



# Application for Farmland Preservation

5/24/2023



NEW JERSEY  
State Agriculture Development Committee

⇒ **Section I: To be completed by Landowner or Applicant**

**SADC Direct Easement**

**\*\* Any partner application forms completed by the Applicant must also be submitted**

⇒ **Section II: To be completed by**  **County**  **Municipality**  **Nonprofit** ( **Easement**  **Fee**)

## Section I

### FARM INFORMATION

Landowner Name(s): \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Farm Address: (If different) \_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_ Alternate Phone: \_\_\_\_\_

County: \_\_\_\_\_ Total Farm Acreage: \_\_\_\_\_

Municipality: \_\_\_\_\_ Block & Lot \_\_\_\_\_ Acres \_\_\_\_\_

Municipality: \_\_\_\_\_ Block & Lot \_\_\_\_\_ Acres \_\_\_\_\_

Municipality: \_\_\_\_\_ Block & Lot \_\_\_\_\_ Acres \_\_\_\_\_

Municipality: \_\_\_\_\_ Block & Lot \_\_\_\_\_ Acres \_\_\_\_\_

Municipality: \_\_\_\_\_ Block & Lot \_\_\_\_\_ Acres \_\_\_\_\_

**Please note: The SADC may request a lot consolidation, for ease of future taxation and monitoring, on applications that include multiple lots in one block.**

**Primary Contact**  Same as Above  Other: Please fill in primary contact information below.

Name: \_\_\_\_\_ Relation: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

**Contact for Farm Visits**  Primary Contact  Landowner  Other: List below

Name: \_\_\_\_\_ Relation: \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Please don't hesitate to contact the SADC Regional Acquisition Coordinators (RAC) for your County listed in the reference section.**

SADC ID# \_\_\_\_\_

Date Received \_\_\_\_\_





## **LANDOWNER ELIGIBILITY**

Pursuant to N.J.A.C. 2:76-6.18(z) an applicant or the applicant’s immediate family defined as applicant’s spouse, child, parent, or sibling residing in the same household cannot be a current CADB board member or Municipal Agriculture Advisory Committee member at the time of application to sell their development easement.

1. Are you or anyone in your immediate family a current member of the CADB?  **YES**  **NO**
2. Are you or anyone in your immediate family a current member of a Municipal Agriculture Advisory Committee (AAC)?  **YES**  **NO**
3. Are you or anyone in your immediate a current member of the Township Committee or Board of County Commissioners?  **YES**  **NO**

**If Yes,** Position \_\_\_\_\_ Term \_\_\_\_\_

**If you said YES to any of the above questions, please stop and contact your SADC Regional Acquisition Coordinator at (609) 984-2504.**

## **AGRICULTURAL PRODUCTION**

1. Is the farmland rented or leased?  **YES**  **NO** **If Yes,** please provide a copy of the lease or, if verbal, describe the terms of the lease \_\_\_\_\_  
\_\_\_\_\_
2. Are there horses on the farm? Please contact the local coordinator to see if you need to complete an equine questionnaire. Check all that apply:  **none**  **personal use**  **breeding**  **boarding**  
**Other:** \_\_\_\_\_
3. Do you have livestock?  **YES**  **NO**  
**If Yes,** do you have an Animal Waste Management Plan?  **YES**  **NO**
4. Are there greenhouses/hoop houses on the farm?  **YES**  **NO** **If Yes,**
  - a. What is the composition of the floor of the greenhouse/hoop house?  **soil**  **gravel**  
 **weed block over soil**  **concrete**  **other** \_\_\_\_\_
  - b. Are agricultural/horticultural products grown  **in the ground**  **in pots**  
 **in hydroponics**  **in something else?** \_\_\_\_\_
  - c. How many months of the year are the greenhouses/hoop houses covered? \_\_\_\_\_ months
  - d. Was any grading done to level the ground for the greenhouse/hoop house?  **YES**  **NO**
5. Is any part of the farm enrolled in a Federal Program (e.g., EQIP, CREP, CRP, WRE)?  
 **YES**  **NO** **If Yes,** describe & please provide map of restricted areas: \_\_\_\_\_  
\_\_\_\_\_

6. Is there any agricultural production currently taking place on the farm that is not covered on the current Farmland Assessment Form you provided with this application?  **YES**  **NO**

