Resolution No. 2016-4-1

RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING COMMERCIAL FARM ELIGIBILITY FOR A SITE SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE REQUEST,
BLOCK 51, LOT 1.01 IN THE TOWNSHIP OF COLTS NECK

Ms. Butch offered the following resolution and moved its adoption:

WHEREAS, on February 12, 2016, Hockhockson Farm, LLC, and JTS Land Trust (the "Applicant") jointly applied for a Site Specific Agricultural Management Practice ("SSAMP") recommendation for Block 51, Lot 1.01 in the Township of Colts Neck; and

WHEREAS, the Applicant supplemented its application with a March 15, 2016 submission to the Monmouth County Agriculture Development Board ("MCADB or "Board"); and

WHEREAS, Hockhockson Farm, LLC is the current owner of the property and JTS Land Trust is the contract purchaser; and

WHEREAS, N.J.S.A. 4:1C-1 et seq. is known as the Right to Farm Act; and

WHEREAS, N.J.A.C. 2:76-2.1 et seq. details the State Agriculture Development Committee's ("Committee") rules; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b) the Board advised the Committee and the Township of Colts Neck of the application and request; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (c), (d), upon receipt of a request for an SSAMP, the Board must determine whether the Applicant's agricultural operation is a commercial farm as defined by N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, the subject property has been operated as a farm for several generations; and

WHEREAS, the subject property is approximately 45 acres; and

WHEREAS, a portion of the farm (11 acres) is leased to RJ Laurino Farms, which is owned and operated by Bobby Laurino; and

WHEREAS, RJ Laurino Farms is engaged in agriculture production and produces a variety of fruit, vegetables, herbs and flowers from the leased property; and

WHEREAS, the MCADB requested proof of agricultural production income in order to make a determination regarding "commercial farm" eligibility related to the income threshold requirement for 2015; and

WHEREAS, the Applicant submitted the following as proof of agricultural production income for 2015 at the hearing:

1. A series of receipts spanning from July 8, 2015 to September 4, 2015, totaling $7,195, included in Exhibit A-1 and tallied in Exhibit B-2 .

2. Testimony from Mr. Laurino indicating the receipts tally is a subset of his 2015 sales associated with the farm as he had additional supermarket sales as well as sales to the public at a farm stand that were not included; and

WHEREAS, the MCADB conducted a site visit to view the subject property and the proposed operation prior to scheduling a public hearing on the matter. The site visit was held on February 23, 2016 and attended by a minority of Board members, MCADB staff, MCADB counsel, the applicants, and counsel for the applicants; and

WHEREAS, notice of the request and public hearing was provided pursuant to N.J.A.C. 2:76-2.3(b) and 2:76-2.8(c); and

WHEREAS, the MCADB heard testimony, reviewed submissions and exhibits, and considered the Applicant's request as well as objections presented by counsel and the public, during the Board's public meeting on April 5, 2016; and

WHEREAS, the Applicant was represented by Philip E. San Filippo, Esq., and the applicant offered testimony of Robert Cooke, III, Robert Laurino and Tracey Stewart in support of the application; and

WHEREAS, the Township of Colts Neck, through counsel Joseph Clark, Esq., cross-examined each witness presented by Applicant and argued the Applicant is not permitted to use the income from the leased property in order to reach the threshold income requirement under Right to Farm; and

WHEREAS, objecting counsel spoke against the Applicant's SSAMP request and ability to meet the eligibility criteria of a commercial farm as identified in the Right to Farm Act; and

WHEREAS, the Board carefully considered the testimony of the Applicant and concerns of the Township in making their determination; and

WHEREAS, the Board analyzed the sale receipts submitted; and

WHEREAS, after considering the commercial farm eligibility information provided, the Board makes the following findings of fact:

1. The property is a Farm Management Unit.

2. The Farm Management Unit is comprised of Block 51, Lot 1.01 in the Township of Colts Neck, and is greater than five acres.

3. The Farm Management Unit satisfies the eligibility criteria for, and receives, differential property taxation pursuant to the Farm Land Assessment Act, N.J.S.A. 54:4-23.1 et seq. from the Township of Colts Neck.

4. The property is located within the AG Agricultural District that permits agriculture as verified by the Colts Neck Master Plan and Township Land Use Ordinance.

