

BERNARDS TOWNSHIP
AGRICULTURAL TASK FORCE
REPORT & RECOMMENDATIONS
TO THE
BERNARDS TOWNSHIP COMMITTEE
DECEMBER 28, 2004

Agricultural Task Force members:

Thomas Moschello, Township Committeeman & Task Force Coordinator
Al LiCata, Township Committeeman
Peter Messina, PE, PP, Township Engineer and Planner
Mary Pavlini, Planning Board Member
John Lafakis, Resident member
Carol English, Resident Farmer member
Tyson Mertz, Resident Farmer Member
Catherine Sorge, Resident Farmer Member
Jim Milito, Resident Farmer Member
Tony McCracken, Somerset County Planner/CADB Administrator
Nick Polanin, Rutgers Cooperative Extension member
David Banisch, PP, Planner

BERNARDS TOWNSHIP AGRICULTURAL TASK FORCE REPORT

TO THE

BERNARDS TOWNSHIP COMMITTEE

DECEMBER 28, 2004

Introduction

On October 12, 2004, the Bernards Township Committee created the Bernards Township Agricultural Task Force through adoption of Resolution #040390. The Committee indicated that the Agricultural Task Force was to consist of four active farmers, one resident no farmer, a member of the Township Committee, a member of the Planning Board, Township Engineer, the Planning Board Planner, liaisons from the Rutgers Cooperative Extension and Somerset County Agricultural Development Board. The term of the Agricultural Task Force extended through 12/31/2004.

Beginning in September and extending through December 2004, the Bernards Agricultural Task Force (ATF) convened a series of meetings to respond to the Township Committee's request for a report on farmland preservation in Bernards Township. The ATF investigated whether farmland preservation through the purchase of development easements is feasible and appropriate in Bernards Township. The Task Force's findings of these investigations and recommendation for the Bernards Township Committee to create a farmland preservation program are identified in this report.

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Executive Summary

The Bernard Township Agricultural Task Force, which was established by the Bernards Township Committee in September of 2004 recommends that Bernards Township pursue farmland preservation, with a priority in preservation of economically viable working farms in the Township. The Agricultural Task Force recommends taking all steps necessary to secure State and County funding to assist municipal efforts to preserve farmland. These steps include adoption of a local right-to-farm ordinance, establishment of an Agricultural Advisory Committee, preparation of a Farmland Preservation Plan and submitting an application to the SADC for Planning Incentive Grant Funding.

As a result of coordination between the Agricultural Task Force and the Bernards Township Committee, a local right-to-farm ordinance and an ordinance establishing a Bernards Agricultural Advisory Committee have been introduced and are appended to this report. Additionally, the Task Force has prepared and appended to this report, a draft Farmland Preservation Plan, which will be needed to submit an application to the State for farmland preservation funding.

Applications for farmland preservation funding should be submitted to the State as soon as possible. After creation of the Task Force, the Township Committee learned that prompt action would be required if the Township were to be prepared to submit an application for State farmland preservation funding. As a result, the Township Committee took prompt action to position the municipality to be prepared to pursue funding, including the introduction of ordinances mentioned above.

This executive summary includes a brief discussion of:

- (1) Preservation of economically viable farmland;
- (2) Qualifying for farmland preservation funding;
- (3) Local regulatory and strategic farmland efforts that may be required for farmland to survive in Bernards Township; and
- (4) Summary of Community Benefits of Farmland Preservation

Preserve economically viable farmland - The Agricultural Task Force finds that there are a number of locally important farms that present realistic opportunities for farmland preservation in Bernards Township, which should be pursued. If no action is taken to preserve farmland, the ATF believes that the inventory of farmland remaining in Bernards Township should be expected to be lost to suburban development in the near future. This is due to intense market demand for housing in Bernards Township, which is sought after due to Bernards' excellent quality of life and attractive environment for raising a family.

The Agricultural Task Force acknowledges Bernards' extraordinarily high land values, which may limit the amount of farmland that may be preserved in the Township. This is because development easements, which are the vehicle for preserving farmland, are valued based upon the market value and development potential of land. It is high land

values in Bernards Township that have in part served to transform the Township's once predominantly rural landscape to a community of primarily suburban neighborhoods.

The Task Force recommends that the Township seize opportunities to preserve farmland in the Township through the use of local, County and State funding sources that are now available to purchase development easements. Farmland preservation efforts should be focused on economically viable working farms. The Task Force acknowledges that a significant local financial investment will be required to preserve and retain economically viable agricultural lands in the community. However, the ATF believes that if the Township Committee pursues farmland preservation sooner, rather than later, locally important may be retained rather than lost to suburban development. Additionally, near term action will help preserve farmland at a lower cost than would likely be the case in the future.

Qualify and Apply for Farmland Preservation Funding - State and County funding programs are now accepting applications for farmland preservation funding under the 2004 funding round. Highlands municipalities (including Bernards Township) are eligible to apply to a dedicated fund for Highlands municipalities under the 2004 funding round. The ATF recommends that the Township apply to the State Agriculture Development Committee (SADC) Planning Incentive Grant (PIG) Program, which appears to be well suited to Bernards' situation involving relatively small farms and high land values. The PIG program will provide SADC funding, which has to be combined with local and Somerset County Agriculture Development Board (CADB) farmland preservation program funding. The Task Force recommends that the Township Committee take immediate action authorizing the submission of an application to the SADC for PIG farmland preservation funding.

