

ACT NO. 515 of 1965

IMPLEMENTATION PLAN FOR  
NORTHAMPTON COUNTY, PENNSYLVANIA

Prepared by: Joint Planning Commission,  
Lehigh-Northampton Counties

May 1973

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## INTRODUCTION

In December, 1972, the Board of Commissioners of Northampton County requested the Joint Planning Commission, Lehigh-Northampton Counties to prepare a plan needed for implementation of Act No. 515, P. L. (1965) 1292, January 13, 1966, as amended; 16 P.S. 11941 et seq. Before the adoption of such a plan, a public hearing must be held by the Joint Planning Commission. A public hearing is now set for Wednesday, July 18, 1973, at 7:30 p.m. in the Northampton County Court House. The plan in this report is to be presented at the public hearing. -

In addition to the plan, this report contains a summary of Act 515 of 1965 and a brief discussion of why implementation of the Act is under consideration. A copy of Act 515 is included in Appendix A. Appendixes B through D contain other supporting information. Appendix E is the procedure under consideration by the County Commissioners for administration of the plan. Appendix F is the information to be submitted by applicants to covenant, if the plan and procedures are adopted. In accordance with Section B.1.(c) of Appendix E, copies of this report are being distributed prior to the hearing to the following:

1. The Northampton County Board of Commissioners
2. The Northampton County Chief Assessor
3. The Northampton County Board of Assessment Appeals
4. The Northampton County Soil and Water Conservation District
5. The governing body of each city, borough, and township located within the county
6. The planning commissions of each city, borough, and township located within the county
7. The school board of each school district located within the county

## SUMMARY OF ACT 515

The Northampton County Commissioners have requested that the Joint Planning Commission prepare a plan for the implementation of Act 515, (1965) P.L. 1292, as amended, entitled "An Act enabling certain counties to covenant with landowners for the preservation of land in farm, forest, water supply, or open space uses." (The Act is incorporated in this report as Appendix A.) Northampton County is authorized under Act 515 to enter into covenants with owners of land designated for the uses listed above and defined in an adopted plan for the purpose of preserving the land, in the designated use. Before the plan is adopted, a public hearing must be held by the Joint Planning Commission. Where landowners of eligible properties voluntarily covenant for a period of ten (10) years that the land will remain in the designated use, the county shall covenant that the real property tax assessment for this period will reflect the fair market value of the land as restricted by the covenant. Provisions for extensions of the covenant and penalties for breach of contract are included in the Act.

The county establishes procedures governing covenants (see Appendix E). Covenants and extensions take effect upon approval of the Court of Common Pleas of the county in which the land or the major part thereof lies.

## REASONS FOR IMPLEMENTING ACT 515 IN NORTHAMPTON COUNTY

### Current Assessment Program

The Constitution of the Commonwealth of Pennsylvania provides under Article 8, Section 1 that all taxes shall be uniform upon the same class of subjects, and the County Assessment Law, as amended, provides that the Chief Assessor shall "...assess, rate and value all subjects and objects of local taxation...according to actual value thereof..." (72P.S. 5453.602) The County Commissioners, sitting as a three-member Board of Assessment Appeals, maintain the real estate assessment rolls for the entire county and hear appeals for assessment changes.

### Need for Reappraisal

Since the last general county-wide reappraisal took effect in 1958, property values have changed appreciably. Most increased, but not at uniform rates. Open land values generally increased more rapidly than those of other properties, stemming from demand for land for housing, commercial and industrial uses.

Early in the history of the country, when land ownership formed a reasonable basis for determining overall wealth, the uniform assessment of real estate for taxing purposes may have been the most equitable basis for raising public funds. Today, many other forms of wealth exist; but they escape taxation at the local level. Thus, real estate taxes carry the major burden for county, municipal and school services. On a uniform assessment basis, those who earn their living from farming or have the greater portion of their assets tied up in land must bear a larger burden in local taxes in proportion to income than those who use or hold their land for other purposes.

Municipal planning and land use controls are strongly influenced by the real estate tax. Municipalities have attempted through zoning controls to maximize tax receipts and to minimize expenditures, especially for school purposes, which may account for 60% to 80% of the total real estate tax dollar. Many ordinances favor large residential lots, efficiency and one-bedroom apartments, and industrial and commercial uses which pay high real estate taxes but require few services or contain no school-age children.

