

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. The shapes are primarily triangles and polygons, creating a dynamic, layered effect. The central text is positioned in the white space between these green elements.

# Land Preservation: From Beginning to End *(And After)*

# Introduction of Panel

- ▶ Tara Kenyon, AICP/PP
  - ▶ Principal – Kenyon Planning, LLC
  - ▶ Specializes in Professional Planning, Open Space Consulting, Right-to-Farm
- ▶ Daniel Webb, MAI, SCGREAA
  - ▶ Principal – Webb Appraisal, LLC
  - ▶ Specializes in appraisals using Green Acres, SADC and Federal Yellow Book standards
- ▶ Nicole Voigt, Esq.
  - ▶ Partner – Shanahan & Voigt, LLC
  - ▶ Specializes in Municipal Land Use Law, Right-to-Farm, Real Estate, & Business

# Introduction of Panel cont.

- ▶ Constance Kingston
  - ▶ Agent – Coldwell Banker/Kingston Luxury Real Estate Group
  - ▶ Specializes in Luxury Equestrian & Agricultural Property Sales, Sale/Purchase of Preserved Farmland
- ▶ Joseph J. Baker
  - ▶ Branch Manager, Senior Loan Officer – Nation One Mortgage Corporation
  - ▶ Specializes in financing purchases of large properties, establishing loan partners and social media marketing
- ▶ Jared Martin
  - ▶ Agent – Farm Family Insurance, American National Insurance
  - ▶ Specializes in development of sound insurance policies for farmers and other landowners

# Set Expectations

- ▶ Why is land preservation one of the most valuable municipal processes and planning strategies?
- ▶ How does the process work from beginning to end?
  - ▶ Through the municipal lens
  - ▶ Through the private landowner lens
- ▶ What happens after preservation?
- ▶ No parcel-specific advice, please!
- ▶ Feel free to contact any of the professionals on today's panel after the presentation

# Benefits of Land Preservation

- ▶ Protection of soils used for food production
- ▶ Protection of wildlife and habitat
- ▶ Establishment of agricultural land base – retention and furtherance of the industry
- ▶ Opportunities for active and passive recreation
- ▶ Cleaner water, air and soil
- ▶ Reduction of required municipal services
- ▶ Infusion of cash while maintaining ownership (farmland preservation/easements)
- ▶ Economic Development (agritourism, open space tourism, recreation)
- ▶ Flood mitigation (Blue Acres)
- ▶ Sustainability
- ▶ Preservation of scenic vistas

# Preservation Planning

Tara Kenyon  
Principal

Kenyon Planning, LLC

Specializes in Professional Planning, Open Space Consulting,  
Right-to-Farm

# Municipal Requirements for Land Preservation

- ▶ Collection of Open Space Tax
- ▶ Establish an Agriculture Advisory Committee and Open Space Advisory Committee
- ▶ Municipal/County Plans
  - ▶ Must satisfy all criteria established by SADC/Green Acres
  - ▶ Must go through proper Public Comment meetings
  - ▶ Must be adopted by the Municipal/County Planning Board as an element of the Master Plan
  - ▶ Must be updated every 10 years
- ▶ Perform required appraisal(s)
- ▶ Perform title search and survey
- ▶ Resolutions and Ordinances adopted by Municipal/County government
- ▶ Use the standard Deed of Easement/Restriction Language established by SADC/Green Acres
- ▶ Monitoring of preserved lands for conformance with Deeds of Easement/Post-Preservation Rules

# Farmland vs. Open Space Preservation

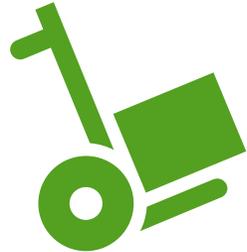
## Farmland Preservation

- ▶ Soil Quality
- ▶ Tillable Acres
- ▶ Zoning
- ▶ Current agricultural operation and future agricultural potential
- ▶ Perpetual Deed of Easement
- ▶ Agricultural Use only
- ▶ Access to Soil and Water Conservation Grants, Deer Fencing Grants
- ▶ Phase I NOT required
- ▶ SADC

## Open Space Preservation

- ▶ Population density vs. shortage of open space
- ▶ Is there public support?
- ▶ Zoning
- ▶ Accessibility
- ▶ Topography
- ▶ Removal of trees
- ▶ Fee-simple purchase
- ▶ Many types of uses (natural area, trails, recreation fields, playgrounds)
- ▶ Phase I extremely encouraged
- ▶ NJDEP – Green Acres