Local Regulatory and Strategic Farmland Efforts Required - The ATF reviewed the model right to farm ordinance and a wide range of issues related to continuing agriculture and farming in the Township. The issues generally fall into one of three general categories: (1) concerns related to the impacts of agricultural operations on adjoining non-farm neighbors; (2) concerns raised by farmers related to the need for municipal regulatory assistance in operating farms; and (3) farmers need for possible municipal action (regulatory or otherwise) to assist with effective marketing of Bernards Township farm products. From both the non-farm neighbor and the farmer's perspective, these issues raise issues that will require attention in the near future. Some issues may require local regulatory action, other issues may require strategic municipal assistance to the farm community.

Notwithstanding issues identified, the ATF recommends taking all steps required to secure SADC funding for farmland preservation under the January 2004 funding round. These steps include (1) adoption of a right-to-farm ordinance; (2) establishment of an Agricultural Advisory Committee; and (3) adoption of a Farmland Preservation Plan.

After qualifying for SADC farmland preservation funding, the ATF believes that the Township Committee and the Agricultural Advisory Committee may begin work

addressing the range of issues identified by the ATF related to continuing agriculture in Bernards Township.

Summary of Community Benefits of Farmland Preservation - The Task Force found that preserving farmland yields a number of benefits to the community, including the following benefits:

1. Fresh produce that is grown in the municipality is available for convenient purchase and consumption by Bernards' residents. Preserving fully functioning and economically viable farms that produce commercial produce will provide direct benefits to Bernards' residents.
2. Preservation of economically viable farmland in Bernards Township will ensure that the remaining agricultural base can be retained and adapted to evolving agricultural practices in the future – once lost through conversion to non-agriculture uses, farmland is lost forever.
3. Farmland preservation can serve to retain attractive rural landscapes that reinforce community character, from which residents derive a strong sense of community. Protection of the rural landscape serves not only Bernards' residents, but retains attractive rural views and landscapes for all NJ citizens.
4. Preserving farmland will serve to retain aspects of the Township's historic, agricultural heritage and remaining elements of the agricultural heritage, which survives in the community today.
5. In addition to agricultural benefits to the community, keeping working farms and farmland in an open condition allows these lands to continue to function as contributing elements of the natural environment.

Responses to Resolution #040390

In Resolution #040390, the Township Committee charged the Agricultural Task Force with conducting investigations and submitting a report, including an executive summary to the Township Committee concerning Farmland Preservation, and identifying the alternatives considered as well as the benefits and detriments to the Township of any recommendations. The Resolution called for the Task Force to:

- Identify issues related to continuing agriculture in Bernards Township (i.e. barriers to continuing farming) and potential municipal responses to facilitate the continuation of farming in the municipality;

See memorandum dated December 28, 2004 from the Agricultural Task Force to Township Committee (Appendix A) listing issues related to continuing agriculture in

Bernards Township, including barriers to continuing farming and potential municipal responses to assist long-term farming viability in the Township.

The issues identified in the Task Force Report on this item are intended to guide future Agricultural Advisory Committee and Township Committee efforts to promote farming.

- Identify the potential for success of a municipal farmland preservation program, including the use of local funding, State Agricultural Development Committee (SADC) and County Agriculture Development Committee funding to preserve farmland;

The Agricultural Task Force has investigated the State Agriculture Development Committee Standard Program, Direct Easement Purchase Program and the SADC Planning Incentive Grant (PIG) Program for preserving farmland in Bernards Township. The SADC has advised the Task Force that the PIG Program holds the best promise for receiving funding for Bernards Township farmland preservation, due to the relatively small size of farms remaining in the Township and also the high land values associated with farmland in Bernards Township.

Application requirements and guidelines for Bernards Project Area:

Funding deadlines for the 2006 round of applications, which are now being accepted:

PIG Applications due on January 24, 2004

With the understanding that local land values are very high relative to most farmland values in the State, SADC representative Mr. Timothy Brill strongly recommended that the Bernards Township apply for PIG Project Area funding. The municipality is currently in a position to submit the application deadline and the SADC will permit the Township to submit certain documents after the application deadline, if necessary.

Mr. Brill recommended that the Township market the local farmland preservation program as one which should include a partial donation of the development easement value. A 10% - 20% partial donation is recommended. SADC experience indicates that landowners that donate a portion of the easement find favorable tax benefits as a result of a partial donation. Bernards Township may submit an application without a partial donation, and that the State will consider the application. For Bernards Township, the SADC recommends encouraging landowners to submit an application for a partial donation because of the highly competitive nature of the funding process at this time.

The Task Force identified approximately 30 farms that may qualify for farmland preservation funding. These are listed in the draft Farmland Preservation Plan, which is appended to this report. The Agricultural Task Force believes that the Township may be successful in attracting funding under the SADC Planning Incentive Grant Program for Bernards Township farmland preservation. This program will combine funding from the State and County with Bernards Township funds for farmland preservation.

