

## BURLINGTON COUNTY FARMLAND PRESERVATION PROGRAM

### HOUSING OPPORTUNITIES AND EXCEPTIONS FROM DEED OF EASEMENT RESTRICTIONS

The Deed of Easement limits the uses of and the numbers of structures permitted on preserved farms. The Deed of Easement specifically states that “The Premises shall be retained for agricultural use and production” (Restriction 2) and that “No new structures or the expansion of pre-existing structures for non-agricultural use are permitted” (Restriction 4i). **Because these restrictions run with the land in perpetuity, the County recommends that landowners consider any need for future residences or non-agricultural uses of the land before entering the program.** To reserve future housing opportunities or to relax these restrictions on a certain portion of your property, one or more of the options listed below may be available to you. **Any request for a Residual Dwelling Site Opportunity (RDSO), Exception, or subdivision must be made at the time of application so that it can be reviewed by the County Agriculture Development Board (CADB) for approval and be incorporated into the appraisal reports.**

#### I. Residual Dwelling Site Opportunities (RDSOs):

Description: A Residual Dwelling Site Opportunity is the opportunity to construct a residential unit and related structures on the preserved farm after the property has been restricted by deed to agricultural use. If an applicant’s request for an RDSO is granted, the landowner has the ability to locate a housing site (subject to County and State approval) at some point in the future. This differs from an exception, which must be located before entering the program. Once constructed, the site of the RDSO residence remains subject to the deed of easement restrictions.

Restrictions: The Deed of Easement specifies that the construction and use of the RDSO must be for agricultural purposes. At least one person living in the RDSO must be “regularly engaged in common farmsite activities on the Premises . . .” It is currently the County’s policy to allow one housing opportunity for every 100 acres of land in an application. If one or more residences exist for every 100 acres of the property, no RDSO will be granted.

Cost: No direct deduction from the purchase price is made for an RDSO; rather the effect of the RDSO on the easement value will be determined directly by the appraisers as is currently done with existing housing units.

## II. Exceptions:

Description: An exception is a small portion of a preserved farm that remains a part of the existing tax map parcel, but which is not subject to the standard easement restrictions. Exceptions cannot be severed or sold separately from the preserved property. For each exception they grant, the CADB specifies whether it is for a future housing opportunity or to allow for an existing or future non-agricultural use. Please refer to the CADB's "Exceptions Policy" for more information.

Restrictions: If the County determines that an exception would adversely affect the agricultural operation, it will not be granted. If the County agrees to the exception, certain conditions to that approval will be imposed. For more information, please refer to Section III of "Exceptions Policy". The location of the exception must be delineated when submitting an application and finalized prior to the time the County hires a surveyor to survey the Property.

Cost: While there is no cost for an exception per se, the County does not pay for any acreage on a farm within an exception. This acreage is subtracted out of the total farm acreage before determining the total purchase price to be paid.

## III. Subdivisions:

Description: An applicant may wish to subdivide his or her property in order to enroll only a portion of it into the Easement Purchase Program. Subdivision requests are closely evaluated by the CADB for potential negative effects on the farm property.

Costs: The owner receives no compensation from the County for subdivided acreage not included in the farmland easement sale.

Restrictions: If the County approves a subdivision request the subdivision must be completed before closing. The following process is suggested for landowners who wish to subdivide land prior to entering the program:

1. Soon after submitting the Easement Purchase Application to the County, the township planning board and County Planning Board should be approached for an informal review of the subdivision. This allows the landowner to ascertain if his/her plan is likely to be approved.

2. The landowner has two options once he/she has accepted the County's offer and contracts have been executed. The owner can retain his/her own surveyor to do the survey needed for the subdivision application or, alternatively, the owner can utilize the surveyor retained by the County -- providing the surveyor and the County with specific information on the area of the property to be subdivided from the rest of the property that is to be subject to the Deed of Easement. If the owner retains his/her own surveyor a copy of the approved subdivision plat and municipal resolution(s) are to be provided to the County.

If the owner elects to use the County's surveyor he/she is responsible for the surveyor's charges related to perfecting the subdivision including, but not limited to, survey field work related to the subdivision, preparation of plans for municipal and County review and recording the subdivision plat or deed.

Please note that the County's survey for the County's easement purchase will not be finalized until the subdivided lots are assigned tax map lot numbers.

#### **IV. Total Acreage to be Excepted or Subdivided:**

The CADB will consider requests to except and/or subdivide acreage from an applicant property up to a maximum total acreage of 5 percent of the premises or 10 acres, whichever is less. All requests for exceptions will be reviewed by the CADB according to the County's Exceptions Policy.