

NEW JERSEY
FARMLAND PRESERVATION PROGRAM
APPRAISER HANDBOOK

May 28, 2009

STATE AGRICULTURE DEVELOPMENT COMMITTEE

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APPENDICES

The following Appendices are available upon request by the State Agriculture Development Committee.

- A. Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq., P.L. 1983, c.32
- B. Deed of Easement
- C. Summary of Deed Restricted Sales
- D. Summary of Development Easement Purchased in New Jersey
- E. Summary of Proposed Easement Purchases
- F. County Agriculture Development Board Administrators
- G. SADC Regulations (See Subchapter 10 - Appraisal Handbook Standards)
- H. Garden State Preservation Trust Act, P.L. 1999, c.152.

OVERVIEW

The Agriculture Retention and Development Act of 1983 provides the basis for the public purchase of development easements on farmland in New Jersey. The State Agriculture and Development Committee (SADC), created by the Right to Farm Act, is responsible for administering the Farmland Preservation Program. The SADC is in, but not of, the Department of Agriculture. Chaired by the Secretary of Agriculture, it consists of 11 members who represent the State and general public's agricultural, fiscal, community and environmental interests.

The Garden State Preservation Trust Act, P.L. 1999, c.152, stipulates that the SADC receives 40 percent of available funds for farmland preservation purposes.

In November 2007, voters approved the Green Acres, Farmland, Blue Acres and Historic Preservation Bond Act of 2007. A total of \$73,000,000 is authorized for farmland preservation purposes. The Garden State Preservation Trust Act and the Green Acres, Farmland, Blue Acres and Historic Preservation Bond Act of 2007 authorize the moneys appropriated from the Funds to the SADC to:

- Provide grants to local government units to pay up to 80% of the cost of acquisition of development easements on farmland, and to qualifying tax-exempt nonprofit organizations to pay up to 50% of the cost of acquisition of development easements on farmland;
- Provide grants to local government units to pay up to 80% of the cost of acquisition of fee simple titles to farmland from willing sellers only, and to qualifying tax-exempt nonprofit organizations to pay up to 50% of the cost of acquisition of fee simple titles to farmland from willing sellers;
- Pay the cost of acquisition by the SADC of development easements on farmland; and
- Pay the cost of acquisition by the SADC of fee simple titles to farmland from willing sellers only, which shall be offered for resale or lease with agricultural deed restrictions.

Under the authority of N.J.S.A. 4:1C-43.1, P.L. 1999, c.180, the SADC may provide planning incentive grants to eligible counties and municipalities for the purchase of development easements on farmland. The objective of the program is to preserve significant areas of reasonably contiguous farmland that will promote the long-term viability of agriculture as an industry.

To date, the majority of landowner participation has been through the Easement Purchase Program whereby landowners sell the development rights on their land to the County Agriculture Development Board (CADB). Compensation for this sale is based on the appraised value of the development rights on the land. The landowner retains ownership of the land and is eligible for certain benefits and protections.

The voluntary sale of a development easement or rights by a landowner results in the placement of a permanent deed restriction on the preserved property, prohibiting any future nonagricultural development. It does not prohibit such estate/recreational pursuits as are listed in the deed restrictions, (Appendix C). The program is entirely voluntary both on the part of the landowner (i.e. seller) and the municipal/county/state governments (i.e. buyer). Eminent domain and condemnation do not have a role in this program.

PROGRAM PROCEDURES FOR THE PURCHASE OF DEVELOPMENT EASEMENTS

The County Easement Purchase, Planning Incentive Grant, Non-profit and SADC Direct Easement and Fee Simple programs have varying administrative procedures in the selection of farms for the various programs. However, processes concerning appraisals are consistent throughout all programs:

1. A landowner may apply to one of the above mentioned programs to sell a development easement pursuant to regulations contained at N.J.A.C. 2:76.
2. The Contracting Agent must review, evaluate and approve the easement purchase applications based on relevant rules.
3. The Contracting Agent shall contract with two independent appraisers approved by the State Agriculture Development Committee (SADC) to conduct an appraisal of each of the approved farms pursuant to N.J.A.C. 2:76. Appraisals must be a complete self-contained report estimating the Before and After values of only the land with a brief description of the improvements, if any.
4. The independent appraisers shall estimate the market value of the as is condition of the development easement. The development easement value is the difference between the market value of the as is condition (unrestricted) of the subject property (i.e. "before value") and the market value of the as is condition (restricted) of the subject property (i.e. "after value").

ZONING VALUATION: See Section Appraisals (d) page 8. (Reference, P.L. 1999, c.152).

VALUATION OF FARMLAND IN THE PINELANDS: Whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L. 1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the State Agriculture Development Committee shall determine the value of the development easement pursuant to P.L. 1999, c.152 and N.J.A.C. 2:76-19, Valuation of Development Easements in the Pinelands.

In addition to the above appraisal procedure to establish a “Before” valuation, the appraiser is directed to conduct an appraisal under a “Before and After” scenario, resulting in an easement value pursuant to N.J.S.A. 4:1C-31 and N.J.A.C. 2:76 19.3. In the instance of a highest and best use as agriculture in the Before and After conditions, the appraiser shall value the property improvements in accordance with SADC guidelines for appraising improvements on farms in the Pinelands dated January 22, 2003. Appraisers are required to value all properties under a Before and After scenario with an easement value conclusion. Consideration shall be given to the value of any Pinelands Development Credits associated with the property and if deemed appropriate by the appraiser, any other incremental value that may exist.

The SADC adopted a supplement to the Appraiser Handbook to assist appraisers when determining the fair market value of the property. Refer to SADC Appraiser Handbook Supplement Pinelands Area and Agricultural Use Applications.

SADC APPRAISAL POLICY:

The State Agriculture Development Committee at its March 25, 1999 meeting approved the following Appraisal Policy:

- a. For farms appraised under the 1999 funding round and thereafter (as of September 1, 1998) The County may consult with the fee appraiser (the appraiser whose value is at or closest to the SADC certified value) to make a determination if there are significant changes in the market, which would result in a substantive change in the value of the development easement.

Either of the following shall be conducted:

The County may submit to the SADC a letter (appropriate justification) from the appraiser indicating that due to market conditions, there will not be a substantive change in the [fair] market value of the development easement and therefore an updated appraisal is not required.

Or

If the appraiser determined that due to market conditions there would be a substantive change in the market value of the development easement, the Contracting Agent must submit two updated appraisals to the SADC, which reflect substantive amendments to the prior appraisal analysis. This means full self contained appraisals.

Note: Substantive Change will mean any change to the dollar per acre value of the easement from the previous appraised easement value.

- b. All other appraisals shall be conducted pursuant to N.J.A.C. 2:76-6.
- c. The SADC reserves the right to review market conditions to determine if there has been a substantial change in the market value of the development easement requiring an updated appraisal.
- d. An appraisal must be updated after three years.

NOTE: This policy remains in effect. However, the “funding round” and “as of” dates should reflect the most current funding round.

- 5. The completed appraisals shall be submitted to the Contracting Agent, according to the appropriate contractual terms.
- 6. The Contracting Agent may review the appraisals with the landowner prior submission to the SADC. Any errors or omissions identified by the Contracting Agent, its reviewer or landowners shall be rectified prior to the submission of the appraisals to the SADC. One corrected copy of each appraisal shall be forwarded to the SADC. The Contracting Agent is responsible for ensuring completeness of appraisals. No alterations, except at the request of the reviewer, will be permitted after that date. (Note: The two independent appraisals are not considered final recommendations of value until the reports have been reviewed by the SADC review appraiser and certified by the SADC.)
- 7.. The SADC Review Appraiser shall examine the appraisals for format errors, omissions, appropriate comparables, adjustments, reasonable value judgments, and basis for value conclusions. The Review Appraiser may request additional information, explanation, and clarification as needed. The Contracting Agent shall be informed of such requests and is responsible for conveying the information to the Reviewer in a timely manner.
- 8. The Review Appraiser shall make a value recommendation to the SADC.
- 9. The SADC shall certify or reject the recommended fair market value of the

development easement.

10. Following the SADC's certification of the market value of the "as is" condition of the development easement, the independent appraiser shall provide a copy of the appraisal report on a disk to the Agent and the SADC identifying all amendments, if appropriate.

Pursuant to N.J.A.C. 2:76-6.8, the SADC's certified market value of the "as is" condition of the development easement shall not be greater than the highest appraised value of the development easement or be less than the lowest independent appraised value of the development easement. The SADC may find an appraisal invalid if the appraisal does not comply with the appraisal handbook standards at N.J.A.C. 2:76-10 or generally recognized appraisal practices.

