

## RESOLUTION # 30

### LAND USE

1           **WHEREAS**, a sufficient land base must exist for agriculture to remain viable in New  
2 Jersey, and of the approximately one million acres of remaining developable unpreserved  
3 open space in New Jersey, approximately 800,000 acres are unpreserved farmland and  
4 privately held forest land actively devoted to agricultural and woodland production; and

5           **WHEREAS**, New Jersey voters previously approved a state constitutional change  
6 that dedicates a portion of the Corporate Business Tax revenues for the purposes of  
7 preserving farmland and open space; and

8           **WHEREAS**, preservation of land is only one component of preserving New Jersey's  
9 farmers and agricultural industry, hence the Department's approach to smart growth  
10 coordinates farmland preservation efforts with economic development strategies at the  
11 county and municipal levels; and

12           **WHEREAS**, land devoted to agriculture greatly fulfills the need to offset increasing  
13 impervious cover, wherever possible, that is inevitably a byproduct of residential, commercial  
14 and industrial development, thereby having a positive impact in recharging groundwater; and

15           **WHEREAS**, the State Planning Commission (SPC) reconvened in February 2011  
16 and announced a new State Strategic Planning project to transform the existing land use  
17 planning framework into one that prioritizes and supports sustainable economic growth; and

18           **WHEREAS**, after seven public hearings, the State Planning Commission was  
19 scheduled to adopt the new State Strategic Plan in November 2012, but the vote was  
20 delayed due to the state dealing with the aftermath of Hurricane Sandy, allowing for  
21 additional public comment on the draft plan; and

22           **WHEREAS**, the proposed final draft of the State Strategic Plan focuses the state's  
23 policies and investments on vibrant regions by fostering targeted job growth, supporting  
24 effective regional planning and preserving critical resources, but has yet to be adopted by the  
25 SPC after a series of public hearings; and

26           **WHEREAS**, in some recent road and other public works projects, government  
27 agencies administering the projects have purchased land from farmers to replace wetlands  
28 taken for the projects; and

29           **WHEREAS**, these agencies have made a practice of buying three acres of farmland  
30 to turn into wetlands for every one acre of wetlands taken for the project, and this  
31 counteracts the ongoing state policy of trying to keep as much farmland as possible in  
32 production; and

33           **WHEREAS**, this creation of additional wetlands expands wildlife habitat and can lead  
34 to wildlife crop damage on farms adjacent to the farms from which the land was purchased to  
35 make wetlands, harming the production of a farmer who did not benefit from the purchase of  
36 his neighbor's land; and

37           **WHEREAS**, under the State TDR Act, Woolwich Township, Gloucester County, and  
38 Berkeley Township, Ocean County, have enacted TDR ordinances, however neither have  
39 yet successfully marketed their receiving areas necessary to create a viable market for  
40 credits; and

41           **WHEREAS**, particular concerns have been raised in Woolwich Township about a  
42 decision to continue with the program, with no ability for a landowner to "opt out," even as  
43 TDR credits have yet to sell for receiving area development during the ten-year trial period;  
44 and

45           **WHEREAS**, to provide landowner relief the Woolwich TDR Bank held a credit  
46 auction in 2016 leveraging \$5,000,000 from the State TDR Bank for the purchase of 274.5  
47 credits from 16 properties, at a total cost of \$6,978,000, and resulting in the preservation of  
48 817 acres bought at auction; and

49           **WHEREAS**, that left those remaining property owners whose land was "down-  
50 zoned" from two acres to 15 acres with falling land values, effectively "preserving" that land  
51 without an investment similar to that involved in the Farmland Preservation Program, where

52 the landowner receives a monetary value for selling the non-agricultural development rights  
53 of the land; and

54 **WHEREAS**, acknowledging the difficulty municipalities have had establishing TDR  
55 programs, a State TDR Task Force, which included staff of the State Agriculture  
56 Development Committee, NJDA and New Jersey Farm Bureau, was created to discuss ways  
57 to foster use of TDR and other cluster provisions; and

58 **WHEREAS**, efforts of the State TDR Task Force culminated in an August 2010  
59 report that outlined specific recommendations, which included amending the Municipal Land  
60 Use Law to create enhanced provisions for tools such as non-contiguous clustering and lot-  
61 size averaging; and

62 **WHEREAS**, on August 7, 2013, P.L. 2013, c.106 amended the Municipal Land Use  
63 Law to specifically authorize use of these density transfer techniques to provide  
64 municipalities a variety of development options as recommended in the Task Force report;  
65 and

66 **NOW, THEREFORE, BE IT RESOLVED**, that we, the delegates to the 104<sup>th</sup> State  
67 Agricultural Convention, assembled in Atlantic City, New Jersey, on February 6-7, 2019, do  
68 hereby endorse the Department's Agricultural Smart Growth Plan and its five-part approach  
69 to land use and conservation, balanced with economic development initiatives and  
70 encourage the Department to incorporate these concepts into the Department Strategic Plan  
71 based on the new State Strategic Plan goals and objectives with guidance from the Office of  
72 Planning Advocacy.

73 **BE IT FURTHER RESOLVED**, that we urge the Department to continue taking a  
74 lead role in supporting and advancing equitable and feasible density-transfer methods,  
75 including but not limited to clustering, regional growth zones, Pinelands Development Credits  
76 (PDCs), Highlands Development Credits and transfer of development rights (TDRs) to  
77 facilitate preservation planning in conjunction with growth planning.

