms totaling 6,495 acres have been permanently preserved (see Appendix B). Appendices C and D chart the progress of the Morris County Farmland Preservation effort. Another 11 farms are currently in various stages of the easement purchase program, which will raise the total permanently preserved acreage by the end of 2008 to over 7,169 acres in 13 municipalities (see Appendix E).

Towns with permanently preserved farms include: Boonton Township, Chester Borough, Chester Township, Harding Township, Lincoln Park Borough, Long Hill Township, Mendham Borough, Mendham Township, Montville Township, Mt. Olive Township, Randolph Township, and Washington Township (see table below). Washington Township leads in the number of preserved acres in the county. This is not surprising since Washington Township ranks 1<sup>st</sup> in farmland acreage in the county with 11,165 acres (see table below). Chester Township is second in the county in the number of preserved acres and ranks 2<sup>nd</sup> in farmland acreage with 3,880 acres.

Municipalities with pending applications include: Chester Township, Harding Township, Mendham Borough, Mendham Township, Mt. Olive Township, Rockaway Township and Washington Township.

Another six farms, consisting of over 529 acres, are currently enrolled in the Eight-Year Program. They are located in Chester Township, Mendham Borough, Mount Olive Township, and Washington Township.

The Farmland Preservation Program is administered on a statewide basis by the State Agriculture Development Committee (SADC). The SADC provides grants for local government units to pay up to 80 % of costs of acquisition of development easements or fee simple titles. The SADC also directly acquires farms and development easements.

In 2007, the SADC adopted new and amended rules that streamlined the farmland preservation process. The proposed rules establish a new County Planning Incentive Grant Program that will enable participating counties to accept and approve applications from landowners year-round rather than once a year as is the case under the County Easement Purchase Program.

The traditional County Easement Purchase Program remains available to the counties; however the SADC is encouraging the participation in the new County Planning Incentive Grant Program, which offers a number of advantages to counties and landowners. Among those advantages are shortening the timeframe from landowner application to closing, eliminating direct competition for funding among varied types of farms from different regions of New Jersey, encouraging a

comprehensive farmland preservation planning approach at the county level, and eliminating duplication of work between the SADC and the counties.

In addition to the new County Planning Incentive Grant Program, landowners interested in preserving their farmland can take advantage of other programs, namely, the County Easement Purchase Program, the Fee Simple Program, the Direct Easement Program, the Eight-Year Program, and the Non-Profit Program.

**Preserved Farmland in Morris County – by Municipality**

Municipality	Town Size (Acres)	Acres of Farmland	Preserved Farmland Acres	Percent of Town is Farmland	Percent of Farmland Preserved
Washington Twp.	28,676	11,165	4,345	38.9%	38.9%
Chester Twp.	18,701	3,880	1,073	20.7%	27.7%
Mt. Olive Twp.	20,031	2,991	190	14.9%	6.3%
Harding Twp.	13,162	1,658	267	12.6%	16.1%
Mendham Twp.	11,534	1,561	92	13.5%	5.9%
Boonton Twp.	5,428	1,249	141	23.0%	11.3%
Mendham Borough	3,827	1,039	29	27.1%	2.8%
Randolph Twp.	13,537	818	147	6.0%	17.9%
Montville Twp.	12,233	314	27	2.6%	8.6%
Lincoln Park Borough	4,426	175	77	4.0%	43.8%
Chester Borough	1,019	165	53	16.2%	32.4%
Long Hill Twp.	7,701	104	54	1.4%	51.5%
<b>Total Preserved Farmland Acres: 6,495</b>					

1. County Easement Purchase Program

The best known program is the County Easement Purchase Program. An interested landowner voluntarily agrees to sell to the CADB the development rights to his or her property, and a permanent deed restriction is then placed on the land. A landowner's agreement to accept permanent agricultural deed restrictions in return for compensation is known as "sale of development easement." Landowners retain ownership of (and may even choose to sell) preserved land, with the new deed restriction ensuring that the land will not undergo non-farm development. The county and state share easement purchase costs, which represent the difference between a property's farm (or deed-restricted) value and its full market value. Land value is determined by appraisal. Most farms have entered the Farmland Preservation Program through the sale of development rights. However, Morris County intends to utilize the SADC's new County Planning Incentive Grant Program and will phase out of participation in the County Easement Purchase Program.

Through this program Morris County has preserved 82 farms covering 5,491 acres.

## 2. County and Municipal-level Planning Incentive Grants

The State Agriculture Development Committee (SADC) recently adopted rules permitting the creation of a county-wide Planning Incentive Grant program. Following the recommendations of a study group formulated by the SADC, this new “County PIG” program should greatly enhance the ability for CADBs to work at a pace best suited to their individual abilities and timeframes. While maintaining some benchmark dates for certain steps in the farmland preservation process, the SADC has established a mechanism whereby CADBs can best establish a work flow suited to their individual needs. Additionally, the SADC has established a performance-based system which will reward counties that complete preservation projects in a timely manner. This approach is similar to the approach employed by the current municipal-level PIG program.