### Open Space Tax Abatement Programs

The effects of taxing land and buildings at different rates have been debated for decades. Many land economists favor high land

taxes and low or no building taxes in urban areas in order to increase land utilization, encourage slum elimination and discourage land speculation. The theory is that if undeveloped land is highly taxed it is forced onto the market and depresses land prices. This encourages overall real estate costs to decline because competition increases and the land portion of the total real estate value declines. Under the above theory, the more the real estate tax load is shifted to open land through a general assessment, the more open land is forced onto the market. Farming would become less profitable; and the rate of development would increase, and, perhaps, become more scattered.

If the above theory has merit, the corollary should, also. High taxes on structures and low or no taxes on land should encourage open uses and discourage development. Several states utilize this thinking to retard development of various categories of open space. New Jersey, for instance, allows farmland to be assessed upon its value for agriculture rather than development. If the land is later used for another purpose, the difference between taxes paid over the three previous years and full taxes based on market value becomes due.

Pennsylvania Act 515 is intended to serve a broader purpose *in* a different fashion and is administered at the county level. The expressed purpose of Act 515 is to preserve land in farm, forest, water supply and open space uses. Section 3 of the Act provides: "The county shall covenant that the real property tax assessment, for a period of ten (10) years commencing with the date of the covenant, will reflect the fair market value of the land as restricted by the covenant." The "value" does not relate to the income from the designated use (i.e. farming, for example). The penalty for breach of covenant provides that "The land owner, at the time of said breach, shall" pay to the county, as liquidated damages, the difference between the real property taxes paid and the taxes which would have been payable absent the covenant, plus compound interest at the rate of five percent per year from the date of entering the covenant to the date of its breach or from a date five years prior to the date of its breach whichever period is shorter." Covenanting may not be practical for lands under immediate or short-term pressure for development. Included in this category are lands, zoned for industrial and commercial purposes, and areas, located near existing public sewerage collection systems.

#### INTRODUCTION TO PLNA FOR THE IMPLEMENTATION OF ACT 515

The implementation of Act 515 requires that land be designated as farm, forest, water supply or open space on an adopted municipal, county or regional plan for the purpose of preserving the land *in* the designated use. Although the Joint Planning Commission, the County Commissioners and many city, borough and township governing bodies have adopted comprehensive plans, none of

the plans was designed to meet the requirements of Act 515. Comprehensive plans rarely identify individual parcels of land for specific treatment, since they serve more as a guide than as an implementation document. The county's plan for implementing Act 515 is in some respects more like a zoning ordinance than a traditional plan.

The plan for implementing Act 515 is a set of criteria which must be met by each property and its owner, rather than simply a map documenting specific parcels for specific uses.

In addition to specific designations of land that are eligible or ineligible to be covenanted under Act 515, it is recognized that certain properties should be considered for covenanting based on special merit, such as unique geologic, physiographic botanic or zoologic areas, common open space in planned residential developments, and lands designated for eventual acquisition for public recreation uses. These would be considered by the Joint Planning Commission and the County Commissioners much as requests for special exceptions or conditional uses are heard by zoning hearing boards and governing bodies.

PLAN FOR IMPLEMENTATION OF  
PROVISIONS OF ACR 515 OF 1965

Article I. PURPOSE

The purpose of Act 515 of 1965 is to " . . .enable certain counties of the Commonwealth to covenant with land owners for the preservation of the land in farms, forests, water supply or open space uses." It is recognized that taxes on the land used for these purposes are now or will be too burdensome to allow continuation of these uses. The Commissioners of Northampton County desire to implement the purpose of Act 515 to preserve the land uses designated in the Act consonantly with sound local planning. The provisions of this plan shall apply to the entire county and are intended inherently to implement and to supplement the Regional Comprehensive Plan for Lehigh and Northampton Counties.

Article II. LAND ELIGIBLE FOR COVENANT FOR DESIGNATED USES

The following classes of land, if not otherwise excluded under ARTICLE III of this plan, shall be eligible to be covenanted under the provisions of the Act 515 and this plan regardless of zoning classification.

