

GLOUCESTER COUNTY AGRICULTURE DEVELOPMENT BOARD

RIGHT TO FARM RESOLUTION

**REQUEST OF SUMMIT CITY FARMS FOR A SITE-SPECIFIC AGRICULTURAL
MANAGEMENT PRACTICE RECOMMENDATION FROM THE GLOUCESTER
COUNTY AGRICULTURE DEVELOPMENT BOARD (GCADB) PURSUANT TO
N.J.A.C. 2:76-2.3 ON BLOCK 360, LOT 2, BOROUGH OF GLASSBORO, AS TO THE
EXPANSION OF A WINERY/AGRICULTURAL RETAIL FACILITY**

DATED: September 17, 2015

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et. seq. and the State Agriculture Development Committee regulations, N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the County Agriculture Development Board (hereinafter "CADB" or "Board") to determine if his or her operation constitutes a generally accepted management practice; and

WHEREAS, Dr. Lewis J. DeEugenio, Jr. (hereinafter "DeEugenio") is the owner and operator of Summit City Farms (hereinafter "Summit City"), located on Block 360, Lot 2, Borough of Glassboro, New Jersey (hereinafter the Property), in addition to other lands in the Borough of Glassboro, the Township of Elk, the Township of Harrison, the Borough of Clayton, and the Township of Monroe in Gloucester County, and the Township of Upper Pittsgrove Township in Salem County, with said lands totaling more than 500 acres; and

WHEREAS, Mr. Horner's July 2015 correspondence indicates that the applicant applied for zoning and construction permits from the Borough of Glassboro for the expansion proposal; however the permits were denied. It should be noted that the denial letter from Glassboro indicates that the expansion is permissible under the Right-to-Farm Act for a commercial farm; however the Act and case law also requires that municipal ordinances that relate to safety and public welfare be taken into consideration. Specifically the denial letter indicates trepidations with the size of the expansion as it relates to parking, traffic, circulation and safety concerns

WHEREAS, on July 13th, 2015, William L. Horner, Esquire, on behalf of DeEugenio, as owner and operator of Summit City, made a request in writing to the Board that the proposed expansion of the winery/agricultural retail facility confirms with applicable Right to Farm Act regulations and constitutes a general accepted agricultural operation or practice for which an SSAMP should be recommended by the Gloucester County Agriculture Development Board; and

WHEREAS, William L. Horner, Esquire, on behalf of DeEugenio, on July 13th, 2015 therefore requested the following findings for a number of activities concerning certain agricultural operations on the Property, as follows:

1. A determination that the applicant has satisfied the commercial farm eligibility requirements of the New Jersey "Right-to-Farm" Act.
2. A determination that the applicant's proposal to expand the existing winery/agricultural retail facility by further conversion of the existing produce packing house on Block 360, Lot 2, with parking and other site improvements as depicted in the proposal, conforms with applicable Right to Farm Act regulations and constitutes a generally accepted agricultural operation or practice.
3. A determination that the proposal does not pose a threat to public health and safety.
4. A recommendation of the proposal as a site-specific agricultural management practice.
5. A determination that the applicant's proposed development and use does not require a zoning permit, site plan, variance, or other municipal approval for issuance of construction or building permits.
6. A determination that the CADB retain jurisdiction over the matter; and

WHEREAS, a request to notice the public hearing to be held by the CADB on July 30, 2015, where this SSAMP request was first scheduled to be heard, was forwarded to the South Jersey Times and advertised on July 17, 2015. Notification as to the hearing was also provided to the applicant, their legal representative, the Borough of Glassboro Administrator, the Borough of Glassboro Solicitor, the Borough of Glassboro Zoning Board Solicitor, the Borough of Glassboro Zoning Official, the SADC, and all required parties in accordance with SADC

regulations at NJAC 2:76-2.8(c) on July 15, 2015; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (b), DeEugenio provided their commercial farm certification, including supporting documentation that their agricultural operation is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, on July 27, 2015, Assistant County Counsel Eric M. Campo received correspondence from Allen S. Zeller, Esq., Glassboro Planning Board Solicitor, requesting the July 30, 2015 public hearing be postponed in order for his client and him to have adequate time to prepare and present testimony at the hearing. Mr. Zeller's July 27, 2015 correspondence also requested Summit City to disclose the nature of the intended use of the proposed facility to determine whether present expanded activities and components implemented by Summit City, such as various music and wine events, constitute a generally accepted agricultural management practice. The CADB granted Mr. Zeller his postponement request, and rescheduled the public hearing to take place on August 18, 2015.; and