The SADC established the municipal-level Planning Incentive Grant (PIG) Program in 1999 with Morris County participating in the first round of approved PIG applications. This program works in much the same fashion as the new county-wide PIG program, but with a smaller area of concentration. Unlike other counties where municipal governments oversee the administration and acquisition of farms in their municipal-level PIG, Morris County serves in this capacity. Keeping applications at the county-level enables better communication with the SADC and concentrates the expertise within one office per county.

Morris County has five PIG applications with the chart below illustrating the success of each application.

**Farms Preserved with Planning Incentive Grant Monies**

PIG Area	Farms	Acres	SADC Dollars
Long Valley; Washington Twp.	12	573	\$4,187,842
Black River; Washington Twp.	3	150	\$1,435,575
Chester Twp.	1	27	\$632,338
Rockaway Valley; Boonton, Denville & Rockaway Twps.	0	0	0
Mendham Valley; Mendham Boro & Twp.	2	53	\$1,603,304
Totals:	18	803	\$7,859,059

Through this program Morris County has had 18 farms preserved covering 803 acres.

## 3. SADC Fee Simple Program

Under the Fee Simple Purchase Program, interested landowners sell their land in fee simple title, relinquishing all rights to the land. Land value is determined by appraisal. The county and state share purchase costs. The farm, with agricultural deed restrictions in place that ensure its permanent preservation, is sold at a public auction. The Fee Simple Program provides other farmers with opportunities to purchase land at reasonable prices that reflect only farmland values, not development potential. This program is administered by the SADC.

Through this program Morris County has preserved one farm covering 185 acres.

#### 4. SADC Direct Easement Program

Under the Direct Easement Program, landowners sell the development rights of their farmland directly to the SADC. To participate in this program, farms must be priority farms that are strategically located. Priority farms are those that meet or exceed the county average in size and in score. The average size of a farm in Morris County is 41 acres. In evaluating farms, the SADC considers factors such as soil quality, percentage of tillable acres, proximity to other preserved farms, and local support for agriculture. The SADC accepts applications year-round. The SADC negotiates a purchase price with the landowner based on two independent appraisals.

Through this program Morris County has preserved one farm covering 69 acres.

#### 4. Eight-Year Program

Under the Eight-Year Program, landowners voluntarily restrict development on their land for a period of eight years. There are two types of eight-year programs: municipally approved programs, which require a formal agreement between the landowner, county and municipality, and non-municipally approved programs, which require an agreement between only the landowner and county. Landowners apply to the CADB. Although they receive no direct compensation, landowners enrolled in both programs are eligible to receive grants for up to 50% of the cost of conservation projects such as irrigation systems, erosion control measures, underground or permanent open drainage systems, windbreak restoration, contour farming, terrace systems and more. The following is a summary of benefits for enrolling in the programs:

##### *Non-Municipally Approved*

- 50 percent cost-share on a soil and water conservation project.
- Use of farm structure designs approved by the State Agriculture Development Committee without requiring approval from an architect or engineer.
- Additional points towards an easement purchase application (See Appendix G).

##### *Municipally Approved*

- 50 percent cost-share on a soil and water conservation project.
- Use of farm structure designs approved by the State Agriculture Development Committee without requiring approval from an architect or engineer.
- Protection for 11 years from any municipal zoning changes.
- Protection from a public body acquiring lands through eminent domain, unless the acquisition is for public safety reasons.
- Protection from nuisance complaints regarding farm operations.
- Exemption from emergency water or energy restrictions.
- Additional points towards an easement purchase application (See Appendix G).

Currently there are three farms covering 33.5 acres enrolled in the eight year program that are not currently permanently preserved. Many more farms enrolled in the eight year program are now permanently preserved. See Appendix M for more details.

## 5. Grants to Non-Profits

The SADC provides grants to nonprofit organizations to fund up to 50 % of the fee simple or development easement values on farms to ensure their permanent preservation. Non-profit organizations may apply to the SADC. Notice of available funds is published in the *New Jersey Register*. Applications must be submitted within 90 days of that notice. As part of the application process, non-profit groups must publish a notice that an application has been filed and notify the municipality and CADB.

Through this program Morris County has one farm pending preservation covering 124 acres.

### **C. Consistency with SADC Strategic Targeting Project**

The SADC's Strategic Targeting Project, from 2003, establishes a methodology to prioritize farmland preservation investments based on specific criteria. The project has the following three primary goals:

1. Coordinate farmland preservation/agricultural retention efforts with proactive planning initiatives.
2. Update and create maps to target preservation efforts
3. Coordinate with open space, recreation and historic preservation efforts.