78           **BE IT FURTHER RESOLVED**, that we urge the Department to support and advance  
79           the use of current and new wastewater technologies to allow for the implementation of  
80           sound, innovative planning techniques to assist municipalities and counties with the  
81           implementation of the objectives and strategies of the Agricultural Smart Growth Plan.

82           **BE IT FURTHER RESOLVED**, that we urge the Department to explore funding  
83           options to advance the development and expansion of agricultural facilities and infrastructure  
84           systems, and to explore other statewide initiatives, such as Ag Enterprise Zones, to stimulate  
85           the retention and viability of farms and the businesses that support them.

86           **BE IT FURTHER RESOLVED**, that we are opposed to “downzoning” or large-lot  
87           zoning or zoning that has the practical effect of large-lot zoning, because it fractures and  
88           consumes farmland, promotes land-consumptive sprawl, and adversely affects landowner  
89           equity, and therefore is counter-productive to the principles of smart growth.

90           **BE IT FURTHER RESOLVED**, that we oppose the adoption of restrictive land use  
91           and wildlife management or protection statutes, ordinances or regulations by the state, any  
92           municipality or other government entity in the state of New Jersey that are not science-based  
93           or that exceed the powers granted to governmental entities under existing laws and statutes.

94           **BE IT FURTHER RESOLVED**, that we recommend that all landowners involved in all  
95           preservation programs (TDR sending areas, Pinelands Development Credit sending areas,  
96           Highlands Development Credits, etc.) be eligible for the same package of benefits or state  
97           incentive programs available through the state Farmland Preservation Program, and that  
98           tenants be eligible for those programs that are appropriate to them.

99           **BE IT FURTHER RESOLVED**, that we call on the Legislature and all other  
100          appropriate officials to require that all public land acquired for open space purposes, which is  
101          farmed or can potentially be farmed, continue in an agricultural use or be placed in an  
102          agricultural use until it is needed for its acquired purpose - thereby keeping more of the  
103          state’s land base in agriculture.

104           **BE IT FURTHER RESOLVED**, that we continue to oppose any hard and fast caps on  
105           impervious cover, but instead support a threshold trigger, tied to a percentage of the land  
106           with impervious cover, for new impervious cover and the use of science-based criteria, which  
107           is evaluated on a site-specific basis, and that such a trigger should be used to begin a  
108           conversation about the amount of impervious cover, instead of automatically causing any  
109           particular action to take place.

110           **BE IT FURTHER RESOLVED**, that we support the participation of the Department  
111           and the State Agriculture Development Committee (SADC) in helping to implement a New  
112           Jersey Future Task Force report of recommendations to encourage the use of TDRs at both  
113           the municipal level and regionally through changes to relevant statutes, regulations, policies  
114           and programs as recommended in the draft State Strategic Plan.

115           **BE IT FURTHER RESOLVED**, that we support the use of municipal non-contiguous  
116           clustering pursuant to N.J.S.A 40:55D-1, et seq. as a way of achieving development  
117           transfers without disrupting underlying zoning by creating a voluntary program to transfer  
118           development potential from areas where preservation is desirable to areas intended to  
119           support new development.

120           **BE IT FURTHER RESOLVED**, that the agricultural community should monitor the  
121           implementation of this new law at the municipal level to maximize landowner protections and  
122           assess this new program's feasibility as a new equity-enhancement opportunity for  
123           agricultural landowners.

124           **BE IT FURTHER RESOLVED**, that we strongly urge coordinated efforts by and  
125           among the various New Jersey state agencies to aid municipalities interested in TDR, in  
126           particular, with regard to establishing the receiving areas and demonstrating a market for the  
127           TDRs, necessary to drive demand for TDR credits.

128           **BE IT FURTHER RESOLVED**, that we urge municipalities to engage with their  
129           planners, agricultural advisory committees and the state to identify opportunities for use of  
130           TDR, non-contiguous cluster and other density transfer techniques.

131           **BE IT FURTHER RESOLVED**, that we strongly urge any municipality or regional  
132           entity establishing or with established TDR programs to ensure that landowner equity is  
133           given the utmost consideration, and protected in the long term, by either creating lasting,  
134           viable markets for TDR credits or discontinuing TDR programs promptly if found to be  
135           flawed, consistent with the State TDR Act, and that in lieu of a viable program, including  
136           adequate funding, with no TDRs applied, the program in that area be terminated.

137           **BE IT FURTHER RESOLVED**, that we recommend that representatives from the  
138           Department and the SADC meet with the Office of the Attorney General in order to seek full  
139           compliance with the Right to Farm requirement related to regulatory agricultural impact  
140           statements.

141           **BE IT FURTHER RESOLVED**, that we strongly urge state, county and local  
142           governments to reject any plans proposed for rebuilding areas devastated by Hurricane  
143           Sandy that would reduce the current acreage of agricultural lands in the area covered by the  
144           redevelopment plan or which would reduce the opportunity to further develop those areas for  
145           agricultural purposes.

146           **BE IT FURTHER RESOLVED**, that we urge government agencies at all levels to limit  
147           the transforming of farmland into wetlands as a way to replace wetlands lost to public works  
148           projects, especially by limiting the purchase of farmland to turn into wetlands to a one-to-one  
149           ratio, instead of the current three-to-one ratio.

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