

## **Middlesex County Agriculture Development Board**

### **Policy for**

## **Acceptance of Individual Farmland Preservation Applications**

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### **A. Purpose and Intent**

The purpose and intent of this policy is to officially adopt the State Agriculture Development Committee's (SADC) programmatic requirements and minimum eligibility criteria as the official Middlesex County Agriculture Development Board's policy for individual easement purchase applications.

### **B. Programmatic Requirements**

No individual farm application to sell a development easement may be considered for approval by the CADB unless the land complies with the following two prerequisites:

1. The land to be preserved must be located in an Agricultural Development Area (ADA) which has been approved by the Middlesex CADB and subsequently certified by the New Jersey State Agriculture Development Committee (SADC).
2. The land to be preserved must be specifically identified as a targeted farm in the current Middlesex County Planning Incentive Grant (PIG) Application as most recently approved by the SADC.

### C. Minimum Eligibility Criteria

1. The application must be endorsed by the municipality(ies) in which the farm is located as documented by a letter of support issued by the municipality(ies) including a statement confirming the municipality's willingness and ability to provide its share of the funding which would be necessary to acquire the development easement, pursuant to currently effective cost share policies of the Middlesex County farmland preservation program.
2. For lands less than or equal to 10 acres, the land to be preserved must produce agricultural or horticultural products of at least \$2,500 annually.
3. Minimum Tillable Land Area:
  - (a) For lands to be preserved which are less than or equal to 10 acres, at least 75% of the land or a minimum of 5 acres, whichever is less, must be tillable.
  - (b) For lands to be preserved which are greater than 10 acres, at least 50% of the land or a minimum of 25 acres, whichever is less, must be tillable.
4. Minimum Area of Capable Soils:
  - (a) For lands to be preserved which are less than or equal to 10 acres, at least 75% of the land, or a minimum of 5 acres, whichever is less, must consist of soils that are capable of supporting agricultural or horticultural production.
  - (b) For lands to be preserved which are greater than 10 acres, at least 50% of the land or a minimum of 25 acres, whichever is less, must consist of soils that are capable of supporting agricultural or horticultural production.
5. The land to be preserved must exhibit development potential based on a finding that all of the following standards are met:
  - (a) The municipal zoning ordinance for the land as it is being appraised must allow additional development, and in the case of residential zoning, at least one additional residential site beyond that which will potentially exist on the premises;

- (b) Where the purported development value of the land depends on the potential to provide access for additional development, the municipal zoning ordinances allowing further subdivision of the land must be verified. If access is only available pursuant to an easement, the easement must specify that further subdivision of the land is possible. To the extent that this potential access is subject to ordinances such as those governing allowable subdivisions, common driveways and shared access, these facts must be confirmed in writing by the municipal zoning officer or planner.
  - (c) Land to be preserved that is less than 25 acres in size shall not contain more than 80 percent soils classified as freshwater or modified agricultural wetlands according to the Natural Resource Conservation Service (NRCS) wetlands maps (there is no wetlands area requirement for lands greater than or equal to 25 acres in size). If the NRCS wetlands maps are in dispute, further investigation and onsite analysis may be conducted by a certified licensed engineer or qualified wetlands consultant and/or a letter of interpretation issued by the New Jersey Department of Environmental Protection, may be secured and used to provide a more accurate assessment of the site conditions, provided, however, that nothing herein shall require Middlesex County or the Middlesex CADB to conduct such additional investigation; and
  - (d) Land to be preserved that is 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 Resources Conservation Service SSURGO version 2.2 or newer soils map (there is no steep slopes area requirement for lands greater than or equal to 25 acres in size).
6. The farm should achieve an individual rank quality score that is equal to or greater than 70 percent of Middlesex County's average quality score of all farms granted preliminary approval by the SADC within the previous three fiscal years. However, if a farm fails to meet this 70 percent quality score threshold, then the applicant may request a waiver from the minimum quality score standard. A waiver may be granted only if the staff can determine that the farm has a reasonable opportunity to remain agriculturally viable based upon a finding that at least one of the following applies:

- (a) The conversion of the farm to non-agricultural use will likely cause a substantial negative impact on the public investment made in farmland preservation in Middlesex County; or,
  - (b) The subject property is of exceptionally high agricultural resource value based on soil characteristics; or
  - (c) The subject property represents a unique and valuable agricultural resource to the surrounding community and it has a reasonable opportunity to remain agriculturally viable.
7. Exception Areas may be allowed provided that all of the following standards are met, only as applicable to the particular application:
- (a) For exception areas that are intended to accommodate existing residential uses or will create future residential opportunities, there may be no more than one house per exception and no more than one house per every 25 acres of the total land area of the subject application with a maximum of three such exceptions per farm. A waiver of this standard may be granted for a specific situation.
  - (b) Exception areas that are intended to accommodate existing nonresidential uses or will create an opportunity for future nonresidential uses shall not exceed 5 acres or 10% of the total land area of the subject application, whichever is less. A waiver of this standard may be granted for a specific situation. This particular standard does not apply to exception areas which are intended to be enrolled into an open space or farmland preservation program.
  - (c) The size, number and location(s) of exception areas must be appropriate for and necessitated by the character and configuration of the farm. No exception area may be permitted if it will likely cause detriment to the current pattern and future long-term viability of agricultural production on the farm.
  - (d) Access to all exception areas must comply with currently effective policies adopted by the SADC regarding access to exception areas (i.e. SADC Policy P-41).

- (e) Existing septic systems that service uses located within an exception area must comply with currently effective policies adopted by the SADC regarding the placement of such septic systems (i.e. SADC Policy P-49).

#### **D. Waivers and appeals**

1. No waiver may be granted by the CADB or its staff from any minimum eligibility criterion set forth herein unless such a waiver is specifically allowed.
2. In the event that an application to sell a development easement is rendered ineligible by the staff of the CADB, an applicant may submit to the Middlesex CADB an appeal of such ineligibility determination.

#### **E. Definitions**

As used herein, the following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

"An easement purchase application" means a standard form, as developed by the staff of the CADB, to be submitted to the staff of the CADB from a landowner interested in selling his or her development easement, in which the landowner shall provide parcel-specific information.

"Development Easement" means an interest in land, less than fee simple absolute title thereto, which enables the owner to develop the land for any nonagricultural purpose as determined by and acquired under the provisions of N.J.S.A. 4:1C-11 et seq., P.L. 1983, C.32, and any relevant rules or regulations promulgated pursuant thereto.

"Exception Area" means a portion of the applicant's land holdings which are not to be encumbered by the deed restrictions contained in the development easement.

"Quality score" means the SADC's numeric total derived from the application of the criteria for evaluating a development easement application contained in N.J.A.C. 2:76-6.16 and SADC Policy P-14-E.

"Soils that are capable of supporting agricultural or horticultural production" are those soils classified as prime soils, soils of statewide importance, and in some instances soils of local or unique Importance as identified by the U.S.D.A. Natural Resource Conservation Service and/or the New Jersey Department of Agriculture, State Soil Conservation Committee.