



GRASSROOTS:
AN AGRICULTURE RETENTION
and DEVELOPMENT PROGRAM
FOR NEW JERSEY

NEW JERSEY DEPARTMENT OF AGRICULTURE
Phillip Alampi, Secretary

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION
Jerry Fitzgerald English, Commissioner

October 31, 1980

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STATE OF NEW JERSEY

DEPARTMENT OF ENVIRONMENTAL PROTECTION
JERRY FITZGERALD ENGLISH, COMMISSIONER

DEPARTMENT OF AGRICULTURE
PHILLIP ALAMPI, SECRETARY

Governor Brendan T. Byrne
and
The Joint Legislative Oversight
Committee
The State House
Trenton, New Jersey 08625

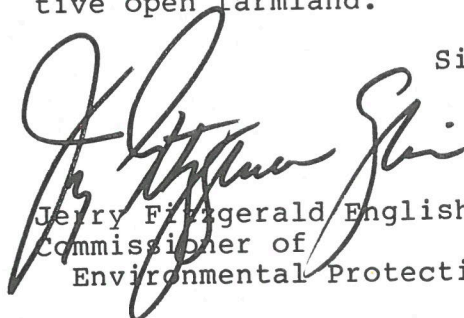
Dear Governor and Legislators:

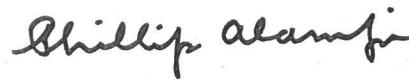
This report presents the findings and recommendations of a study of alternative ways to preserve our farmland and retain our agriculture in response to Chapter 234, P.L. 1979. Funded by the Department of Environmental Protection from the Green Acres Program and conducted by the Department of Agriculture, Division of Rural Resources, the study was designed to seek a broad public involvement and to propose a series of actions to solidify both the agricultural land base and the farming industry over the next several years.

We are pleased to submit this report with the hope and expectation that it will result in positive action on behalf of the State government as well as county and municipal governments to support agriculture. The time is right for an active program to be initiated. Farmland losses have recently slowed, although probably only temporarily, and there is a renewed public interest in agriculture's benefits for a heavily populated region.

Please call upon us to assist in achieving this goal of a strong agriculture and a continuing supply of productive open farmland.

Sincerely,


Jerry Fitzgerald English
Commissioner of
Environmental Protection


Phillip Alampi
Secretary of Agriculture

A C K N O W L E D G M E N T S

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In addition to those named above who have contributed greatly to this study and report, the following people have provided outstanding assistance and we extend to them sincere thanks: Charles Gallagher and Elizabeth Carpenter, interns; Kathy Sabo, manuscript typist; Gayle Sadley and Thelma Rozansky, secretaries; and Stella Tozzi, publication.

Cover photo courtesy of the Hunterdon County Democrat.

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For further information or additional copies of this report, please contact: Division of Rural Resources, N. J. Department of Agriculture, C. N. 330, Trenton, N. J. 08625 (609-292-5511).

P R E F A C E

This document is a formulation of ideas and suggestions for a new farmland preservation program in New Jersey. It is a report of the study mandated by C. 234, P. L. 1979, which includes the required review of five different methods of retaining farmland. These methods are: farmland assessment, easement purchase, agricultural districting, agricultural zoning, the transfer of development rights, or various combinations thereof. The twelve-month study project has been completed and this report is hereby submitted to the Governor and Legislature prior to the statutory deadline of November 1, 1980.

The recommendations made in this report have resulted from an extensive grassroots participation process made in the local farming areas throughout the state. No attempt was made to formulate any of these recommendations until after the first round of Regional Advisory Committee meetings were concluded on April 30, 1980, to allow for local input into the preparation of this report. Therefore, a significant awareness exists about this report among those interest groups who are most likely to be affected. The proposed program, in order to grow and be implemented in stages, will depend upon its grassroots for strength; much like the very nature of cultivating the soil.

S U M M A R Y

This study recommends that a series of actions be taken to solidify both the agricultural land base and the farming industry in New Jersey, to promote an economically viable agriculture and thereby assure the continuation of the multiple benefits farming produces for this State. These actions are intended to provide for:

- a State and local commitment to agriculture by providing encouragement and assistance;
- voluntary participation in a limited-term agriculture districts program with incentives for farmland owners;
- local implementation of land planning techniques;
- compensation for development rights given up permanently;
- and an interlocking series of activities that would provide a system of checks and balances to maximize the potential for the future of farming in New Jersey.

Wherever possible, the recommendations seek to strengthen existing public and private sector processes in order to avoid duplicative authority and inefficiencies in administering a rejuvenated public policy promoting the development of agriculture. These recommendations are intended to lead to a gradual expansion of activity that can start up with a minimum of obstacles and eventually expand during the next several years. The approach envisioned here recognizes right to farm, equity, and "critical mass" as key factors in the overall farmland preservation issue. The enhancement of production agriculture within the framework of acceptable farm management practices is seen as the overriding objective of any farmland preservation program.

The right to farm is viewed as a necessity by the agricultural community if the State and its citizenry want to retain its farmers as well as its farmland. This concept is intended to prevent unwarranted interference in farm operations and does not in any way convey the expectation of special treatment or a double standard for farm operations.

Farmland equity holdings (or property value) in farmland directly affect borrowing capacity for farm operating loans, and, as a primary asset of net worth, may also represent a farmer's planned lifetime savings for retirement. Critical mass refers to the importance of maintaining a minimum area of farmland in a local vicinity, in order to sustain necessary support services (e.g., equipment dealers, feed supply, etc.) and other vital elements of the farming economy such as marketing, technical information, and commercial credit.

It should be emphasized that an inherent assumption in the recommendations of this report is the existence of development rights in fee simple ownership of private land. A development right is the right that permits a landowner to build upon or develop his land, subject to conditions that protect public health, safety, and welfare. Hence, the "purchase of development rights" and the "transfer of development rights" are among the techniques mandated to be studied.

Finally, those concerned with the preservation of agricultural land must recognize that the chief objective is to keep farmers farming by making sure that agriculture remains an economically and humanly attractive business. Land regulations deal with only part of the problem. Farmland retention should be considered part of the overall growth/resource management process, and should be balanced with other competing objectives in the public interest. At the same time, it must be consistent with basic safeguards accorded to private property.

KEY RECOMMENDATIONS

Specifically, the following outline presents a listing of the key recommendations and findings of this study. It should be emphasized that a particular technique or group of techniques may be inappropriate for application in certain areas. Each local situation should be addressed individually prior to any consideration of how these additional measures might be used in conjunction with existing local planning processes.

1. Agricultural Districts. New legislation should be enacted to authorize the establishment of agricultural districts. These districts would consist of a minimum area where farmland owners voluntarily join together for a specific period of time and enter into an agreement with the county-level Agriculture Development Board not to develop or sub-divide this property in exchange for a combination of incentives.
2. Easement Purchase. A limited easement purchase program should be created at the State level on a matching-share basis with local (county and/or municipal) governments. Easement purchases are envisioned for select parcels recommended by local agencies in a manner similar to the current Green Acres procedures. The "right of first refusal" to purchase an easement on any parcel of farmland that is under the Farmland Assessment Program, when it has been offered for non-agricultural purposes, should be vested with State government and exercised in coordination with a recommendation from a local body. Such recommendations would be based upon a priority ranking system that recognizes the importance of background planning factors (e.g. proposed Agriculture Development Areas) that establish farming as the preferred land use.

3. Agriculture Development Areas. The county-level Agriculture Development Boards should be charged with delineating broad areas of farming that have the best opportunity for sustained, profitable operations. In these areas, agriculture will be recognized as the preferred, but not exclusive, land use. This process might involve the strengthening of the "agriculture" sub-element of county master plans and/or the aggregation of each municipality's "rural-agricultural" or similarly-designated areas in its master plan and land use ordinance.
4. Right-to-Farm. New State legislation should be enacted to support the opportunity for normal farm operations, free from certain counter-productive nuisance ordinances, other restrictive ordinances, and unrealistic performance standards in environmental regulations. This opportunity should be extended to farm operations within special agricultural areas. This opportunity should exist provided that certain minimum performance standards are observed; such guidelines being established by acceptable farm management practices which do not circumvent basic air and water quality standards administered by the State Department of Environmental Protection. The purpose of right to farm is to maintain a competitive business atmosphere and production efficiency. (Some municipalities in the state have shown right to farm initiative by adopting local ordinances recently.)
5. County-Level Agriculture Development Boards. New advisory and implementation boards should be established by State legislation at the county or multi-county level and created by the boards of chosen freeholders in the respective farming areas of the State. These boards would be the source of farmland retention technique recommendations. These boards should consist of nine members who will represent farmers, agriculture and public agency professionals, and the interested public (i.e. environmental and consumer interests). The appointment procedures and further details about these proposed boards are described later in the PROCESSES chapter of this report.

At the same time, a State-level Agriculture Development Committee should be created by law to oversee and guide the farmland retention efforts in the state. This committee would serve only in a coordinating capacity. The decision-making functions will be vested with the new county-level boards. The committee should specifically: consist of both farmers and non-farmers alike, with a majority of representatives from agriculture; be served by a professional staff; establish rules necessary to administer new farmland retention activities such as agricultural districts, easement purchase, and "agricultural development area" delineation (explained later); and otherwise perform miscellaneous advisory tasks such as the development and exchange of model land use ordinances for municipal governments and ideas to improve the structure of agriculture in New Jersey.

6. Farmland Conveyance Tax. A conveyance tax should be enacted as a disincentive to short-term, speculative farmland transactions. This should be imposed as a tax on sales of farmland currently enrolled under the Farmland Assessment Program. Farmland owned for more than 10 years would be exempt from this tax.

It is understood that a new program for agriculture retention and development cannot move forward without a consensus of support from New Jersey's citizenry and public interest groups. Upon such a determination, an appropriation of \$150,000 would be required at this time as an indication of the State's commitment to the future of agriculture. This will also sustain the momentum of interest and effort in farmland preservation that was rekindled by this study project. Obviously, there will be a need for longterm funding as a comprehensive program is developed.

I N T R O D U C T I O N

On October 31, 1979, Governor Brendan Byrne signed into law Senate bill 1485 (C. 234, P.L. 1979) in a small ceremony in Swedesboro, Gloucester County before the bill's sponsor Senator Raymond Zane, Agriculture Secretary Phillip Alampi, third District Assemblymen Donald Stewart and Martin Herman, and a small audience of farmers, State officials, and area residents. This Legislation represents the latest formal State action on farmland preservation policy in New Jersey, an initiative which mandates in general the re-evaluation of nearly two decades of effort and, in particular, the study of five techniques that have evolved during that term.

In effect, the statute mandates a look into the future of agriculture in the Garden State based upon past experiences and current conditions of farming. The view is a complicated picture of economic, legal, and policy entanglements as well as potential opportunities.

Productive farmlands are a vital natural resource, yet they are privately owned and managed. Like any business enterprise, farming needs a positive atmosphere conducive to profitable operations in order to sustain itself. As a resource, farmland in the United States has been in abundant supply. In the 1970s, however, concern emerged as the conversion of prime farmland to non-agricultural uses in certain places was occurring at a precarious rate.

Public awareness and interest in the issue of farmland preservation is increasing significantly both in New Jersey and throughout the United States, due in no small part to overriding concerns of food supply, energy and inflation. Thus, the description of the results of this study contained herein may become the basis for a strengthening in public and private sector action to retain New Jersey's valuable farmland resources. The report will be directed, therefore, not only to the Executive and Legislative branches of State government, but also to all New Jersey residents who are concerned with public policy affecting agriculture.

The timing of the study finds agriculture in a critical period of transition. Land use trends have intensified the rural/urban conflict in the State, giving rise to a priority among farmers for specially authorized "right-to-farm" freedom. These trends also jeopardize "critical mass" features vital to sustaining farm operations. Farmers are increasingly frustrated with government regulations, which they perceive as an unnecessary intrusion into their lives and businesses. A new regional land use control mechanism, unprecedented in its scope for New Jersey, has been enacted in South Jersey's pinelands area. In view of these trends, a response from the agricultural community was forthcoming during this study that grassroots-based action is preferred when considering new governmental action to retain farmland in New Jersey.

In the recent past, costs of production in a typical farm operation have increased at a faster rate than the price of commodities. Yet despite these and other conditions, the conversion of farmland to non-agricultural uses in New Jersey has stabilized somewhat in recent years. A verification by the New Jersey Crop Reporting Service of the recently-published 1978 Census of Agriculture for New Jersey shows little change in the status of large farms and a net increase in the number and area of small farms.

A fundamental assertion inherent in this paper is that concern for farmland preservation in New Jersey must be transformed from a study and analysis phase to an action status or implementation phase. To defer action further after this study would be harmful to the future of farming in this State. This must not be confused or misinterpreted to allow for either an over-reaction on the one hand or a token response on the other. A key to the success of appropriate government action in farmland preservation will be to identify and recommend the initial activity needed to commence an effective, longer range program that will enjoy the support of the wide range of interest groups concerned with the future of farming in New Jersey.

The Division of Rural Resources in the New Jersey Department of Agriculture, having operating responsibility for this study and report, undertook a variety of activities in fulfilling its statutory obligation. First, part of the appropriated funds were used to expand in-house personnel capability and related support services. This helped to coordinate the day-to-day activity during the course of the study.

Secondly, a massive effort was launched toward obtaining policy-oriented input from the "grassroots" level of those involved with agriculture. The entire State was divided into six regions with an accompanying semi-formal committee process through which meetings were conducted from February through April (1980). These regional meetings were resumed in September, at which time the August 27 staff working paper containing a preliminary formulation of concepts and ideas was thoroughly discussed.

Thirdly, part of the appropriation was allocated for a technical planning consultant contract with the Middlesex-Somerset-Mercer Regional Study Council of Princeton, New Jersey. A scope of services for professional planning assistance was designed to supplement preceding research and study efforts in farmland preservation techniques so that the report would build upon previous efforts.

Also, a steering committee was established consisting of a cross-section of State agency representatives, professional planners, university professors, agricultural finance experts, and other practitioners in farmland preservation. This group functioned as a policy advisory board on nearly every aspect of the issue during the course of the study.

From all of the above, it can be seen that a serious effort was made to incorporate both farmer and non-farmer opinion into the evaluation of the planning techniques mandated by the legislation.

Several general themes which seem to underlie farmland preservation in New Jersey have emerged during the study and are presented in this report. First, when considering farmland preservation, farming should be viewed simultaneously as a land use and a business enterprise. The profitable pursuit of farming will have an overriding effect on the future of agriculture in the State. Government action toward "preserving" farming as a land use can be counter-productive to farming as a business operation in some instances, so any public sector action must be weighed carefully against the private sector characteristics of agriculture. The contents of this report have been developed with this basic principle in mind.

