



Application to Sell a Development Easement – Open Enrollment

Date: _____, 20____.

A “development easement” is a recorded land-use agreement that conveys a portion of the rights associated with ownership to a governmental unit or a charitable organization. In this program the rights removed are the owner’s right to develop the land for any non-agricultural purpose.

I/We, _____,
_____, (name)

landowner(s) of property located in the County of Morris, known and designated as:

Block _____, Lot (s) _____ on the Tax Map of the _____
Block _____, Lot (s) _____ on the Tax Map of the _____
Block _____, Lot (s) _____ on the Tax Map of the _____
Block _____, Lot (s) _____ on the Tax Map of the _____
Block _____, Lot (s) _____ on the Tax Map of the _____

(Municipality), Morris County, New Jersey, (hereinafter “premises”), apply to the Morris County Agriculture Development Board, (hereinafter “Board”), to sell a development easement pursuant to the Trust Fund.

1. OFFER TO SELL A DEVELOPMENT EASEMENT

Pursuant to the Trust Fund, it is required that the applicant(s) submit an offer to sell a development easement to the Board. This is **not** a binding offer. Please refer to **Attachment A** while completing this section.

Note: Landowners hereby acknowledge that they have been fully informed of the provisions related to the sale of a development easement and that a recommendation was made to obtain legal counsel prior to submitting this application and offer.

As landowner(s) of the premises described above, I am/we are willing to make an offer to sell a development easement to the Board in the amount of: \$ _____ **per acre**.

The final total purchase price shall be based on the acreage of the premises determined by a survey authorized by the Board and any deductions to the total purchase pursuant to State Agriculture Development Committee (SADC) Policy P-3-B (<http://www.nj.gov/agriculture/sadc/rules/P3B-SUPPproperty-surveys.pdf>).

2. LANDOWNER PERMISSION TO PROCEED

The landowner(s) hereby gives the Board permission to proceed with the review and evaluation of this application to determine the suitability of the land for development easement purchase pursuant to the Trust Fund. The landowner(s) understands that upon the Board granting preliminary approval, the landowner(s) must submit a \$1,000 application fee. DO NOT SUBMIT THE APPLICATION FEE WITH THIS APPLICATION. The landowner(s) further states that to the

best of their knowledge, all information provided in this application is accurate and complete.

SIGNATURES ARE REQUIRED FROM ALL INDIVIDUALS LISTED ON THE DEED

Landowner (s) Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

Signature: _____ Date: _____

3. LANDOWNER INFORMATION

A. **Name(s):** _____

Primary Contact? _____ Yes _____ No

Address: _____

Phone (Day): _____

Cell Phone: _____ E-Mail Address: _____

Name(s): _____

Primary Contact? _____ Yes _____ No

Address: _____

Phone (Day): _____

Cell Phone: _____ E-Mail Address: _____

Name(s): _____

Primary Contact? _____ Yes _____ No

Address: _____

Phone (Day): _____

Cell Phone: _____ E-Mail Address: _____

Type of Application Participation: (check one)

- | | |
|-------------------------------------------------------------|----------------------------------------------------------------|
| <input type="checkbox"/> Sole Proprietor (Husband/Wife) | <input type="checkbox"/> Contract Purchaser (Fee Simple) |
| <input type="checkbox"/> Partner of a Partnership | <input type="checkbox"/> Contract Purchaser (Easement) |
| <input type="checkbox"/> Proprietor or Multi-Proprietor | <input type="checkbox"/> Municipality (current easement owner) |
| <input type="checkbox"/> Executor of an Estate | <input type="checkbox"/> Conservation Organization |
| <input type="checkbox"/> Corporate Officer in a Corporation | <input type="checkbox"/> Institution |
| <input type="checkbox"/> Trustee of a Trust | |

B. **Farm, corporate or business name**, if any. _____

C. Fill in the **name of any person(s) residing on the property** and their phone number.

D. If you have an **attorney** that will represent you in conjunction with the real estate closing for this application, please print his/her name, firm name, and the mailing address:

4. PROPERTY DESCRIPTION

A. List the **street address** of the premises _____

B. **Ownership**

The dual appraisal provision of the Highlands Act sunsets on June 30, 2019. The provision applies to properties located within the boundaries of the Highlands Preservation or Planning Areas that also meet one of the following conditions:

- Applicant owned the property **as of 8/10/04**
- Applicant is an immediate family member of the owner that owned the property **as of 8/10/04**

Has the subject property been owned continuously by the same individual or entity since 8/10/04?

