MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
RESOLUTION 2014-20
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's") 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 April 25, 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, Lot 9, and Block 34, Lot 8 located in the Township of Washington (F-1 through F-5); and

WHEREAS, Mr. Johnston requested the SSAMP for the construction of a pole barn on Block 39, Lot 9; and

WHEREAS, on April 28, 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 May 5, 2014, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Johnston's application (B-2); and

WHEREAS, the Morris CADB considered Mr. Johnston's application during the Morris CADB's May 8, 2014 meeting with Elizabeth Bancroft, Esq. attending on behalf of Mr. Johnston; and

WHEREAS, during the May 8, 2014 meeting, the Morris CADB reviewed exhibits F-1 through F-5, and B-1 through B-3, as well as a presentation by Elizabeth Bancroft, Esq.; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(c), upon the receipt of a request for a SSAMP, the Morris CADB shall determine commercial farm eligibility and/or determine whether the operation or practice is included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9; and

Commercial Farm Eligibility:

WHEREAS, 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.); and

WHEREAS, 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.); and

WHEREAS, according to Exhibits F-1, F-2, F-3 and F-4, Cherry Valley Farm produced more than $2,500 worth of agricultural products in 2013, 2012, 2011 and 2010; and

WHEREAS, according to Exhibit F-5 and data obtained from the Morris County Tax Board (B-3), Block 39, Lot 9 and Block 34, Lot 8 are Farmland Assessed; and

WHEREAS, during the May 8, 2014 meeting, the Morris CADB determined that Cherry Valley Farm is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

Agricultural Activity:

WHEREAS, according to Exhibits F-1 and F-2, Cherry Valley Farm produces fruits, vegetables, eggs and chickens; and

WHEREAS, Mr. Matthew Johnston submitted an application for a SSAMP for the construction of a pole barn on Block 39, Lot 9; and

WHEREAS, pursuant to N.J.S.A. 4:1C-9, the owner or operator of a commercial farm may:

> "Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System."
>
> "Process and package the agricultural output of the commercial farm"; and

WHEREAS, during the May 8, 2014 meeting, the Morris CADB determined that the production, processing and packaging of fruits, vegetables, eggs and chickens, as well as the construction of a pole barn to be utilized for the agricultural activities, are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(h), "if the board determines that the farm operation is a commercial farm pursuant to N.J.S.A. 4:1C-3 and that the operation or practice is included in any of the activities permitted by N.J.S.A. 4:1C-9, then the board and/or board staff may request that the commercial farm owner or operator provide information using a checklist adopted by the board"; and

WHEREAS, during the May 8, 2014 meeting, the Morris CADB directed staff to develop a SSAMP Review Checklist that would enumerate the data and materials necessary for the Morris CADB to make an informed decision concerning Mr. Johnston's application; and

WHEREAS, during the June 12, 2014 meeting, the Morris CADB adopted the SSAMP Review Checklist (B-4); and

WHEREAS, on June 17, W. Randall Bush, Esq. forwarded to Mr. Johnston the SSAMP Review Checklist, a legal synopsis of the SSAMP process, and the Right to Farm rules (B-5); and

WHEREAS, on July 8, 2014, the Morris CADB received Mr. Johnston's submittal of SSAMP Checklist items, including requests for waivers of data/materials (F-6); and

WHEREAS, on July 10, 2014, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Johnston's application (B-6); and

WHEREAS, during the July 10, 2014 meeting, the Morris CADB reviewed exhibits B-5, B-6, and F-6, as well as a presentation by Mr. Johnston; and

WHEREAS, during the July 10, 2014 meeting, the Morris CADB granted Mr. Johnston's request for waivers and determined that Mr. Johnston's application and the checklist items were complete; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(i), "if the board determines that the application and checklist items are complete, then the board shall hold a Public Hearing in accordance with the hearing procedures set forth in N.J.A.C. 2:76-2.8"; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.8, written notice of the SSAMP request and the Public Hearing shall be given by the commercial farm, at its sole expense, via certified mail, return receipt requested, and/or by personal service, to individuals and agencies specified at N.J.A.C. 2:76-2.8(c); and

WHEREAS, pursuant to N.J.A.C. 2:76-2.8(c)iii, "the hearing shall not begin until satisfactory proof of notice to all appropriate individuals has been provided by the commercial farm"; and

WHEREAS, on July 29, 2014 and August 14, 2014, Mr. Johnston provided proof of notice of the SSAMP request and the Public Hearing (F-7); and

WHEREAS, on August 14, 2014, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Johnston's application (B-7); and

WHEREAS, during the August 14, 2014 meeting, the Morris CADB reviewed exhibits F-1 through F-7 and B-1 through B-7, as well as a presentation by Mr. Johnston; and

WHEREAS, no public comments were submitted to the Morris CADB prior to or during the Public Hearing; and

INDEX OF EXHIBITS

Exhibits from the Applicant:

April 21, 2014 Matthew Johnston letter to the Morris CADB F-1

April 21, 2014 Matthew Johnston application for
a Site-Specific Agricultural Management Practice F-2

Schedule F of Form 1040 for tax years 2010 through 2012 ..... F-3

May 2, 2014 Matthew Johnston email to the Morris CADB (including 2013 income proofs) F-4

Applications for Farmland Assessment for Block 34, Lot 8 and Block 39, Lot 9
for tax years 2009 through 2014 ..... F-5

July 2, 2014 Matthew Johnston letter to the Morris CADB (with attachments A through F) F-6

Public Hearing Notice, Proof of Service/Publication F-7

Exhibits from the Morris CADB:

April 28, 2014 letter from Katherine Coyle to Susan Payne B-1

May 5, 2014 Staff Report drafted by Katherine Coyle (without exhibits) B-2

Morris County Tax Board – Property Information for Tax Year 2014 ..... B-3

SSAMP Review Checklist B-4

June 17, 2014 letter from W. Randall Bush to Matthew Johnston B-5

July 10, 2014 Staff Report drafted by Katherine Coyle (without exhibits) B-6

August 14, 2014 Staff Report drafted by Katherine Coyle (without exhibits) B-7

NOW THEREFORE BE IT RESOLVED, after having considered the presentations submitted by Ms. Bancroft (on behalf of Mr. Johnston) on May 5, 2014, and by Mr. Johnston on July 10, 2014 and August 14, 2014, and exhibits F-1 through F-7 and B-1 through B-7, the Morris CADB makes the following determinations:

1. Cherry Valley Farm is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.
2. The production, processing and packaging of fruits, vegetables, eggs and chickens, as well as the construction of a pole barn to be utilized for the agricultural activities, are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9.

3. The construction of a pole barn proposed by Mr. Johnston constitutes a generally accepted agricultural management practice and is a permitted activity pursuant to N.J.S.A. 4:1C-9.

BE IT FURTHER RESOLVED, that the Morris CADB approves the construction of a pole barn as proposed by Mr. Johnston provided that the following conditions are satisfied:

1. The construction of the pole barn shall conform to all relevant federal or State statutes, rules and regulations, and

2. The applicant shall obtain a Soil Erosion and Sediment Control Plan or a Farm Conservation Plan certified by the Morris County Soil Conservation District (MCSCD), or secure a waiver from MCSCD.

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-2.3(l), 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 Soil Conservation District
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 the decision of the Morris CADB may appeal the decision 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 decision is not appealed within 45 days, the decision is binding.

Kenneth A. Wyckman
~~Gregory Keller~~, Chairman
Morris CADB Vice

9/11/14
Date

	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 September 11, 2014.

Attorney At Law State of New Jersey