1. Farm Land. Any tract or tracts of land in common ownership of at least twenty (20) acres in area, used for the raising of livestock or for the growing of crops, and including pastures and woodland.
2. Forest Land. Any tract or tracts of land in common ownership of at least twenty-five (25) acres in area used for the growing of timber crops.
3. Water Supply Land. Any contiguous land area of at least ten (10) acres in area which consists of naturally formed slopes of 15 percent or greater, or of alluvial soils or areas with permanent or seasonal high water table as defined by the Soil Survey of Northampton County.
4. Open Space Land. Any tract or tracts of land in common ownership of at least ten (10) acres in area which have three (3) percent or less site coverage (including structures, roads and paved areas) and which fit into one of the following categories:
  - a. Tracts which abut existing publicly-owned parks, forests, state game lands, wildlife preserves of twenty (20) acres or more and which enhances the value of such open spaces for public use;
  - b. Historical sites or landmarks as certified by the Joint Planning Commission or as designated as historic sites by a state or federal agency.
  - c. Unique sites of geologic, botanic, zoologic, or physiographic interest.

- d. Any common open space set aside for the use and benefit of the residents of a planned residential development and in conformance with Act 247 of 1963, Article VII, Section 705 (d).
- e. Tracts which are identified in the Joint Planning Commission's Regional Recreation and Open Space Plan for eventual acquisition and use as public recreation areas and tracts which lie on the perimeter of these.

Article III. LANDS IN NORTHAMPTON COUNTY NOT SUBJECT TO THE PROVISIONS OF ACT 515

Lands used in the manner inconsistent with Act 515 and the purpose of this plan are defined as follows:

- A. Tract or tracts of land in common ownership used for Manufacturing, Transportation, Communications and Utilities, Trade, Service, Cultural and Entertainment Uses (except uses listed in Article II, 4.), Resource Production, or Extraction Uses (except Agriculture, Forest activities and related uses, and Non-Commercial Forest Development) as defined by HUD/BPR Standard Land Use Coding Manual dated January 1965. Land used for storage or disposal of salvage or waste materials.
- B. Land under any structure, parking area, or paved area and land within 100 feet of any free standing commercial sign advertising a product or service sold off the property.
- C. Any tract or tracts which have been subdivided for residential, commercial or industrial purposes and for which a subdivision plat plan has been recorded in the office of the County Recorder of Deeds.

APPENDIX A

ACT OF JANUARY 13, 1966, P.L. (1965) 1292, NO. 515;  
AS AMENDED, 1967, DECEMBER 21, P.L. 882, NO. 395;  
AS AMENDED, 1972, OCTOBER 26, P.L. NO. 254;  
AS AMENDED 1972, DECEMBER 28, P.L. NO. 352;  
16 P.S. 11941 ET SEQ.Q.

An Act enabling certain counties of the Commonwealth to covenant with land owners for preservation of land in farm, forest, water supply, or open space uses.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Definitions.--For the purposes of this act the following definitions shall apply:

- (1) "Farm land." Any tract or tracts of land in common ownership of at least twenty acres' in area, used for the raising of livestock or the growing of crops.
- (2) "Forest land." Any tract or tracts of land in common ownership of at least twenty-five acres in area used for the growing of timber crops.
- (3) "Water supply land." Any land used for the protection. of watersheds and water supplies, including but not limited to land used for the prevention of floods and soil erosion, for the protection of water quality, and for replenishing surface and ground water supplies.
- (4) "Open space land." Any land, including farm, forest and water supply land, in common ownership, of at least Ten acres in area, in which site coverage by structures, roads and paved areas does not exceed threepercent. Open space land includes land the restriction on the use of which could (i) conserve natural or scenic resources, including but not limited to soils, beaches, streams, wetlands, or tidal marshes; (ii).enhance the value to the public of abutting or neighboring parks; forests, wildlife preserves, nature reservations, or other public open spaces; (iii) augment public recreation opportunities; (iv) preserve sites of historic, geologic, or botanic. interest; (v) promote orderly urban or suburban development; or (vi) otherwise preserves open space without structures, roads and paved areas exceeding three percent of site coverage.
- (5) "Municipality." Any city, borough, town or township.

Section 2. Planning Requirements.--No land shall be subject to the provisions of this act unless designated as farm, forest, water supply, or open space land in a plan adopted following a public hearing by the planning commission of the municipality, county or region in which the land is located.

