

THE COLTS NECK

FARMLAND PRESERVATION BULLETIN

WINTER/SPRING – 2007

**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)	64.7 A	CEPP
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DUCK HOLLOW FARM (DITTMAR)	87.3 A	CEPP
YELLOW BROOK FARM (MUMFORD) (PRESERVED AS SCHANCK FARM – DITTMAR)	104.1 A	CEPP
MCCRANE FARM	109.9 A	CEPP
BLACKBURN FARM	85.6 A	CEPP
TOURELAY FARM (BARNEY)	45.6 A	DE(S)
EASTMONT ORCHARDS (BARCLAY)	99.0 A	DE(S)
COLTS NECK TWP. - FIVE POINT ROAD	27.3 A	DE(S)
VICTORY STABLES (SESSA)	29.8 A	CEPP
MEDLIN FARM	6.7 A	PIGP
COOLEY- FARM	8.3 A	PIGP
COHEN FARM	12.8 A	PIGP
DEGROOT/SINDLINGER (CLOSED DURING AUGUST 2006)	23.4 A	PIGP
SMITH FARM (CLOSED – FEE SIMPLE – APPLICATION SUBMITTED)	12.8 A	DE(S)
GREEN FIELDS FARM (CLOSED DURING AUGUST 2006)	110.1 A	DE(S)
TOTAL ACREAGE PRESERVED	827.4 A	

CEPP – County Easement Purchase Program, PIGP – Planning Incentive Grant Program, DE(S) – Direct Easement State

WHAT'S HAPPENING AROUND TOWN.....?

COLTS NECK TOWNSHIP CONTINUES TO WORK WITH A NUMBER OF LANDOWNERS WHO HAVE APPLICATIONS BEING PROCESSED. A NUMBER OF THESE, REPRESENTING APPROXIMATELY HALF OF THE 135 ACRES INVOLVED, ARE EXPECTED TO BE PRESERVED BASED ON CURRENT INFORMATION. THOSE THAT ARE NOT EXPECTED TO BE PRESERVED HAVE PROBLEMS SUCH AS MINIMAL DEVELOPMENT VALUE, FAILURE TO MEET COUNTY AND STATE FARM PRESERVATION REQUIREMENTS, ETC.

LOOKING AHEAD, THE COMMITTEE HAS SET ITS SIGHTS ON A 150 ACRE TARGET OF ADDITIONAL COLTS NECK FARMS FOR THE YEAR 2007. THE COMMITTEE BELIEVES THESE CANDIDATE FARMS HAVE A HIGH PROBABILITY OF MEETING OR EXCEEDING THE MORE STRINGENT STATE AND COUNTY PRESERVATION REQUIREMENTS; AND THESE LANDOWNERS AND COLTS NECK TOWNSHIP CAN BOTH BENEFIT IF THESE ADDITIONAL LANDS ARE ENTERED INTO THE PROGRAM. COMMITTEE MEMBERS WILL BE CONTACTING LANDOWNERS IN THE NEAR FUTURE, BUT LANDOWNERS, INTERESTED IN THE PROGRAM, WHO HAVE NOT BEEN CONTACTED, ARE ENCOURAGED TO CONTACT THE COMMITTEE.

MONMOUTH COUNTY FARMLAND PRESERVATION STATUS REPORT

MONMOUTH COUNTY RECENTLY SUMMARIZED THE PRESERVED FARMS IN THE COUNTY BY TOWNSHIP AND DATE SINCE THE PROGRAM BEGAN IN 1987 THROUGH YEAR-END 2006. THE FARMS ARE CATEGORIZED ACCORDING TO THE PRESERVATION PROGRAM – COUNTY EASEMENT PURCHASE PROGRAM (CEPP), PLANNING INCENTIVE GRANT PROGRAM (PIGP) AND DIRECT EASEMENT (STATE) PROGRAM (DE(S)). THE TABLE BELOW SUMMARIZES THE PRESERVED ACREAGE BY PARTICIPATING TOWNSHIP:

