



Board of Chosen Freeholders County of Burlington New Jersey



Department of: RESOURCE CONSERVATION

MARY PAT ROBBIE
Director of Resource Conservation

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January 9, 2020

Physical Address:
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Susan E. Payne, Executive Director
State Agricultural Development Committee
John Fitch Plaza
PO Box 330
Trenton, NJ 08625-0330

Re: Special Occasion Events (SOE) on Preserved Farms

Dear Ms. Payne,

During the January CADB meeting the Board recommended the following comments be offered in response to your November 2019 presentation:

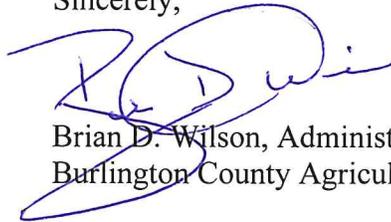
- The Board supports efforts that result in enhancing access for customers to be on preserved farms that will result in increased supplemental income and increased direct marketing of the farm's products.
- The Board has concerns that a lack of a clear definition of a "Special Occasion Event" would result in zoning officers or municipalities defining SOEs which could lead to inconsistencies. The definition should help clarify the differences between SOEs and Direct Marketing Events as defined in the RTF Act.
- The Board supports a uniform number of SOEs no matter what size or type of farm operation it may be.
- The Board supports regulations that promote Special Occasion Events without being overly burdensome to farmers.



- The Board recommends that certain infrastructure improvement be allowed. Upgrades that would facilitate the hosting of the SOEs as well as upgrades necessary for public health and safety should be considered.
- The Board recommends that the legislature provide as much flexibility to the SADC in the rule making process so that this program can be amended in the future, if necessary.

We thank the SADC for the opportunity to participate in this process.

Sincerely,



Brian D. Wilson, Administrator
Burlington County Agriculture Development Board

BOARD OF
CHOSEN
FREEHOLDERS

COUNTY OF
GLOUCESTER
STATE OF NEW
JERSEY

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The County of Gloucester complies with all state and federal rules and regulations against discrimination in admission to, access to, or operations of its programs, services, and activities. In addition, County encourages participation of people with disabilities in its programs and activities and offers special services to all residents 60 years of age and older. Inquiries regarding compliance may be directed to the County's ADA Coordinator at (856) 384-6842/ New Jersey Relay Service 711



January 2, 2020

Susan Payne, Executive Director
State Agriculture Development Committee (SADC)
P.O. Box 330
Trenton, NJ 08625-0330

RE: Special Occasion Events

Dear Director Payne:

Thank you for attending the Gloucester county CADB's November meeting to discuss the Special Occasion Events (SOE's) proposal.

We would like to submit the following comments for your consideration:

- The CADB supports extending the SOE allowance to all preserved farms in order to keep farms viable.
- The board is concerned that the Event Approval/Registration process could add significant work to this all volunteer board.
- Restrictions on improvements and new buildings are a concern as farmers need the ability to maintain and construct buildings.
- There is a concern on how monitoring and enforcement will occur. The counties do not have the staff to monitor and investigate suspected violations.
- The board is concerned about the number of events allowed, it seems inequitable depending on the agricultural operation.
- The definition of an event needs to be a clear and not open to interpretation.
- Farmers need the ability to have more events.
- The income limit should be waived. Some smaller farms should have the ability to benefit from this new proposal.

The CADC appreciates the SADC's understanding of the need for farmers to increase their income to keep farms viable in New Jersey. Thank you for leading this discussion and requesting the boards input.

Sincerely,

Eric M. Campo

Eric M. Campo
CADB Administrator

Hunterdon County Agriculture Development Board

Hunterdon County Administration Building #1
Route 12 County Complex
PO Box 2900
Flemington, New Jersey 08822-2900

December 17, 2019

RE: Special Occasion Events

Director Payne and SADC Staff-

Thank you for your presentation on October 10, 2019 on Draft Recommendations for Special Occasion Events on Preserved Farms to the Hunterdon County Agricultural Development Board (CADB). The Hunterdon CADB approves of the basic concept of expanding opportunities to expand the viability of agriculture in Hunterdon County. On behalf of the Hunterdon CADB I would like to offer some comment and response.

The CADB believes that all preserved farms should be treated equally. When the CADB preserves a farm, the crops produced are not given special consideration during the preservation process. The special favor of additional events should not be granted to farms purely due to their involvement in the winery or alcohol business. Farms should be considered for eligibility based on a universal checklist and that process should be blind to the products produced on the specific farm. A standard application process and Preservation Easement has been utilized across the County independent of crops and this tradition should continue.

The Board is wary that the Event Approval/Registration process could add significant work for the CADB staff and fill the CADB agenda to the detriment of other matters. A checklist of eligibility that can be reviewed administratively for individual applicants in a timely and efficient manner and reported to the Board should be a goal of the program. Given the CADB monthly meeting schedule, there is not enough time to publicly review every application due to the number of preserved farms in Hunterdon County and the projected success of this program. It is the CADB's understanding that municipal approval will be required for the majority of Special Occasion Event applicants and the Board feels that is the proper time for public hearings. CADB input should consist of an eligibility review under the program guidelines.

The definition of an "Event" is the crux of the legislation. The CADB hopes to see a clear classification be defined statewide that is not open to endless interpretation and unequal enforcement.