**If Yes**, please describe \_\_\_\_\_

7. The Farmland Preservation Deed of Easement protects the farm from activities which would be detrimental to drainage, flood control, water conservation, erosion control, soil conservation, and continued agricultural use. To avoid unnecessary delays in the process, please let us know so we can be of assistance to address any resource concerns:

- Are there areas of the farm that have been or are being mined?  **YES**  **NO**
- Are there areas of the farm that have or have a history of erosion?  **YES**  **NO**
- Are there existing conservation practices on the farm? If Yes, please describe.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What year were they installed? \_\_\_\_\_

### **NON-AGRICULTURAL ACTIVITIES**

It is important to identify existing non-agricultural uses so they can continue after preservation. Examples of non-agricultural uses are:

- An existing business, not related to your farm’s agricultural production, located in your barn or home.
- A facility used to process or sell items not produced on the farm.
- A portion of the farm or structure on the 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 storage, vehicle parking, office).

Because non-agricultural uses on the easement area **CANNOT** be expanded or intensified after the farm is preserved, it is important to document details to protect the activity and landowners should consider taking an exception area instead, to provide the most flexibility. Exception areas are explained on Page 5 and in the guidance documents on Exception Areas and Non-Agricultural Use.

Appraisers must be aware of non-agricultural uses and determine the impact on the development easement value in their reports pursuant to the SADC Appraiser’s Handbook. If you have any questions regarding non-agricultural uses, please address them with your local and/or SADC coordinator prior to submission of the application.

1. Are there existing non-agricultural uses on the farm?

**YES**  **NO** **If Yes**, please answer the following. **If No**, please skip to the next page.

Please describe the non-agricultural use and the frequency it occurs: \_\_\_\_\_

\_\_\_\_\_

2. Please provide a map or list the approximate dimensions and locations of any structures and/or areas utilized for a non-agricultural use.

3. Does the non-agricultural use involve a lease with another party?  **YES**  **NO**

If Yes, please provide a copy of the lease.

4. Describe how the non-agricultural use is and will be accessed on the farm: \_\_\_\_\_

\_\_\_\_\_

## **RESIDENTIAL INFORMATION & IMPROVEMENTS**

The “Easement Area” is the area of the farm that will be covered by the Deed of Easement and preserved for agricultural use and production. Existing residences may remain on the easement area.

A “Residential Opportunity” means any existing or future residential unit on the easement area of the farm and/or those to be located inside a severable or non-severable exception area.

Residential opportunities include:

- **Existing or future residential units and ancillary improvements (garage, pool, utilities, etc.) in Exception Areas\***
  - An Exception Area is an area not covered by the farmland preservation Deed of Easement restrictions that will apply once the farm is preserved.
  - Ancillary improvements must stay within the exception area, unless additional SADC policies apply.
  - Non-agricultural uses may occur within the exception, subject to municipal ordinances.
- **Existing residential units and ancillary residential structures (garage, pool, utilities, etc.) on the Easement Area**
  - May be improved, subject to municipal ordinances. They also may be relocated subject to SADC and County and municipal approval.
  - Non-agricultural uses may not occur within the structures, unless additional SADC policies apply\*
- **Future residential units and ancillary residential structures (garage, pool, utilities, etc.) on the Easement Area**
  - A Residual Dwelling Site Opportunity (RDSO) is the opportunity for the future construction of a single-family residential unit for agricultural purposes. For every 100 acres without an existing residence or residential exception area, the farm is eligible for one RDSO.
  - To be eligible for approval and continued use, at least one person living in the residence must be regularly engaged in common farm site activities on the farm. Should a person no longer be able to engage in common farm site activities they and their immediate family may continue to reside in the residence only if they have:
    - Retired, but were engaged in common farm site activities for at least 5 years; or
    - Suffered a disability and can no longer engage in common farm site activities as a result.
  - RDSOs are allocated to the farm at the time of application and are subject to future approvals by the CADB, SADC, and/or agency that purchases the easement.
  - You do not need to designate the area for the future residence until you are ready to “exercise the RDSO” – meaning construct the residential unit. The residence is not sited on the farm until approval is granted.

Residential units for agricultural labor can be designated at the time of application and/or requested after the farm is preserved. There must be a need shown for the labor residences and the units cannot be rented to a family member, of lineal descent, or someone not working on the farm.

