

THE COLTS NECK FARMLAND PRESERVATION BULLETIN SUMMER/FALL – 2005

**PUBLISHED BY THE
COLTS NECK FARMLAND PRESERVATION
AND OPEN SPACE COMMITTEE**

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FORWARD:

THE FARMLAND PRESERVATION AND OPEN SPACE COMMITTEE OF COLTS NECK TOWNSHIP ISSUES A SEMI-ANNUAL BULLETIN TO IMPROVE COMMUNICATIONS BETWEEN COLTS NECK LANDOWNERS AND THE COMMITTEE. IN THE INTEREST OF EFFICIENCY, THE BULLETIN WILL BE KEPT BRIEF BUT WILL COVER TOPICS THAT THE COMMITTEE BELIEVES WILL BE OF INTEREST AND USEFUL TO COLTS NECK LANDOWNERS. IN ADDITION TO KEEPING LANDOWNERS APPRISED OF LOCAL, COUNTY AND STATE ACTIONS, ISSUES AND OPTIONS RELATED TO THE FARMLAND PRESERVATION PROGRAM, THE BULLETIN WILL COVER FARM BUREAU APPLICATIONS AND OTHER INFORMATION ON AGRICULTURE PROGRAMS AND FARMLAND USE IN GENERAL. QUESTIONS SHOULD BE REFERRED TO THE ABOVE COMMITTEE MEMBERS.

COLTS NECK FARMLAND PRESERVED TO DATE

QUIET WINTER FARM (THOMPSON)	63 ACRES
DUCK HOLLOW FARM (DITTMAR)	90 ACRES
YELLOW BROOK FARM (MUMFORD) (PRESERVED AS SCHANCK FARM – DITTMAR)	101 ACRES
MCCRANE FARM	104 ACRES
BLACKBURN FARM	86 ACRES
TOURELAY FARM (BARNEY)	50 ACRES
EASTMONT ORCHARDS (BARCLAY)	100 ACRES
COLTS NECK TWP. FIVE POINTS ROAD	27 ACRES
VICTORY STABLES (SESSA)	30 ACRES
MEDLIN FARM	7 ACRES
COOLEY FARM	8.6 ACRES
COHEN FARM	15 ACRES
DEGROOT/SINDLINGER FARM (NOTE 1)	23 ACRES
SMITH PROPERTY (NOTE 1)	12.4 ACRES
TOTAL ACERAGE PRESERVED	717 ACRES

Note-1 – 2005 Preservations

WHAT'S HAPPENING AROUND TOWN.....

COLTS NECK TOWNSHIP HAS BEEN QUITE BUSY DURING 2005 WORKING WITH LANDOWNERS TO PLACE ADDITIONAL ACREAGE IN THE STATE'S PRESERVATION PROGRAM.

IN AN EFFORT TO SPEED UP THE PROCESS TO ACHIEVE CLOSING ON THREE 2004 FARM PRESERVATIONS, THE TOWNSHIP COMMITTEE CHOSE TO HIRE ITS OWN SURVEYOR – A JOB TYPICALLY DONE BY THE COUNTY – WITH THE EXPECTATION OF GETTING A REIMBURSEMENT OF AT LEAST 75% OF THE COST FROM THE COUNTY LATER. THE THREE PROPERTIES INCLUDE 15 ACRES OFF ROUTE 34 OWNED BY MICHAEL AND PATRICIA COHEN, OF WHICH COLTS NECK IS RESPONSIBLE FOR \$10,800.00 OF THE TOTAL COST OF \$67,500; A 7 ACRE HORSE FARM ON CLOVER HILL ROAD OWNED BY JAY MEDLIN AND HIS WIFE, MARIANA PEDRO, OF WHICH THE TOWNSHIP WILL PAY \$89,031.00 OF \$514,500; AND, BLACK GATE FARM, AN 8.6 ACRE POULTRY AND PRODUCE OPERATION ON CONOVER ROAD, OWNED BY JUSTUS AND NANCY COOLEY, OF WHICH THE TOWNSHIP WILL PAY \$73,800.00 OF \$459,000.00.

