RESOLUTION
OF THE OCEAN COUNTY AGRICULTURAL DEVELOPMENT BOARD JURISDICTION OVER A REQUEST FOR A SITE SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE FOR ALFRED POLING.

WHEREAS, on August 19, 2014, Alfred Poling (the "Applicant") applied to the Ocean County Agricultural Development Board ("OCADB" or "Board") for a Site Specific Agricultural Management Practice ("SSAMP") for Block 4, Lots 194, 194.02, 194.05 and 195 in the Township if Eagleswood (the "Property"); and

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

WHEREAS, the Applicant has identified the nature or practice of the commercial farm operation located on the Property as follows:

1	Breed and Sell goats, sheep and Llamas
2	Train and Sell Horses
3	Horseback Riding Lessons
4	Raise and Sell Chickens
5	Buy and Sell any livestock, pigs, cows, goats sheep & chickens; and

WHEREAS, on August 19, 2014, pursuant to N.J.A.C. 2:76-2.3(b), the Board formally notified the SADC and the Township of Eagleswood of the Applicant's request; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (B) and N.J.S.A 4:1C-9, upon receipt of request for a SSAMP, the Board must first determine whether the commercial farm satisfies at least one of following two conditions:

(1) It is located in an area of which, as of December 31, 1997, or thereafter, agriculture is a permitted use under Municipal zoning ordinances and is consistent with the Municipal master plan ("Locational" Requirement) or

(2) The commercial farm was in operation as of the effective date of the amended Right to Farm Act, July 2, 1998 ("Operational" Requirement) ; and

WHEREAS, N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3 defines a "commercial farm" as either

(1) A farm management unit no less than 5 acres, producing agricultural or horticultural products worth $2,500.00 or more annually and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994 or

(2) A farm management unit less than 5 acres, producing agricultural or horticultural products for $50,000.00 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1994; and

WHEREAS, the OCADB staff members conducted a site visit on September 19, 2014. The focus of the site visit was to view the property and acquire background information concerning the eligibility requirements prior to the public discussion on this matter; and

WHEREAS, during the October 8, 2014 meeting of the Board Mr. William Fox of Jackson, New Jersey spoke in support of the Applicant. Mr. Fox stated he has known the applicant a long time and was surprised to learn the Right to Farm Act required a commercial farm be located in a zone for agricultural use or was in operation as July 2, 1998. Mr. Fox requested the Board waive strict adherence to the eligibility requirements of the Right to Farm Act.; and

WHEREAS, Mr. Poling explained that he had purchased the subject property and did not investigate the zoning requirements prior to purchase. Mr. Poling testified that it was his understanding that the Property has always been known as the "Kelly Farm." Mr. Poling asked

the Board for the opportunity to either obtain a certificate of nonconformity from the Township permitting agricultural uses or submit an application for a Use Variance.

WHEREAS, the following exhibits were reviewed by the Board:

EXHIBIT	DESCRIPTION	DATE
1	SSAMP Application	August 19, 2014
2	Sheet 2.03 of the Eagleswood Tax Map	
3	Eagleswood Zoning Map	
4	Tax Records from Ocean County Tax Board	
5	Notification letter to Municipality	August 21, 2014
6	Notification Letter to SADC	August 21, 2014
7	OCADB Letter to Applicant	August 28, 2014
8	Photograph of Property	
9	Section 103 of the Eagleswood Municipal Code entitled "Zoning"	
10	Letter to Township re: eligibility determination schedule	September 3, 2014
11	Supplemental Information from the Applicant	September 9, 2014
12	Objection Letter from the Township	September 9, 2014
13	OCADB Letter to Township	September 9, 2014
14	Supplemental Objection Letter from Township with Eagleswood Ordinance 2002-14	September 10,2014
15	Letter From Karl Sillitoe, Zoning Officer	September 11, 2014
16	2002 Eagleswood Master Plan	
17	Deeds	
18	Letter to Applicant forwarding correspondence received from the Township	September 17, 2014
19	Zoning Permits	
20	Notification letter to Township	September 22,2014
21	Eagleswood Historic Structure Survey and Statements from Residents	

WHEREAS, the Board permitted the Applicant the ability to obtain either a Certificate of Non-Conformity from the Township or make an application to the Township for Use Variance prior to the November 12, 2014 meeting of the OCADB; and

WHEREAS, the Applicant did not received either a Certificate of Non-Conformity or submit an application for a Use Variance prior to the November 12, 2014 meeting of the OCADB; and

WHEREAS, the Board has reviewed the Applicant's request for the SSAMP, heard public comments presented during the Board's public meeting on October 8, 2014, reviewed exhibits as well as objections presented by the Township of Eagleswood,

NOW THEREFORE BE IT RESOLVED, the Board makes the following findings of fact:

(1) The Applicant purchased the subject property on August 22, 2012 from Kearny Federal Savings Bank.