_____ Yes _____ No

Is the current owner of the subject property an immediate family member of the person who owned the subject property on 8/10/04?

_____ Yes _____ No

C. Identify the **block, lot and deed reference** of the premises. Please list each lot separately.

Block _____, Lot _____ Deed Book _____, Page _____, Date _____ Acreage _____

Block _____, Lot _____ Deed Book _____, Page _____, Date _____ Acreage _____

Block _____, Lot _____ Deed Book _____, Page _____, Date _____ Acreage _____

Block _____, Lot _____ Deed Book _____, Page _____, Date _____ Acreage _____

Block _____, Lot _____ Deed Book _____, Page _____, Date _____ Acreage _____

Block _____, Lot _____ Deed Book _____, Page _____, Date _____ Acreage _____

Block _____, Lot _____ Deed Book _____, Page _____, Date _____ Acreage _____

Total Gross Acreage _____

D. **Source of acreage** amount (e.g. deed, tax map, survey....)?

____ Deed
____ Tax Map

____ Survey (date of survey ____/____/____)
____ Other _____

E. **Exceptions** - are you requesting that any portion of the above tax lots be excepted (excluded) from this application?

_____ Yes* _____ No

** If "Yes", you must complete **Attachment B** for each exception area – explanations of "non- severable" vs. "severable" exception areas can be found there as well*

Clearly identify the location of each Non-Agricultural Use on a current map (if you do not have a map, please contact our office and we will provide an aerial map of your property).

Non Severable Exceptions

- # of non severable exceptions: _____
- Total acreage of non severable exceptions: _____ acres

Severable Exceptions

- # of severable exceptions: _____
- Total acreage of severable exceptions: _____ acres

F. **Net acreage** of the premises to be considered for easement purchase?

_____ acres (total gross acreage minus the excepted acreage)

G. **Residences**

Are there any residences located *on the premises* (land) that is being preserved? ____ Yes ____ No

Please note: Exception Areas are not considered part of the land being preserved; therefore, do not identify residences in exception areas. *If the residential unit is located on an exception area, please identify the area and the unit on **Attachment B**, NOT HERE.*

Please list number of:

____ Standard Single Family Residence	____ Manufactured Home with Perm. Foundation
____ Duplex	____ Manufactured Home without Foundation
____ Garage	____ Dormitory
____ Apartment attached to _____	____ Carriage house/Cabin

OTHER _____

Are any of the existing residential units used for agricultural labor? If so, please list:

Are any of the existing residential units rented or leased? If so, please list and provide a copy of the lease:

H. **Non-Residential Structures**

Are there any non-residential structures located on the premises to be preserved? ____ Yes ____ No

Please note: Exception Areas are not considered part of the premises being preserved; therefore, do not identify any non-residential structures in exception areas. *If a structure is located on an exception area, please identify the area and the unit on **Attachment B**, NOT HERE.*

Please list number of:

____ Barn	____ Shed
____ Garage	____ Silo
____ Stable	____ Other _____

I. Do you have a **historic building** or structure on your property? ____ Yes ____ No
(A historic building or structure is defined as a building or structure that is included in the New Jersey Register of Historic Places established pursuant to N.J.S.A 13:1B-15.128 et seq.)

If "Yes", please explain its historic significance: _____

5. LIENS, EASEMENTS, RIGHTS-OF-WAY

Are there Easements/Right-of-Ways identified with the premises to be preserved? _____Yes _____No

Are the premises part of a bankruptcy judgment? _____Yes _____No

Please note any Easements and Rights of Way associated with the land being preserved

☐ Power Lines

☐ Water Lines

☐ Sewer

☐ Bridge

☐ Access Easement (describe)_____

☐ Road Rights of Way

☐ Telephone Lines & Electric

☐ Gas Lines

☐ Other

☐ Conservation Easement (e.g., steep slopes, critical areas, critical habitat, wetlands, drainage, no further subdivisions, etc.) (describe any & all)

☐ Federal Program Participation (e.g., WHIP, EQUIP, CREP, CRP, WRP) (describe any & provide map of restricted areas)

☐ Do you have existing (or approvals for) solar, wind or biomass energy generating installations?