WHEREAS, a request to notice the public hearing previously scheduled for July 30, 2015 was cancelled and rescheduled for August 18, 2015, where the CADB would hear the SSAMP request, was forwarded to the South Jersey Times and advertised on July 30, 2015. Notification as to the rescheduled hearing was also provided to the applicant, their legal representative, the Borough of Glassboro Administrator, the Borough of Glassboro Solicitor, the Borough of Glassboro Zoning Board Solicitor, the Borough of Glassboro Zoning Official, the SADC, and all required parties in accordance with SADC regulations at NJAC 2:76-2.8(c) on July 30, 2015, which Solicitor Campo already confirmed was provided; and

WHEREAS, on August 11, 2015, Solicitor Campo received additional correspondence from Mr. Zeller further elaborating on his client's objections to the SSAMP request. Mr. Zeller's August 11th letter indicates that he does not dispute the property qualifies as a commercial farm, but that it is his position the application as submitted is incomplete and fails to provide sufficient information as to whether the nature of the proposed expanded operations satisfies State Fire and Building Code regulations. Mr. Zeller also indicates the application fails to address required health, safety and welfare issues required in the Act. Mr. Zeller also references the various SSAMP Checklist waivers requested by the applicant, and indicates that the applicant has failed to fully disclose that it has unilaterally implemented bi-weekly events including programs with live music, cover charge, and the allowance of patrons to bring their own food to the site. Mr. Zeller's correspondence states these events have resulted in an overflow capacity for the facility as well as causing patrons to park off-site on residential streets. Mr. Zeller's correspondence also states that the applicant's failure to fully and truthfully disclose the extent of its current operations deprives the CADB of jurisdiction to consider the application. Attached to Mr. Zeller's August 11th correspondence was a letter he composed to Mr. Horner, wherein he requested 15 specific items of information relating to the operations of Summit City Farm. Mr. Zeller requested a response in writing from Mr. Horner to these items on or before August 17, 2015; and

WHEREAS, on August 17, 2015, Solicitor Campo and CADB Secretary Ken Atkinson were copied on an e-mail from Mr. Horner to Mr. Zeller, wherein Mr. Horner indicated that he, his client, and his expert witness would provide testimony at the August 18, 2015 CADB meeting as to Mr. Zeller's August 11, 2015 correspondence if so requested by the Board. In addition, on August 17, 2015, Solicitor Campo received an e-mail from Mr. Zeller wherein he referenced and provided public hearing reports for two (2) cases that were previously heard by the SADC that Mr. Zeller felt were relative to this matter. The first case referenced Hopewell Valley Vineyards in Mercer County (SADC ID #786) and Natali Vineyards in Cape May County (SADC ID #1354). Mr. Zeller's August 17th e-mail also references the CADB's prior SSAMP meeting minutes and resolution from May 16, 2013, specifically referencing that "if any additional agricultural activities are undertaken that were not presented before the Board" Summit City Farms needed to return to the CADB. Mr. Zeller's e-mail further states that according to the applicants' previous testimony "the only activity on the table concerning this farming operation is this wine tasting/farm facility, and that any expansions or new activities would again have to come before this Board." Mr. Zeller further states that the current expansion of events at Summit City Farms violates the limits of the 2013 approvals from the CADB, and further states that these events are not protected by the Right-to-Farm Act and do not constitute generally accepted agricultural management practices.

WHEREAS, on August 18, 2015, Solicitor Campo and CADB Secretary Ken Atkinson were copied on an e-mail from Mr. Zeller to Mr. Horner, wherein Mr. Zeller stated that Mr. Horner should provide the information requested in his August 11, 2015 correspondence prior to the August 18th public hearing, and that failure to do so makes the SSAMP application incomplete.

