

**RESOLUTION OF THE  
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD  
REGARDING A CONFLICT RESOLUTION FILING AGAINST  
148 MAIN STREET, LLC**

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

WHEREAS, on June 21, 2013, Mr. James Lynott and Ms. Pasqualina Primost (the “complainant”) filed a Right to Farm Complaint Form against Block 414, Lots 1 & 2 in Marlboro Township; and

WHEREAS, the farm subject to the initial complaint consists of two lots owned by 148 Main Street LLC, doing business as Triple C Nurseries/Maple Leaf Gardens (“the landowner”); and

WHEREAS, the complaint asks the Monmouth County Agriculture Development Board (“MCADB”) to investigate the following:

1. If farming is an authorized land use at the site;
2. If health and public safety issues are being caused by a brush and debris pile near the complainant’s property line, which is attracting unwanted wildlife, including raccoons and snakes;
3. If light pollution, noise pollution and public urination issues related to the haunted hayride event that Triple C Nurseries hosts during the Halloween season are permitted; and

WHEREAS, the complaint application only includes Block 414, Lots 1 and 2 as the subject of the complaint; however, the activities in the complaint that the board must investigate take place not only on the aforementioned Block and Lots but also on Block 414 lot 4 and Block 415 Lots 27 and 30;

WHEREAS, the landowner included additional land in Holmdel Township in the Commercial Farm Information Form that was submitted; 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 et seq. details the State Agriculture Development Committee’s rules; and

WHEREAS, a “farm management unit” is defined by N.J.S.A. 4:1C-1 et seq. as:

“a parcel of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.”

WHEREAS, the farm management unit in the current matter is comprised of Block 414, Lots 1, 2, 4 and Block 415 Lots 27 and 30 in the Township of Marlboro, and Block 33.01 Lot 11, Block 2.02 Lot 13 in the Township of Holmdel, as defined in the Right to Farm Act.

WHEREAS, the MCADB found, pursuant to Resolution No. 2013-10-3, that the landowner'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 MCADB conducted two site visits to investigate the above issues; and

WHEREAS, the first site visit was held on July 30, 2013 that was attended by the Rutgers Cooperative Extension agent, MCADB staff and MCADB counsel. The focus of this site visit was to investigate the brush and debris pile; and

WHEREAS, the MCADB staff conducted a second site visit on October 27, 2013 in order to investigate the concerns related to the haunted hayride event; and

WHEREAS, the landowner has certified that the Property is five acres or more, produces agricultural and/or horticultural products worth \$2,500.00 or more annually, and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1996; and

WHEREAS, the lots named in the farm management unit that are located in Marlboro are within the C-5 Regional Commercial zone, where agricultural is a permitted use per Section 220-35D in the Marlboro zoning ordinance

WHEREAS, Block 13, Lot 2.02 in Holmdel, part of the farm management unit, is located within the R-4 zone where agriculture is a permitted use; and

WHEREAS, Block 11, Lot 33.01 in Holmdel, part of the farm management unit, is located within the OL-1 zone where agriculture is a permitted use; and

WHEREAS, a hearing was conducted before the Board on December 4, 2013; and

WHEREAS, the following exhibit, containing a packet of materials, was entered into evidence:

Exhibit C-1

- Right to Farm Complaint Application;
- Right to Farm Act Conflict Resolution Commercial Farm Information Form;
- Receipts showing agricultural income in 2013;
- Farmland Assessment FA-1 forms for 2012 and 2013;
- MCADB staff memorandum summarizing the October site visit; and
- Correspondence from MCADB staff to the complainant;

- C-1a – Aerial map of block 414, lots 1 and 2;
- C-1b – Aerial map of block 414, lots 1 and 2;
- C-1c-1 – photos submitted by the complainant;

WHEREAS, Ms. Harriet Honigfeld, the Program Coordinator, presented a slide show of the Halloween “Haunted Hayride of Terror” event from her October 27, 2013 site visit; and

WHEREAS, Mr. James Lynott, one of the complainants, was sworn in and presented testimony before the Board describing item 2 of the complaint related to health and public safety issues. He referred to photos from Exhibit C-1 to show the location of the debris pile from his property line; elaborated on concerns related to health and public safety issues caused by the pile; and reiterated the request for removal of the pile. The health and public safety concern is that the pile has become a habitat for wildlife that creates an unsafe backyard environment for his child to play in; and

