Improving Clustering as a Land Preservation Tool

Chris Sturm, Senior Director of State Policy
New Jersey Future
January 4, 2012

NEW JERSEY FUTURE

Smart Growth research, policy and advocacy organization

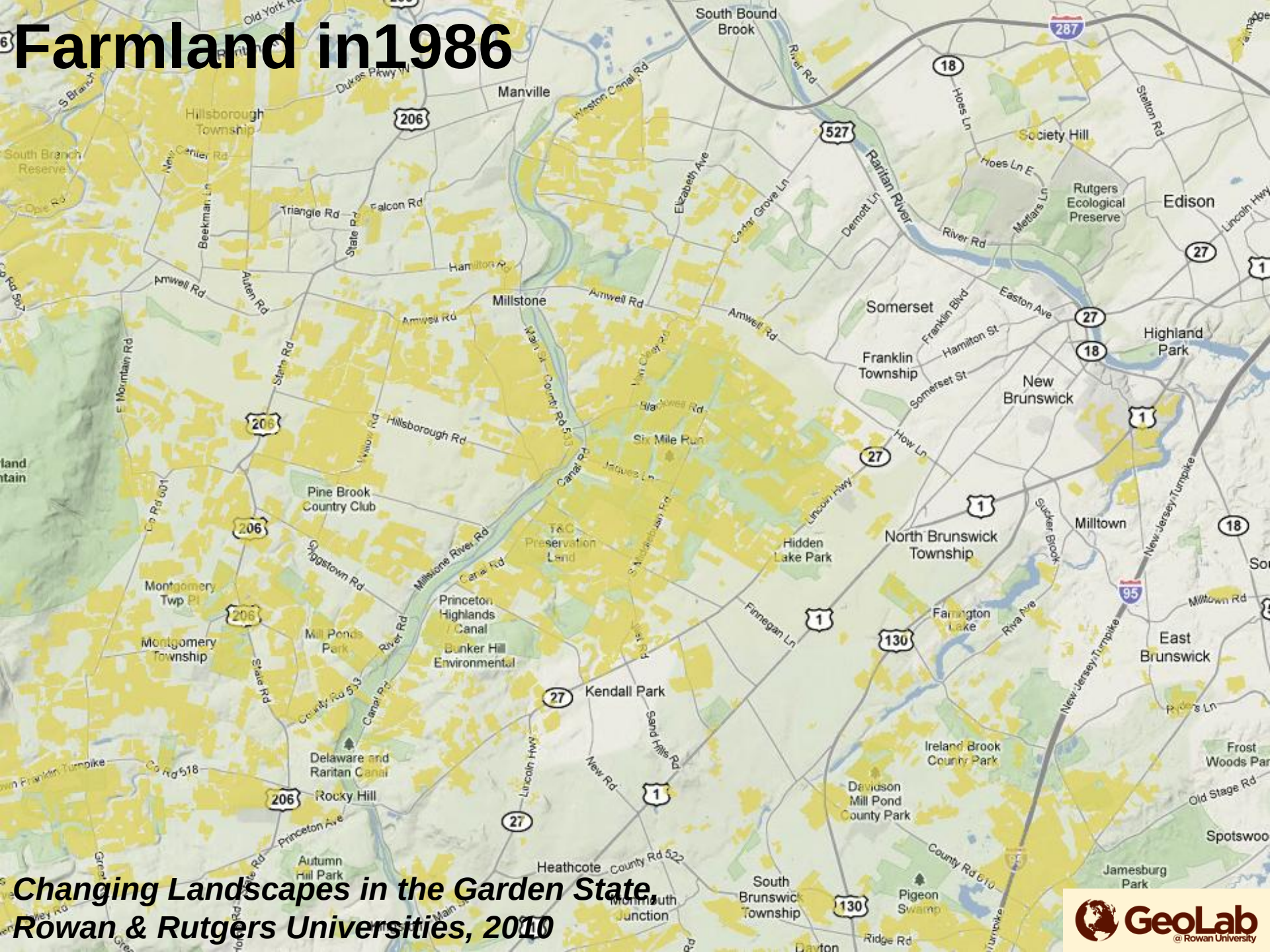
Development that protects open space and farmland, strengthens communities, keeps housing affordable, provides transportation choices and fuels a prosperous economy

Threats to Preserving Farmland and Supporting Agriculture

- State and local governments can't afford to buy all the land that needs protecting
- Haphazard development fragments contiguous farmland, exacerbating conflicts with neighbors