The preparation of Morris County's Farmland Preservation Plan is the guiding document for implementing the SADC's strategic targeting goals. The farms and areas targeted for preservation, focus on prime agricultural soils and limited public growth oriented infrastructure. Additionally, the mapping contained in this report will be utilized to illustrate the locations of future farmland preservation efforts. Coordination efforts with other preservation programs, such as open space and historic preservation are discussed in Section E of this chapter.

### **D. Eight Year Programs**

As described above, under the Eight-Year Program, landowners voluntarily restrict development on their land for a period of eight years. Unfortunately, the benefits of the eight year program have not attracted many farmland owners in Morris County. The SADC should find ways to increase incentives for farmers to enroll. The Morris CADB provides points for easement purchase applicants who are enrolled in eight year programs to try and incentivize the program.

Six farms, consisting of roughly 529 acres, are currently enrolled in the Eight-Year Programs. They are located in Chester Township, Mendham Borough, Mount Olive Township, and Washington Township. However, of this total, 495 acres are permanently preserved.

## **E. Coordination with Open Space Preservation Initiatives**

The Morris County Farmland Preservation Program actively coordinates its acquisition efforts with open space efforts. Structurally, the open space, historic and farmland preservation programs are coordinated within one office of county government. The Preservation Trust Division is within the Department of Planning, Development and Technology.

The Preservation Trust Division has administrative functions over the Morris County open space trust fund programs, which has the following four main components:

1. Farmland Preservation Program
2. Historic Preservation Program
3. Open Space - Grants to Municipalities and Non-Profits
4. Open Space - Acquisitions by County agencies

This consolidated division enables seamless information sharing among three of the four acquisition components of the open space trust fund. The fourth program, acquisitions by County agencies is also coordinated through the Preservation Trust Division. The funding for county open space acquisitions, by either the Morris County Municipal Utilities Authority or the Morris County Park Commission, is through the county open space trust fund. The project tracking and release of funds for any purchase are administered by the Preservation Trust Division.

In addition, Preservation Trust staff regularly attends the Morris County Park Commission's Land Acquisition Committee in order to share information and provide coordination of efforts. Similar communication is held with the MCMUA in a less formal manner.

The Preservation Trust Division director also serves as the Director of the Morris County Agriculture Development Board. This organization works extremely well to coordinate land acquisition efforts in Morris County.

Whenever a county agency or municipality is seeking to acquire open space lands that are currently farmed, communication is encouraged between the agencies involved and the Morris County Agriculture Development Board. Since most non-profit and municipal open space acquisitions utilize funds from the Morris County Open Space grant program, there is an open dialogue to evaluate the purchase and determine if the project would be better suited for farmland preservation. The Morris CADB has a representative serve on the County Open Space Trust Fund Committee to further ensure that projects are evaluated in the best interest of agriculture in Morris County.

Additionally, the Morris CADB will continue to work with other agencies to incorporate open space and trail network connections. This coordination is strictly on a voluntary basis with the landowner's consent. As some public access projects can hinder agricultural pursuits, a landowner must agree to participate. There are several instances of this collaborative preservation effort occurring in Morris County:

- In 1997, a 165 acre farm in Washington Township, owned by the Maier Brothers was

preserved. The farm adjoins the Musconetcong River. The Maier Brothers preserved 135 acres of the farm under a farmland preservation deed of easement. The landowners also agreed to sell in fee simple, 25 acres along the river to the State of New Jersey's Green Acres program. The Green Acres program was interested in adding fishing access to the trout production river. A fence separates the public fishing access from the fields that are in vegetable production.

- Morris County is currently working with Mount Olive Township on a project called "Charters Farm." This 66 acre farm, currently owned by Mount Olive Township, will incorporate a public access trail along one border of the farm. This piece is an important connector for a county-wide trail called "Patriot's Path." The Morris County Park Commission will be the manager of the public trail. Once preserved through the New Jersey Farmland Preservation Program, the farm will be sold at auction.
- A similar arrangement to Charters Farm was concluded in Washington Township in 2002. In this case, the "Kramer" Farm was preserved by placing farmland agricultural deed restrictions on 64 acres of a 92 acre tract. The remaining acreage was set aside in a conservation easement held by Washington Township, which permits agricultural production. In addition, there was a public access/equestrian trail easement that was created along the perimeter of the property.

These are a few examples of how the Morris County farmland preservation program has coordinated with open space initiatives.

## **F. Farmland Preservation Program Funding Expended to Date by Source**

The Morris County Preservation Trust Fund was established in 1992. Collection of funds for the Trust Fund commenced on July 1, 1993 with a tax equal to one-half cent per \$100 of total county equalized real property valuation. The County Freeholders review the tax rate annually and may set the tax anywhere from \$0.00 to \$0.05. The levy for 2008 has been set at 4.0 cents.