WHEREAS, the board requested clarification as to the focus of the complaint; and

WHEREAS, the complainant requested that the brush pile be removed from the neighboring property, the lights for the seasonal agritourism event be turned down, and the generator noise be reduced; and

WHEREAS, the generator is being used by the landowner to power a light positioned on Lot 4, that is used to provide lighting to illuminate the traffic safety officer stationed in Route 79 and patrons of the event when Lot 4 is used for additional parking; and

WHEREAS, the landowner was sworn in and presented testimony before the Board and responded to various points made by the complainant. He provided conflicting testimony regarding the location of the brush pile from the complainant’s property line and disagreed about the source of the materials that form the brush pile; and

WHEREAS, the landowner provided testimony questioning the complainant’s claims regarding the feasibility of the lights to filtrate through the wooded buffer between Lot 4 and the complainant’s lot; and

WHEREAS, both parties provided testimony stating that they had participated in mediation several years prior. However, no record of the mediation could be found by either party or MCADB counsel. MCADB Counsel contacted the Marlboro Municipal Court, however, the only information the Court retained from the Mediation was an electronic reference to the dispute and the letter “M” designating how the matter was resolved; and

WHEREAS, the landowner gave testimony stating that the pile was originally created on his property by the complainant’s landscaper and that he then added some additional material to the pile; and

WHEREAS, the complainant provided testimony explaining that the source of the materials in the pile came, in part, from his own landscaper who told the complainant that he had permission from the landowner to place the wooded brush on Lot 2; and

WHEREAS, the board received conflicting testimony regarding the source of the wooded materials that comprised the brush pile. However, there was some agreement between the complainant and landowner that the pile was comprised, in part, of wooded brush materials taken from the complainants' lot by the complainants' landscaper; and

WHEREAS, additional testimony was provided by the landowner and complainant in response to several questions posed by the board; and

WHEREAS, the Rutgers Cooperative Extension agent stated that the creation of brush piles are a standard practice for nursery operations; and

WHEREAS, after considering the evidence and testimony presented by and on behalf of the complainant and landowner, the Board makes the following findings of fact:

1. The Farm Management Unit is comprised of Block 414, Lots 1, 2, 4 and Block 415 Lots 27 and 30 in the township of Marlboro, and Block 33.01 Lot 11, Block 2.02 Lot 13 in the township of Holmdel;
  - a. Block 414 Lots 1 and 2 are owned by 148 South Main Street, LLC and known as Triple C Nurseries and Maple Leaf Gardens.
  - b. Block 414 Lot 4 is owned by 138 South Main Street LLC and known as Triple C Nurseries and Maple Leaf Gardens.
  - c. Block 415 Lot 27 is owned by Carmine and Danielle Casola and known as Triple C Nurseries and Maple Leaf Gardens.
  - d. Block 415 Lot 30 is owned by 131 South Main Assoc. LLC and Triple C Nurseries and Maple Leaf Gardens.
  - e. Block 11, Lot 33.01 is owned by 915 Holmdel Road Associates, LLC and known as Triple C Nurseries and Maple Leaf Gardens.
2. Block 13, Lot 2.02 is owned by Roberts Road/Route 34, LLC and known as Triple C Nurseries and Maple Leaf Gardens. The brush pile is located on Lot 2;
3. Lots 1 and 2 are operated as a nursery;
4. The seasonal agritourism event is located on Lots 30 and 27, with overflow parking from the event available on Lot 4;
5. The farming operation offers a seasonal agritourism event with a haunted hayride, haunted barn, haunted trail, living maze, corn cannon, and snack bar. An on-site Halloween store sells pumpkins, squash, corn and other Halloween-related items used to market the agricultural output of the farm operation;
6. The lights and generator cited in the complaint are to provide lighting for public safety of the patrons and the police officer on Route 79 who directs traffic in and out of the parking areas and for the parking area that is located on Lot 4 for the benefit of the event on Lots 27 and 30;
7. There were 5 portable toilets on Lots 27 and 30 during the October 27, 2013 site visit.