(2) The Property is comprised of Block 4, Lots 194, 194.02, 194.05 and 195, in the Township of Eagleswood.

(3) The Property is greater than five acres.

(4) The Property does not currently receive differential property tax assessment pursuant to The Farmland Assessment of 1964, N.J.S.A. 54:4-23.1 to 23.23 from the Township.

(5) According to the Township records, the Property has not received differential property tax assessment pursuant to The Farmland Assessment of 1964, N.J.S.A. 54:4-23.1 to 23.23 from the Township at any-time from July 2, 1998 to the present date.

(6) The Eagleswood Township Zoning Officer determined the first three hundred (300) feet of the Property is located within the Township's "C-2 Highway Commercial" and the remainder of the property located in the Township's "RC Residential Conservation District. The lot which does not boarder State Highway 9 is located solely within the Township's "RC Residential Conservation District"

(7) As a component of the 2002 Eagleswood Master Plan, the Township Tax Assessor was required to identify all "Farmland Qualified Lands" within the Township. "Farmland Qualified Lands" were property which had been determined by the Tax Assessor which meets all of the criteria for a farmland assessment. However, the Applicant's property was not identified as "Farmland Qualified Lands" by the Eagleswood Tax Assessor in the 2002 Master Plan.

(8) Neither the "C-2" nor the "RC" zoning districts permit agriculture within its zone.

(9) On August 11, 1947, Adelbert T. Kelly and his wife Gladys purchased Lot 195, Block 4 from Mannas D. Kelly and his wife Cora. Thereafter, on May 10, 1969, the Kellys' acquired Lot 194.02, Block 4 from Westchester Realty Company. Lastly, and on November 30, 1962, the Kelly's acquired Lots 194 and 194.05, Block 4. The real estate records reveal Mr. Adelbert Kelly passed away on April 3, 1973, at which time title of the entire subject property was, vested solely Gladys Kelly. Thereafter, Mrs. Kelly passed away on October 27, 2002 leaving a Last Will and Testament identifying Theodore Nell and First Union Bank as co-trustees.

(10) According to the official property records maintained by the Ocean County Clerk, on May 23, 2003, Theodore Nell, as Executor of the Estate of Gladys M. Kelly, sold the property to Steven J. Romero, Sr. There is no evidence presented to the OCAD to support a finding that a commercial farm was in operation after the passing of Mrs. Kelly and the purchase by Mr. Romero.

(11) Mr. Romero sold the property to Yafa Investments, LLC on February 2, 2006. The Applicant has failed to provide any evidence a commercial farm was in operation on the property during the term of Mr. Romero's ownership.

(12) Eagleswood Township records reveal Yafa Investments, LLC sought and obtained minor subdivision approval to construct a strip mall on the portion adjoining Route 9. Yafa Investments only remaining requirement prior to the perfection of the zoning board approval was to file the mylers for the Property. However, on April 21, 2011, Yafa Investments transferred the property to Central Jersey Bank. There is no evidence that Yafa Investments LLC operated a commercial farm on the property.

(13) The Applicant purchased the Property on August 22, 2012, and soon thereafter began operating a commercial farm on the property.

BE IT FURTHER RESOLVED, that the Board hereby determines that the Property is not located in a zone in which agriculture is a permitted use, and, that the Applicant has failed to establish a "commercial farm" existed on the property after July 2, 1998 and before the Applicant's purchase on August 12, 2012; and

BE IT FURTHER RESOLVED, that the Board hereby determines it lacks jurisdiction to issue a SSAMP because the Applicant has failed to satisfy either the "locational" or "operational" requirements as mandated by Right to Farm Act, N.J.S.A 4:1C-1.et als.; and

BE IT FURTHER RESOLVED, that the Board shall forward a copy of this Resolution to the Applicant, the Township of Eagleswood, the State Agriculture Development Committee and any other individuals or organizations deemed appropriate by the Board within 10 days; 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 10 days from the receipt of this Resolution. If this Resolution is not appealed within 10 days, the Resolution is binding.

Doug Hallock, OCADB Chairman

12/10/14
Date

	Yes	No	Abstain	Absent
Mr. Hallock	✓			
Mr. Adams	✓			
Mr. Dancer	✓			
Ms. Sucharski	✓			
Mr. Vodak	✓			
Mr. Perry	✓			
Vacant				

I hereby certify the above to be a true copy of a Resolution adopted by the Ocean County Agricultural Development Board at a meeting held on December 10, 2014.

MATHEW B. THOMPSON, Esq.
Attorney at Law, State of New Jersey