APPRAISERS

Approved Appraisers: Appraisers authorized to conduct appraisals of farms must be approved by the State Agriculture Development Committee and re-certified every year pursuant to N.J.A.C. 2:76 – 6.22. Inclusion on the SADC approved appraiser list applies to individual appraisers only, not to entire appraisal firms.

Contracting With Appraisers: The Contracting Agent shall be responsible for contracting directly with the two independent fee appraisers. The contract should stipulate compliance with the SADC's Appraisal Handbook as well as any standards and specifications required by the Contracting Agent and other stipulations contained in the Appraisal Order Checklist. It is recommended that the type of report, # of copies, amount and structure of fee, and a completion date be specified. In order to speed the review process it is necessary that each appraiser use the same acreage. The contract must specify the acreage to be used. If the appraiser, during the process, notices differences in size they should be relayed to the Contracting Agent. However the numbers must not change until the county notifies the appraiser that the application is amended. A written contract is highly recommended for the protection of both the Contracting Agent and the appraiser. The Contracting Agent should provide the appraisers with as much information as possible such that informed bids for appraisal services can be formulated.

Under no circumstances shall the Contracting Agent or contracting party:

- 1) Attempt to influence the independent appraiser's opinion of value.
- 2) Make Appraisal Fees contingent upon concluding a predetermined result or value.
- 3) Suggest appraisal techniques or philosophies inconsistent with those expressed in this handbook or inconsistent with the Uniform Standards of Professional Appraisal Practice (USPAP).
- 4) Encourage or manipulate the independent appraisers to reconcile their final easement values to a predetermined result.

APPRAISALS

Appraisal Considerations:

- (a) **Wetlands:** The Contracting Agent should provide the appraisers with a copy of the State Wetlands maps or a portion thereof for the subject property. The degree of detail of the wetland analysis on the subject and the comparables should reflect the importance of the wetlands to the overall value. Consideration should be given to the type of wetlands (i.e. modified agricultural, etc.), location of wetlands, the amount of the wetlands as a percentage of the total area, and any other factors of significance.
- (b) **Pre-existing nonagricultural uses:** Any pre-existing nonagricultural uses identified in the SADC's "Application For An Easement Purchase Cost Share Grant" must be noted in the appraisal report. The appraiser must determine if there is an effect on the development easement value if the existing nonagricultural use is permitted to continue in the "After" situation. Nonagricultural uses in exception areas should also be noted and considered as to their impact on value consistent with SADC exception policy as defined in this handbook.
- (c) **Valuation of Farmland in the Pinelands:** Whenever the value of a development easement on farmland to be acquired using constitutionally dedicated moneys in whole or in part is determined based upon the value of any pinelands development credits allocated to the parcel pursuant to P.L. 1979, c.111 (C.13:18A-1 et seq.) and the pinelands comprehensive management plan adopted pursuant thereto, the SADC shall determine the value of the development easement pursuant to The Garden State Preservation Trust Act, N.J.S.A. 13:8c-1 et seq. and N.J.A.C. 2:76-19, Valuation of Development Easements in the Pinelands. Refer to SADC Appraisal Handbook Supplement Pinelands Area and Agricultural Use Applications.

In addition to the above appraisal procedure to establish a "Before" valuation, the appraiser is directed to conduct an appraisal under a "Before and After" scenario, resulting in an easement value pursuant to N.J.S.A. 4:1C-31 and N.J.A.C. 2:76 19.3. In the instance of a highest and best use as agriculture in the Before and After conditions, the appraiser shall value the property improvements in accordance with SADC guidelines for appraising improvements on farms in the Pinelands dated January 22, 2003. Appraisers are required to value all properties under a Before and After scenario with an easement value conclusion. Consideration shall be given to the value of any Pinelands Development Credits associated with the property and if deemed appropriate by the appraiser, any other incremental value that may exist.

- (d) **Zoning as a Valuation Factor:**
The appraiser shall adhere to the appraisal procedures as described for the following programs:

ZONING VALUATION:

Garden State Preservation Trust Act , N.J.S.A. 13:8C-38j

Commencing on the date of enactment of the Highlands Water Protection and Planning Act (August 10, 2004), and through June 30, 2009, when the committee, a local government unit, or a qualifying tax exempt nonprofit organization seeks to acquire a development easement on farmland or the fee simple title to farmland for farmland preservation purposes using constitutionally dedicated moneys in whole or in part, it shall conduct or cause to be conducted an appraisal or appraisals of the value of the lands that shall be made using (a) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands, subject to the appraisal and in effect at the time of proposed acquisition, and (b) the land use zoning of the lands, and any State environmental laws or Department of Environmental Protection rules and regulations that may affect the value of the lands subject to the appraisal and in effect on January 1, 2004. The higher of those two values shall be utilized by the committee, a local government unit or a qualifying tax-exempt nonprofit organization as the basis for negotiation with the land- owner with respect to the acquisition price for the lands. The landowner shall be provided with both values determined pursuant to this paragraph.

On April 2, 2009 the SADC adopted the following interpretation of the sunset of the alternative appraisal valuation:

The SADC's interpretation of this Garden State Preservation Trust Act (GSPT Act) provision recognizes the relationship between three key aspects of the provision: first, the point in time which the entity "seeks to acquire" a development easement; second, the need to utilize state dedicated funds (including funds flowing from the Green Acres, Farmland, Blue Acres, and Historic Preservation Bond Act of 2007); and third, the need for the entity to "commence" appraisals.

As such, this statutory provision shall be interpreted by the SADC to mean the following:

1. An application for the sale of a development easement or sale of fee simple title requiring SADC approval prior to initiating appraisals must be received by the SADC no later than June 30, 2009. This includes all applications processed under the County and Municipal Planning Incentive Grant (PIG) programs and Non-Profit applications seeking SADC preliminary approval.

- a. Appraisals shall be conducted and submitted to the SADC within 180 days of the SADC's approval of the application (i.e., SADC issuance of a "green light" approval under the PIG program, or SADC preliminary approval under the Non-Profit program).

- b. All appraisals shall have a market valuation date no later than June 30, 2009.

2. In those instances where SADC approval of an application for the sale of a development easement or sale of fee simple title has already been granted, all appraisals

shall be submitted to the SADC no later than December 31, 2009.

a. All appraisals shall have a market valuation date no later than June 30, 2009.

3. Funding for the acquisition of the development easement or land in fee simple title shall be provided in whole or in part through either the Garden State Preservation Trust (GSPT) funds, or funds authorized by the Green Acres,

Farmland, Blue Acres, and Historic Preservation Bond Act of 2007 to utilize the appraisal valuation procedure contained at N.J.S.A. 13:8C-38j(1).

A landowner may waive any of the requirements of this paragraph and may agree to sell the lands for less than the values determined pursuant to this paragraph.

The provisions of this paragraph shall be applicable only to lands the owner of which at the time of the proposed acquisition is the same person who owned the lands on the date of enactment of the Highlands Water Protection and Planning Act (8/10/04) and who has owned the lands continuously since that enactment date, is an immediate family member of that person, or is a farmer as defined by the committee. (Refer to confirmation of ownership).

The Environmental land use laws in Effect as of 1/1/04;

Environmental land use or water law means the “Freshwater Wetlands Protection Act” P.L. 1987 c.156 (C.13:9B-1 et seq.), the Water Supply Management Act.” P.L. 1981, c. 262 (C. 58:1A-1 et seq.) the “Water Pollution Control Act” P.L. 1977, c. 74 (C.58:10A – 1 et seq.), “The Realty Improvement Sewerage and Facilities Act (1954), “ P.L. 1954, c. 199 (C.58:11-23 et seq.) the “Water Quality Planning Act, “ P.L.1977, c.75 (C58:11A-1 et seq.), the “Safe Drinking Water Act, “ P.L.1977, c. 224 (C. 58:12A-1 et seq.), or the Flood Hazard Area Control Act.” P.L. 1962, c. 19 (C.58:16A-50 et seq.)

Confirmation of Ownership (See N.J.A.C.2:76-10.5)

The appraiser shall receive confirmation from the contracting agency that the land to be appraised “at the time of proposed acquisition” has been owned continuously by the same individual or entity since the enactment of the Highlands Water Protection and Planning Act, (August 10, 2004), is an immediate family member of the person, or is a “farmer” as defined by the State Agriculture Development Committee]

“At the time of the proposed acquisition” means at the time of appraisal valuation. (This definition is subject to final determination by the SADC.