PARTICIPATING TOWNSHIP	ACREAGE PRESERVED	PRESERVATION PROGRAM	% OF CTY. PROG.
UPPER FREEHOLD	6065.7	CEPP	

UPPER FREEHOLD	75.3	PIGP	
UPPER FREEHOLD	767.3	DE(S)	
TOTAL UPPER FREEHOLD	6908.3		73.10
COLTS NECK	481.4	CEPP	
COLTS NECK	51.2	PIGP	
COLTS NECK	294.8	DE(S)	
TOTAL COLTS NECK	827.4		8.75
MILLSTONE	200.7	CEPP	
MILLSTONE	341.2	PIGP	
MILLSTONE	0.0	DE(S)	
TOTAL MILLSTONE	541.9		5.73
MANALAPAN	185.8	CEPP	
MANALAPAN	66.1	PIGP	
MANALAPAN	145.2	DE(S)	
TOTAL MANALAPAN	397.1		4.20
HOWELL	125.9	CEPP	
HOWELL	142.2	PIGP	
HOWELL	25.2	DE(S)	
TOTAL HOWELL	293.3		3.10
ROOSEVELT	0.0	CEPP	
ROOSEVELT	266.4	PIGP	
ROOSEVELT	0.0	DE(S)	
TOTAL ROOSEVELT	266.4		2.82
MARLBORO	218.0	CEPP	
MARLBORO	0.0	PIGP	
MARLBORO	0.0	DE(S)	
TOTAL MARLBORO	218.0		2.31
TOTAL MONMOUTH COUNTY	9452.4		100.00

IT IS INTERESTING TO NOTE THAT THE PRESERVED FARMS OF UPPER FREEHOLD TOWNSHIP COMPRISE 73.1% OF MONMOUTH COUNTY'S TOTAL PROGRAM. THIS TOWNSHIP HAS PRESERVED 46 FARMS TOTALING TO 6908.3 ACRES AND AVERAGING 150.2 ACRES PER FARM. THIS TOWNSHIP IS BLESSED WITH A THRIVING AGRICULTURE INDUSTRY AND IT IS REASSURING TO SEE SO MANY LARGE FARMS BEING PRESERVED FOR THE BENEFIT OF FUTURE GENERATIONS.

OF THE SEVEN MONMOUTH COUNTY TOWNSHIPS THAT HAVE BEEN PARTICIPATING IN THE PRESERVATION PROGRAM, COLTS NECK RANKS SECOND AFTER UPPER FREEHOLD TOWNSHIP WITH 827.4 PRESERVED ACRES INVOLVING 15 FARMS AND COMPRISING 8.75% OF THE COUNTY'S TOTAL. THE AVERAGE SIZE OF COLTS NECK'S PRESERVED FARM IS 55.2 ACRES.

HIGHLIGHTS OF PROPOSED CHANGES TO SADC PROGRAM REGULATIONS

THE SADC ESTABLISHED THE FARMLAND PRESERVATION PROGRAM PROCESS REVIEW COMMITTEE (FPPRC) IN MARCH 2005 TO EVALUATE THE FARMLAND PRESERVATION PROGRAM TO ADDRESS TWO MAJOR CONCERNS. THEY WERE AND ARE:

- 1. CONSIDERING THE DRAMATIC INCREASE IN THE VOLUME OF APPLICATIONS, THE SADC NEEDS TO INCREASE THE SPEED AT WHICH FARMS ARE PRESERVED THROUGHOUT THE FARMLAND PRESERVATION PROGRAM TO KEEP PACE WITH MOUNTING DEVELOPMENT PRESSURE, AND**
- 2. TO ENSURE PUBLIC PRESERVATION FUNDS ARE EXPENDED IN A TIMELY MANNER.**

THE MISSION OF THE FPPRC WAS TO REVIEW THE SADC'S CURRENT RULES AND PROCEDURES FOR IMPLEMENTING THE PROGRAM AND TO MAKE RECOMMENDATIONS TO STREAMLINE AND IMPROVE THE PROCESS, TO MAKE THE PROGRAM MORE PREDICTABLE, EFFICIENT AND EFFECTIVE WHILE CONTINUING TO ENSURE ACCOUNTABILITY TO THE PUBLIC.