# Considerations for Municipal/County Agencies



## **Strategic Planning is a MUST!**

Preserved Land inventory

Targeted Farm inventory

Targeted Open Space inventory

Mapping should be parcel-based and generate the appropriate attribute data



## **Agriculture Advisory Committee and Open Space Advisory Committee**

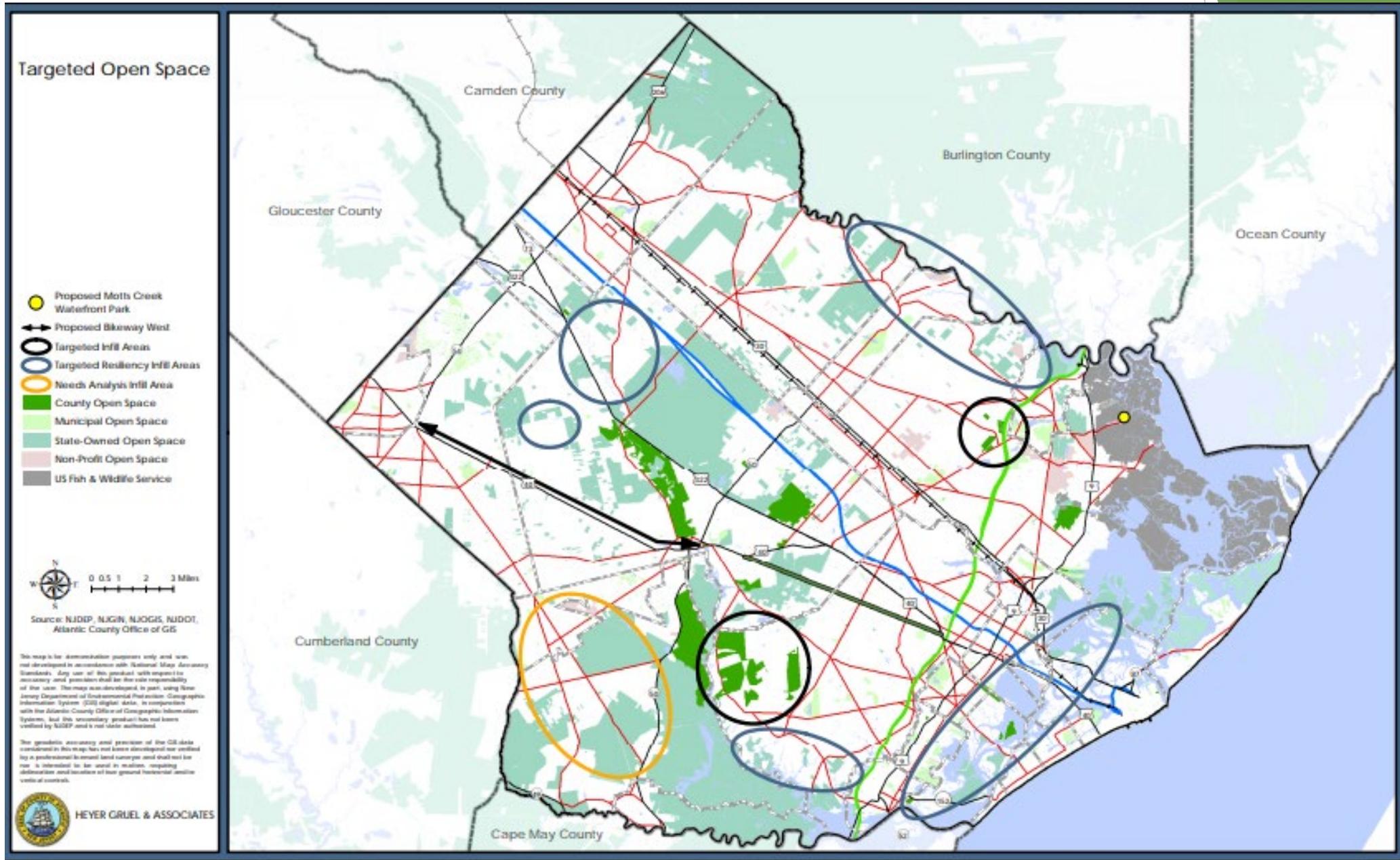
Meet regularly

Represent variety of interests and expertise

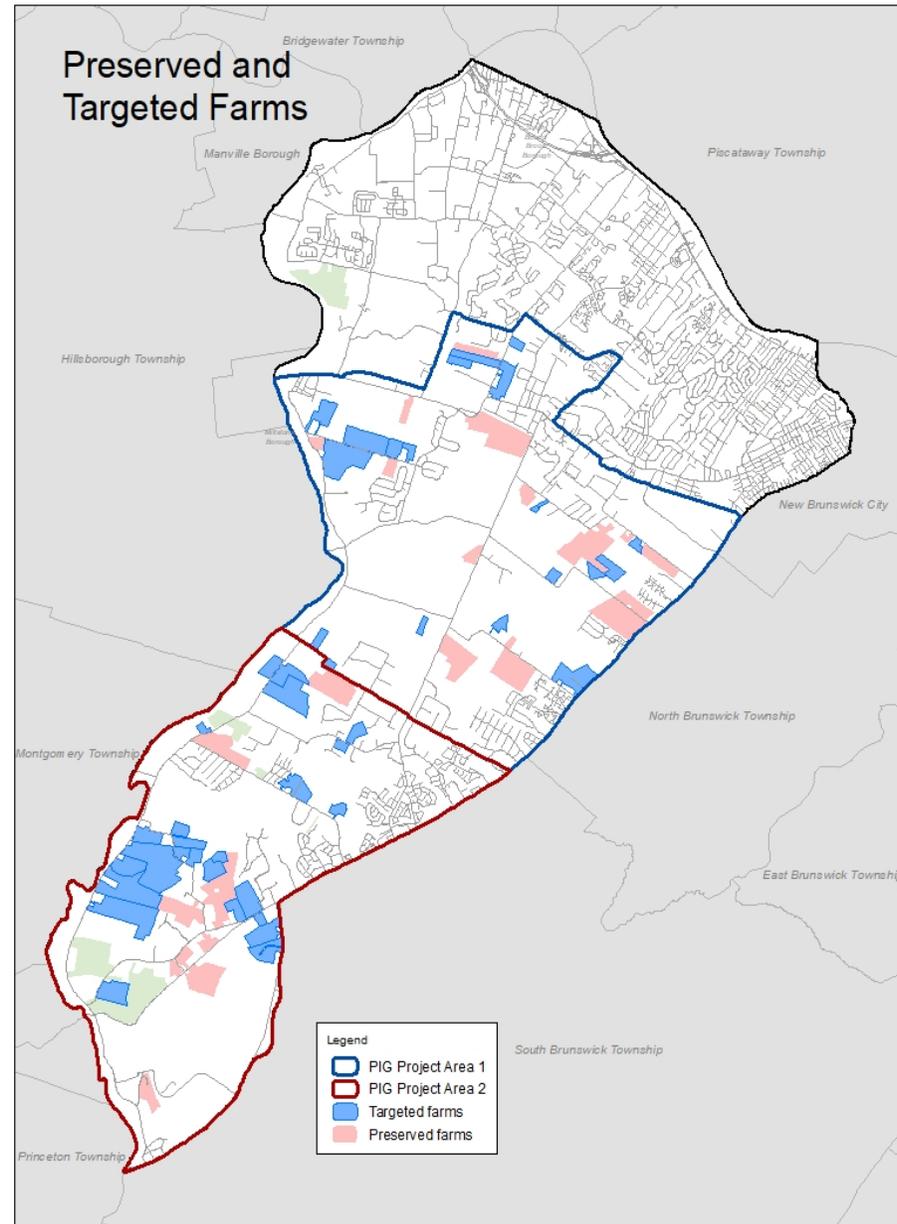
## Considerations for Municipal/County Agencies cont.

- ▶ Each property must be evaluated on its own merits
  - ▶ Not every property will work in every program
  - ▶ Are there linkages to other preserved lands (rational nexus)?
  - ▶ Is there a need?
  - ▶ Are there conflicting land uses in the immediate vicinity?
- ▶ Financing
  - ▶ Are there partnerships to pursue? (SADC, Green Acres, Land Trusts)

# Strategic Planning Process – Atlantic County Open Space and Recreation Plan



# Strategic Planning Process - Franklin Township, Somerset County



# Tools for Strategic Planning

## ArcView GIS Software

- Subscription and Professional needed
- Advanced analysis, modeling and map-making
- Creation and Editing of data
- Ideal for presentation maps

## ArcView Online

- Subscription needed
- Operates from an online platform
- User friendly for most abilities
- Can be run from municipal website

# Tools for Strategic Planning cont.

## ArcView Online cont.

- Series of “story maps” can be created and edited by the user without altering the actual data
- Modeling
- Blueprint Score for priority parcels
- Not ideal for presentation maps

## New Jersey Conservation Foundation's Conservation Blueprint

- Free
- Very user friendly
- Many datasets and layers available

# Focus on NJCF's *Conservation Blueprint*

The screenshot shows the NJ MAP website interface. The browser address bar displays 'njmap2.com'. The main navigation menu includes 'HOME', 'ABOUT', 'PROJECTS', 'MAPS', and 'CONTACT US'. The 'MAPS' menu is expanded, listing the following options:

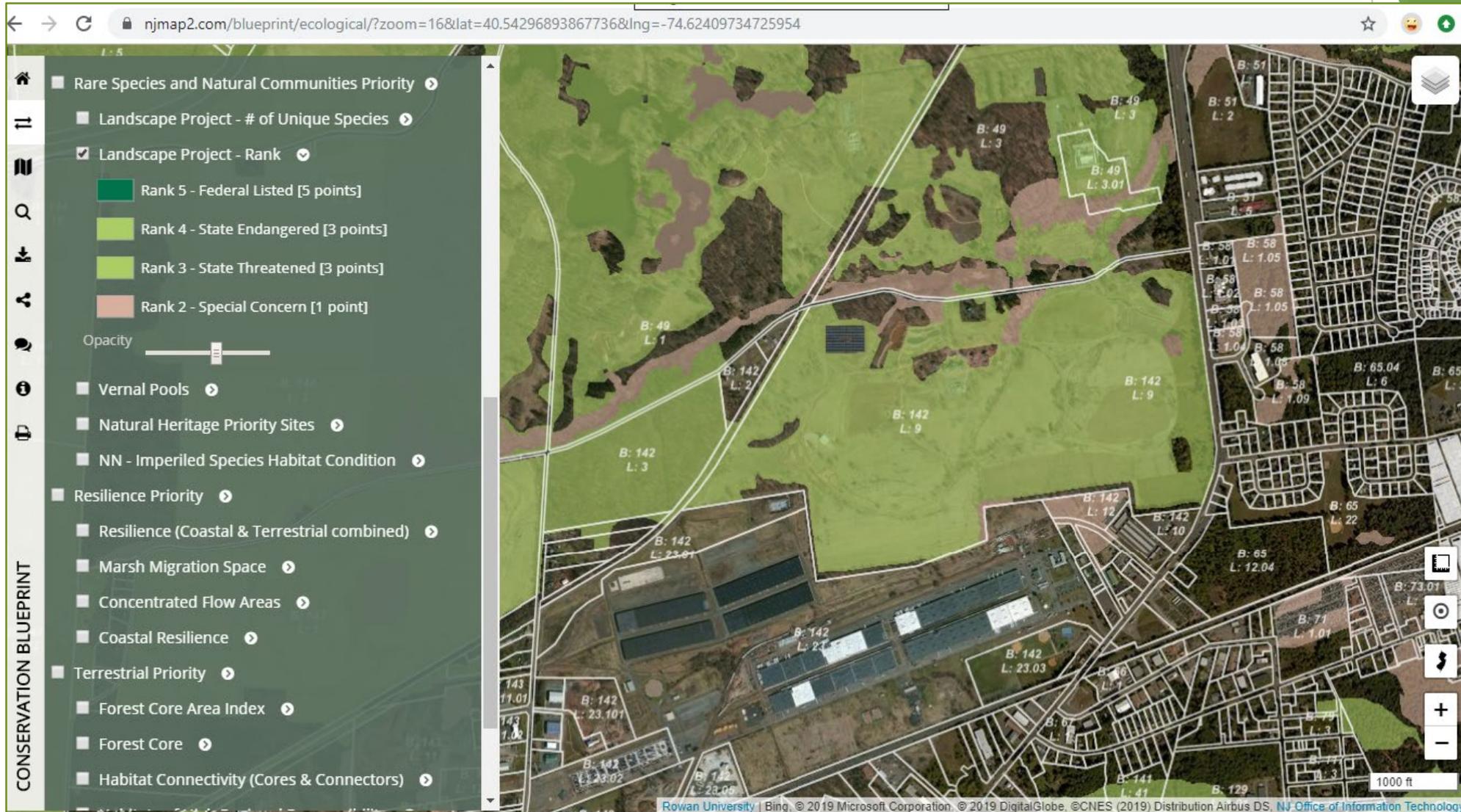
- CONSERVATION BLUEPRINT
  - Blueprint Overview
  - Community Green Space
  - Agriculture
  - Ecological
  - Water
- PARCEL EXPLORER
- MUNICIPAL DASHBOARD
- LAND CHANGE VIEWER
  - Urban Growth
  - Farmland Loss
  - Forest Fragmentation
  - Wetlands Encroachment
  - Farmland Preservation
  - Remaining Lands
- MUNICIPAL BUILDOUT MODELER
- WATERSHED EXPLORER (BETA)

The main content area features a large image of a field with yellow and purple flowers. Overlaid on this image is the text 'WELCOME TO NJ MAP' and 'AN INTERACTIVE ATLAS OF NEW JERSEY FROM ROWAN UNIVERSITY'. Below this text are two buttons: 'Map Gallery' and 'Discover Blueprint'. At the bottom of the page, the Rowan University logo and 'SCHOOL OF EARTH & ENVIRONMENT' are displayed, along with the text 'Department of Geography, Planning, and Sustainability'. The browser address bar at the bottom left shows 'https://www.njmap2.com/#'.