5. The Farm Management Unit produced agricultural or horticultural products worth more than $2,500.00.

NOW, THEREFORE, BE IT RESOLVED, based on exhibits presented, testimony given and the aforesaid findings of fact, the Monmouth County Agriculture Development Board concludes that the Applicant's property is a Farm Management Unit and Applicant satisfies the eligibility criteria and meets the statutory requirements of N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, and is a "Commercial Farm" as defined by the Right to Farm Act; and

BE IT FURTHER RESOLVED that because the Applicant's operation does qualify as a "commercial farm" under the Right to Farm Act, the MCADB has jurisdiction over the matter.

BE IT FURTHER RESOLVED that the MCADB can proceed with the SSAMP application.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Applicant through counsel, the State Agriculture Development Committee, the Township of Colts Neck, and the applicant.

BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from the receipt of this resolution. The decision of the SADC shall be considered a final administrative agency decision. If this resolution is not appealed within 45 days, this resolution is binding.

Seconded by Ms. Grbelja and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Mr. Bullock	X			
Mr. Buscaglia	X			
Ms. Butch	X			
Mr. Clayton*	X			
Mr. DeFelice	X			
Mr. Dill*	X			
Mr. Foster	X			
Mr. Giambrone	X			
Ms. Grbelja	X			
Mr. Holmes			Recused	
Mr. Potter	X			

* Alternate members in 2016

I do hereby certify that the foregoing is a true copy of a resolution adopted on April 5, 2016, and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 7th of June, 2016.

6/14/2016

Gary DeFelice, Secretary

Resolution No. 2016-5-1

RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
RECOMMENDING A SITE-SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE REQUEST BLOCK 51, LOT 1.01
IN THE TOWNSHIP OF COLTS NECK

Ms. Butch offered the following resolution and moved its adoption:

WHEREAS, on February 12, 2016, Hockhockson Farm, LLC, and JTS Land Trust (the "Applicant") jointly applied for a Site Specific Agricultural Management Practice ("SSAMP") recommendation for Block 51, Lot 1.01 in the Township of Colts Neck; and

WHEREAS, Hockhockson Farm, LLC is the current owner of the property and JTS Land Trust is the contract purchaser; and

WHEREAS, the SSAMP request asked the Monmouth County Agriculture Development Board ("MCADB" or "Board") to evaluate the following as stated in the original SSAMP application:

> "(1) 15 acres of the existing forty-five (45) acre farm site would be set aside for permaculture and sustainable agriculture. These 15 acres would be used to grow food for the animals housed on the farm as well as crops that can be used to sustain a healthy plant based diet which will be offered for sale to the public at the existing farm stand… . (2) Abused farm animals rescued from slaughter houses, kill piles, live markets and roadsides would be housed and rehabilitated at the farm. (3) Construction of an agricultural education center that would serve as resource to develop curriculum concerning sustainable agriculture and related agricultural practices;" and

WHEREAS, the Applicant requested the Board to affirm the growing of agricultural crops on the farm, is an accepted farm management practice and that the Applicant be permitted to sell the agricultural output and continue to use the existing farm market facility for consumers to purchase the output produced on the farm; and

WHEREAS, the Applicant sought approval of keeping and caring for abused farm animals rescued from slaughter houses, kill piles, live markets and roadsides to be housed and rehabilitated at the farm; rescue animals would be used for study by students from surrounding Universities and Veterinary Hospitals; farm would act as a Farm Sanctuary for these animals; and

WHEREAS, the Applicant further sought approval for school trips, education displays, farm tours, preparation of digital and audio visual curriculum in the agricultural education center, reception and engagement with the public in the visitor's center, agricultural- related lectures and classes on such subjects as gardening, farming, soil science, sustainable agriculture, composting, farm history and cooking/food preparation and on-site disposal of organic waste and sales of organic waste.