## EXCEPTION AREA INFORMATION

### Why should I take an exception area?

- Do you wish to give or sell a building lot to someone?
- 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 non-agricultural use)?
- Do you want the flexibility to replace your home without farmland preservation program approvals?
- Are you entertaining the idea of operating a small business in the house or barns someday?

These are just a few common reasons why landowners choose to take exception areas. If your plans for future use of the farm includes any non-agricultural commercial uses, you should consider an exception area.

**Exception Areas are not covered by the Deed of Easement or restricted to agricultural use. Primary residential development rights retained for an exception area must be specified and considered in the appraisal process. Ancillary residential and non-residential uses are not restricted, unless requested, but such uses are subject to applicable municipal, county, state, and federal laws and regulations.**

**Landowners will not be paid for acreage within severable or non-severable exception areas. Exception areas cannot be moved or expanded once the farm is preserved.**

There are two kinds of exception areas:

- **Non-severable exception:** an area of the farm which is not covered by the Deed of Easement and remains tied to the farm and cannot be subdivided, transferred, or conveyed separately.
- **Severable Exception:** 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, but it is recommended since it cannot be changed once the farm is preserved.

Exception areas shall be permitted only if they do not cause a substantially negative impact on the continued use of the farm for agricultural purposes. Factors for determining if there is an adverse effect to the agricultural operation are as follows: location, severability, number requested, size, percent of farm, Right to Farm language, and potential uses. Adjustments can be made to an exception area up until the Deed of Easement is signed. If the exception is for a future residence, you are encouraged to do perc tests and other due diligence to make sure the area will accommodate a future residence.

Sample Residence in Easement and Non-Severable Exception Area



Sample Non-Severable and Severable Exception Area





## **RESIDENCES ON THE EASEMENT AREA**

Are there any residences on the farm within the easement area (outside of any exception areas)?

**YES**  **NO** If Yes, please describe how many and the type of residences (single-family, duplex, apartment(s), trailer, etc.) and accessory buildings (garages, barns, pools, etc.) are within the easement area. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1. Are any of the existing residences used for agricultural labor?  **YES**  **NO**

**If Yes:**

a. Which and how many units are used for agricultural labor? (apartment, single-family, etc.) \_\_\_\_\_

b. How many occupants? \_\_\_\_\_

c. When and how many months of the year are the units occupied? \_\_\_\_\_ months

Do all the occupants work on this farm?  **YES**  **NO** If No, please explain: \_\_\_\_\_

d. \_\_\_\_\_

2. Are any of the existing residences rented or leased?  **YES**  **NO**

**If Yes,** please provide copy of the lease.

3. Do you want to or has the county or municipality placed a size limitation on any of the residences?

**YES**  **NO** If Yes, please list: \_\_\_\_\_

4. Do any of the residences also contain a non-agricultural use?  **YES**  **NO**

**If Yes,** please describe: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

## **RESIDUAL DWELLING SITE OPPORTUNITIES**

For every 100 acres without an existing residence or residential exception area, the farm is eligible for one RDSO. For example:

- Your farm is 120 acres and you request a 3-acre exception area for a residence, the net acreage of the preserved farm is over 100 acres and eligible for one RDSO.
- Your farm is 102 acres and you request a 3-acre exception area for a residence, the net acreage of the preserved farm is over 99 acres and not eligible for an RDSO.

If eligible, how many Residual Dwelling Site Opportunities (RDSOs) would you like to reserve? \_\_\_\_\_

## EXCEPTION AREAS

If you are requesting exception areas, please answer the following and indicate the location on an aerial map. Contact your local and/or SADC coordinator if you need a copy of an aerial map.

It is recommended that the acreage and frontage of severable exceptions should meet local zoning minimum area, bulk, and dimension requirements for the proposed use. Road frontage and driveway access must be included within the severable exception area.

Since non-severable exceptions cannot be sold separately from the preserved farm, the zoning for minimum lot size is based on the entire farm. Driveway access to non-severable exceptions do not need to be included in the exception area. Driveways for future residences must be approved either at the time of application or by CADB and SADC staff after preservation. [Please review the policy on Access to Exception areas](#) in the reference section.