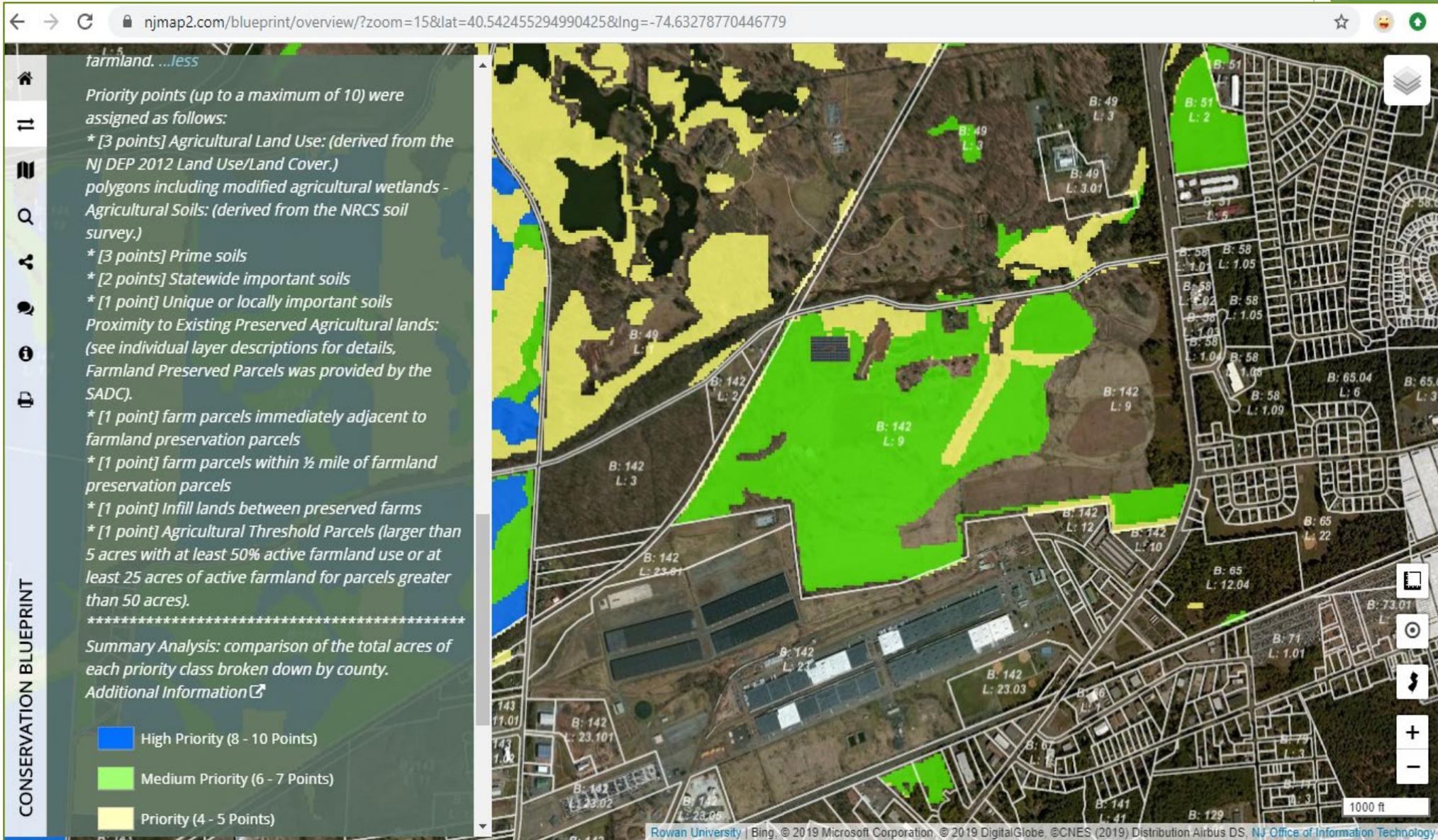




# Ecological Priorities



# Priority Lands for Agricultural Preservation (Blueprint Rankings)



# Appraisals

Dan Webb  
Principal

Webb Appraisal, LLC

Specializes in Appraisals using Green Acres, SADC and Federal  
Yellow Book Standards

# Basics of Preservation Appraisals

## Before & After Rule for Easements

- Value of Property “Before” the Easement
- Hypothetical Value of Property “After” the Easement

Easement Value = “Before”  
Value - “After” Value

Typically Only Underlying Land is  
Valued

# Where Does Appraised Value Come From?



Market Data

What are comparable properties selling for?



What properties are comparable?

Same or similar Highest & Best Use

# Where Does Appraised Value Come From? cont.

Value is predicated on Highest & Best Use:

*“The reasonably probable use of property that results in the highest value.”*

- The Appraisal of Real Estate, 14th Edition, Appraisal Institute.

# Highest & Best Use

The Highest & Best Use must meet certain conditions, each narrowing the potential uses:

- ▶ **Physically Possible**
- ▶ **Legally Permissible**
- ▶ **Financially Feasible**
- ▶ **Maximally Productive**

# Highest & Best Use cont.

The use must be **PHYSICALLY POSSIBLE**

What uses are possible given the constraints of the site?

- ▶ Size
- ▶ Shape
- ▶ Topography
- ▶ Soil Quality

# Highest & Best Use cont.

The use must be **LEGALLY PERMISSIBLE**

What uses are permitted by zoning or other restrictions?

- ▶ Zoning Regulations
- ▶ Environmental Laws
- ▶ Existing Easements

# Highest & Best Use cont.

The use must be **FINANCIALLY FEASIBLE**

Which uses will produce a net return to the property owner?

- ▶ Is it profitable?

# Highest & Best Use cont.

The use must be the MAXIMALLY  
PRODUCTIVE

Of all uses that survive the first three tests,  
which produces the greatest return?

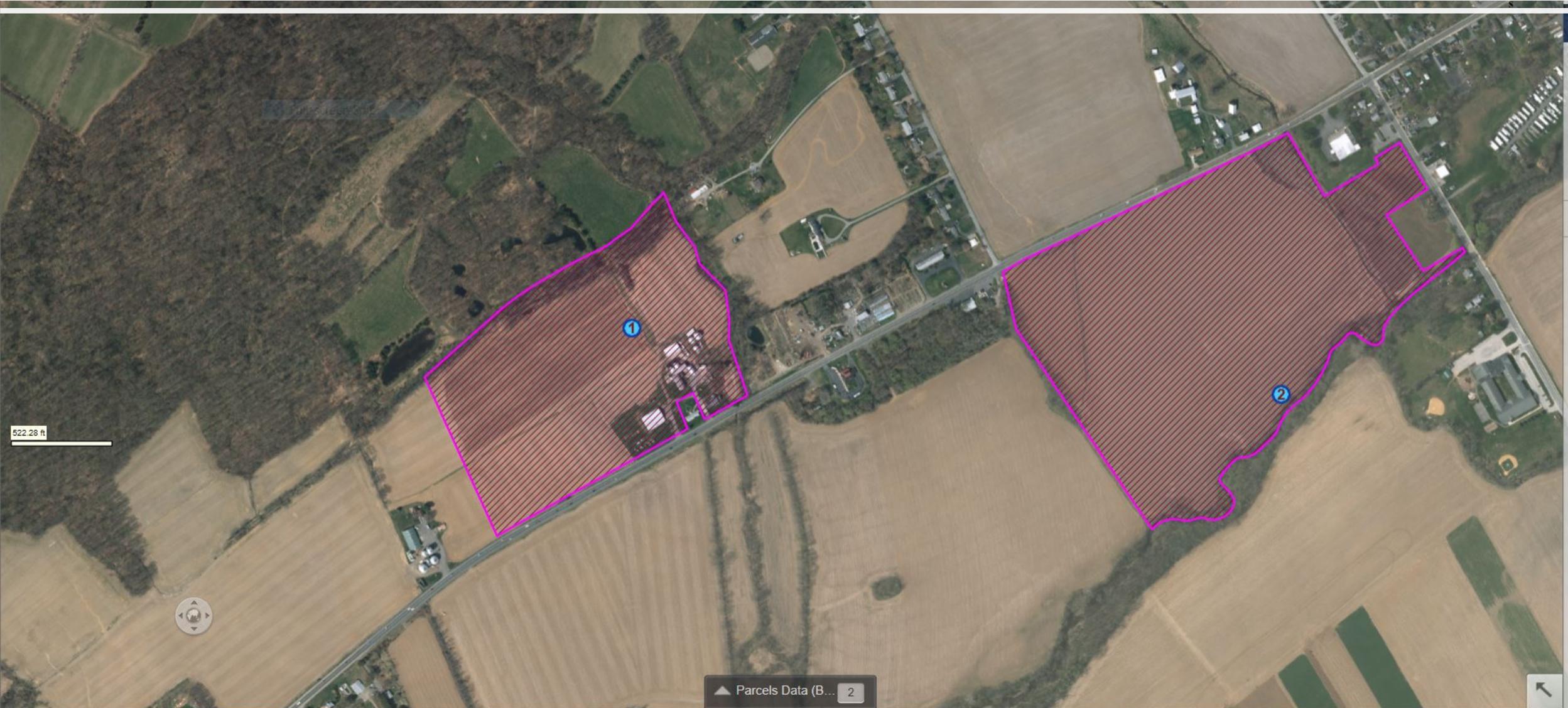
- ▶ Which is most profitable?