The CADB is concerned about limiting the legal and creative usage of a farm building provided it does not negatively affect the underlying agricultural operation. The Uniform



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Construction Code only recognizes gatherings of 50 people or more people as relates to building usage. If Special Occasion Events are to be allowed as a Non-Agricultural Use under the Deed of Easement under certain circumstances, it seems overly restrictive to have a single dividing line of greater than or fewer than 250 attendees. The CADB encourages a category for events having fewer than 50 people with a corresponding lower bar of approval. An expedited approval process for small emergent events would be beneficial, as such events are typically not planned as far in advance as large gatherings. Small events have negligible impact and encourage a higher level of interaction between the farm and the public. A stated goal of the legislation is to prevent farming from becoming merely a backdrop to other uses. The "farm as a backdrop" seems more likely during large events where the farm can disappear in the crowd whereas small events better serve to feature the agricultural operation.

Concerns have been raised about the proposed ban on new permanent infrastructure. At a minimum, ADA required improvements should be allowed if required for municipal approval. Agritourism creates an incentive to preserve rural architecture which often consists of farm structures that are inefficient for modern agriculture. There should be an allowance to update existing buildings for new usage and prevent demolition by neglect of the built agricultural landscape. By way of example, this could be used to lower the visual impact of temporary sanitary facilities (Porta-Potties) by housing them in underutilized or previously abandoned existing structures. Improvements should remain subject to local approval and should not receive Right to Farm protection.

The CADB appreciates the good faith effort of the SADC to gather local input in this complicated endeavor. Congratulations to the SADC Board and Staff for their hard work to get to this point.

Respectfully submitted on behalf of the Hunterdon CADB, with thanks for your time and attention,



Bob Hornby

CADB Administrator

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Winzinger, Heidi

From: dasay@manningtontwp.com
Sent: Wednesday, October 23, 2019 1:33 PM
To: Payne, Susan
Cc: Winzinger, Heidi; Don Asay; wlh@hornerlaw.net; townshipclerk@manningtontwp.com
Subject: [EXTERNAL] Salem County ADB - meeting on NJ SADC SOE Parameters Draft (9/26/19)

Good Afternoon Susan,

I am looking forward to the presentation by the SADC this evening at the SCABD meeting on the draft proposal related to the SOE parameters. I thought it might be helpful if some of Mannington Township's concerns were sent to you before the meeting. I would add that while dealing with the draft, I am not sure these SOE's are a good idea on preserved farms which the State has invested taxpayers' dollars to preserve for ag use, but that is not the purpose of the meeting. After reviewing a copy of the September 26, 2019 draft of the SADC's SOE parameters, and discussion of same with the Mannington Township Solicitor, Mr. William Horner, we would offer the following comments related to that draft, which were prepared by Mr. Horner:

The word "accessory" in first paragraph under the parameters heading would make more sense if the term "preserved farm landowners" were changed to "commercial farm operations on preserved farmland." Such a change would make it clear that the SOE opportunities on preserved farmland are for the benefit and promotion of the sorts of farming operations that are intended to be benefited by the Right to Farm Act (i.e., real "commercial farmers" who by RTFA definition must derive more than \$2,500 of annual income from agricultural crops produced on farmland assessed property exceeding 5 acres).

As drafted, there appears to be no requirement for the SOE to be connected with farming, and that SOEs could be conducted by a non-farming preserved farm owner whose farm tenant achieves the required income amounts, or even a third party non-farmer who leases the SOE areas from the preserved land owner. This could create a new non-agricultural industry of SOE event companies who lease SOE areas from multiple land owners, and it could alter the market value of preserved farmland in unintended ways, perhaps making such land too expensive for purchase by commercial farmers who just want to farm. Interestingly, the language in the "notes" on page 2 requiring SOE income received by "entities closely related to winery owner" counting as winery SOE income appears to contemplate a required connection between the SOEs and actual farm income.

The language "on the commercial farm" appearing in subparagraphs a. through d. at the bottom of the first page through the top of the second should perhaps be changed to "on the preserved farm", and the term "preserved farm" defined in the SOE regulations to specify that it includes only the land described in a single farmland preservation deed of easement. Such changes would make it clear that income from other farms under common management would not be included in determining how many SOEs could occur on a particular preserved farm in a given year.

That the language in the middle of page 2 regarding "50% of grapes processed by the winery" should perhaps be revised to refer to "fruit" as well, for consistency with the income requirements that precede it, and because I believe many wineries make wine out of locally grown fruits other than grapes.

If the changes I recommend in my first paragraph above are to be considered, it might also make sense to specify, at the bottom of page 2, that the landowner **or the commercial farm operator** must secure all local approvals and permits. I think it should also be specified here that all local permits and approvals should be obtained **before** any application to the local County Agriculture Development Board, and such approvals should be submitted to the CADB as part of the SOE application, so that the CADB would know that it is not wasting its time with a proposal that cannot be approved by the municipality in question. This would also cause the CADB members to gain an understanding of the conditions and requirements that are imposed on and SOE by the local ordinance or planning board, and to make sure that applicant

landowners are fully aware of the need to obtain the municipal approvals that might, particularly in the case of site plan or variance review, take a lot longer to obtain than CADB approval. Indeed, a landowner might obtain CADB approval just 30 days before the planned event and then be left with woefully insufficient time to prepare and give notice for a planning board application, attend one or more planning board hearings on the application, and then wait another month or more for a written resolution of approval that could contain numerous conditions that, in themselves, would require a lot of time to satisfy.