8. Triple C Nurseries, doing business as Maple Leaf Gardens, has provided the board with sales receipts that exceed the minimum threshold of \$2,500;
9. Triple C Nurseries receives farmland assessment taxation treatment from the Township of Marlboro and Holmdel;
10. All lots named in the Farm Management Unit are located within zones that permit agriculture;

NOW, THEREFORE, BE IT RESOLVED, based on exhibits presented, testimony given on December 4, 2013 and March 4, 2014, and the aforesaid findings of fact, the Monmouth County Agriculture Development Board recommends the following:

1. Triple C Nurseries is a commercial farm within the meaning of the New Jersey Right to Farm Act and MCADB has jurisdiction to hear this case pursuant to Resolution No. 2014-03-1;
2. The board finds that the noise and light being produced as a result of the lights and generator on Lot 4 are not excessive and that they are necessary to provide a safe parking area to accommodate occasional parking on that lot and controlled ingress and egress for the seasonal events.
3. The board finds that sufficient bathroom facilities are located on the property. The operation provides temporary bathroom facilities to accommodate patrons to the seasonal event. As long as the operation is providing sufficient temporary bathroom facilities, it cannot be responsible for controlling the actions of patrons that chose not to use them. Furthermore, public urination is a criminal offense that should be handled by the township police;
4. The brush pile does not pose a threat to health and public safety and is an accepted farm management practice for production of nursery stock and clearing of farmland and therefore qualifies for RTF protection;

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the State Agriculture Development Committee, the Township of Marlboro, the complainant and the landowner;


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. The decision of the SADC shall be considered a final administrative agency decision. If this resolution is not appealed within 10 days, this resolution is binding.

Seconded by Mr. Bullock 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. Foster				X
Mr. Giambrone	X			
Mr. Holmes*	X			
Mr. McCarthy	X			
Mr. Potter			X	
Ms. Grbelja			X	

\* Alternate members

I do hereby certify that the foregoing is a true copy of a resolution adopted by the Monmouth County Agriculture Development Board at a meeting on March 4, 2014 and memorialized on April 1<sup>st</sup>, 2014.

  
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 William J. Sciarappa, Secretary

**RESOLUTION OF THE  
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD  
REGARDING COMMERCIAL FARM ELIGIBILITY FOR A  
CONFLICT RESOLUTION FILING AGAINST  
148 MAIN STREET, LLC**

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

WHEREAS, on June 21, 2013, Mr. James Lynott and Ms. Pasqualina Primost (the “complainant”) filed a Right to Farm Complaint Form against Block 414, Lots 1 & 2 in Marlboro Township; and

WHEREAS, the farm subject to the initial complaint consists of two lots owned by 148 Main Street LLC, doing business as Triple C Nurseries/Maple Leaf Gardens (“the landowner”); and

WHEREAS, the complaint asks the Monmouth County Agriculture Development Board (“MCADB”) to investigate the following:

1. If farming is an authorized land use at the site;
2. If health and public safety issues are being caused by a brush and debris pile near the complainant’s property line, which is attracting unwanted wildlife, including raccoons and snakes;
3. If light pollution, noise pollution and public urination issues related to the haunted hayride event that Triple C Nurseries hosts during the Halloween season are permitted; and

WHEREAS, the complaint application only includes Block 414, Lots 1 and 2 as the subject of the complaint; however, the activities in the complaint that the Board must investigate take place not only on the aforementioned block and lots but also on Block 414, Lot 4 and Block 415, Lots 27 and 30; and

WHEREAS, the landowner included additional land in Holmdel Township in the Commercial Farm Information Form that was submitted; 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 et seq. details the State Agriculture Development Committee’s rules; and

WHEREAS, a “farm management unit” is defined by N.J.S.A. 4:1C-1 et seq. as: “a parcel of land, whether contiguous or noncontiguous, together with agricultural or horticultural buildings, structures and facilities, producing agricultural or horticultural products, and operated as a single enterprise.”

WHEREAS, the farm management unit in the current matter is comprised of Block 414, Lots 1, 2, 4 and Block 415 Lots 27 and 30 in the Township of Marlboro, and Block 33.01 Lot 11, Block 2.02 Lot 13 in the Township of Holmdel, as defined in the Right to Farm Act.

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b), 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 whether the Board has jurisdiction to hear the matter pursuant to N.J.S.A. 4:1C-9; and

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

- (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, 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; and

WHEREAS, the MCADB conducted two site visits to investigate the above issues; and

WHEREAS, the first site visit was held on July 30, 2013 that was attended by the Rutgers Cooperative Extension agent, MCADB staff and MCADB counsel. The focus of this site visit was to investigate the brush pile; and

WHEREAS, the MCADB staff conducted a second site visit on October 27, 2013 in order to investigate the concerns related to the haunted hayride event; and

WHEREAS, the landowner has certified that the Farm Management Unit is five acres or more, produces agricultural and/or horticultural products worth \$2,500.00 or more annually, and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1996; and

