

Landowner Name(s) _____ Address _____

Block _____, Lot _____ – _____ Township _____ County _____ SADC ID# _____

Exceptions and Housing Opportunities

Exceptions

The Deed of Easement is the legal document that sets forth the restrictions that will apply to your farm once it is preserved. At time of application, you may want to request that a certain area(s) be excepted from Deed of Easement restrictions. If your request for an exception is approved, you will not be paid for the development rights to that area of land. However, an exception offers you some flexibility in the future use of that area. For example, you may want to consider requesting an exception:

- around an existing house, barns and other agricultural infrastructure. This would allow expansion or improvements of these structures for nonagricultural uses in the future;
- to reserve a designated place for a future housing opportunity, perhaps for a son or daughter;
- around an existing or planned nonagricultural use, such as a business. If you currently have a nonagricultural use on your land that you would like to continue, you have two options:
 - You can request that it be recognized as a pre-existing nonagricultural use in the Deed of Easement at time of application. This would give you the right to continue the nonagricultural use once the farm has been preserved. However, you will not be able to change or expand the use in any way (e.g., enlarge the footprint, increase frequency of the use or erect new structures). Once the nonagricultural use ceases, your right to that use is extinguished, meaning you can never resume it.
 - You can request an exception around the nonagricultural use, so it will not be subject to the above Deed of Easement requirements and you will have more flexibility in continuing that use.

Most exception areas are created for residential opportunities – either to reserve a place to build a new house or to except out the area around an existing house. Careful attention must be given to the location of exceptions because they cannot be moved once the farm has been preserved. Therefore, if you are requesting an exception for a future housing opportunity, you are strongly encouraged to thoroughly explore the feasibility of that and all relevant factors prior to preservation (e.g., percolation, wells, road access, wetlands and wetlands buffers).

Exceptions can either be severable – meaning they can be subdivided and sold separately from the farm (as long as local subdivision requirements are met) – or non-severable – meaning they cannot be subdivided and sold separately. Severable exceptions generally are taken around areas/activities that likely will not have any relationship to the agricultural operation in the future.

You will not be paid for the development rights to land in exception areas. Further, appraisals will consider the impact of exceptions on the value of the preserved farm, which could negatively impact development easement value.

Requests for exceptions may be denied if the number or size of the exception areas is unreasonable, such that there would be a negative impact on the continued viability of the farming operation.

Residual Dwelling Site Opportunity, or RDSO

An RDSO is the potential opportunity for the limited future construction of a residential unit for agricultural purposes. There are strict rules regarding who may live in such a residence. At least one person living in the house must be regularly engaged in common farmsite activities on the premises. There are limited provisions for that farmer-occupant to continue living in the house in the event he or she retires or becomes disabled, and for his or her spouse, domestic partner or children to continue living in the house in the event the farmer-occupant dies.

RDSOs are allocated to the farm at the time of application, subject to County Agriculture Development Board (CADB) approval, with a limit of one RDSO per 100 acres assuming there are no other residential opportunities associated with the premises. You do not need to designate the area for the future residence until you are ready to “exercise the RDSO” – meaning construct the residential unit. Before you exercise the RDSO, you will need to get approval from the holder of the development easement to your farm, i.e., the CADB, State Agriculture Development Committee (SADC) or nonprofit organization. The purpose of this review is to ensure the construction and use of the residential unit is for agricultural purposes and that its location minimizes any adverse impact on the agricultural operation.

You must make decisions about exceptions and RDSOs at the time of application, prior to appraisals being conducted. If you change your mind during the preservation process, this could result in invalidation of appraisals, re-appraisals and/or delays in processing your application.

ACKNOWLEDGEMENT OF RECEIPT

By signing below, I acknowledge that I have read this guidance document and understand my options regarding exceptions and housing opportunities.

Print Name

Print Name

Signature

Signature

Date

Date

I understand my options and decline the opportunity to take an exception(s).

Signature

Signature