The language near the top of page 3 requiring that SOE areas remain unimproved so that they can be returned to traditional farming, and the subsequent requirements for only “temporary” amenities, could run counter to the sorts of requirements that typically attend commercial site planning at the municipal level. Accordingly, municipalities that intend to permit these sorts of SOEs in their zoning ordinances might want to establish site plan standards for these sorts of uses that are consistent with these SADC objectives. A better way, at least until municipalities gain a better understanding of the various impacts these sorts of uses create, might be to prohibit SOEs and then deal with appropriate conditions in those few situations where use variance relief might be warranted. Additionally, municipal planning boards should be aware of the RTF parking standards for on-farm direct marketing events that are cited at the bottom of page 3.

It occurs to me that the term “productive ag use” in the second parameter statement at the top of page 3 should be clearly defined for proper compliance and enforcement.

If temporary infrastructure, including tents, generators, and port-a-potties, must be removed following SOEs up to 52 times a year, it would best to require them to be removed within 24 or 48 hours after each event. Otherwise, successive week-long periods during which “temporary” infrastructure on the preserved farm will, for by all outward appearances, be permanent. Enforcement might be difficult too, in situations where already-standing temporary infrastructure is argued to be present in preparation for an upcoming event rather than having been improperly held over from a previous one.

The “pre-approvals” referenced on page 4 should include a requirement that CADB applicants for SOE proposals must first obtain all municipal approvals (i.e., zoning permit or site plan/variance approval with confirmation that all conditions of approval have been satisfied) before applying for CADB approval, and that copies of all approvals and confirmations of condition-satisfaction must be included with each CADB application. It would also be prudent to establish further pre-filing deadlines requiring that applications must be filed with CADBs no less than 30 days prior to the CADB hearing at which the proposal will be considered, and that no SOE can occur until the CADB has issued its **written resolution** of approval (which might take 30 days or more after the CADB hearing at which the approval is voted upon). All of these deadlines and requirements would, in my opinion, promote better review and approval of applications, and help ensure that no SOE is allowed to occur until all approvals are memorized in writing by the approving entities, thus helping avoid misunderstandings with respect to compliance and enforcement of conditions when the events actually take place.

Thanks again for seeking input as the SADC deals with this difficult subject.
Don Asay, Mayor
Mannington Township



COUNTY OF MERCER

DEPARTMENT OF PLANNING

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BRIAN M. HUGHES
County Executive

KELVIN S. GANGES
Chief of Staff
LESLIE R. FLOYD
Planning Director

ANDREW MAIR
County Administrator

December 24, 2019

via email

Amy Mandelbaum, Northeast Regional Project Manager
New Jersey Department of Agriculture
State Agriculture Development Committee (SADC)
369 South Warren Street, P.O. Box 330
Trenton, NJ 08625-0330
Amy.Mandelbaum@ag.nj.gov

Dear Ms. Mandelbaum,

Thank you for the opportunity to comment on the SADC's Special Occasion Events (SOE) policy. The Mercer CADB reviewed the powerpoint you provided by email and has the following questions and comments. I have summarized the comments and also included quotations of specific examples from some of our Board members below:

1. It would be helpful to have more clarification about the difference between SOEs that require special permission versus farm events directly related to agricultural production that are already allowed under the Deed of Easement. A formal definition for SOEs should be provided.
2. Many farms currently have events and festivals as a normal course of business that are tied to their agricultural production. They already secure local approvals and are in compliance with their Deeds of Easement. Will these farms now be expected to secure this SOE special permission? This seems overly burdensome.
 - a. "I am concerned that the farm festivals that we have on our farm as normal course of business will be thought of as special occasion events. These are currently harvest related (apple, peach, blueberry) and other events that are more promotional--to get people to come to our farm and buy our products--we are open all year."
3. Farm events are often used as advertisement of a farm and its products. Advertisement should be included in the list of event purposes.
 - a. "For example (but not limited to just this example), we have a winery but we are not going to be successful in getting people to come to our farm to buy wine without concurrent farm festival type activities."
4. The requirement to get CADB approval for each event may be overly burdensome to the CADB and the landowner. CADBs are made up of volunteer members and if many farms in each County want these approvals, it has the potential to become burdensome. Every effort should be made to make the approval process straightforward. A simple checklist would be helpful. Alternatively, allowing most approvals to be handled by County staff would make the process work more smoothly. Perhaps events under a certain threshold of attendees, for example. Another idea could

be to allow all farms a certain number of SOEs without CADB approval. Approval could be requested only if a landowner wanted to exceed the minimum.

5. Municipal approval should be required before CADB approval is requested. This will simplify matters for the County, as individual municipalities vary greatly in the types of special events allowed on private property and in rules related to event details, such as signage, parking and serving alcohol. The SADC should also consider hosting educational events in each County for municipalities – about the SOEs, the new soil protection standards and how both relate to Right to Farm law.
6. When determining how many SOEs a farm qualifies for, why is an analysis of a farm's soil productivity necessary? Why not just use the FAI forms? Related to this, what is the justification for allowing larger operations to have more events? Smaller farm operations may benefit more from the occasional special event than large commercial farms.
7. The special exemptions for wineries should be removed. All forms of agriculture should receive equal treatment.
 - a. "As a non-winery farmer I feel this puts them at a financial advantage over other producers, and even though farmers generally help each other to a large extent we are also in competition with each other. By allowing only wineries this income source they may have an advantage over others."