(a) Farmer means an owner or operator of a farming operation who, during the calendar year immediately preceding submittal of a farmland preservation application, realized gross sales of at least \$2,500 of agricultural or horticultural products produced on the farming operation,

exclusive of any income received for rental of lands.

1. Documentation to be provided by the farmland preservation applicant shall include, but not be limited to, sales receipts and federal tax forms.

(b) A governmental unit or a qualifying tax-exempt nonprofit organization shall be eligible for the appraisal valuation procedure set forth in N.J.S.A. 13:8C-38j provided that it:

1. acquired land or an interest in land or is a contract purchaser to acquire land or an interest in land, for farmland preservation purposes pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq.; and
2. submitted a farmland preservation application to the Committee for a grant pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. and the Garden State Preservation Trust Act, N.J.S.A. 13:8C-1 et seq. within three years of the date of acquisition of the land or interest in land; and
3. acquired the land or interest in land from a farmer as defined in N.J.A.C. 2:76-10.5(c).

(c) If an owner of land who meets the definition of farmer in N.J.A.C. 2:76-10.5(c) transferred ownership to a business entity, such as a corporation, limited liability company, partnership, or trust, after the date of enactment of P.L. 2004, c.120 (August 10, 2004), the new owner shall be eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j provided that the transferring owner, or an immediate family member of the owner, as defined in this subchapter, continues to hold an interest in the business entity or trust, and further provided that the business entity or trust meets the gross sales criteria of N.J.A.C. 2:76-10.5(c) in the calendar year immediately preceding submittal of a farmland preservation application.

1 Documentation to be provided by the farmland preservation applicant shall include, but not be limited to, deeds of ownership or other official documentation showing that the original owner has an interest in the business entity or trust, and sales receipts and federal tax forms showing that both the transferring owner and the business entity or trust meet the definition of farmer in N.J.A.C. 2:76-10.5(c).

(d) If the ownership of land has been transferred from a person who meets the definition of farmer in N.J.A.C. 2:76-10.5(c) to an estate after the date of enactment of P.L. 2004, c.120 (August 10, 2004), the estate shall be eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j.

1. Documentation to be provided by the farmland preservation applicant shall include, but not be limited to, deeds of ownership or other official documentation verifying the estate's ownership of the land, and sales receipts and federal tax forms providing proof that the original owner was a farmer as defined in N.J.A.C. 2:76-10.5(c).

(e) The landowner shall submit all required documentation set forth in (c) through (e) to: the appropriate Board if it has submitted a farmland preservation application to the Board; to the Committee, if it has submitted a farmland preservation application to the Committee; to a municipal governing body, if it has submitted a farmland preservation to the municipal governing body; and to a non-profit organization, if it has submitted a farmland preservation application to a non-profit organization which intends to apply to the Committee for a grant.

1. If a Board received the farmland preservation application, it shall determine if the landowner is eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j based on the documentation submitted by the landowner.
 - i. The Board shall advise the appraisers regarding whether an individual property is eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j.
2. If the Committee received the farmland preservation application, it shall determine if the landowner is eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j based on the documentation submitted by the landowner.
 - i. The Committee shall advise the appraisers regarding whether an individual property is eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j.
3. If a municipal governing body received the farmland preservation application and has applied to the Committee for a planning incentive grant pursuant to N.J.S.A. 4:1C-43.1, it shall forward the documentation set forth in (c) through (e) to the Committee.
 - i. The Committee shall determine whether an individual property is eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j and shall advise the municipal governing body to notify its appraisers of the Committee's determination.
4. If a non-profit organization received the farmland preservation application and applies to the Committee for a grant, it shall forward the documentation set forth in (c) through (e) to the Committee.
 - i. The Committee shall determine whether an individual property is eligible for the valuation procedure set forth in N.J.S.A. 13:8C-38j and shall advise the non-profit organization to notify its appraisers of the Committee's determination.

(e) **Residential Opportunities:** This term encompasses exceptions which permit a residence, existing residential units and residual dwelling site opportunities (RDSOs), which are further defined as follows:

Generally, the ability to reside on the property provides an increment of value attributed to the land, which is independent of the actual value of the physical structure (improvement). This ability may exist through a Residual Dwelling Site Opportunity, existing residential unit or perhaps an exception, which is not encumbered by the general deed restrictions as contained in the Deed of Easement. The Appraiser should provide an explanation of any adjustments to the subject or comparable properties.

1. **Exceptions:** In the event there is an "exception" to the application, the CADB should clarify the type of "exception" granted. An "exception" may be one of the following:

- i. **Severable Exception:** An area which is part of an existing Block and Lot owned by the applicant which will be excluded from the restrictions of the Deed of Easement and may be sold as a separate lot in the future; or
- ii. **Non-Severable Exception:** An area which is part of an existing Block and Lot owned by the application that will not be subject to the restrictions of the Deed of Easement but cannot be sold separately from the remaining premises unless it is part of a larger area which is deemed to be agriculturally viable.

All exceptions, both severable and non-severable, shall be considered to determine the impact on the restricted /after value. Specifically, if the purpose of the exception is for residential development the appraiser is required to consider this as a residential opportunity to the restricted farm. If the intention of the exception is for some other purpose, the impact of the intended purpose (non-agricultural uses, rights of ways, equestrian trails etc.) should be considered as to its effect on the deed-restricted farm.

The appraiser should also keep in mind that in keeping with the principle of consistency the appraiser should also consider the impact of the exception in the before value as well. Usually this will have a disproportionate effect as the before value of the excepted land will be negligible to the per acre value. The appraiser should be conscious that the SADC certifies the per acre value and not the total dollars. For administrative purposes, when reporting value in the letter of transmittal, certification and summary the appraiser must use the number of acres in the appraisal order checklist multiplied by the per acre conclusions. The total dollars are typically always subject to a survey that will not be completed until after the appraisal process.

For example: If a property is actually 100 acres, but the owner has retained a 3 acre exception, the appraiser if he so chooses, can report the subject size as 100 acres for purpose of analysis in his or her before and after grids. On the appraiser's certification however, the SADC still requires that the appraiser report the acreage as 97 acres. This is not required or necessary, but the appraiser always has this option.

Note: The appraiser shall not consider the impact of the severable exception to the subject property only under the condition that the subdivision exists by final resolution of the municipality as of the date of the appraisal, but the appraiser may consider the impact of separate tax lots that are in unity of use or consistent in use with the larger parcel.

2. **Residential Units:** These consist of existing single family or multi-family units used for residential purposes. The occupant does not have to be involved in the agricultural operation once the premises are permanently restricted.

3. **Residual Dwelling Site Opportunity (RDSO):** The CADB is authorized to allocate RDSOs on the premises pursuant to N.J.A.C. 2:76-6.17. An "RDSO" means the potential to construct a residential unit and other appurtenant structures on the premises according to N.J.A.C. 2:76-6.17. The exercising of an opportunity to construct a residential unit must be approved by the CADB. The residential building must be used for single-family residential housing and its appurtenant uses. Furthermore, the construction and use of the residential unit shall be for agricultural purposes.

The appraiser must consider the effect of "Residential Opportunities" on the land value of both the subject farm and comparable sales and, if necessary, make appropriate adjustments. The value should indicate the value of a residential lot and the value of the excess land. In the event the subject farm contains an RDSO, the appraiser shall consider the impact of the RDSO on the subject farm as a residential opportunity in accordance with N.J.A.C. 2:76-10.7.

At the time of awarding the contract, the CADB must provide the appraiser with a copy of the SADC's "Application For An Easement Purchase Cost Share Grant" and the CADB's approval of the application for clarification of "exceptions", "existing residential units" and "RDSOs".

(f) Other:

The appraisal report must:

1. Be written and presented in narrative format;
2. Be sufficiently descriptive to enable the reader to ascertain the estimated market value and the rationale for the estimate;
3. Provide detail and depth of analysis that reflect the complexity of the real estate appraised;
 - a. Analyze and report in reasonable detail any prior sales of the property being appraised that occurred within five (5) years preceding the date when the appraisal was prepared;
 - b. Analyze and report in reasonable detail any contracts of sale on the subject

- property and adhering to the spirit and letter of Advisory Opinion # 1.
4. Analyze and report on current market conditions and trends to the extent they affect the value of the subject property.
 5. Acreage: The county is responsible for determining the acreage on which the value is to be based and each appraiser must use the acreage figure provided by the county to value the property. This figure also correlates with the acreage contained in the county's "Application For An Easement Purchase Cost Share Grant" as submitted to the SADC.
 6. Riparian Lands: The CADB should provide the appraiser with a copy of the State riparian maps as appropriate to assist the appraiser. Any State-claimed riparian lands must be identified and removed from the appraised acreage.
 7. Analyze and report Highest and Best Use as Vacant Land and as Improved. The Appraiser must consider the effect of the existing improvements on highest and best use of the land, but is only required to value the land.
 8. Contain color photographs of all buildings on the subject property in the addenda.
 9. Contain a copy of the landowner's application for Development Easement that was relied upon for the appraisal.