The Task Force has prepared a letter and a farm profile form to solicit property owner interest in preserving their farmland (the letter and form is provided as Appendix B to this report). The Task Force recommends that the Committee use the draft letter to contact the owners of priority farmland (i.e. working, economically viable farms) and solicit their interest in farmland preservation. Providing the form with the letter may be helpful in qualifying farms for the farmland preservation application to the State.

- Review the model right-to-farm ordinance, identify areas of local concern and recommend whether the Township should adopt the model ordinance.

The model right-to-farm has been reviewed and provided to the Township Committee for introduction to fast-track the adoption of the ordinance, which should be in place at the time the Township submits an application for farmland preservation funding. The Township Committee has introduced the right-to-farm ordinance as Ordinance #1773, entitled “An Ordinance Establishing a New Chapter 29 of the Revised Ordinances of the Township of Bernards, County of Somerset, State of New Jersey Establishing a Local Right to Farm”

Concerns that came to light during Task Force discussions of this ordinance centered around the potential for conflicts between non-farm residential neighbors to working farms that may be conducting protected agricultural practices. A dispute resolution procedure is identified in the state law, which provides for mediation of conflicts by the County Agricultural Development Board.

Perhaps the most noteworthy aspect of adoption of this local law is the fact that it is currently the law in the State today, and will in fact change little regarding farmer rights to conduct agricultural operations. The continued operation of existing farms in Bernards Township are currently protected by the right-to-farm law. Time and experience in Bernards Township has shown that few disputes have arisen out of conflicts between non-farm neighbors and adjoining farm operations.

- In connection with the permitted uses of the right-to-farm ordinance, reviewing existing site plan review procedures and investigating the feasibility of establishing a streamlined or fast-track approval procedures for agriculture-related commercial uses (i.e. farmstands);

Task Force identified issues regarding this area of investigation in Appendix A of this report. Task Force recommendations include a comprehensive review of ordinance requirements in relation to farm and agriculture-related uses, including commercial farm stand uses.

- Review and analyze Farmland Preservation Program development easement appraisal procedures, State funding ranking procedures and the applicability of the provision that permits properties rezoned as a result of Master Plan recommendations, to be appraised under prior zoning;

In regard to the actual amount that may be paid for a development easement, the Task Force has found that SADC procedures require that, by rule, the State is not permitted to pay more than the higher of the two appraisals that are secured for the easement. Mr. Brill from the SADC has indicated that the SADC has been and is willing to fund expensive easements; and pointed to the recent revisions in the cost share formula based upon easement value.

In addition to farmland preservation, the Township may wish to supplement the “farmland preservation” portion of a tract, with open space acquisition on a non-farm portion of a tract, which would not be subject to the SADC appraisal and cost share rules. This would be an option for the Township to make farmland preservation more attractive to a landowner in situations where easement purchase values approved of the state fall short of landowner expectations and requirements, and after partial donations are taken into consideration as a component of easement purchase.

- Recommend whether the Township should adopt a Farmland Preservation Plan and create an Agricultural Advisory Committee to establish a municipal farmland preservation program in Bernard Township.

The Executive Summary of this report included the Task Force Recommendations to establish a local farmland preservation program and to pursue state funding for farmland preservation in Bernards Township. In essence, the Task Force has recommended on an interim basis to the Township Committee, vis-à-vis Committeeman Moschello’s reports to the Township Committee on Task Force activities, that the Township Committee take expedited action to qualify the Township for applying to the State for farmland preservation funding. The Task Force has facilitated this process by preparing a draft farmland preservation plan, which is needed to qualify for funding. Additionally, Committeeman Moschello has also facilitated Township Committee action in introduction an ordinance establishing an Agricultural Advisory Committee, which is a fundamental requirement for receiving PIG farmland preservation funding from the State and operating a local farmland preservation program.

Appendix D includes the following:

1. Resolution #040390 Establishing the Bernards Township Agricultural Task Force;
2. Ordinance #1776 Establishing the Bernards Township Agricultural Advisory Committee; and
3. Ordinance #1773 An Ordinance Establishing a New Chapter 29 of the Revised Ordinances of the Township of Bernards, County of Somerset, State of New Jersey Establishing a Local Right to Farm

A draft farmland preservation plan is provided for the Township Committee to provide to the Agricultural Advisory Committee upon its constitution in 2005.

Memorandum

To: Bernards Township Committee

From: Bernards Township Agricultural Task Force

Date: December 28, 2004

Re: Task Force Findings - Issues Summary

The purpose of this memorandum is to begin to list issues related to continuing agriculture in Bernards Township (i.e. barriers to continuing farming) and potential municipal responses to facilitate the continuation of farming in the municipality. The Agricultural Task Force developed the following list of issues and recommended actions during the course of its investigations into this matter between September and December 2004.