Section 3. Covenant for Farm, Forest, Water Supply or Open Space Uses.--All counties are hereby authorized to enter into covenants with owners of land designated as farm, forest, water supply, or open space land of an adopted municipal, county or regional plan for the purpose of preserving the land in the designated use. Such covenants and extensions thereof shall take effect upon approval of the court of common pleas of the county in which such land or the major portion thereof lies. The land owner may voluntarily covenant for himself and his successors and assigns in right, title and interest that the land will remain in open space use as designated on the plan for a period of five years commencing with the date of the covenant. The county shall covenant that the real property tax assessment, for a period of five years commencing with the date of the covenant, will reflect the fair market value of the land as restricted by the covenant.

Section 4. Renewal and Termination of Covenant.--Each year on the anniversary date of entering the covenant, it shall be extended for one year unless:

- (1) At least thirty days prior to any anniversary date of entering the covenant the land owner notifies the county that he wishes to terminate the covenant at the expiration of ten years from the anniversary date, or
- (2) At least thirty days prior to an anniversary date of entering the covenant the county notifies the land owner that it wishes to terminate the covenant at the expiration of ten years from the anniversary date, or the sole ground that the plan designating the land as farm, forest, water supply, or open space land has been amended officially so that the designation is no longer in accord with the plan.

Notification of the desire to terminate the covenant shall be by registered mail.

Section 5. County Procedures.--The county governments shall establish procedures governing covenants between land owners and counties for preservation of land in the uses covered by this act.

Section 6. Breach of Covenant by Land Owner.--If the land owner, his successors or assigns, while the covenant is in effect, alters the use of the land to any use other than that designated in the covenant, such alteration shall constitute a breach of the covenant and the land owner at the time of said breach, shall pay to the county, as liquidated damages, the difference between the Real property taxes paid and the taxes which would have been payable absent the covenant, plus compound interest at the rate of five percent per year from the date of entering the covenant to the date of its breach or from a date five years prior to the date of its breach whichever period is shorter. Such liquidated damages shall be a lien upon the property collectible in the manner provided by

law for the collection of unpaid real property taxes. The acquisition by lease, purchase or eminent domain, and use of rights of way or underground storage rights in such land by a public utility or other body entitled to exercise the power of eminent domain shall not constitute an alteration of use or a breach of covenant.

Section 7. Severability; Inconsistent Laws. --If any section, provision or clause of this act shall be declared invalid or inapplicable to any persons or circumstances, such action shall not be construed to affect the rest of the act or circumstances not so affected. All laws or portions of laws inconsistent with the policy and provisions of this act are hereby repealed to that extent.

Section 8. Effective Date.--This act shall take effect immediately.

Please note recent amendatory statutes, as follows:

Act 254, Approved 26 October 1972.

Act 352, Approved 28 December 1972.

APPENDIX B

EXCERPTS FROM JOINT PLANNING COMMISSION  
REGIONAL PLANS

1990 Comprehensive Plan

Summary of Major Plan Recommendations

- Most development should occur in the metropolitan core Of the region which is formed by the cities of Allentown; Bethlehem and Easton, and the suburban communities on the periphery of the cities.
- High priority should be assigned to development of major highways, utilities, and open space preservation in the metropolitan core area.

Urban Areas Must Be Planned With Regard to Natural Limitations

- Frequently in the past land has been altered and used with little consideration given to natural problems. Much information is now available so that urban developments compatible with natural forces can be designed in the future. Studies of rainfall, ground cover, runoff and flood plains have been prepared by the JPC for use by developers. This information is intended to provide back-ground data for better design in developments throughout the Region. Lehigh and Northampton Counties have also developed detailed soil surveys. These soil surveys provide substantial information on the natural capabilities of the land for future development, i.e., depth to bedrock drainage, wetness, and steepness of slope. The effects that these factors have on development potential can be calculated.
- A study of major streams was prepared showing flood plain areas. It is recommended that these areas remain undeveloped in the future. Flood plains are natural corridors for the development of parks and recreation areas. Conservation programs including land acquisition, municipal zoning, and subdivision ordinances are key devices for protecting stream and flood plain areas.
- Areas with severe slope and flood plains have been shown on the plan as land to be conserved rather than used for major building development in the future. The implementation of recreation plans for a number of these areas is underway with public land purchases aided by the Project 70 and the Federal Open Space Programs.