Another important background condition of farmland preservation is the degree of urgency and how it varies across the state, much like the state's diverse agricultural character itself. Despite the fact that New Jersey's farm acreage decreased by 50 percent during the past 20 years, the current rate of farmland loss on a Statewide basis has stabilized somewhat. Farmland preservation, then, ought to find an appropriate role in land planning activities at each level of government and be achieved for the long term over a 10-year period.

Finally, it appears from the discussions among agriculturalists at meetings conducted as a part of this study that an acknowledged commitment should be made to agriculture by the State of New Jersey, if it professes to be concerned about farmland preservation. These agriculturalists contend that it would be inconsistent for the State to consider the imposition of new, restrictive land use measures on the one hand and on the other hand, for example, to permit a steadily decreasing level of financial support to the Agricultural Experiment Station at Cook College for agricultural research and other agriculturally-related agencies.

A commitment by the State to retain its farmland and agricultural industry could be shown through responsible "right-to-farm" authority for farming, viable assistance program strategies, and amendments to existing statutes (e.g. inheritance tax deferral) that would eliminate some of the problems which contribute to the termination of farm operations. This commitment would be a signal to the farm community that any farmland preservation program will be a shared responsibility and not simply a short-cut at what farmers perceive to be their own expense.

This study represents the next evolution in New Jersey's history of concerted effort toward retaining its farmland. The Farmland Assessment Act of 1964, the 1973 Blueprint Commission Report on the Future of Agriculture, and the 1976 Agricultural Preserve Demonstration Program all produced certain pieces to the puzzle of a successful statewide strategy.

Achieving a balance among land uses including agriculture is a goal of the land planning process. While the optimum arrangements for such a balance may not yet be in hand, actions are beginning to show themselves which will build a momentum toward its achievement. Farmers, as demonstrated by their strong participation in this study, are willing to take the lead in this process. The solution lies in a spirit of cooperation and must be made jointly by the agricultural community and governmental authority at every level on behalf of the general public they represent. The recommended program, therefore, consists of a mix of techniques and it assigns the responsibility for implementation to existing agencies wherever possible. Selective additions to fill some perceived gaps in land use planning related to farmland are suggested as well.

The study was conducted in a way that will serve as the beginning of an on-going process. It started with a research team who immediately sought the advice of the agricultural community, a process described in a recent newspaper article as a "year-long effort of farmers caucusing across the state." In the latter stages, a more direct effort was undertaken to inform and notify local officials and interested non-farm citizenry. A cross-section of State and county policy-makers was also involved from the outset. A low-key momentum in farmland preservation has emerged across the state to coincide with the release of this report to the Governor and Legislature.

Positive yet fragmented energies exist across the State which can be molded into a fair and effective program. A special leadership will trigger a series of events to ensure the future potential for farming in the Garden State. A critical determinant to this outcome will be open-mindedness and an understanding of the various perspectives on the issue, so that walls are not erected where bridges should be placed.

OVERVIEW OF FARMLAND PRESERVATION IN NEW JERSEY

BACKGROUND

The statute which authorized this evaluation of the various methods available to preserve farmland in New Jersey declared that "the preservation of agricultural open space and the retention of agricultural activities would serve the best interests of all citizens" in the State. It also stated that "past and present policies of the State, while beneficial and worthy of continuance, have not fully insured the permanent existence of such activities." Therefore, the need existed for a further review of twelve months.

The methods listed for evaluation, both individually or in combination with one another, are: farmland assessment (i.e. differential taxation); development easement purchase; transfer of development rights; agricultural districting, and agricultural zoning. Thus, it can be concluded from the legislative mandate that efforts to "preserve" farmland in New Jersey promote the general welfare of the State, that such efforts are not new, and that a need exists to re-evaluate past thinking and potential new activities in the context of an overall program.

Before extrapolating from this mandate and starting the analysis of these techniques, the issue of farmland preservation must be recognized as a complicated matter of public policy involving private sector activity and genuine public need. The precise level of the latter and its right to intervene with the private sector are difficult to identify.

This is further underscored by the fact that farming is both a land use in the rural landscape and a business enterprise. The former aspect has an open space/environmental protection orientation and the latter attribute is chiefly an economic and business management consideration. The language of the enabling statute of this project itself separates the "preservation of agricultural open space" and the "retention of agricultural activities". This dual function of farming, however, creates the potential for interference or conflict when new governmental action to "preserve farming" is contemplated.

A good illustration of this dual feature of farming and the potential negative impact of an otherwise well-intended farmland preservation technique is a case where restrictive agricultural zoning would be unilaterally imposed on a farm area at the urban fringe. In this instance, the investment value of the land can be two or three times greater than the pure agricultural value of the land, and this greater difference would be virtually eliminated under such a zoning measure. Since the long term borrowing capacity of a farm enterprise in many instances currently is dependent upon part of the non-agricultural value (i.e. market value) of farmland, the governmental action in this instance will serve the open space aspect of the farm while having a coincident detrimental impact on the business enterprise. Indeed, many commentators on the farmland preservation issue are now recognizing the importance of observing the needs of both aspects of agriculture:

"In public debate, often little distinction is drawn between the objectives of saving farmland and saving farming. In fact, the debate is generally confused even more by including saving open space or saving the environment as an objective. It is perfectly possible that all the prime farmland in a region could be saved but that farming would cease." (Robert E. Coughlin, Methods of Protecting Agricultural Land, Library of Congress workshop paper, February 8, 1977.)

The Report of the Blueprint Commission on the Future of New Jersey Agriculture, a milestone in New Jersey's efforts to retain its farmland, presented a thirteen point program that embodied both land policy and "recommendations to enable agriculture to continue and to thrive in a new climate of assured permanence." At the outset of any analysis on farmland preservation, therefore, a basic assumption must be established to view agriculture simultaneously as a land use and a business. The needs of production agriculture should have an overriding priority in all public and private efforts toward retaining New Jersey's farmland, since the profitable pursuit of farming will ultimately help ensure a land base without excessive governmental involvement.

While the needs of production agriculture should be used as a guide in farmland preservation, agricultural profitability alone cannot be seen as a guarantee of agricultural preservation in New Jersey. Land use conflicts abound in the nation's most densely populated State, especially along the suburban/rural fringe. With the advent in 1978 of the casino gaming industry in Atlantic City, there are virtually no rural areas in New Jersey remaining (with the possible exception of remote places in Salem, Cumberland, and Sussex Counties) that are not within reach of residential subdivision growth pressures.

Awareness of this has led to a firmly-held belief in "development rights" by farmland owners which leads to the complications the equity issue poses in farmland preservation. At the same time, nuisance complaints by new suburban residents in neighboring areas to farm operations present a frightening signal to a farmer who must make large capital investments to maintain competitive efficiencies in the marketplace. The perception of an oncoming nuisance problem (part of the "right to farm" issue) and the sheer lure of divesting valuable property are often pivotal factors in decisions affecting the continuation of a farm enterprise.

Another aspect related to the land use conflicts affecting farmland involves land ownership. Figures prepared in 1976 by Charles Lambert Associates for the New Jersey Department of Agriculture estimated that farmers owned only 47 percent of the State's farmland, the balance being owned by developers/investors who may be leasing the land in the short term hoping eventually to capitalize the investment into a more intensive, non-agricultural use. The land use planning element in the farmland preservation process, consequently, is a vital component as are the internal economic forces within the farming industry.

Another important manifestation of concerns for proper land use patterns in the face of development pressure in New Jersey is the gradual unfolding of regional land use control agencies. Starting with the Hackensack Meadowlands Commission in the 1960s, the State of New Jersey has systematically enacted legislation creating State-level regulatory authority governing the coastal zone, wetlands, and pinelands regions as well as a variety of environmental regulations related to air and water quality.

In addition, a State Development Guide Plan was drafted by the Division of State and Regional Planning (New Jersey Department of Community Affairs) in September, 1977 which contained a general mapping depiction of areas suggested for growth, limited growth, open space, and agriculture. This guide plan has been revised recently and was the subject of public hearings and comment in September, 1980 prior to final consideration by the Office of the Governor.

To coordinate the activity of the various Departments of State government in matters related to land development and overall planning, Governor Byrne has created a Cabinet-level Office of Policy and Planning. All of this new activity in planning at the State and regional level is in addition to the ongoing municipal and county planning processes which hold the legal authority for planning and zoning currently. Some have said that in fact, a "quiet revolution in land use control" is under way, which is now readily manifest in New Jersey.

AGRICULTURAL CHARACTERISTICS IN NEW JERSEY

It should be helpful to take note of New Jersey's agricultural characteristics after a brief mention of conditions in the nation and the Northeast which affect the farmland preservation issue. The conversion of farmland in the urban/rural fringe into other more intensive uses was accelerated by a number of socio-economic factors during the post-war period, some of which included: highway construction, tax incentives for single family housing, plentiful energy resources, and a general public policy toward a "growth ethic" that led to large expenditures in suburban infrastructure. Coupled with this, the loss of farmland during the 1950s and 1960s was not a major national concern, since food surpluses existed and food prices were relatively low and stable for consumers.

The loss of farmland to non-agricultural uses during the 1970s grew on a national basis to approximately 3 million acres per year. The dimension of this figure is significant since much of this land was near urban areas, was generally of very high quality in terms of cropland productivity, and was being converted while erosion and "ecological elasticity" conditions of the soil worsened. During most of this time, agriculture has been considered (at least up until recently) a residual use of land, again because of the relative abundance and affordability of the domestic food supply. The outright conversion of farmland also contributed to the "impermanence syndrome," defined by the Blueprint Commission as "outside pressures resulting in (farm) management decision-making confined to short-run considerations."

These conditions and others, then, began to gnaw at the enormous wealth of the country's productive, arable land, estimated by one source currently to be approximately 470 million acres or 25 percent of the world's supply. According to the United States Department of Agriculture (USDA) Science and Education Administration, the country has 10 Farm Production Regions and New Jersey falls within the 10-State "Northeast" designation.

The Soil Conservation Service of the USDA conducted a Potential Cropland Study in 1977, which provided data (as yet unofficial) on national and regional estimated acreages of various types of farmland. The study results indicated a total of 344.8 million acres of prime farmland in the United States, about 230 million acres of which is being used as cropland. The Northeast had the third lowest total of prime farmland (Mountain and Pacific were lower) at 13.6 million acres or 3.9 percent of the national total. The Northeast region accounted for 6.3 million acres or 2.8 percent of the national figure of prime farmland cropped, which was the lowest amount as a region along with the Southeast and Pacific regions. For purposes of comparison, the 10 northeastern states in land area occupy a little more than 5.6 percent of the 48 contiguous states. It is the most densely populated region in the country, with 50 million people living in a total area of 106 million acres, according to census data for 1974.

The Northeast as a region is known more for its cities and urban areas than for its farms, yet the 1974 census reported market value of products sold in the region as approximately 5.5 percent of the national total. The Northeast employs nearly 500,000 people in farming and related businesses. The urban dweller in the Northeast is especially interested in preserving farmland for more than locally produced food; since the rural landscape provides a reprieve from the densely populated urban and suburban areas.

Although population increases within the region have levelled off sharply, migration of existing population is a significant factor affecting rural areas. According to current population reports of the U. S. Census Bureau summarized by the USDA Economic Research Service (now known as the Economics, Statistics, and Cooperative Service), the regional metropolitan population decreased by 3 percent from 1970 to 1976. For the same time period in the region, the non-metropolitan population increased by 8.4 percent despite a net increase of 1.0 percent in the entire region overall. New Jersey's net migration gain for non-metropolitan areas was the highest of any Northeast state from 1960-1970; the region itself had the largest increase in the same category of any other in the country.

New Jersey contains 4.8 percent of the total cropland and improved acres in the Northeast, according to the 1978 Preliminary Census of Agriculture Report. This is a small percentage in a region ranking next to last in the country. Yet despite this fact, New Jersey has a diverse and surprisingly strong farm sector, as shown by agricultural production figures. The average dollar value of agricultural products sold per acre in 1979 was \$373, almost

four times the national average. From figures provided by the New Jersey Crop Reporting Service (CRS) for 1979, it can be seen that the relatively high average production value per acre is due primarily to commercial vegetable and fruit production (\$120.5 million in value) since almost two-thirds of the state's cropland is devoted to the production of grain. Grain production averages approximately \$190 per acre in value, while vegetable production value per acre is \$1,196. Overall, New Jersey's total of cash receipts from farm marketing of crops and livestock was \$410 million in 1979 (preliminary figure). Among all states, New Jersey ranks among the top five in the nation in the production of blueberries, cranberries, peaches, summer potatoes, fresh market spinach, green peppers, asparagus, snap beans, and tomatoes.

The working definition of a farm used in the 1974 census and each year subsequently is:

" ... all land on which agricultural operations were conducted ... under the day-to-day control of an individual management, and from which \$1,000 or more of agricultural products were sold during the census year."

The average annual loss of farmland in the State during the past decade is 4,500 acres, although precise comparisons cannot be made due to changes in the definition. In the past several years, however, it can be seen that the annual attrition of farmland in New Jersey has clearly moderated and should not be described in such terms as "alarming." In fact, figures in the 1978 Census of Agriculture - Preliminary Report, issued in May, 1980, shows a potentially significant increase in both the number of farms and farm acreage in New Jersey from 1974 to 1978. Most of this increase can be attributed to a change in census methodology. However, for the portion of the 1978 census which is comparable with 1974, the major part of the increase is accounted for by a sharp increase in small farms of less than 50 acres. The number of farms of 50 acres or more in size decreased by one percent from 1974 through 1978. This latest data corroborates the current assessment that the annual farmland loss rate in the State has been temporarily stabilized.

This should not be misinterpreted to imply that a "no action" alternative should be adopted since these are average figures on a statewide basis and localized conditions can be dramatically different. Also, the conversion of large farmland parcels may be offset by the purchase of farmland for new residences where the balance of the land is kept in agriculture; thus producing a small, if any, net loss figure for farm acreage. The urgency factor should be addressed accordingly by the application of appropriate farmland retention techniques consistent with existing planning guidelines at the local level and a new statewide agriculture retention policy.

Another source of relevant data concerning New Jersey farmland is the "Agricultural Land Sales Report" prepared annually by the Rural Advisory Council since 1977. A survey is conducted based upon a questionnaire forwarded to the parties involved in farmland transactions as reported by county

boards of taxation. The survey obtains information that verifies the sale (acreage, terms, price, etc.), inquires into the intended future use and obtains other relevant data. The 1978-79 Report showed 739 transactions involving 27,597 acres. Of the total, 62 percent will continue in agricultural use, 25 percent was purchased as an investment, and 13 percent (3,547 acres) was purchased for development purposes. The average value statewide of farmland on a per-acre basis in each category is as follows:

. continuing in agriculture:	\$2,150
. primarily for investment:	\$4,436
. primarily for development:	\$7,448

(Note: the land in agricultural-purpose transactions contains development/investment value; see the Report for further details.)

Comparison of 1978-79 data with previous years indicates a shift of the highest volume of farmland sales for development purposes away from Middlesex County and into Hunterdon, Somerset, and Burlington Counties. This is an example of but one of the many useful insights into current farmland conditions these reports provide.