THE TOWNSHIP CLOSED ON THE PURCHASE OF THE DEVELOPMENT RIGHTS FOR 23 A1 ZONED ACRES OF THE DEGROOT/SINDLINGER FARM ON JUNE 5, 2005 AT A PURCHASE PRICE OF \$77,000.00 PER ACRE. THE TOWNSHIP HAS BONDED THIS PURCHASE AND WILL IN TURN APPLY DIRECTLY TO THE STATE TO SELL THESE DEVELOPMENT RIGHTS. THE PROPERTY, WHICH WAS PART OF THE ESTATE OF HELEN KENDRICK SINDLINGER, IS LOCATED AT 350 ROUTE 34 AT THE GATEWAY TO THE CLOVER HILL SECTION OF THE TOWNSHIP, ADJACENT TO TWO OTHER PARCELS OWNED BY MEMBERS OF THE SAME FAMILY. COMMITTEEWOMAN BURRY NOTED THAT THE RESPECTIVE OWNERS HAVE INDICATED THAT THEY ARE ALSO INTERESTED IN SELLING THE DEVELOPMENT RIGHTS OF THEIR FARMS. SHOULD THIS BE ACCOMPLISHED, AN ADDITIONAL APPROXIMATELY 77 ACRES WOULD BE PRESERVED.

THE TOWNSHIP ALSO PURCHASED, ON A FEE SIMPLE BASIS, THE SMITH FARM, 12.4 A1 ZONED ACRES, LOCATED AT THE INTERSECTION OF ROUTE 34 AND LAIRD ROAD. A PUBLIC HEARING FOR A \$2,300,000.00 BOND ORDINANCE TO SUPPORT THIS PURCHASE WAS HELD ON JUNE 29, 2005. THIS PROPERTY WILL BE PRESERVED BY THE TOWNSHIP AND THE TOWNSHIP WILL BE REIMBURSED FOR THE DEVELOPMENT RIGHTS FROM THE STATE. AFTER THIS HAS BEEN DONE, THE PROPERTY MAY BE SOLD TO A PRIVATE OWNER OR LEASED FOR COMMERCIAL FARMING.

BEYOND THE ABOVE, THE TOWNSHIP IS WORKING WITH ANOTHER LANDOWNER AND THE STATE ON AN APPLICATION TO PRESERVE ANOTHER LARGE (IN EXCESS OF 100 ACRES) PARCEL WITH THE SUPPORT OF THE MCADB.

2005 MUNICIPAL BUDGET APROPRIATION FOR OPEN SPACE

COLTS NECK TOWNSHIP HAS APPROPRIATED \$341,455.00, RAISED BY THE OPEN SPACE TAX, TO OPEN SPACE AND FARMLAND PRESERVATION IN ITS 2005 MUNICIPAL BUDGET. IN THE CASE OF FARMLAND PRESERVATION, THE STATE TYPICALLY PAYS 60% OF THE COST; THE COUNTY PAYS 24%; AND, THE TOWNSHIP PAYS THE REMAINING 16%.

MCADB POLICY FOR PROPOSED NEW USES ON PRESERVED FARMLAND

ON AUGUST 3, 2005, THE MONMOUTH COUNTY AGRICULTURAL DEVELOPMENT BOARD (MCADB) APPROVED A NEW POLICY TO PROVIDE ADVICE AND GUIDANCE TO LANDOWNERS CONTEMPLATING SIGNIFICANT NEW USES ON THEIR PRESERVED FARMLAND. THE OBJECTIVE IS TO PROVIDE OWNERS OR POTENTIAL OWNERS OF PRESERVED FARMLAND WITH GUIDANCE ON WHETHER THEIR PROPOSED NEW USE(S) WOULD BE IN COMPLIANCE WITH THE MCADB'S DEED OF EASEMENT.