1. The Task Force recommends development of ordinances identifying standards for agricultural practices, buildings and uses. The Task Force recommends utilizing the County's Farmland Preservation Plan as a resource to investigate the existence of ordinances that may already exist in the county, many of which are catalogued in the Farmland Preservation Plan.
2. Impervious coverage limits and bulk standards for agricultural uses. The size of some farm buildings may generate impervious coverage well in excess coverage normally associated with conventional residential dwellings and their accessory uses. One area of concern relates to potential greenhouse impervious coverage, which may be exempt from local ordinance impervious coverage limits. This issue requires investigation.
3. Bulk, setback and accessory use standards - The Task Force identifies the need to reconcile local ordinance standards, which are normally for residential applications, to farm applications. A review of standards for building and fence setbacks and sign regulations is recommended. In addition, the prohibition against accessory buildings in the front yard of a farmstead should be reviewed – ordinance currently includes a prohibition against accessory buildings in front yards (which makes sense in a residential neighborhood, but not necessarily on a farm).
4. An analysis of zoning vs. agricultural ordinances and agricultural farm ordinance should be conducted by the Township. Regulations governing certain activities, such as building demolition should be reviewed.

5. Review health ordinances in general, as ordinances relate to agricultural practices; identify areas where agricultural exemptions may be appropriate in Township Health Ordinances.
6. The Task force recommends a review of sign regulations, i.e. should the ordinance permit posting of off-site advertisements for a farmer to advertise the location of a local produce stand or an agri-tourism activity. Study the issue of promotional signage in general.
7. The Task Force notes the issue of the higher cost of agricultural production in Bernards Township due to the very high value of land, when compared to other areas of the State.
 - The high cost of land highlights the high cost for acquiring development rights for farmland preservation in Bernards Township. A corresponding commitment of local funds will be needed for an effective local farmland preservation program.
 - Municipal acquisition of development rights should be preceded with a public information campaign targeted at educating Bernards' citizens about the program and the high cost of preserving farmland. Public outreach may be critical in establishing public support for farmland preservation in the Township.
 - Farmers on the Task Force noted that the distant location of farm equipment dealers, parts and repair providers adds time and cost to local agricultural production.
 - The high cost of land in Bernards Township is a powerful deterrent to continuing farming in the community.
8. The Township's stream corridor buffer ordinance was raised as a matter of concern to local farmers. This issues merits further investigation by the Agricultural Advisory Committee, particularly in regard to permitted activities vs. farm/livestock activities in regulated areas of the stream corridor.
9. Farm stands – the Task Force recommends consideration of development standards for farm stands including, conditions under which farm stands may be established, parking, circulation and building/farm stand setback standards.
10. NJDEP Stormwater Management Rules – these new rules appear to apply to agricultural activities, which require the farmer to secure NJDEP approval whenever an activity involving over one acre of disturbance or ¼ acre of impervious coverage are proposed in connection with an agricultural activity. If no NJDEP Land Use Regulation Element Permit is required, disturbance limits may be exceeded without having to conform to stormwater management rules – However, this may pose conflict with local regulations that will be adopted to conform to state regulations. May require further investigation.

11. Wildlife control – this issues arises from the difficulty presented by various forms of wildlife that are injurious to crops or predators to livestock.
12. Because farmland preservation will require a significant public investment underwritten by Bernards Township citizens, it appears that protecting these investments may require Township Committee and Bernards Farmers cooperative efforts to ensure that economic viability of local preserved farmland is maintained.
 - The Township Committee and Agricultural Advisory Committee should together investigate strategies for protecting the economic viability of Bernards farms, which would in-turn protect public investments in farmland preservation program.
 - The Township Committee and Agricultural Advisory Committee should evaluate possible economic support strategies for protecting Bernards farmers. Efforts should be directed at helping Bernards farmers maintain local market share. This may include measures aimed at limiting competitive intrusions into the Bernards market place.
 - The Township Committee and Bernards’ farmers should investigate the notion of market support approaches, such as a Bernards Township Farmers Cooperative which would manage the local farm markets. The Committee and farmers should consider whether a cooperative or some other organized structure, comprised of only Bernard’s farmers may be the optimal form of control on competitive environment.
13. Farm labor housing/accommodations/temporary living quarters and arrangements – affordable housing for farm labor is an issue. This issue should be investigated.
14. The issue for transportation for farm labor should be investigated.

12/28/2004

DRAFT

SOLICITATION OF INTEREST
FARMLAND PRESERVATION IN BERNARDS TOWNSHIP

TO: Target Farmland Preservation Property Owner

Subject: Bernards Township – Farmland Preservation Program

Dear _____(Farmer/Resident):

The purpose of this letter is to inform you that Bernards Township has created a local farmland preservation program and to ask you to consider permanently preserving your farmland. In establishing the local farmland preservation program, the Township reviewed all farm-assessed properties in the Township and identified those farmland tracts that support active agricultural operations. Your farmland is included among those parcels that the Township has identified as potential candidates for farmland preservation. The Township Committee and Agricultural Advisory Committee would therefore respectfully ask you to consider permanently preserving all or a portion of your farmland.

Bernards Township's was once predominantly an agricultural community. Regional growth pressure and the extraordinary quality of life offered in Bernards has contributed to the gradual transformation of nearly all agricultural lands to suburban neighborhoods. Through the local farmland preservation program, the Township seeks to permanently preserve active viable farmland, encourage the continuation of agriculture and farming in the community, and thereby maintain the Township's remaining rural character.