# Highest & Best Use cont.

## A Final Note on Highest & Best Use:

- ▶ Conservation and Preservation are not uses of land.
- ▶ Conservation and Preservation are the motivations of individuals or groups for acquiring certain properties.

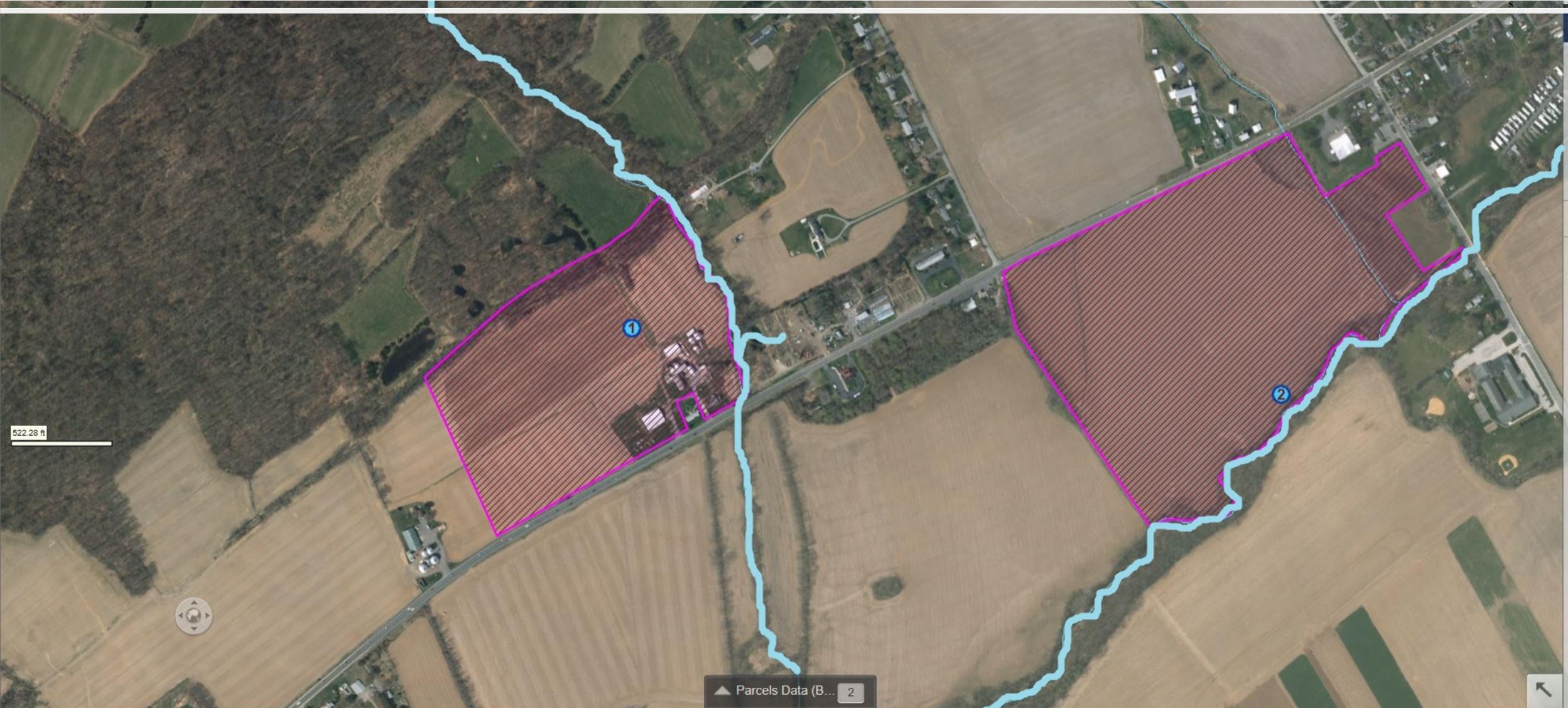
# How Different Can They Be?



Map navigation controls including zoom in, zoom out, home, and layers.

▲ Parcels Data (B... 2

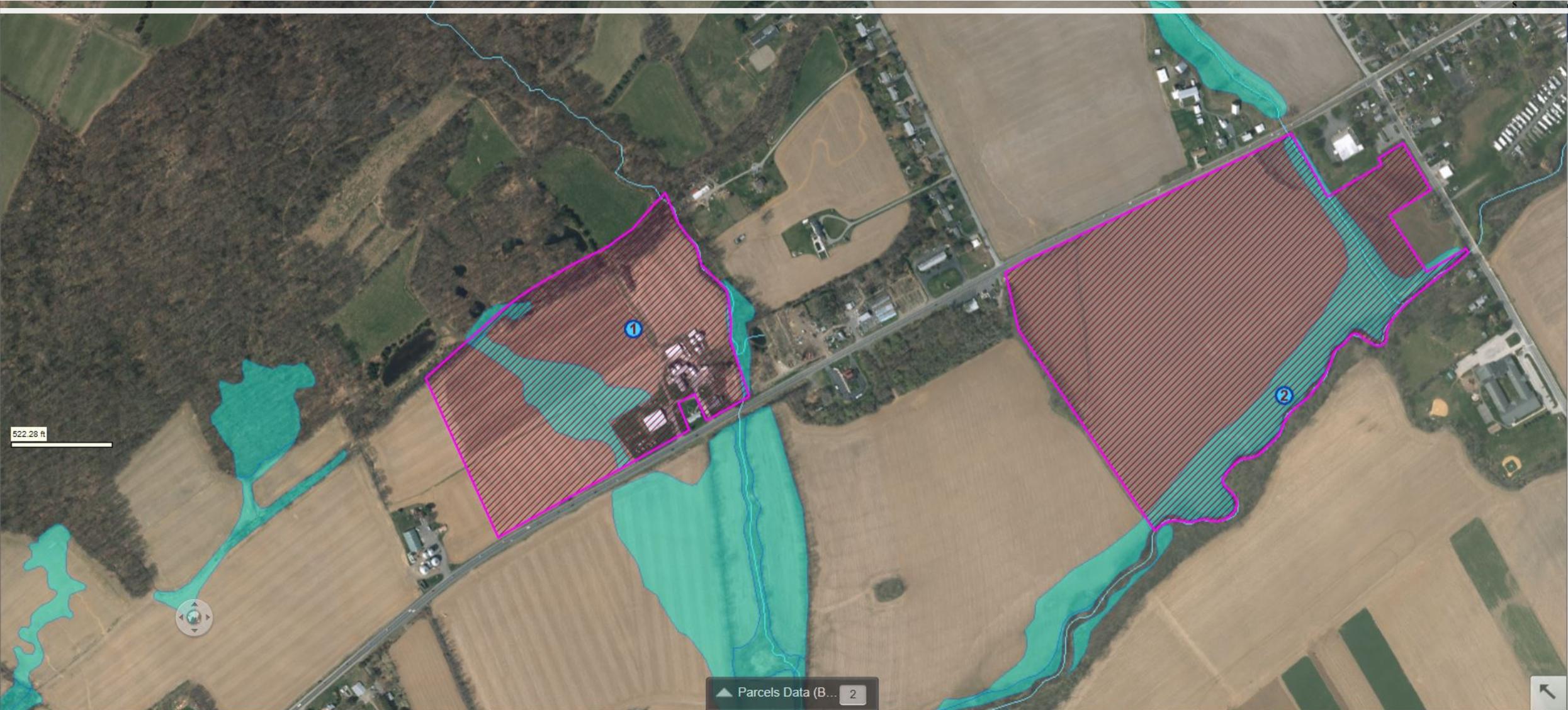
# Category One Streams



Map navigation controls including zoom in/out, pan, and layer management icons.