Date of Installation _____ Please describe _____

6. IMMINENCE OF CHANGE OR CONVERSION

Is the property for sale? _____Yes _____No

Is the record owner of the Premises involved in an estate situation? _____Yes _____No

Has the record owner filed for bankruptcy? _____Yes _____No

Is the property involved in a foreclosure? _____Yes _____No

7. EXISTING NON-AGRICULTURAL USES

In order to inventory any existing non-agricultural uses currently found on the premises, you must complete **Attachment C** (please fill in one Attachment C for each non-agricultural use).

Clearly identify the location of each Non-Agricultural Use on a current map (if you do not have a map, please contact our office and we will provide an aerial map of your property).

This information is very important to be included with the application. The deed of easement, which is the recorded legal document used to purchase the development rights, includes a list and description of all existing non-agricultural uses. Any non-agricultural uses not included in this deed of easement, are deemed to be non-existent at the time of purchase and would be considered a violation of the deed restrictions after the farm is preserved.

8. AGRICULTURAL USE AND PRODUCTION

A. Identify the **types of agricultural enterprises** on the premises by their Standard Industrial Classification Codes (S.I.C. Codes).

CROPS

Primary	Secondary	S.I.C Code	
___	___	0111	Wheat-Cash Grain Farms
___	___	0112	Rice-Cash Grain Farms
___	___	0115	Corn-Cash Grain Farms
___	___	0116	Soybeans-Cash Grain Farms
___	___	0119	Cash Grain nec
___	___	0134	Irish Potatoes-Field Crop Farms
___	___	0139	Field Crops (Except Cash Grains)
___	___	0161	Vegetables & Melon Farms
___	___	0171	Berry Farms
___	___	0174	Citrus Fruit Farms
___	___	0175	Deciduous Tree Fruit Farms
___	___	0179	Fruit & Tree Nut Farm nec
___	___	0181	Ornament Nursery Products
___	___	0182	Food Crops Grown Undercover
___	___	0189	Horticulture Specialties
___	___	0191A	General Farming nec

LIVESTOCK

Primary	Secondary	S.I.C Code	
___	___	0211	Beef Cattle Feedlots
___	___	0212	Beef Cattle except Feedlots
___	___	0213	Hogs
___	___	0214	Sheep & Goats
___	___	0219	General Livestock nec
___	___	0241	Dairy Farms
___	___	0251	Fowls, Broilers & Fryers
___	___	0252	Chicken Eggs
___	___	0253	Turkeys & Turkey Eggs
___	___	0259	Poultry & Eggs nec
___	___	0272	Horse & Other Equine
___	___	0291	General Farm Livestock

(nec) = not elsewhere classified

B. What are the **approximate, average gross agricultural receipts** generated on-site in the last 3 years.

- ___ \$ 500- \$10,000
- ___ \$11,000- \$25,000
- ___ \$26,000- \$50,000
- ___ Over \$50,000

C. Is the landowner a **full-time farmer** of the property? _____ Yes _____ No

D. Does the farm have a current **Soil Conservation Plan**?

_____ Yes Date plan was prepared: _____
_____ No*

E. What types of **soil and water conservation practices** are employed on the farm?

F. List **on-site agricultural investments**, which you have made, such as the construction of/improvement to permanent structures, manure systems, nursery stock, fencing, irrigation systems, etc.

9. **EQUINE USES**

If your farm is involved in equine-related activities, please complete **Attachment D**.

Farms involved in equine activities need specific language incorporated into Schedule B of the Deed of Easement. If the Morris CADB and the SADC establish that all “non-production” equine activities on the farm, such as boarding and riding lessons, are ancillary to “production” equine activities, such as breeding, pasturing and hay production, then these “non-production” uses are deemed “agricultural” and are not subject to the restrictions placed on non-agricultural uses. If, once the farm has been preserved, “production” activities were to cease, the “non-production activities” could continue but not expand.