Yet despite its status as the nation's most urbanized State, New Jersey has an abundance of open space and in the words of the Bridgewater Courier-News:

"One of the great secrets of New Jersey is its farms. Secret only to outsiders, for natives know the State would not be the same without them." (Bridgewater Courier News, April 12, 1980 editorial.)

The approximately one million acres of farmland are only a part of the State's valuable land resources. The preliminary draft of the State Development Guide Plan prepared by the New Jersey Division of State and Regional Planning in September, 1977 contains acreage estimates of statewide land classifications. Based on the interpretation of 1972 aerial photography of New Jersey's 4,797,268 acres, the State has the following, by acreage and percent of total:

. Public Lands:	621,040	-	12.9%
. Potable Watershed:	65,187	-	1.4%
. Wetlands:	384,004	-	8.0%
. Slopes (12% or greater):	302,700	-	6.3%
Sub-total:	<u>1,372,931</u>	-	<u>28.6%</u>
Total land area of N. J.:	4,797,268	-	100.0%

Thus, nearly one-third of the State is already unsuited for development in ecologically sensitive areas. Recent estimates by the USDA (SCS and Bureau of Agricultural Economics) in the mid 1970s place the percentage of developed land for New Jersey somewhere between 26 and 28 percent. The balance of 43-45 percent of New Jersey's land area is considered "open developable" land, the classification which contains most of the State's farmland. It is perhaps startling to note that the population of the nation's most urbanized State is located on less than one-third of its land area.

Nonetheless, it is the variable location of the developed land areas interspersed throughout the open, rural landscape which creates the challenge for those concerned with the future of farming. The spatial distribution of farms themselves varies widely and does not lend itself to any neat, universal pattern. Farms differ by size, are sometimes clustered in broad rural areas, can be found isolated in a hilly landscape, or completely enveloped by surrounding or neighboring residential uses. There are different categories of farmland as well. Farmland assessment data for the 1980 tax year is compiled as follows, by acreage and percent of total:

. Cropland Harvested:	671,120	-	55%
. Cropland Pastured:	59,336	-	5%
. Permanent Pasture:	131,658	-	11%
. Woodland:	364,561	-	29%
Totals:	<u>1,226,675</u>	-	<u>100%</u>

Population pressures and corresponding housing demand vary throughout the State as well, being chiefly a function of proximity to major centers of employment. Due to its revitalized economy from the casino industry, Atlantic City joins the Philadelphia and New York metropolitan areas in creating the impetus for residential subdivision of farmland throughout virtually the entire State. The American Association of Geographers recently held a national conference on "Land Use Issues in Non-Metropolitan America," during which a theme of "The Ubiquitous City" was established on the basis of the opening paper. Given widespread pressure from urbanization stemming from today's means of communication and transportation, this condition so aptly described is the very essence of the present situation facing agriculture in New Jersey and places it now more than ever at a critical turning point.

CONCERN FOR RETAINING NEW JERSEY'S FARMLAND

Property tax inequities in the form of rapidly escalating assessments against farmland's comparatively limited ability to generate income led to a massive loss of New Jersey's agricultural land in the 1950s and early 1960s. Between 1955 and 1965, some 430,000 acres of farmland were diverted to other uses, thereby eliminating about one-third of the total amount of farmland in the State. This led to the adoption of the differential taxation of farmland by a constitutional amendment in 1963 followed by the Farmland Assessment Act of 1964. This technique, now used in some form by 47 other states, provides for the assessment of qualified land on the basis of its agricultural productivity. This legislation has had a significant impact in stemming the loss of farmland, but is generally regarded as only part of what is needed for retaining farmland subject to development potential.

Because of this, Governor Cahill in 1971 directed Secretary of Agriculture Phillip Alampi to create a Blueprint Commission on the Future of New Jersey Agriculture. This milestone effort of 18 months led to a report with recommendations on how to achieve on a permanent basis both a land area

and viable economic conditions for farming in the State. The Blueprint Commission's report contained 13 basic points, which attempted to "sum up the essential needs of a permanent agriculture" in a "complete package deal." The land policy recommendation, however, attracted most attention and is summarized as follows:

- Each municipality in the State would be required to designate an agricultural open space preserve (AOSP) within its boundaries composed of at least 70 percent of its prime farmland to become part of its master plan.
- Landowners whose properties would be located in the AOSP would be able to sell the development easement to the State administering agency.
- The program would be financed by a tax on all real estate transfers in the State, at a rate of 4 mills (.004 percent) on the transfer value at the time of sale.

Despite a provision in the easement purchase concept that would have provided an "open-ended" basis for offering the easements for sale, estimates began to emerge on the total cost and questions were raised on the practicality of such expenditures. The concept was virtually preempted in 1975 when the Legislature expanded the real estate transfer tax and earmarked its proceeds for uses of general State need.

The third major initiative in the overall issue was taken in 1976 when Governor Byrne authorized, with the support of the Governor's capital needs commission and the Legislature, a pilot project to test the concept of farmland easement purchase with a \$5 million allocation from State Green Acres funds. The project sought to create an "agricultural preserve" within the general criteria of soil types, cost efficiency, and contiguity. Four townships in Burlington County were chosen for the demonstration. When the appraisal process was complete, easement purchase on 1,666 acres was recommended at a price of \$3.9 million.

Once again, obstacles developed in a farmland preservation initiative when the purchase plan was aborted due chiefly to fears of creating undesirable precedents in total cost and assessment values for farmland elsewhere in the State. Nonetheless, valuable experience was gained by the time the project was terminated on July 22, 1978. In the project report to the legislative oversight committee, a recommendation was made to broaden the approach to the issue, laying the groundwork for this study and report.

The public's interest in the preservation of farmland across the Country has lagged somewhat until recently because food supply has always been abundant, productivity gains were seen to have compensated for farm acreage lost, and other things like suburban encroachment were tolerated for the most part. Now, however, the national and local understanding of the situation as a resource conservation issue has reached the point of strong concern.

This concern is based upon a fear that present farmland loss trends may have significant consequences across the country, first in the form of food price inflation, and subsequently in food supply dislocations before the end of this century. The USDA Soil Conservation Service's 1975 nationwide survey on potential cropland or "cropland reserve" discovered that the amount remaining (111 million acres) was only one-third of the area (334 million acres) thought to remain based on an earlier survey in 1967. Moreover, it was found that only 24-40 million acres could be immediately converted to tillage; the rest would have to be cleared, drained, or otherwise modified to sustain cropping.

This concern has taken on new meaning recently because current agricultural exports help to off-set rising costs of imported oil and hold potential diplomatic significance, both humanitarian and strategic, in a world containing severe hunger and over-population problems. Also, other factors contributing to a general concern about the status of farmland are: leveling off of productivity gains; increasing dependence in current production output on costlier inputs such as energy, fertilizers and labor; soil erosion; regional groundwater problems; nuisance interference from nearby suburban activities (where suburbs abut farm areas), and fluctuating conditions like weather and the cost of credit (i.e. interest rates). Each of these factors can place particular stress on farm operations.

New Jersey's concern for its farmland has been documented in formal surveys. The New Jersey Agricultural Society commissioned a study by Gallup International of "Attitudes of Non-Farm Residents Toward Farming in New Jersey" published in March, 1970. Also, the Eagleton Institute of Politics conducted a survey of New Jersey residents during the winter of 1978 under an agreement with the New Jersey Department of Agriculture. The results of both of these surveys show a virtual consensus among New Jersey residents on the need for and desirability of retaining the state's farmland. The New Jersey Agricultural Society has for several years reminded residents that "Agriculture Keeps New Jersey Green." A casual review of articles appearing in a variety of publications and news media commentaries during the past 18-24 months will attest to the increasing awareness in New Jersey on the farmland retention issue.

Farmers, who own nearly half and rent much of the balance of New Jersey's one million acres of farmland, view the issue from a different perspective. In some cases, they are suspicious of the motives behind farmland preservation. Accrued property value is a highly-cherished asset which, because of the re-investment of surplus earnings into land (and other factors), represents much of a farmer's investment portfolio and often is the source of financial security after retirement.

One version of the skepticism farmers sometimes feel toward the non-farm public on the farmland preservation issue is condensed in the following statement presented last fall by a farmer to United States Secretary of Agriculture Bob Bergland, who conducted a series of meetings across the nation on the structure of American agriculture:

"One of the great issues facing agriculture today is the gathering sentiment that land really belongs to the people, and that the farmer has only a stewardship right in the asset. It is a kind of socialist mentality, and it has an adverse effect on the farmer. It leads to the belief by politicians and consumers alike that the farmer has a responsibility to provide cheap food, that the economy can't afford escalation in food costs commensurate with increases in production costs."

- J. Howard Settle of Baltimore, MD,
in Fayetteville, NC, November 28, 1979.

Farmers in New Jersey are faced with a wide range of tax and regulatory authority which they claim creates a dim future of uncertainty for farming in the state. The term "regulations" is used in the collective sense generally and has been described as the "hassle factor." In response to a proposed groundwater tax, the following statement appeared in a recent issue of the weekly newsletter of the New Jersey Farm Bureau:

" ... we feel it is time that all departments of government in New Jersey - executive, legislative, judicial, and regulatory - should get together and decide if they really want farmers in New Jersey." (New Jersey Farm Bureau Weekly, August 9, 1980)

This is part of the same theme voiced by an Atlantic County farmer this past summer on agricultural zoning and mentioned in a newspaper the following day. His comment suggested that excessive land regulation may save the land yet drive away farmers.

A positive note, however, toward potential farmer support in farmland preservation is seen from an excerpt of a recent editorial on the loss of farmland in the Farm Bureau News, a weekly publication issued from Washington:

"Each state and county Farm Bureau establishes its own policy on state and local farmland protection programs - and, in most cases, have been supportive of programs that protect the property rights of landowners. If supported by the affected property owners and their neighbors, land use planning can be an effective tool for directing orderly growth and encouraging farmland preservation." (Farm Bureau News, American Farm Bureau Federation, July 7, 1980)

Emphasis should be placed on the phrase "if supported by the affected property owners and their neighbors" to place this philosophy in its true context. There may be a middle ground between the extremes of restrictive land use regulations and a status quo hands-off approach to farmland preservation. Such a position might secure farmer support and participation in new programs to retain agriculture. This would avoid misinterpretation of the farmers' position on the overall issue that would otherwise call into question their dedication and interest in continuing farm operations.

A more detailed description of current farmer attitudes on farmland preservation in the State that emerged from the regional committee meetings conducted as a part of this study will be included in the supplemental volume to this report.

Enactment of the State Pinelands Protection Act in June of 1979, and the planning and development application review processes it established, has created a novel regional land use control program for the State of New Jersey. In fact, the draft plan prepared by the Pinelands Commission staff introduces a new approach to regulating farmland in New Jersey. Restrictive agricultural zones have been designated in areas which cross both county and municipal boundaries, identified as "agricultural production districts" totaling some 85,000 acres, wherein residential subdivision or development of the land is virtually prohibited except for immediate family and farm employee purposes. In exchange for these restrictions, landowners in these zones may receive some financial compensation from an untested "Pinelands Development Credit" system, as well as other benefits that in many cases will depend upon the enactment of amendments to or new State legislation.

The pinelands management plan holds some relevance to a potential state-wide farmland preservation program. Farmers and other agriculturalists participated in a Public Involvement Agricultural Task Force to the Pinelands Commission, chaired by Agriculture Secretary Phillip Alampi, which developed an analysis of the Draft Comprehensive Management Plan in a paper adopted July 17, 1980. A chief finding of the agricultural task force on the draft plan related to concern about the impact the plan's housing restrictions could have on prime farmland immediately outside of the pinelands jurisdiction. Despite these and other potential impacts on prime farmland, the relevance of the terms of that pinelands plan to farmland preservation elsewhere in the state is limited because of the precept contained in the Pinelands Protection Act (C. 111, P.L. 1979). This legislation gave legal significance to the unique environmental resources of the region. Hence, farmland contained within the pinelands jurisdictional boundary has a different status than that in the rest of the state.

Another comment on the concern for New Jersey farmland addresses the view from the judicial branch of government. New Jersey courts have considered issues related to agricultural preservation, according to a commentary authored by Lewis Goldshore in the May 22, 1980 issue of the New Jersey Law Journal, mostly in the context of farmland assessment case disputes. More recently, a series of cases has caused examination of the relationship between zoning and the retention of lands suitable for farming. Moreover, Mr. Goldshore contends, "a series of significant issues concerning the future of agriculture in New Jersey remains unsolved." The Glenview Development Company v. the Township of Franklin case, now pending before the State Supreme Court, is referred to as "perhaps the most significant case to raise agricultural preservation issues."

The courts in the State have as yet to take "an activist posture" and have consistently deferred that role to the Legislature. With the recent tendency to cite county and State development plans, the court system seems to be looking at the present time for a more clearly defined agricultural policy for the State relating to land management.

All of this leads to a reassessment of the entire issue, an evaluation of five specific techniques listed in the statute authorizing this study, and an estimation of the willingness and cooperation on the part of farmers and leaders in rural communities whose regulations govern the use of farmland in the State. The preparation of this report is perhaps just slightly ahead of the convergence of several powerful forces in the State (environmental protection, urban redevelopment interests, housing developers, etc.) that may preempt traditional decision-making in the rural areas of New Jersey.

T E C H N I Q U E S

This study recommends that a combination of existing techniques and some new, additional techniques be enacted and implemented in such a way as to create a framework for an ongoing 10-year process toward the achievement of a permanent land base for New Jersey agriculture. This framework should be flexible enough to adjust as necessary to changing conditions affecting the State and its farmers. Key recommendations with accompanying descriptions follow.

AGRICULTURAL DISTRICTS

A farmland retention tool with the most potential for use in the immediate future is agricultural districting within the setting of the proposed Agriculture Development Areas. In order for this technique to be implemented, new State enabling legislation is required. This legislation should be coordinated with the proposed Agriculture Development Act recommended in this report. Such legislation has already been adopted by the states of New York, Virginia, and Maryland. In Minnesota, Ohio, Pennsylvania, and Illinois, agricultural districting bills are under consideration.

Under a districting program, farmland owners would voluntarily enter into an agreement with a designated public body for farmland areas satisfying certain criteria. Such an agreement would prohibit that land from being used for a non-agricultural purpose in exchange for a variety of landowner benefits. County-level boards would be required to administer the program in conjunction with a State-level committee. Much of the background work on this technique as it would apply to New Jersey has been compiled in a report entitled "Application of the Agricultural Districts Concept to Farmland in New Jersey" edited by Dr. Donn A. Derr (Department of Agricultural Economics and Marketing, Cook College - Bulletin #849, November 1978). There may be a need to refine the proposed trade-offs between landowner benefits and landowner commitments in order to determine a proper mix that would successfully motivate the voluntary formation of districts.