WHEREAS, by way of background, it was noted that on May 16, 2013, the Gloucester County Agriculture Development Board (CADB) approved a Site-Specific Agricultural Management Practice (SSAMP) request from Dr. Lewis DeEugenio, Jr./Summit City Farms as to the retrofitting of an existing packing house for a winery/agricultural retail activities on the property and was formally approved via a resolution of the CADB at its meeting on June 27, 2013. In addition, on November 21, 2013, the CADB heard and made a motion to approve an additional SSAMP request from Dr. Lewis DeEugenio, Jr./Summit City Farms as to the placement of signage for the winery/agricultural retail activities on the property and was formally approved via a resolution of the CADB at its meeting on December 19, 2013.

WHEREAS, Solicitor Campo advised the Board they must make a threshold determination of jurisdiction in this matter and that the applicant meets the eligibility criteria to be recognized as a "commercial farm" under the Right-to-Farm Act. Chairman Kandle asked for a motion to open the public hearing for testimony and comments. Mr. Visalli made the motion, which was seconded by Mr. Dean and approved unanimously by the Board.

WHEREAS, Dr. DeEugenio was sworn in and confirmed that all of the information provided in the *Commercial Farm Certification Form* was accurate and truthful. Dr. DeEugenio then confirmed that the farm was over five (5) acres, produced over \$2,500 per year of agricultural products, that Summit City Farms has been actively farmed since before 1998 for approximately 100 years, and finally, was eligible for farmland assessment.

WHEREAS, the Board determined the following:

1. There are credible exhibits that establish that the commercial farm is no less than five (5) acres;
2. The commercial farm produces agricultural/horticultural products worth at least \$2,500 per year;
3. The farm is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964;
4. A farm has been in operation on the Property as of 1998;

Where all of the criteria above having been satisfied, the Board finds and determines that Summit City Farms meets the eligibility criteria of the Right to Farm Act as a commercial farm pursuant to N.J.S.A. 4:1C-9; and

WHEREAS, in accordance with the procedure set forth in N.J.A.C. 2:76-2.8, a public hearing was held on August 18, 2015, when DeEugenio presented his case, through his attorney, William L. Horner, Esquire; and the Borough of Glassboro Planning Board appeared through its Solicitor, Allen S. Zeller, Esquire, as an interested party to the Applicant's request for and on behalf of the said municipality; and

WHEREAS, the Board received into evidence the following Exhibits:

- GC-1: SSAMP request from the applicant which includes:
- a. July 13, 2015 correspondence from William L. Horner, Esq.
 - b. Copy of the June 22, 2015 Zoning Permit denial from the Borough of Glassboro.
 - c. An engineering plan of the proposed expansion of the winery/agricultural retail facility, with parking and other site improvements prepared by J. Timothy Kernan, NJ Licensed Professional Engineer (GE37101), Maser Consulting, PA.
 - d. A sketch of the proposed expansion of the winery/agricultural retail facility.
 - e. Copy of the Gloucester CADB SSAMP checklist provided by the applicant.
 - f. Commercial Farm Certification Form for Summit City Farms as provided in the applicant's May 2013 SSAMP request.

- g. Copy of 2012 Federal Income Tax form indicating that the applicant produced agricultural income of \$1,215,554 as provided in the applicant's May 2013 SSAMP request.
- h. Copies of the applicant's 2015 Application for Farmland Assessment form for Block 360, Lot 2.
- i. July 27, 2015 correspondence from Allen S. Zeller, Esq., Glassboro Planning Board Solicitor.
- j. August 11, 2015 correspondence from Allen S. Zeller, Esq., Glassboro Planning Board Solicitor (also includes August 11, 2015 correspondence from Mr. Zeller to Mr. Horner).
- k. August 17, 2015 e-mail from William L. Horner, Esq. to Allen S. Zeller, Esq.
- l. August 17, 2015 e-mail from Allen S. Zeller, Esq. to Assistant County Counsel Eric M. Campo (also includes hearing reports for Hopewell Valley Vineyards in Mercer County (SADC ID #786) and Natali Vineyards in Cape May County (SADC ID #1354)).
- m. August 18, 2015 e-mail from Allen S. Zeller, Esq. to William L. Horner, Esq.