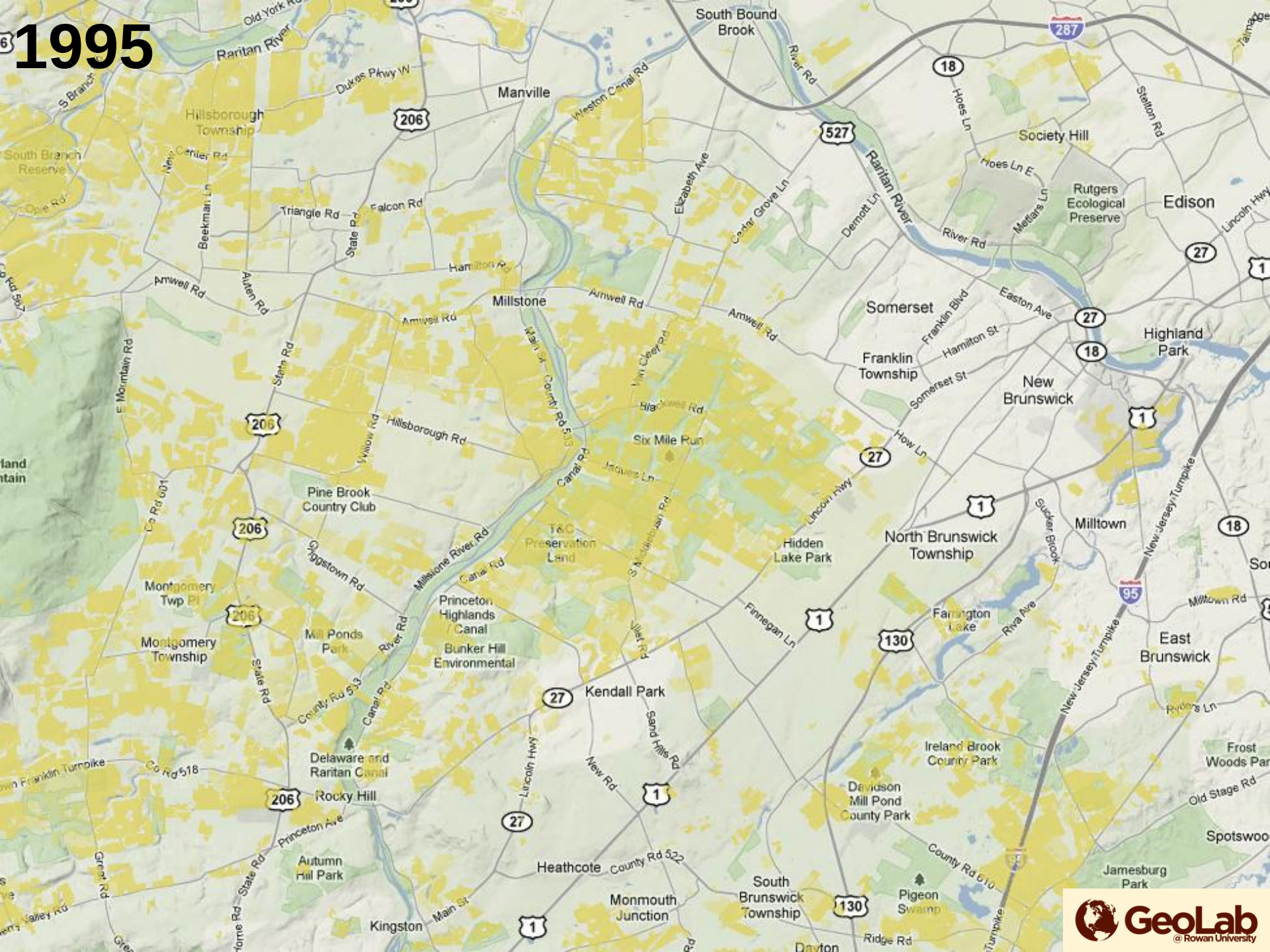
NEW JERSEY FUTURE

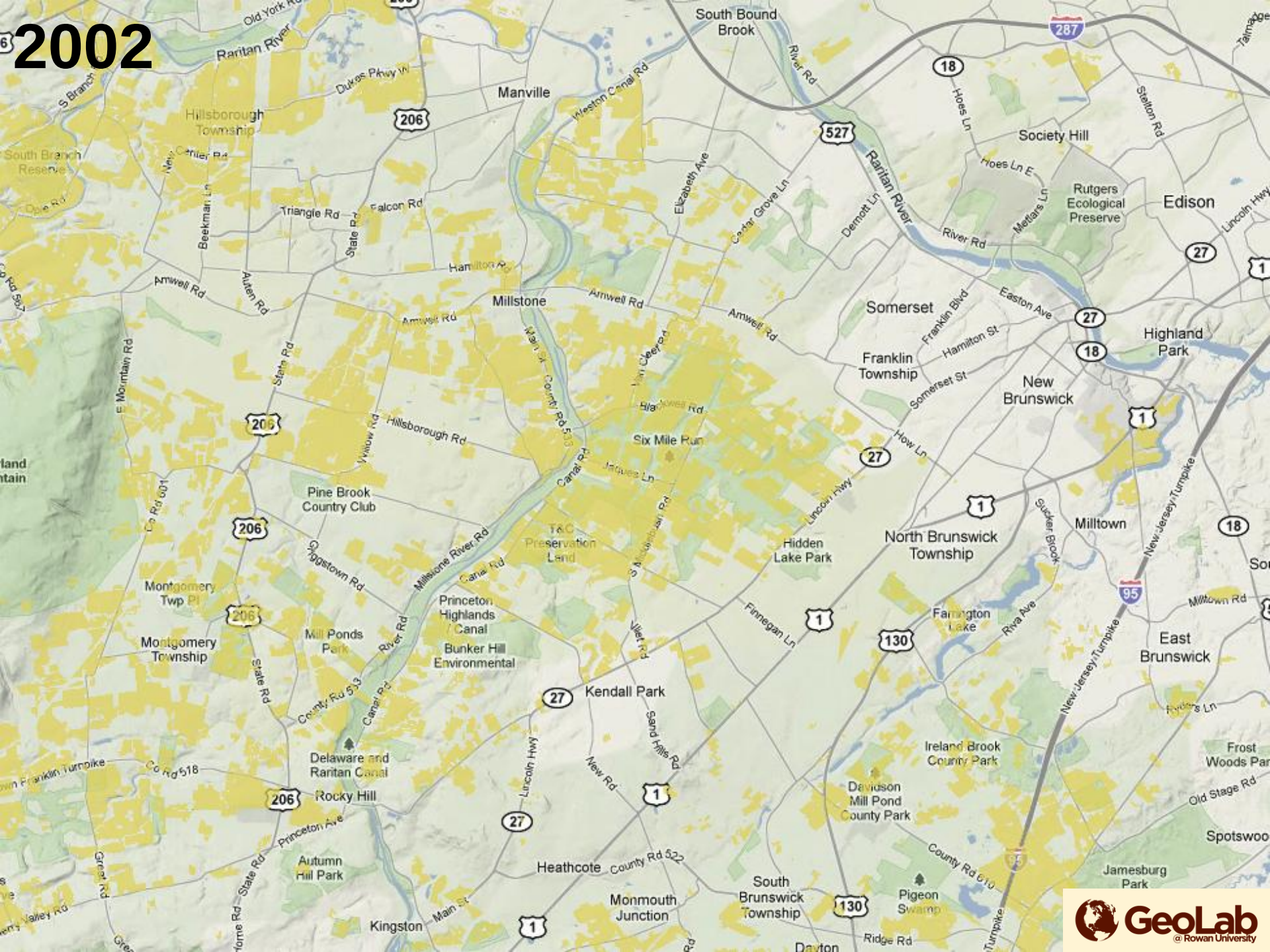
Farmland in1986

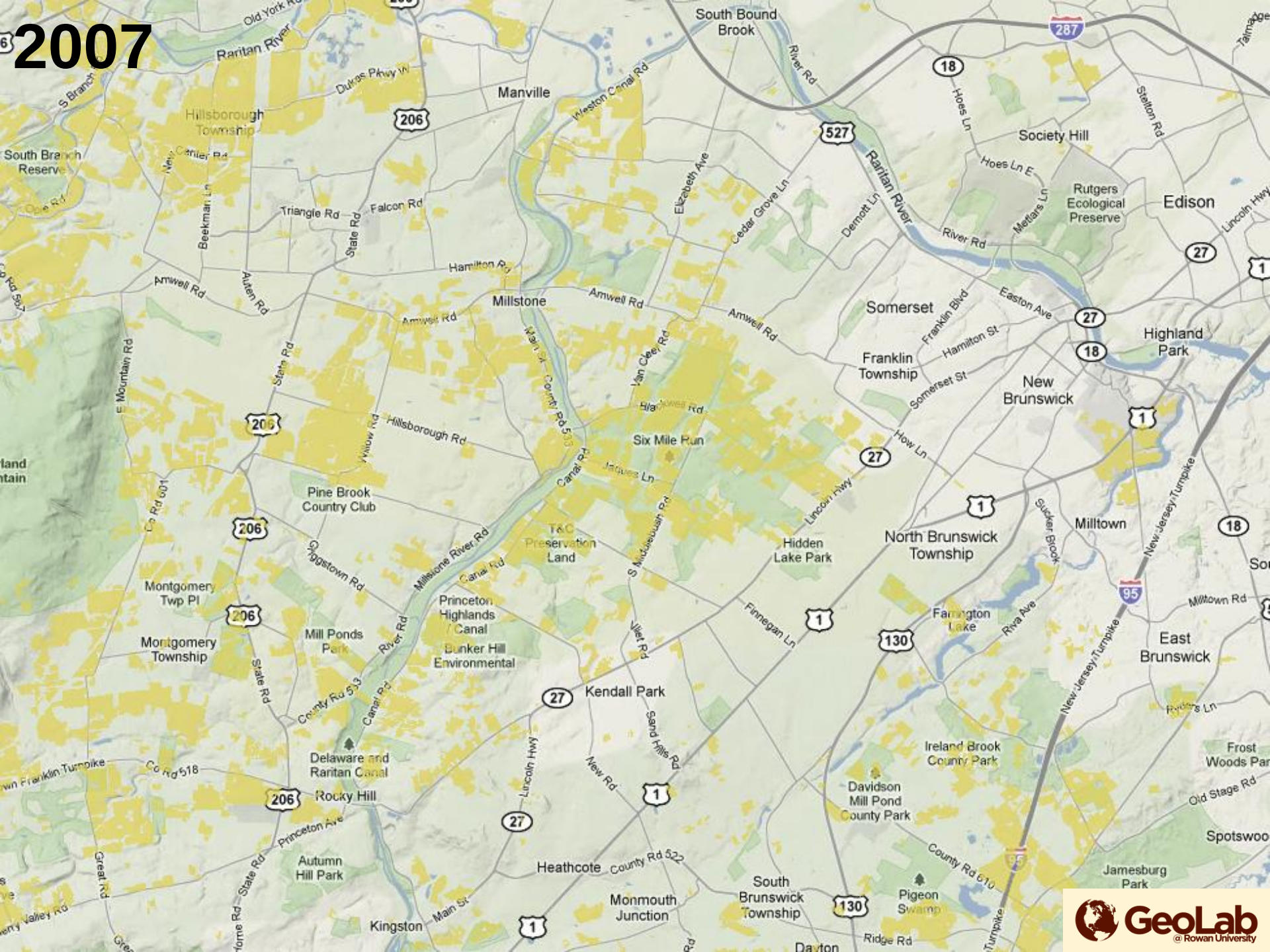


