



## **APPLICATION GUIDE** **For the** **“Application to Sell a Development Easement”**

Please refer to this instruction booklet while preparing your development easement application. These instructions should help to fully explain the application. If at any point you need further assistance, please do not hesitate to contact:

Ms. Katherine Coyle, Director  
Morris County Agriculture Development Board  
P. O. Box 900  
Morristown, NJ 07963-0900  
Phone: (973) 829-8120 Fax: (973) 326-9025  
[kcoyle@co.morris.nj.us](mailto:kcoyle@co.morris.nj.us)

It is recommended that the landowner obtain legal counsel prior to submitting this application.

### **1. OFFER TO SELL A DEVELOPMENT EASEMENT**

Indicate your offer price on the line provided. This offer must be a PER ACRE figure. The appraisal reports assign a per acre figure and the Morris County Agriculture Development Board (“board”) grants approval based on a per acre figure. When completing this section please also refer to **Attachment A** of the application. This offer price is not a final commitment on the landowner’s or county’s part.

### **2. LANDOWNER PERMISSION TO PROCEED**

ALL landowners must sign the application. The board requires a \$1,000 application fee, once the board grants preliminary approval. This will occur after the application is submitted. Do NOT send the fee along with the application.

### **3. LANDOWNER INFORMATION**

- A. Clearly print or type the name, mailing address and phone number of ALL landowners of the premises. Please also supply the name of the primary contact person. Indicate ownership type (type of application participation).
- B. If the company name of the farm is different than the landowner’s name, please include that information. If the company name is the same as the landowner’s, leave this line blank.
- C. List the name and phone number of any person(s) residing on the premises for purposes of scheduling site visits.

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- D. If you will have an attorney represent you at the real estate closing for this application, provide his/her name and the name of his/her firm.

**4. PROPERTY DESCRIPTION**

- A. List the street address of the premises, such as *1234 West Mill Road*. If no street address exists, please identify where the premises is located. For example, “North side Beacon Hill Road, 0.5 miles east of West Mill Road”.
- B. Municipal Zoning - Identify the current zoning and minimum lot size requirement
- C. List all municipal tax lots or portions of lots that are part of this application, and their acreage. Also, include the Deed Book, Page and date reference for the most recent purchase of the premises. This is needed to verify ownership of the premises. Do not include other lots that you may own that are not part of the application.
- D. State the source of the acreage information. Is this the acreage amount listed in the deed? On a tax map? From a property survey? If the source is a property survey, please give the date the survey was prepared and provide a copy.
- E. Clearly outline the boundaries of the premises on a copy of the municipal tax map or a survey. If you need a copy of a municipal tax map, contact the office at 973-829-8120.
- F. An “exception” is a portion of a tax lot that is not to be encumbered by the deed restriction prepared by the board. For example, you own a 100-acre farm with no existing residential structures. You may wish to have a portion of the premises available for the future construction of a house. Likewise, you may have an existing house and do not want your homestead placed under the deed restrictions. You may have plans to construct a garage for your automobiles on ground that is currently cultivated. If this ground were covered by the agricultural easement, it might be considered an infringement on the deed restrictions.

If you are requesting that any portion of the premises be excepted (excluded) from this application, you must complete **Attachment B** (a separate attachment for each exception).

**Clearly identify the exception(s) on a current tax map or a survey plat.**

Please be aware that your ranking can be negatively affected by requesting exceptions. Please refer to Attachment Policy: P-8, Morris CADB Ranking System, for more details.

- G. The net acreage of the premises is the acreage listed in Section 4-C minus the area of all exceptions listed in Section 4-F.
- H. Please list and identify the types of existing residential units on the premises.

**Clearly identify the location of each residence(s) on a current tax map or a survey plat.**

Please note: Exception Areas are NOT considered part of the premises being preserved;

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therefore, do NOT identify residences in exception areas. *If the residential unit is located on an exception area, please identify the area and the unit on **Attachment B, NOT HERE.***

- I. Please list and identify the types of existing non-residential structures on the premises.