THIS PROCEDURE WILL NOT APPLY TO REQUESTS FOR AGRICULTURAL LABOR HOUSING, REQUESTS FOR RECONSTRUCTION OF AN EXISTING RESIDENCE, REQUESTS FOR AGRICULTURAL SUBDIVISION OF PRESERVED FARMLAND OR REQUESTS TO EXERCISE RESIDUAL DWELLING SITE OPPORTUNITIES (RDSO), ALL OF WHICH ARE COVERED UNDER SEPARATE POLICIES.

POLICY

AN OWNER OR POTENTIAL BUYER OF PERMANENTLY DEED-RESTRICTED FARMLAND WHO WISHES TO COMMENCE NEW AGRICULTURAL ACTIVITIES MAY REQUEST THAT THE MCADB REVIEW THE PROPOSED ACTIVITIES TO DETERMINE WHETHER THEY WOULD NOT VIOLATE AND WOULD OTHERWISE COMPLY WITH THE DEED OF EASEMENT.

A – APPLICATION PROCESS

THE OWNER(S) OF RECORD OR LEGALLY AUTHORIZED PERSON(S) SHALL APPLY TO THE BOARD. THE OWNER SHALL SUBMIT A LETTER EXPLAINING IN DETAIL THE PROPOSED NEW USE(S) AND A SITE PLAN AS DESCRIBED IN SCHEDULE A BELOW.

B – MCADB REVIEW

UPON RECEIPT OF THE INFORMATION REQUESTED IN SECTION A, THE MCADB WILL UNDERTAKE THE FOLLOWING:

- 1. ENSURE THE COMPLETENESS OF THE APPLICATION.**
- 2. PROVIDE THE OWNERS WITH THE OPPORTUNITY TO PRESENT THEIR APPLICATION TO THE BOARD AT A REGULARLY SCHEDULED MONTHLY MEETING.**
- 3. RENDER A DECISION IN THE FORM OF A RESOLUTION OR LETTER.**

C – MCADB DECISION

THE MCADB SHALL NOTIFY THE APPLICANT IN WRITING OF ITS DECISION. IF THE REQUEST IS DENIED, AN EXPLANATION FOR THE DENIAL WILL BE PROVIDED.

- 1. THE MCADB RESERVES THE RIGHT TO REQUEST ANY OTHER INFORMATION IT DEEMS NECESSARY.**
- 2. TO GRANT APPROVAL, THE MCADB MUST FIND THAT THE PROPOSED NEW USE(S) WOULD NOT VIOLATE AND WOULD OTHERWISE COMPLY WITH THE DEED OF EASEMENT.**
- 3. MCADB APPROVAL DOES NOT RELIEVE THE APPLICANT OF THE NEED TO COMPLY WITH ANY APPLICABLE REQUIREMENTS OF OTHER GOVERNMENT AGENCIES.**

D – COSTS AND FEES

ALL COSTS ASSOCIATED WITH THE NEW USE(S), INCLUDING BUT NOT LIMITED TO THE SITE PLAN, SHALL BE BORNE BY THE APPLICANT.

SCHEDULE A

A SITE PLAN MUST BE SUBMITTED TO THE MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD. THE SITE PLAN DOES NOT HAVE TO BE PREPARED BY AN ENGINEER AS LONG AS ALL OF THE REQUESTED INFORMATION IS PROVIDED AND THE PLAN IS RENDERED TO SCALE. THE SITE PLAN MUST INCLUDE THE FOLLOWING DETAILS:

- 1. STRUCTURES: SHOW THE SQUARE FOOTAGE AND LOCATION OF ALL EXISTING AND PROPOSED STRUCTURES ON THE FARM. DESCRIBE THE USES OF ALL OF THE EXISTING AND PROPOSED STRUCTURES.**
- 2. DRIVEWAYS AND PARKING AREAS: SHOW LOCATION, DRIVEWAY WIDTH(IF APPLICABLE), AND PARKING LOT DIMENSIONS AND NOTE THE NUMBER OF PARKING SPACES. DISTINGUISH BETWEEN PARKING SPACES FOR TRAILERS AND CARS IF RELEVANT.**
- 3. WETLANDS AND WOODED AREAS: SHOW THE LOCATION OF EXISTING WETLANDS, STREAMS, WATER BODIES AND WOODED AREAS. THIS INFORMATION MAY BE BASED ON NJDEP MAPS OR GEOGRAPHIC INFORMATION SYSTEM (GIS) LAYERS, A SURVEY BY A QUALIFIED PROFESSIONAL, A WETLANDS ASSESSMENT BY A QUALIFIED PROFESSIONAL, OR A LETTER OF INTERPRETATION FROM THE NJDEP. MCADB STAFF CAN ASSIST THE LANDOWNER BY PROVIDING GIS MAPS OR A COPY OF THE ORIGINAL SURVEY.**