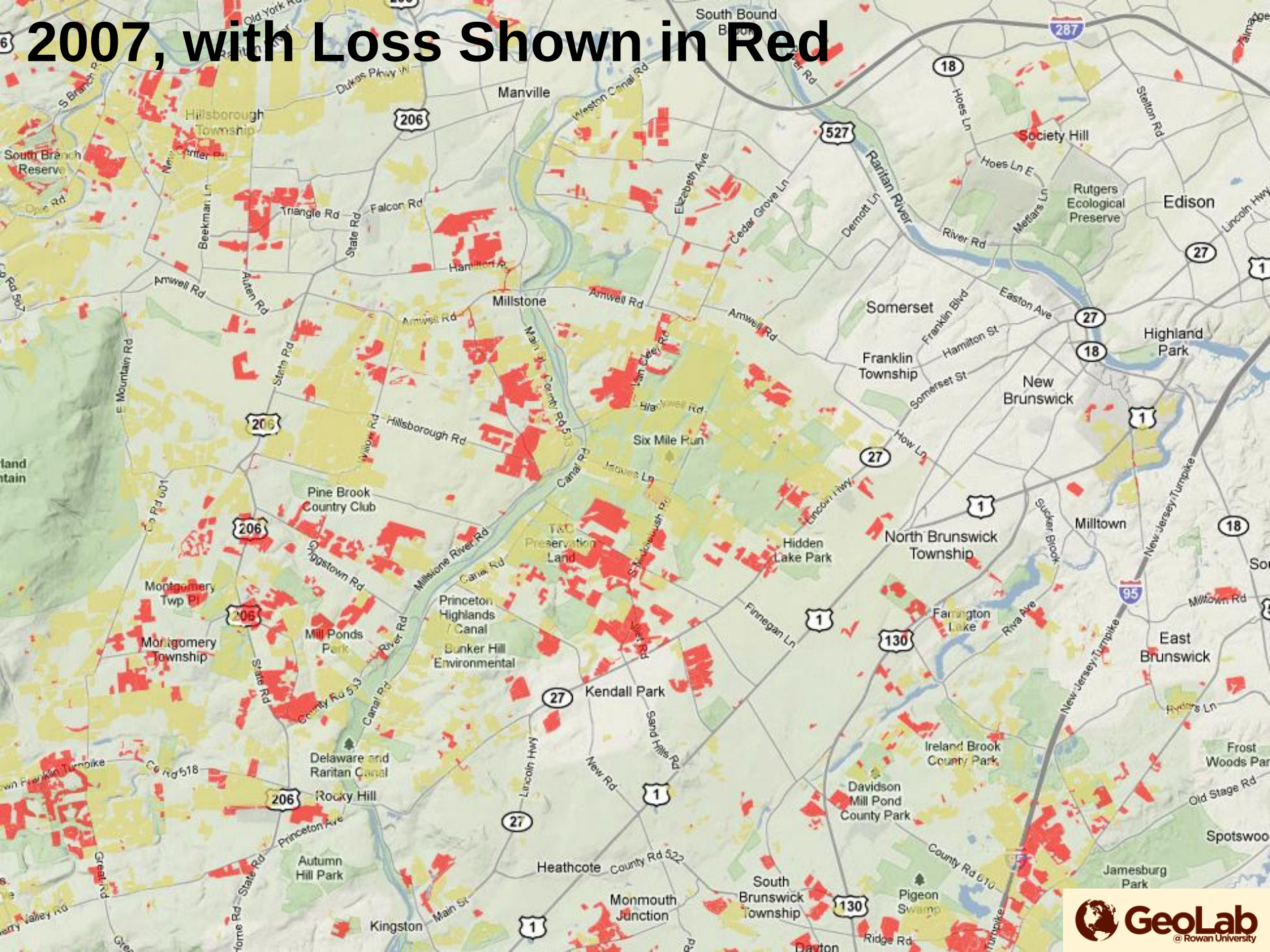
Changing Landscapes in the Garden State, Rowan & Rutgers Universities, 2010