We would appreciate any feedback you are able to provide and thank you for the opportunity to comment.

Sincerely,



Emily Blackman
Senior Planner

Ronald G. Rios
Freeholder Director

Charles E. Tomaro
Deputy Director

Kenneth Armwood
Charles Kenny
Leslie Koppel
Shanti Narra
Blanquita B. Valenti
Freeholders

MIDDLESEX COUNTY • N J

DEPARTMENT OF INFRASTRUCTURE MANAGEMENT

Office of Planning Agriculture Development Board

December 24, 2019

Ms. Susan E. Payne, Executive Director
State of New Jersey
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625-0330

Re: **Special Occasion Events (SOEs) on Preserved c Farmland
Middlesex CADB Comments on Draft Proposal**

Dear Ms. Payne,

Thank you so much for coming to the Middlesex CADB's November 26th meeting to discuss the SADC's draft proposal for Special Occasion Events (SOEs) on Preserved Farmland and for leading such a thoughtful discussion with our board. We also thank you for the opportunity to provide comments on this draft proposal and hope our feedback is helpful in forming the final recommendations that the SADC submits to the Legislature and Governor for consideration this winter.

The following is a summary of the comments and feedback provided to date by members of the Middlesex CADB [comments #1-3], in consultation with a subcommittee of Middlesex County Board of Agriculture [comments # 4-12], regarding the SADC's current proposal pertaining to SOEs on preserved farmland:

- Consideration should be given to the fact that if a tax assessor determines that a property no longer meets the requirements of the Farmland Assessment Act either because the property owner is no longer farming the parcel or because the assessor determines that the SOE use is the primary use and not the farming, then the assessor is required to value the property at its "highest and best use." Normally when preserved land no longer meets the farmland assessment requirements, the assessment value of the land goes to whatever the market is for preserved land, which is higher than farmed land but not an exorbitant value. However, if the assessor determines that the land is being used primarily for the SOE use, the assessor can end up valuing the land at whatever that value might be, which could be similar in value to that of any other catering or similar type of establishment.
- Landowners of the preserved farmland properties where the proposed SOEs are to take place should be advised to review their current property liability insurance policies to ensure the specific activities proposed in their SOE applications are in sync with their current levels of coverage since many of these properties may not have previously been open to public visitors for events.
- It is recommended that consideration be given to leveling the playing field between the maximum allowable SOE events that are permitted on preserved wineries versus the allowable number of events that are permitted on preserved farms that are considered non-wineries. It is also noted that although the winery industry came along

Charles Kenny
*Chairperson,
Infrastructure Management*

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Thomas Mancuso, *Secretary*

Mirah Becker, PP, AICP
Supervising Planner

Laurie Sobel, PP, AICP
Principal Planner

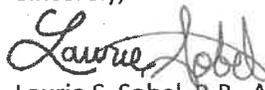


earlier in the State than the breweries and distilleries that are becoming more common today, which are held to the same ABC regulations, it is recommended that consideration be given to bundling all of these uses together and making them subject to the same SOE legislation.

- It is imperative that the final rules regulating SOEs be flexible enough to allow growers to adapt to changes in direct marketing and Agritourism trends that are critical to providing the economic stability necessary to sustain preserved farms in New Jersey.
- It is recommended that a review board comprised of at least 50% farmers actively conducting Agritourism and SOE events should convene to review SOEs every 5 years with the SADC, along with input from the CADBs, to revise standards in order to keep pace with market trends and the needs of farmers to stay competitive in our region.
- All farmers should be treated equally in regards to allowable SOEs, regardless of the type of direct market and Agritourism marketing business.
- It would be helpful for listening sessions to be held at the annual NJ Agricultural Convention in order to help provide necessary feedback from the farm community each year regarding SOEs.
- Consideration should be given to expanding Right to Farm protection to include SOEs in order to allow for creative marketing and to help ensure the long-term sustainability of farming and adequate profitability for farmers in New Jersey.
- The number of events allowed on preserved farms should be independent of farm size as long as the farmer meets all local requirements of the municipal ordinances and qualifies for farmland assessment.
- New utilities should be allowed if they do not interfere with the future use of the preserved property and have gone through the proper approvals necessary. Properly installed utilities can increase the value and usefulness of the preserved property.
- Consideration should be given to expanding or eliminating removal dates for temporary infrastructure for SOEs as some events will overlap and time and resources would be wasted in the reestablishment of such temporary structures.
- It is recommended that the State consider allowing for the utilization of Permit-by-rule to automatically allow for permissible events for viable Agritourism based SOEs on farms, as it is best not to establish times for submission of permits but rather utilize Permit-by-rule to save time, resources and aggravation for CADB and farmers alike.

Thank you again for leading this discussion with our board members and please feel free to reach out if there is any further feedback the MCADB can provide on this topic. We look forward to seeing what the final SOE law and related provisions look like, and very much appreciate the State's continued efforts to help support and enhance the future viability of preserved family farms in Middlesex County through this new economic opportunity.