Agricultural districting can be designed to encourage commercial farming in close proximity to development pressure. The technique enjoys a certain popularity because of its voluntary nature and initiation at the local level. Several objectives underlie the purpose of agricultural districts programs summarized as follows:

- encouraging farmers to act in their own self-interest to maintain the farmland base that is essential for their operations;
- creating benefits that will promote conditions useful for profitable farm operations (e.g. reducing tax overhead costs and restricting nuisance interferences);
- stabilizing land use patterns in the specific area where agriculture is intended, thereby maintaining "critical mass" features in the area; and
- coordinating government capital investment and regulatory policies.

It should be noted that some of these objectives may otherwise be achieved in part by the proposed delineation of Agriculture Development Areas.

The most prominent example of a State experience with the agricultural districting technique is in the State of New York. The districting legislation, enacted in 1971, offered differential taxation (known as farmland assessment in New Jersey) for the first time and hence was well-received by farmland owners. As of August, 1980, 417 districts have been formed encompassing 6.1 million acres. Agricultural districting was adopted in New York State as a conscious effort to provide a "non-police power alternative" to zoning and to state-level land use regulations. In New York, districts may be initiated by owners of 500 acres or 10 percent of the land of the proposed district area. A summary listing of the remainder of the program is included in Figure 1-1. A summary of similar legislation for agricultural districts statutes in Maryland and Minnesota are presented in Figures 1-2 and 1-3, all of which were prepared by the planning consultants to this study.

The concept of agricultural districts raises a number of questions. The first is whether farmers would step forward to initiate a districts program at all, and, if so, how quickly they would do so. This question is not easily answered in the abstract, but could be considered in the light of discussions with agricultural interests that will occur during the development of an overall farmland retention program.

Observers in New York State contend that the specific incentive for joining the districts program varies widely across the state: in some New York counties, preferential assessment of farmland is important to farmers; in others the "right to farm" provisions are compelling; elsewhere, a need to thwart intrusive public projects (e.g. dams, power lines) is critical. If a broad variety of inducements were presented, farmers would presumably be the first to comment on their relative value at public hearing. Full enlistment in districts should not be expected immediately. In New York State, while interest was strong from the outset, it took about five years for the program to build to its current strength.

A more difficult aspect of this question lies in the characteristics of land tenure and land values in New Jersey. With well over half of New Jersey farmland owned by non-farmer investors, and with the very high current land values that are characteristic of much of New Jersey, there will certainly be strong pressure from certain quarters to thwart measures that would make it more difficult to convert agricultural land. The New York State legislation addressed this point by allowing owners of only ten percent of the land in the proposed district to initiate the districting process. Maryland legislation, by contrast, only allows owners to propose land they actually own. In considering the New York State approach on this point, it should be remembered that a district proposal is subject to a thorough review process that provides ample opportunity for those who do not want their land to be included to voice their objections and to have it removed.

On the other hand, it is argued that turning the tide for agriculture is a longterm undertaking and that the district approach represents an important first step in recommitting an area to agricultural use. The psychological value of the districts to farmers is often stressed. If properly drafted, districts legislation may be a means by which landowners have the opportunity to initiate measures which then take on the force of regulation -- though the regulation is for the benefit of agriculture.

A review of legislation in other states and of circumstances in New Jersey suggests several factors that should be considered for incorporation in a New Jersey agricultural districts program. These may be organized in terms of landowner commitments, landowner benefits, planning provisions, and administrative provisions. A tentative arrangement of landowner benefits and other provisions of agricultural districts for New Jersey is recommended below:

A. Landowner Commitments

There should be a 10-year agreement to keep the land in agriculture with provisions making withdrawal very difficult. In addition, penalties for withdrawal should include a pay-back with interest of tax or other financial benefits received during the period of the commitment. Landowners should also practice soil conservation in accordance with plans developed or approved by the local Soil Conservation District.

B. Landowner Benefits

These fall roughly into two categories:

1. Farm Management Benefits
 - (a) Comprehensive right to farm benefits authorized by State legislation.
 - (b) Automatic annual qualification for farmland assessment.
 - (c) Priority for technical services provided by Soil Conservation Districts.
 - (d) General provisions for additional protections and benefits needed to maintain viable productive farm operations.
2. Potential Financial Benefits
 - (a) Eligibility for limited easement purchase/TDR revolving fund.
 - (b) Tax moratorium (10-year) on new non-residential farm structures.
 - (c) Priority for potential new cost-sharing funds for soil-conservation measures.
 - (d) Use valuation as a basis for State inheritance tax.

C. Planning Provisions

1. Minimum acreage criteria should be established as a local determination.
2. Contiguity criteria should be established as a local determination.
3. There should be a prohibition on new public sewer and water (except as provided for on an individual basis to accommodate agricultural needs).
4. There should be strict review procedures for eminent domain proceedings, and a requirement to thoroughly consider alternatives.
5. Districts should be officially filed with municipal and county planning boards.

D. Administrative Provisions

1. County-level Agriculture Development Boards (new) review and approve districts upon petition by landowners.
2. State committee (new), composed of State agency and public representatives, develops eligibility criteria.

3. State committee reviews and approves districts if State funding is involved (e.g. financial incentive).
4. Land under districting designation in conjunction with agricultural development areas (new) gets priority for easement purchase/TDR revolving fund.

This tentative arrangement of provisions is essentially unchanged from that produced in the August 27 working paper from this study. It was discussed at several of the farmer-led Regional Advisory Committee meetings during the month of September, 1980. Despite overall support for the concept of agricultural districts, there was no agreement on a particular set of provisions for a potential districts package. Some of the reasons for this are cited below.

- Many of the benefits were seen as close to what farmers already have or should have.
- There was fear that, once farmers commit themselves for 10 years, somewhere along the line they will be restrictively zoned permanently by a new State or regional authority.
- A financial incentive will be required as a cash benefit in exchange for the 10-year commitment subject to a roll-back (i.e. pay-back) in case hardship requires a bail-out from the district.
- The positive features cited were the self-determination feature and the coordination of such arrangements with neighboring farmers.
- Farmland assessment, one of the most important incentives in New York, is already in place throughout New Jersey.

Finding the proper mix of trade-offs for a potential agricultural districts "package" in New Jersey will be difficult. It may, in fact, require extensive further review and consultation with the agricultural community. Since a financial incentive has been mentioned several times in the discussions held to date on agricultural districts, such an element of a potential districts package could be a possibility. In any event, it is recommended that once a district is formed, strict penalties should be applied to prevent their dissolution except for extreme hardship circumstances. An example of a penalty for withdrawal would be a pay-back of money saved from new tax abatement or other financial benefits gained by the landowner while in the agricultural districts program. However, situations which may cause consideration of terminating a district should be mitigated by the actions and recommendations of the proposed County-level Agriculture Development Board.

The purpose of agricultural districts is to "recommit a region to agriculture and to provide the necessary conditions for the activity to be economically viable," according to Dr. Derr in the previously mentioned report. It allows farmland owners to take the first step voluntarily toward the retention of agriculture in the State. It complements the comprehensive planning process for the area concerned, and can be used as a companion technique to other methods. Also, districts can retain farmland while more permanent arrangements (e.g. development right purchase by easements or, in certain cases, TDR) are secured by the public sector.

EASEMENT PURCHASE

The public purchase of easements (i.e. development rights) on farmland is a technique that has been pioneered in New Jersey and adopted elsewhere in other Northeast and Middle Atlantic states. The concept was one of the thirteen recommendations in the Blueprint Commission report issued in 1973. This technique was thoroughly examined in the Agricultural Preserve Demonstration Program in Burlington County (1976-78). One conclusion of that program, which in part led to this study, was that selective use of easement purchases on farmland should be part of an overall program with other farmland retention tools.

In an easement purchase program, a farmer or other farmland owner sells his right to develop the land. The land-owner keeps the fee interest except for this one right. A deed restriction is imposed upon the property through a covenant or agreement which is held by the governmental entity purchasing the easement. Terms of such agreements may differ slightly as dictated by the particular characteristics of the site in question. This encumbrance prohibiting development of the land is attached to the property and thus binds future purchasers of the property as well.

Like most land use techniques, easement purchase has advantages and disadvantages associated with it. The advantages include permanently ensured and privately maintained productive cropland secured in a way that does not raise challenges regarding justice and equity. From a land use perspective, easements on farmland may have an "anchoring" effect in an agricultural area if they are obtained in strategic locations in conjunction with other techniques and planning processes. This anchoring effect also has a positive impact on the critical mass characteristics of an area as well. The land stays on the tax rolls, becomes significantly more affordable to young or beginning farmers, and has capital gains and estate tax advantages as well. Compensation derived from the development rights sale can be used in some cases for reinvestment into the farm operation.

The disadvantages of this technique, if it were used exclusively, are seen in the high total cost to the public sector for these purchases. Also, farmers fear that isolated farm sales where easements have been purchased from the land will be used by some assessors as the basis for a sharp increase in the assessments of their own land. To a lesser extent, concerns exist due to fears that government may attempt to assert excessive control over the land; that a relatively high percentage of total value would be paid for the easement, and that there would be the potential for the creation of "gentlemen's estates" for wealthy, non-farm individuals.

Nonetheless, others have embarked upon easement purchase programs for farmland. A prominent example is Suffolk County, New York. The voters in King County, Washington, approved a \$50 million referendum on the November, 1979 ballot. The Burlington County (New Jersey) Board of Chosen Freeholders sponsored a \$1 million question at the same time and it passed by a three-to-one margin. Also in New Jersey, the Hunterdon County electorate will decide the same question for a \$2.2 million bond authorization at the 1980 general election. Statewide easement purchase programs exist currently in Connecticut, Maryland, and Massachusetts.

The New Jersey experience in easement purchase on farmland at the state level has been limited to the aforementioned Burlington County demonstration project. Although this effort was not successful in actually securing any easements, many procedural processes were conceptualized and established with confidence. Some of these procedures include: rules and regulations spelling out how such easement acquisition could be accomplished in a formalized public program; preparation of a draft deed covenant; design of an appraisal process and appraisal manuals detailing the methodology needed to establish the fair market value of the easements, as well as the important use of a local Steering Committee and public relations program within the local community.

At the conclusion of the demonstration project, a clearer realization existed that easement purchase should be used in conjunction with other techniques. This is expressed by the following excerpt from the cover letter of the official demonstration project report signed by Agriculture Secretary Phillip Alampi and (then) Environmental Protection Commissioner Daniel J. O'Hern:

"We recognize that other alternatives to the development purchases must be explored, but we continue to feel that the ultimate program in New Jersey for farmland preservation will have some sort of easement purchase associated with it."

Indeed, with the grassroots initiative already being shown by some counties (notably Burlington, Hunterdon, and Atlantic), the reality of statewide efforts to use a variety of farmland retention tools, including easement purchase, is approaching quickly.

Therefore, a grant-in-aid program for limited easement purchases is recommended at the state level on a 50-50 matching-share basis with local (county and/or municipal) governments. Easement purchases should initially be used on a "last resort" basis. It is recommended that the unit of local government providing the local match hold the easement and execute the purchase agreement with the landowner. The establishment of rules protecting the State's interest and the enforcement of compliance with these rules should rest with the proposed State Agriculture Development Committee.

The process for nominating and approving the purchase of a farmland easement should follow the precedent established in 1979 by the Burlington County Pinelands Easement Committee, which secured an easement on the 530-acre Mehler cranberry farm in Southampton Township. Subject to the amount of funds available, the County Agriculture Development Boards should be able to place a priority on certain farmland parcels according to their strategic importance to the farmland area in question. Such a priority ranking should follow criteria established by the State committee and also be consistent with the planning setting established by the proposed Agriculture Development Areas. Following a decision by the county entity, title searches and appraisals should be ordered and performed. The guidelines for such procedures ought to closely follow those developed as a part of the Agriculture Preserve Demonstration Program.

Under an agreement which should be developed between the State Department of Environmental Protection and the proposed State Agriculture Development Committee, the appraisals should then be reviewed by the staff of the Green Acres program. This also was done successfully in the Burlington County demonstration program. Certification of the appraisal values ought to be vested with an independent appraiser under contract with the State Agriculture Development Committee, to be available for the review of appraisals made anywhere in the state. This will ensure statewide consistency, remove any local bias in the values, and also streamline the review process which is vital to an efficient program.

Other elements of the easement program should be detailed in the State enabling legislation and subsequent appropriations measures. This should include the provision for fee simple purchase and lease-back of public land. The lease-back of public lands to neighboring farm operations may provide additional acreage for production agriculture under certain controlled situations. The NJDA Division of Rural Resources is currently working toward the development of a model leasing format to facilitate these arrangements in the future.

The "right of refusal" for easement purchase by the State when an unusual case warrants such should be vested with the proposed Agriculture Development Committee. Other standard elements of an easement purchase should be provided as well. The State Green Acres Program may be a guide for this latter consideration.

The appraisal process cited here could also be used to determine easement values where the easements would be donated for tax deduction, philanthropy, or other purposes. In this regard, the experience and assistance of the New Jersey Conservation Foundation ought to be integrated with any new farmland retention program.

The purpose of the easement program is: to have a joint State/local sector purchase of rights in farmland on a selective basis to demonstrate a sincere commitment by the State in prime agricultural land; reconfirm the principle of compensation for rights taken; and to enable a prompt response in certain situations when a strategic parcel of prime, but marketable, farmland is threatened with conversion due to a farmer's bankruptcy, death, or similar emergency situation.

The financial resources to support the State share of the initial farmland easement purchase program ought to be the subject of a modest statewide bond referendum in 1981. The scope and details of such a referendum would be subject to the review and approval of the Commission on Capital Budgeting and Planning in the State Department of the Treasury. It should be stressed that this element of the program would be but one of several techniques being developed in a coordinated approach to farmland preservation in the state. Some funding sources that may be considered to finance the annual amortization costs of a debt issue for public land interests in farmland include the following:

- State's general revenues
- Increase in real estate transfer tax (1 mill would yield \$8 million annually)
- Capital gains conveyance tax on speculative farmland transactions (at 10% of sale price; explained later)
- New dedicated sources

The magnitude of this statewide referendum ought to be established in the context of the entire agricultural retention program that may be considered by the State. It should be consistent with the conclusion from the Burlington County demonstration project which found that easement purchase ought to be one of several techniques used to retain New Jersey's farmland.

AGRICULTURE DEVELOPMENT AREAS

The new county-level boards shall have the responsibility for delineating agriculture development areas within the county or multi-county area of responsibility. This process would in effect strengthen the agricultural element of county master plans. The purpose of such a delineation would be a

"sorting-out" process, on a county or sub-regional level, of productive farming areas that have a strong potential for future prosperity. These agricultural development areas will be delineated on the basis of certain general criteria established by the new State-level Committee, wherein farming would be identified as the preferred land use. Any development plans proposed under zoning regulations within these areas would carry the burden of proof in showing how that project would not upset the equilibrium of farming operations in the area. A local planning board or similar entity could, for instance, refer a development proposal to the new County-level boards for comment on the project's impact on local agriculture.