WHEREAS, the Applicant lastly sought use approval centering on agricultural education center / visitor center, manure pad for the rescued animals, and greenhouses structures (both existing and new); and

WHEREAS, the Applicant supplemented its application with a March 15, 2016 submission to the Monmouth County Agriculture Development Board ("MCADB or "Board"); and

WHEREAS, the supplemental submission included an animal waste management plan prepared by AppleSeed Permaculture on March 15, 2016; and

WHEREAS, Block 51, Lot 1.01 is located within the AG Agricultural District that permits agriculture as verified by the Colts Neck Master Plan and Township Land Use Ordinance; and

WHEREAS, N.J.S.A. 4:1C-1 et seq. is known as the Right to Farm Act; and

WHEREAS, N.J.A.C. 2:76-2.1 et seq. details the State Agriculture Development Committee's ("Committee") rules; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b) the Board advised the Committee and Colts Neck Township of the application and request; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (c), (d), upon receipt of a request for an SSAMP, the Board must determine whether the Applicant's agricultural operation is a commercial farm as defined by N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, the MCADB conducted a site visit to view the subject property and the proposed operation prior to scheduling a public hearing on the matter. The site visit was held on February 23, 2016 and attended by a minority of board members, MCADB staff, MCADB counsel, the Applicant, and counsel for the Applicants; and

WHEREAS, notice of the request and public hearing was provided pursuant to N.J.A.C. 2:76-2.3(b) and 2:76-2.8(c); and

WHEREAS, the MCADB heard testimony, reviewed submissions and exhib-

its, and considered the Applicant's request as well as objections presented by counsel and the public, during the Board's public meeting on April 5, 2016 concerning jurisdiction of the MCADB; and

WHEREAS, the MCADB found, pursuant to Resolution No. 2016-4-1, that the Applicant's operation is a "commercial farm" as defined by the Right to Farm Act, set forth in N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, the Applicant now requests approval for an SSAMP application from the Board; and

WHEREAS, the Applicant was represented by Philip E. San Filippo, Esq., and the Applicant offered testimony of Robert Cooke, III, Robert Laurino and Tracey Stewart in support of the application; and

WHEREAS, the Applicant testified that it had revised its conceptual plan for the property that was included in Exhibit A-1 to combine the Visitors' Center with the Education Center. The new conceptual plan was entered as Exhibit A-3; and

WHEREAS, the Township of Colts Neck, through counsel Joseph Clark, Esq., cross-examined each witness presented by Applicant thoroughly and argued that the farm activities proposed by the Applicant do not have a direct link to the on-farm production and therefore should not be given Right to Farm Protection under the Act; and

WHEREAS, Township of Colts Neck Committeeman and unrepresented neighbors of the subject property provided testimony and asked the Board to consider the negative impact on health and safety from this proposal due to the farm's location, the rise in the level of noise and odor to the surrounding neighborhood, and the desire to have the Applicant present before the Township Planning Board or Board of Adjustment rather than the MCADB; and

WHEREAS, the Applicant's witnesses testified that the farm and farm market would not create any health, safety or noise related issues; the farm activities had a direct link to the farm production in that the animals would assist in showing the benefits from a plant based diet in that they would rely solely on the agricultural output from the 15 acres of property as the animals main food source; the waste from the animals would also be re-used to fertilize the soils for the vegetables grown at the farm site; and the educational center would focus on the vegetables grown on the farm and provide the opportunity for the pubic to use the farm production in a hands-on class setting; and

WHEREAS, several members of the Public voiced their approval for the application and the work to be performed at the proposed farm site according to the application; and

WHEREAS, the following exhibits were entered into evidence during the public hearing:

Applicant's Exhibits:

- Exhibit A-1: February 12, 2016 SSAMP Application;
- Exhibit A-2: March 15, 2016 SSAMP Application Addendum;
- Exhibit A-3: "Site Plan" presented at April 5, 2016 hearing;
- Exhibit A-4: Memorandum of Law dated March 30, 2016;
- Exhibit A-5: Supplemental Memorandum of Law dated April 18, 2016;

Objector's Exhibits:

- Exhibit O-1: March 28, 2016 letter from Joseph A. Clark of Dilworth Paxon to the Monmouth County Agricultural Development Board;
- Exhibit O-2: April 25, 2016 Brief from Joseph A. Clark of Dilworth Paxon to the Monmouth County Agricultural Development Board;

Board's Exhibits

- Exhibit B-1: March 4, 2016 printout of "Items to Expect this Season" from www.rjlaurinofarms.com;
- Exhibit B-2: Laurino Farms 2015 Receipts Tally;
- Exhibit B-3: Resolution of the SCADB - Recommendation of a SSAMP;
- Exhibit B-4: March17, 2016 email from Nicole Ciccaglione of the USDA-NRCS;
- Exhibit B-5: Photographs from the March 17, 2016 Site Visit;
- Exhibit B-6: Meeting Attendees;
- Exhibit B-7: March 22, 2016 Memorandum from Harriet Honigfeld re: Commercial Farm Determination, Block 51, Lot 1.01, Colts Neck Township;
- Exhibit B-8: March 24, 2016 Memorandum from Harriet Honigfeld and Eric Pierson re: SSAMP Determination, Block 51, Lot 1.01, Colts Neck Township.