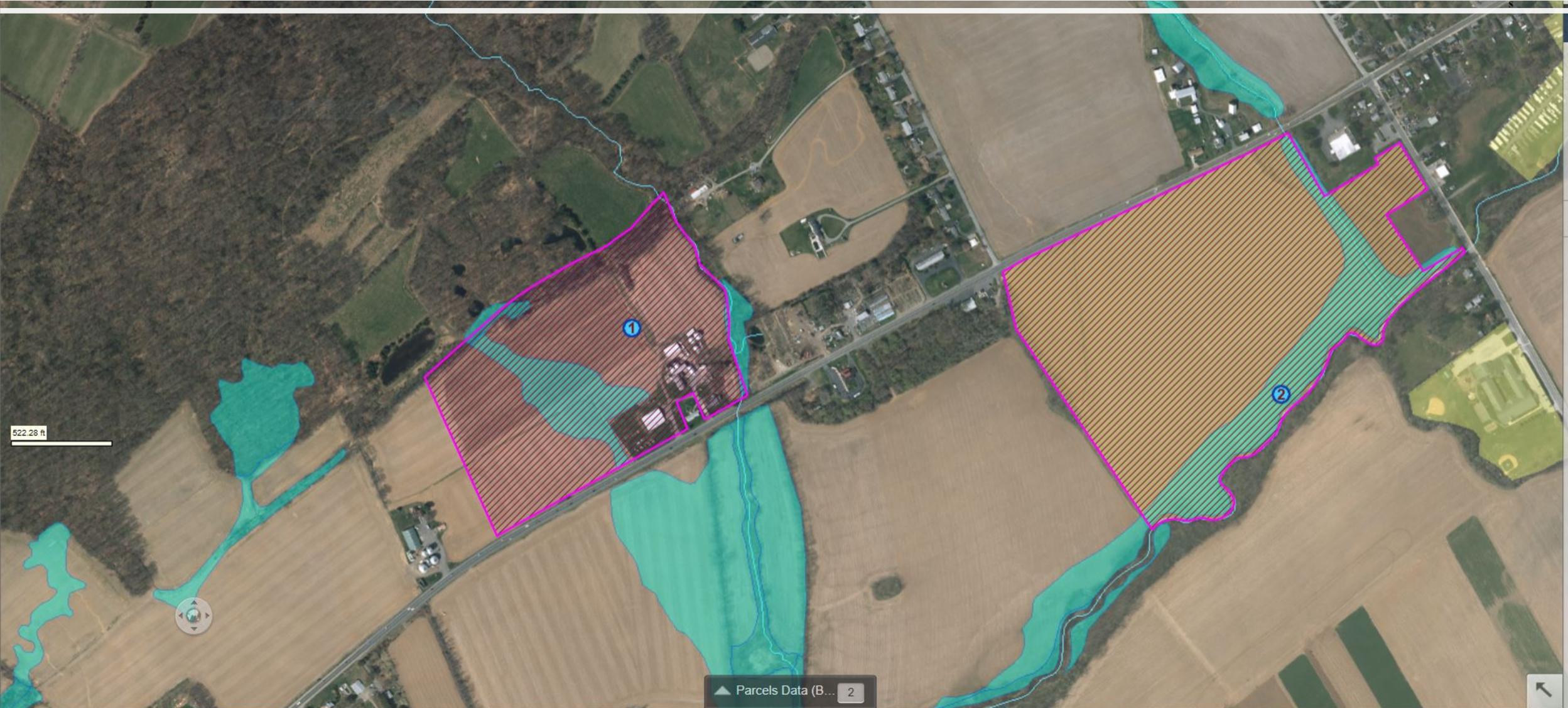
▲ Parcels Data (B... 2

# Wetlands



Map navigation controls including zoom in (+), zoom out (-), home, and other standard GIS interface elements.

