

V. FUTURE FARMLAND PRESERVATION PROGRAM

To comply with the SADC's regulations concerning public input in the development of this plan, the Morris CADB conducted a public meeting on August 9, 2007 to gather input from the public. While done to comply with the SADC's rules, this meeting was very well attended and many important issues were discussed and proved to be very worthwhile in the preparation of this plan. The following groups were represented: farmers, both full and part-time, tenant farmers, preserved farm owners, farmers in the Highlands Preservation Area, environmental organizations and other non-profit groups, agricultural support industry and concerned citizens. A summary of all comments of that meeting can be found in Appendix L. A further public hearing on this plan will be held prior to its adoption in early 2008.

A. Preservation Goals

Based on past preservation statistics, the average per acre easement cost in Morris County is \$18,540. The State Agriculture Development Committee (SADC) provides cost share grants to counties for purchase of development easements. Pursuant to N.J.A.C. 2:76-6.11, the SADC provides grants of up to 80% of the easement cost. Based on past preservation statistics, Morris County, on average, receives a 60% cost share grant from the SADC.

Based on the following factors, the Morris CADB can annually purchase development easements on approximately 862 acres:

- Historic average per acre easement cost in Morris County
- Average Morris County share for easement purchase
- A limit of \$5 million of SADC funds per year
- Current annual Morris County funding allocation of \$11 million

As a result, the Morris County Comprehensive Farmland Preservation Plan could establish the following one, five, and ten year acreage goals for permanent farmland preservation:

One Year Goal:	862 acres
Five Year Goal:	4,310 acres
Ten Year Goal:	8,620 acres

There are two other trends that will affect the preservation goals. First, the value of land in Morris County has been increasing at a substantial rate. While the average per acre easement cost in Morris County is \$18,539, the average per acre easement cost over the last five years is \$29,532. Second, the majority of farmland preservation has occurred in Washington Township. Easement values have traditionally been lower in Washington Township than in other municipalities in the county. See the table below.

Easement Costs by Municipality

Municipality	Farms	Acreage	Per Acre	Total
Boonton Twp.	3	141.10	\$ 15,052	\$ 2,123,945
Chester Boro.	1	53.42	\$ 31,500	\$ 1,682,761
Chester Twp.	14	1,073.27	\$ 29,571	\$ 31,738,419
Harding Twp.	7	266.61	\$ 85,629	\$ 22,829,151
Lincoln Park Boro.	2	76.64	\$ 64,276	\$ 4,926,063
Long Hill Twp.	1	53.60	\$ 13,656	\$ 732,054
Mendham Boro.	1	29.38	\$ 12,581	\$ 369,667
Mendham Twp.	2	92.39	\$ 18,112	\$ 1,673,520
Montville Twp.	1	26.93	\$ 11,320	\$ 304,892
Mount Olive Twp.	3	189.81	\$ 16,389	\$ 3,110,946
Randolph Twp.	3	146.75	\$ 27,761	\$ 4,073,916
Washington Twp.	62	4,345.28	\$ 10,781	\$ 46,847,067
Total:	100	6,495.19	\$ 18,538	\$ 120,412,407

During the last five years; however, more preservation has occurred outside of Washington Township. Along with rising land values, this trend has contributed to the higher per acre easement values. Both trends will adversely affect Morris County’s acreage goals over the next ten years. Considering the average easement cost over the last five years, more realistic goals are the following:

One Year Goal:	542 acres
Five Year Goal:	2,710 acres
Ten Year Goal:	5,420 acres

B. Project Area Summaries

The Morris CADB has spent months analyzing each farmland assessed parcel in Morris County. Parcels of land that were in common ownership were grouped into “farms.” Each farm in Morris County was then analyzed based on its soils, tillable acreage and size. Farms meeting the minimum criteria for preservation per the Morris CADB’s ranking system (contained in Policy P-8 and found in Appendix G) as well as the SADC were identified. Project area boundaries were then drawn to include all farms eligible for preservation, as well all Eight Year farms, pending applications and permanently preserved farms. These maps are contained at the back of this report.

The Morris CADB does not give priority to one project area over another. An application for preservation from any part of Morris County will be given equal consideration. The following table summarizes the agricultural land characteristics of each project area.

