

**MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD  
RESOLUTION 2024-08  
REQUEST FOR A SITE-SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE  
EVERGREEN REALTY LLC  
WASHINGTON TOWNSHIP, MORRIS COUNTY, NEW JERSEY**

**WHEREAS**, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq. and the State Agriculture Development Committee’s (“SADC’s”) Right to Farm Rules, N.J.A.C. 2:76-2.3, et seq., a commercial farm owner or operator may make a request to the County Agriculture Development Board to determine if his or her operation constitutes a generally accepted agricultural operation or practice; and

**WHEREAS**, the Morris County Agriculture Development Board (“Morris CADB”) received an application dated October 11, 2024 from Paul Mitchell, Esq. on behalf of his client, Evergreen Realty, LLC (“Applicant”) for a site-specific agricultural management practice (“SSAMP”) for their operation, Block 33, Lot 82.04, located in the Township of Washington (A-1); and

**WHEREAS**, pursuant to N.J.A.C. 2:76-2.3(b), on October 18, 2024, the Morris CADB informed the SADC and the Township of Washington of the receipt of Mr. Mitchell’s request for a SSAMP (B-1); and

**WHEREAS**, pursuant N.J.A.C. 2:76-2.3(c), upon the receipt of a request for a SSAMP, the CADB must determine whether the operation is a “commercial farm” as defined in the RTF Act and whether the activity or practice in question is included on the list of permitted activities set forth in N.J.S.A. 4:1C-9; and

**WHEREAS**, if the CADB determines that the operation is a commercial farm and that the activity or practice in question is included on the list of permitted activities set forth in N.J.S.A. 4:1C-9, the Morris CADB shall develop a SSAMP for the operation; and

**WHEREAS**, if the CADB determines that the operation is not a commercial farm or that the activity or practice in question is not included on the list of permitted activities set forth in N.J.S.A. 4:1C-9, the CADB shall dismiss the request; and

*Evergreen Realty, LLC Application for a Site-Specific Agricultural Management Practice*

**WHEREAS**, paragraph 1 of the SSAMP Application asks the Applicant to list practices, activities or issues that the SSAMP should address; and

**WHEREAS**, paragraph 1 of the October 11, 2024 SSAMP Application submitted by Mr. Mitchell asks the Morris CADB to grant relief from five municipal violations dated October 23, 2023 (T-1):

A. Washington Township Zoning Ordinance § 217-124-Zoning Permits. General Statement of Violation: "Failure to obtain zoning approval for commercial business"

B. Washington Township Zoning Ordinance § 217-40-Agricultural Uses. Specifically, §§ 217-40D1; 217-40C; and 217-9. General Statement of Violation: "Operating nonpermitted use (nonagricultural) importation of trees to split as firewood to be sold."

C. Washington Township Zoning Ordinance § 217-46 - Parking and storage of motor vehicles and trailers. Specifically, § 217-46A(2). General Statement of Violation: "Storage of commercial vehicles associated with non-permitted use"

D. Washington Township Zoning Ordinance § 217-43 - Accessory uses in residential zones. General Statement of Violation: "Accessory Use in the front yard setbacks"

E. Washington Township Zoning Ordinance § 172-20 - General requirements and § 217-43 - Accessory uses in residential zones. General Statement of Violation: "Site plan required for addition of second driveway/ entrance to property off Zellers Road"; and

Commercial Farm Eligibility:

**WHEREAS**, pursuant to N.J.S.A. 4:1C-3, "commercial farm" means (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.), or (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.); and

**WHEREAS**, according to Exhibit A-1, Evergreen Realty, LLC "farm management unit" ("FMU") is comprised of Block 33, Lot 82.04 in Washington Township (approximately 7 acres). Block 33, Lot 82.04 is Farmland Assessed; and

**WHEREAS**, because the Evergreen Realty, LLC FMU consists of more than 5 acres, in order to meet the Right to Farm Act's definition of a "commercial farm," it must produce agricultural or horticultural products worth \$2,500 or more annually, and satisfy the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.); and

**WHEREAS**, pursuant to the 2025 Application for Farmland Assessment, the Evergreen Realty, LLC farm management unit ("subject property") produces bee products, apples, and fuelwood (A-1); and