CHANGES TO THE SADC PROGRAM REGULATIONS THAT RELATE TO THE MUNICIPAL PIG PROGRAM AND SHOULD BE OF INTEREST TO COLTS NECK LANDOWNERS ARE SUMMARIZED HEREIN. WHILE COLTS NECK TOWNSHIP HAS PROPOSED AMENDMENTS TO SOME OF THESE PROPOSED CHANGES, WE DO NOT KNOW IF THEY WILL BE ACCEPTED. THE NEW REGULATIONS ARE EXPECTED TO BE ADOPTED DURING THE SPRING OF 2007.

MINIMUM SADC QUALITY STANDARDS FOR FARMS LESS THAN OR EQUAL TO 10 ACRES IN SIZE

- 1. LAND PRODUCES AG. /HORT. PRODUCTS OF GREATER THAN OR EQUAL TO \$2,500.00/YEAR.**
- 2. AT LEAST 75% MUST BE TILLABLE, OR A MINIMUM OF 5 ACRES, WHICHEVER IS LESS.**
- 3. AT LEAST 75% OF THE FARM MUST HAVE SOILS CAPABLE OF SUPPORTING AG. /HORT. PRODUCTION, OR A MINIMUM OF 5 ACRES, WHICHEVER IS LESS. (COLTS NECK TOWNSHIP HAS REQUESTED MORE SPECIFICS REGARDING THIS SPECIFICATION. AS WRITTEN, THE PHRASING IS OPEN TO TOO MUCH SPECULATION AND MAY CAUSE DELAYS AND INEFFICIENCIES IN THE PROGRAM.)**
- 4. THE LAND MUST EXHIBIT DEVELOPMENT POTENTIAL**
- 5. THE LAND SHALL NOT CONTAIN MORE THAN 80% WETLANDS OR SLOPES GREATER THAN 15%. (COLTS NECK TOWNSHIP HAS REQUESTED CLARIFICATION OF WETLANDS TO ELIMINATE THE POTENTIAL FOR CONFUSION.)**
- 6. WOODLANDS ARE NOT CONSIDERED ELIGIBLE FOR THE PROGRAM.**

MINIMUM SADC QUALITY STANDARDS FOR FARMS GREATER THAN 10 ACRES IN SIZE

- 1. THE FARM MUST BE AT LEAST 50% TILLABLE, OR A MINIMUM OF 25 ACRES, WHICHEVER IS LESS.**
- 2. AT LEAST 50% OF THE FARM MUST HAVE SOILS CAPABLE OF SUPPORTING AG. /HORT. PRODUCTION, OR A MINIMUM OF 25 ACRES,**

- WHICHEVER IS LESS. (HERE AGAIN, COLTS NECK TOWNSHIP IS REQUESTING MORE SPECIFICS REGARDING CRITERIA.)
3. THE LAND MUST EXHIBIT DEVELOPMENT POTENTIAL.
 4. FOR FARMS LESS THAN 25 ACRES, THE LAND SHALL NOT CONTAIN MORE THAN 80% WETLANDS OR SLOPES GREATER THAN 15%. (HERE AGAIN, COLTS NECK TOWNSHIP IS REQUESTING FURTHER CLARIFICATION.)
 5. WOODLANDS ARE NOT CONSIDERED ELIGIBLE FOR THE PROGRAM.

OTHER FARMLAND PRESERVATION PROGRAM CHANGES

IN ADDITION TO THE QUALITY STANDARDS DISCUSSED ABOVE, THERE ARE A NUMBER OF OTHER FARMLAND PRESERVATION PROGRAM PROCEDURE CHANGES THAT LANDOWNERS SHOULD BE AWARE OF:

1. NO APPLICATION CAN BE ACTIVE IN MORE THAN ONE SADC PROGRAM AT THE SAME TIME.
2. SHOULD A LANDOWNER REJECT AN SADC CERTIFIED OFFER FOR THEIR DEVELOPMENT RIGHTS, THE SADC WILL INVOKE A TWO-YEAR WAITING PERIOD BEFORE THEY ARE ELIGIBLE TO RE-APPLY. (COLTS NECK TOWNSHIP IS PROPOSING THAT LANDOWNERS BE GIVEN A WINDOW OF UP TO SIX MONTHS TO CONSIDER THE OFFER, BECAUSE SOMETIME THE LANDOWNER NEEDS TO THINK ABOUT THEIR OPTIONS AND DISCUSS THEM WITH POTENTIAL HEIRS AND OTHER FAMILY MEMBERS BEFORE DECIDING TO ACCEPT OR REJECT THE OFFER.)
3. MONMOUTH COUNTY (THE MCADB) MUST DEVELOP A COUNTY PIG PROGRAM THAT WILL FOCUS ON FARMS THAT ARE 25 ACRES OR LARGER. COLTS NECK TOWNSHIP WILL COORDINATE WITH THE COUNTY FOR THE PORTION OF THEIR PROGRAM THAT INVOLVES COLTS NECK.
4. THE TOWNSHIP MUST DEVELOP A FARMLAND PRESERVATION PROGRAM PLAN THAT WILL BE COORDINATED WITH THE MCADB AND REVIEWED BY THE SADC AS A PREREQUISITE FOR SADC FUNDING. THIS PLAN MUST BE PRESENTED TO THE SADC BY DECEMBER 15 OF EACH YEAR IN ORDER TO RECEIVE FUNDING THE FOLLOWING YEAR.
5. A MUNICIPALITY WILL HAVE A MAXIMUM OF THREE YEARS FROM THE DATE OF APPROPRIATION OF SADC FUNDS TO EXPEND THE GRANTS OR RISK LOSS/RE-APPROPRIATION OF FUNDS TO ANOTHER MUNICIPALITY. (COLTS NECK TOWNSHIP IS REQUESTING A PROVISION TO COVER UNLIKELY EXCEPTIONS WHERE THE APPLICANT ENCOUNTERS TITLE PROBLEMS THAT MAY INTRODUCE UNANTICIPATED DELAYS; WHERE THE FARM IN QUESTION IS A HIGH PRIORITY PRESERVATION CANDIDATE; WHERE THERE MAY BE DELAYS CAUSED BY UNANTICIPATED ESTATE RELATED ISSUES, ETC. WE AGREE THE EXCEPTIONS SHOULD BE RARE, BUT THERE NEEDS TO BE AN AVENUE TO ALLOW FOR THESE SPECIAL CASES.)

INDIVIDUAL FARM APPLICATION PROCEDURES

1. LANDOWNER SUBMITS APPLICATION TO MUNICIPALITY
2. MUNICIPALITY SUBMITS APPLICATION AND ALL GIS MAPPING AND SOILS ANALYSIS, CLEAR DELINEATION OF ALL EXCEPTION AREAS, WHETHER SEVERABLE OR NON-SEVERABLE, ALL HOUSING OPPORTUNITIES AND ALL PRE-EXISTING NON-AGRICULTURAL USES THAT SHALL IDENTIFY: (A) THE ALLOCATION OF ANY RESIDUAL DWELLING SITE OPPORTUNITIES

AUTHORIZED PURSUANT TO N.J.A.C. 2:76-6.17; AND (B) ANY OTHER RESIDENTIAL OPPORTUNITIES THAT CURRENTLY EXIST ON THE PREMISES, TO THE SADC FOR REVIEW PRIOR TO COMMENCING APPRAISALS. THE SADC COMMITS TO COMPLETE THEIR REVIEW WITHIN 60 DAYS. (THE TOWNSHIP REQUESTED CLEARANCE FROM THE SADC TO PROCEED WITH APPRAISALS AT OUR OWN RISK, IN ORDER TO SAVE TIME ON SELECTED APPLICATIONS WHERE THE TOWNSHIP DEEMS THE RISK IS ACCEPTABLE. HOWEVER, AN SADC REPRESENTATIVE HAS STATED THAT THE SADC WILL NOT GRANT OUR REQUEST BECAUSE THEY BELIEVE MORE TIME WILL BE SAVED IF THIS NEW RULE IS FOLLOWED.)