Farmland preservation in Bernards Township is made possible by combining a portion of the Township's local open space funds with County and State Farmland Preservation funds. Farmland preservation most frequently involves the purchase of development rights. The value of development rights are based upon a fair market value appraisal, which helps determine the purchase price of the development rights. After sale of the development rights, the landowner continues to own their preserved farm for farming, and the land will remain preserved farmland in perpetuity. The landowner may sell their preserved farm at any time.

The Township established an Agricultural Advisory Committee, which will assist the Township Committee in preserving farmland. The Agricultural Advisory Committee is available to you to answer any questions that you may have concerning farmland preservation of all or a portion of your land, and to assist you in submitting an application for consideration of farmland preservation of your property.

Please feel free to contact the Township's Agricultural Advisory Committee at the telephone number listed below to discuss this program and to receive more information on this farmland preservation opportunity in Bernards Township.

Sincerely yours,

Bernards Township Committee

- c. Bernards Township Agricultural Advisory Committee

See Bernards Township “Planning Incentive Grant(PIG) Farm Profile” Form.

Resolution #040390
Establishing the Bernards Township -
Agricultural Task Force

WHEREAS, the Township Committee of the Township of Bernards is interested in creating an Agricultural Task Force whose role will be to identify farmland-assessed parcels within the Township, characterize the agricultural industry in Bernards, and identify methods to preserve farmland and active agricultural uses; and,

WHEREAS, the Agricultural Task Force will gauge local interest of farmers in participating in a local farmland preservation program, and identify issues that may compete with and impede farmland preservation in the community, including the high demand for land for development in the region. These issues may require specific strategic responses, which the Township may find are prerequisites for success with farmland preservation; and,

WHEREAS, the Agricultural Task Force will provide an appropriate forum for discussion of these issues, prior to the township committee making its decision to establish a local farmland preservation program.

NOW THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Bernards that we do hereby establish an Agricultural Task Force consisting of four active farmers, one resident no farmer, a member of the Township Committee, a member of the Planning Board, Township Engineer, the Planning Board Planner, liaisons from the Rutgers Cooperative Extension and Somerset County Agricultural Development Board for a term to expire 12/31/2004; and

NOW THEREFORE BE IT FURTHER RESOLVED, by the Township Committee of the Township of Bernards that the Agricultural Task Force shall submit a report, including an executive summary to the Township Committee, identifying the alternatives considered as well as the benefits and detriments to the Township of any recommendations to include but not be limited to:

- Identifying issues related to continuing agriculture in Bernards Township (i.e. barriers to continuing farming) and potential municipal responses to facilitate the continuation of farming in the municipality;
- Identifying the potential for success of utilizing funding for a municipal farmland preservation program, including the State Agricultural Development Committee (SADC) and County Agriculture Development Committee;
- Reviewing the model right-to-farm ordinance and identify areas of concern and recommend whether the Township should adopt the model ordinance.

- In connection with the permitted uses of the right-to-farm ordinance, reviewing existing site plan review procedures and investigating the feasibility of establishing a streamlined or fast-track approval procedures for agriculture-related commercial uses (i.e. farmstands);
- Reviewing and analyzing Farmland Preservation Program development easement appraisal procedures, State funding ranking procedures and the applicability of the provision that permits properties rezoned as a result of Master Plan recommendations, to be appraised under prior zoning;
- Recommending whether the Township should adopt a Farmland Preservation Plan and create an agricultural advisory committee to establish a municipal farmland preservation program in Bernard Township.

NOW THEREFORE BE IT FINALLY RESOLVED, by the Township Committee of the Township of Bernards that said task force shall report back to the committee as often as necessary during the 3 month timeframe with progress reports and recommendations for the next phases of the program.

Dated: 10/12/04

ORDINANCE #1776

An Ordinance Amending Chapter 29 of the Revised General Ordinances of the Township of Bernards, County of Somerset, State of New Jersey Establishing
the Bernards Township Agricultural Advisory Committee

Section 1 – The purpose of this ordinance is to establish a municipal Agricultural Advisory Committee to advise the Township Committee on matters pertaining to the preservation and ongoing operation of agricultural activity in the Township of Bernards.

Section 2 –

A. **Committee; Personnel; Appointment; Organization.** There is hereby established in the Township of Bernards a permanent committee to be known and designated as "The Bernards Township Agricultural Advisory Committee" which shall consist of five (5) residents of the Township of Bernards to be appointed by the township committee within sixty (60) days of the effective date hereof and the terms of office shall commence upon the date of their appointment. At least one (1) committee member shall also be a member of either the Bernards Township Planning Board or the Bernards Township Environmental Commission. A member appointed as a member of either of the said two (2) bodies will be disqualified from committee membership if he or she shall not remain a member of either of the said two (2) bodies. The members of the said committee first appointed, shall serve for terms as follows: two (2) appointees for one (1) year terms; two (2) appointees for two (2) year terms and one (1) appointee for a three (3) year term. Thereafter, all appointments shall be for terms of three (3) years and vacancies shall be filled for the unexpired term only. The members shall serve until their respective successors are appointed and qualified. The members of the committee shall receive no compensation for their services. A majority of the members shall be actively engaged in farming and shall own a portion of the land that they farm.