**WHEREAS**, the Applicant did not provide receipts for apple and honey sales; and

**WHEREAS**, the Applicant provided invoices for sales of wood; and

**WHEREAS**, the Applicant provided IRS Schedule F for 2023, which reported \$50,830 of gross income (A-1); and

**WHEREAS**, the Applicant has a Woodland Management Plan and harvests wood on the subject property. Income generated from the sales of wood produced on the subject property/ farm management unit can be used to satisfy the production requirements in the definition of "commercial farm" set forth in N.J.S.A. 4:1C-3; and

**WHEREAS**, income generated from sales of wood products not produced on the subject property/ farm management unit cannot be used to satisfy the production requirements in the definition of "commercial farm" set forth in N.J.S.A. 4:1C-3; and

**WHEREAS**, the Applicant's 2024 *Woodlot Data Form* signed by the Applicant and the Applicant's forester on May 2, 2023, lists 2+ cords worth \$800 and 60 lbs of honey worth \$600 produced on the subject property (A-1); and

**WHEREAS**, the Applicant's forester, Dennis Galway, certified on May 4, 2024 that approximately \$9,100 in revenue was generated during 2023 (A-1); and

**WHEREAS**, the Applicant's 2025 *Farmland Assessment Form* and *Woodlot Data Form* (A-1) signed by the Applicant and the Applicant's forester on May 5, 2024, lists 22+ cords worth \$8,800 and honey worth \$600 produced on the subject property (A-1); and

**WHEREAS**, based on the Applicant's IRS Schedule F for 2023 and the forester's May 4, 2024 certification, 18% of the Applicant's 2023 income was generated from sales of products produced on the subject property/ farm management unit, while 82% of income was generated from sales of wood from logs trucked in from off-site by professional tree clearing companies (not produced on the subject property/farm management unit) and processed on the subject property into firewood; and

*Agricultural Activity:*

**WHEREAS**, in his November 7, 2024 letter to the Morris CADB (A-2), Mr. Mitchell argued that "*products that contribute to farm income*", in this case logs brought in from off-site and processed on-site, can be sold at a farm market; and

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

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

“Process and package the agricultural output of the commercial farm.”

“Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards”; and

**WHEREAS**, pursuant to N.J.S.A. 4:1C-3, a “farm market” as “a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a 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, and except that if a retail farm market is located on land less than five acres in area, the land on which the farm market is located shall produce annually agricultural or horticultural products worth at least \$2,500”; and

**WHEREAS**, pursuant to 2:76-2A.13, “Agricultural management practice for on-farm direct marketing facilities, activities, and events” defines “products that contribute to farm income” as:

“complementary or supplementary products that are sold to help attract customers to the farm market through a broadening of the range of products available and an enhancement of the experience of purchasing the agricultural output of the commercial farm.”

"complementary products" means items commonly used to facilitate the use or consumption of the agricultural output of the commercial farm and promotional items that help market the commercial farm. Examples of promotional items include, but are not limited to, souvenir items such as commercial farm-branded shirts, hats, and bags.

" supplementary products" means the agricultural output of other farms, and additional customary food and drink items; and

**WHEREAS**, while firewood brought in from off-site could, potentially, be sold through a farm market by an operation eligible for Right to Farm protections as a “supplementary product”, the Applicant’s records show that approximately 18% of the Applicant’s 2023 income was generated from sales of products produced on the subject property, while 82% of income was generated from sales of wood from logs trucked in from off-site by professional tree clearing companies (not produced on the subject property/ farm management unit) and processed on the subject property into firewood, far exceeding the 49% maximum permitted by the RTF Act; and

**WHEREAS**, Washington Township informed the CADB that logs continue to be delivered to [REDACTED] including a recent delivery on October 19, 2024 (T-2); and

**WHEREAS**, processing of wood products trucked in from off-site (not produced on the subject property/ farm management unit), which is Evergreen Realty’s primary and dominant activity, is not entitled to the protections of the Right to Farm Act; and

**WHEREAS**, the Morris CADB reviewed a Staff Report dated October 30, 2024 (B-2) and considered the Evergreen Realty, LLC application during the Morris CADB’s November 14, 2024 meeting, with Mr. Mitchell and his client, Victor Vuskalns, and Dennis Galway, the Applicant’s forester, present; and