DEVELOPMENT EASEMENT VALUATION

THEORY: The ownership of real property is often referred to as a bundle of rights and may be compared to a bundle of sticks wherein each stick represents a distinct and separate right or privilege of ownership. Any or all of the bundle of rights that make up the ownership of real property can be sold, leased, or restricted individually or together (e.g. water rights, mineral rights, right of access, hunting & fishing rights, etc.). Within this concept of ownership, the development rights of a property may be sold to restrict the use of the property. This concept is the theoretical basis for estimating "market value restricted" (a/k/a after value) for properties participating in the Farmland Preservation Program.

The rights to be acquired from property for this program are described as development easements. The deed restrictions that will be placed on the title of the property are established in "Acquisition of Development Easements", N.J.A.C. 2:76-6.

A development easement is an interest in land only. As such, it is the difference in the value of the land in the "Before", unrestricted and the value of the land in the "After", or restricted under the terms of the Deed of Easement.

The general intent of the deed restriction is to limit the use of the property for agricultural purposes thereby stabilizing the loss of farmland to non-farm uses. The owner of record may continue to own, farm, sell, or lease the property to others for agricultural purposes. Other uses, which are compatible with agricultural pursuits, are permitted such as residential/estate uses and certain recreational activities. In certain instances the value of the property for these uses may be primary in the marketplace while agricultural value is secondary. This point is frequently illustrated by properties in areas undergoing heavy development pressure, in exclusive gentrified areas, or in situations where the land parcel is relatively small in size.

Whereas commercial agriculture may not be the primary motivating force in the purchase of such lands, the property may be very desirable as a "rural residence with acreage" or as a "country estate" with the focus of its value becoming the potential of the existing residence on the property or the ability to construct a residence in the future under a residual dwelling site opportunity. In such cases, land value is rooted in the open space amenity provided to the residence or anticipated residence.

The following definitions will help identify distinctions in value:

1. Market Value (unrestricted) MV of the as is condition

Market value unrestricted means the market value that the property will bring in the open market under all conditions requisite for a fair sale and which includes all rights of fee simple ownership.

The specific definition of Market Value to be used in all appraisal reports shall read as follows:

The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated
2. Both parties are well informed or well advised, and acting in what they consider their own best interests.
3. A reasonable time is allowed for exposure in the open market
4. Payment is made in terms of cash in United States dollars or in terms of financial arrangements comparable thereto, and
5. The price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

(The Appraisal of Real Estate, 12th edition, page 224)

For properties appraised for Federally funded projects (see appraisal order checklist) the Federal definition of market value must be used as written in Uniform Appraisal Standards for Federal Land Acquisitions, Section A-9.

“Market value is the amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would have sold on the effective date of the appraisal, after a reasonable exposure time on the open competitive market, from a willing and reasonably knowledgeable seller to a willing and reasonably knowledgeable buyer, with neither acting under any compulsion to buy or sell, giving due consideration to all available economic uses of the property at the time of the appraisal.”

2. Market Value Restricted MVR of the as is condition

Market Value Restricted is the market value of property subject to the deed restrictions placed on the title of a property as set forth in N.J.A.C. 2:76-6.15. This term may be synonymous with agricultural market value although in areas under heavy development pressure or in more exclusive gentrified areas an increment of value may be inherent for residential and/or recreational uses with agricultural use being secondary. The restrictions placed on the premises run with the land forever.

3. Agricultural Market Value AMV

Agricultural Market Value can be defined as the market value of property with a present and future highest and best use for agricultural production. This includes consideration of exposure on the market and competition for agricultural property between farmers.

4. Agricultural Value AV

Agricultural Value is a value in use. It can be defined as the value of property based solely on its agricultural productivity. This value does not take into account alternative uses for the property.

For the New Jersey Farmland Preservation Program, Market Value and Market Value Restricted are of primary concern. The Market Value of a property less the Market Value Restricted of that property is equivalent to the value of the development easement. Market Value and Agricultural Market Value may be equivalent in areas under nominal development pressure (i.e. limited alternative uses) although this condition may exist in only limited areas in the State of New Jersey. Theoretically, Market Value Restricted must be some portion of Market Value (unrestricted) since a portion of the bundle of rights, and presumably value, has been acquired by the CADB/County. In reality, the acquisition of a portion of the bundle of rights simply changes the composition of the buyer pool (i.e. developers and speculators are all but eliminated). Thus, market value restricted could conceivably range from a low approaching Agricultural Value to a high approaching Market Value (unrestricted) depending on the motivations and financial well being of the buyer pool seeking restricted properties. **IT IS ESSENTIAL THAT THE APPRAISER UNDERSTAND THE COMPOSITION OF THE BUYER POOL AND THEIR MOTIVATIONS FOR PURCHASING A RESTRICTED PARCEL** (i.e. oversized home site/country estate, recreation, nursery, horses, vegetables, space, privacy, etc.).

Based on investigation and analysis of restricted property sales occurring in the State of New Jersey, and other northeastern states, it is clear that the market value restricted of agricultural properties often reflects a value increment over and above agricultural value. Agricultural value (i.e. value in use) is estimated based solely on the economic productivity of the land utilizing the income capitalization method.

As development pressure in an area increases, increases in market value can be anticipated. Concurrently, agricultural value (value in use) may remain relatively constant. Agricultural market value would increase moderately as the supply of available farmland is diminished and

the competition among farmers for the remaining farmland increases. However, market value restricted may be expected to increase proportionately to the increase in market value as development pressure increases IF the property's potential residential use (or estate use, recreational use, etc.), as restricted, increases over and above its agricultural use. This increase in marketability continues to recognize the limitations imposed by the development easement.

Other state farm preservation programs have initially based development easement values on the difference between the market value of a property and the agricultural value (value in use) of that property. As market sales of restricted properties have gradually become available, emphasis in valuation has shifted to sales comparison and away from economic productivity. Sales data has frequently shown sales prices to be substantially above that supported by the agricultural capability of these properties. In fact, this has nearly always been the case in New Jersey (the reader is referred to the sales in the Addendum of this handbook).

APPRAISAL FORMAT

The following is the SADC required appraisal format, which must be strictly adhered to, or the appraisal is at risk of being deemed invalid. All values in the report must be expressed in dollars per acre. The final value should be expressed in both dollars per acre and total dollars. Each report will be examined and rejected if not valued or formatted as requested. Any factual or mathematic errors, which could result in a value change, may be referred to the county for correction and/or clarification.

PART I SUMMARY

Letter of Transmittal.....

Should contain the estimated value per acre and the total value.

Certification of Appraisal.....

Be sure to include the market value unrestricted per acre and total value, market value restricted per acre and total value, easement value per acre and total value, date of valuation, a statement that the appraisal conforms to the Standards for Appraisals in N.J.A.C. 13:40A-6.1 and the Uniform Appraisal Standards for Federal Land Acquisitions (Interagency Land Acquisition Conference, 1992) and the signature of the appraiser responsible for the report.

Summary of Salient Facts.....

Include the unrestricted value per acre and total value, the restricted value per acre and total restricted value and the easement value both per acre and total. (**See required Format (A)**)

Table of Contents.....(See required Format (B))

PART II GENERAL INFORMATION

Appraisal Purpose: The purpose of the appraisal is to estimate the market value of a development easement on the subject property per the restrictions of the New Jersey Agriculture Retention and Development Program.

Scope of Work: The scope of work for SADC assignments will be consistent with the requirements of the SADC appraisal handbook and USPAP. Any federally funded projects as identified by the appraisal order checklist will also be consistent with the Uniform Appraisal Standards for Federal Land Acquisition (Yellow Book).

Estate Appraised: A statement of the rights being valued. For Market Value, the Fee Simple Estate will apply in most cases.

Definitions: Define the legal and technical terms of the report such as, but not limited to, Market Value, Highest and Best Use, etc.

Assumptions and Limiting Conditions....

General Property Identification and Description: Identify the subject property by Block/Lot and other means. Briefly describe the property and its current use.

History: Any Title changes in the last 5 years, easements, agreements of sale or options. The appraiser shall analyze any sale of the subject within the past three years. The analysis must either use the sale of the subject as a comparable or specifically state the reasons for not including the sale as a comparable. Failure of the appraiser to comply with this analysis is considered a USPAP violation and may result in the appraisal being invalidated.