3. APPRAISALS ARE OBTAINED AND SUBMITTED TO THE MCADB AND SADC.
4. THE SADC CERTIFIES THE EASEMENT VALUE.
5. THE LANDOWNER OFFER IS MADE; IF ACCEPTED, THE SADC AND LOCAL FINAL APPROVALS ARE OBTAINED.
6. SHOULD THE LANDOWNER REJECT THE OFFER, AS NOTED PREVIOUSLY, SADC WILL NOT ACCEPT THE SAME APPLICATION (FROM SAME OWNER) IN ANY PROGRAM FOR TWO YEARS FROM THE ORIGINAL APPLICATION DATE. (ALSO, AS NOTED PREVIOUSLY, COLTS NECK TOWNSHIP IS REQUESTING SOME FLEXIBILITY REGARDING THIS NEW RULE).

2006 FEDERAL LAND CONSERVATION TAX CODE CHANGES (HR4) EXPLAINED

THIS PAST SUMMER, CONGRESS PASSED THE PENSION PROTECTION ACT OF 2006 THAT, AMONG OTHER PROVISIONS, INCLUDES BOLD NEW TAX INCENTIVES FOR LAND CONSERVATION EASEMENT DONATIONS. THE CHANGES – EFFECTIVE UNTIL DECEMBER 31, 2007 – WERE SIGNED INTO LAW BY PRESIDENT BUSH ON AUGUST 17, 2006. THIS NEW LAW PRESENTS A LIMITED – TIME OPPORTUNITY FOR LANDOWNERS WHO MAY BE CONSIDERING MAKING A DONATION FOR CONSERVATION PURPOSES.

AMONG THE CHANGES, THE NEW LAW:

1. RAISES THE DEDUCTION A LANDOWNER CAN TAKE FOR DONATING A CONSERVATION EASEMENT FROM 30% OF THEIR ADJUSTED GROSS INCOME IN ANY YEAR TO 50%.
2. ALLOWS QUALIFYING FARMERS, RANCHERS, AND FOREST LANDOWNERS TO DEDUCT UP TO 100% OF THEIR TAXABLE INCOME (E.G. PAY NO FEDERAL INCOME TAX); AND
3. EXTENDS THE CARRY-FORWARD PERIOD FOR A DONOR TO TAKE TAX DEDUCTIONS FOR A CONSERVATION EASEMENT FROM 5 TO 15 YEARS.

AS NOTED ABOVE, THIS NEW LAW IS VERY SHORT- LIVED AND ONLY APPLIES THROUGH YEAR-END 2007, UNLESS ACTION IS TAKEN BY CONGRESS TO EXTEND IT. WHILE ACTION IS UNDERWAY TO DO THIS BY SENATORS BAUCUS OF MONTANA AND GRASSLEY OF NEBRASKA, ONE CANNOT BE CERTAIN THAT THE LEGISLATION WILL BE EXTENDED.

AN INTERESTING POINT THAT LANDOWNERS APPLYING FOR PRESERVATION SHOULD BE AWARE OF, PARTICULARLY IN VIEW OF HR4, IS THE FACT THAT WHERE THEY HAVE A DIFFERENCE BETWEEN THE CERTIFIED MARKET VALUE AND THE TOP APPRAISED MARKET VALUE, THEY CAN TREAT THIS DIFFERENCE AS A DONATION FROM A TAX PERSPECTIVE. FOR EXAMPLE, IF THE APPLICANT IS OFFERING TO SELL THE DEVELOPMENT RIGHTS FOR A 100 ACRE PARCEL

AND THE TWO APPRAISALS ARE \$50,000.00 AND \$55,000.00 PER ACRE RESPECTIVELY; AND, THE SADC CERTIFIES THE MARKET VALUE AT \$52,000.00 PER ACRE, THE APPLICANT MAY HAVE A \$3,000.00 PER ACRE DONATION OR \$300,000.00 THAT THEY MAY WRITE OFF AS A TAX DEDUCTION AGAINST THEIR GROSS INCOME.

INTERESTED LANDOWNERS SHOULD CONTACT THE LAND TRUST ALLIANCE AT 202-638-4725.

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)