GeoLab @ Rowan University

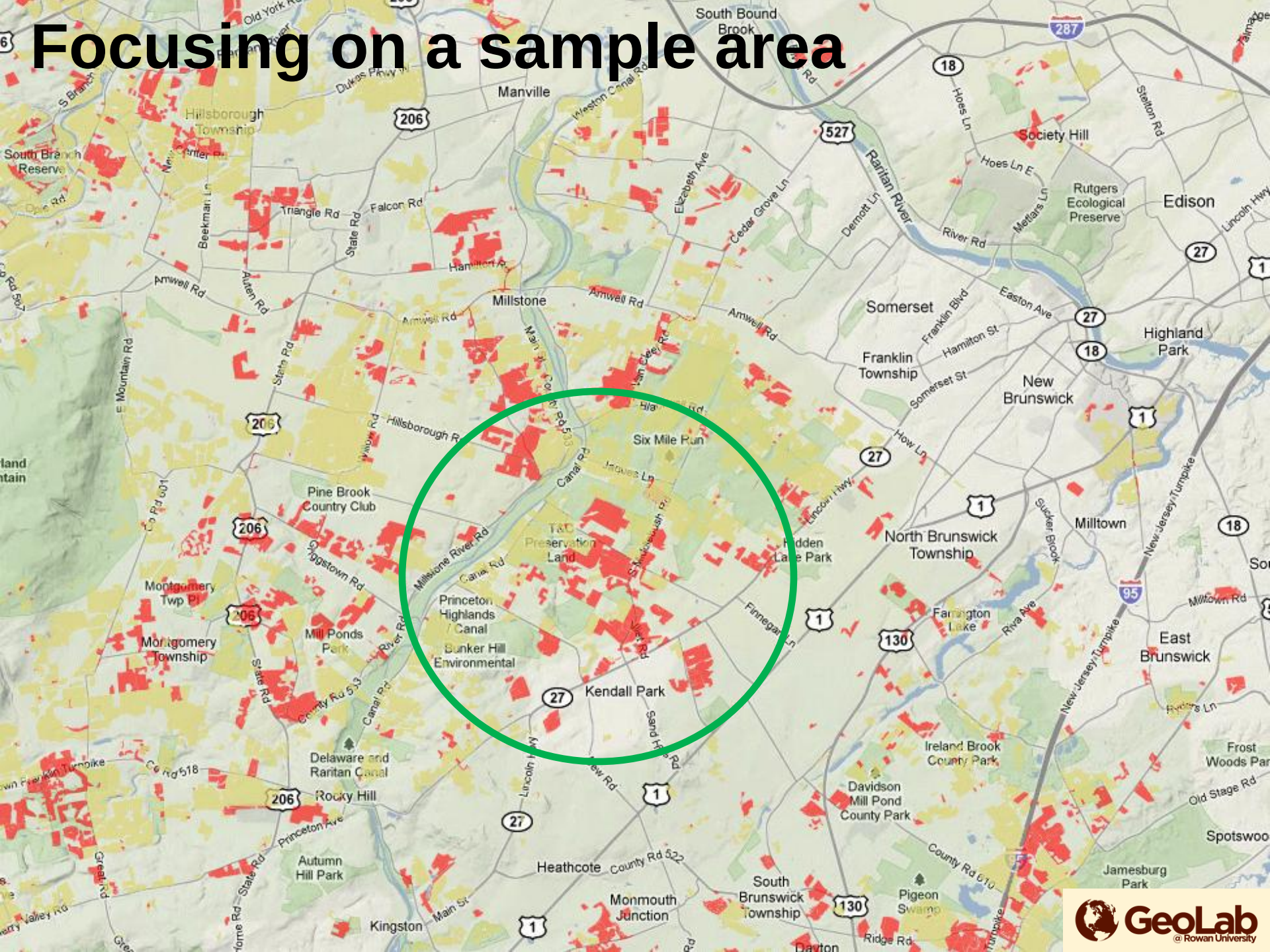

1995
Raritan River
South Bound Brook
Manville
Hillsborough Township
South Branch Reserve
Triangle Rd
Falcon Rd
Millstone
Amwell Rd
Somerset
Franklin Township
New Brunswick
Highland Park
Edison
Society Hill
Rutgers Ecological Preserve
Pine Brook Country Club
Six Mile Run
T&C Preservation Land
Hidden Lake Park
North Brunswick Township
Milltown
East Brunswick
Princeton Highlands Canal
Bunker Hill Environmental
Mill Ponds Park
Montgomery Township
Kendall Park
Delaware and Raritan Canal
Rocky Hill
Autumn Hill Park
Heathcote
Monmouth Junction
South Brunswick Township
Kingston
Ireland Brook County Park
Davidson Mill Pond County Park
Pigeon Swamp
Jamesburg Park
Frost Woods Park
Spotswood
Dayton
Ridge Rd
Old Stage Rd
Millstone River Rd
Canal Rd
Lincoln Hwy
New Jersey Turnpike
Finnegan Ln
Sand Hills Rd
Princeton Ave
Main St
Hoes Ln
Stelton Rd
Elizabeth Ave
Cedar Grove Ln
Demott Ln
Metlars Ln
Easton Ave
Franklin Blvd
Hamilton St
Somerset St
How Ln
Sucker Brook
Riva Ave
Millstone River
Weston Canal Rd
Beekman Ln
Auten Rd
State Rd
Hillsborough Rd
Willow Rd
Van Cleef Rd
Jacques Ln
Oggstown Rd
Finnegan Ln
Dukes Pkwy N
Old York Rd
Co Rd 518
Co Rd 533
Co Rd 601
Co Rd 527
206
27
1
18
130
95
287
527
GeoLab
@ Rowan University


2002
Raritan River
South Bound Brook
Manville
Hillsborough Township
Millstone
Somerset
Franklin Township
New Brunswick
Highland Park
Edison
Society Hill
Rutgers Ecological Preserve
Six Mile Run
Pine Brook Country Club
T&C Preservation Land
Hidden Lake Park
North Brunswick Township
Milltown
East Brunswick
Montgomery Twp
Montgomery Township
Mill Ponds Park
Princeton Highlands Canal
Bunker Hill Environmental
Kendall Park
Delaware and Raritan Canal
Rocky Hill
Autumn Hill Park
Heathcote
Monmouth Junction
South Brunswick Township
Kingston
Ireland Brook County Park
Davidson Mill Pond County Park
Pigeon Swamp
Jamesburg Park
Frost Woods Park
Spotswood
Farrington Lake
Dayton
Millstone River Rd
Canal Rd
River Rd
Amwell Rd
Hamilton St
Somerset St
Easton Ave
Franklin Blvd
Lincoln Hwy
Finnegan Ln
Sand Hills Rd
New Rd
Princeton Ave
Main St
Ridge Rd
Old Stage Rd
Milltown Rd
Riva Ave
Sucker Brook
Hoes Ln
Hoes Ln E
Stelton Rd
Weston Canal Rd
Elizabeth Ave
Cedar Grove Ln
Demott Ln
Metlars Ln
Beekman Ln
Triangle Rd
Falcon Rd
Austen Rd
State Rd
Hillsborough Rd
Willow Rd
Jacques Ln
How Ln
Vliet Rd
Old York Rd
Dukes Pkwy N
New Jersey Turnpike
Garden State Parkway
Co Rd 518
Co Rd 533
Co Rd 601
Co Rd 522
Co Rd 610
Co Rd 527
206
27
1
18
130
95
287
527