Programs and Priorities = 1970 - 1990 (Regional Recreation and Open Space Plan) Report #6

Chapter I - Recommended Outdoor Recreation/Open Space Goals and Objectives

A. Introduction (p. 1)

Providing outdoor recreation and open space areas is the responsibility of all levels of government. The County Commissioners of Lehigh and Northampton Counties have recognized this fact by directing the Joint Planning Commission to undertake a regional recreation and open space plan. This report, Report 6, contains the Planning Commission's recommendations concerning development of a regional recreation and open space system and implementation of county recreation programs. Included are schematic plans for existing and proposed county parks, a recommended capital improvements program (to 1975) for each county, and a suggested recreation operating and maintenance budget (to 1975) for each county.

B. County Governments' Recreation and Open Space Responsibilities (p. 1 & 2)

The National Association of Counties states that county governments have two broad recreation and open space responsibilities, (1) protecting the scenic and outdoor recreational values of the total environment of the county, and (2) acquiring and developing for public use portions of the landscape of highest value for outdoor recreation.

"Parks and recreation should be integral elements of all county land use planning and zoning. Maximum use should be made of zoning and other regulatory powers to preserve open space, protect scenic values and otherwise enhance recreational opportunities."<sup>1</sup>

Chapter II - The Plan, Program and Priorities (p. 29)

--The Plan centers on the preservation of stream valleys and steep-slope hillsides in our region. Not only are the most valuable natural feature saved in this manner, but the most valuable recreation areas--streams and woods-- are also saved. In addition, the Plan ties existing recreation and open space areas into a system of recreational "nodes" connected by corridors of wooded walkways (the streams). A person could therefore walk

from one recreation area to another without ever leaving the open space system. The relatively undeveloped wooded corridors also serve as room for expansion of the recreational facilities, if that need should occur.

Natural Determinants for Open Space Preservation (Regional Recreation and Open Space Plan) Report #2

B. Functions of Open Space (p. 8)

1. The Five Functions

Besides the closely related function of providing space for recreational use, open space areas may also function to:

- (a) protect natural resources.
- (b) preserve unique social and physical features, including historic structures, rare geologic and botanic sites, etc.
- (c) create and maintain "breathing spaces" in densely settled areas. Green plants manufacture oxygen and reduce levels of carbon dioxide and certain gaseous and particulate air pollution in the ambient air. In other words, open areas act like "lungs" for urban and suburbanizing areas.<sup>3</sup>
- (d) shape metropolitan and regional growth.
- (e) preserve natural beauty near built-up areas.

2. Protection of Natural Resources

Rapid urbanization places great pressures upon a region's natural resources. A failure to respect the inherent balance of nature often results in detrimental changes in the environment. For example, many upstream natural areas which normally absorb significant amounts of excess rain water are filled in by highway and home construction, thus increasing downstream water volumes.<sup>4</sup> Increased runoff from numerous paved areas and rooftops further aggravates the problem. Eventually, this alteration (some say destruction) of natural processes will result in severe downstream flood damages. (The downstream floods themselves will probably cause more damage than necessary because structures were constructed upon the flood plain -- another short-sighted alteration of nature.)

#### Steep Slopes (p. 33)

Land classified as having steep slope is considered to be the most difficult and expensive to develop because of earth-moving difficulties, erosion and drainage problems, and lack of accessibility. However, wildlife and forest cover usually thrive in such areas, making them some of our most valuable re-creation and scenic areas. Wooded open space uses also serve to minimize erosion by reducing volumes and velocity of water runoff after periods of precipitation.

For these reasons, it is important that steep slope areas remain relatively undeveloped by man; land uses most compatible with this natural feature are forestry, passive recreation, and open space. Well-engineered low density residential development might be permitted depending upon site layout and structural design of the residence. Hillside construction of homes can be dangerous, however, as continuing land slides in the Los Angeles area are an indication.

#### Forest Areas (p. 34)

The natural vegetative cover for most of this region is forest. Where present, it improves the micro-climate and it exercises a major balancing effect upon the water regimen -- diminishing erosion, sedimentation, flood and drought. The scenic role of woodlands is apparent as is the provision of a habitat for game; their recreational potential is among the highest of all [land features] categories. In addition, the forest is a low-maintenance, self perpetuating landscape.<sup>33</sup>

APPENDIX C

Excerpt from ACT 247 OF 1968  
Pennsylvania Municipalities Planning Code

Section 705(d). The standards for a planned residential development established by an ordinance adopted pursuant to this article may require that the common open space resulting from the application of standards for density, or intensity of land use, shall be set aside for the use and benefit of the residents in such development and may include provisions which shall determine the amount and location of said common open space and secure its improvement and maintenance for common open space use...