**Please be aware that the number of permitted residences within an exception can impact the appraisal values.**

**Exception Area I:** # \_\_\_\_\_ Acres     Non-severable     Severable

1. Is the exception area for  existing or  future residences? Or  not for residential use.
2. Please describe any existing residences: \_\_\_\_\_  
\_\_\_\_\_
3. If the exception is for future residences, please describe what number and type of primary residences are being requested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. The exception area will be restricted to:  
 One single-family residence or # \_\_\_\_\_ residences / type of residence \_\_\_\_\_  
 Zero single-family residences: this exception is for flexibility of use.  
 I do not wish to restrict the number of primary residences. If so, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Does the exception contain the existing/proposed septic & utilities for the residence(s) or other uses?  
 **YES**     **NO**    [Please review the Septic Policy](#) in the reference section for additional information.
6. Does the exception contain any other buildings?  **YES**     **NO**    **If Yes,** please describe: \_\_\_\_\_  
\_\_\_\_\_
7. Is the Exception area for a Trail or Open Space?  **YES**     **NO**    If Yes, please provide maps showing how it connects to a trail system or an open space plan within the municipality or county and provide detail on width, buffers, improvements, and maintenance. \_\_\_\_\_  
\_\_\_\_\_
8. Additional comments or questions? \_\_\_\_\_  
\_\_\_\_\_

## **ADDITIONAL EXCEPTION AREAS**

*Copy page as needed*

**Exception Area 2:** # \_\_\_\_\_ Acres     Non-severable     Severable

1. Is the exception area for  existing or  future residences? Or  not for residential use
2. Please describe any existing residences: \_\_\_\_\_
3. If the exception is for future residences, please describe what number and type of primary residences are being requested: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. The exception area will be restricted to:  
 One single-family residence or # \_\_\_\_\_ residences / type of residence \_\_\_\_\_  
 Zero single-family residences: this exception is for flexibility of use  
 I do not wish to restrict the number of primary residences. If so, please explain: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Does the exception contain the existing/proposed septic & utilities for the residence(s) or other uses?  
 **YES**     **NO**    [Please review the Septic Policy](#) in the reference section for additional information.

6. Does the exception contain any other buildings?  **YES**     **NO**    **If Yes,** please describe: \_\_\_\_\_  
\_\_\_\_\_

7. Is the Exception area for a Trail or Open Space?  YES     NO    **If Yes,** please provide maps showing how it connects to a trail system or an open space plan within the municipality or county and provide detail on width, buffers, improvements, and maintenance. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. Additional comments or questions? \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## **OTHER BUILDINGS ON THE EASEMENT AREA**

Are there any other buildings on the farm outside the exception area?  **YES**  **NO**

**If No**, please skip to the next section.

**If Yes:**

1. Please describe any non-residential structures (barn, run-in sheds, garage, trailer, etc.) on the area to be preserved.

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2. Do any of the structures also contain a non-agricultural use?  **YES**  **NO**

**If Yes**, please describe and provide copies of any written leases for any buildings.

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## **EASEMENTS AND RIGHTS OF WAY**

Are there any easements or rights of way associated with the land being preserved?  **YES**  **NO**

**If No**, please skip to the next section.

**If Yes**, please check all easements that apply:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Power Lines     | <input type="checkbox"/> Water Lines    | <input type="checkbox"/> Sewer Lines     |
| <input type="checkbox"/> Gas Lines       | <input type="checkbox"/> Sight Triangle | <input type="checkbox"/> Telephone Lines |
| <input type="checkbox"/> Bridge/Road ROW | <input type="checkbox"/> Other: _____   | <input type="checkbox"/> Other: _____    |

1. Are there access easements on or for the farm?  **YES**  **NO** **If Yes**, please describe:

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2. Do you have existing or approvals for solar, wind, or biomass energy generating installations?

**Existing**  **Approvals**  **None** **If Existing or Approvals**, please describe:

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## FARM HISTORY

Has this farm been the subject of an application for subdivision?  Major  Minor  None

If **None**, please skip to the next page.