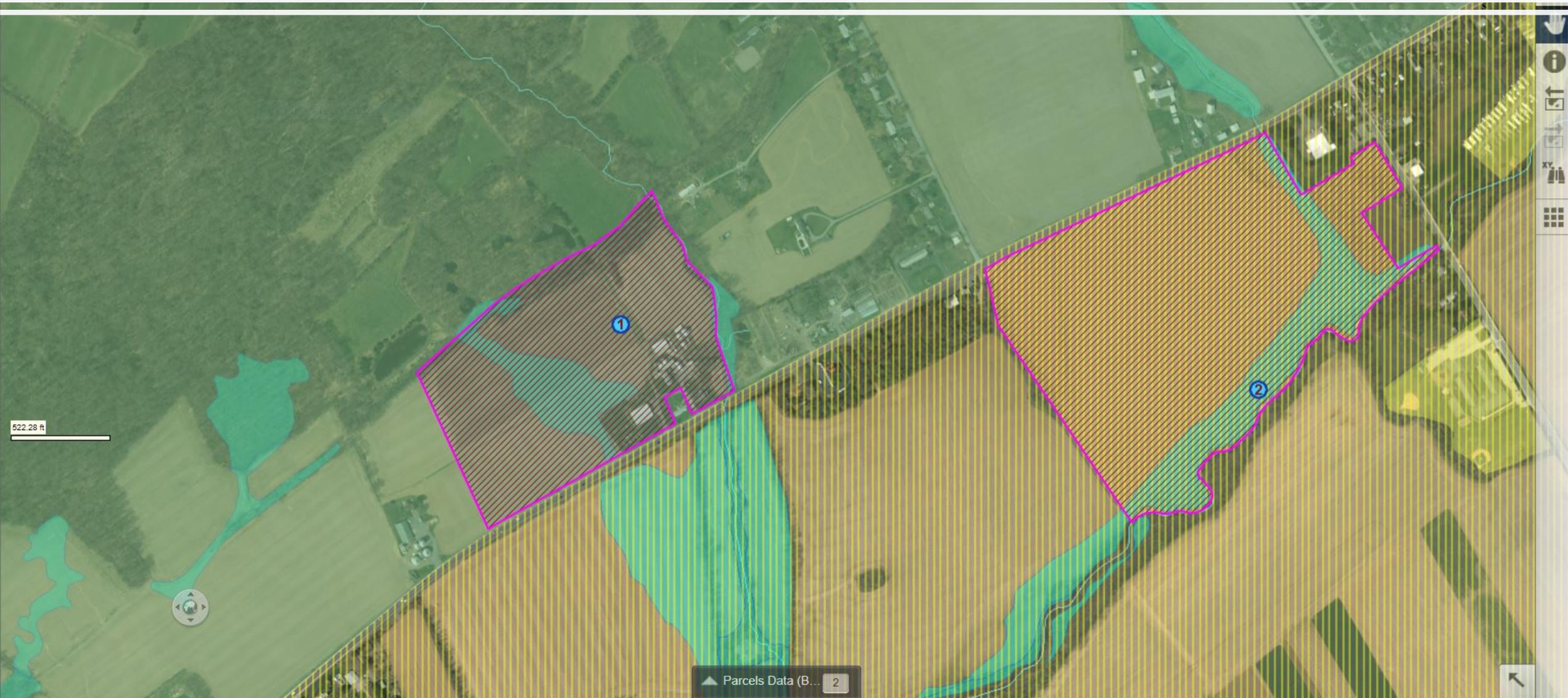
# Sewer Service Area



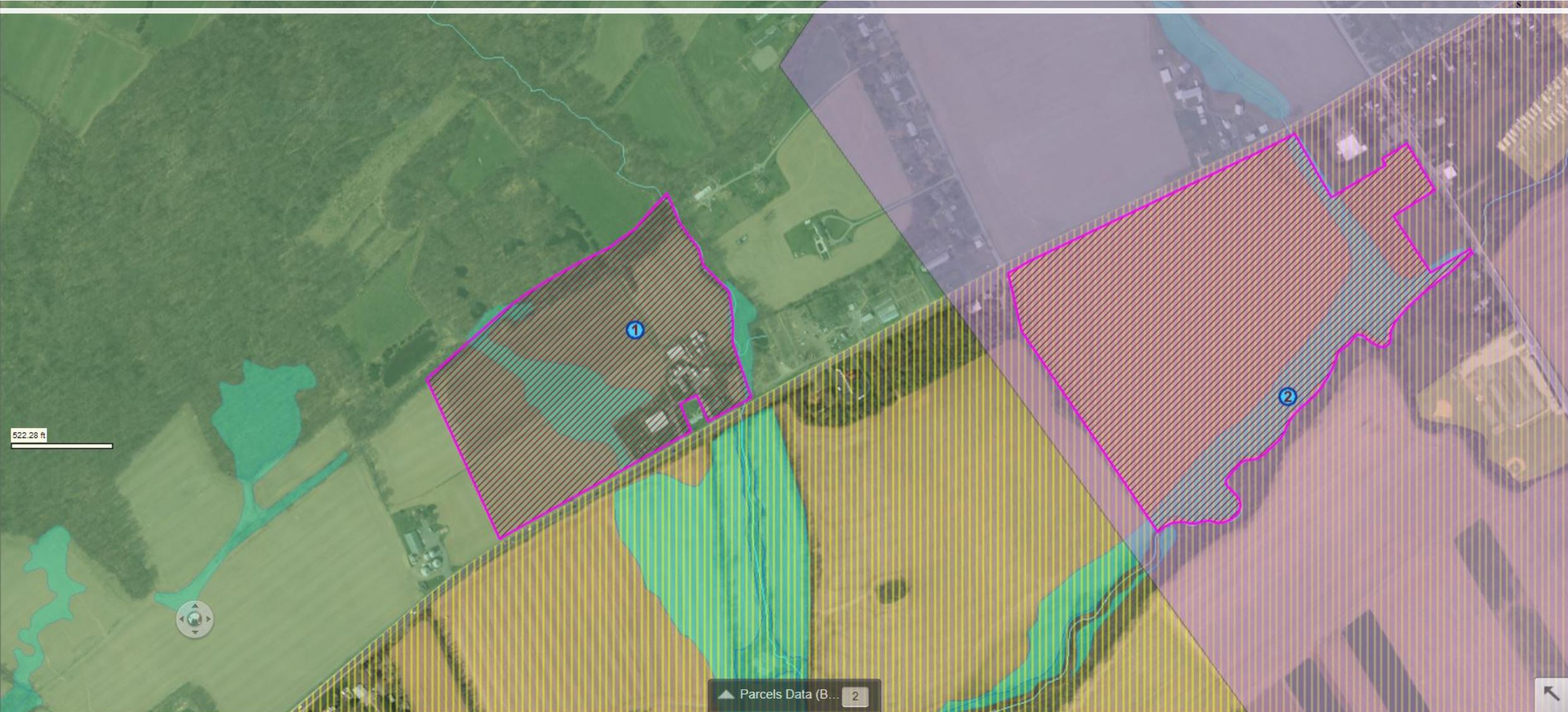
522.28 ft

▲ Parcels Data (B... 2

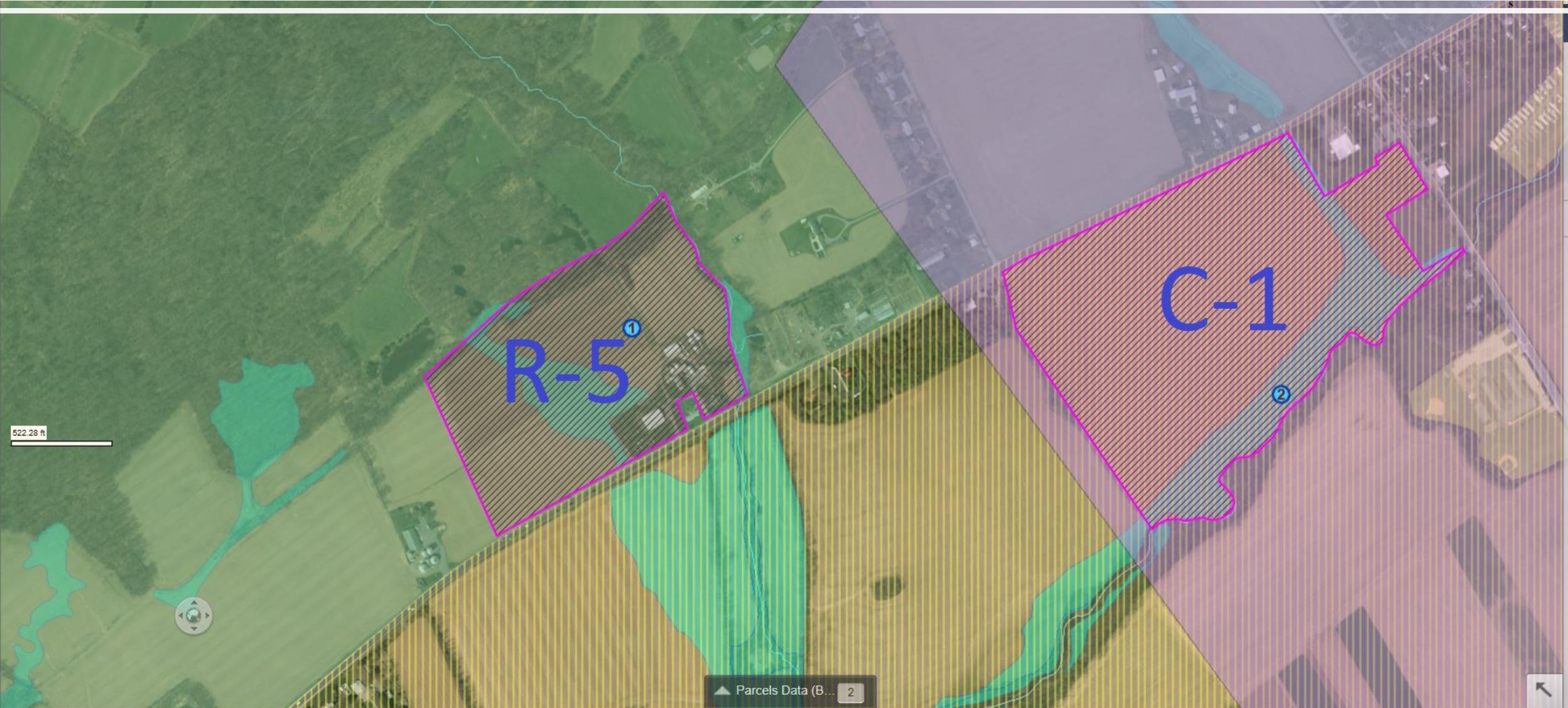
# Highlands



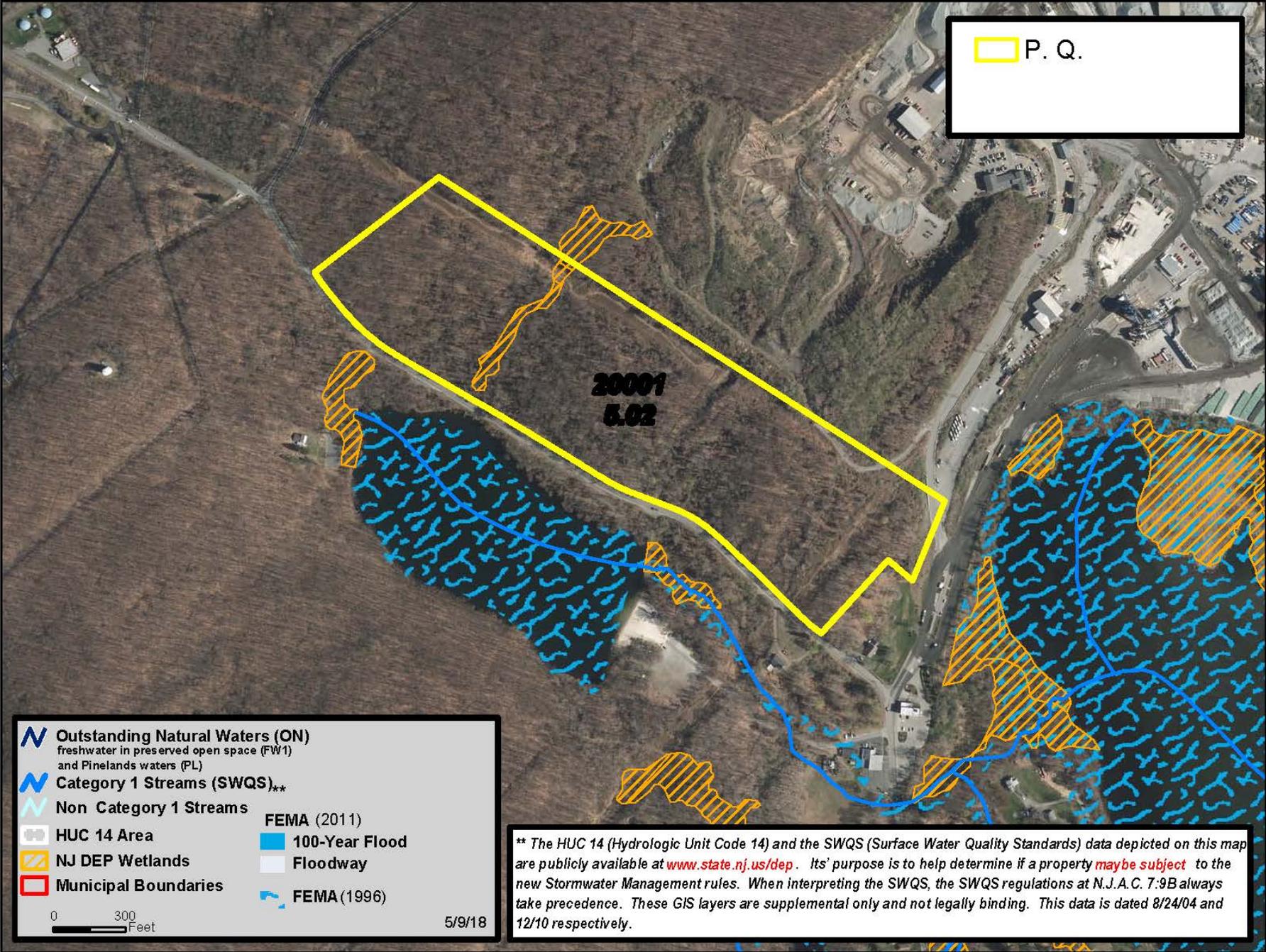
# Groundwater Contamination



# Municipal Zoning



# Unique Impact on H&B Use



USFWS  
Protective  
Buffer –  
Indiana &  
Northern  
Long Eared  
Bats



# Highest & Best Use

- ▶ H&B Use Before Easement is Different from H&B Use After Easement (usually)
- ▶ Easement Imparts Limitations on Legally Permitted Uses
  - ▶ Agricultural Easement Restricts Use of Property to Agricultural Uses
- ▶ Change in H&B Use = Change in Value (usually)