REVISED PLANNING INCENTIVE GRANT EASEMENT PURCHASE OPTION AGREEMENT AND CONTRACT

THE REVISED OPTION AGREEMENT AND CONTRACT FORMS INCLUDE THE FOLLOWING CHANGES:

1. THE UPDATED FORMS ESTABLISH A MANDATORY TWO (2) YEAR WAITING PERIOD FOR REAPPLICATION AND \$5,000.00 REFUNDABLE APPLICATION FEE SHOULD ANY LANDOWNER REJECT AN OFFER OR FAIL TO CLOSE FOR 'GOOD CAUSE' AFTER MAKING AN OFFER TO SELL.
2. IN THE EVENT THE SELLER FAILS OR REFUSES TO CLOSE ON THE SALE WITHOUT 'GOOD CAUSE' FOLLOWING THE MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD'S GIVING OF NOTICE TO THE SELLER MAKING TIME OF THE ESSENCE, OR IN THE EVENT THE SELLER IS/ARE UNABLE TO CONVEY AN EASEMENT WHICH IS INSURABLE AT REGULAR RATES AND NOT SUBJECT TO ANY EXCEPTIONS WHICH, IN THE EXERCISE OF THEIR REASONABLE DISCRETION, ARE UNACCEPTABLE TO THE BOARD AND/OR THE STATE AGRICULTURE DEVELOPMENT COMMITTEE, THEN IN ADDITION TO ALL OTHER RIGHTS HELD BY THE BOARD, THE BOARD SHALL BE ENTITLED TO REIMBURSEMENT OF ITS APPRAISAL AND SURVEY EXPENSES ACTUALLY INCURRED, OR WHICH THE BOARD OR COUNTY HAS A LEGAL OBLIGATION TO PAY. FOR PURPOSES OF THIS CONTRACT, 'GOOD CAUSE' SHALL MEAN ANY BONA FIDE DISPUTE BETWEEN THE BOARD AND SELLER CONCERNING THE QUANTITY OF LAND IN RESPECT OF WHICH THE EASEMENT IS TO BE GRANTED, PROVIDED THAT THE QUANTITY OF LAND IN DISPUTE IS MATERIAL (I.E., EIGHT PERCENT (8%) OR MORE OF THE ACREAGE STATED IN THE CONTRACT FOR SALE), NOT INCLUDING AREA ATTRIBUTABLE TO THE "NEGATIVE ADJUSTMENTS" STATED IN THE CONTRACT FOR SALE. IN RECOGNITION OF THE REDUCED SIZE OF MANY PLANNING INCENTIVE GRANT PARCELS, THE THRESHOLD FOR THE ABILITY TO CLAIM 'GOOD CAUSE' (AND AVOID RESPONSIBILITY FOR COUNTY SURVEY AND TITLE COSTS) CONCERNING THE DIFFERENCE BETWEEN THE QUANTITY OF LAND NOTED IN THE CONTRACT AND IDENTIFIED IN THE SURVEY HAS BEEN INCREASED FROM 5% TO 8%.

DRAFT RECOMMENDATIONS OF THE SADC PROCESS REVIEW COMMITTEE

IN JANUARY OF 2005, THE STATE AGRICULTURE DEVELOPMENT COMMITTEE APPOINTED THE PROCESS REVIEW COMMITTEE TO ASSESS THE FARMLAND PRESERVATION PROGRAM IN ITS ENTIRETY IN ORDER TO STREAMLINE AND SIMPLIFY ITS REGULATORY AND ADMINISTRATIVE PROCEDURES. THIS MOVE WAS BASED ON AN OBSERVATION THAT THE PROGRAM NEEDED TO INCREASE THE SPEED AT WHICH FARMS ARE PRESERVED THROUGHOUT THE PROGRAM IN ORDER TO KEEP PACE WITH MOUNTING DEVELOPMENT PRESSURE, AND EXPEND PRESERVATION FUNDS IN A TIMELY MANNER.