WHEREAS, the lots named in the farm management unit that are located in Marlboro lie within the C-5 Regional Commercial zone, where agricultural is a permitted use per Section 220-35D in the Marlboro zoning ordinance; and

WHEREAS, Block 13, Lot 2.02 in the Township of Holmdel, part of the farm management unit, is located within the R-4 zone where agriculture is a permitted use; and



WHEREAS, block 11, lot 33.01 in Holmdel, part of the farm management unit, is located within the OL-1 zone where agriculture is a permitted use; and

WHEREAS, a hearing was conducted before the Board on December 4, 2013; and

WHEREAS, the following exhibit, containing a packet of materials, was entered into evidence:

Exhibit C-1

- Right to Farm Complaint Application;
- Right to Farm Act Conflict Resolution Commercial Farm Information Form;
- Receipts showing agricultural income in 2013;
- Farmland Assessment FA-1 forms for 2012 and 2013;
- MCADB staff memorandum summarizing the October site visit; and
- Correspondence from MCADB staff to the complainant;
  - C-1a – Aerial map of block 414, lots 1 and 2;
  - C-1b – Aerial map of block 414, lots 1 and 2;
  - C-1c-1 – photos submitted by the complainant; and

WHEREAS, after considering the evidence and testimony presented by and on behalf of the complainant and landowner, the Board makes the following findings of fact:

1. The Farm Management Unit is comprised of Block 414, Lots 1, 2, 4 and Block 415 Lots 27 and 30 in the township of Marlboro, and Block 33.01 Lot 11, Block 2.02 Lot 13 in the township of Holmdel;
  - a. Block 414 Lots 1 and 2 are owned by 148 South Main Street, LLC and known as Triple C Nurseries and Maple Leaf Gardens.
  - b. Block 414 Lot 4 is owned by 138 South Main Street LLC and known as Triple C Nurseries and Maple Leaf Gardens.
  - c. Block 415 Lot 27 is owned by Carmine and Danielle Casola and known as Triple C Nurseries and Maple Leaf Gardens.
  - d. Block 415 Lot 30 is owned by 131 South Main Assoc. LLC and Triple C Nurseries and Maple Leaf Gardens.
  - e. Block 11, Lot 33.01 is owned by 915 Holmdel Road Associates, LLC.
  - f. Block 13, Lot 2.02 is owned by Roberts Road/Route 34, LLC.
2. Triple C Nurseries is greater than five acres and receives farmland assessment taxation treatment from the Township of Marlboro and Holmdel.
3. All lots in the farm management unit are located within a zone that permits agriculture.

NOW, THEREFORE, BE IT RESOLVED, based on exhibits presented, testimony given on December 4, 2013 and March 4, 2014, and the aforesaid findings of fact, the Monmouth County Agriculture Development Board recommends the following:

1. The Board considered whether the landowner meet the statutory requirements of N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3 and finds that the landowner satisfied its burden of proof to qualify as a Commercial Farm for the following reasons:
  - a. The landowner has demonstrated through receipts provided in exhibit C-1 that it exceeds the income threshold of \$2,500 for 2013.
  - b. The landowner has demonstrated that the Farm Management Unit is eligible for and receives differential property taxation pursuant to the Farmland Assessment Act of 1964.

BE IT FURTHER RESOLVED that based on the foregoing determinations, the Applicant's operation is a "commercial farm" as defined by the Right to Farm Act.

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 operation.

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 State Agriculture Development Committee, the Township of Marlboro, the complainant and the landowner.

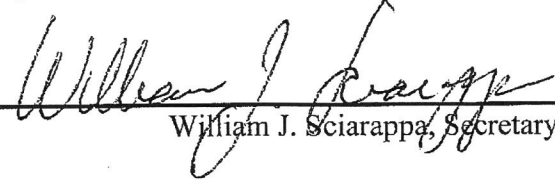
BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 10 days from the receipt of this resolution. The decision of the SADC shall be considered a final administrative agency decision. If this resolution is not appealed within 10 days, this resolution is binding.

Seconded by Mr. Giambrone 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. Foster				X
Mr. Giambrone	X			
Mr. Holmes*	X			
Mr. McCarthy	X			
Mr. Potter			X	
Ms. Grbelja			X	

\* Alternate members

I do hereby certify that the foregoing is a true copy of a resolution adopted by the Monmouth County Agriculture Development Board at a meeting on March 4, 2014 and memorialized on April 1<sup>st</sup>, 2014.

  
William J. Sciarappa, Secretary