# Exception Area

## Portion of Land Area Not Encumbered By Easement

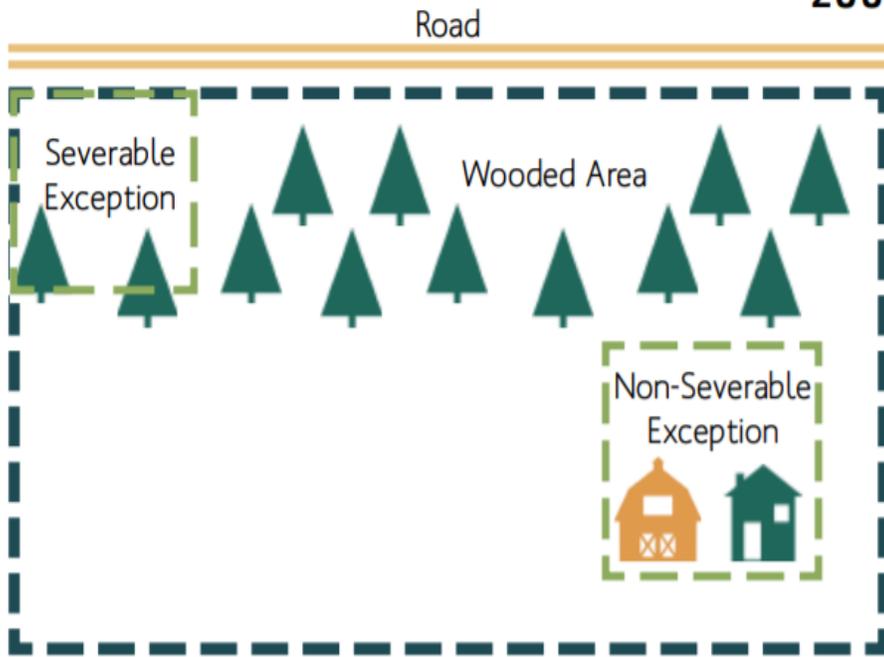
- Homes & Infrastructure
- Non-Agricultural Uses
- Commercial Uses

## Two Types of Exceptions

- Severable - can be subdivided and sold (per local zoning)
- Non-Severable - tied to farm; can't be subdivided

# Exception Area

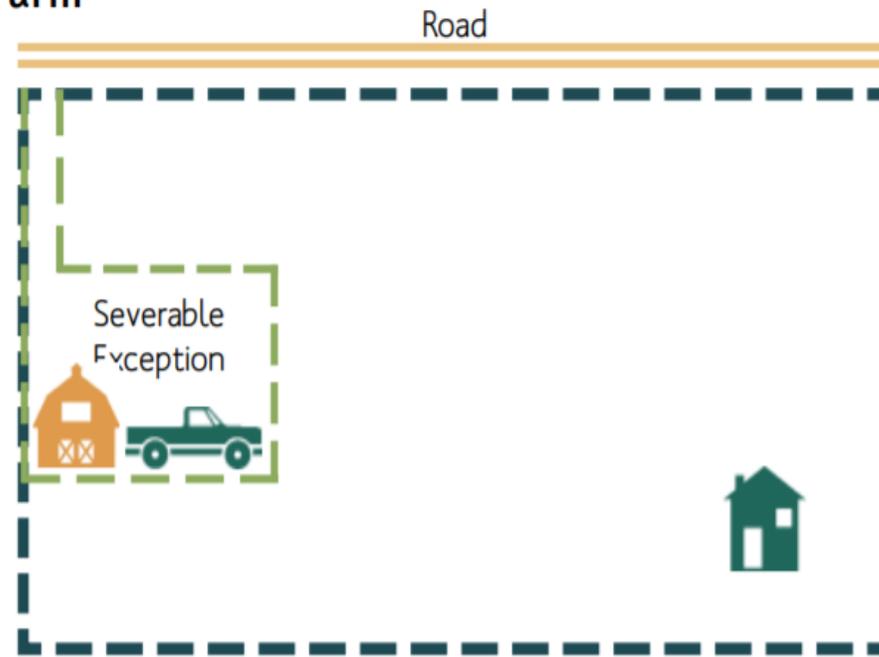
## Sample Exception Area Layouts 200 Acre Farm



Example #1

A 200 acre farm with a non-severable exception around an existing barn and house and a severable exception along the road for the landowner's child to subdivide and own separate from the farm.

Source: SADC



Example #2

A farm with a severable exception around a nonagricultural use and driveway, and a house on the farm outside of an exception area.

# Preservation Appraisal Considerations



SADC & Green Acres Have Very Specific Appraisal Requirements



Appraiser Must Be On “Approved” List



Federal Funding Requires UASFLA  
(Uniform Appraisal Standards for  
Federal Land Acquisition  
a.k.a. “Yellow Book”)

# Private Landowners Concerns when Preserving Property or Buying/Leasing Preserved Property

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& Business

# Legal Work on Behalf of Private Landowners



Private Land Purchase



Sale of Preservation Easement



Stewardship of Preservation Easement



Enforcement



Regulatory Affairs

# Private Land Purchase

- ▶ Is the land already preserved?
- ▶ What uses and structures are permitted?
- ▶ Desire to buy land and then preserve it?



# Private Land Purchase - Land already preserved



Understand the legal restrictions of agricultural preservation



Exception Areas?

Severable  
Non-Severable



Permitted Uses?

Zoning  
Right to Farm  
Agriculture in the Highlands  
Requirement that Land be Preserved, i.e. Pilot Program



Permissions

Reconstruction  
Activities

# Private Land Purchase - Desire to buy land and then preserve it



What is client looking to gain?



Manage expectations

Realtors  
Contract



Know township priorities and likelihood of preservation



## Sale of Preservation Easement

- ▶ Work of Municipal Attorney versus the Private Attorney
- ▶ Confirm client expectations are clearly defined, understood, and met.
- ▶ Confirm closing documents are accurate, with no surprises.
- ▶ Confirm existing non-agricultural uses and structures and define moving parts of the deal.

# Sale of Preservation Easement - moving parts of the deal



**Confirm existing non-agricultural uses and structures.**

After preservation, no non-agricultural uses unless:

- Reserved as a right in the Deed of Easement, Schedule B.
- Occur within an exception area.

Agricultural exceptions?

- What areas and buildings are not going to be used for agriculture?
- What activities are occurring which are not agricultural?
- Future?



**What can be negotiated at time of preservation deal?**

Contract of Sale

Exception Areas - number, size, and location

Residential Site Opportunities - site suitability and access

Future flexibility

Schedule B - Non-Agricultural Uses



**Cannot be changed once development rights are sold!**

# Sale of Development Rights - Proceeds

- ▶ Reinvest in Farm
- ▶ Divert funds into family wealth
- ▶ Long-term considerations
- ▶ Property is usually 'sold' rather than willed to younger generations



# Stewardship of Preservation Easement



Proposed new uses or structures



Maintenance / Replacement of existing structures



Compliance with easement



Subdivision



Reconstruction



Agricultural Development



Agricultural Subdivision

# Enforcement

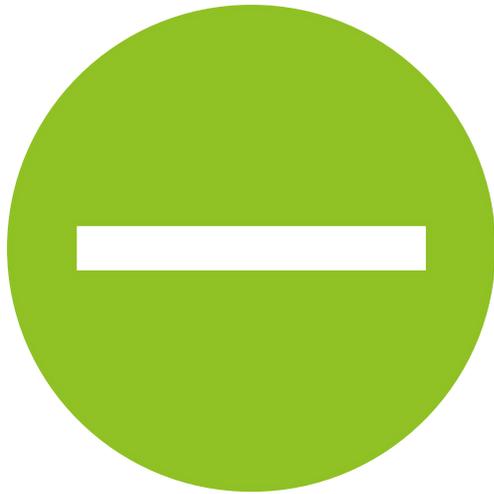


Easement oversight and enforcement



Easement permissions

# Regulatory Affairs



- ▶ Emerging rules and restrictions for preserved land
  - ▶ Winery Pilot Program
  - ▶ Rural Enterprise
- ▶ Prior to January 2006 with no exception area = Rural Microenterprise?