THE TWO ASPECTS OF THE FARMLAND PRESERVATION PROGRAM PROPOSED TO CHANGE MOST SIGNIFICANTLY ARE THE COUNTY EASEMENT PURCHASE PROGRAM (CEP) AND THE STATE ACQUISITION PROGRAM (BOTH SADC DIRECT EASEMENT PURCHASES AND FEE SIMPLE ACQUISITIONS).

UNDER THE CEP IT IS PROPOSED THAT COUNTIES ADOPT COMPREHENSIVE FARMLAND PRESERVATION PLANS, INCLUDING MINIMUM FARM CRITERIA AND OBJECTIVE RANKING CRITERIA, AND SEEK SADC FUNDING THAT CAN THEN BE USED TO PRESERVE ANY FARM ELIGIBLE UNDER THE COUNTY'S FARMLAND PRESERVATION PLAN. THIS WOULD REMOVE THE NEED FOR THE SADC TO RE-RANK APPLICATIONS AT THE STATE LEVEL, AND INSTEAD PROVIDE FUNDING FOR PRESERVATION OF FARMS BASED ON LOCAL, COUNTY-BASED SELECTION CRITERIA. THE PROPOSAL CALLS FOR ALLOCATING \$2.0 MILLION TO EACH COUNTY IN THE FIRST YEAR OF THE PROGRAM, AND ALLOWING COUNTIES TO COMPETE FOR THE REMAINING FUNDS AVAILABLE ON A "FIRST COME, FIRST SERVE" BASIS AS THEIR ABILITY TO CLOSE ACQUISITIONS WARRANTS. THE MAXIMUM AMOUNT OF FUNDING AVAILABLE TO ANY COUNTY IN ANY ONE FUNDING YEAR IS \$8.0 MILLION. THIS FUNDING STRUCTURE WILL PROVIDE EVERY COUNTY WITH THE SECURITY OF SOME SADC FUNDING EVERY YEAR, BUT WILL STIMULATE COMPETITION AMONG THE COUNTIES TO SPEND DOWN SADC FUNDING ON TARGETED FARMS AS EXPEDITIOUSLY AS POSSIBLE.

UNDER THE STATE ACQUISITION PROGRAMS, IT IS PROPOSED THAT THE SADC STRATEGICALLY TARGET, SOLICIT AND PURSUE FARMLAND PRESERVATION APPLICATIONS IN ORDER TO ASSURE THE MOST IMPORTANT FARMLAND IN EACH COUNTY IS PRESERVED. FURTHER, IT IS RECOMMENDED THAT THE SADC CONDUCT PROPERTY APPRAISALS PRIOR TO ENTERING INTO CONTRACTS WITH LANDOWNERS TO INSURE A NEGOTIATION PROCESS THAT IS FAIR TO BOTH THE STATE'S TAXPAYERS AND AFFECTED LANDOWNERS.

CUMULATIVELY, THESE PROPOSED CHANGES ARE EXPECTED TO DRAMATICALLY DECREASE UNNECESSARY AND DUPLICATIVE ADMINISTRATIVE PROCESSES, THEREBY MAKING THE PROGRAM MORE "USER-FRIENDLY" AND EFFICIENT.