10. **SUBDIVISION OF THE PREMISES**

Has the landowner or a contract purchaser been granted or pursued any subdivision approvals?
_____ Yes* _____ No

** If “Yes”, please complete **Attachment E**.*

11. **SPECIAL CONSIDERATIONS/INFORMATION**

Identify anything particularly special about the premises (e.g. historical significance, uniqueness of

your agricultural operation, generations in family ownership). Please feel free to attach any additional information that you feel is important, that is not addressed in this application.

12. ACKNOWLEDGMENT OF SADC POLICIES

If the CADB grants preliminary approval to the application, the CADB will apply for funding from the State Agriculture Development Committee (SADC) to augment the County farmland preservation dollars.

Please review **Attachment F** acknowledging that you have read and understand the SADC policy on dividing preserved lands **and return the signed sheet with this application.**

Please review **Attachment G** acknowledging that you have read and understand the SADC policy on exception areas **and return the signed sheet with this application.**

Please review **Attachment H** acknowledging that you have read and understand the SADC policy on non-agricultural uses **and return the signed sheet with this application.**

Attachment A

OFFER PRICE

A “development easement” means an interest in land, less than fee absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose, as determined by and acquired under the provisions of the Morris County Open Space and Farmland Preservation Trust Fund, and any relevant rules or regulations promulgated pursuant thereto.

The value of the development easement is determined by the appraisal process. This value does **not** include the value of any improvements on the land. Since the landowner retains ownership of the land, the value of any improvements remains with the landowner.

This attachment is included to further explain the Offer Price indicated on the first page of this application. Please answer the following questions to help the Board understand the landowner’s expectations of value.

- A. In your opinion, is the Offer Price indicated on page 1 the market value for the **development easement** for your property?

_____ Yes _____ No

If “No”, is it your opinion that the Offer Price is above or below the market value for the development easement?

____ Above Market Value ____ Below Market Value

In your opinion, what is the **average** per acre fair market value for the development easement?
\$ _____ per Acre

- B. Additional comments regarding your Offer Price.

Attachment B

EXCEPTIONS

A **separate** Attachment B sheet must be completed for **each** exception area being requested by the applicant.

Clearly identify the location of each Non-Agricultural Use on a current map (if you do not have a map, please contact our office and we will provide an aerial map of your property).

Important information about exceptions:

Severable Exception Areas – These are exception areas that may be severed and subdivided from the preserved property.

Non-Severable Exception Areas – These are exception areas that may not be severed or subdivided from the preserved property.

Septic - Please refer to SADC Policy P-49 regarding the placement of septic systems to service residential and agricultural uses located on exception areas: <http://www.nj.gov/agriculture/sadc/rules/pol49.pdf>.

Access - Please refer to SADC Policy P-41 regarding access to exception areas:
http://www.nj.gov/agriculture/sadc/rules/P41%20Access%20to%20Exception%20Areas_.pdf.

Stormwater Management Facilities - Please refer to SADC Policy P-51 regarding the construction stormwater management facilities to service residential and agricultural uses located on exception areas:
<http://www.nj.gov/agriculture/sadc/rules/P-51.pdf>.

A. **Location** of exception: _____

Identify the area of the requested exception on a map or survey plat.

Block _____ Lot _____

B. **Size** of exception: _____ acres

C. **Reasons/purpose** for exception area:

D. Will the exception area be able to be **severed** (divided) from the premises? In other words, could the exception area be sold separately from the preserved farm?

____ Yes ____ No

E. Are you willing to restrict the exception to only one residential unit?

___ Yes

___ No

F. If the requested exception is severable the following Right to Farm language will be included in the easement unless otherwise requested:

“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.”

G. Does the exception area contain a **non-agricultural use**?

___ Yes*

___ No

* If “Yes”, please refer to “**Important information about exceptions**” above.

Clearly identify the location of each non-agricultural use within an exception area on a current map/survey plat.

Please describe all non-agricultural uses on the exception area.

H. **Residences**

Are there any residences located on the exception area? ___ Yes * ___ No

** If “Yes”, please identify each residential structure separately below.*

Clearly identify the locations of the residence(s) on a current map or survey plat.