Sincerely,



Laurie S. Sobel, P.P., A.I.C.P.
Principal Planner

Cc: Ms. Mandelbaum, SADC Northeast Regional Project Manager
Middlesex CADB Members and Staff
Ms. Daria Anne Venezia, Esq., Middlesex CADB Counsel
Mr. Charles Kenny, Freeholder Chair, Infrastructure Management
Mr. Khalid Anjum, Department Head, Infrastructure Management



MONMOUTH COUNTY
AGRICULTURE DEVELOPMENT BOARD

William Potter III
Chairman



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December 6, 2019

Susan Payne
SADC
PO Box 330
Trenton, NJ 08625

Dear Ms. Payne,

Thank you for taking the time to speak at our November 6th meeting. As a follow up, the Monmouth CADB would like to submit comments on the Special Occasion Events (SOEs) proposal.

Comments from MCADB members:

- Members recognize the need to support our farms and farmers. The agriculture community has been asking for the ability to host SOEs as a way to supplement income.
 - Our members currently turn down numerous (and very persistent) requests to host weddings.
 - Some members expressed concern that we risk straying too far from agriculture with this proposal and that agritourism could end up blending with SOEs.
- Parity is a concern not just among our members but also landowners who have provided feedback.
 - A maximum of 52 events for wineries vs. 15 for non-wineries is too large a spread.
 - Some members are not comfortable outright prohibiting SOEs on farms with less than \$10,000 of production.
- The State needs to come up with a clear definition of SOEs that can be universally applied.
 - It is neither feasible nor necessary to invoke the Right to Farm hearing process for each SOE request.
 - Even small events should be considered SOEs if a landowner is accepting money to use the grounds.
- The proposal leans too heavily on CADBs for implementation.
 - There is limited time for volunteer Board members to convene.
 - Highly active CADBs such as Monmouth are already inundated with post-closing stewardship issues and right to farm hearings.
 - CADB staff only works weekdays so they can't monitor events on nights and weekends.
 - 60 days advance notice is not enough time to process a request.
 - Annual renewal requirements are untenable.
- More responsibility needs to lie with the landowners and municipalities.
 - Applicants should be tasked with assembling all necessary proofs and business/site/event plans.



- Municipalities should be the ones to hold public hearings and monitor compliance with what is essentially local land use enforcement. The easement holders will have no ability to override zoning for these SOEs.
- Municipalities have the infrastructure to issue violation notices, levy fines, and hold court hearings not counties.
- CAD boards should only get involved for more complicated or questionable requests.
- The prohibition on new permanent utilities should help control the number of SOEs on preserved farms.
- It is difficult to come up with criteria to determine the number of events allowed on a farm.
 - Members acknowledged that the SADC and subcommittee debated this issue for a year and a half.
 - Soil productivity is not necessarily the right test – for example, rocky farms in North Jersey and cranberry bogs would be at a disadvantage.
 - Obtaining production income on an equine farm is complex.
- Our members had some suggestions to help with reviews and implementation.
 - Ask landowners for a calendar of events.
 - Create a green light, yellow light, red light template similar to the one for the soil protection standards.
 - The SADC should hire someone to handle difficult cases.
 - The SADC will need to issue clear guidelines for handling violations and how counties fit into the process.
 - Consider updating the text of future deeds of easement.

Additional comments from staff:

- Delegate the approval process for the simplest requests to staff.
- The primary easement holder should have review/approval authority. The CADBs have no legal interest in Direct or Grants to Nonprofit easements and we do not have the baseline documentation or annual monitoring reports for these other farms. (Some of our members disagreed with staff on this point).
- Create a checklist(s) similar to the Rutgers Agritourism checklists so landowners understand best practices for hosting events on their farms.
- There should be a requirement for liability insurance and certifications to easement holders.
- Municipalities will benefit from model ordinances and permit applications related to SOEs. Most of our towns have no formal process for handling special events not just ones on farms.

Thank you for the opportunity to provide input on this important proposal.

Sincerely,



Harriet Honigfeld



MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD

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December 16, 2019

Mr. Jeffrey Everett, Deputy Executive Director
SADC
PO Box 330
Trenton, NJ 08625

Dear Mr. Everett,

Thank you for attending the Morris CADB's November 21st meeting to discuss the Special Occasion Events (SOEs) proposal.

The Morris CADB submits the following comments for your consideration:

The On-Farm Direct Marketing AMP adequately addresses on-farm events. Further regulations are not necessary.

- The definition of an SOE should only include such events that truly have no ties to the agricultural use of the farm, such as fully catered events. Weddings and other life celebrations, seasonal festivals, dance night in the barn, holiday events, and corporate gatherings should not be included in the SOE definition if the majority (more than 51%) of food served is produced by the farm. Such events should be protected by the RTF and covered by the On-Farm Direct Marketing AMP.
- New Jersey farmers need more support, not further restrictions. To ensure viability of the agricultural industry in NJ, farmers must have the ability to host events to supplement farming income.
- Given the land prices in New Jersey (even for preserved farmland), farmers need supplemental income to remain profitable and to be able to continue farming in the future.