WHEREAS, Mr. Horner referred to the SADC's recently adopted Agricultural Management Practice (AMP) for On-Farm Direct Marketing activities, and indicated that when his client received his previous SSAMP determination in 2013 that AMP had not yet been adopted. Mr. Horner indicated that his client received his CO in January 2014, but did not start operations until May 2014. Mr. Horner stated the On-Farm Direct Marketing AMP was approved in April 2014, which provided broad allowances for on-farm direct marketing facilities, including facilities such as his client's. Based on these allowances his client began conducting certain activities, subject to other requirements, such as building code requirements. Mr. Horner stated that even though the original 2013 SSAMP approval only referred to the winery/agricultural retail facility, the new AMP would allow the new facility to be used for other ancillary entertainment based activities. Mr. Horner then read the definition for "ancillary entertainment based activities" as indicated in the AMP. Mr. Horner stated that based on the AMP his client is permitted to conduct those activities. Mr. Horner then stated during testimony his client will state there have been on-farm direct marketing activities in the form of some music nights at the winery, and that they are conducted regularly. Mr. Horner stated with the advent of these new allowances his client's wants to expand his facility to have adequate space for these activities. Mr. Horner stated that everything his client proposes to do at the winery will be permissible under the On-Farm Direct Marketing AMP, even though these activities weren't envisioned when his client first came before the Board in 2013. Mr. Horner stated this was the purpose of this SSAMP request, so that an existing portion of the existing packing shed can be retrofitted and made so that it can accommodate these additional activities, and his client can sell more wine at his on-farm direct marketing facility. Mr. Horner stated that in his original letter to the Board he mistakenly indicated that the 1,200 foot portion of the expansion would be utilized as a production area; however he corrected this to indicate that the 1,200 foot portion of the expansion will be for the new production/sales area, and the 300-foot portion will be used for storage area. Mr. Horner indicated that he has asked for a number of submission waivers regarding the CADB's SSAMP Checklist; however Mr. Horner stated that his reading of the checklist requirements indicates that it is at the Board's discretion to determine what items can be waived. Mr. Horner stated that the reason for the waiver requests in his client's application is because the winery has been up and running for more than a year and it's already a known quantity. Mr. Horner stated this application is just taking a small winery and making it a little bigger.

WHEREAS, Dr. DeEugenio confirmed that the testimony previously provided by Mr. Horner was accurate. Dr. DeEugenio stated that the winery has been fortunate enough to have an out-pouring of support from the community, and that it is in fact only a small portion of their overall farming operation. Dr. DeEugenio stated they have produced more than 27 varieties of wines thus far. Dr. DeEugenio stated that they want to expand, and have again run into opposition from the municipality. Under questioning from Mr. Horner Dr. DeEugenio testified that the majority of the wine they sell is produced from their own fruit, and that they also sell some cheese products and that the sale of those cheese was about \$300, or less than 1%, of the winery's income since it opened. Under questioning from Mr. Horner Dr. DeEugenio also testified they often provide pizza and sandwiches free of charge at the winery and that they allow patrons to bring their own food on-site, which to date has generated no problems. Under questioning from Mr. Horner Dr. DeEugenio also testified the facility added some music nights early on, using a local college jazz group on some nights and they also have some nights where