A THIRD AREA OF PROPOSED CHANGES DEALS WITH MINIMUM QUALITY STANDARDS FOR PARCELS BEING CONSIDERED FOR PRESERVATION. THE PROCESS COMMITTEE STRONGLY RECOMMENDS THAT THE SADC ESTABLISH MINIMUM STANDARDS FOR THE PURCHASE OF A DEVELOPMENT EASEMENT ON ANY FARM IN THE PROGRAM. THIS WOULD PROVIDE MORE QUALITY CONSISTENCY BETWEEN PROGRAMS AND ENSURE THAT THE SADC WOULD BE WILLING TO PARTICIPATE IN FUNDING THE PURCHASE OF A DEVELOPMENT EASEMENT ON THE FARM IN ADVANCE OF APPLICATION SOLICITATION. THE SADC BELIEVES THAT IN GENERAL, THE SMALLER A FARM IS, THE MORE IMPORTANT IT IS TO INSURE THAT THE FARM POSSESSES THE QUALITIES NECESSARY TO SUPPORT AGRICULTURAL VIABILITY.

THESE PROPOSED CHANGES ARE CURRENTLY BEING REVIEWED BY THE MCADB AND MUNICIPAL GOVERNMENTS OF THE COUNTY, AND COMMENTS WILL BE FORWARDED TO THE SADC. THE SADC IS EXPECTED TO ADOPT THE CHANGES IN EARLY 2006.

AGRI-TOURISM AGRICULTURAL MANAGEMENT PRACTICE (AMP) DRAFT

THE STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC) HAS DEVELOPED A NEW DRAFT OF THE AGRI-TOURISM AGRICULTURAL MANAGEMENT PRACTICE (AMP). THE DRAFT IS CURRENTLY BEING REVIEWED

BY COUNTY AND MUNICIPAL COMMITTEES.

SUMMARY

TO RECEIVE THE PROTECTIONS OF THE RIGHT TO FARM ACT, A COMMERCIAL FARM OPERATION HAS TO COMPLY WITH AGRICULTURAL MANAGEMENT PRACTICES (AMPs) PROMULGATED BY THE SADC (OR, IN THE ABSENCE OF PROMULGATED AMPs, WITH GENERALLY ACCEPTED AGRICULTURAL PRACTICES). THE SADC, IN CONJUNCTION WITH RUTGERS UNIVERSITY, HAS DRAFTED AN AGRITOURISM AMP TO SERVE AS GUIDANCE FOR COUNTY AGRICULTURE DEVELOPMENT BOARDS (CADBs) AND THE SADC. CADBs AND THE SADC WILL RELY UPON THIS AMP WHEN DETERMINING WHETHER AN AGRITOURISM ACTIVITY IS ENTITLED TO THE PROTECTIONS OF THE ACT.

USEFUL INTERNET LINKS

THE FOLLOWING ARE SELECTED INTERNET LINKS THAT ARE PROVIDED HERE TO ASSIST COLTS NECK LANDOWNERS DESIRING ACCESS TO ADDITIONAL INFORMATION RELATING TO FARMLAND PRESERVATION AND OTHER AGRICULTURAL ISSUES:

STATE AGRICULTURE DEVELOPMENT COMMITTEE (SADC) – <http://www.state.nj.us/agriculture/sadc/sadc.htm>

NJ FARM BUREAU – <http://www.njfb.org/>

THE FOLLOWING LINK WILL PROVIDE ACCESS TO THE BLOOD-HORSE MAGAZINE ARTICLE OF JULY 19, 2003 BY LEIGH MCKEE AND DOUG FORD ENTITLED “DISPOSITION OF DEVELOPMENT RIGHTS”. THE ARTICLE PROVIDES EXAMPLES OF CONSERVATION EASEMENTS AND ILLUSTRATES THE ASSOCIATED INCOME TAX CONSEQUENCES. THE LINK TO THIS ARTICLE IS: <http://ownership.bloodhorse.com/viewstory.asp?id=17933>

THE BLOOD-HORSE ARTICLE ALSO REFERS TO WEB SITES THAT PROVIDE ADDITIONAL INFORMATION TO ASSIST IN PROPER PLANNING EARLY IN THE CONSERVATION EASEMENT PROCESS TO MAXIMIZE THE TAX BENEFITS. THESE ARE:

THE AMERICAN FARMLAND TRUST’S WEB SITE (www.farmlandinfo.org),
AND

THE NATURE CONSERVANCY’S WEB SITE (www.nature.org)