Market: Report present market conditions and estimate marketing time.

Zoning and Assessment Information: The appraiser should include a statement and, if appropriate, an analysis of the impact on value as described in Section, Appraisals (d), page 8.

Community and Neighborhood Data: This should include, but is not limited to, character of the community, land use trends, degree of development pressure in the area, and any other information, which may significantly impact the fee simple market value. This section should lay the foundation for the discussion of Highest and Best Use later in the report.

(REQUIRED FORMAT) (A)

SUMMARY OF SALIENT FACTS AND IMPORTANT CONCLUSIONS

PROPERTY LOCATION (Including but not limited to Block and Lot)

PROPERTY TYPE

LAND SIZE		
ZONING		
HIGHEST AND BEST USE Before and After		
DATE OF VALUATION		
	<u>PER ACRE</u>	<u>TOTAL</u>
ESTIMATE OF PROPERTY VALUE "BEFORE":	_____	_____
ESTIMATE OF PROPERTY VALUE "AFTER":	_____	_____
ESTIMATE OF DEVELOPMENT EASEMENT VALUE:	_____	_____

(REQUIRED FORMAT) (B)
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**PART III PROPERTY VALUATION BEFORE DEVELOPMENT
 EASEMENT ACQUISITION (A/K/A MARKET VALUE UNRESTRICTED)**

Subject Property Description: The description of the subject property including all physical attributes and improvements. Comments regarding topography, soils characteristics, hydro logically limited areas, riparian lands (state owned or privately held), frontage, configuration, dwellings, outbuildings, etc. are appropriate. Building sketches are not necessary. Any rejected, approved, or pending subdivision plans, if any, should be noted here. Existing residences, Agricultural Labor housing, exceptions and/or Residual Dwelling Site Opportunities and pre-existing nonagricultural uses should be noted.

A specific description of any exceptions should be provided to the appraiser by the CADB. The information should include the dimensions, size and location of the exception identified on a tax map and any contingencies, which may impact the valuation of the premises. Refer to the previous discussion regarding the different types of “exceptions”.

Soil Characteristics/Interpretative Tables

County Agriculture Development Boards (CADB), Planning Incentive Grant (PIG) Municipalities, and Non-Profit Organizations (NPO) have been informed to incorporate the Natural Resources Conservation Service (NRCS), Soil Survey Geographic Data Base (SSURGO) version 3.2 standard into the Farmland Preservation Program application process. SSURGO version 3.2 standard is the “official” file format for each county and supersedes all previous versions. Older versions of SSURGO and NJDEP digital soils data should no longer be used for counties that have SSURGO 3.2 standard available. All counties are currently available for download in SSURGO 3.2 standard format The NJDEP digital soils data were never officially recognized by NRCS. The SADC has incorporated the new SSURGO 3.2 standard into the State Farmland Preservation Program application review process.

NRCS has posted the newly revised SSURGO version 3.2 standard files on its national web site. The files can be downloaded at <http://soildatamart.nrcs.usda.gov>. A downloadable WinZip file will contain the tabular data, spatial data and metadata. The spatial feature files are in Universal Transverse Mercator (UTM) meters, North American Datum 1983 (NAD83). The tables are variable length, pipe delimited, ASCII format files. The table file format cannot be opened directly by ARC/GIS. NRCS has posted a MS-Access template for use with these table files. Each county directory contains a copy of this file (soildb_US_2000.mdb). ARC/GIS can

use the MS-Access template provided by NRCS. The map unit table can be joined and/or linked through the template. The “mapunit” table contains the farmland classification of soils (i.e., “all areas are prime farmland”, “farmland of statewide importance”, “farmland of unique importance”, “not prime farmland”, and “farmland of local importance”). Be aware that one county can consider a soil type “farmland of local importance” while another county may not, for the same soil type. Some counties don’t even give the designation at all. This would only be an issue if the tables from multiple counties were combined for analysis and utilized this column.

Hydrologically Limited Areas: The acreage of hydrologically limited areas should be estimated by the appraiser on both the subject and the comparables using State wetlands maps as the minimum basis for evaluation. Where appropriate, the discussion should include the location of the wetlands, [whether they can be included to meet the average parameter of the zoning ordinance], the type of wetlands (i.e. modified agricultural) and the possibility of mitigation if that is a factor.

Riparian Lands

In the case where significant riparian lands impact the subject property, the appraiser should base his/her per acre analysis only on the non-riparian land area. For example, if a 100 acre property has GIS calculations of 40 acres of upland, 5 acres of freshwater wetlands, 5 acres of modified agricultural wetlands and 50 acres tideland the appraiser would base his analysis on 50 acres. The 50 acres of tideland can be purchased or subjected to the Deed of Easement, but analysis on a per acre basis can be restricted to the 50 acres of upland and wetland area. The appraiser should always disclose prominently why his conclusion of total area differs from the application. The appraiser shall still consider the impact of any riparian grants, leases or licenses on value to the appraised area. Large areas of non-riparian border water may also be treated in a similar fashion if the appraiser believes the per acre value would be impacted.

Pre-Existing Nonagricultural Uses: The appraiser must consider and explain any pre-existing nonagricultural uses which will remain in the “after” valuation. An explanation on the impact attributed to the development easement value must be provided in the analysis.

Improvements: The appraiser is required to consider the effect on the value when the subject and/or comparable sale properties contain any improvements. The appraisal shall be a complete self-contained report. Exceptions may be approved by the SADC. Most importantly, the appraiser must determine if there is an increment of value attributed to the land, which is independent of the actual value of the physical improvement.

Highest and Best Use: Building on previous sections describing the zoning, community, and the property, discuss in some detail your opinion of the highest and best use. Please refer to below for valuation adjustments for zoning. Detail Physically Possible, Legally Permissible and Financially Feasible uses resulting in a Maximally Productive Highest and Best Use.

Zoning: When considering zoning as a factor of valuation, the appraiser is required to adhere to the provisions contained in Section “Appraisals (d)” on page 10.

Valuation of land in the Pinelands: The SADC shall be responsible for determining development easement values in the Pinelands. (Refer to previous discussion.)

Valuation Approaches: The development easements purchased by the Farmland Preservation Program involve an interest in land only. As a result it is only the land value that needs to be derived and reported. As noted in previous discussions, the appraiser must consider if there is an increment of value attributed to the land as a result of opportunities to reside or other improvements existing on the premises.

- a. **Direct Sales Comparison:** Generally speaking, this method should be based on a comparison of vacant acreage sales to the subject lands. Comparable sale data sheets shall at a minimum include the following information:
 - a. Grantor/Grantee
 - b. Deed date
 - c. Deed book/page
 - d. Sale price
 - e. Property size
 - f. Location/block/lot (Including approximate distance to subject)
 - g. Soil types/ % septic limitations
 - h. Frontage/access
 - i. Wetlands
 - j. Conditions of sale.
 - k. Color photograph – including primary improvements
 - l. Improvements
 - m. Utilities
 - n. Verification
 - o. Legible copy of tax map

Adjustments should be for salient characteristics in the market, which may or may not include soil characteristics, zoning, topography; hydro-logically limited areas, riparian lands (state owned or privately held), date of sale, financing, etc. Adjustments must be explained. If a sale is improved, the appraiser must consider making appropriate adjustments when comparing the sale to the subject farm. The basis for any adjustments should be contained in the report. Since the development easement is purchased on "raw" land, sales, which have received approval for subdivision, or which were sold on a contingency basis should be adjusted accordingly with a thorough discussion of the reasons for the adjustments, if the subject farm does not have approvals for subdivision. The use of the following grid is mandatory when the highest and best use is residential development. The appraiser should utilize sales, which most closely resemble the conditions on the subject property. The value conclusion should be expressed as a per acre figure and a total figure for the property. In the reconciliation, discuss sales thoroughly and indicate which were emphasized.

If Appraisals are found to make unsupported assumptions regarding large adjustments of +20 or –20% or greater the explanation should include a detailed explanation of the adjustment,

including presentation of any specific data or observations the appraiser relied upon in deriving that adjustment.