	Acres	Total Acres in Project Area	Percent of Project Area
Northeast Project Area		40,191	100%
Total Preserved Farmland	201	40,191	0.50%
Pending Farms	92	40,191	0.23%
Compatible Open Space	13,782	40,191	34.29%
Eight Year Programs	0	40,191	0.00%
Farms Eligible for Preservation	403	40,191	1.00%
Total:	14,478	40,191	36.02%
	Acres	Total Acres in Project Area	Percent of Project Area
Central Project Area		61,567	100%
Total Preserved Farmland	640	61,567	1.04%
Pending Farms	193	61,567	0.31%
Compatible Open Space	19,728	61,567	32.04%
Eight Year Programs	8	61,567	0.01%
Farms Eligible for Preservation *	1,266	61,567	2.06%
Total:	21,835	61,567	35.46%
	Acres	Total Acres in Project Area	Percent of Project Area
West Project Area		67,583	100%
Total Preserved Farmland	6,129	67,583	9.07%
Pending Farms	422	67,583	0.62%
Compatible Open Space	15,410	67,583	22.80%
Eight Year Programs	0	67,583	0.00%
Farms Eligible for Preservation	4,983	67,583	7.37%
Total:	26,944	67,583	39.87%

* The Paschal Farm (Block 1502, Lot 1) is currently not eligible for preservation because agriculture is not a permitted use in Mine Hill Township. The Morris CADB is working with the Township to address this issue.

C. Minimum Eligibility Criteria

With the SADC's July 2, 2007 rule adoption creating minimum criteria for a farm to be eligible for preservation, the Morris CADB recently amended its policy P-8 "Easement Purchase

Program Eligibility and Ranking System” to comport with the new minimum standards.

Accordingly, the Morris CADB has established that an application shall meet the following criteria:

- a. The land must be at least 10 acres.
- b. The land must be receiving farmland tax assessment.
- c. The land must be at least 50% tillable, or have at least 25 tillable acres.
- d. 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.
- e. The application receives a minimum score of 25 based on the Morris CADB Ranking System, per Attachment Policy: P-8.

D. County Ranking Criteria

The Morris CADB’s policy P-8 “Easement Purchase Program Eligibility and Ranking System” is employed to determine if a farm is eligible for preservation. However, meeting the minimum eligibility score does not guarantee a farm will be selected for preservation. The Morris CADB must assess the farm and determine if there is a high likelihood of future agricultural viability. This analysis is difficult to determine quantitatively. The Morris CADB conducts a site visit to each application received with the landowner or farm operator questioned about the operation and future plans for the farm.

E. County Policies Related to Farmland Preservation Applications

The Morris CADB has taken the approach of adopting formal policies for a number of subjects related to the farmland preservation program and board administration. This enables the public to understand board decision-making and administrative processes. All board policies are found on the website at: <http://www.morrispreservation.org/Policies.htm>. Several of the fifteen adopted policies relate directly to easement purchase applications. They include:

- P-1: Agricultural Labor Housing
- P-2: Residual Dwelling Site Opportunity
- P-3: Application Fee
- P-4: Imminence of Change
- P-5: Exceptions
- P-8: Easement Purchase Program Eligibility and Ranking System

All Morris CADB policies are contained in Appendix F.

The SADC’s and Morris CADB’s policies regarding housing are necessary to ensure compliance with the provisions of the Deed of Easement.

- a. Agricultural Labor Housing

With regard to agricultural labor housing, pursuant to paragraph 14 of the Deed of Easement, “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.”

Morris CADB Policy: P-1: “Agricultural Labor Housing,” was originally adopted on July 20, 2000 and revised on August 10, 2006. The policy mirrors the language of the Deed of Easement; it states who may live in an agricultural labor housing unit. The policy also states that agricultural labor housing units may be constructed only if approved by both the CADB and the SADC. During the decision-making process, the CADB and the SADC must review who will occupy the agricultural labor unit, how the occupants will be involved in the farming operation, and whether the agricultural operation justifies the construction and use of an agricultural labor unit.

b. House Replacement

With regard to house replacement, pursuant to paragraph 14 of the Deed of Easement, “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:

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.”