Some of the criteria that could be used as the basis for the delineation of these areas are:

- Municipal land use regulations, especially "rural-agricultural" or similarly designated areas.
- Soil conditions.
- Distance from existing sewer, water, highway facilities.
- Alignment with contiguous fields and environmentally critical landscape features.
- Coordination with the State Development Guide Plan and regional plans wherever appropriate, including areas of public investment that seek the perpetuation of agriculture (e.g. FmHA loans, areas near farmland easements, State Economic Development Authority or similar loans to support a new or expanded processing or marketing facility).
- Consideration of placing a certain percentage of existing farmland areas, based on local characteristics, in this special agricultural designation.

Once these areas have been designated and adopted by county-level boards, a sound planning basis, coordinated by statewide criteria, would exist and could then be used to guide the location of public investment for public sewer, water, and highway facilities as well as rural development policies. The agriculture development areas would show municipal planners where the various farmland retention techniques could be used and encouraged. This process should not be seen as a duplication of existing local planning, but rather as a "stepping stone" process toward achieving effective agricultural policy at a regional level.

The agriculture development areas are similar in some ways to the "agricultural preservation study areas" in Montgomery County, Maryland (shown on the map in Figure A). Also, the establishment of these areas would provide an opportunity for a formal review at a local level of the "Agriculture Areas" shown on the Concept Map of the State Development Guide Plan (shown in Figure B). These areas designated by the new boards will also confirm: a consistency with county-wide growth management strategies; economic viability of farming in the region, especially where a critical mass of farmland can be identified; and that farmland, open space, and in some instances residential development (rural communities and specialized, clustered development) can be compatible land uses within the agriculture development area if appropriately located.

AGRICULTURAL ZONING

The most familiar techniques to influence land use currently are municipal planning and zoning ordinances. Zoning was originally developed for use in urban areas and today most areas in the state are subject to zoning police powers of municipalities authorized by the Municipal Land Use Act. Most municipal zoning in effect today (as it relates to agriculture) in New Jersey takes the form of minimum lot size regulation. To a much lesser extent, there are some instances of exclusive agricultural zoning (e.g. Stow Creek, Cumberland County) and the potential exists for compensable zoning varieties (e.g. transfer of development rights, clustering, etc.). Most recently, a hybrid technique to regulate agricultural land from the regional level has been proposed in the draft pinelands management plan, which includes a compensation feature in the form of Pinelands Development Credits.

The power to regulate the use of land is delegated to a municipality by virtue of compliance with the Municipal Land Use Act. While the Act does not require municipalities to adopt land use regulations, their regulations must be consistent with an adopted master plan for the community if they do so. To be legally valid, the terms of the ordinances must be exercised in the interests of the health, safety, and general public welfare. The entire geographic area of a municipality is divided into zones by these regulations, each with different restrictions on land use and terms for building improvements.

The critical test for the provisions of zoning regulations are their "reasonableness." A difficulty in relying upon this kind of zoning to preserve agricultural land is the lack of commonly-held, objective standards to determine if the use of the property was being restricted in a reasonable way. Reasonableness is also judged partly on institutional safeguards (e.g. due process, overall planning, etc.) and partly on the magnitude of the losses in land value and other economic considerations, such as whether or not a reasonable return from the land remains. While the regulations need not guarantee the most profitable use of the land, they must ensure that a beneficial use is permitted.

Agricultural zoning is by far the most controversial aspect of farmland preservation and the source of much reticence in the issue. Farmers fear that new, restrictive land use regulations would eliminate accrued property value which increased gradually during many years. This appreciation of land value is due in part to the farmer's hard work to maintain and improve the land. A complicating factor in New Jersey is the existence of suburban conditions that threaten to encroach upon farm operations if such is not the case already. Further, many of the state's farmers are approaching retirement and their land has in the past served as a type of retirement fund which is sometimes sold to non-farmers for that purpose. It should be noted that for these and other reasons, the intervention of exclusive agricultural zoning authority into current land use regulations would be vehemently protested by farmers in New Jersey. Most all comments made by New Jersey farmers in the past and during the course of this study have been emphatically consistent on this point.

Leaving aside this important factor, the efficacy of the use of police power to enforce exclusive agricultural zoning in New Jersey would be difficult to determine at the present time because of uncertainties in farm economics and the lack of carefully designed, well-integrated statewide planning. In a paper presented at a national farmland preservation conference at Washington State University in November, 1979, John Keene of the University of Pennsylvania made the following comments on this aspect of the issue:

"Often the problem has been viewed as one arising primarily from the inadequacy of land use controls for preventing conversion of farmland to less desirable uses. The truth of the matter is that most farmers sell out because of insufficient net income and the declining attractiveness of farming as a way of life, or in order to retire. Thus, an effective farmland retention policy must address itself to these more fundamental issues and explore the steps that are available to the various levels of government to make farming sufficiently appealing to farmers so that they will continue to use their land for this purpose." (John C. Keene, Legal Aspects of Farmland Preservation, Washington State University Farmland Preservation Conference Proceedings, November 12-14, 1979)

A casual glance at the trend in New Jersey agriculture raises some important questions on the issue of economic viability. The encroachment of residential uses into farm areas and the subsequent increase in land value for non-farming purposes has already been mentioned. Such pressure exists even in areas like Sussex County that are remote from urbanized places, and also in Cumberland County which is now subject directly to growth pressure from the casino industry in Atlantic City.

New Jersey agriculture has experienced a dramatic loss of its livestock and poultry business in recent years, as well as vegetable production used for processing markets. Nearly three-fourths of the state's cropland harvested is involved in the production of grain, due in part to the advantages of machine harvesting. Many family farms in the state are assisted by off-the-farm income to keep the farm operation in business. Furthermore, New Jersey ranks first among all states in average value of farmland and buildings per acre. These and other factors pose uncertainties that must be resolved prior to the consideration of regional or state-level restrictive land use regulations in farm areas. The recommendations for the local implementation of agriculture retention techniques contained in this report seek to provide needed flexibility for these changing trends in New Jersey agriculture.

The lack of a statewide planning process is a reflection of the strong home-rule tradition of land use planning in New Jersey. County planning activities have the potential for regional and interregional coordination, but as yet do not for the most part have consistent planning guidelines for agriculture. The State has recognized the need for an upper-level guide for land development and recently has released a revised draft of the State Development Guide Plan. This plan is an attempt to fill the void of such planning guidelines and has been developed chiefly to coordinate state-level investment and regulatory policy related to major land development activities. The situation remains, however, that a clear and well-integrated regional planning process for agriculture to tie into has yet to be achieved in the state.

Recent programs enacted to guide development in the coastal and pinelands areas of the state show a greater awareness of the need for such regional planning guidelines. It may well be that such guidelines, together with new right to farm authority and voluntary techniques which would assert the advantages of agricultural profitability where they exist, would provide a significant measure of stability to the farmland base in New Jersey.

In view of the above, this study recommends that no State-level initiatives be undertaken on agricultural zoning and also suggests that zoning regulations as a land use control option be used according to municipal discretion within the context of the new agriculture development areas (described elsewhere in this report). The Municipal Land Use Act is the basis for such regulations and authorizes the denial of a residential proposal by a municipality if it is determined to be incompatible with agriculture in the local area. Such a use of this power must be applied in a reasonable manner, be a part of an overall development plan, and be clearly tied to the public interest.

Due to the proliferation of urbanization throughout New Jersey, however, it appears that few broad agricultural areas in the state could be justifiably placed under such restrictive rules. Compensable regulations (clustering, development density transfers) in conjunction with other techniques such as districts and easement acquisition are appropriate for implementation locally at the present time. The successful implementation of the processes and techniques recommended elsewhere in this report may otherwise achieve the effect of stabilizing the farmland base and thereby render greater assurance for the continuation of the industry in the state.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)

The transfer of development rights is a popularly discussed yet sparsely practiced land use management technique. It was developed as an aid to solving a fundamental dilemma of growth management and the protection of environmentally sensitive land including farmland, without violating basic rights and due process guaranteed under the U. S. Constitution.

Under such a program, land in certain zones (preservation areas) was to be left as open space free of development. At the same time, provisions are made for the development potential associated with the preserved area to be transferred to other areas within the same municipality that can and should absorb new development (developable areas). As compensation for the resultant reduction in the current market value (or loss of development rights) in the preservation area, landowners would be issued development right credits or certificates. These credits could then be sold to other landowners or builders who wish to build at a higher density than would otherwise be permitted in the developable areas.

The most important aspect of such a TDR program is the compensation issue. The landowners in the preservation area must be assured of a reasonable possibility that the credits or certificates they hold would constitute an acceptable form of compensation for the loss of value in their land. The marketability of these credits has been a chief stumbling block in the implementation of TDR. This is due to a variety of factors including prevailing economic conditions, the local housing market, and others that have been analyzed in the TDR literature and land use planning publications. This has given rise to the consideration of a public intermediary agency acting as a broker or bank for these rights to ensure a viable market for the credits or even to underwrite a minimum value. Nonetheless, the inability to guarantee fairness and equity remains a drawback to this technique. Fears of unforeseen complications have caused municipalities to shy away from the use of this technique.

There is some opinion in the state that TDR will require specific enabling legislation prior to its legal incorporation into a municipal land use ordinance. Others argue that the Municipal Land Use Act allows for TDR and other development density transfers under the following provision:

"A zoning ordinance may provide for conditional uses to be granted by the planning board according to definite specifications and standards which shall be clearly set forth with sufficient certainty and definiteness to enable the developer to know their limit and extent." (N.J.S.A. 40:55D-77 et seq.)

Legislation was introduced in 1975 (Municipal Development Rights Act) for TDR and failed to pass, giving rise to a later bill introduced in 1977 (A-3188, later A-373: Municipal Density Transfer Act). This latter bill has been withdrawn and has no status now before the Legislature. Support for a new or revised TDR bill that safeguards these concerns (e.g. marketability of credits/rights) should be favorably considered, so that this tool might be made available for use in certain selection applications.

In summary, TDR probably will not preserve large masses of agricultural land (see Transfer of Development Rights: Marketability, N. J. Agricultural Experiment Station Bulletin #848, 1978). However, variations of TDR that are adjusted to local needs may have the potential to be an effective tool. Communities are advised to evaluate its potential carefully in light of their own circumstances.

Other forms of development density transfers are options that should be available to municipal planning and zoning to save farmland and implemented when certain situations exist. One such concept is the transfer of development credits (TDC). TDC is a hybrid land use technique which assigns a uniform minimum lot size (e.g., one unit per acre) to either most of, or parts of, a municipality in combination with a transfer zone. The transfer zone is preferably a developable area to which bonus densities would be allowed for development (e.g., four units per acre), provided the developer secures permanent farmland (or other open space) elsewhere in the community. In Hillsborough Township (Somerset County), the developer must buy the land outright and deed it to the community. In Chesterfield Township (Burlington County), the developer must file a deed restriction purchased on farm acreage which is linked to the increased density he seeks in the transfer zone.

TDC schemes still have imperfections and there has been little experience with such ordinances where it is currently in effect. One of the drawbacks of TDC is that it does not necessarily prevent standard residential subdivisions on cropland, especially in the instance where the eligible receiving areas are located throughout the township. This use of TDC could have the effect of a large scale clustering technique. Such an occurrence may provide for some open space, but it may at the same time allow moderate density development within close proximity to existing farm operations. This would not achieve the desired advantages of service efficiencies from community-planned infrastructure, and instead could create nuisance interferences between a farm operator and his new neighbors.

Another density transfer technique is cluster development. Cluster development in some cases can be an effective tool since it consolidates new development in a portion of a site more suited for accommodating the construction of new homes. Clustering in some instances may employ sale and lease options with deed covenants which define the rights of farmers and residents. Use of this technique to achieve farmland retention objectives would require extensive buffers in the landscape to protect the new residents and farm operations from interfering with each other.

A clustering proposal involving farmland whose design has won wide acclaim is known as "The Farm at Sussex." Proposed by developer Karl Kehde for a 330-acre site in Frankford Township (Sussex County), this project utilizes an on-site transfer arrangement. The project is located amidst the beautiful, rolling landscape of Northwest New Jersey and incorporates a number of innovative environmental design features. Approximately 110 residential units would be constructed on one portion of the site, leaving 150 acres of permanently-restricted prime farmland available for purchase and/or lease by local farmers in a configuration of smaller parcels. This project would utilize deed restrictions on various parcels to establish its own self-enforced rules governing land use.

Clustering, TDC, and TDR may be useful as farmland retention tools, especially as they might segregate farmland away from potential development sites. Clustering and/or well-designed low density residential development proposals may even be an available option within planning settings where agriculture is the preferred but not exclusive land use. These techniques, when implemented, may also make farmland available at more affordable prices to other farmers. However, the determination of where the use of these techniques would be appropriate should be made very carefully. The viability of "receiving areas" for a TDR or TDC scheme may very well involve the development of new sewerage treatment facilities and other infrastructure investments.

In rural areas, there must be close coordination between farmland preservation objectives and the need for areas to accommodate existing growth pressures. There likewise will be a need to have an inter-meshing between farmland retention and the rural development policy of State government. More than likely, TDR-type techniques may be more timely for implementation in a farmland program after certain basic initiatives have first been established.

This is supported by a finding from the current National Agricultural Lands Study that, up to the present, only 12 jurisdictions in the United States use TDR. Among these jurisdictions, only a handful of actual transfers involving a total of 200 acres have ever taken place.

FARMLAND CONVEYANCE TAX

This mechanism would be attached to the farmland assessment/differential taxation technique currently applied throughout New Jersey on land used for agricultural or horticultural purposes. As currently envisioned, legislation should be enacted to impose a 10-year receding transfer tax on sales of farmland currently assessed and taxed under the Farmland Assessment Act. This tax is intended to discourage short-term speculation on farmland. As presently contemplated, this tax should be established at 10 percent of the sale price where such land is sold and taken out of agricultural production for the purpose of residential, commercial, or industrial development. Land that has been in agricultural production under the same family ownership for more than 10 years would not be subject to the tax.

Senate bill 768 pre-filed for introduction in the 1980 session calls for such a tax. A credit is allowed against the conveyance tax, up to the amount payable, for the rollback taxes which would be triggered by the withdrawal from the Farmland Assessment Program. The balance of the revenue generated by this tax is to be forwarded to the affected taxing district according to the proposed legislation. It is recommended that consideration be given to modifying this concept slightly to provide that these revenues, aside from the rollback credit, be earmarked to a separate fund at either the local or State level for use in an easement purchase program. This fund would be sustained only by successive appropriations by the Legislature, since dedicated State funds have been ruled unconstitutional (see Camden v. Byrne, New Jersey Superior Court, February 5, 1980). This study recognizes, however, that revenue generated by this tax is incidental to its impact as a deterrent to speculation on farmland.