recorded music is featured, such as country and oldies. Dr. DeEugenio testified that on some nights they charge a cover, but that any cover charge goes directly to the music supplier and that the winery doesn't see any profit from the charges. Dr. DeEugenio also testified that they have had no complaints from any neighbors regarding the volume of the music, and that the municipality has not contacted him with any concerns regarding the music nights, or for any other reason. Under questioning from Mr. Horner, Dr. DeEugenio also testified that he had familiarized himself with the municipal noise ordinance and that on the nights when the music is played he goes outside to ensure the ordinance is being adhered to, and that he is in attendance at all of the nights music is played and will continue to do so. Under questioning from Mr. Horner Dr. DeEugenio then testified that the on-site parking area has been adequate for the music night activities, that there have been issues with the parking area such as people getting stuck or negotiating the parking area, and that there have been no concerns from the neighbors or the municipality regarding the parking situation. Dr. DeEugenio also stated that patrons sometimes park on the street, but that it is not a "No Parking" area and that he knew of no complaints from neighbors or the municipality regarding any on-street parking. Under questioning from Mr. Horner Dr. DeEugenio also testified that he has never solicited business for his facility for "event" type activities, such as weddings or corporate events, but on some occasions small groups, such as the West Deptford Women's Club, have held wine tastings. Under questioning from Mr. Horner Dr. DeEugenio also testified that the winery's typical hours of operation are Friday from 4pm-7pm, sometimes until 10pm or so on music nights, from 3pm-7pm on Saturdays, sometimes until 10pm or so on music nights, and on Sunday from 3pm-7pm. Dr. DeEugenio stated that on the nights they are open until 10pm sometimes patrons will stay and chat for a bit before he turns out the lights, and that patrons have never stayed on-site longer than 11pm. Under questioning from Mr. Horner Dr. DeEugenio also testified that he has re-reviewed the On-Site Direct Marketing AMP and that it is his intention to ensure he abides by the hours of operation as indicated in the AMP. Under questioning from Mr. Horner Dr. DeEugenio also stated that they absolutely do not allow patrons to bring their own alcohol on-site, that they do not serve any other alcohol other than their wine at the facility, and that they have a license that only permits them to sell wine.

WHEREAS, Deborah V. Anderson, RA, PP, PWS was sworn in and confirmed that she designed the site plans of the original facility approved by the Board as well as the draft plan for the proposed expansion as provided to the Board in their packages (item GC-1d), and is licensed by the State of New Jersey to perform such work. Under questioning from Mr. Horner Ms. Anderson testified that Dr. DeEugenio came to her in regards to a 1,500 square foot expansion of the current winery using additional area of his packing house for the proposed expansion. Under questioning from Mr. Horner Ms. Anderson also testified that there are two fire hydrants within 200 feet of either side of the facility, and that the total occupancy of the existing and expanded winery areas would be 80 patrons. Solicitor Campo then asked Ms. Anderson if new construction would be required for the proposed expansion, and Ms. Anderson replied that the building is open-truss construction and that new beams would be put in to re-enforce them. Ms. Anderson also stated that a door at the back of the proposed expansion would be expanded to the same height of the existing facility's front door to ensure that it meets all exiting requirements. Solicitor Campo then confirmed for the record that regardless of the Board's decision tonight the applicant would still be required to meet all relevant permitting requirements, such as the Uniform Construction Code, in order to receive his construction permits from the municipality, and Dr. DeEugenio testified that he was aware of that fact. Ms. Anderson then confirmed that she will be submitting all required site plans to the municipality at the time that the request for the construction permits is made, and the plans will be prepared in accordance with all State codes. Mr. Horner then confirmed that his client is aware that all Uniform Construction Code requirements pertaining to the proposed expansion must be met. Mr. Horner then asked if the plan that Ms. Anderson was utilizing in her presentation was the same one that was previously provided to the Board, and she stated it may not be because the one she was referring to includes the proposed fire alarm system. Mr. Horner then provided the Board with 3 copies of the revised Plan (entered as item GC-1n).

WHEREAS, Timothy Kernan, NJ Licensed Professional Engineer, with Maser Consulting, PA, was sworn in and testified that he reviewed the Glassboro ordinances and that the borough doesn't have a specific ordinance that applies to parking for an on-site direct marketing facilities, and that in the absence of those it is his professional opinion that the parking area proposed for the expanded facility meets all of the requirements as per the On-Farm Direct Marketing AMP. Mr. Kernan then referenced the parking requirements of the draft AMP stating that the parking areas may include permanent parking areas, temporary parking areas, or a