2007
Raritan River
South Bound Brook
Manville
Hillsborough Township
South Branch Reserve
Millstone
Somerset
Franklin Township
New Brunswick
Highland Park
Edison
Society Hill
Rutgers Ecological Preserve
Six Mile Run
Pine Brook Country Club
T&C Preservation Land
Hidden Lake Park
North Brunswick Township
Milltown
East Brunswick
Montgomery Twp Pl
Montgomery Township
Mill Ponds Park
Princeton Highlands / Canal
Bunker Hill Environmental
Kendall Park
Delaware and Raritan Canal
Rocky Hill
Autumn Hill Park
Heathcote
Monmouth Junction
South Brunswick Township
Kingston
Ireland Brook County Park
Davidson Mill Pond County Park
Pigeon Swamp
Jamesburg Park
Spotswood
Frost Woods Park
Farrington Lake
Dayton
Hamilton Rd
Amwell Rd
Hillsborough Rd
Canal Rd
River Rd
Lincoln Hwy
Finnegan Ln
Ridge Rd
Princeton Ave
Main St
New Rd
Sand Hills Rd
Milltown Rd
Old Stage Rd
Riva Ave
Sucker Brook
Hoes Ln
Hoes Ln E
Stelton Rd
Demott Ln
Meflars Ln
Elizabeth Ave
Cedar Grove Ln
Weston Canal Rd
Van Cleef Rd
Franklin Blvd
Easton Ave
Hamilton St
Somerset St
How Ln
Jacques Ln
S Middlebush Rd
Millstone River Rd
Viet Rd
Riggstown Rd
Triangle Rd
Falcon Rd
Beekman Ln
Auten Rd
State Rd
E Mountain Rd
Willow Rd
Duhigs Pkwy N
Old York Rd
Co Rd 518
Co Rd 533
Co Rd 522
Co Rd 610
Co Rd 601
Co Rd 527
New Jersey Turnpike
Great Rd
Valley Rd
Turnpike
206
527
287
18
27
1
95
130


2007, with Loss Shown in Red
South Bound
Manville
Hillsborough Township
South Branch Reserve
Society Hill
Rutgers Ecological Preserve
Edison
Raritan River
Millstone
Somerset
Franklin Township
New Brunswick
Highland Park
Six Mile Run
Pine Brook Country Club
T&C Preservation Land
Hidden Lake Park
North Brunswick Township
Milltown
Montgomery Twp Pl
Princeton Highlands / Canal
Mill Ponds Park
Bunker Hill Environmental
Montgomery Township
Kendall Park
East Brunswick
Delaware and Raritan Canal
Rocky Hill
Ireland Brook County Park
Davidson Mill Pond County Park
Autumn Hill Park
Heathcote
Monmouth Junction
South Brunswick Township
Pigeon Swamp
Jamesburg Park
Kingston
Dayton
Ridge Rd
Hoes Ln
Hoes Ln E
Metlars Ln
Stelton Rd
Elizabeth Ave
Cedar Grove Ln
Dennott Ln
River Rd
Lincoln Hwy
Franklin Blvd
Easton Ave
Hamilton St
Somerset St
How Ln
Amwell Rd
Hillsborough Rd
Canal Rd
Millstone River Rd
Finnegan Ln
Sucker Brook
New Jersey Turnpike
Millstone Rd
Riva Ave
Farrington Lake
Triangle Rd
Falcon Rd
Beekman Ln
Auten Rd
State Rd
Main St
Princeton Ave
Sand Hills Rd
New Rd
Old Stage Rd
Spotswood
Frost Woods Park
Ridge Rd
GeoLab @ Rowan University

Focusing on a sample area



GeoLab @ Rowan University

If we could go back in time… what planning tools could have been used?

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

Franklin Township, NJ. Google maps 2011

NEW JERSEY FUTURE

Large Lot Zoning

- Lot sizes are increased to reduce the amount of development on a parcel

Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)

Lot Size Averaging

The number of units stays the same, but the developer can shrink some lots and make others bigger.

Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)

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)