The committee shall organize within thirty (30) days after the appointment of its total membership for the remainder of the then calendar year and thereafter annually and select from among its members a chairman and such other officers as it may deem necessary. Said committee may establish rules of order and meet at least quarterly and from time to time as its rules of order might provide. The Agricultural Advisory Committee shall report to the Planning Board.

B. **Alternate Members.** The committee shall also include two (2) alternate members who shall be residents of the Township of Bernards and who shall be appointed by the township committee. The two (2) alternate members first appointed shall serve for terms as follows:

One (1) alternate for a term of two (2) years effective as of January 1, 2005; and
One (1) alternate for a term of three (3) years effective as of January 1, 2005.

Thereafter, all alternate members shall serve for a term of three (3) years, and alternate members shall serve until their respective successors shall be appointed. Vacancies shall be filled for the unexpired term only of such alternate member. The alternate members shall be designated at the time of their appointment as "alternate number 1" and "alternate number 2". Alternate members may participate in discussions of the proceedings but may not vote except in the absence or disqualification of a regular member. A vote shall not be delayed in order that a regular member may vote instead of an alternate member. In the event that a choice must be made as to which alternate member is to vote, alternate number 1 shall vote first.

C. Liaisons

The Agricultural Advisory Committee shall maintain as liaisons the Township Engineer, a Professional Planner, a member of the Somerset County Agriculture Development Board, a member of the Rutgers University Cooperative Extension, and a Township Committee member. The committee shall establish other liaison positions as deemed appropriate, such as Jersey Fresh, other state agencies and publications to promote local farms, products and services.

D. Responsibilities of Committee. The responsibilities of the committee shall be as follows:

1. To become fully aware of all land in Bernards currently used for agricultural and/or related purposes and compile, update and maintain an inventory of those lands.
2. To recommend planning and implementation of a Farmland Preservation Plan element to the Planning Board and make recommendations as to land use policies regarding farming and farm land preservation to the Township Committee.
3. To analyze how the township committee can best protect the continuance of the aforesaid uses while acting as an advocate for farming and farm preservation within the Township.
4. To determine existing issues facing farmers and those in related endeavors in the Township of Bernards and to recommend reasonable and desirable solutions to the Township Committee.
5. To determine future issues, which will face farmers and those, related to farming in the Township of Bernards and to recommend reasonable and desirable solutions to the Township Committee.
6. To encourage existing farmers to continue in active agricultural operation.
7. To communicate with Township Farmers that the Agricultural Advisory Committee exist and can offer direction and assistance in many cases.

8. To assist in continuing the sustainable use of economically viable farmland for agricultural production by making the flow of information from the local, county and state and federal branches readily accessible and to offer technical assistance were possible
 9. To provide education were possible to farmers for the purposes of farming and meeting the challenges the industry faces.
 10. To help preserve large, contiguous and economically viable tracts of agricultural land.
 11. To assist in minimizing conflicts between agricultural uses and adjacent and nearby agricultural, natural resource based, rural, residential and commercial activities.
 12. To promote compliance with the Farmland Assessment Tax program.
 13. To encourage and assist applications to farmland preservation programs.
 14. To encourage appropriate conservation strategies and agricultural activities.
 15. To formulate strategies and objectives with regard to any present or future local, county, state or federal farmland regulations.
 16. To promote interest in township children in 4-H and other related agricultural activities.
 17. To recommend to the township committee reasonable and desirable changes to this listing of responsibilities.
 18. To make an annual report to the township committee setting forth and detailing the activities and operations of the board committee during the proceeding year.
 19. To accomplish any other tasks referred to it by the township committee having to do with agricultural related activities.
 20. Promote local farming through municipal avenues, such as Webs sites, municipal cable channel, guidebooks, community events, schools, etc.
- E. **Cooperation with Committee.** The committee in performing its aforesaid responsibilities shall receive from all officials, employees, consultants, and all authorized boards departments, and offices of the Township of Bernards, such assistance as may be necessary.

F. **Powers of Committee.** The committee's powers relative to regulation of any activity are specifically limited to its making recommendations to the township committee as to its adoption of the same.

Publication by Summary Pursuant to N.J.S.A.40:49-2

The purpose of this ordinance is to establish a municipal Agricultural Advisory Committee to advise the Township Committee on matters pertaining to the preservation and ongoing operation of agricultural activity in the Township of Bernards.

**TOWNSHIP OF BERNARDS
PUBLIC NOTICE**

Ordinance #1776 having been introduced and passed on first reading by the Township Committee of the Township of Bernards in the County of Somerset on 11/23/04, and then ordered to be published according to law, will be further considered for final passage and adoption at a public hearing held at a meeting of said Township Committee at the Municipal Building, 1 Collyer Lane, Basking Ridge, NJ in said township on 12/28/04, at 7:30 P.M., when and where, or at such time and place to which said meeting may be adjourned, all persons interested will be given an opportunity to be heard concerning said ordinance. A complete text of this ordinance is available in the Office of the Municipal Clerk, 1 Collyer Lane, Basking Ridge, NJ, from 8:30 A.M. to 4:30 P.M., Monday through Friday. Copies are also available via e-mail from dszabo@bernards.org.