Please list number of:

___ Standard Single Family Residence

___ Duplex

___ Garage

___ Apartment attached to _____

___ Manufactured Home with Perm. Foundation

___ Manufactured Home without Foundation

___ Dormitory

___ Carriage house/Cabin

OTHER _____

I. **Non-Residential Structures**

Are there any non-residential structures located on the exception area? _____ Yes* _____ No

** If "Yes", please identify each structure separately below.*

Clearly identify the location of each non-residential structure on a current map or survey plat.

Please list number of:

_____ Barn

_____ Garage

_____ Stable

_____ Shed

_____ Silo

_____ Other _____

Attachment C

EXISTING NON-AGRICULTURAL USES

- Duplicate this sheet as necessary to indicate each non-agricultural use separately.
- Clearly identify the location of each Non-Agricultural Use on a current map (if you do not have a map, please contact our office and we will provide an aerial map of your property).
- Please complete each section

Will non-agricultural use(s) occur within the exception area(s) on the premises to be preserved?

_____ Yes* _____ No

* If "Yes", please refer to **Attachment B**.

Are there any non-agricultural uses on the premises to be preserved? _____ Yes _____ No

Please describe the nonagricultural uses: _____

Please provide a map or otherwise list the approximate dimensions and location of any structures and/or areas utilized for a non-agricultural use : _____

Does the non-agricultural use involve a lease with another party? Please identify the individual or entity leasing the structure and type of business or operation and provide a copy of the lease: _____

Describe how the non-agricultural use is and will be accessed on the parcel: _____

****NOTE:** Appraisers must be aware of non-agricultural uses and determine their impact on the development easement value in their reports pursuant to the SADC Appraiser's Handbook. If you have any questions regarding potential non-agricultural use, please address them with the CADB and/or SADC prior to submission of the application.

An identified non-agricultural use **CANNOT** be expanded or intensified after the premises are preserved if located on the preserved farmland outside of an exception area.

Attachment D

EQUINE USES

Farms being preserved that are involved in equine activities need to have specific language incorporated into Schedule B of the Deed of Easement. If the Morris CADB and the SADC establish that all “non-production” equine activities on the farm, such as boarding and riding lessons, are ancillary to “production” equine activities, such as breeding, pasturing and hay production, then the uses are deemed “agricultural” and are not subject to the restrictions placed on non-agricultural uses. If, once the farm has been preserved, all equine-related production activities cease, the non-production uses will be deemed non-agricultural uses and will be subject to restrictions. That means that if the production activities were to cease, the non-production activities could continue but not expand.

In order to inventory existing equine activities currently found on the premises, you must complete this attachment. Please list the type and extent of all **existing** equine activities currently found on the premises. Examples: breeding, boarding, training, riding and/or driving lessons, rehabilitation, clinics, open houses, demonstrations, educational camps, farm events, competitions and rodeos. (Be as specific as possible).

Please list the number of horses currently on your farm and list the number of horses involved in each above listed activity.

Please list all structures associated with equine activities, including number of stalls, run-in sheds, indoor and outdoor riding arenas, etc. Provide dimensions of each structure.

Clearly identify the location of each equine structure on a current map or survey plat.

Attachment E

SUBDIVISION OF THE PREMISES

NOTE: Copies of the municipal and county approvals/resolutions are required.

Type of development: (Check One)

☐ Residential

☐ Industrial

☐ Commercial

☐ Public Use

☐ Farm Subdivision

Preliminary Approval Date.

Final Approval Date.

Scale of Subdivision

MAJOR

MINOR

Enter any other pertinent information to help fully describe the request.