APPENDIX D

Excerpts from Standard Land Use Coding Manual,

Urban Renewal Administration, Housing and Home Finance  
Agency and Bureau of Public Roads, Department of Commerce,  
Washington, D. C.  
January, 1965

IV. The Categories and Code Numbers

A. A Standard System for Identifying and Coding Land Use  
Activities--One- and Two-Digit Levels

<u>Code</u>	<u>Category</u>	<u>Code</u>	<u>Category</u>
1	Residential	11	Household units.
		12	Group quarters.
		13	Residential hotels.
		14	Mobile home parks or courts.
		15	Transient lodgings.
		19	Other residential, NEC.*
2	Manufacturing.	21	Food and kindred products-- manufacturing.
		22	Textile mill products--manu- facturing.
		23	Apparel and other finished products made from fabrics, leather, and similar materials-- manufacturing.
		24	Lumber and wood products (except furniture)--manu- facturing.
		25	Furniture and fixtures-- manufacturing.
		26	Paper and allied products-- manufacturing.
		27	Printing, publishing, and allied industries.
		28	Chemicals and allied products-- manufacturing.
		29	Petroleum refining and re- lated industries.
3	Manufacturing (continued).	31	Rubber and miscellaneous plastic products--manufacturing.

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\*NEC--Not elsewhere coded.

<u>Code</u>	<u>Category</u>	<u>Code</u>	<u>Category</u>
3	Manufacturing (continued).	32	Stone, clay, and glass products--manufacturing.
		33	Primary metal industries.
		34	Fabricated metal products--manufacturing.
		35	Professional, scientific, and controlling instruments; photographic and optical goods; watches and clocks--manufacturing.
		39	Miscellaneous manufacturing, NEC.
4	Transportation, communication, and utilities.	41	Railroad, rapid rail transit, and street railway transportation.
		42	Motor vehicle transportation.
		43	Aircraft transportation.
		44	Marine, craft transportation
		45	Highway and street right-of-way.
		46	Automobile parking.
		47	Communication.
		48	Utilities.
		49	Other transportation, communication, and utilities, NEC.
5	Trade.	51	Wholesale trade.
		52	Retail trade--building materials, hardware, and farm equipment.
		53	Retail trade--general merchandise.
		54	Retail trade--food.
		55	Retail trade--automotive, marine craft, aircraft, and accessories.
		56	Retail trade--apparel and accessories.
		57	Retail trade--furniture, home furnishings, and equipment.
		58	Retail trade--eating and drinking.
		59	Other retail trade, NEC.

Code	<u>Category</u>	Code	<u>Category</u>
6	Services.	61	Finance, insurance, and real estate services
		62	Personal services.
		63	Business services.
		64	Repair services.
		65	Professional services.
		66	Contract construction services.
		67	Governmental services.
		68	Educational services.
		69	Miscellaneous services.
7	Cultural, entertainment, and recreational.	71	Cultural activities and nature exhibitions.
		72	Public assembly.
		73	Amusements.
		74	Recreational activities.
		75	Resorts and group camps.
		76	Parks.
		79	Other cultural, entertainment, and recreational, NEC.
8	Resource production and extraction.	81	Agriculture.
		82	Agricultural related activities.
		83	Forestry activities and related services.
		84	Fishing activities and related services.
		85	Mining activities and related services.
		89	Other resource production and extraction, NEC.
9	Undeveloped land and water.	91	Undeveloped and unused land area {excluding noncommercial forest development).
		92	Noncommercial forest development.
		93	Water areas.
		94	Vacant floor area.
		95	Under construction.
		99	Other undeveloped land and water areas, NEC.

