Land Preservation
Using Off-site Clustering

New Jersey Conservation Foundation
Land Trust Rally

New Jersey Future
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Development that protects open space and farmland, revitalizes communities, keeps housing affordable, and provides transportation choices.
2007+Loss
If we could go back in time... what planning tools could have been used?

- Large lot zoning
- Clustering
- Noncontiguous clustering
- Transfer of Development Rights (TDR)
Large Lot Zoning

Lot sizes are increased to reduce the amount of development on a parcel.
Contiguous Clustering

Development is concentrated on a portion of the site, and the rest is preserved as open space.

Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)
Municipality designates a zone or multiple parcels that a developer may use to create a single cluster. Sending parcels are permanently preserved.

Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)
A developer could cluster units from multiple parcels onto one parcel, which is developed more intensely.

Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)
A developer could cluster units from one parcel onto another parcel, which would be developed more intensely.

Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)
Transfer of Development Rights

Larger scale. Developers build more densely in the designated growth area, if they purchase development rights from landowners in the preservation area.

Chesterfield Township, NJ., Courtesy Clarke, Caton, Hintz.
Noncontiguous Clustering Basics

- MLUL allows town to create a “planned development” zone on multiple noncontiguous properties.
- Master plan and zoning ordinance may allow development as a single residential cluster:
  - “Sending area” parcel(s) are preserved.
  - “Receiving area” parcel(s) are built at higher densities, according to zoning standards.
- Voluntary: requires a “deal” between the municipality, sending area landowner(s), and receiving area landowner/developer.
Plainsboro example

Noncontiguous cluster helped create 1,025-acre Plainsboro Preserve.

100 acres near the lake were preserved by transferring the allowable density of 30 units to another property.

A single person owned both properties and had an agreement with an eager developer.
Hillsborough example

Noncontiguous clustering used on five parcels for Hillsborough Chase project

- 105 homes under construction by Toll Brothers
- 157 acres on four parcels were permanently preserved and given to the township. Three are leased for farming and one is managed as bird habitat.
Noncontiguous Cluster - Opportunities

✓ Affordable - Preserves land or historic sites with private funds

✓ Effective – More control than contiguous clustering

✓ Simple - Relatively easy and inexpensive to administer

✓ Fair - Provides landowners with another option to use development potential

✓ Promising – given Pinelands experience
Noncontiguous Cluster - Limitations

✓ Voluntary and market-driven – Town may have to serve as a broker for landowners and developer

✓ More complex for developer - may require incentives

✓ Accelerated, higher density growth may generate opposition

✓ Hard to get water/wastewater approvals if sewer not in place

✓ Legal constraints
Proposed MLUL Amendments to Make Noncontiguous Clustering Easier and More Effective

- Allow clustering of both residential and/or non-residential
- Simplify municipal planning obligations by not requiring creation of a “Planned Development”
- Allow for consolidation of sending and receiving lots for tax and stewardship purposes, as in the Pinelands
- Clearly authorize use for historic preservation
- Expand powers while distinguishing clearly from TDR
  - Allow towns to designate “receiving” areas for growth and “sending” areas for preservation
  - Do not allow towns to access TDR tools – allocation of development credits with the intent to create a market for their sale or access to the TDR Bank