Public Exhibits

- Exhibit P-1: April 6, 2016 Email to Harriet Honigfeld from Jason Saleh; and

WHEREAS, after having considered the testimony given and exhibits presented on April 5, 2016 the MCADB makes the following findings of fact and conclusions of law:

1. The production of agricultural crops, such as vegetables, flowers, small fruit, tree fruit, ornamental plants, etc., on the 15 acres of property is an acceptable agricultural management practice and protected pursuant to the Right to Farm Act.

2. The on-site disposal of organic agricultural waste is an acceptable agricultural management practice and protected pursuant to the Right to Farm Act. Further, the location of the manure pad as designated in the conceptual plans submitted by the Applicant is acceptable as it 1) minimizes the impact on neighbors due to buffering of landscape and the distance from the neighbors' property line, thereby reducing potential odor and fly issues, and 2) the pad is located in close proximity to the area of use. Any significant change to the location of the pad would be subject to approval from the MCADB or Colts Neck.

3. Sales of on-farm production are customary in the agricultural production business, and in New Jersey would qualify as a farm market and be subject to the adopted AMP for On-Farm Direct Marketing Facilities, Activities, and Events. This would also include construction of a building for Agricultural Education and parking areas in conformance with Municipal Standards. As per the AMP for On-Farm Direct Marketing, if the farm market is used for retail marketing at least 51% of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51% of the sales area shall be devoted to the sale of agricultural output of the commercial farm; the remaining 49% can be non-agriculturally related items or offsite production items. Lastly, only education related to on-farm protection is protected.

4. The Applicant is permitted to conduct activities that are related to the marketing of agricultural output of the Commercial Farm as described above.

5. The following activities shall also be permitted on the Commercial Farm: school trips, hands on farming activities, farm tours, agricultural related lectures for clubs, farm open house days and any other agricultural-related classes such as canning, freezing, pie making, pruning, beekeeping, soil science, nutrition, etc. <u>The estimated amount of visitors per day of 100 is also acceptable</u>.

6. The Applicant is permitted to teach and develop teaching materials as long as the curriculum is related to on-farm production. Examples included, but are not limited, gardening, farming, soil science, sustainable agriculture, composting, farm history, nutrition and cooking/food preparation.

7. The Applicant's waste management plan is to be in compliance with the Animal Waste Management AMP, which currently permits 12 an-

imal units on the site.

8. The animal rescue and animal sanctuary component of the proposed operation are not protected under the Right to Farm Act since the animals are not being raised for sale or for secondary products. These activities would be subject to Colts Neck and State of New Jersey approvals.

9. The MCADB found that the Public Health and Safety information presented during testimony does not pose a direct threat to the neighborhood.

10. The Study of Animals by veterinarian students does not fall within the jurisdiction of the MCADB and is not covered by this resolution.

11. Agricultural Housing falls outside of the jurisdiction of the Board as per In The Matter of Karen Wilkin and James Urbano, Jr., Docket A-5916-04T2, Decided October 25, 2006.

12. Because the Applicant did not submit a full set of site plans to the MCADB, the Applicant needs to apply to Colts Neck Planning Board for site plan approval.

13. This SSAMP determination eliminates the need for the Applicant to obtain a use variance from Colts Neck for the items specifically covered in findings 1-7 above.

14. When site plan is developed applicant may come back for relief of ordinances for site plan elements as needed based on agriculturally based reasons for non-compliance: hours of operation, lighting sanitary facilities, safety, signs, parking, buffers, setbacks, screening as per NJAC 2:76-2A.13 (c); and

NOW, THEREFORE, BE IT RESOLVED that, based on the aforesaid findings of fact and conclusions of law, the Monmouth County Agriculture Development Board makes the following determinations:

1. The production and sale of agricultural crops and the establishment of a farm market facility for selling the farm output produced on the subject property is a generally accepted farm management practice and is a permissible activity for a Commercial Farm, under the New Jersey Right to Farm Act.