The Fund is divided into six areas as follows:

- 20% to the Morris County Park Commission
- 5% to the Morris County Municipal Utilities Authority
- 25% to the Morris County Agriculture Development Board for farmland preservation projects.
- 25% to municipalities or non-profit organizations for open space preservation projects.
- 20% to discretionary projects within any of the above categories. To date, these funds have been earmarked for open space grants to municipalities and non-profit organizations.
- 5% to ancillary county costs associated with the preservation of open space, farmland and historic resources, to purchase lands for wetland creation, restoration, or enhancement, and to preserve historic resources.

The regulations governing the Trust Fund allocate 25% of the fund exclusively for farmland preservation purposes. This results in the Farmland Preservation Program being allocated approximately \$11,000,000 for 2007. This enables Morris County to work with the State Agriculture Development Committee (SADC) to purchase easements worth over \$16 million. The following table summarizes the county funding for the Farmland Preservation Program.

**Funding Source**  
**Morris County Preservation Trust Fund**  
**Farmland Preservation Allocation (25% of total)**

Year	25% Allocation
1994	\$ 738,711
1995	\$ 1,040,338
1996	\$ 1,656,385
1997	\$ 2,000,000
1998	\$ 2,100,000
1999	\$ 3,000,000
2000	\$ 3,900,000
2001	\$ 4,300,000
2002	\$ 5,000,000
2003	\$ 6,250,000
2004	\$ 8,230,000
2005	\$ 9,330,000
2006	\$10,088,000
2007	\$ 11,033,000
2008*	\$ 11,033,000

\* Estimated Allocation

As of December 2007, 6,495 acres of farmland have been preserved in Morris County at a total cost of \$120,419,479.50. Morris County's share of this total is \$55,584,094. The SADC's share of this total is \$63,311,853. The remaining \$1,523,532 was contributed by local governments. No funds have been provided by non-profits. Prior to the passage and implementation of the open space trust fund, Morris County funded farmland preservation through capital accounts (bonding). As the funding available through the trust fund increased, bonding for farmland preservation purposes lessened. The Morris County Board of Chosen Freeholders support for the program has been resolute. No request for funds for farmland preservation purposes has ever been denied.

Within the County Planning Incentive Grant rules of the SADC, there is a limitation placed on funds that any one county may receive each year. For State Fiscal Year 2009 (July 2008 thru June 2009), the SADC has placed a \$5 million limit for funds to any one county. This funding limit will be established annually by the SADC, based on funding availability. This arbitrary funding limit may hinder preservation efforts in Morris County given the extremely high per acre cost of acquisition as compared to other counties.

## **G. Monitoring and Stewardship of Preserved Farmland**

Annually, Morris CADB staff conducts its monitoring of all preserved farms (100 farms as of December 2007). The SADC's Regulation N.J.A.C. 2:76-6.18A(d) requires the Morris CADB to perform annual onsite inspections of all permanently preserved farms. The purpose of the inspection is to ensure that each farm is in compliance with the terms of the Deed of Easement. Due to the growing number of preserved farms, the monitoring program entails more than six weeks of staff's time to coordinate and conduct the onsite inspections. Further, there is a significant time commitment made by staff to remedy any issues or potential deed of easement violations as a result of the site inspections. The Morris CADB recognizes the importance of the "partnership" between the landowner and the county with the farmland preservation program, and strives to maintain a positive working relationship. To that end, the Morris CADB developed a policy for addressing possible easement violations. See Policy P-10 in Appendix F for the approach taken to remedy possible violation issues.

As more farms become preserved, more staff time will be needed to complete the task each year.

Another commitment made by the Morris CADB is towards the review of proposed new uses on preserved farms and the interpretation of the deed restrictions. This is a very important role that has proven to be an important time investment. As more preserved farms are sold, new ideas and uses for preserved farms are being sought. In order to assist the public who may be seeking to purchase a preserved farm as well as providing a means for the Morris CADB to review proposals objectively, Policies P-11 and P-12 have been implemented (See Appendix F). These two policies enable the public to understand how the Morris CADB renders decisions as well as if a particular uses is acceptable under the terms of the deed of easement.

With the maturity of the farmland preservation program, annual monitoring and stewardship issues have become the predominant activity for the Morris CADB. The conscientiousness of the board and staff for this purpose is very important to ensure the protection of an investment of public funds in excess of \$100 million.

## **H. Coordination with TDR Programs**

A discussion of the TDR Program can be found in Chapter III of this Plan, "Land Use Planning Context," Section G, "Municipal and Regional TDR Opportunities." As discussed in the referenced section, TDR Programs are currently not a viable option for preserving farmland in Morris County. If a TDR program does prove viable, the Morris CADB is willing to explore this as an option for the program.