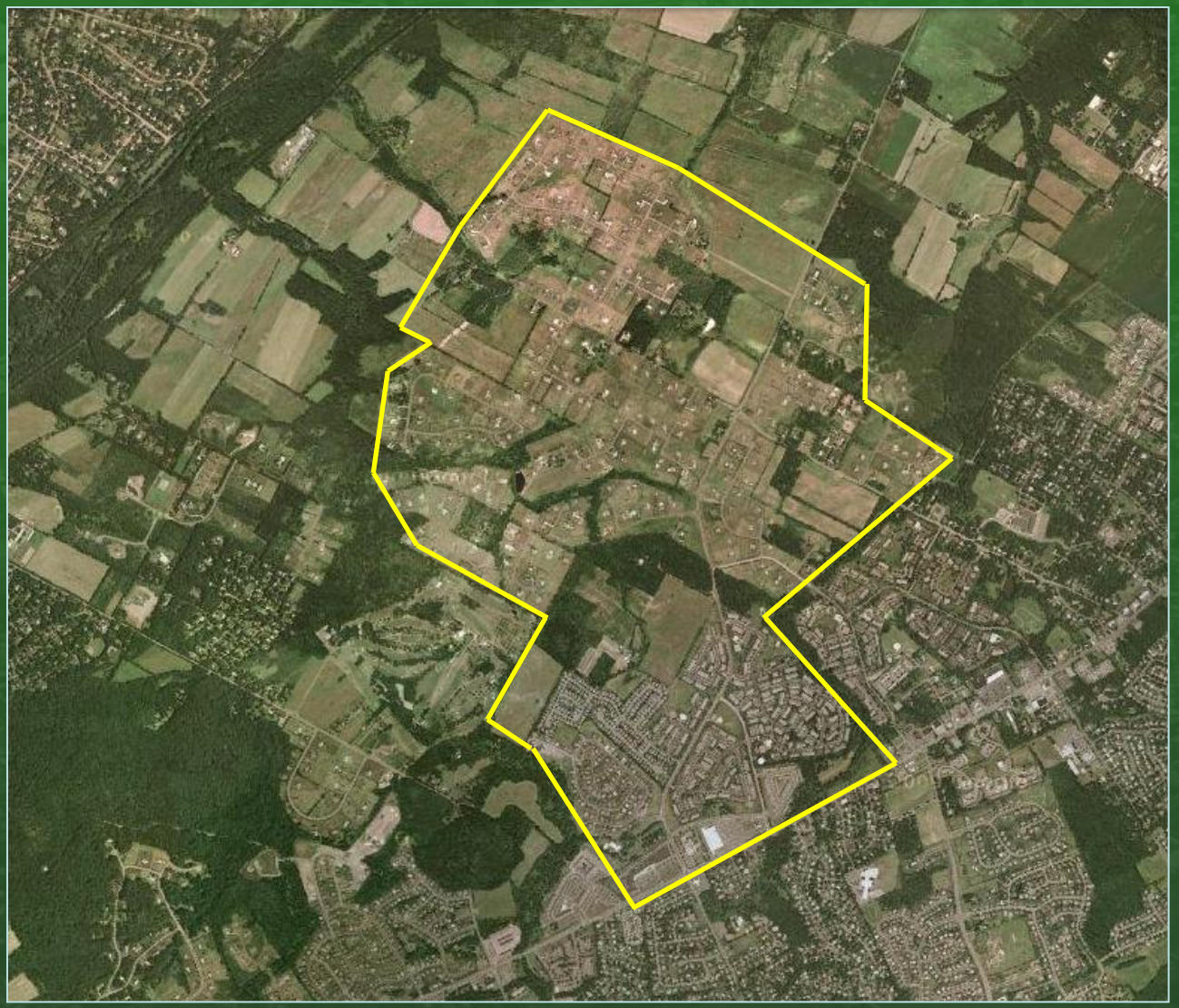
Contiguous Clustering

In this example, development is concentrated on the perimeter of the site, and a small farm is preserved.

Slide courtesy of Clarke Caton Hintz

Noncontiguous Clustering

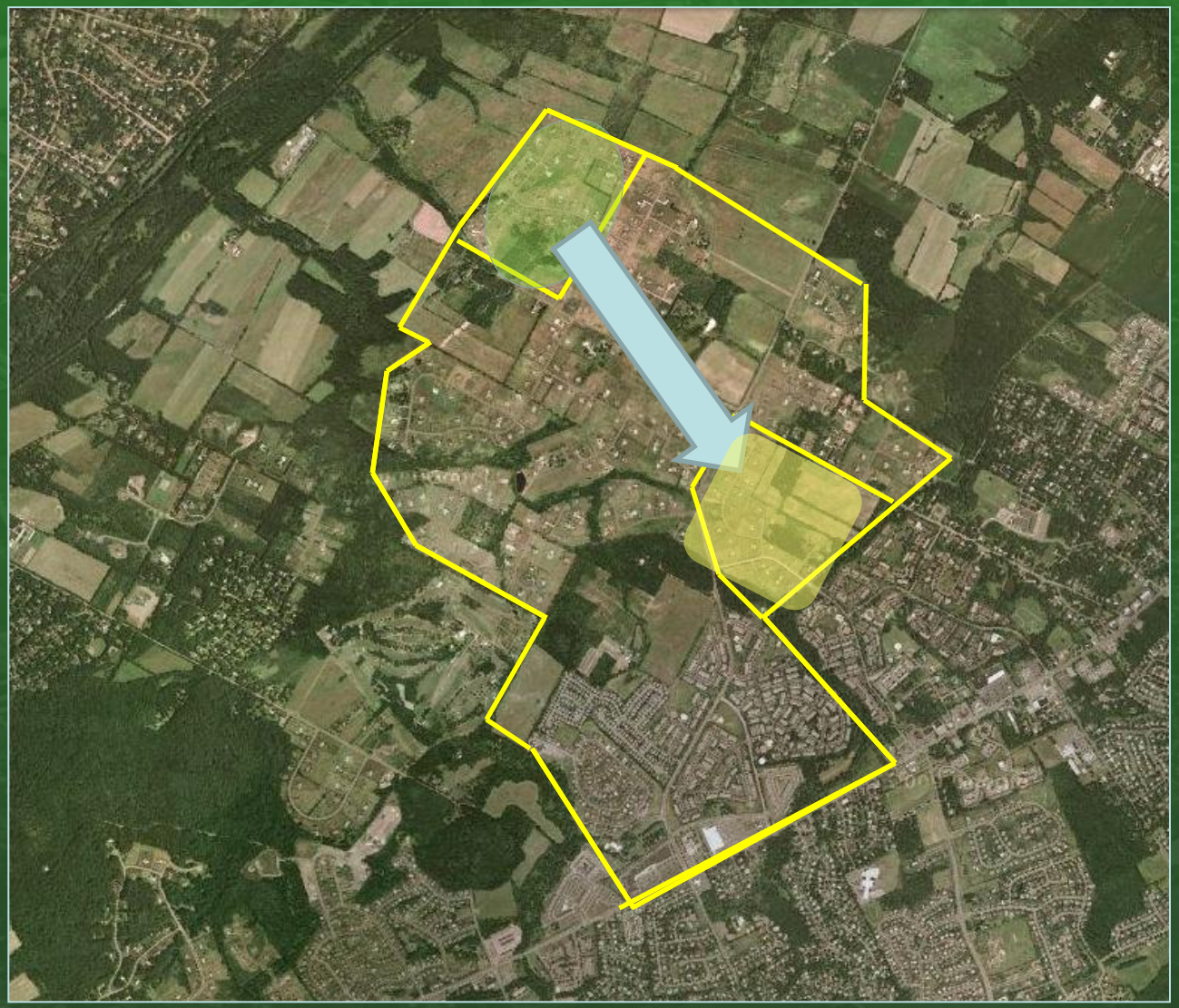
Municipality designates multiple parcels that a developer may choose from and treat as a single cluster even if they are noncontiguous



Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)