An alternative approach to fixing a farmland conveyance tax solely as a percentage of sales price which decreases with every year of ownership is to impose such a tax on the basis of capital gains. Such an approach is used in Vermont. Under that system, land sales are subject to a "land gains tax" on the appreciated value of land transferred to another party regardless of its subsequent use (with the exception of lots 10 acres in size or smaller used as a principal residence). It is progressive not only in higher taxation rate for shorter holding periods, but also in an increasing tax rate as the profits (or gains) increase.

The taxable gain is equal to the amount of the sale realized minus the initial cost and improvements to the land (such as roads, sidewalks, sewer lines, etc.). The following figures show how the tax rate in Vermont is calculated over a six-year period as a function of both holding period and percent of capital gains:

<u>Holding Period</u>	<u>Tax, as a Percent of Gain</u>		
	<u>10-99%</u>	<u>100-199%</u>	<u>200% or More</u>
Less Than 1 Year	30%	45.0%	60%
1 to 2 Years	25%	37.5%	50%
2 to 3 Years	20%	30.0%	40%
3 to 4 Years	15%	22.5%	30%
4 to 5 Years	10%	15.0%	20%
5 to 6 Years	5%	7.5%	10%

This approach is worthy of legislative consideration, but may need to be modified for use in New Jersey to be applied as a farmland conveyance tax only when certain farmland sales result in a conversion to a non-agriculture land use.

The purpose of this measure is to discourage short-term speculation and turnover in farmland ownership by non-farmers. This is distinguished from the purposes of long-term investment in farmland which is seen as a positive contribution to agriculture and currently makes available a substantial amount of land for farming on a rental basis to many New Jersey farmers. This tax together with the delineation of "agriculture development areas" will place obstacles in the path of the random conversion of farmland immediately and will contribute to the increasing number of miscellaneous activities that are establishing a higher priority on protecting prime farmland in the interest of the general public welfare.

P R O C E S S E S

This report recommends the enactment of new organizational activities and a variety of farm management measures to both oversee and provide needed assistance for the future of farming in the State. The recommendations follow:

COUNTY-LEVEL AGRICULTURE DEVELOPMENT BOARDS. This is the key organizational suggestion to be developed from this Study. At the present time, freeholder boards in three of the State's more important agricultural counties have shown initiative in creating a county-level program to address the farmland preservation issue. The Burlington County freeholders successfully promoted a \$1 million bond referendum for easement purchase on farmland in November of 1979. Farmer representatives have been selected to serve on a pre-existing advisory committee to the freeholders on easement purchases in the pinelands.

In Hunterdon County, the freeholders in June of this year appointed a task force to develop ideas for a countywide program for rural preservation, the key element of which is farmland preservation. The Hunterdon County task force report recommends a \$2.2 million county bond issue referendum for the purchase of easements. The report will give priority to farmland preservation programs that are voluntary, under local control, and ensure that farmers receive incentives and "just compensation" in exchange for development restrictions. Specifically, the task force proposes "the promotion and creation" of agricultural districts and the establishment of a county agricultural preservation board.

Also in June, the Atlantic County Farmland Preservation Advisory Commission, created in late 1978, put forward a series of recommendations in June of 1980, one of which included the establishment of a county agriculture preservation board. According to the Atlantic County commission's report, this new board is envisioned as having a variety of functions, including the responsibility for coordinating efforts by municipalities in matters dealing with farmland retention, easement purchase referrals, right-to-farm arbitration, and so forth.

It is clear from this trend and from the results of discussions by the regional grassroots committees which were a part of this study, that the county unit is a logical choice for a new, decentralized decision-making process for both agriculture planning and management. It is therefore recommended that there be new county agriculture development boards having nine members. Membership on these boards should consist of an equal one-third mix with three ex-officio members representing the county planning board, the Cooperative Extension Service, and soil conservation district; three private citizens appointed by the respective board of chosen freeholders/county executive; and three farming representatives appointed by the respective county board of agriculture in each county.

Appointments by the freeholders should reflect environmental, consumer, and rural community leadership. Appointments by the county boards of agriculture should consist of farmers or agribusinessmen with extensive experience in the local area. There should also be an equal mix of a one-third ratio among: the ex-officio membership; appointees of the freeholder boards/county executive; and county boards of agriculture, in the event where a multi-county board would be created due to local agricultural characteristics (e.g. North-east New Jersey). The agriculture development board's functions are summarized as follows:

- delineate "agriculture development areas" (previously described)
- certify easement application matching grants to the State on behalf of local government sponsors
- provide a format for the informal mediation of right-to-farm (nuisance) disputes (between farm operator and plaintiff agency or individual)
- advocate more effective land use techniques within agriculture development areas by local municipalities
- generally overview farmland characteristics: provide local expertise to the State-level Committee, accumulate knowledge and experience to help promote agriculture retention, serve as a conduit of information for farmers and general public

In some New Jersey counties, particularly in urbanized parts of the state, there is a limited amount of agriculture that does not lend itself very well to the purpose of creating this type of board. Where this is true, the county officials are advised to establish a multi-county subregional unit following the example of the soil conservation districts, if they so choose (i.e. 16 districts serve New Jersey's 21 counties). A multi-county designation would be accomplished through the coordination of the affected counties with the new State-level committee (described below). In any event, each county in New Jersey must either establish or be represented on a County-level Agriculture Development Board.

STATE-LEVEL AGRICULTURE DEVELOPMENT COMMITTEE. An inescapable need exists to create a separate, coordinating entity to supervise, but not dominate, the new farmland preservation program elements described herein. This is unavoidable despite the existence of a disheartened and faithless mood observed among many study participants at the local level toward State government in general. This study recommends the creation of a State Agriculture Development Committee, in but not of the State Department of Agriculture, consisting of 11 members with a majority representing agricultural interests.

Ex-officio membership should include the Secretary of Agriculture, the Commissioners of Environmental Protection and Community Affairs, the State Treasurer, and the Dean of Cook College, with the balance being gubernatorial appointees that should include operating farmers and members from the general public of appropriate, noteworthy expertise. The appointments by the Governor should be confirmed by the Senate, as suggested in the Blueprint Commission Report. This committee should have its own professional staff that would serve a dual function also as in-field staff to the county-level boards.

The committee's relationship to the county-level boards should be patterned after the one that the State Soil Conservation Committee has with local soil conservation districts. The committee's chief functions should be as follows:

- establish general criteria for the delineation of "agriculture development areas"; review delineation of same (on the basis of these criteria) as prepared and submitted by County-level Agriculture Development Boards;
- establish criteria for easement purchase projects, including both the right of first refusal and conventional Green Acres-type application process;
- provide input to overall State planning process; including A-95 review of government funded or sponsored projects in farming areas; comment on rural investment policy; coordinate with the formal and informal state-wide planning process. (This coordination should include collaboration with the open space concerns of other regional agencies and the State Department of Environmental Protection.);
- monitor and make recommendations to the farmland preservation policy in the state consistent with the needs of agriculture for the consideration of the State Board of Agriculture and the State's executive, legislative, and judicial branches of government; and
- make recommendations for legislative and executive action to boost the profitability of agriculture (tax policy, marketing, agricultural research, etc.) in this state.

The text of the legislation needed to implement this recommendation should be very clear in assigning the responsibilities to this committee. The mandated duties should establish the committee as an administrative entity, so as not to interfere with the policy-making power of the State Board of Agriculture on issues affecting farming in the state. This committee will otherwise provide non-farmer input into the existing institutional structure of agriculture in the state, a suggestion that has been made during the term of this project.

The committee should manage funds assigned to it for both administrative purposes and the easement purchase program. A direct line item appropriation of \$150,000 from the State budget will be required in the first year to organize the professional staff and have the committee's work initiated.

RIGHT-TO-FARM. As mentioned previously, the right to farm is viewed as a necessity by the agricultural community if the State of New Jersey and its citizens want to retain its farmers and farmland. In 1980, several municipalities in both southern and northern New Jersey, where agriculture is a dominant part of the local economy, have passed right-to-farm ordinances. At the State level, a bill was recently introduced and referred to the Senate Committee on Natural Resources and Agriculture which would: "... promote, to the greatest extent practical and feasible, the continuation of agriculture in the State while recognizing the potential conflicts among all lawful activities in the State."

This proposed bill (S-1363), cited as the "Best Agricultural Management Practices Act," lists the following premises:

- the retention of agricultural activities would serve the best interest of all citizens of this State;
- the regulations of various State agencies and the ordinances of individual municipalities may unnecessarily constrain essential farm practices;
- it is necessary to establish a systematic and continuing effort to examine the effect of governmental regulation on the agricultural industry;
- and, provide for the establishment of general practices considered necessary for best agricultural management, while minimizing any constraints on essential agricultural activities.

This bill, if enacted, would be applied as an across-the-board benefit to farming in the state. The right-to-farm provisions discussed in this report are envisioned as a process to be linked to an agriculture retention program.

In view of the above indications that nuisance interference is both a perceived and real prospect for farmers, this study recommends that a series of "rights" or minimum agricultural management options should be legally franchised to farm operators. These provisions should be made available to farm areas within agricultural districts and other exclusive farm use areas (farmland where development rights may have been severed with compensation) and the farm operations within such areas that do not violate acceptable management practices. These practices are considered to be the prevailing farm management practices recommended by agencies such as the Agricultural Experiment Station of Cook College, the State Soil Conservation Committee, the State or federal Departments of Agriculture, or a contributing private agricultural

organization or business as long as the health and safety of New Jersey's residents are not endangered. Further, the provisions of any State enacted right-to-farm authority designed to assist the needs of production agriculture should not circumvent basic air and water quality standards administered by the State Department of Environmental Protection.

The provisions of the right-to-farm authority should include but are not limited to:

1. Support for the opportunity to produce agricultural and horticultural crops, livestock, and poultry and other commodities as described in the Standard Industrial Classification for Agriculture, Forestry, Fishing and Trapping.
2. Support for the opportunity to process and market that particular farm's output for the best economic return to the operator, including the construction of buildings and parking areas for on-site farm markets and pick-your-own sales.
3. Support for the opportunity to replenish soil nutrients as recommended by the New Jersey Agricultural Experiment Station, or another qualified agency, as determined for a specific agricultural practice.
4. Support for the opportunity to use federal government approved products according to label instructions as recommended by the New Jersey Agricultural Experiment Station and the United States Environmental Protection Agency for the control of pests and diseases affecting plants and livestock, and also for the control of weed infestation.
5. Support for the opportunity to participate in the clearing of woodlands to expand agricultural production, vegetative and terrain alterations, the installation of physical facilities for soil and water conservation, and the harvesting of timber.
6. Support for the opportunity to have farm structure designs in accordance with the Agricultural Experiment Station should be permitted. An approved land grant college design will be exempt from the requirement of an architect's seal of approval and fee.
7. Support for the opportunity to use water. A priority for water use by agriculture, second only to human consumption and household needs, is necessary. Agricultural access to and control of surface waters must be sustained without interference from public or private recreational projects.
8. Support for the opportunity to have open burning related to agricultural production in accordance with permit procedures to be adopted as part of Title 7, Chapter 27, Subchapter 2.

9. Most farms generate considerable volume of organic wastes. For efficient handling of such materials, production agriculture must be allowed to dispose of such waste on the farms in accordance with acceptable management practices.
10. Agricultural services as defined in the Standard Industrial Services Classification should be a permitted use in agricultural areas. Certain support activities are absolutely essential for production-marketing efficiency. Examples include farm supply stores, ground and aerial applicators, machinery service and sales outlets, crop and livestock processing and packaging centers, etc.
11. Ability to collect for crop damage caused by trespassers is necessary. Farmland owners must be relieved of liability for claims made by persons injured when trespassing on farm property.
12. Standardization and coordination of labor inspections at the federal and state levels is needed to improve labor regulations.
13. Support for the opportunity to use new technology when related to agricultural production such as ethanol production.

A review of recent right-to-farm cases in the State shows that most of the cases involve one of the following situations causing action against a farm operator: a neighboring resident complaining about noise, dust, odors, or the like; a municipal regulation impairing a farmer by narrowly protecting a specialized condition; or a State regulation imposing an unreasonable performance standard by virtue of its design being structured for a non-farm practice.

To settle a problem that may arise in a right-to-farm dispute, an arbitration or mediation process is envisioned prior to its assignment to an Administrative Law Judge or the Superior Court of the State. The County-level Agriculture Development Boards could be used as the format for informal, non-adversary proceedings that would allow for presentations from both sides prior to rendering a decision on the matter. The balance of such procedures will be the subject of a report which is currently being completed under a contract with the Rural Advisory Council. This report on a potential, comprehensive right-to-farm program is being prepared by Lewis Goldshore, Esq., of Trenton. Its contents will reflect an awareness of the recommendations from this study by virtue of his participation on the Steering Committee.

FARMLAND ASSESSMENT. The 1963 farmland assessment constitutional amendment and the subsequent Farmland Assessment Act of 1964 provided the agricultural community the first real statewide commitment supporting agriculture as an industry. Farmers looked on this as a public acknowledgment of the desirability of keeping farmland in the State at a time when escalating real estate taxes were forcing many to sell out. The Act has often been regarded as a first step toward the preservation of farmland and open space.

In the legislation authorizing this study (S-1485) a specific reference to farmland assessment called for a review of this technique as an alternative or a complement to preserving farmland. While it is widely agreed by analysts of this tax measure that by itself, it cannot preserve farmland on a permanent basis, it does have a mark of respectability and acceptance.

Historical View

Some 47 states in the nation have adopted some form of differential assessment. Many agriculturalists feel strongly that this action has had a significant part in slowing the rate of loss of farmland. Some of them feel it is all that needs to be done. Almost all of them agree that at least in New Jersey, farming could not survive without it.

However, it is equally obvious to others that the Act is not perfect nor is it a truly effective preservation tool on its own. They point out that it can be and is used in a speculatively attractive way which, in fact, tends to escalate land values and often results in promoting the loss of farmland.

However, it is a keystone in the vitality of the agricultural sector in New Jersey and must be reckoned with in any future planning for agricultural retention. In fact, it is the only legislative support that the farming community sees in an urbanizing state that seems to be insensitive to its agricultural industry. Thus, it becomes a rallying point for farmers who focus on that Act as an indication of support for agriculture and a necessity if farming is to survive. To opt for a radical change for whatever perceived good reasons would further shake the confidence of the farmer in the future of agriculture, and perhaps result in losing the agricultural community's support for other elements of an agricultural retention program.

Basic Position

The recommendations of this study regarding farmland assessment can be summarized in three general statements:

1. The benefits of the Act should be retained as presently available to all of agricultural land which qualifies.

Some commentators suggest that we have already given away too much in our present Act and its interpretation. They say that we should restrict such benefits to those lands only that fall in a district or zone where a quid pro quo results. That is, such benefits must be in return for a longterm commitment to agriculture.

