MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
RESOLUTION 2014-06
REQUEST FOR A SITE-SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE
MATTHEW JOHNSTON
CHERRY VALLEY FARM
WASHINGTON TOWNSHIP, MORRIS COUNTY, NEW JERSEY

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq. and the State Agriculture Development Committee's ("SADC") Right to Farm Rules, N.J.A.C. 2:76-2.3, et seq., a commercial farm owner or operator may make a request to the County Agriculture Development Board to determine if his or her operation constitutes a generally accepted agricultural operation or practice; and

WHEREAS, on March 19, 2014, the Morris County Agriculture Development Board ("Morris CADB") received a written request from Mr. Matthew Johnston for a site-specific agricultural management practice ("SSAMP") for his operation, Cherry Valley Farm, Block 39, Lots 9 and 11 and Block 34, Lot 8, located in the Township of Washington (A-1); and

WHEREAS, Mr. Johnston requested the SSAMP for the construction of a pole barn on Block 39, Lot 11; and

WHEREAS, on March 25, 2014, pursuant to N.J.A.C. 2:76-2.3(b), the Morris CADB formally notified the SADC and the Township of Washington of Mr. Johnston's application (B-1); and

WHEREAS, on April 1, 2014, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Johnston's application (B-2); and

WHEREAS, on April 3, 2014, W. Randall Bush, Esq. forwarded the Staff Report to Mr. Johnston (B-3); and

WHEREAS, on April 3, 2014, Mr. Johnston submitted a letter brief to the Morris CADB (A-2); and

WHEREAS, the Morris CADB considered Mr. Johnston's application during the Morris CADB's April 10, 2014 meeting with Mr. Johnston present; and

WHEREAS, during the April 10, 2014 meeting, the Morris CADB reviewed exhibits A-1, A-2, and B-1 through B-6, as well as a presentation by Mr. Johnston; and

INDEX OF EXHIBITS

Exhibits from the Applicant Marked at Morris CADB's April 10, 2014 Meeting:

March 19, 2014 Request for a SSAMP (with attachments).....A-1

April 3, 2014 letter brief from Matthew Johnston to the Morris CADB A-2

Exhibits from the Morris CADB:

March 25, 2014 letter from Katherine Coyle to Susan Payne.....B-1

April 1, 2013 Staff Report drafted by Katherine Coyle (without exhibits).....B-2

April 3, 2014, W. Randall Bush, Esq. letter to Matthew Johnston.....B-3

February 23, 2012 SADC Final Decision in the case of Tibor Sipos and Cecily Gentles vs. Hunterdon County Agriculture Development Board.....B-4

April 1, 2014 Morris County Tax Board – Property Information for Tax Year 2014 .....B-5

Aerial photograph of Cherry Valley Farm B-6

NOW THEREFORE BE IT RESOLVED, after having considered the presentation submitted by Mr. Johnston on April 10, 2014 and exhibits A-1, A-2, and B-1 through B-6, the Morris CADB makes the following determinations:

1. Pursuant to N.J.A.C. 2:76-2.3(c), upon the receipt of a request for a SSAMP, the Morris CADB must determine whether the agricultural operation is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.

2. Pursuant to N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, "commercial farm" means (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth $2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or (2) a farm management unit less than five acres, producing agricultural or horticultural products worth $50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

3. Pursuant to N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, "farm management unit" means a parcel or parcels of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise; and

4. Mr. Johnston is the owner and operator of Cherry Valley Farm. The operation consists of 3 parcels located in Washington Township and totals 7.72 acres.

5. Because Mr. Johnston's farm management unit consists of more than 5 acres, in order to meet the Right to Farm Act's definition of a "commercial farm," it must produce agricultural or

horticultural products worth $2,500 or more annually, and satisfy the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).

The SADC's February 23, 2012 final decision in the case of Tibor Sipos and Cecily Gentles vs. the Hunterdon CADB (OAL DKT. NO.: ADC 5173-11; AGENCY REF. NO.: SADC #1272) (B-4) provided a clarification regarding the Right to Farm Act's ("RTFA") eligibility requirements for farm management units consisting of more than 5 acres. Pursuant to the SADC's decision, a farm management unit, which consists of more than 5 acres must meet the following requirements in order to qualify for the protections of the RTFA as a commercial farm:

a) the farm management unit, as a whole, must produce at least $2,500 of agricultural or horticultural products per year; and

b) each individual parcel must comply with all Farmland Assessment Act ("FAA") requirements (land is not less than 5 acres, is actively devoted to agricultural or horticultural use, and has been so devoted for at least 2 successive years immediately preceding the tax year in question).

The SADC stated that: "each individual parcel within the 5 or more acre farm management unit cannot qualify for RTFA protection as a commercial farm unless each individual parcel itself is FAA-eligible."

6. According to Exhibit A-1 and data obtained from the Morris County Tax Board (B-5), Block 39, Lot 9 and Block 34, Lot 8 are Farmland Assessed.

7. The following parcel within Mr. Johnston's farm management unit does not meet the eligibility requirements of the FAA because it is less than 5 acres:

- Block 39, Lot 11

Data obtained from the Morris County Tax Board confirms that Block 39, Lot 11 is not Farmland Assessed (B-5).

On March 25, 2014, during a telephone conversation with staff, Paula DeBona, Esq., Washington Township Municipal Attorney, confirmed that Block 39, Lot 11 is not Farmland Assessed.

BE IT FURTHER RESOLVED, based on the foregoing determinations, the Morris CADB finds that Block 39, Lot 11 does not meet the eligibility requirements of the FAA, and is therefore ineligible for the protections of the RTFA.

BE IT FURTHER RESOLVED, that since Block 39, Lot 11 does not meet the eligibility criteria of the RTFA and is not entitled to the protection of the RTFA, the Morris CADB lacks jurisdiction over activities occurring on said lot. The Morris CADB is unable to pursue Mr. Johnston's application for a SSAMP. All activities occurring on Block 39, Lot 11 are outside the purview of the Morris CADB

and remain under the jurisdiction of applicable municipal, state or federal agencies.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-2.3(g), within 30 days of its adoption, copies of this resolution will be forwarded to the following individuals and agencies:

Matthew Johnston
State Agriculture Development Committee
Township of Washington
Morris County Board of Chosen Freeholders

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-2.3(m), any person aggrieved by this resolution may appeal the resolution to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from receipt of this resolution.

1. The decision of the SADC shall be considered a final administrative agency decision.

2. If the Morris CADB's resolution is not appealed within 45 days, the resolution is binding.

Gregory Keller, Chairman
Morris CADB

Date 5-8-14

	Yes	No	Abstain	Absent
Ms. Ashley Myers			✓	
Mr. Davis	✓			
Ms. Davis	✓			
Mr. Desiderio	✓			
Mr. Keller	✓			
Mr. Ort	✓			
Mr. Wightman	✓			

I hereby certify the above to be a true copy of a resolution adopted by the Morris County Agriculture Development Board at a meeting held on May 8, 2014.

Attorney at Law State of New Jersey