Noncontiguous Clustering

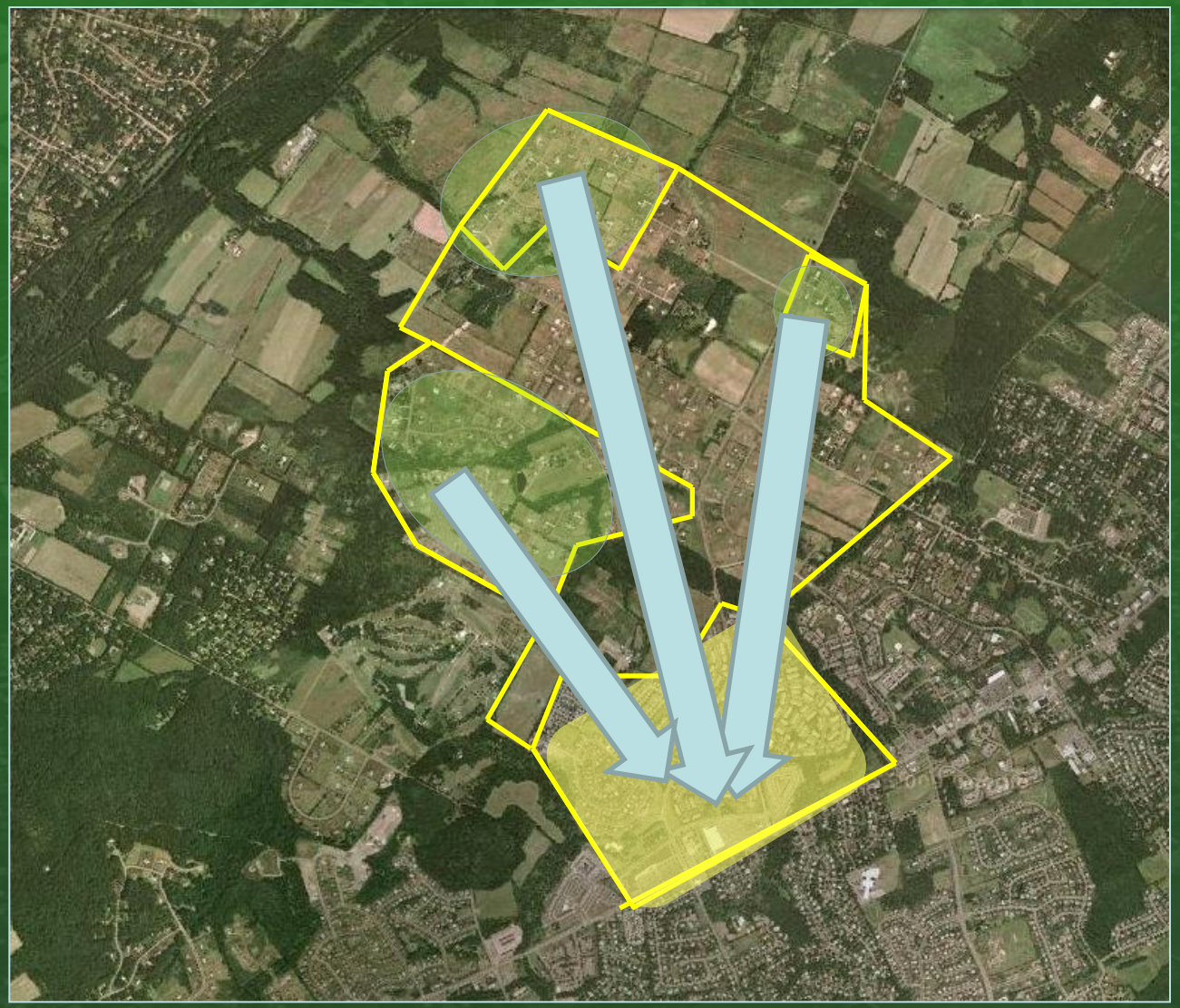
A developer may cluster units from one parcel onto another parcel, which would be developed more intensely.



Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)

Noncontiguous Clustering

A developer may cluster units from multiple parcels onto another parcel, which is developed more intensely.



Franklin Township, NJ., Google maps 2011. (Parcel boundaries are fictitious)

Noncontiguous Clustering Basics

- Authorized by Municipal Land Use Law (MLUL)
- MLUL allows town to create a "planned development" zone on multiple noncontiguous properties that can be developed as a single cluster:
  - "Sending area" parcel(s) are preserved
  - "Receiving area" parcel(s) are developed more intensively to accommodate the extra units
- Voluntary: requires a "deal" between the municipality, sending area landowner(s), and receiving area landowner/developer

NEW JERSEY FUTURE

Plainsboro example

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

100 acres near the lake were preserved.

30 units were built on another property.

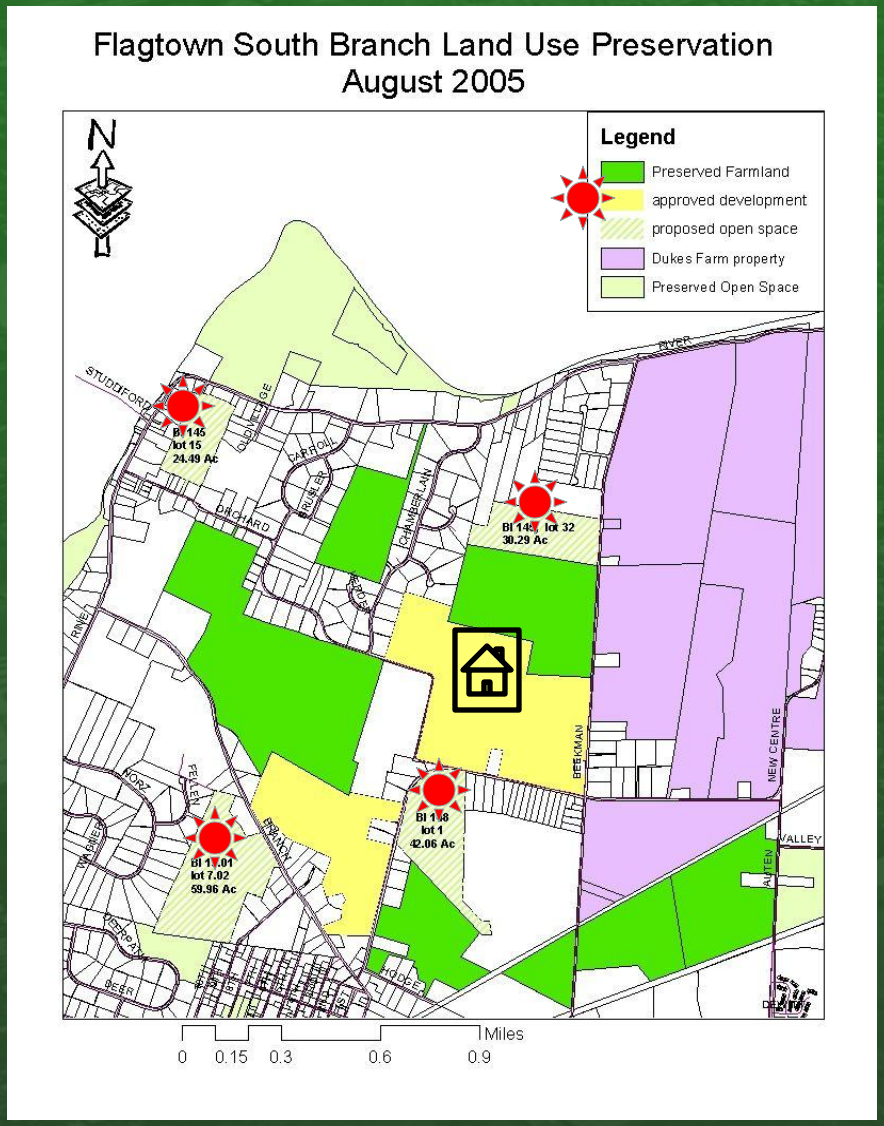
A single person owned both properties and made an agreement with a developer.

Hillsborough example

Noncontiguous clustering used on five parcels for Hillsborough Chase project

105 homes recently constructed by Toll Brothers

157 acres on four parcels were permanently preserved and given to the township.