If new regulations are going to be proposed for SOEs, please consider the following:

- As stated above, the definition of an SOE should only include such events that truly have no ties to the agricultural use of the farm, such as fully catered events.
- The number of events permitted for farms (15) versus for wineries (52) is inequitable.
- This proposal is very restrictive and seems to be legislating to the worst offender, a very small percentage of farmers.

OFFICERS: Dale Davis III, *Chairman* • Aimee Ashley Myers, *Vice Chairman* • □ Gregory Keller, *Secretary*

MEMBERS: Rick Desiderio • Thomas Galfo • Gregory Keller • Jay Thomson

STAFF: Katherine Coyle, *Director*

- Regulations for SOEs should mirror the On-Farm Direct Marketing AMP without additional restrictions and requirements.
- Restrictions on improvements and new buildings are concerning as farmers need the ability to maintain, improve and construct buildings.
- The proposal will overburden already busy CADB's – volunteer members and staff – already addressing many stewardship and RTF matters in addition to preservation.
- Monitoring and enforcement will be nearly impossible. Who is going to monitor events held on weekends and weeknights? Who is going to count the number of attendees at each event?

If you have any questions, please contact me at (973) 829-8120 or kcoyle@co.morris.nj.us.

Cc: Morris CADB
Christine Marion, Director, Morris County Office of Planning and Preservation



County of Passaic

Department of Planning and Economic Development
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MICHAEL LYSICATOS AICP, PP
Director

January 8, 2020

Susan E. Payne, Executive Director
State Agriculture Development Committee (SADC)
P.O. Box 330
Trenton, NJ 08625-0330

Re: Special Occasion Event (SOE) on preserved farmland proposal

Dear Ms. Payne:

Thank you for the opportunity to comment on this proposal. On behalf of the Passaic County Agriculture Development Board, please accept these comments as our initial response to the proposed changes:

- We agree that all farms should be treated equally, and expanding this program beyond wineries is only fair as we wish to see all farmers be sustainable and do well;
- A formal definition of Special Occasion Events should be provided;
- A standard checklist, generated by the SADC, along with additional guidelines would be necessary to ensure uniformity;
- We have concerns on the ban of new permanent infrastructure, as the rule proposal says temporary improvements only – if new infrastructure complies with other rules of preserved farmland they should be allowed to support events, which in turn support the farm.
- The issue of monitoring, as brought up by other CADBs, could be a hugely cumbersome and frankly unrealistic charge for CADBs and staff to undertake, and as such, coordination should be handled between the municipalities and the SADC (considering that New Jersey is a “home rule” state, and local officials, such as police, fire, health and zoning personnel, would be more involved and have more jurisdictional authority as it currently stands);
- That said, we agree that there must be penalties for any violations, i.e., a first warning with meaningful consequences (monetary fine or otherwise) and if continued, a loss of Farmland Assessment (again, this would be the responsibility of the municipality);
- We believe that 50 annual events is too large a number; no more than 25 Special Occasion Events should be considered standard, and if more are requested, then a Permit-by-Rule could be implemented;
- We also think that at least 20% of the food served in a farm-to-table manner (in season) should come from the crops grown on the preserved farm, if applicable;
- Finally, and this rings especially true in Passaic County, soil productivity should not be a relevant factor in determining permission for these Special Occasion Events.

Again, thank you for this opportunity to comment. Please let me know if you have any questions.

Very truly yours,

Kathleen M. Caren
CADB Administrator



SOMERSET COUNTY AGRICULTURE DEVELOPMENT BOARD

Dedicated to our Friend and Founding Chairman Thomas R. Everett

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December 18, 2019

Ms. Susan Payne
State Agriculture Development Committee
P.O. Box 330
Trenton, NJ 08625

RE: Request for Comments: Soil Standards and Special Occasions

Dear Ms. Payne,

The Somerset County Agriculture Development Board would like to submit the comments, found within this letter, in regard to the proposed Soil Standard Regulations and the Special Occasions Events proposal. The Board would like to thank you and Jeff Everett for attending our October 28, 2019 meeting, to share with us the proposed changes for the above regulations.

Special Occasion Events Comments:

During the October meeting, the SCADB had raised their concerns about the standards that would determine the number of events per farm. In addition, the Board had concerns about how staff would monitor these events to ensure compliance with the rules- staff generally does not work nights or weekends. Typically, the position of CADB Administrator is done by one individual, thus adding arduous requirements to their already busy workload.

The Board hopes that the SADC takes into consideration the following concerns:

- The Board strongly feels that all farms should be treated equally.
- The Board feels that there is too large a spread between 52 events allowed for wineries, and only 15 events for non-wineries. Again, the Board strongly feels that all agricultural operations should be treated equally.
- Who would be in charge of non-profit, municipality, and SADC held easements that came in for special occasion event (SOE) permits? Will the county be in charge of all permits, fines, and monitoring of these properties for special occasion events?
- Since the State has proposed fines, will there be set standards for fines?
- Who will collect the fines?
- That the line between special occasion events be clearly differentiated from on-farm agri-tourism.