BEFORE SUBMITTING, CHECK TO BE SURE THAT ALL OF THE FOLLOWING INFORMATION IS ENCLOSED:

- ___ **“Application to Sell a Development Easement – Open Enrollment”** completed in full, including “Attachment A – Offer Price”
 - ___ **Map** and/or **Survey Plat** with your property outlined
 - ___ All **Exception Areas** are clearly identified on Map and/or Survey Plat
 - ___ All **Non-Agricultural** and **Equine Uses** are fully detailed
 - ___ **Copy of the Deed** for each lot included in this application
 - ___ **Signatures** of ALL property owners listed on the deed(s)
 - ___ **FA-1 Farmland Assessment Report(s)** copy for each tax lot that is a part of this application.
-

Upon Completion, Mail this Application to:
Attn: Ms. Katherine Coyle
Morris County Agriculture Development Board
PO Box 900
Morristown, NJ 07963-0900
(973) 829-8120
FAX (973) 326-9025
kcoyle@co.morris.nj.us
<http://www.morrispreservation.org>

If you are hand delivering the application, our office is located on the 4th floor in the “Schuyler Annex” at 30 Schuyler Place in Morristown, on the corner of Ann Street and Schuyler Place. One block off the Green. A map and directions are available on our website at <http://www.morrispreservation.org>.

Division of the Premises

The Deed of Easement sets forth the legal restrictions that will apply to your farm once it is preserved. The survey metes and bounds description of your farm has the effect of tying all of your lots together as one preserved "premises." Although your farm may consist of multiple lots, after preservation they cannot be divided, transferred individually or conveyed to other owners without written approval of the State Agriculture Development Committee (SADC) and the easement holder, which may be the County Agriculture Development Board (CADB) or a non-profit agency.

To request approval to divide the preserved premises, you need to submit an application to the easement holder demonstrating that the division would meet both of the following tests:

The Agricultural Purpose Test

First, the proposed division must be for an agricultural purpose. The SADC considers enhanced agricultural production activities, such as agricultural expansion, diversification and/or intensification resulting from a division as typically meeting the agricultural purpose test.

The Agricultural Viability Test

Second, the division must result in agriculturally viable parcels, each capable of sustaining a variety of agricultural operations that produce a reasonable economic return under normal conditions, solely from the parcel's agricultural production. So, the SADC would need to be confident that each newly created farm has sufficient agricultural resource value (soil quality, tillable land, size, etc.) to support a variety of agricultural operations into the future.

Additionally, any parcel not meeting the minimum eligibility criteria for new applications to the program set forth in the SADC regulations will not be approved.

Major SADC Considerations

- Total Tillable Acreage
- Quality of Soils
- Configuration of New Parcels
- Historical Agricultural Uses
- Existing Agricultural Infrastructure
- Proximity to Other Farms/Preserved Farms
- Proposed Agricultural Uses
- Benefit to Production Agriculture

Diagram of a Division

BEFORE

200 acre farm

AFTER

80
acre farm

120
acre farm

The SADC's objective is to retain large masses of viable agricultural land. Agricultural parcels may become less viable if reduced in size. Therefore, the SADC will carefully consider the criteria to evaluate whether a permanently preserved farm should be divided.



Why might an application for a division of the Premises be denied?

- Each parcel does not meet the minimum eligibility criteria on its own - for example, the newly created farms may not be of sufficient size or may have a lack of tillable acres on at least one parcel.
- Large wooded areas or areas of marginal soils render the tillable land of one parcel insufficient or unable to support a variety of agricultural production activities
- Lack of a concrete plan for agricultural production for one or both of the new parcels to be created
- The purpose of the division is speculative resale of one or multiple preserved parcels
- The purpose of the division is to accomplish "estate planning" or to only provide for retirement of the current owner with no agricultural purpose

Division Procedure

1. Submit completed application and required maps to the CADB or designated easement holder
2. The easement holder will ensure that the application is complete and evaluate it based on the Deed of Easement and the agricultural purpose and viability tests
3. If approved, the easement holder will forward the application to the SADC for further review (the SADC will only review applications approved by the easement holder)
4. The SADC will review the application and evaluate it based on the Deed of Easement and the agricultural purpose and viability tests
5. If approved by the SADC, new surveys and legal descriptions may be required as a condition of approval. In addition, the SADC may request to review any deed which transfers a portion of the Premises to a new owner. Upon review and approval of all necessary documents the SADC will record its approval resolution with the appropriate County Clerk's office

Application and additional information can be found at <http://www.nj.gov/agriculture/sadc/rules/> under Policies,

Acknowledgement of Receipt

By signing below, I acknowledge receipt of this guidance document.