Morris CADB Policy: P-11: “Replacement of Residence on Preserved Farmland,” was originally adopted on December 12, 2002. The Morris CADB policy outlines the procedure for requesting the replacement of a residence on preserved farmland and establishes guidelines for reviewing such requests. This policy does not apply to residences constructed on exception areas. The policy also states that any residence replacement must also be approved by the SADC.

c. Residual Dwelling Site Opportunities (RDSO)

The Morris CADB does not permit residual dwelling site opportunities. However, at the onset of the program, RDSOs were permitted. Accordingly, the Morris CADB adopted Policy: P-2, “Residual Dwelling Site Opportunity,” on July 20, 2000. The policy was amended on January 10, 2008. The policy states that RDSO shall not be permitted and that all requests for RDSOs shall be denied. However, farms, which were preserved with an RDSO, shall comply with State Agriculture Development Committee’s Policy P-31, “Exercising a Residual Dwelling Site Opportunity”. A copy of SADC’s Policy P-31 is attached to Morris CADB’s Policy: P-2 and may be found in Appendix F. The SADC’s policy outlines the procedures for exercising RDSOs. The SADC considers several factors during its decision-making process, including, but

not limited to: the present agricultural use of the farm, the impact of the RDSO on the agricultural use, who will reside in the residential unit, how will the occupants be involved in farm site activities, and how many residential buildings currently exist on the premises.

d. Division of Preserved Farmland

With regard to the division of preserved farmland, the Deed of Easement states in paragraph 15 that “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.”

Morris CADB Policy: P-7: “Division of Permanently Preserved Farmland,” was adopted on May 11, 2000 and revised on August 10, 2006 and may be found in Appendix F. The policy states that it is the intent of the Morris CADB to discourage divisions of preserved farmland. The CADB’s objective is to preserve large masses of viable agricultural land. The CADB recognizes that agricultural parcels may become less viable if reduced in size. However, the CADB finds it necessary to have a policy, which outlines the procedure for requesting a division of a preserved farm and provides guidelines for reviewing requests.

Although the SADC has such a policy, Policy P-30-A, which applies to farmland preserved with state funds, the CADB finds it necessary to have its own policy, which applies to farmland preserved with state funds, as well as, farmland preserved exclusively with county funds. The policy states that the CADB will carefully consider the criteria contained in its policy to evaluate whether a preserved farm should be divided. The CADB criteria will determine whether the division is for an agricultural purpose and whether the resulting parcels are agriculturally viable.

The Morris CADB policy reiterates the Deed of Easement’s definition of “*agriculturally viable parcel*,” which means a parcel that 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. In order to permit a division of a preserved farm, the CADB must find that that division is for an “agricultural purpose” and that it will result in “agriculturally viable” parcels. The policy also contains an application form, which must be submitted with a landowner’s request for a division.

The SADC policy outlines the application process for a division of a preserved farm and lists the criteria used by the SADC to make its determinations. In order to permit a division of a preserved farm, the SADC must find that that: 1) the division has been approved by the CADB, 2) the division is for an “agricultural purpose” and that 3) it will result in “agriculturally viable” parcels. In order to The SADC considers several factors during its decision-making process, including, but not limited to: current and proposed uses of the premises, purpose of the proposed division, the effect of the division on the existing agricultural operation, who resides on the premises, quality and types of soils, farm boundaries, farm size, etc.

e. Approval of Exception Areas

As stated above, the Morris CADB does not permit RDSOs. Instead, if a landowner wishes to retain an option to construct a residence at some point following the preservation of the farm, the Morris CADB encourages a non-severable exception. Non-severable exceptions may also be encouraged if the landowner operates a non-agricultural commercial business on the farm premises and does not wish to encumber the use by the Deed of Easement. The Morris CADB's Ranking System (Policy: P-8), allows one non-severable exception on an application to sell a development easement. A landowner requesting one non-severable exception is not penalized. However, if the landowner's application requests more than one non-severable exception, five (5) points are deducted from the final score for each non-severable exception. The Morris CADB strongly discourages severable exceptions. For each severable exception, ten (10) points are deducted from the final score.