# Conclusion - Legal Impact

Important that private landowners are represented by an attorney that is well versed in land preservation, agribusiness, and agricultural land use.

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# Finding the Right Property

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Sale/Purchase of Preserved Farmland

# Finding the Right Property



- ▶ Understanding the Buyer's needs
- ▶ Once Buyer's needs are identified, potential properties are then identified
- ▶ Purchase

# Understanding the Buyer's needs

Type of business

Budget

Type and how many buildings

How much property is needed

Location of property

Employees living on property

Accessibility of property

# Once Buyer's needs are identified, potential properties are then identified

- ▶ Preserved
  - ▶ Farmland
  - ▶ Conservation
  - ▶ Deed of Easement - Does it permit desired business use
  - ▶ Exception Area
- ▶ Non-Preserved (Bring in an attorney well versed in land preservation and a land planner)
  - ▶ Can it be preserved
  - ▶ How does it affect the value of the property
  - ▶ What do you do with the preservation money

# Purchase

- ▶ Determine purchase price based on comparables (possibly appraisal)
- ▶ Obtain pre-approval from mortgage
- ▶ Negotiate Offer
- ▶ Attorney Review
- ▶ Inspections (May include Phase One Inspection)
- ▶ Survey
- ▶ Appraisal
- ▶ Pre-Close Walk Through
- ▶ Close

# Financing Options

Joe Baker

Senior Loan Officer

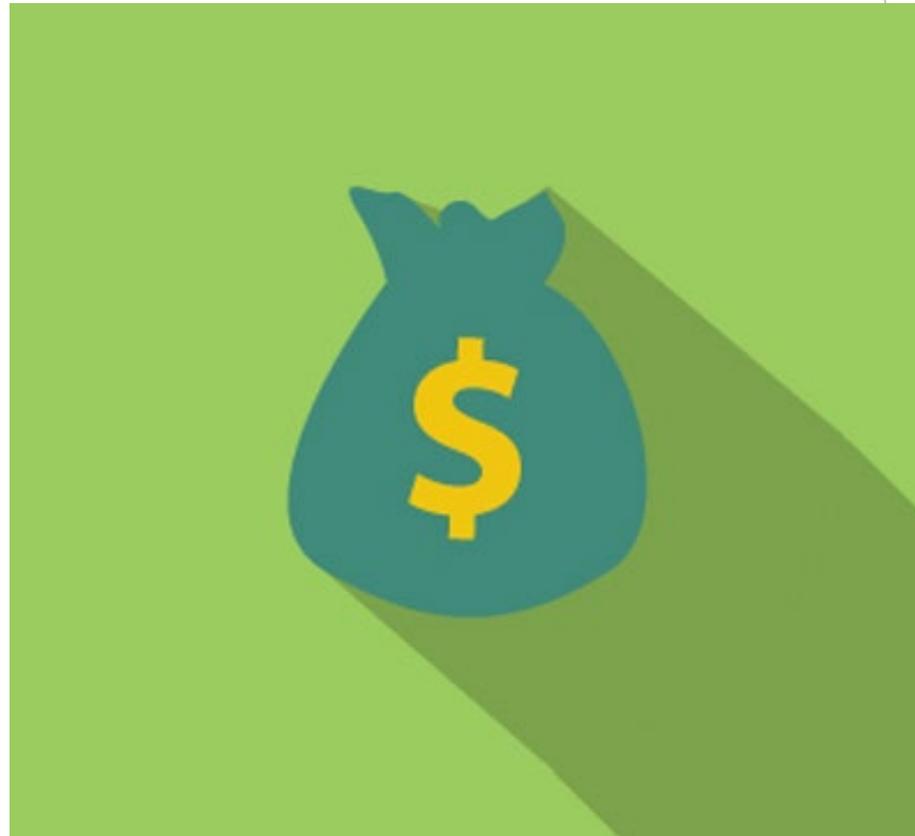
Nation One Mortgage Corp.

Specializes in financing purchases of large properties, establishing loan partners and social media marketing

# Financing Options

What are you looking for and why do you need it?

- ⑧ **Operating Expenses**
- ⑧ **Ownership**
- ⑧ **Refinance**
- ⑧ **Cash Advance**
- ⑧ **Expansion**
- ⑧ **Emergency – Loss**
- ⑧ **Equipment**
- ⑧ **Storage**



Where do I go and who can I talk to that I can  
TRUST?

Say HELLO to my little...

**HARD \$\$**

**BANK!**

I Know A GUY!

**USDA**

**MCA**  
**MERCHANT CASH ADVANCE**

*Working Capital Loan*

**SMALL BUSINESS LOANS**

HEDGE FUND?

“Honey, I bet the farm on **BLACK!**”

- SAID NO MAN TWICE

# MONEY GROWS IN ROWS

You should be prepared for when you need a loan, not have to find a way to get one.

## DO YOU KNOW YOUR EQUITY?

- ▶ Your Business. How long have you been in business? Have you consistently moved the needle?
- ▶ Land, what is it worth, do you owe money on it?
- ▶ Equipment, how much? What would it sell for?
- ▶ Product? What do you sell, how much and when? Contracts?

## DO YOU KNOW YOUR NUMBERS?

- ▶ Savings
- ▶ Credit
- ▶ Net operating income
- ▶ Adjusted Gross
- ▶ Operating expenses
- ▶ Debt to Income Ratio
- ▶ Debt Service Coverage
- ▶ Rental Income

# What Documentation would I need?

You would not need all of this documentation for every loan, but you don't know what loan you may need. Below is an example of the documentation you may need, and you should have.

- ▶ Personal Financial Statement
- ▶ Bank statements Business / Personal (2 to 6 months)
- ▶ Tax Returns ( 2 to 3 years)
- ▶ Profit & Loss Statements
- ▶ Business Documents for LLC, Or Corp.
- ▶ Executive Summary / Business Resume
- ▶ Previous Appraisal
- ▶ Business Contracts
- ▶ Personal ID
- ▶ 1099's / W2's
- ▶ Schedule of Real Estate Owned
- ▶ Leases
- ▶ Present Lien Statements.
- ▶ Bal
- ▶ Balance Sheet
- ▶ Rent Roll

# Agriculture and Insurance

Jared Martin  
Agent

American National Insurance

Specializes in development of sound insurance policies for  
farmers and other landowners



Can You Afford to Replace What is Behind Your Door?!

Do Not Use  
Assumptions



# Standard Homeowners VS Farm Policy



WHAT IS THE DIFFERENCE?



The Home



The Buildings



The Equipment



The Liability



# Buildings

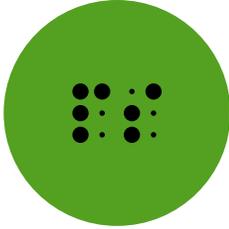
# Buildings 2



# Equipment



# Liability



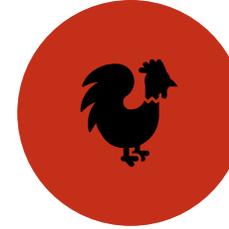
WHAT IS COVERED?



WHAT NEEDS TO BE  
TALKED ABOUT IN 2019



HOW HAS THE  
“GENTLEMEN” FARMER  
CHANGED INSURANCE



HOW WILL THE FARM BE  
PASSED DOWN?



BUY SELL AGREEMENT



LIFE INSURANCE FOR  
PROTECTION AND  
ESTATE PLANNING

# Post-Preservation

Tara Kenyon & Nicole Voigt

# Post-Preservation

- ▶ Annual site inspections to ensure compliance with Deeds of Easement and other regulations
- ▶ Permissions via permit or resolution:
  - ▶ Change in Use (Open Space)
  - ▶ Construction of Facilities (Open Space)
  - ▶ Diversion (Open Space)
  - ▶ Agricultural Labor Housing (Farmland)
  - ▶ Solar Power (Farmland)
  - ▶ Division of Premises (Farmland)
- ▶ All violations must be addressed by the easement holder/property owner

# Right-to-Farm

- ▶ Available to all Commercial Farms (not just preserved farms)
- ▶ Provides protection to agricultural operations from certain zoning regulations that would create undue hardship
- ▶ Does not supersede public health and safety requirements
- ▶ Balance between Commercial Farmer and the needs of neighboring property owners
- ▶ County Agriculture Development Board (CADB) handles all Right-to-Farm matters FIRST
- ▶ Site-Specific Agriculture Management Practice: initiated by the Farmer proactively; gets allowances on record
- ▶ Right-to-Farm Complaint: brought to the CADB by a party negatively affected by the Commercial Farm operation

# Contact Information

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