APPENDIX E

Procedures for Property Owners and County

COUNTY PROCEDURE GOVERNING COVENANTS BETWEEN COUNTY AND LANDOWNER FOR PRESERVATION OF LAND IN USES COVERED BY ACT 515 OF 1965 P.L. 1292 (16 P.S. 11941)

A. Adoption of Plan

1. Prior to the adoption of a new plan or amendment to the "Plan for the Implementation of Provisions of Act 515," adopted \_\_\_\_\_, the Joint Planning Commission shall:
  - (a) Prepare a plan for the county, designating the farm, forest, water supply and open space land which shall be eligible for covenant.
  - (b) Conduct a public hearing prior to the adoption of the proposed plan and give notice in a paper of general circulation in the county, not more than thirty (30) nor less than fourteen (14) days prior to the hearing, and make the proposed plan available for inspection by the general public.
  - (c) Submit a copy of the proposed plan at least fifteen (15) days prior to the public hearing to the following agencies for their review and comment, and shall consider their comments prior to submitting the proposed plan for adoption:
    1. The Northampton County Board of Commissioners
    2. The Northampton County Board of Assessment Appeals
    3. The Northampton County Soil and Water Conservation District
    4. The governing body of each city, township and borough
    5. The planning commission of each city, township and borough
    6. The school board of each school district
2. At least thirty (30) days after adoption of a new plan or amendment, the Joint Planning Commission shall:
  - (a) Publish and distribute copies of the, adopted plan or amendment to the affected school districts, municipal governing bodies and planning commissions; and maintain copies of the plan available for the general public.

- (b) Establish, publish and make available the information to be submitted by applicants seeking to covenant under the Act and as required by Section B of these procedures.

B. Application for Covenant

1. The landowner shall submit a written application on a county form, secured from the Office of Northampton County Commissioners, Court House, to the County Clerk for the county to covenant with the landowner for preservation of land in use, covered by said Act. The landowner shall pay a fee of \_\_\_\_\_ to cover costs of advertisements, court, recording, etc. at time of filing said written application. In the event the application shall not be approved, no part of said fee shall be returned to applicant. Information to be submitted by the applicant is listed in Appendix F.
2. Title to the land may be held in common by more than one person, but two or more tracts owned by different persons will not qualify for covenant agreement hereunder.

C. Review of Application for Covenant

1. Upon receipt of an application for covenant, the Board of County Commissioners shall promptly submit a copy thereof to the Joint Planning Commission, Lehigh-Northampton Counties, and to each municipality and school board in which the land, for which covenant is sought, is located. The said Joint Planning Commission, said municipalities and school boards shall submit a report and their recommendations within thirty (30) days after receipt of a copy of the application. (Applications to covenant under the farm land category should not be submitted to the Joint Planning Commission for review.)
2. The Board of County Commissioners shall evidence their approval or disapproval of an application for covenant by suitable resolution, adopted within sixty (60) days after submission of the application to the County.
3. If an application for covenant is approved, the County Solicitor shall prepare an appropriate agreement for covenant, including the following provisions:
  - (a) The landowner shall agree for himself, his successors and assigns in right, title and interest that the land will remain in designated use for a period of ten (10) years commencing with the date of the covenant.
  - (b) The County shall agree that the real property tax assessed for the said period of ten (10) years will reflect the fair market value of the land as restricted by the covenant.

- {c) The agreement shall be extended for a period of one (1) year unless:
1. At least thirty (30) days prior to the anniversary date of entering the covenant, the landowner notifies the County by certified mail that he wishes terminate the covenant at the expiration of ten (10) years from the anniversary date or any one (1) year extension thereof; or
  2. At least thirty (30) days prior to the anniversary date of entering the covenant, the County notifies the landowner by certified mail that it wishes to terminate the covenant at the expiration of the ten (10) years from the anniversary date or any one (1) year extensions thereof, on the sole ground that the plan designating the land as farm, forest, water supply, or open space land has been amended officially so that the designation is no longer in accordance with the plan.
- (d) In the event the landowner, his heirs, successors or his assigns, while the covenant is in effect, alters the use other than as designated in the covenant, such alteration shall constitute a breach of the covenant; and the landowner at the time of said breach shall pay to the County, as liquidated damages and not as a penalty, the difference between the amount of all real estate taxes levied and assessed against the said land upon said assessment reflected by the fair market value of the land as restricted by the covenant and the amount of all real estate taxes of all taxing districts which would have been levied and assessed against said land upon an assessment determined by the Northampton County Board of Assessment Appeals on the County's request reflecting the fair market value without said restrictive covenants. The said assessment of said Board to be final and unappealable for all years during the period of said covenant agreement, plus compound interest at the rate of five (5) percent per year from the date of entering the covenant to the date of its breach, whichever period is shorter. The date of breach shall be the date of issuance of a building permit or zoning permit for any use not in accordance with the covenant or the disruption of the land surface or vegetation in a manner not in accordance with the covenant, whichever occurs first. Such liquidated damages shall be a lien upon the property, collectible in the manner provided by law for the collection of unpaid real property taxes. (It is the intention of the County to distribute such liquidated damages between the taxing districts in proportion to their millage upon which the same was determined.)