F. Funding Plan

As stated in Section A above, the following are the Morris CADB's preservation goals:

One Year Goal: 542 acres
 Five Year Goal: 2,710 acres
 Ten Year Goal: 5,420 acres

The cost projections associated with one, five, and ten year goals are as follows:

Year	Acquisition Goal (Acres)	Total Projected Cost	Estimated Local Cost Share	Estimated County Cost Share	Estimated State Cost Share	Other Contributions
1	542	\$16,006,344	\$0	\$11,006,344	\$5,000,000	\$0
5	2,710	\$80,031,1720	\$0	\$55,031,720	\$25,000,000	\$0
10	5,420	\$160,063,440	\$0	\$110,063,440	\$50,000,000	\$0

As discussed in Section F of Chapter IV, the funding for the farmland preservation program since the late 1990's has been exclusively the Morris County Open Space Trust Fund. Originally established by the Morris County Board of Chosen Freeholders in 1993, the Trust Fund's annual collection has increased the funds available for farmland preservation purposes. The regulations governing the Trust Fund allocate 25% of the fund exclusively for farmland preservation purposes. This results in \$11 million being allocated in 2007 to the farmland preservation program. No funds from the trust fund are used for salaries or employee benefits. To date, these funds have been adequate to keep up with application demand. This satisfaction of the demand is anticipated in the future. However, the SADC's maximum grant funds under the County Planning Incentive Grant program may hinder this success.

Morris County does not require municipal cost-share. Because of the substantial County Open Space Trust Fund (COSTF), municipal cost-share is not required. It is the county's position that contributions to the COSTF serve as local cost-share.

Morris County does not use installment purchase agreements. This is because utilization of installment purchase options would require the county to establish a separate program to manage the installment purchases.

Another important factor related to funding and landowner participation in the program relates to the Highlands Act. With a majority of Morris County's farms that are eligible for preservation located in the Highlands Preservation Area, the "dual appraisal process" is of paramount concern. With the adoption of the Highlands Act in 2004, the legislature provided for a temporary dual appraisal process wherein land values are appraised 1) assuming the Highlands restrictions are not in place, and 2) assuming current restrictions under the Highlands Act. The higher of these two values has been the certified value by the SADC. However, this dual appraisal protection is due to expire. Renewal or extension of this provision is necessary to continue voluntary landowner interest in the farmland preservation program for much of Morris County's remaining unpreserved farms.

G. Farmland Preservation Program / CADB Administrative Resources

The Morris CADB is well positioned to address current and future needs for the farmland preservation and right to farm programs. Staff for the Morris CADB is within the Preservation Trust Division of the Department of Planning, Development and Technology. Two full-time staff people are assigned exclusively to management of the farmland preservation program. In addition, the Morris CADB Director also serves as the Division Director for the Preservation Trust. The Director's duties also include oversight of additional staff who administer the open space and historic preservation programs. The funding for CADB staff is through the county budget process and is not funded by nor tied to the Trust Fund.

Since the early 1990's, legal support for the program has been provided by in-house County Counsel. All legal matters and closing document preparation are coordinated by the Morris County Counsel's office. Keeping this work in-house is very efficient and enables Morris County to respond quickly on all legal matters.

In addition to the two full-time Morris CADB staff positions, the Preservation Trust Division has a fulltime database developer and Geographic Information System staff person, who assists the farmland preservation program with all technical matters. As demonstrated by the SADC's interest in Morris County's database management, this administrative approach can be looked upon as a model.

H. Factors Limiting Farmland Preservation Implementation

Several factors are likely to affect the continued success of Morris County's farmland preservation program. The single largest variable is landowner interest. Landowner interest is heavily impacted by the Highlands Water Protection and Planning Act. As discussed in Section F above, the dual appraisal process is of paramount importance for landowner interest. Assuming that the dual appraisal process continues, several other factors could still limit the program's growth. Again, landowner interest could wane. Volunteer participation is mandatory. As such, it

is impossible to predict who will apply for preservation and when they will apply. To minimize this possible limitation, Morris County will begin to promote the program and its available funding, following adoption of this plan by the SADC.

The per acre cost for the purchase of the development easements could be another limiting factor. It is difficult to determine if easement values will continue to rise at the rate of recent years. It is not likely that the real estate market can maintain the recent rise in land values. If a correction in the market occurs, a corresponding reduction in landowner interest is likely. Uncertainty over funding at the State level is another major potential limitation to the success of Morris County's plans. As funding from the original Garden State Preservation Trust becomes scarce, a new funding source will be needed.