Print Name

Signature/Date

Print Name

Signature/Date

Print Name

Signature/Date

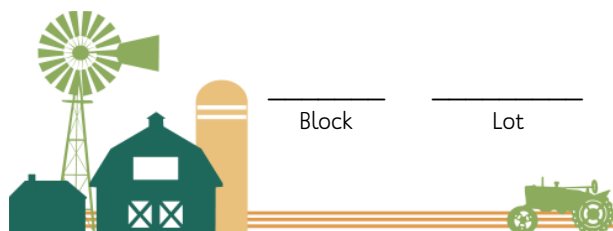
Block

Lot

Township

County

SADC ID#



Exception Areas

An exception is an area free from the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved. It is very important to consider exception areas prior to preservation because they will not be granted, moved or expanded once the farm is preserved.

Types of Exceptions

There are two types of exceptions: non-severable and severable.

Non-severable Exceptions:

A non-severable exception is an area of the farm which is excepted from the easement restrictions but remains tied to the farm and cannot be subdivided, transferred or conveyed separately from the farm.

Severable Exceptions:

A severable exception is an area that can be subdivided and sold separately from the farm provided it meets local subdivision requirements. It is not necessary to sever (subdivide) a severable exception prior to preservation.

A landowner will not be paid for areas designated as a severable or non-severable exception because the Deed of Easement restrictions will not apply to the area(s).

Why should I take an exception area?

Do you wish to provide a building lot for a child?
Do you have a barn where you might want to operate a business that might not be permitted under the farmland Deed of Easement (i.e. a nonagricultural use)? Would you like to have the flexibility to replace your home without farmland preservation program approvals? Perhaps you are entertaining the idea of operating a Bed & Breakfast in the main farmhouse someday?

These are just a few common reasons why landowners choose to take exception areas. If your plans for future uses of the premises include any nonagricultural production based activity you should consider an exception area.

Although nonagricultural uses existing and recognized at the time of preservation are allowed, did you know they cannot be expanded in the future unless they are within an exception area?

Locating an Exception Area

It is very important to consider the number, size and location of exception areas. Exception area requests which negatively impact the farm or are found to allow excessive housing around the agricultural operation may not be approved. Therefore, balancing landowners' needs with a sensitivity to the agricultural operation, now and into the future, is important. The SADC considers the following in evaluating exceptions:

- Number of exceptions requested - is it excessive?
- Size of exception(s) - is it a very large area of the farm?
- Purpose of the exception(s) - will future uses negatively impact the farm?
- Location and planned use of the exception area - sensitive to the farming operation?



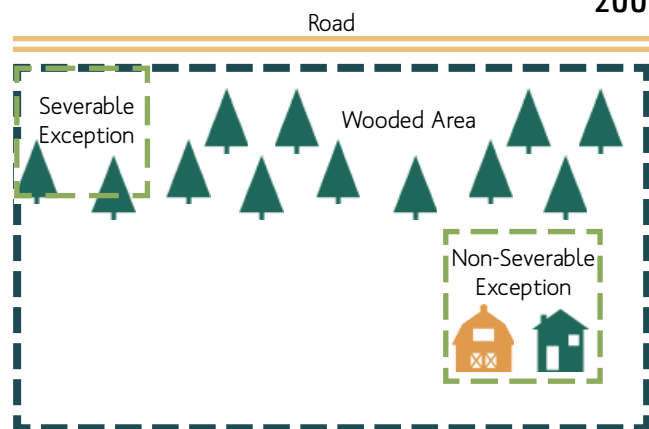
Locating an Exception Area continued...

If you are requesting an exception for a future housing opportunity, you are strongly encouraged to thoroughly explore the feasibility of that location including septic suitability, ability to obtain water, road access, wetlands, wetland buffers and special regulations that may apply in your area, such as the Highlands or Pinelands. If the access to an exception area is used exclusively for nonagricultural purposes, the access must also be included in the exception area. Residential use is not considered a nonagricultural purpose, so, if the exception is being used for a residential use the driveway does not have to be included within the exception area.

Remember - you must make decisions about exceptions at the time of application, prior to appraisals being conducted. If you change your mind during the preservation process, this could result in delays in processing your application.