This would, in all probability, result in a further loss of confidence on the part of our farmer citizens in the actions of government and in its commitment to the future of agriculture. Under the proposals being made in this report for a locally initiated voluntary approach to retaining agriculture, the loss of farmland assessment to undesignated farmland would presumably hasten its demise in agricultural use.

In short, the gains in retracting the benefits of the Act from those presently qualified lands would not be worth the potential disruption in the agricultural sector or in achieving a comprehensive farmland retention program.

2. There should be increased and additional benefits applied to land that is designated specifically for agricultural use.

The overall program being recommended could involve, as determined at the local level, one or more techniques that would designate land for primarily agricultural use. When one of these is used, such as agricultural districts, easement purchase, TDR, etc., there will be incentives provided to encourage the voluntary participation by farmland owners.

For example, in an agricultural district, we propose that the owner be relieved of the present requirements of the Farmland Assessment Act for an annual application. In this situation, the application filed when the district contract is signed would suffice for the duration of the contract. Another such change would be the new provision that there would be a 10-year moratorium on taxes on new farm structures built on farmland under a specific agricultural use designation.

3. The present Farmland Assessment program should be modified realistically to reduce perceived inequities and administrative abuses.

Many observations over the years have pointed out abuses being made of the Act. Some of these problems are insurmountable without drastic changes in the Act which may threaten the Act itself. Since the agricultural community firmly believes the Act is indispensable, we have not suggested such changes.

Our recommendations deal with abuses by taxpayers and in the administration of the Act. For instance, we propose a right-of-first-refusal option for easement purchase by the State for any land covered under the Act. This at least gives the State another trade-off benefit for the tax relief afforded the landowner provided, of course, there are funds available to pick up the option to purchase the easements.

Other administrative changes would provide for more uniform handling of applications and farmland assessing procedures by applicants and assessors.

Recommendations on Farmland Assessment

1. Provide for a conveyance tax on short-term speculation in farmland. This would be similar to S-768 which calls for a decreasing rate over 10 years. Revenue from this State tax could be used to provide funding for limited easement purchases and perhaps to administer the farmland retention and agricultural development program. Lands in districts or otherwise restricted to agriculture are exempt.
2. Update the dollar values of qualifying agricultural sales to \$1,000 for the first 5 acres and \$10.00 per acre for cropland, \$5.00 per acre for pasture and \$1.00 per acre for woodland.
3. Provide that in an adopted agricultural district:
 - a. Land would automatically qualify for farmland assessment after approval of an initial application which would suffice during the term of the district agreement, eliminating the need for annual farmland assessment applications.
 - b. New farm structures and improvements would be exempt from property taxes for 10 years.
4. Provide that all qualified land would be subject to right-of-first-refusal by the State or other governmental jurisdiction to purchase the development easements on recommendation of County-level Agricultural Development Board when the use of the land is subject to a change in use.
5. Provide that the tax assessor be directed to use the FEAC-published values in determining farmland assessments, unless another valid method for establishing these values can be verified. These assessments would be needed wherever the application of a farmland retention technique (e.g. easement, district, zoning, TDR) severs the development value from the land.
6. Provide that the charging or collection of interest on deferred utility assessments for qualified land be specifically prohibited (see S-1183).
7. Provide for the following administrative action:
 - a. Require that a receipt be provided to the taxpayer when the farmland assessment application is filed.
 - b. Provide relief for late filings due to death or serious incapacity of owner.

- c. Preparation and distribution of a uniform, layman's language, farmland assessment instruction and information manual for farmland owners and assessors.
- d. Require, under penalty, that applications be complete and accurate.

PLANNING FOR AGRICULTURE: OBSERVATIONS. The process for farmland preservation is actually a blending of techniques and an organizational element in both the public and private sectors. This report has discussed some ideas for changes that are aimed at achieving a more permanent land base for a viable agriculture in New Jersey.

The position of agriculture in this State, as a private economic activity and a land use now subject to close examination by those representing the public interest, should be thoroughly analyzed amidst a heightened interest for land resource utilization in 1980. As previously stated, farmland in the rural landscape, aside from similar ecological base values, differs significantly from vacant open space in that it is a capital asset in a business operation. This places farmland retention in a unique position as part of a growth management policy.

In this regard, public representatives should consider the body of efforts to retain farmland in terms of agriculture planning and management. The planning aspect deals with the land use/open space feature of farming and what might be done to eliminate conflict with neighboring uses in surrounding areas. The planning aspect also deals with a revised view of how farmland retention should be a more prominent part of State, regional, and local planning activities.

The management aspect deals with the business climate affecting agriculture and the various ways in which public/private action could help ensure that farming remains a viable industry in the State. The management aspect is, therefore, similar to many of the recommendations contained in the original Blueprint Commission report of 1973. Agriculture planning and farm management are considered simultaneously as equally important components of farmland preservation, yet are separated for discussion to highlight the dynamic interrelationship of each as the overall issue is examined.

An effective illustration of current real world conditions affecting agriculture might be seen in discussions held at local seminars and workshops conducted by environmental organizations. One such workshop was conducted during May, 1980 in Washington Township of Morris County. Some of the comments already presented in this paper are referred to in a newspaper account of the workshop (Observer Tribune, May 22, 1980). The subjects of these comments are: open space advocates who overlook the farm management element of the problem; farmer comment stressing the importance of profitability; initiative needed from municipalities as well as from landowners; comparison of the farmland issue with the energy issue; inadequacy of existing zoning practices; the need to keep infrastructure away from cropland; potential role for the use of a county master plan; lack of agricultural and farmland preservation policy and commitment at the State level; failure of federal policy to provide aid; a sense of hope on the part of one farmer that the general public

will be sensitive to the fact that land preservation will require some type of compensation mechanism; and a sense of determination by the chairman of the environmental commission to find a line of action to adopt.

Professor John M. Hunter, Cook College Specialist in Agricultural Policy, states in his recent paper, entitled "Agricultural Definitions for Local Zoning Ordinances in New Jersey," that a review of current local zoning ordinances suggests that agriculture tends to be "the leftover use" which often receives little positive concern. The MSM Regional Study Council of Princeton, in its recent report entitled "Planning for Agriculture in New Jersey," states that large-lot zoning "facilitates the disruptive subdivision of land in a random, buckshot pattern." The large-lot zoning can be seen as a compromise between local suburban and agricultural interests, and questions have been raised about its appropriateness as it is currently practiced for future agricultural policy.

In addition to these very brief comments on the chief forms of public land planning powers in the State, some basic principles are asserted here that have been developed by a leading individual in the field of planning related to farmland preservation. These principles were postulated by Professor William Toner of Chicago at a national conference entitled "Farmland Preservation - The State of the Art" held at Washington State University in November, 1979. In a paper he presented at the conference, Professor Toner listed three basic planning guidelines that appear in some form among most successful farmland preservation programs:

1. "The agricultural community must play a central role in the design, development, and application of local plans and regulations to save farms and farmlands." This was cited as the most important guideline, since farmers can provide expertise in defining the issue locally and are a key interest group needed to promote the program.
2. "Rely upon conventional planning tools and techniques, but use all tools at your disposal." The distinguishing feature among successful programs is the way in which new combinations of existing techniques match varying conditions in each local area.
3. "Keep in mind that the flip side of agricultural preservation is urban development." In the pursuit of having local plans protect land best suited for agriculture, sufficient lands should also be set aside to provide for housing needs in marginal areas. Further, public investment ought to be directed toward population centers to prepare them for new development thereby creating a "push factor" away from agricultural areas and a "pull factor" toward developable lands.

These principles typify the objectives sought here in this study. Together with the perceived policy parameters from the agricultural community, they have been considered in context with the general welfare and public interest of New Jersey citizenry.

I M P L E M E N T A T I O N

Legislation

The history of farmland preservation efforts in New Jersey originated nearly twenty years ago, during which time several proposals have been enacted to protect the state's farmland. The culmination of this study and the release of its report creates an opportunity for policy makers in the state to take further action. Recommendations for such action are described elsewhere in the report.

Following the release of this report, there should be a period of time allotted for further discussion and an informal education/information program. Although a dedicated attempt was made during the study to seek the comments and participation from a maximum number of people, much more work needs to be done. In fact, the grassroots input was intentionally oriented to the agricultural community who are most knowledgeable about the success or failure of farming. Later on, the scope was widened to include a greater degree of input from local officials and interested non-farm citizenry. Nonetheless, it is apparent that the complexities of the issue and the content of the report require a minimum period of time for understanding basic terminology, farming practices, mechanics of the government process, and other elements of the issue as they relate to a potential agricultural policy for the state. This can be carried out by farm leadership, the Cooperative Extension Service, environmental organizations, school programs, civic organizations and others under the leadership of the State Department of Agriculture.

Despite the commendable level of participation in this study by farmers, it is clear that much more communication is needed with farmers in this state about this program and the concepts discussed therein. An understanding by farmers and their participation in the envisioned process is an essential prerequisite for the implementation of the program.

Also, it was noted earlier in the report that this program might eventually enjoy the support of a wide range of interest groups, both agricultural and non-agricultural (e.g. environmental, consumer, etc.). Such support may happen on its own by attentive action by groups who actively promote open space and environmental protection goals. It is more likely that the backing of these interest groups will only be forthcoming by considerable effort and communication between the agricultural community and these groups. This work should also occur as an immediate follow-up to the release of this report.

In the meantime, feedback and dialogue about the report could occur among the leadership in State government, the agricultural community, and other leading interest groups. This would be necessary, first of all, to ensure coordination with existing legislative proposals. Beyond that, the recommendations contained in this report may be categorized for potential legislative action as follows:

- proposed Agriculture Development Act: this legislation would authorize the creation of the Countylevel Agriculture Development Boards and the State Agriculture Development Committee, and the powers delegated to each as described elsewhere in the report. This legislation would be the backbone for the proposed farmland retention program in the state.
- proposed agricultural districts enabling statute: a range of potential elements have been included in this report which would have to be refined and molded by the legislative process into a uniform package for use throughout the state. Districts would be encouraged within newly-delineated agricultural development areas (to be specified in the potential Agriculture Development Act).
- proposed right-to-farm enabling legislation: this report also describes a recommended strategy for right-to-farm enabling legislation and how it would be administered. Like an agricultural districts law, it would need to be refined and finally enacted as a uniform package for use in conjunction with the agriculture retention program.
- farmland assessment amendments/farmland conveyance tax enactment: the report urges the adoption of certain changes in the Farmland Assessment Act of 1964 as well as the enactment of a 10 percent conveyance tax on farmland sales. Legislative review and consideration of the terms contained in this report are recommended.
- statewide referendum in November, 1981: the response to this report, and the perception that the State's policy-makers have of the degree to which the residents of New Jersey wish to retain its agricultural areas, may determine the need for a statewide referendum. Questions for the statewide ballot might include proposals to enable certain modifications in tax policy as well as a bond referendum for easement purchase.

To provide continuing guidance and technical input to the legislative process noted above, the establishment of a legislation advisory committee is contemplated by the New Jersey Department of Agriculture. It would consist primarily of professional and agricultural experts in the field of farmland preservation, most of whom already have been involved in this study. This committee and the Department of Agriculture staff would be available to carry on further research, discussion, and consideration toward accomplishing the above noted legislative proposals.

Supplemental Volume to this Report

The report as presented includes the background and rationale for the recommendations proposed. However, in the process of conducting this study, a large volume of information and many points of view were received. All of this material was carefully considered not only by the staff, but also by the regional advisory committees, the professional steering committee and other consultants and advisors.

The report and recommendations are presented as the best thinking at this time of how to move ahead with a workable program to actively support and assist the agricultural sector, as well as to retain our farmland. However, this must be a dynamic process and open to some modification as time and events indicate. Therefore, the many details of the possible approaches, other viewpoints and criticisms should be available for public scrutiny and future consideration.

The Division of Rural Resources, New Jersey Department of Agriculture, will continue functions related to farmland preservation at the conclusion of this study. The expansion of staff activities will be dependent upon future budget allocations by State government. As an immediate assignment upon the conclusion of this study and the release of the final report, a supplemental volume of material will be prepared incorporating most all of the information generated during this study. This volume will subsequently be made available for use and review.

Figure 1-1, SUMMARY COMPARISON OF AGRICULTURAL DISTRICT PROGRAMS

New York Agricultural Districts Legislation

(N.Y. Agriculture and Market's Law, Article 25-AA - Agricultural Districts, as amended through 1980)

- Initiation
- Owners of 500 acres or 10% of the land in the proposed district may submit a proposal, including boundaries, to county legislature.
 - Commissioner of Agriculture and Markets may create districts of at least 2,000 acres of "unique and irreplaceable" agricultural land, in cooperation with local officials and agricultural interests in district.
- Eligibility
- District must include at least 500 acres.
 - For farmland use value assessment, parcels must be at least 10 acres and farmer/owner must gross \$10,000 in farm products. Rented land qualifies if combined earnings from his own land and rented land exceed \$10,000, and if there is a five year rental agreement.
- Review
- County legislature refers proposal to county-level agricultural districting Advisory Committee and county Planning Board, and holds public hearing.
 - State Commissioner of Agriculture and Markets refers proposal (after county legislature approval) to Commissioner of Environmental Protection, Secretary of State (Planning), and state Advisory Council on Agriculture.
- Approval
- County legislature adopts proposal or modification of it.
 - State Commissioner of Agriculture and Markets certifies proposal or modification of it.
- Benefits to Landowners
- Farm use assessment (on annual application).
 - Local government may not enact ordinances that would restrict farm practices or farm structures.
 - State agencies must modify administrative practices to encourage agriculture.
 - In exercise of eminent domain, administrative procedures protecting agriculture are required.
 - In providing public funds for non-farm development, administrative procedures protect agriculture.
 - Tax assessments for special services cannot be levied on farmland.
- Restrictions on Landowners
- None. However, "rollback" penalty of difference between assessed farm value and market value for the past five years must be paid on conversion from agriculture production.
- Other provisions
- - - - -
- Termination
- Landowner makes annual application for farmland assessment.
 - Districts must be reviewed by public agencies after 8 years.
- Current Status of Program
- 417 Districts, covering 6.1 million acres of farmland.
 - First 8-year reviews underway.

Source: Middlesex-Somerset-Mercer Regional Study Council, Inc.,
Princeton, N.J. (Agricultural Districts working paper,
August, 1980.)