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

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

- J. If you have a historic building or structure on your property, please answer “Yes”, and then explain its historic significance.

**5. LIENS, EASEMENTS, RIGHTS-OF-WAY**

Please list and explain any and all liens, easements or rights-of-way that exist on the premises. This may include a neighbor’s right of access across your property to a private or municipal well, transmission lines, cell towers and utility easements. Are the premises part of a bankruptcy judgment?

**6. NON-AGRICULTURAL USES**

In order to inventory any existing non-agricultural uses currently found on the premises, you must complete **Attachment C** (a separate attachment for each non-agricultural use). Please refer to the instructions for **Attachment C**.

**Clearly identify the location of each non-agricultural use(s) on a current tax map or a survey plat.**

Please list the type and extent of any existing nonagricultural uses currently found on the premises. This information is very important to be included with the application. If the development rights for the premises were to be purchased, the deed of easement filed purchasing the development rights includes a list and description of all existing non-agricultural uses. Any non-agricultural uses not included in the deed of easement, are deemed to be non-existent at the time of purchase and would be a violation of the deed restrictions.

**7. AGRICULTURAL USE AND PRODUCTION**

- A. Identify the types of agricultural enterprises on the premises by their Standard Industrial Classification Codes (S.I.C. Codes). You should indicate one Primary code. The farm may have several “Secondary” codes or none at all.
- B. Identify the range of agricultural income derived from the property over the last three years. This information will only be used to help determine the agricultural viability of the farm.
- C. As indicated in Policy: P-8, Morris CADB Ranking System, priority shall be given to applicants who are full-time farmers.

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- D. Soil Analysis – this section will most likely be filled in by CADB staff given the highly technical nature of the information required. Pursuant to N.J.A.C 2:76-6.20 item 2(ii) there are minimum eligibility criteria to be met to allow a farm to qualify for permanent preservation. Specifically, at least 50 % of the land – or a minimum of 25 acres, whichever is less, must consist of soils that are capable of supporting agricultural or horticultural production, e.g. Prime soils, or those of State-wide importance.
- E. Tillable acreage analysis - identify the percentage of land use in each of the categories listed. If you are requesting an exception, the exception area should not be included. Please be as accurate as possible but rounding is acceptable. You may want to refer to your FA-1 Farmland Assessment Form. Please be aware that if the premise is less than 30 acres, the premise must be no more than 50% wooded. The land use percentages should total 100%. Tillable croplands are lands, which can be used to produce crops. This includes land under structures utilized for agricultural or horticultural production. Pursuant to N.J.A.C 2:76-6.20 item 2(i) there are minimum eligibility criteria to be met to allow a farm to qualify for permanent preservation. Specifically, at least 50 % of the land – or a minimum of 25 acres, whichever is less, must be tillable (open land).
- F. Boundaries and Buffers - describe the types of land uses surrounding the property. Properties that are isolated from residential development are looked upon more favorably. Indicate the percentage of Boundaries and Buffers to the subject property.
- G. Is the application property currently enrolled in an Eight-Year Farmland Preservation Program? The Eight-Year program is a limited term deed restriction, which requires a farm to remain in active agricultural production. In return, the landowner or tenant farmer can apply for matching grants for soil and water conservation projects. Farms that sell their development rights also receive these benefits. If you are interested in this program, please contact the board's office. As indicated in Policy: P-8, Morris CADB Ranking System, applications enrolled in the Eight-Year Program receive bonus points when they are scored.
- H. Does the farm have a current Soil Conservation Plan? These plans are prepared by the USDA, Natural Resources Conservation Service (NRCS) at no charge. A soil conservation plan gives guidelines on how a farm can best reduce soil loss and control erosion. A soil conservation plan is considered “current” if no changes have been made to the agricultural operation (field clearing, crop types, etc.) since the plan was prepared.
- I. Soil and Water Conservation Practices – what methods are employed currently on the farm?
- J. On-site investment in agricultural structures and systems shows a commitment to keeping the farm operational.