If **Major** or **Minor**, **COPIES OF THE RESOLUTIONS & MEETING MINUTES ARE REQUIRED.**  
*Supporting documentation should be submitted (surveys, municipal ordinances applicable at time of approval, etc.).*

1. If approved, the subdivision application was  Preliminary  Final
2. Type of development (residential, commercial, office, mixed): \_\_\_\_\_  
# units or square footage \_\_\_\_\_  
Preliminary Approval Date: \_\_\_\_\_ expiration \_\_\_\_\_  
Final Approval Date: \_\_\_\_\_ expiration \_\_\_\_\_
3. Are all the parcels included in the final subdivision approval in the preservation application?  
 YES  NO
4. Have any extensions been obtained?  YES  NO **If Yes**, please describe:  
\_\_\_\_\_  
\_\_\_\_\_
5. Are there any outstanding and/or expired permits needed to perfect the approvals and/or build?  
 YES  NO **If Yes**, please describe and provide supporting documentation:  
\_\_\_\_\_  
\_\_\_\_\_
6. What conditions of approval have not been addressed? How likely are they to be resolved and what are the obstacles and costs involved?  
\_\_\_\_\_  
\_\_\_\_\_
7. List and discuss any past, current and/or ongoing litigation involving this project, including bankruptcy and foreclosure, or “builder’s remedy” actions. Any litigation that needs resolution in order to proceed with the project?  
\_\_\_\_\_  
\_\_\_\_\_
8. Are there any conservation easements other than what was already provided in the application?  
\_\_\_\_\_  
\_\_\_\_\_
9. Please provide details & estimates to remediate/clean up all environmental contamination and materials in order to build housing, if applicable:  
\_\_\_\_\_  
\_\_\_\_\_
10. Please provide any sewer/septic information, capacity, status, costs, soil logs, or related documents.
11. Please provide any NJDEP approvals.
12. Please provide any water permits and capacity.

## **ADDITIONAL APPLICANT INFORMATION**

1. Is the farm for sale?  **YES**     **NO**
  
2. Is the owner of the farm involved in an estate situation?  **YES**     **NO**  
If the land is held by an Estate, please provide:  
 Will  Probate and Tax Waiver **or**  statement that no waiver is needed and why  
If the land is held in a Trust please provide:  Will **and**  Trust Documents
  
3. Has the landowner filed for bankruptcy?  **YES**     **NO**  
**If Yes**, provide documentation from the Court authorizing the application for farmland preservation.
  
4. Is the farm involved in a foreclosure?  **YES**     **NO**
  
5. Is there a mortgage on the farm?  **YES**     **NO** Please note that if the farm proceeds to preservation, any mortgages or liens will have to be paid off or subordinated to the deed of easement prior to closing. Please contact your local and/or SADC Coordinator with questions.
  
6. Is the landowner a Corporation?  **YES**     **NO**    If **Yes**, please provide:  
 Corporate Resolutions (authorizing application and contact person(s))  
 Copy of Certificate of Incorporation  
 Copy of By-Laws any amendments and schedules
  
7. Is the landowner an LLC?  **YES**     **NO**  
If **Yes**, please provide  Operating Agreement **and**  Certificate of Formation
  
8. Is the applicant a Contract Purchaser?  **YES**     **NO**    If **Yes**, please provide:  
 Copy of the Contract                      Date of Contract Expiration: \_\_\_\_\_  
Is the landowner aware of the application for preservation?  **YES**     **NO**

***Changes can be made throughout the preservation process.  
However, changes may result in delays and changes to the easement offer.***

**All applicants must sign here to acknowledge submission of the application and to confirm you've received and signed copies of the Guidance Documents on Exception Areas, Non-Agricultural Uses, and Division of the Premises.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

QUESTIONS? Please contact your location or SADC Regional Acquisition Coordinator

## FARM CONSERVATION PLAN

**Pursuant to paragraph 7 of the Farmland Deed of Easement, every farm preserved must obtain a Conservation Plan within a year of closing on the easement purchase.**

A Farm Conservation Plan is a FREE site-specific plan developed by the Natural Resources Conservation Service (NRCS) that guides you through a variety of conservation and environmental farming practices and explain how each practice helps improve your land. They help you inventory the resources on your land and consider which conservation practices could contribute to an environmentally and economically sound farm. The implementation of these conservation practices is voluntary, although the NRCS may have grants available to implement the conservation practices and enhance the viability of your farm operation. More detail on Conservation Plans can be found here:

[https://www.nrcs.usda.gov/Internet/FSE\\_DOCUMENTS/nrcs141p2\\_018353.pdf](https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/nrcs141p2_018353.pdf)