UNRESTRICTED LAND SALES ANALYSIS

	SUBJECT	SALE 1	SALE 2	SALE 3	SALE 4				
Property Address	Spring Road	Spring Road	Spring Road	Spring Road	Spring Road				
	Millstone	Millstone	Millstone	Millstone	Millstone				
Owner / Grantor	Farmer Bill	Farmer Bill	Farmer Bill	Farmer Bill	Farmer Bill				
Size in Acres	100.0	100.0	100.0	100.0	100.0				
Date of Sale	NA	00/00/00	00/00/00	00/00/00	00/00/00				
Sale Price - Land Only		\$100,000	\$100,000	\$100,000	\$100,000				
Sale Price / Acre	NA	\$1,000	\$1,000	\$1,000	\$1,000				
Property Rights		Fee Simple	0%	Fee Simple	0%	Fee Simple	0%	Fee Simple	0%
Adjusted Value		\$1,000		\$1,000		\$1,000		\$1,000	
Condition of Sale		Arms Length	0%	Arms Length	0%	Arms Length	0%	Arms Length	0%
Adjusted Value		1,000		1,000		1,000		1,000	
Financing Terms		At Market	0%	At Market	0%	At Market	0%	At Market	0%
Adjusted Value		1,000		1,000		1,000		1,000	
Market Conditions		Similar	0%	Similar	0%	Similar	0%	Similar	0%
Adjusted Value		1,000		1,000		1,000		1,000	
ADJUSTED PRICE / ACRE		\$1,000		\$1,000		\$1,000		\$1,000	
Location	Average	Average	0%	Average	0%	Average	0%	Average	0%
Size in Acres	100.0	100.0	0%	100.0	0%	100.0	0%	100.0	0%
Front Feet /Acre	37.5	37.5	0%	37.5	0%	37.5	0%	37.5	0%
Topography	Gentle Roll	Gentle Roll	0%	Gentle Roll	0%	Gentle Roll	0%	Gentle Roll	0%
Zoning	R-130	R-130	0%	R-130	0%	R-130	0%	R-130	0%
Easements	None	None	0%	None	0%	None	0%	None	0%
Wetlands (%)	25%	25%	0%	25%	0%	25%	0%	25%	0%
Soils (% v. limited)	25%	25%	0%	25%	0%	25%	0%	25%	0%
Public Water / Sewer	None	None	0%	None	0%	None	0%	None	0%
Other	None	None	0%	None	0%	None	0%	None	0%
Net Adjustment			0%		0%		0%		0%
INDICATED VALUE PER ACRE		\$1,000		\$1,000		\$1,000		\$1,000	
Mean Price/Acre Unadjusted		\$1,000							
Mean Price/Acre After Adjustment		\$1,000							

The above grid is in Excel format. A copy of the grid file is available from the SADC office.

It is required that each appraiser expresses the values on the grid as a VALUE PER ACRE. The total and the summary should also express the VALUE PER ACRE.

Subdivision Method: The subdivision method for calculating value is generally not recommended. However, it may be used when the subject property has preliminary approvals but only as a check on the sales comparison approach. In the absence of approvals, The Client (CADB, contracting party) may, with prior SADC approval, develop a site plan and engineering report for the appraiser to consider and analyze the property using this method. The SADC will only consider this method as an independent value consideration in conjunction with a standard comparative approach as described above. The SADC will consider a request to use the subdivision method only if the appraisers provide the following to the Applicant (County, Municipality, Non-Profit) and to the SADC: (1) written certifications that there is a compelling need for this method, and (2) a detailed description of the reasons justifying the compelling need. Should an applicant (county, municipality or non-profit) seek to use the subdivision method and the SADC approve it, the applicant (county, municipality or non-profit) would be responsible for hiring the appropriate professionals to produce the detailed engineering and environmental assessment work called for in the handbook. The SADC will not accept work done by, or for, the landowner for these purposes.

The appraiser must perform a full feasibility analysis on the proposed project in accordance with standards outlined and approved by the SADC. The following steps must be completed:

1. A full development report must be completed by a qualified Land Development Professional. The report shall include plans, septic suitability tests, Environmental Analysis and detailed infrastructure costs. This report must include language indicating that there is a reasonable probability of site plan approval.
2. The appraisal must contain or reference a Full Feasibility Study on the project in compliance with The Appraisal of Real Estate, 12th edition, pages 283 –287 and acceptable appraisal standards applicable to address the appraisal problem.
3. The appraiser must state in his or her certification that the site plan utilized was provided by the client and that the appraiser was instructed to consider the site plan for purposes of the analysis as of the effective date of the appraisal using the Hypothetical condition.
4. The appraiser must complete an analysis of raw land sales as well as the lot value analysis and reconcile the two approaches.
5. The appraiser must satisfy the competency rule in accordance with the Uniform Standards of Professional Appraisal Practice (USPAP) and notify the potential client prior to acceptance of the assignment as to their qualifications and experience with this type of analysis.

c. Income Capitalization: The appraiser may consider this approach; however, it has been the experience of this program and others that the Income Capitalization method has yielded

generally unreliable value estimates for this type of assignment. Market sales reflect far higher values than can be demonstrated with this approach. The range of variables including expenses, enterprise, crop value, methods of depreciation, etc., allows greater room for error and controversy. Sales comparison is an actual analysis of buyer/seller transactions. For these reasons the Income Approach is not emphasized. This method should be considered in Fee Simple assignments involving income-producing properties.

d. Cost Approach: The appraiser may consider this approach, however, since the value sought is for land, not buildings, this approach does not apply. This method may be used as a means of demonstrating the contributory value of improvements if the appraiser so desires. This method should be considered in Fee Simple assignments involving improvements.

VALUE CONCLUSION: Indicate final value estimate for the land and discuss how this conclusion was reached.

PART IV PROPERTY VALUATION, AFTER EASEMENT ACQUISITION (A/K/A MARKET VALUE RESTRICTED)

Subject Property Description: Without reiterating the entire detailed description set forth earlier in the report, the appraiser should discuss those items which are particularly significant to valuation of the property as encumbered by a development easement. Such items include, but are not limited to, a "plain English" discussion of the deed restrictions and their affect on the subject property, the subject's adaptability for agricultural use (or other uses which do not infringe on agricultural pursuits), soils* and their classification, etc.

Soil Characteristics/Interpretative Tables

County Agriculture Development Boards (CADB), Planning Incentive Grant (PIG) Municipalities, and Non-Profit Organizations (NPO) have been informed to incorporate the Natural Resources Conservation Service (NRCS), Soil Survey Geographic Data Base (SSURGO) version 3.2 standard into the Farmland Preservation Program application process. SSURGO version 3.2 standard is the "official" file format for each county and supersedes all previous versions. Older versions of SSURGO and NJDEP digital soils data should no longer be used for counties that have SSURGO 3.2 standard available. All counties are currently available for download in SSURGO 3.2 standard format. The NJDEP digital soils data were never officially recognized by NRCS and should only be used for Warren County. The SADC is incorporating the new SSURGO 3.2 standard into the State Farmland Preservation Program application review process.

NRCS has posted the newly revised SSURGO version 3.2 standard files on its national web site. The files can be downloaded at <http://soildatamart.nrcs.usda.gov>. A downloadable WinZip file will contain the tabular data, spatial data and metadata. The spatial feature files are in Universal Transverse Mercator (UTM) meters, North American Datum 1983 (NAD83). The tables are variable length, pipe delimited, ASCII format files. The table file format cannot be

opened directly by ARC/GIS. NRCS has posted a MS-Access template for use with these table files. Each county directory contains a copy of this file (soildb_US_2000.mdb). ARC/GIS can use the MS-Access template provided by NRCS. The map unit table can be joined and/or linked through the template. The "mapunit" table contains the farmland classification of soils (i.e., "all areas are prime farmland", "farmland of statewide importance", "farmland of unique importance", "not prime farmland", and "farmland of local importance"). Be aware that one county can consider a soil type "farmland of local importance" while another county may not, for the same soil type. Some counties don't even give the designation at all. This would only be an issue if the tables from multiple counties were combined for analysis and utilized this column.

In addition, the impact of the following issues previously identified and discussed in the "Before" valuation shall be identified and discussed in the "After" valuation are:

Highest and Best Use: Comments made earlier in this format for H & B use apply here as well. Careful attention must be paid to the nature of the subject area and the motivating factors typical for buyers in that market for properties of this type. Traditionally, highest and best use analysis considers the following criteria:

1. Is the use legally possible?
2. Is the use physically possible?
3. Is the use probable or likely?
4. Is the use economically feasible?
5. Of those uses meeting the first four criteria, which one yields the highest return?

Highest and Best Use Analysis is required for analysis as vacant and as improved, both unrestricted and restricted.