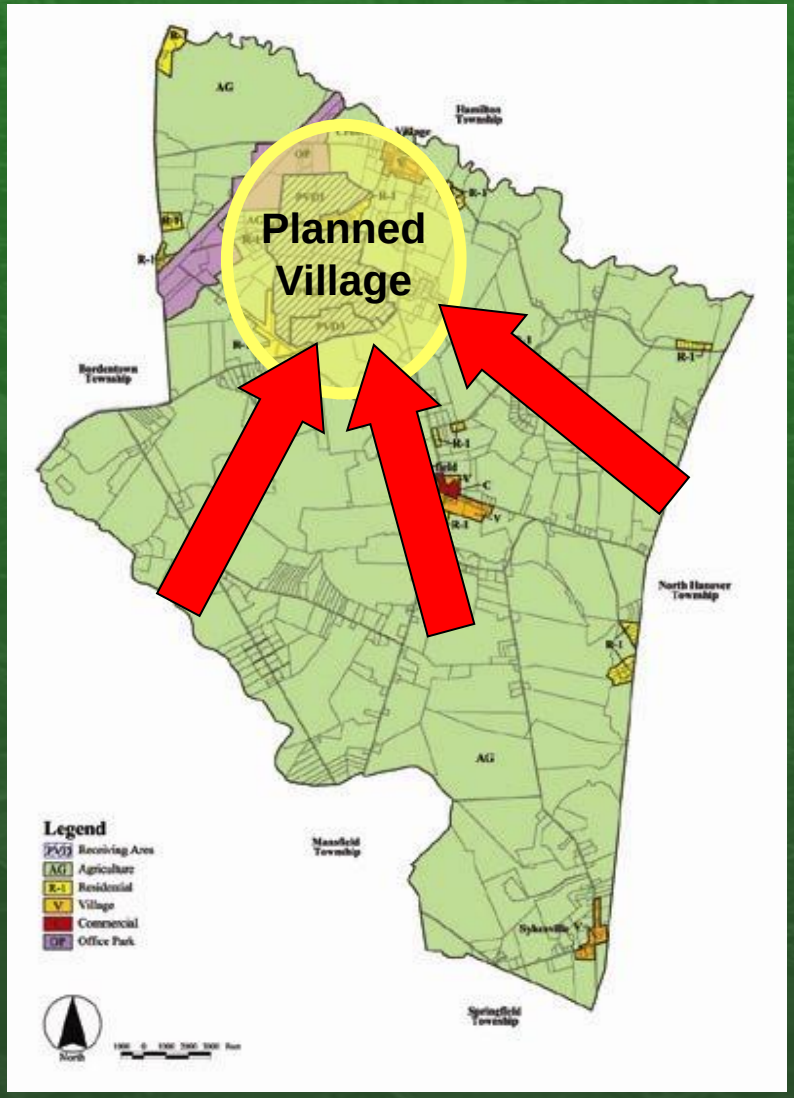
Other New Jersey Examples

- Monroe Township, Middlesex County
- Robbinsville, Mercer County
- North Hanover Township, Burlington County
- Hopewell Township, Mercer County
- Ocean Township, Ocean County
- Middle Township, Cape May County

Transfer of Development Rights

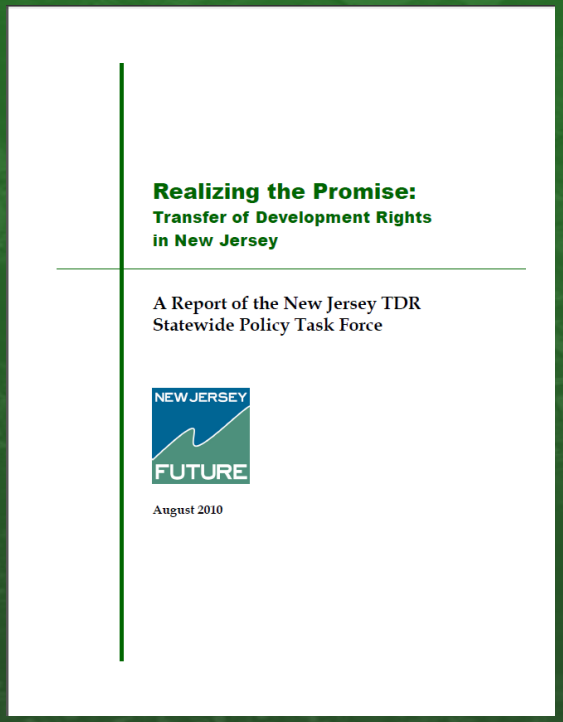
Used on a larger scale

Developers may build more units in the designated growth area, if they purchase development rights from landowners in the preservation area



Chesterfield Township, NJ., Courtesy Clarke, Caton, Hintz.

Comparing the Tools



Large lot zoning

Lot size averaging

Clustering

Noncontiguous clustering

TDR

- *Affordable: preserves land with private funds*
- *Simple: Relatively easy to use*
- *Fair: Protects landowner equity*
- *Needs improved statutory authority*

Proposed MLUL Amendments -- for All Cluster Tools

.

- ✓ Permissive
- ✓ Authorizes establishment of *maximum* lot sizes, FAR
- ✓ Authorizes clustering of residential and/or non-residential uses
- ✓ Authorizes clustering to preserve not only open space, but also farmland and historic sites
- ✓ Requires permanent preservation through easement
- ✓ Explicitly authorizes mandatory contiguous clustering (already in use)
- ✓ Explicitly authorizes lot-size averaging (already in use)

NEW JERSEY FUTURE

Noncontiguous Cluster – Special Issues

- More powerful, larger-scale tool
- Voluntary and market-driven – Town may have to serve as a broker for landowners and developer
- Incentives, such as bonus units and infrastructure, may be helpful.
- Legal constraints:
  - Courts have thrown out noncontiguous ordinances if they “seem like” TDR

NEW JERSEY FUTURE

Proposed MLUL Amendments – for Noncontiguous Clustering

.

- ✓ Keeps noncontiguous voluntary on part of landowners
- ✓ Simplifies municipal planning obligations:
  - ✓ Doesn't require creation of a "Planned Development"
- ✓ Expands powers while distinguishing from TDR
  - ✓ Authorizes towns to establish criteria for -- or designate -- areas for growth and areas for preservation
  - ✓ Does not allow towns to access TDR provisions
- ✓ Allows same or greater development potential than provided by underlying zoning
  - ✓ Can be increased to maintain equity or to create an incentive for developers to participate

NEW JERSEY FUTURE

Encouraging More "Livable Places and Open Spaces"

.

The proposed MLUL amendments should lead to greater use of clustering:

- ✓ Clarifies municipal authority for existing practices
- ✓ Clarifies when noncontiguous clustering may be used, without having to meet the requirements for TDR
- ✓ Provides towns greater ability to control where and how growth and preservation would occur
- ✓ Gives property owners another option for developing their property, one that may better meet market demand.
- ✓ Applicable in rural, suburban and urban settings

NEW JERSEY FUTURE

www.njfuture.org

Chris Sturm

609-393-0008, x114

csturm@njfuture.org

NEW JERSEY FUTURE