**Does the farm currently have a Conservation Plan?  YES  NO Please sign the release below even if you do not currently have a conservation plan. This release is necessary to allow SADC staff access to the current or future plan.**

### AUTHORIZATION TO RELEASE CONSERVATION PLAN TO SADC

I request and authorize the USDA - Natural Resource Conservation Service (NRCS), the USDA - Farm Service Agency (FSA) and/or a Technical Service Provider (TSP) to provide the State of New Jersey, State Agriculture Development Committee (SADC), with a copy of my conservation plan and all associated documents, including geospatial data, as needed. I further understand that SADC will not release these documents to any person or organization without my permission. I understand from time to time, SADC may request additional or updated information, if available, from NRCS, FSA, or a TSP for the Block and Lots or Farm and Tracts listed.

This request and authorization apply to the blocks and lots contained within this application and the surrounding lands that may be part of the same conservation plan, which may include, but is not limited to:

- The following Farm/Tracts: \_\_\_\_\_
- All Farms/Tracts on record with NRCS in my name.
- Other: \_\_\_\_\_

Name and address of TSP, if applicable:

\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# 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?

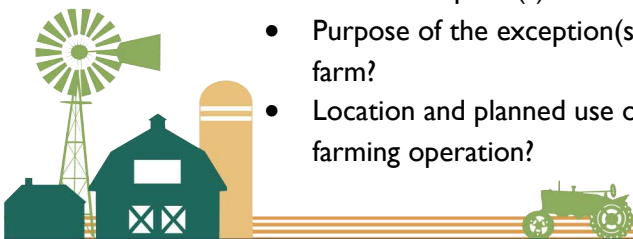
These are just a few common reasons why landowners choose to take exception areas. If your plans for future uses of the premises include any nonagricultural production based activity you should consider an exception area.

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?



**NEW JERSEY**  
**State Agriculture Development Committee**  
P.O Box 330  
Trenton, NJ 08625-0330

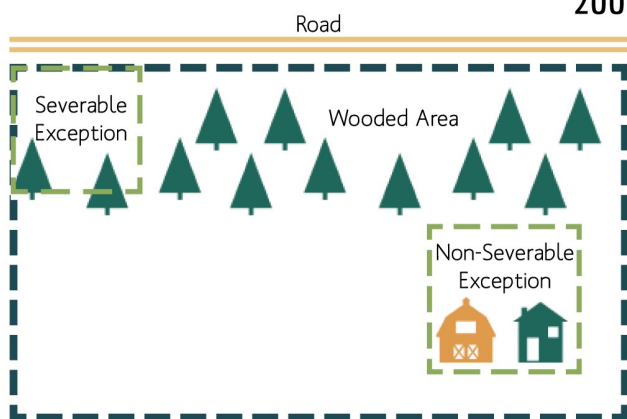
**phone:** 609-984-2504  
**email:** [sadc@ag.nj.gov](mailto:sadc@ag.nj.gov)  
**web:** [www.nj.gov/agriculture/sadc](http://www.nj.gov/agriculture/sadc)

# Exception Areas

Locating an Exception Area continued...

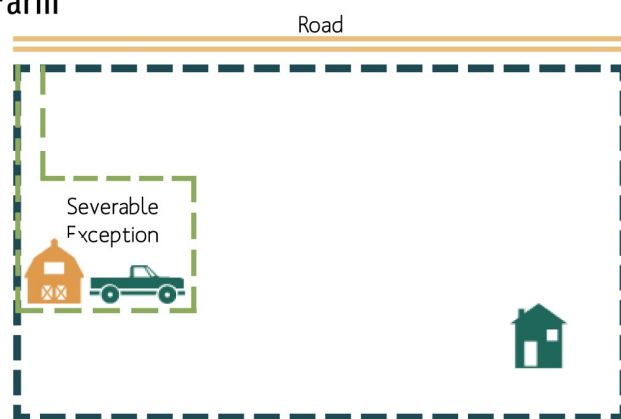
If you are requesting an exception for a future housing opportunity, you are strongly encouraged to thoroughly explore the feasibility of that location including septic suitability, ability to obtain water, road access, wetlands, wetland buffers and special regulations that may apply in your area, such 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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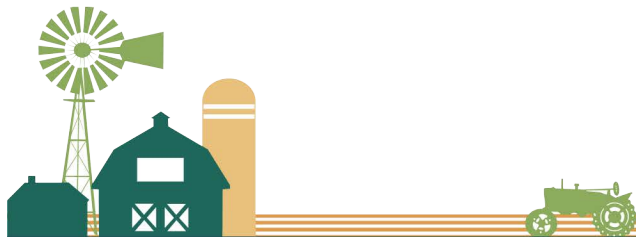
# Exception Areas