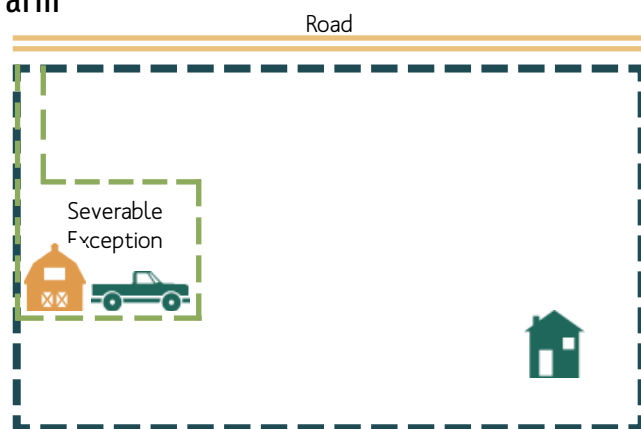
Sample Exception Area Layouts

200 Acre Farm



Example #1

A 200 acre farm with a non-severable exception around an existing barn and house and a severable exception along the road for the landowner's child to subdivide and own separate from the farm.



Example #2

A farm with a severable exception around a nonagricultural use and driveway, and a house on the farm outside of an exception area.

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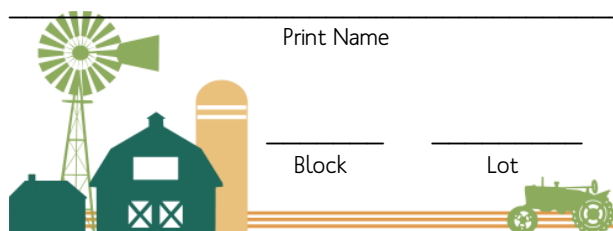
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Nonagricultural Uses

The restrictions in the Deed of Easement limit a preserved farm to agricultural uses. Once your farm has been preserved, no nonagricultural uses will be allowed, except if otherwise outlined in the Deed of Easement or if they occur within an exception area. Because nonagricultural uses are not related to agricultural production, they cannot continue unless recorded in a Schedule B in the Deed of Easement or contained within an exception area. Both of these options are designed to protect you and allow you to continue your nonagricultural use into the future.

Do you have a nonag use on your farm?

Some examples of a nonagricultural use include:

- An existing business, not related to your farm's agricultural production, located in your barn or home
- A lumber processing business that uses timber produced/grown by other farmers
- A facility used to process or sell agricultural products not raised on the farm or by the owner's farming operation
- A portion of your farm or structure on your farm that is rented or used by someone else for a use or business not related to the production of your farm (e.g., equipment, vehicle parking, office)
- A portion of your farm or structure on your farm that is used for the storage of agricultural products or materials not derived from or intended for use on your farm (e.g., grain/cold storage, parts, chemicals, fertilizers)

Schedule B Nonagricultural Use

This option allows you to continue your nonagricultural use following the preservation of your farm at the same scale and location it is at the time of preservation. Before appraisals and surveys are conducted, you will be asked to identify and describe any nonagricultural uses occurring on your farm. Details of the use(s), such as the type, frequency, intensity, size and location, will be recorded as a Schedule B and attached to the Deed of Easement. This document binds your use to its current parameters so that you cannot expand or change it in the future.

Although you will still be paid for the land under the use, this option provides you with little flexibility and no opportunity to expand the use, change the use, or start a new use in the future. Additionally, if the current nonagricultural use ceases at some point, you are not permitted to resume it in the future.

Nonagricultural Uses in Exception Areas

You also have the option of excepting out some of your land under and surrounding a nonagricultural use(s) from the Deed of Easement. This option provides you with maximum flexibility for your use in the future since the land in exception areas is not subject to the restrictions of the Deed of Easement. Although you will not be paid for the land in an exception area, you will be able to change, improve and expand your use within the exception area as you wish, subject to all applicable local and state regulations.

An exception area around a nonagricultural use is ideal if you can foresee the use or an area of your farm changing in the future. For instance, you may have an older barn that is becoming too small for modern tractors and your agricultural operation. Rather than razing it or allowing it to go into disrepair, you may want to rent this space out to a carpenter or other small business. By including the structure in an exception area, you maintain the flexibility to repurpose an agricultural structure and adapt to the changes of your farm.



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