By Order of the Township Committee
Denise Szabo, Municipal Clerk

ORDINANCE #1773

An Ordinance Establishing a New Chapter 29 of the Revised Ordinances
of the Township of Bernards, County of Somerset,
State of New Jersey Establishing a Local Right to Farm

SECTION 1 – The purpose of this ordinance is to adopt a local right-to-farm ordinance consistent with the NJ Right to Farm Act and as recommended by the State Agriculture Development Committee for municipalities establishing local farmland preservation programs.

SECTION 2. – The following new Chapter is added: XXIX

A. As used in this ordinance, the following words shall have the following meanings:

"Commercial farm" means:

1. A farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.; or
2. A farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, N.J.S.A. 54:4-23.1 et seq.

"Farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.

"Farm market" means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51 percent of the sales area shall be devoted to the sale of the agricultural output of the commercial farm, and except that if a retail farm market is located on land less than five acres in area, the land on which the farm market is located shall produce annually agricultural or horticultural products worth at least \$2,500.

"Pick-your-own operation" means a direct marketing alternative wherein retail or wholesale customers are invited onto a commercial farm in order to harvest agricultural, floricultural or horticultural products.

B. The right to farm is hereby recognized to exist in this Township and is hereby declared a permitted use in all zones of this Township. This right to farm includes, but not by way of limitation:

- (1) Production of agricultural and horticultural crops, trees, apiary and forest products, livestock, poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping.
- (2) Housing and employment of necessary farm laborers.
- (3) Erection of essential agricultural buildings, including those dedicated to the processing and packaging of the output of the commercial farm and ancillary to agricultural and horticultural production.
- (4) The grazing of animals and use of range for fowl.
- (5) Construction of fences.
- (6) The operation and transportation of large, slow-moving equipment over roads within the township.
- (7) Control of pests, including but not limited to insects and weeds, predators and diseases of plants and animals.
- (8) Conduction of agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm and permission of the farm owner and lessee is obtained.
- (9) Use of any and all equipment, including but not limited to: irrigation pumps and equipment, aerial and ground seeding and spraying, tractors, harvest aides, and bird control devices.
- (10) Processing and packaging of the agricultural output of the commercial farm.
- (11) The operation of a farm market with attendant signage, including the construction of building and parking areas in conformance with Township standards.
- (12) The operation of a pick-your-own operation with attendant signage.
- (13) Replenishment of soil nutrients and improvement of soil tilth.
- (14) (Clearing of woodlands using open burning and other techniques, installation and maintenance of vegetative and terrain alterations and other physical facilities for water and soil conservation and surface water control in wetland areas.
- (15) On-site disposal of organic agricultural wastes.
- (16) The application of manure and chemical fertilizers, insecticides and herbicides.
- (17) Installation of wells, ponds and other water resources for agricultural purposes such as irrigation, sanitation and marketing preparation.
- (18) Commercial farm operators may engage in any other agricultural activity as determined by the State Agriculture Development Committee and adopted by rule or regulation pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c.410 (C.52:14B-1 et seq.).

- C. Commercial farm operators are strongly advised to adhere to generally accepted agricultural management practices that have been:
- (a) promulgated as rules by the State Agriculture Development Committee;
 - (b) recommended as site-specific agricultural management practices by the county agriculture development board;
 - (c) approved by the local soil conservation district in the form of a farm conservation plan that is prepared in conformance with the United States Department of Agriculture, Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG), revised April 20, 1998, as amended and supplemented;
or
 - (d) recommended by the Rutgers Agricultural Experiment Station.
- D. The foregoing activities must be in conformance with applicable Federal and State law.
- E. The foregoing practices and activities may occur on holidays, weekdays and weekends by day or night and shall include the attendant or incidental noise, odors, dust and fumes associated with these practices.
- F. It is hereby determined that whatever nuisance may be caused to others by these foregoing uses and activities is more than offset by the benefits of farming to the neighborhood community and society in general.
- G. Any person aggrieved by the operation of a commercial farm shall file a complaint with the applicable county agriculture development board or the State Agriculture Development Committee in counties where no county board exists prior to filing an action in court.
- H. An additional purpose of this ordinance is to promote a good neighbor policy by advising purchasers and users of property adjacent to or near commercial farms of accepted activities or practices associated with those neighboring farms. It is intended that, through mandatory disclosures, purchasers and users will better understand the impacts of living near agricultural operations and be prepared to accept attendant conditions as the natural result of living in or near land actively devoted to commercial agriculture or in an Agricultural Development Area, meaning an area identified by a county agriculture development board pursuant to the provisions of N.J.S.A.4: 1C-1 8 and certified by the State Agriculture Development Committee.






The disclosure required by this section is set forth herein and shall be made a part of, the following disclosure form entitled REAL ESTATE TRANSFER DISCLOSURE STATEMENT.