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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 nonagricultural 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,

## 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.



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# Nonagricultural Uses

## 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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# Nonagricultural Uses

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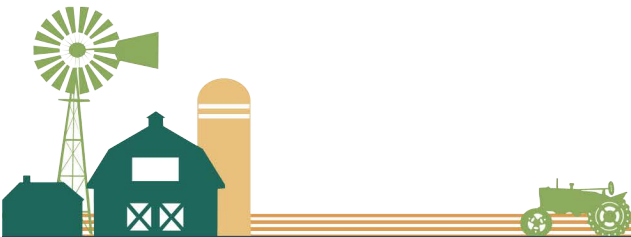
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# Division of the Premises

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.”

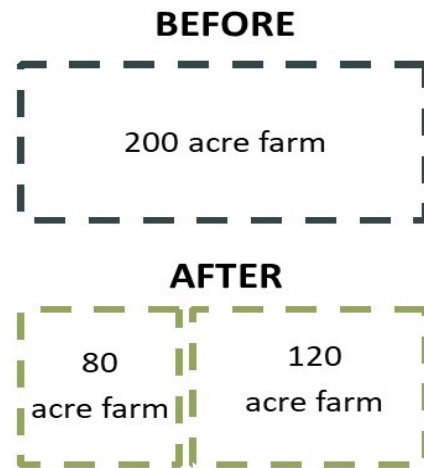
Although your farm may consist of multiple lots, after preservation they cannot be divided, transferred individually or conveyed to other owners without written approval of the State Agriculture Development Committee (SADC) and the easement holder, which may be the County Agriculture Development Board (CADB) or a non-profit agency.

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.

Diagram of a Non-Contiguous Division



Diagram of a Contiguous Division



## 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



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# Division of the Premises

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.

## Division Procedure

1. Submit completed application and required maps to the 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 its review based on the Deed of Easement and the agricultural purpose and viability tests.
4. 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 under Policies at <http://www.nj.gov/agriculture/sadc/rules/>

## 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*.



# Division of the Premises

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# Special Occasion Events - Overview

## Special Occasion Events on Preserved Farmland – P.L. 2023, c.9.

### Introduction

P.L. 2023, c.9 became law on February 3, 2023. The law recognizes the positive effects that holding special occasion events (SOEs) on preserved farms can have, under certain conditions. Among these are helping sustain the agricultural industry, enhancing the growing demand for agritourism activities on farmland, and improving the viability of the state’s farm operations without displacing agricultural or horticultural use of the land, or disrupting neighborhoods that surround preserved farms.



### What an SOE Is

An SOE is a cultural or social event, including a wedding, held on preserved farmland. For the purposes of P.L. 2023, c.9., SOEs do not include the following: activities eligible for Right to Farm Act protection; recreational uses already permitted under the farmland preservation deed of easement; and weddings held for the owner, operator, or employee of the commercial farm or weddings held for certain family members of the commercial farm owner.

### Who May Apply to Hold SOEs

The owner or operator of a preserved farm that is also a “commercial farm” may apply to hold SOEs. The preserved farmland must produce agricultural or horticultural products worth \$10,000 or more annually to qualify to hold SOEs. If the applicant to hold SOEs is a farm operator, and not the farm owner, the operator must obtain written authorization from the owner to apply.

### How Many SOEs May be Held

Farm owners or operators can receive approval to hold up to twenty-six (26) SOEs per calendar year on the preserved farm. Up to six of the SOEs may have 250 or more guests in attendance at any time during the event. If a farm holds more than one SOE on the same day, only one of the SOEs on that day may have 100 or more guests. An event is considered a single SOE if the event lasts not more than two consecutive days and is marketed as a single event. Further, events held by or for a nonprofit entity do not count as an SOE if the event has fewer than 100 guests and the permittee does not charge for and receives no fees or compensation for hosting the event, other than for reimbursement of out-of-pocket expenses, which cannot exceed \$1,000.