## 8. EQUINE USES

Farms being preserved that are involved in equine activities need to have specific language incorporated into Schedule B of the Deed of Easement. If the Morris CADB and the SADC establish that all “non-production” equine activities on the farm, such as boarding and riding lessons, are

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ancillary to “production” equine activities, such as breeding, pasturing and hay production, then the uses are deemed “agricultural” and are not subject to the restrictions placed on non-agricultural uses. If, once the farm has been preserved, all equine-related production activities cease, the non-production uses will be deemed non-agricultural uses and will be subject to restrictions. That means that if the production activities were to cease, the non-production activities could continue but not expand.

If your farm is involved in equine-related activities, please complete **Attachment D**. Please refer to the instructions for **Attachment D**.

**9. SUBDIVISION OF THE PREMISES**

Has the landowner or a contract purchaser been granted or pursued any subdivision approval? If “Yes”, **Attachment E** must be completed. Please refer to the instructions for **Attachment E**.

**10. EXCEPTIONS, RESERVATIONS, LICENSES**

Please list any and all exceptions, reservations and licenses existing on the premises. This may include a liquor license, a continuing right given to a previous owner, a lease agreement with a hunting club, or the like.

**11. SPECIAL CONSIDERATIONS/ INFORMATION**

Identify anything particularly outstanding, unusual, important or interesting about the premises. This is your opportunity to relay information about your property that is not asked for in other parts of the application. Some points to mention might include: how long the property has been in the family, historic buildings, unique crop or method of farming, location, vistas, etc. The board reserves the right to request additional information.

**Attachment A – Offer Price**

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

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

This attachment is included to further explain the Offer Price indicated on the first page of the application. Please remember that the per acre asking price is the average per acre value for the entire property.

- A. These questions provide the board with the landowner’s expectations regarding the value of the premises and what is felt to be the fair market value of the farm.
- B. This is your opportunity to make any additional comments regarding your offer price made on page 1 of the application.

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## **Attachment B – Exceptions**

Exceptions are those portions of the applicant's land holdings, which are not to be encumbered by the deed restrictions prepared by the board. For instance, the applicant has a 50-acre farm on one tax lot with no existing residential units. An exception area can be requested for a future residence on the 50-acre farm tract.

**A separate exception attachment must be completed for EACH exception being requested by the applicant.**

**Clearly identify the location of each exception area on a current tax map or survey plat.**

### **Important information about exceptions:**

**Severable Exception Areas** – For exception areas that may be severed and subdivided from the preserved property, access to the area must be *included* within the exception area. The access, however, shall not interfere with the agricultural operation. Furthermore, approvals for exception areas shall be conditioned upon the landowner acknowledging a right of individuals to cross the access for agricultural purposes. This condition will be included in the Deed of Easement provision relating to the exception area.

**Non-Severable Exception Areas** – For exception areas that may not be severed or subdivided from the preserved property, access to the exception area must be included within the exception area if the access is used for exclusively non-agricultural uses (i.e., if the access is used only to provide ingress and egress to and from non-agricultural uses on the exception area). Residential buildings on non-severable exception areas are deemed to be associated with the agricultural operation on the preserved farm and hence are not considered non-agricultural uses.

For exception areas that may not be severed or subdivided from the preserved property, access to the exception area does not need to be included within the exception area if the lane or driveway provides access to any portion of the farm used for agricultural production or to an agricultural use on the exception area, including, but not limited to, farm markets.