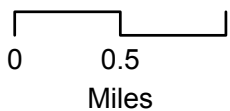
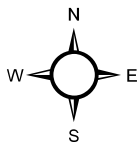
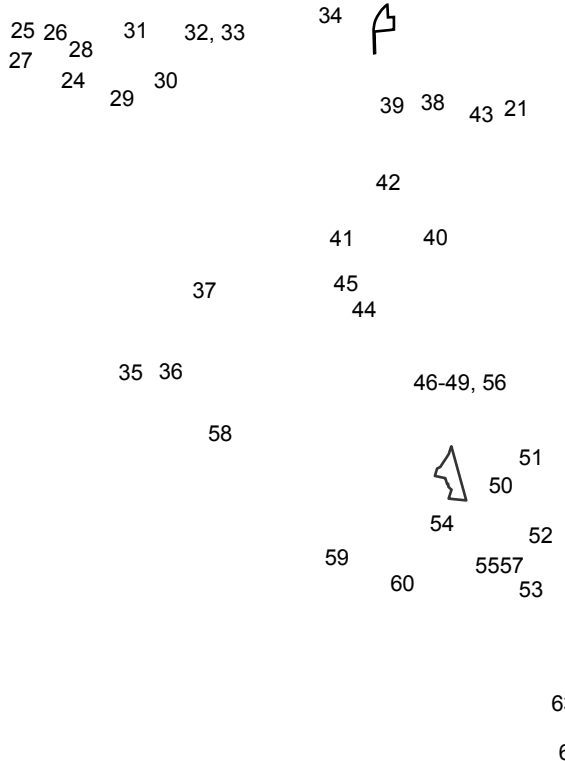
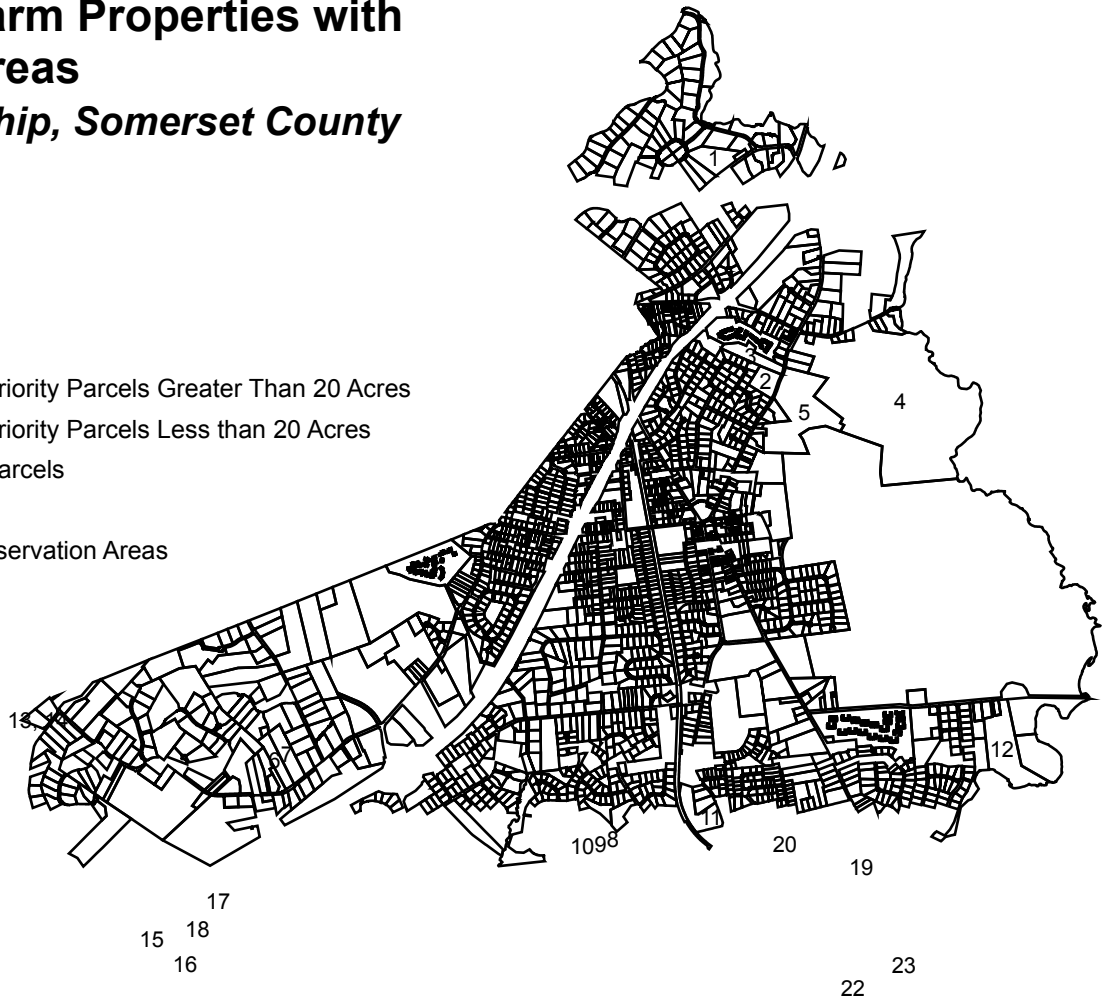
Inventory of Farm Properties with Open Space Areas

Bernards Township, Somerset County

January 2005

Legend

-  Farmland Assessed Priority Parcels Greater Than 20 Acres
-  Farmland Assessed Priority Parcels Less than 20 Acres
-  Farmland Assessed Parcels
-  Proposed Greenways
-  Open Space and Conservation Areas



Data Sources:
Bernards Township