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# Special Occasion Events - Overview

## Area Used to Hold SOE's

The area used to host the SOEs is referred to as the "occupied area", and includes all areas needed for structures, parking, and other infrastructure. The occupied area may be up to 10 acres or 10% of the preserved farmland acreage, whichever is less. SOEs may not interfere with the use of the preserved farm for agricultural or horticultural production and shall have only minimal effects on the occupied area and ensure that the land can be readily returned to productive agricultural or horticultural use after the event.

SOEs can be held outside, or inside a building that is at least 5 years old at the time of application for the SOE. No new permanent structures may be constructed or used to host SOEs, and improvements to existing structures are limited to the minimum required for the protection of health and safety. Temporary structures or tents may be used, provided they comply with applicable construction and fire codes and are limited to use between April 1 to November 30.

No public utilities other than electric and water service may be extended to the preserved farm for holding SOEs. Parking areas for SOEs must use existing parking areas and land around existing buildings to the extent possible. Additional temporary, on-site parking areas are required to follow standards previously adopted by the SADC in regulation (N.J.A.C. 2:76-2A.13).

## How it Works

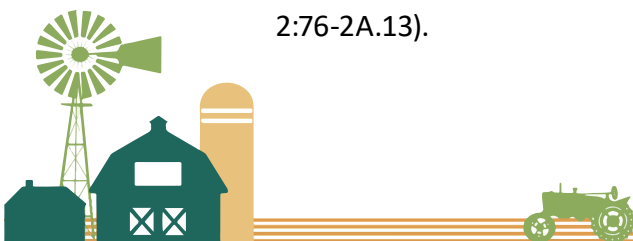
Farm owners, or farm operators with written authorization from the owner, can submit an SOE application to the holder (grantee) of the Farmland Preservation Program (FPP) deed of easement.

The easement holder, typically a county agriculture development board (CADB), board of county commissioners, nonprofit organization, or State Agriculture Development Committee (SADC), will review the application. The grantee must first confirm that the farm complies with its FPP deed of easement in order for it to be eligible to hold SOEs.

The grantee has 90 days in which to review the application and "shall" approve the application if it adheres to the requirements in the law and to forthcoming regulations promulgated by the SADC.

If the grantee does not respond to the application within 90 days, the application is deemed approved. A nonprofit grantee can approve, approve with conditions, or deny the application. A grantee cannot require a farm to submit an application to hold SOEs more than once annually.

Once an applicant receives approval to hold SOEs, the applicant is required to report annually to the grantee information about the SOEs held in the prior calendar year, including information on the dates, type of SOEs, and number of attendees of each event held. The Grantee is required to send a copy of this information to the SADC.



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# Special Occasion Events - Overview

## County, Nonprofit, and SADC Roles

Counties and nonprofit partners are responsible for accepting, reviewing, and acting on SOE applications from farms for which they hold the FPP deed of easement. No additional approval by the SADC is required; the SADC, like its partners, only reviews and acts on SOE applications from those farms on which it holds the easement. Partners must forward a copy of all SOE approvals and annual reporting information received from farms holding SOEs to the SADC.

The SADC is directed to develop and adopt regulations governing the SOE program, however, applications may be submitted to and processed by the easement holder prior to the SADC adopting SOE rules. The SADC also is required to regularly report to the legislature on implementation of the program.

## Municipal Role

All applicable State and local laws and regulations apply to the holding of SOEs, including but not limited to those concerning food safety, litter, noise, solid waste, traffic, and the protection of public health and safety. If the SOEs proposed by a farm would generate parking or traffic flow that could unreasonably interfere with normal traffic or emergency vehicle movement, or require the expenditure of municipal resources or inspections from agencies or authorities of the municipality, a municipality may require the submission of a municipal SOE application to review compliance of a farm's proposed SOEs with local laws. Municipalities may not charge more than a \$50 application fee and may not require more information than would be required for similar events conducted at a public park or another public venue.



## For More Information

Please see the SADC website, [www.nj.gov/agriculture/sadc](http://www.nj.gov/agriculture/sadc), for a copy of the SOE law and an SADC Q&A document. Farm owners and operators, as well as farmland preservation partners, also can contact the SADC at (609) 984-2504 and ask for David Kimmel.



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# Special Occasion Events

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