The Board would like to suggest the following:

- To ensure a timely and efficient event approval process, the Board would suggest an administrative review process rather than an arduous public hearing process to avoid straining staff and Boards.
- Farms that would take place in the SOE activities should have a summary that adequately describes the events for staff and the Board to refer to.
- That an application template be developed that Counties can then adjust to their needs.
- That a general permit process be established for events. Perhaps developing a process to allow farms to request a permit for a year's worth of events (dates/activities would need to be listed), additional requested events that were not part of the original permit would require additional review. If sites met local zoning ordinances for lighting, parking, etc. they could avoid a long review process.
- The Board feels that municipalities should be required to copy CADBs on permit requests for SOEs.
- It should be up to the State to review any/all financial records to determine how many events a farm operation may hold.
- The Board would like to suggest a 10 business day turn around for considerations to be made.
- Fines should be assessed and handled by the SADC. The County should be reimbursed, through the fine money collected, for their time and legwork in regard to handling the violation.

Soil Standard Regulation Comments:

During the October meeting, the SCADB raised their initial concerns to the SADC.

The Board hopes that the SADC takes into consideration the following concerns:

- That the proposed 15% is too constraining for agricultural allowances.
- The Board would suggest that the SADC allow for a review board process, similar to a variance, for farmers to request additional relief for agriculture business practices that are unique to allow for sustainable processes that are innovative in nature, such as vertical growing.
- Through the Board's own agriculture experience and documentation by other government agencies such as the NRCS, the Board believes that compacted soil is not irreversible. The Board believes that aeration and other measures can correct for it, and would like to remind the SADC that technology is constantly evolving.
- That pole barns and greenhouses not be considered in the red layer for the degree of irreversibility. The Board would suggest that there be a definition of what is considered a "building/structure". Perhaps it be written as permanent structures, rather than including those that can be removed without disturbing soil below the plow line.

The Board reserves the right to submit addition comments, and amend previously submitted comments in regard to the Soil Standards. On behalf of the Somerset County Agriculture Development Board, we would like to thank you for the opportunity to comment.

Respectfully,

Mark W. Kirby

Mark W. Kirby, Chairman
Somerset County Agriculture Development Board

cc: Douglas H. Fisher, Chairman – State Agriculture Development Committee
Craig J. Coughlin, Speaker of the House – New Jersey General Assembly
Stephen M. Sweeney, Senate President – New Jersey Senate
Walter Lane, AICP/PP, Director of Planning – Somerset County Planning Division
Anthony McCracken, AICP/PP, Assistant Director – Somerset County Planning Division
Kate Katzer, Principal Planner – Somerset County Planning Division
All Freeholders – Somerset County Board of Chosen Freeholders
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All Board Members – Somerset County Board of Agriculture
All Board Members – New Jersey State Board of Agriculture
All Somerset County Assembly and Senate Members

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December 20, 2019

Susan Payne, Executive Director
State Agriculture Development Committee (SADC)
P.O. Box 330
Trenton, NJ 08625-0330

Re: Special Occasion Events

Ms. Payne,

Thank you for meeting with the Warren County Agriculture Development Board (CADB) in October about the Special Occasion Events (SOEs) proposal. On the CADB's behalf, please accept this letter outlining our preliminary thoughts on the proposed changes.

The CADB supports extending the SOE allowance to all preserved farms in order to help keep farms viable. Additionally, we support scaling the increases in SOE allowances to increases in agricultural production because preserved farmland should remain production oriented rather than becoming venue or event focused. We also support using existing data to determine agricultural production value as this will simplify administration of SOE allowances, but recommend that farmers be given the option to appeal those determinations by demonstrating their farm produces greater value than that which is shown by the available data.

While we believe agricultural production must remain the primary focus of every preserved farm, we recommend that each farm, regardless of its production value, be given at least one SOE. In other words, even a farm under the \$10,000.00 production threshold could still hold a SOE, but only one and no more. Beyond that first SOE, we agree SOE allowances should increase in proportion with a farm's production value. However, we question whether the "culturally unique social nature" of wine and other alcohol based ag-products, as it was referred to, justifies more favorable allowances to those types of operations as is currently being proposed. We recommend the same standards be considered for all preserved farms rather than favoring wineries and other alcoholic based operations over others.

Importantly, the CADB also has serious concerns about the administration and enforcement elements of the SOE proposal. While we appreciate the SADC's sensitivity to not creating an administrative burden for the counties, we would go even further and suggest a "Permit by Rule" system be applied

to SOEs rather than an approval/registration process. If Permit-by-Rule is not feasible for all SOEs, then perhaps it could, at a minimum, be applied to those SOEs with less than 250 people or some other discrete subset. Alternatively, if an approval/registration process is deemed necessary, then we suggest the rules allow for the CADBs to delegate their approval authority to a CADB administrator or other appropriate individual, with the farmer having a right to appeal denials to the CADB.

With an approval/registration process, we would also support copies being sent to the municipalities, but believe this should be the responsibility of the applicant and not the county. However, we strongly oppose a rule requiring copies be sent to neighbors or those on a 200' list because this is a farmland easement/restriction issue, not a Right to Farm matter. We do not notice neighbors for any other easement violation. Nevertheless, if the SADC believes this to be necessary in certain circumstances, then perhaps the notice requirements can be made permissive rather than mandatory, such that a CADB may adopt a notice requirement if it thinks doing so would be prudent, but the CADB will not be compelled to do so against its better judgment.