Establishing Highest and Best use sets the basis for the valuation to follow. Differentiating between commercial agriculture of various types, country estates, oversized home sites, hunting club, or any other use which may be primary in the marketplace, but compatible with agriculture as a secondary use is an essential step of a Highest and Best use analysis for the restricted property. The properties in this program are all subject to the same set of restrictions. However, this does not mean all such properties will be sold to the same kind of buyers who are all motivated in the same way. Location of the property, desires of the buying public, and financial resources of the buying public will determine how a restricted property is utilized. For example, there is nothing to stop a non-farmer purchaser from paying a premium for restricted lands just to have land and space. Such use will still meet the legal requirements of the restriction. In fact, this is surely the kind of buyer that real estate brokers will seek to pay top dollar when restricted properties are placed on the market. Such buyers will be in competition with commercial farmers when such properties are exposed to the market. **THE APPRAISER MUST STUDY THE SUBJECT MARKET AND ASK THE QUESTIONS, "TO WHOM WOULD THIS PROPERTY TYPICALLY BE SOLD, HOW MUCH, AND WHY?"**

Valuation Approaches: As in the unrestricted situation, the value of the land is sought. The appraiser must consider the effect of residential opportunities and improvements when

conducting the valuation, but only the market value of the land is required to be identified. The appraiser must determine if there is an increment of value attributed to the land, which is independent of the actual value of the improvement.

Direct Sales Comparison: The general procedure for estimating restricted value is the same as for estimating unrestricted values. However, sales data is more scarce. The intent of this valuation is to demonstrate value for a land parcel, which is limited in utility (by virtue of legal restrictions). The following categories of land sales are recommended as useful value indicators:

1. DEED RESTRICTED PROPERTIES:

A property limited in utility by a development easement or conservation easement or other deed restriction placed against the title of the property. Be sure to understand the nature and limits of the restrictions on the sale when using such sales.

2. COMPARABLE SALE DATA SHEETS SHALL AT A MINIMUM INCLUDE THE FOLLOWING INFORMATION:

- a. Grantor/Grantee
- b. Deed date
- c. Deed book/page
- d. Sale price
- e. Property size
- f. Location/block/lot (including approximate distance to the subject)
- g. Soil types/% prime & tillable*
- h. Frontage/access
- i. Wetlands
- j. Conditions of sale
- k. Color photograph(s)
- l. Residential Opportunities
- m. Utilities
- n. Verification
- o. Legible copy of tax map

*This may be summarized as follows:

<u>Soil Type</u>	<u>Area %</u>	<u>Quality</u>	
SSURGO	75%	Prime	
SSURGO	5%	Other	
SSURGO	10%	Statewide	
SSURGO	10%	Prime	
	Prime	Statewide	Tillable
Total	85%	10%	85%

(This information should be obtained from the application and confirmed using USDA, NRCS

RESTRICTED LAND SALES ANALYSIS

SUBJECT	SALE 1	SALE 2	SALE 3	SALE 4
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Property Address	Spring Road Millstone	Spring Road Millstone		Spring Road Millstone		Spring Road Millstone		Spring Road Millstone	
Owner / Grantor	Farmer Bill	Farmer Bill		Farmer Bill		Farmer Bill		Farmer Bill	
Farm Size in Acres	100.0	100.0		100.0		100.0		100.0	
Date of Sale	NA	00/00/00		00/00/00		00/00/00		00/00/00	
Sale Price - Land Only		\$100,000		\$100,000		\$100,000		\$100,000	
Sale Price / Acre	NA	\$1,000		\$1,000		\$1,000		\$1,000	
Property Rights		Restricted	0%	Restricted	0%	Restricted	0%	Restricted	0%
Adjusted Value		\$1,000		\$1,000		\$1,000		\$1,000	
Condition of Sale		Arms Length	0%	Arms Length	0%	Arms Length	0%	Arms Length	0%
Adjusted Value		1,000		1,000		1,000		1,000	
Financing Terms		At Market	0%	At Market	0%	At Market	0%	At Market	0%
Adjusted Value		1,000		1,000		1,000		1,000	
Market Conditions		Similar	0%	Similar	0%	Similar	0%	Similar	0%
Adjusted Value		1,000		1,000		1,000		1,000	
ADJUSTED PRICE / ACRE		\$1,000		\$1,000		\$1,000		\$1,000	
Location	Average	Average	0%	Average	0%	Average	0%	Average	0%
Size in Acres	100.0	100.0	0%	100.0	0%	100.0	0%	100.0	0%
Topography	Gentle Roll	Gentle Roll	0%	Gentle Roll	0%	Gentle Roll	0%	Gentle Roll	0%
Tillable Acres (%)	75%	75%	0%	75%	0%	75%	0%	75%	0%
Soils (% Prime)	75%	75%	0%	75%	0%	75%	0%	75%	0%
Residential Opportunity	None	None	0%	None	0%	None	0%	None	0%
Other	None	None	0%	None	0%	None	0%	None	0%
Net Adjustment			0%		0%		0%		0%
INDICATED VALUE PER ACRE		\$1,000		\$1,000		\$1,000		\$1,000	
Mean Price/Acre Unadjusted		\$1,000							
Mean Price / Acre After Adjustment		\$1,000							

In summary, a description of the sale property shall be thoroughly discussed. An adjustment grid shall be included as per the sample. Adjustments should be for salient characteristics in the market which may or may not include soil characteristics, zoning, topography, hydrological

limited areas, riparian lands (state owned or privately held), date of sale, financing, etc. Adjustments must be explained. If a sale is improved, the improvements should be adjusted accordingly to most closely reflect the conditions on the subject property. The value conclusion should be expressed as a per acre figure and give a total for the property. In the reconciliation discuss sales thoroughly and indicate which were emphasized.

Developing the estimate of Market Value Restricted may require that the appraiser draw upon a variety of data sources. Unlike other types of appraisal assignments in which the market data is more likely to "speak for itself", developing MVR will require considerable discussion and rationale to adequately relate the sale properties to the subject.

PART V FINAL ESTIMATE: The difference between market value and market value restricted of the land represents the value of the development easement (i.e. just compensation). This conclusion must be presented on a per acre basis and as a total dollar figure. Discussion of the rights represented by this value conclusion should be recapitulated as well as changes in highest and best use of the unrestricted versus the restricted property. In short, the major points of the report should be summarized leading the reader to the same conclusion as the appraiser.

PART VI ADDENDUM: This section of the report should include, but is not limited to, the following items:

1. Subject property and comparable sales location map
2. Subject tax map
3. Soils/flood/topographic maps
4. Study of hydrological limited areas
5. Subject property photos (color)
6. Reference materials, studies, articles, or other data considered important by the appraiser
7. Development easement deed restrictions
8. Appraiser's qualifications
9. Appraisal License
10. A Copy of the Appropriate Application for the sale of a development easement or Fee Simple acquisition
11. Copy of the signed appraisal order checklist

**PLEASE BE SURE THAT ALL MAPS AND DIAGRAMS
ARE CLEARLY AND FULLY LABELED**

Use of Hypotheticals as ordered by contracting party

- A. **Divisions** – Occasionally a County or other contracting party may wish to have a

property appraised as though a subdivision were already in place. The contracting party is required to provide the appraiser with clear mapping of the proposed subdivision. The appraiser should clearly label the appraisal as Hypothetical and contingent upon successful final municipal approval of the subdivision prior to the conveyance of the development easement as described in the appraisal report. This shall be prominent in the Letter of Transmittal, Scope of Work, Certification of Value and Assumptions and Limiting Conditions sections of the appraisal as extraordinary assumptions and hypothetical conditions as required by USPAP.

Note: The word “Divisions” in the context of this paragraph is not meant to allow major hypothetical subdivision of the premises to its highest and best use (eg. Division of the property into 30 residential lots). It is reserved for splitting the property into viable farms that would be allowed through a division of premises under the program or the completion of a minor subdivision that is awaiting final approval.

B. Access – Appraisers should not simply assume access to a subject property over other lands not in the application, even if owned by the applicant.

1. An appraiser must condition his or her value upon an access agreement being in place prior to the conveyance of the deed of easement.
2. Access should specify a roadway adequate to accommodate development of the highest and best use in the unrestricted condition. For example, if an appraiser believes that highest and best use is for residential development across another parcel of land owned by the same owner and the Township requires a 50’ wide road, value will be contingent upon an access easement of such width being in place prior to the conveyance of the deed of easement. If the land needed for access is already preserved, then such an access easement shall not be assumed. If the land required for access is not owned by the property owner then the appraiser shall not assume access will be granted.
3. The appraiser should again identify the appraisal as being subject to a hypothetical condition in the letter of transmittal, certification of appraisal, scope of work and assumptions and limiting conditions sections of their report.

Note: All hypothetical conditions must be identified on the appraisal order checklist prepared by the contracting authority.