Figure 1-2, SUMMARY COMPARISON OF AGRICULTURAL DISTRICT PROGRAMS

Maryland Agricultural Land Preservation Foundation
(Annotated Code of Maryland, Agriculture Article, 2-504 and 2-509)

- Initiation — Owners of land may apply to county governing body for designation of land they own.
- Eligibility — Land must meet productivity, acreage, and locational criteria determined by Foundation.
— Land within boundaries of 10-year water and sewer service district may not be included unless it is outstanding farmland.
— County land use regulations must allow normal agricultural practices.
- Review — County governing body refers proposal to County Agricultural Preservation Board and county planning and zoning body. Public hearing is also required.
- Approval — County governing body may recommend that petition be made to state Foundation for approval.
— Foundation may approve or disapprove petition to establish a district.
— On approval by Foundation, district is established by ordinance of the county governing body.
- Benefits to Landowners — Landowners within districts are eligible to sell an easement to the Foundation.
— County land use regulations must allow normal agricultural practices (see above).
- Restrictions on Landowners — Landowners must execute and record with land records an agreement with the Foundation limiting land to agricultural use for five years. But, landowner may sell the property and breach the agreement without penalty (see below).
- Other Provisions - - - - -
- Termination — The Foundation may release a landowner's property from the agreement on a showing of "severe hardship" with the concurrence of the county governing body.
— A landowner may apply to terminate his restriction after 5 years on one-year notice. (But, see above also.)
— The county may review the district after establishment, and the Foundation may approve alteration or abolishment if land uses have changed.
- Current Status of Program — 60 districts covering 9,200 acres. 8,000-9,000 additional acres in process.

Source: Middlesex-Somerset-Mercer Regional Study Council, Inc.,
Princeton, NJ. (Agricultural Districts working paper,
August, 1980.)

Figure 1-3, SUMMARY COMPARISON OF AGRICULTURAL DISTRICT PROGRAMS

Minnesota Metropolitan Agricultural Preserves Act (HF, 1612; adopted 1980)





<u>Initiation</u>	— Owner(s) of certified land (see below) may apply to local government for the specified land area only.
<u>Eligibility</u>	— Within Twin Cities metropolitan area only. — Minimum parcel 40 acres; non-contiguous parcels may be aggregated if farmed as a unit (other detailed provisions also apply). — Local plans must show "long-term agricultural use," and zoning must allow no more than one unit per 40 acres. Local government must certify to this effect.
<u>Review</u>	— No review called for (but metropolitan council must be provided with maps showing "certified long-term agricultural lands," and "land covenanted as agricultural preserves)."
<u>Approval</u>	— Automatic, by local government.
<u>Benefits to Landowners</u>	— Land and non-residential farm buildings within districts valued at agricultural capability value. — Sewers and public water prohibited. — Administrative procedures limiting eminent domain. — State agencies shall encourage farming, and review certain specific regulations. — Local government prohibited from enacting ordinances restricting farming. — Provision for "such additional protection and benefits as are needed to maintain viable productive farm operations."
<u>Restrictions on Landowners</u>	— Landowner executes restrictive covenant that land will be kept in agricultural use. Minimum term is eight years. Covenant is an easement running with the land.
<u>Other Provisions</u>	— Payments in lieu of taxes to municipalities offsetting tax losses, if any.
<u>Termination</u>	— Local government may terminate agricultural preserves. — Landowner may give notice of intent to terminate at least eight years ahead.
<u>Current Status of Program</u>	— None; legislation just adopted.

Source: Middlesex-Somerset-Mercer Regional Study Council, Inc.
Princeton, N.J. (Agricultural Districts working paper; August, 1980)

FIGURE A

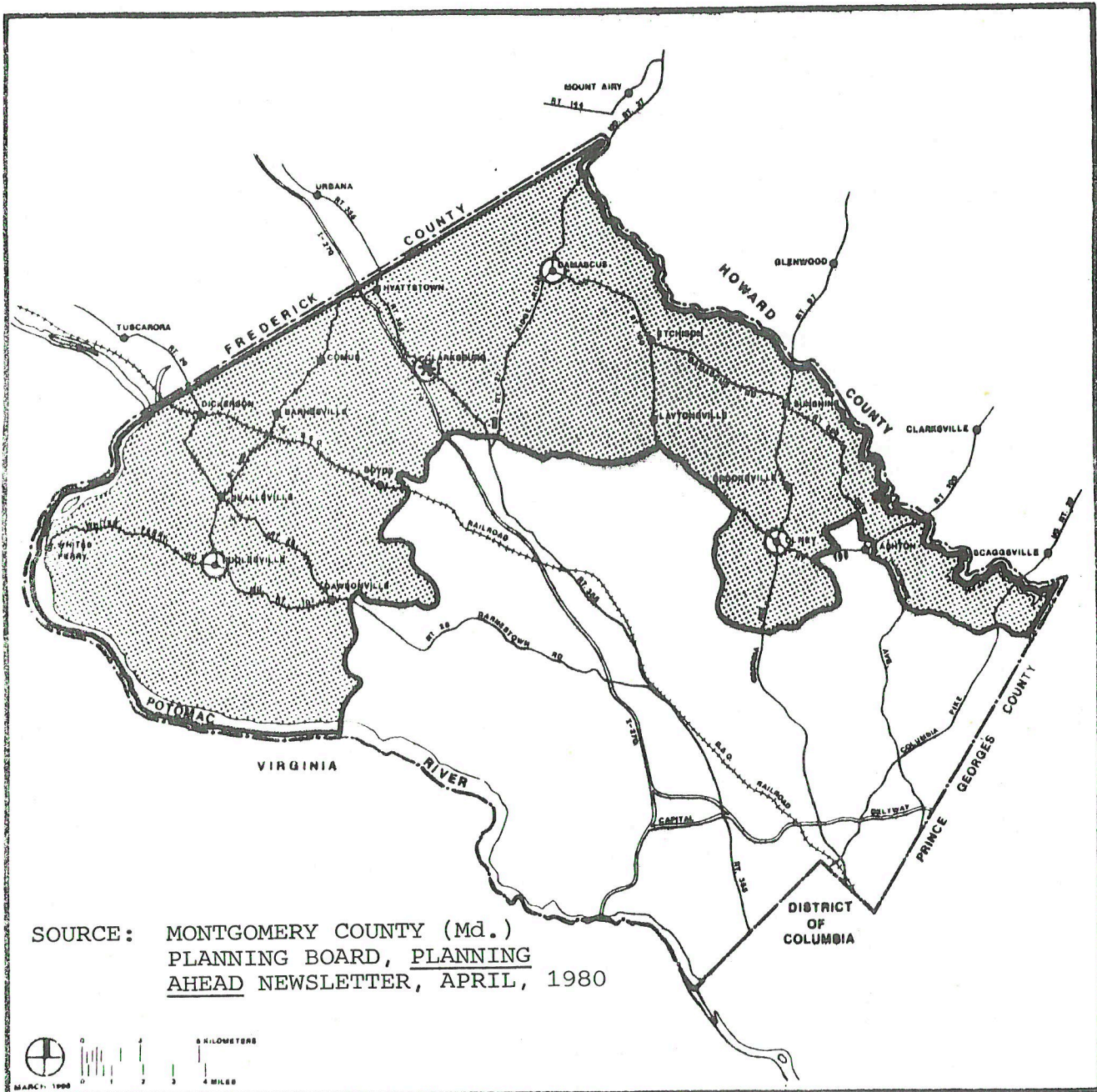
AGRICULTURAL PRESERVATION STUDY AREA

Legend:

-  Montgomery County Boundary
-  Study Area Boundary
-  Satellite Community
-  Corridor City

ACREAGE PROFILE








Total County	323,000 Acres
Study Area	181,000 Acres
Agricultural Reserve	114,000 Acres



SOURCE: MONTGOMERY COUNTY (Md.)
 PLANNING BOARD, PLANNING
 AHEAD NEWSLETTER, APRIL, 1980





FUNCTIONAL MASTER PLAN FOR THE PRESERVATION OF AGRICULTURE AND RURAL OPEN SPACE

FIGURE B
**STATE DEVELOPMENT GUIDE PLAN
 CONCEPT MAP**

-  GROWTH AREA
-  LIMITED GROWTH AREA
-  AGRICULTURE AREA
-  CONSERVATION AREA
-  PINELANDS PROTECTION AREA
-  PINELANDS PRESERVATION AREA
-  URBAN AID MUNICIPALITY

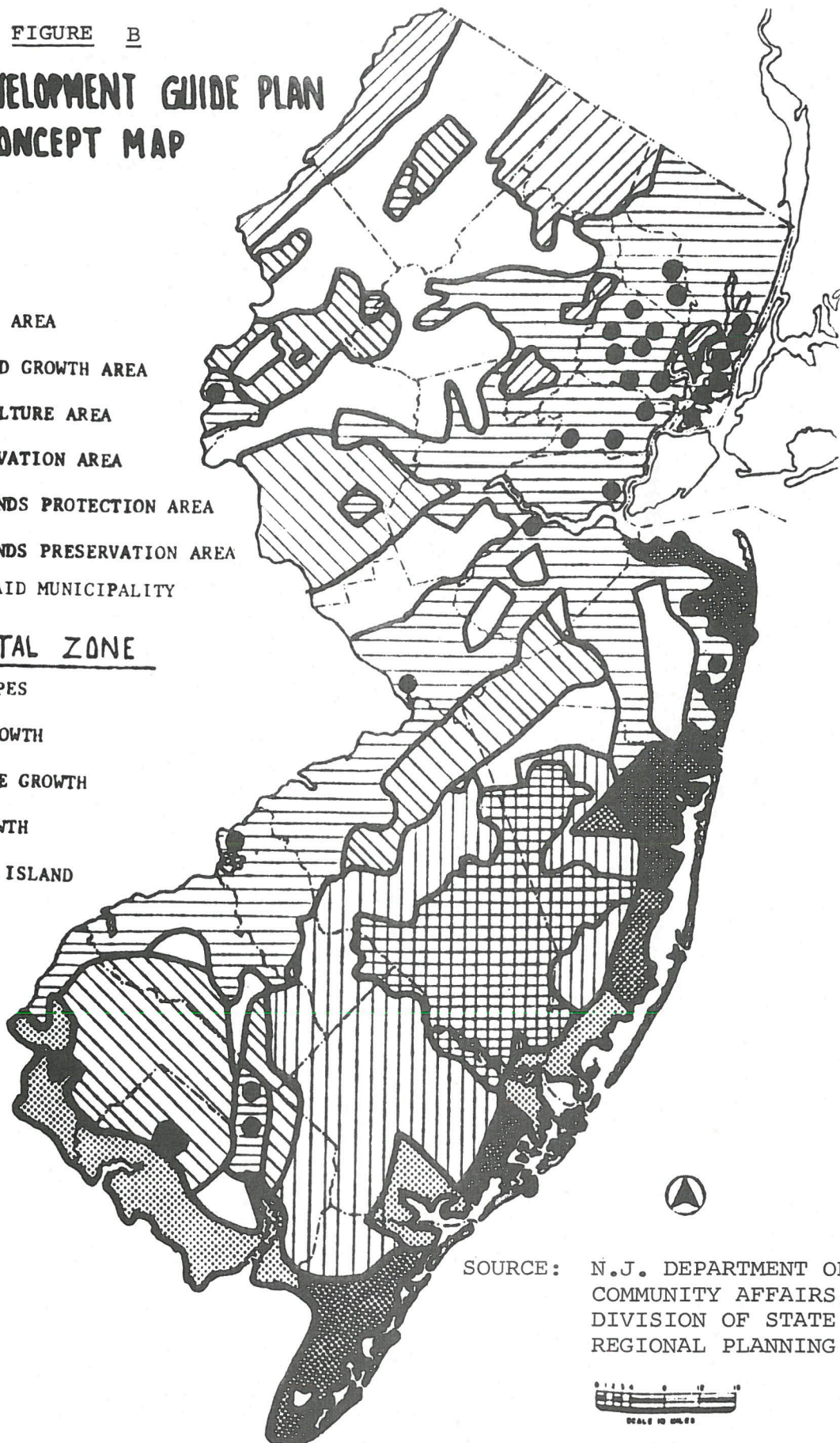
COASTAL ZONE

REGIONAL TYPES

-  HIGH GROWTH
-  MODERATE GROWTH
-  LOW GROWTH
-  BARRIER ISLAND



COUNTY KEY MAP



SOURCE: N.J. DEPARTMENT OF
 COMMUNITY AFFAIRS,
 DIVISION OF STATE AND
 REGIONAL PLANNING



(Signed October 31, 1979)

[OFFICIAL COPY REPRINT]

SENATE, No. 1485

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 22, 1978

By Senator ZANE

Referred to Committee on Agriculture

AN ACT concerning farmland preservation, providing for the review and evaluation of alternative methods of preserving agricultural open space and making an appropriation therefor.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. The Legislature finds and declares that:

2 a. The preservation of agricultural open space and the retention
3 of agricultural activities would serve the best interests of all citi-
4 zens of this State by insuring the numerous social, economic and
5 environmental benefits which accrue from the continuation of
6 agriculture in the Garden State.

7 b. Past and present policies and efforts of this State intended to
8 promote such preservation and retention, while beneficial and
9 worthy of continuation, have not fully insured the permanent
10 existence of such activities.

11 c. It is both necessary and desirable to devote 1 year's further
12 study to the various methods available to preserve farmland in
13 this State.

14 **d. The review and evaluation of alternative methods of pre-*
15 *servicing agricultural open space in this State is wholly compatible*
16 *with the provisions of the "New Jersey Green Acres and Recrea-*
17 *tion Opportunities Bond Act of 1974" (P. L. 1974, c. 102).**

1 2. a. The Departments of Agriculture and Environmental Protec-
2 tion shall review and evaluate alternative methods of preserving
3 agricultural open space in this State, including but not necessarily
4 limited to: the "Farmland Assessment Act of 1964," P. L. 1964,
5 c. 48 (C. 54:4-23.1 et seq.); the State purchase of development
6 easements, including but not limited to the program described in
7 the "Agricultural Preserve Demonstration Program Act," P. L.
8 1976, c. 50 (C. 4:1B-1 et seq.); the transfer of development rights;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

9 agricultural districting; agricultural zoning; or any feasible com-
10 bination thereof.

11 b. The Division of Rural Resources of the Department of Agri-
12 culture shall have operating responsibility for the review and
13 evaluation described in this section.

14 c. The Departments of Agriculture and Environmental Protec-
15 tion shall **submit in writing a** report on the results of this study
16 to the Governor and to the Joint Legislative Oversight Committee
17 created by section 10 of P. L. 1976, c. 50 (C. 4:1B-10) within 1 year
18 of the effective date of this act. The results of this **written**
19 review and evaluation shall in no way be construed as to affect the
20 differential assessment of agricultural lands as provided by the
21 "Farmland Assessment Act of 1964," P. L. 1964, c. 48 (C. 54:4-23.1
22 et seq.).

1 3. There is appropriated to the Department of Agriculture, from
2 the State Recreation and Conservation Land Acquisition and
3 Development Fund created pursuant to the "New Jersey Green
4 Acres and Recreation Opportunities Bond Act of 1974" (P. L.
5 1974, c. 102), a sum of \$75,000.00 to be utilized to defray the costs
6 of the review and evaluation of alternative methods of preserving
7 agricultural open space provided for by section 2 of this act.
8 **[A portion of this appropriation of \$75,000.00 may be expended to*
9 *defray administrative costs incurred by the Department of Agri-*
10 *culture from July 23, 1978 until the effective date of this act.]**

1 4. This act shall take effect immediately.