2. The production of agricultural crops, such as vegetables, flowers, small

fruit, tree fruit, ornamental plants, etc., on the 15 acres of property is an acceptable agricultural management practice and protected pursuant to the Right to Farm Act.

3. The on-site disposal of organic agricultural waste is an acceptable agricultural management practice and protected pursuant to the Right to Farm Act. Further, the location of the manure pad as designated in the conceptual plans submitted by the Applicant is acceptable as it 1) minimizes the impact on neighbors due to buffering of landscape and the distance from the neighbors' property line, thereby reducing potential odor and fly issues, and 2) the pad is located in close proximity to the area of use. Any significant change to the location of the pad would be subject to approval from the MCADB or Colts Neck.

4. Sales of on-farm production are customary in the agricultural production business, and in New Jersey would qualify as a farm market and be subject to the adopted AMP for On-Farm Direct Marketing Facilities, Activities, and Events. This would also include construction of a building for Agricultural Education and parking areas in conformance with Municipal Standards. As per the AMP for On-Farm Direct Marketing, if the farm market is used for retail marketing at least 51% of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51% of the sales area shall be devoted to the sale of agricultural output of the commercial farm; the remaining 49% can be non-agriculturally related items or offsite production items. Lastly, only education related to on-farm protection is protected.

5. The Applicant is permitted to conduct activities that are related to the marketing of agricultural output of the Commercial Farm as described above.

6. The following activities shall also be permitted on the Commercial Farm: school trips, hands on farming activities, farm tours, agricultural related lectures for clubs, farm open house days and any other agricultural-related classes such as canning, freezing, pie making, pruning, beekeeping, soil science, nutrition, etc. The amount of visitors per day of up to 100 is also acceptable.

7. The Applicant is permitted to teach and develop teaching materials as long as the curriculum is related to on-farm production. Examples included, but are not limited, gardening, farming, soil science, sustainable agriculture, composting, farm history, nutrition and cooking/food preparation.

8. The MCADB found that the Public Health and Safety information presented during testimony does not pose a direct threat to the neighborhood.

9. The Applicant's waste management plan is to be in compliance with the Animal Waste Management AMP, which currently permits 12 animal units on the site.

10. This Board grants approval for the use of a farm market and the farm activities as outlined in the conclusions of law subject to the provisions of the existing above-referenced AMPs.

11. When site plan is developed applicant may come back for relief of ordinances for site plan elements as needed based on agriculturally based reasons for non-compliance: hours of operation, lighting sanitary facilities, safety, signs, parking, buffers, setbacks, screening as per NJAC 2:76-2A.13 (c); and

BE IT FURTHER RESOLVED that use of the structures, activities on the farm, and ingress and egress must conform to all relevant Federal and State statutes, rules and regulations, including, but not limited to the New Jersey Department of Agriculture, the New Jersey Department of Environmental Protection, the Monmouth County Planning Board, and the United States Department of Agriculture; and

BE IT FURTHER RESOLVED that the educational center and activities permitted pursuant to the above is permissible under the New Jersey Right to Farm Act, and in connection with marketing, the farm market established on the subject property is permissible under the Right to Farm Act; and

BE IT FURTHER RESOLVED that if over time the subject farm substantially changes its operations to deviate from the provisions agreed upon in these resolutions, the Applicant, Municipality or any other aggrieved party would be entitled to return to the Board to request relief; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Applicant through counsel, the State Agriculture Development Committee, the Township of Colts Neck, and the Applicant; and

BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from the receipt of this resolution. The decision of the SADC shall be considered a final administrative agency decision. If this resolu-

tion is not appealed within 45 days, this resolution is binding.

Seconded by Mr. Bullock and approved on roll call by the following vote:

	Yes	No	Abstain	Absent
Mr. Bullock	X			
Mr. Buscaglia	X			
Ms. Butch	X			
Mr. Clayton*	X			
Mr. DeFelice	X			
Mr. Dill*	X			
Mr. Foster	X			
Mr. Giambrone	X			
Ms. Grbelja	X			
Mr. Holmes			Recused	
Mr. Potter	X			

* alternate member

I do hereby certify that the foregoing is a true copy of a resolution adopted on May 3, 2016, and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 7th of June, 2016.

6/14/2016

Gary DeFelice, Secretary