C. Existing Conservation Easements and Other Restrictions on Development and Use of the Property.

The appraiser shall consider the impacts on value resulting from any conservation easements recorded on the property, or any other restrictions on development or use of the property. The appraiser shall not rely on assurances from anyone that such recorded conservation easements or use restrictions can be removed unilaterally by municipal governing bodies, land use boards and/or property owners.

**STATE AGRICULTURE DEVELOPMENT COMMITTEE
FARMLAND PRESERVATION PROGRAM**

Appraisal Order Checklist

An appraiser shall not bid on or accept any SADC appraisal assignment without this list being completely filled out and signed

Applicant:

Owner: _____	Yes	No
Contract Purchaser: _____	Yes _____	No _____

Farm Name: _____
Farm Owner: _____
Location/Address: _____

Block/Lot _____
Township: _____
County: _____

Acreage to be appraised _____
 (Appropriate direction concerning significant riparian or boundary waters shall be provided to the appraiser)

Date of Value to be appraised _____
 (Planning Incentive Grant appraisals are required to be as of the same date of value for both appraisers. County Easement Purchase Appraisals are required to be as of Aug. 1 of the year the property was appraised)

Exceptions
 (all exception locations must be located on mapping)

Exception Type:	Non-severable	# _____
	Severable	# _____
Purpose of Exceptions:	Around existing dwelling or non-ag use	_____
	Future Dwelling or non-ag use	_____
	Easement (specify type)	_____
	Other (specify):	_____

Other Housing Opportunities on premises to be preserved.

Existing residences: # _____
RDSOs: # _____
Agricultural Labor Housing: # _____

I. Compliance with SADC minimum eligibility criteria (N.J.A.C. 2:76-6.20):
 (All Acreages are to be "net" of land, meaning do not include land in exception areas, easements or riparian areas when determining minimum criteria.)

A. Premises meets SADC eligibility criteria for farms less than or equal to 10 acres: Yes ___ No ___

B. Premises meets SADC eligibility criteria for farms greater than 10 acres Yes ___ No ___

II. Local Eligibility Criteria Satisfied: Yes ___ No ___
 (example: a county or town may require eligible farms to be at least 40 acres or have 60% tillable etc.)

III. Federal Farm and Ranch Land Protection Funding

A. Will Federal Funding be used in the preservation of this farm: Yes ___ No ___

If "yes", only appraisers on list of qualified Federal Farmland Appraisers and have had Yellow Book Training will be permitted to appraise the property. Valuation under current existing zoning and environmental regulations shall be conducted strictly to Yellow Book Standards.

B. Does the property meet standards for the federal Farm and Ranch Lands Protection Program?

Yes ___ No ___

IV. Has the property received major subdivision approval : Yes ___ No ___

Status of approvals:

Preliminary ___ **Date(s) of Approval** _____

Final ___ **Date(s) of Approval** _____

Pursuant to N.J.A.C. 2:76-6.11(c)1., the SADC may disapprove of an application if it determines that the applicant has initiated proceedings in anticipation of applying to sell a development easement or during the application process that have the effect of increasing the applicant's appraised development easement value.

V. Does the property have any existing easements? Yes ___ No ___

Conservation Easements _____

Buffer ordinance/restrictions _____

Utility Easements _____

Other _____

Note: Appraisers may not assume that easements that specifically prohibit disturbance and development can be reversed or receive variances.

VI. Program:

County Easement Purchase: _____

County Easement Purchase (Pinelands): _____

LOI required, credits retired # _____

County Fee simple Purchase: _____

Planning Incentive Grant (County): _____

Planning Incentive Grant (Municipal): _____

Planning Incentive Grant Fee Simple (County): _____

Planning Incentive Grant Fee Simple (Municipal) _____

SADC Direct Easement Purchase: _____

SADC Fee Simple Acquisition: _____

Nonprofit Grant Program (Easement): _____

Nonprofit Grant Program (Fee) : _____

Appraisal Instruction:

Appraiser is required to appraise this property under:

- Current zoning X **Zoning Code (s)** _____
- Zoning and environmental conditions in place as of 1/1/04 ___
 - o **Zoning Code(s)** _____

Reason for Instruction:

- 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: _____

- Applicant is a farmer as defined by the SADC: ____
 - (See Attachment A)
- Applicant is a governmental unit that acquired the property from a
 - a. farmer: ____
 - b. original owner of property as of 8/10/04: ____
 - c. immediate family member of the owner as of 8/10/04: ____
- Applicant is a nonprofit organization that acquired the property from a
 - a. farmer: ____
 - b. original owner of property as of 8/10/04: ____
 - c. immediate family member of the owner as of 8/10/04: ____
- Property is located within 300 feet of a Category 1 stream or river: ____
 - If yes,
 - Property is within _____ feet of a Category 1 stream or river: ____
 - or
 - Property has a category 1 stream or river within its boundaries: ____
 - (See Attachment A)

Other:

The appraiser shall consider the impact of all exceptions, non-agricultural uses and effect of improvements as listed in the attached subject application in conformance with the SADC Appraisal Handbook.

Signed,

(Program Administrator)

Date

*This form shall be completed by the contracting agency and shall be contained as an addendum in the appraisal report.

Enclosure:

Attachment A – Definition of a farmer
– Surface Water Quality Standards for New Jersey Guidelines

ATTACHMENT “A”

Definition of Farmer (N.J.A.C. 2:76-10.5(b)3.):

Farmer means an owner or operator of a farming operation who during the calendar year immediately

preceding submittal of a farmland preservation application, realized gross sales of at least \$2,500 of agricultural or horticultural products produced on the farming operation exclusive of an income received for rental of lands.

Surface Water Quality Standards for New Jersey Waters (Guidelines)

The SADC is requesting that all County Agriculture Development Boards (CADB), Planning Incentive Grant (PIG) Municipalities, and Non-Profit Organizations (NPO) incorporate New Jersey's Surface Water Quality Standards, in accordance with "Surface Water Quality Standards for New Jersey Waters" as designated in N.J.A.C. 7:9 B., into the Farmland Preservation Program appraisal process.

The New Jersey Department of Environmental Protection (NJDEP) has made two GIS data sets available for use as a **guide**; Surface Water Quality Standards (SWQS) and Storm Water Rule Areas Affected by 300 Foot Buffer (strmwtrupc1). This data is a digital representation of New Jersey's Surface Water Quality Standards in accordance with "Surface Water Quality Standards for New Jersey Waters" as designated in N.J.A.C. 7:9 B. The SWQS file contains the streams for NJ and has an attribute field, "ANTIDEG", that identifies the stream classification. The "ANTIDEG" field has Category 1 streams coded as C1. The strmwtrupc1 file contains the HUC14 stream basins affected by C1 streams. The SWQS and strmwtrupc1 GIS files are available for download at <http://www.nj.gov/dep/gis/newdata.htm>. The files are in a .ZIP format and contain ARC/GIS shape files.

Much caution must be exercised when utilizing these two GIS data sets. Close attention must be paid to the following issues:

- ❖ Make sure you download the most up-to-date files. Files with a publication date of 08/09/05 and strmwtrupc1 with a publication date of 08/24/04 are the most current files as of 8/15/05. Users should check the NJDEP web page periodically for updated releases. Changes are being made as needed and there is no regular schedule for updates.
- ❖ Read the metadata carefully because there are many limitations to this data.
- ❖ These GIS layers are supplemental only and are not legally binding. When interpreting the surface water quality standards, the Surface Water Quality Standards regulations at N.J.A.C. 7:9B always take precedence.
- ❖ Not all tributaries that drain into a C1 stream have been mapped. The rule establishes an additional requirement for projects which are located along a C1 stream and those projects located upstream of a C1 segment within the sub-watershed or HUC 14. Basically, this rule applies to stream features that NJDEP hasn't mapped.
- ❖ The strmwtrupc1 data is out of sync with the SWQS data. The SWQS data has had additional streams added to the inventory but the strmwtrupc1 has not been updated to include the HUC14 basins affected by the additional streams.
- ❖ The SWQS data is a line feature and only delineates the centerline of the stream. The 300-foot buffer should be from the bank of the stream. Depending on the width of the stream, much of the buffer area would be over water. Therefore, it is not recommended that 300-foot buffers be generated from this data set.

These GIS layers are informational only and are not legally binding. When interpreting the Surface Water Quality Standards, the written standards always take precedence. Considering all the issues associated with this data, I recommend field verification for C1 streams.

The following links are to background information on the SWQS for your reference.

<http://www.state.nj.us/dep/watershedmgt/rules.htm>
<http://www.state.nj.us/dep/wmm/sgwqt/sgwqt.html>
<http://www.state.nj.us/dep/wmm/sgwqt/amendsummary.html>

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