**INDEX OF EXHIBITS**

Exhibits from the Applicant:

October 11, 2024 correspondence and application from Paul Mitchell.....A-1

November 7, 2024 correspondence from Paul Mitchell .....A-2

Exhibits from the Morris CADB:

October 18, 2024 correspondence from Katherine Coyle to SADC and Washington Township.....B-1

October 30, 2024 Staff Report.....B-2

Exhibits from Washington Township:

October 23, 2023 Township Notice of Violation.....T-1

October 21, 2024 correspondence to Katherine Coyle .....T-2

**NOW THEREFORE BE IT RESOLVED**, having reviewed the SSAMP application, exhibits A-1, A-2, B-1, B-2, T-1 and T-2, and having considered the presentations submitted by Mr. Mitchell, Mr. Vuskalns, and Mr. Galway, the Morris CADB makes the following determinations:

1. The processing of wood products trucked in from off-site (not produced on the Evergreen Realty, LLC farm management unit), is not included on the list of permitted activities set forth in N.J.S.A. 4:1C-9, and is not eligible for the protections of the Right to Farm Act; and

**BE IT FURTHER RESOLVED**, that the Morris CADB does not have jurisdiction to grant relief from municipal violations for activities not entitled to the protections of the Right to Farm Act. Specifically, with respect to the Applicant’s request for relief from five municipal violations:

- A. "Failure to obtain zoning approval for commercial business" – the CADB does not have jurisdiction to exempt an activity that is not entitled to the protections of the Right to Farm Act (the importation of logs from off-site and processing of said logs) from having to obtain zoning approval.
- B. "Operating nonpermitted use (nonagricultural) importation of trees to split as firewood to be sold” - the CADB does not have jurisdiction to permit an activity that is not entitled to the protections of the Right to Farm Act (the importation of logs from off-site and processing of said logs) when said activity is prohibited by the municipality.
- C. "Storage of commercial vehicles associated with non-permitted use" – the CADB does not have jurisdiction to permit an activity that is not entitled to the protections of the

Right to Farm Act (storage of commercial vehicles associated with the importation of logs from off-site and processing of said logs) when said activity is prohibited by the municipality.

- D. "Accessory Use in the front yard setbacks" - the CADB does not have jurisdiction to permit an activity that is not entitled to the protections of the Right to Farm Act (the importation of logs from off-site and processing of said logs) when said activity is prohibited by the municipality.
- E. "Site plan required for addition of second driveway/ entrance to property off Zellers Road" - the CADB does not have jurisdiction to exempt an operator from a municipal requirement for a site plan for the addition of a second driveway/entrance to property for an activity that is not entitled to the protections of the Right to Farm Act (the importation of logs from off-site and processing of said logs); and

**BE IT FURTHER RESOLVED**, that the Morris CADB does not have jurisdiction to approve activities that are ineligible for Right to Farm protections and that such activities remain under the jurisdiction of applicable local, state and federal authorities; and

**BE IT FURTHER RESOLVED**, that the Morris CADB denies the Applicant's request for relief from municipal violations and dismisses the application; and

**BE IT FURTHER RESOLVED** that pursuant to N.J.A.C. 2:76-2.7(g), certified copies of this resolution will be forwarded to the following individuals and agencies:

Paul Mitchell, Esq.  
Washington Township  
State Agriculture Development Committee

**BE IT FURTHER RESOLVED** that pursuant to N.J.A.C. 2:76-2.3(m), any person aggrieved by the decision of the Morris CADB may appeal the decision to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from receipt of this resolution.

1. The decision of the SADC shall be considered a final administrative agency decision.
2. If the Morris CADB's decision is not appealed within 45 days, the decision is binding.

Dale Davis

12-12-24

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Dale Davis III, Chairman  
Morris CADB

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Date

	<b>Yes</b>	<b>No</b>	<b>Abstain</b>	<b>Recused</b>	<b>Absent</b>
Ms. Ashley Myers			✓		
Mr. Carrajat					✓
Mr. Davis	✓				
Mr. Evans					✓
Mr. Galfo	✓				
Mr. Ort			✓		
Mr. Thomson	✓				

I hereby certify the above to be a true copy of a resolution adopted by the Morris County Agriculture Development Board at a meeting held on December 12, 2024.

*K. Coyle*