- A - C. Give the municipal Block and Lot for where the exception is requested, as well as the size and percentage of the overall premises.
- D. Please give the reasons for requesting the exception and the purpose of the said exception area.
- E. Indicate whether the exception area will be severable from the remaining farm (premises). “Severable” means the ability to sell the exception separate from the remaining farm premises. The board encourages applicants to keep exception areas with the remaining farm (non-severable). Points are taken off the application for severable exception areas.
- F. Is there any potential to subdivide the severable exception? As an example, if a two-acre exception area was requested and the farm is zoned for one residential lot per acre, the exception could potentially be subdivided. If the applicant was willing to restrict the exception area from future subdivision, the board will view the exception more favorably.
- G. Right to Farm Language in the deed would read similar to the following:

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"Grantor, grantor's heirs, executors, administrators, personal or legal representatives, successors and assigns or any person to whom title to Exception Area "X" is transferred as well as the heirs, executors, administrators, personal or legal representatives, successors and assigns of all such persons are hereby notified and made aware that Exception Area "X" is adjacent to a parcel ("Premises") permanently deed restricted under the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 et seq. Such persons taking title to Exception Area "X" are notified and made aware that agriculture is the accepted and preferred use of the adjacent Premises and that the adjacent Premises shall continue in agricultural use as defined in Section 2 of this Deed of Easement."

If this language is added to the deed, the board will view the exception more favorably.

- H. Indicate whether the exception area contains a non-agricultural use?  
If "Yes", please refer to "***Important information about exceptions***" above and describe all non-agricultural uses on the exception area.

**Clearly identify the location of each non-agricultural use on a current tax map or survey plat.**

- I. Please list and identify the types of existing residential units on the exception area(s).

**Note: if a residence will be on an exception area, it must contain the septic system, sewage disposal system and well**

**Clearly identify the location of each residence on a current tax map or survey plat.**

- J. Please list and identify the types of existing non-residential structures on the exception area(s).

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

### **Attachment C – Existing Non-Agricultural Uses**

Please list and identify all existing non-agricultural uses currently found on the premises. This information is very important to be included with the application. If the development rights for the premises were to be purchased, the deed of easement filed purchasing the development rights includes a list and description of all existing non-agricultural uses. Any non-agricultural uses not included in the deed of easement, are deemed to be non-existent at the time of purchase and would be a violation of the deed restrictions.

Questions include the location, type, frequency, approximate dimensions of structures utilized, leasing entities, non-agricultural events and access.

*A separate "Attachment C" must be completed for each existing non-agricultural use.*

**Clearly identify the location of each non-agricultural use on a current tax map or survey plat.**

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

An identified non-agricultural use cannot be expanded or intensified after the premises are preserved.

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### **Attachment D – Equine Uses**

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

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

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

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

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

### **Attachment E – Subdivision of the Premises**

This attachment only needs to be filled out if subdivision approval was granted or pursued.

Subdivision for non-agricultural development of the premises must be identified. If a subdivision exists by final resolution at the date of the appraisal, the appraiser shall not consider its impact in the restricted condition. Otherwise, an application with a severable exception shall be considered as to its intended purpose in the “after value” appraisal analysis.

**\*\*NOTE: Copies of both the municipal and county approvals/resolutions are required for consideration.**

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

- \_\_\_ **“Application to Sell a Development Easement – Open Enrollment”** completed in full, including “Attachment A – Offer Price”
  - \_\_\_ **Tax Map** and/or **Survey Plat** with your property outlined
  - \_\_\_ All **Exception Areas** are clearly identified on Tax Map and/or Survey Plat
  - \_\_\_ All **Non-Agricultural** and **Equine Uses** are fully detailed
  - \_\_\_ **Copy of the Deed** for each lot included in this application
  - \_\_\_ **Signatures** of ALL property owners listed on the deed(s)
  - \_\_\_ **FA-1 Farmland Assessment Report(s) copy** for each tax lot that is a part of this application.
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**Upon Completion, Mail this Application to:**  
**Attn: Ms. Katherine Coyle**  
**Morris County Agriculture Development Board**  
**PO Box 900**  
**Morristown, NJ 07963-0900**  
**(973) 829-8120**  
**FAX (973) 326-9025**  
**kcoyle@co.morris.nj.us**  
**<http://www.morrispreservation.org>**

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