- (e) That judgment against the landowner in the amount of said liquidated damages with interest may be entered by confession, with usual and customary waivers, upon breach by him of said covenant.
4. The County shall petition the Court of Common Pleas for approval of the proposed covenant agreement to be entered into by and between the County and the landowner within thirty (30) days after adoption of its resolution for approval of the application for covenant.
  5. Upon approval of the proposed covenant agreement by the Court of Common Pleas, the County and the landowner shall execute and acknowledge the said agreement within thirty(30)days after Court approval. If the landowner shall fail to execute and acknowledge the said agreement within the said period, it shall be deemed that the landowner has withdrawn his application, unless an extension in writing is granted by the County.
  6. Upon execution and acknowledgment of the covenant agreement, the County shall record a copy thereof in the Office for the Recorder of Deeds in and for the County and shall submit a copy each to the Joint Planning Commission and to the municipality and school board, in which the land, which is the subject of the agreement, is located.
  7. The Board of County Commissioners shall maintain suitable files and records on all applications for covenant action taken thereon including approval, disapproval, renewal and termination, and agreements, entered pursuant to said application.
  8. The Board of County Commissioners may, from time to time, assign such duties, as it may deem appropriate, to the chief assessor, with respect to the procedures herein contained.

APPENDIX F

INFORMATION TO BE SUBMITTED BY LANDOWNER FILING APPLICATION UNDER PROVISIONS OF "PLAN FOR THE IMPLEMENTATION OF PROVISIONS OF ACT 515"

1. Northampton County Tax Parcel No.(s) - (Number noted on Assessment Notice)
2. Deed book and page numbers - OPTIONAL
3. Name of owner(s) for each tax map parcel
4. Use(s) of land
5. Area in acres
6. Designation under which Application is filed:
  - a. Farmland
  - b. Forest Land
  - c. Water Supply Land
  - d. Open Space Land
7. A list of all existing mortgages, judgments, liens, easements and encumbrances - OPTIONAL
8. List of buildings, indicating for each:
  - a. Locate on plan of property (9.a. below)
  - b. Total square feet (Approx.)
  - c. Building coverage (Approx.)
  - d. Use(s)

THE FOLLOWING ITEMS TO BE ATTACHED ONLY IF LESS THAN YOUR ENTIRE PROPERTY IS TO BE COVENANTED IN THE ACT 515 APPLICATION

9. List of attachments (neatly and handdrawn)
  - a. Plan of property to scale showing:
    - 1) All property lines, rights-of-way and easements including names of streets
    - 2) Names of owners and uses of all abutting properties
    - 3) Scale in feet and north arrow
    - 4) Date of drawing
    - 5) Name of owner
    - 6) Location, number designation, use(s), and ground coverage in square feet of all buildings, listed under Item 8, and paved areas, signs, fences, and walls (approximate measurements)
    - 7) Locations, direction of views and key numbers for required photographs - OPTIONAL
    - 8) Lines indicating 100-foot distance from each free standing commercial sign on property(s) proposed to be covenanted
    - 9) Boundaries and acreage and present use(s) of areas designated by landowners as farmland (minimum: 20 acres), forest land (minimum: 25 acres), water supply land (minimum: 10 acres), open space land (minimum: 10 acres). (Acreage excludes land under structures, parking areas and paved areas, and land within 100 feet of any free standing commercial sign located on the same tract)

- 10) In a contiguous area to be designated water supply land, areas having naturally formed slopes of 15% or more, and areas of alluvial soils and high water table as defined by the Soil Survey of Northampton County
  - 11) On tract or tracts of land to be designated open space land, acreage and percentage of land covered by structures, roads and paved areas (maximum: . 3% coverage)
  - 12) Areas to be designated open Space upon resolution by the Northampton County Commissioners
- b. Photographs of each side of all structures and signs indicating appearance at time of application, and signed and dated on reverse side by landowner and keyed to plan of property (9.a.7) - OPTIONAL