Last but not least, the proposed enforcement provisions raise larger questions about how best to enforce not just SOE rules, but all farmland preservation restrictions. While we agree that introducing fines for violations will assist the SADC and CADBs in securing landowner compliance, we are not sure why SOE violations alone should have this remedy while other, and in some cases more serious DOE violations, should not. This, however, raises thorny legal and administrative issues that deserve more attention. We therefore request that enforcement and fines be more fully explored and then detailed in a rulemaking proposal separate and apart from this SOE proposal.

Very truly,



Corey Tierney
CADB Administrator

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December 17, 2019

Ms. Susan Payne
Executive Director
State Agriculture Development Committee
PO Box 330
Trenton, NJ 08625

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Amanda Brockwell
Deputy Executive Director
Jena Cosimo
Director of Acquisitions

Dear Ms. Payne,

One of the core objectives of the mission of Monmouth Conservation Foundation (MCF) is to preserve farmland and its inherent natural resources. In order to preserve farmland and allow it to be viable, we recognize that it is imperative to also preserve the farmer and support the NJ farming community. While we welcome the additional source of income for farms and farmers as a supplement to their existing agricultural income, we have concerns regarding the recent Special Occasion Events (SOE's) proposal from the State Agriculture Development Committee (SADC). MCF would like to submit comments regarding these concerns.

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- As a privately funded non-profit, our governing board of trustees voted to financially participate in the purchase of agricultural easements and to steward these easements in perpetuity. The allowance, enforcement and monitoring of SOE's is beyond the scope of the original agricultural easement that was approved. Permanent legislation that would return rights to farm owners should require the authorization of all funding partners (i.e. municipal, non-profit and County) giving them the right to accept or deny the returning of such rights.
- As a non-profit accredited by the Land Trust Alliance, MCF is held to high stewardship standards. The SOE's proposal creates a stewardship burden for a small non-profit and if MCF does not steward its easements in accordance with these standards, we are at risk of losing our coveted accreditation status and subsequently private foundation funding received from having a seal of accreditation.

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Anne Delaney
*Financial Records and
Operations Manager*

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- MCF maintains easement insurance through the Land Trust Alliance affiliated company, TerraFirma. Insurance through TerraFirma covers stewardship costs should a violation occur on an MCF easements. MCF shared the SADC's SOE's proposal with TerraFirma, who determined that MCF would not be covered in the event of an SOE violation. Considering TerraFirma will not cover a SOE violation, the enforcement of a violation may not stand in court under the Deed of Easement. Coverage *may* be granted by TerraFirma if MCF discretionary approval was given with clearly stated limits enforceable under the Deed of Easement (see next bullet).
- The Deed of Easement prohibits all but existing non-agricultural uses. Should a violation occur, unless the SOE's are referred to as agricultural uses we have no latitude under the Deed of Easement to enforce SOE's. There may be some latitude if a certain amount of light use events related to agriculture in a discretionary approval with conditions were allowed or if the SOE's were considered a recreational use. These items are specifically noted in the Deed of Easement. SOE's will need to be clearly defined as they relate to the Deed of Easement.
- SOE's have the potential to negatively impact the agricultural/conservation values and natural resources that were protected through the Deed of Easement.
- The overall intent of the farmland preservation program may erode if we begin giving farm owners back rights that were purchased from them initially.
- Land may be taken out of agricultural production to make allowances for SOE's.
- Should MCF agree to allow SOE's on our SADC non-profit preserved farms we have the following implementation concerns:
 - Regarding oversight and enforcement of SOE's - Oversight and enforcement procedures need to be well thought out with collective input from municipal, county and non-profit partners. For example, how would we know the specifics of the events which occurred? How

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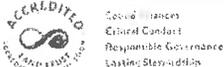
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would we monitor the actual number of events? How would we monitor the number of guests? What are the enforcement remedies should a violation occur?

- o As the primary easement holder for select non-profit SADC easements, MCF cannot delegate the authority to grant easement requests to other organizations, such as the local CADB, who holds no interest in the easement. However, as a party to the easement, the SADC may administer, monitor and enforce SOE's on SADC non-profit easements.
- o More responsibility needs to lie with the landowners should they choose to execute the right to host SOE's. For example, the burden of proof to provide documentation showing the gross agricultural products produced on the farm to determine how many SOE's can be held on the farm, should lie on the farm owner and not the easement holder.
- o MCF does not host public meetings, therefore public hearings noted in the SOE proposal would not be feasible.
- o Procedures for the approval of such special occasion events must be delegated to MCF staff and not the board. MCF policy delegates easement stewardship responsibilities to staff. Issues are brought to the board on an as needed basis.
- o MCF is concerned about liability, particularly if alcohol is permitted on the premises for SOE. We hold a legal interest in the property and an insurance policy naming MCF and the SADC as additional insureds to a certain dollar amount may be required.
- o Many municipalities do not regulate SOE's on any private land regardless of its preservation status. Landowners are not required to apply for liquor licenses, police department traffic assistance, fire inspections, etc. Municipalities will need model ordinances and permit applications related to SOE's to assist them with handling these requests.

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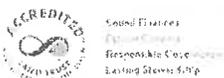
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Thank you for the opportunity to provide input on this matter. The above comments are very concerning to our board and staff and we welcome the opportunity to meet in person to discuss these concerns further.

Regards,



Jena Cosimo
Director of Acquisitions

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