combination of the two. Mr. Kernan then reviewed the parking as indicated on the partial site plan he prepared (item GC-1c) and confirmed that based on the paved parking area and grass parking as depicted it was his professional opinion that there would be adequate parking using both the paved and grass parking areas to accommodate the proposed facility expansion. Mr. Kernan then referred to the AMP and stated the proposed parking area for the facility's expansion provided safe, off road parking, provided safe circulation, and provided safe ingress and egress points. Mr. Kernan then stated that the plan that was approved in 2013 had a total of 19 spaces, with most of those being in the grass area to the left of the facility. The new expanded plan proposed to bring the amount of parking spaces in the grass area to 37 spaces. The ingress and egress area to the grass parking area would not change as to the plan approved in 2013, with the width of the driveway area being 24 feet wide. Mr. Kernan confirmed again that in his professional opinion the proposed parking area as depicted in the plan provides safe ingress and egress. Mr. Kernan then referred to the AMP again as to the type of surfaces required for parking areas, and confirmed that these areas need not involve greater than the minimum level of improvements necessary to protect public health and safety. Mr. Kernan stated that they are proposing concrete car stops in their plan for all the parking spaces in the grass area. Mr. Kernan also stated that in his professional opinion the surface of the grass area is stable and that based on the number of occasions that he's been to the facility, including one that was a day after a heavy rainstorm, the area has always been dry and firm. Mr. Kernan then referred to the buffer standards as indicated in the AMP and stated that the proposed facility meets all the setback requirements, and that the existing tree line across the front of the property adequately provides buffering to the residential homes across the street. Under questioning from Mr. Horner Mr. Kernan also testified that the proposed facility and parking area meets all right-of-way requirements. Under questioning from Mr. Horner Mr. Kernan then testified that the surface of the grass parking area is firm and stable, drains properly so that it will not provide additional runoff to University Boulevard, and that in his professional opinion will continue to stand-up to the uses associated with this proposed expansion. Under questioning from Mr. Horner Mr. Kernan also testified that the street width of University Boulevard is sufficient for on-street parking to take place on both sides of the street and still allow for the safe passage of emergency and other vehicles, and also that the portion of University Boulevard that is in front of the facility has very little residential development. Mr. Kernan also stated that he is unaware of any municipal ordinances that prevent on-street parking in front of the facility.

WHEREAS, Mr. Kernan also testified that since Glassboro has no ordinance regarding parking for direct on-site marketing activities he researched their ordinance that pertains to catering halls, which he feels is a comparable comparison, and that the parking area for this proposed facility expansion meets all of those requirements. Under questioning from Mr. Horner, Mr. Kernan testified that in his professional opinion nothing proposed regarding the expansion of the winery would negatively impact public health and safety.

WHEREAS, Solicitor Campo then referred to the number of waivers that the applicant had requested in the submission of the SSAMP Checklist, and asked Mr. Kernan whether he adequately considered the farm's setting, the scale and intensity of the proposed operation, the type and use of the public road being used by the operation, and what improvements might be necessary to protect public health and safety in his submission of the waiver requests. Mr. Kernan stated he did consider all those factors and specifically addressed them in his comments before the board. Mr. Kernan stated that since this request was for the expansion of a facility that had already received CADB approval he felt the waiver requests were acceptable. Mr. Campo then stated to the Board that the SSAMP Checklist is a new tool being utilized by the CADB, and that even though a number of waivers as to the items in the SSAMP Checklist were requested by this applicant CADB staff felt that the application itself was administratively complete and could be presented to the Board. Solicitor Campo then stated that the Board has the final authority as to granting the waivers requested in the SSAMP Checklist pursuant to NJAC 2:76-2.3.

WHEREAS, Mr. Allen Zeller, Esq., began his presentation by introducing himself as the Solicitor for the Glassboro Planning Board. Mr. Zeller questioned Mr. Kernan as to the number of waivers that the applicant requested in the SSAMP Checklist. Mr. Kernan indicated that he didn't prepare the checklist but that he would take Mr. Zeller's word as to the number of waivers requested. Mr. Zeller then asked Mr. Kernan in his experience if he knew of any other instance where an application was accepted in which the applicant had requested so many waivers. Mr. Kernan stated that he could not comment off the top of his head if he had or hadn't. Mr. Zeller then asked Mr. Kernan if in his opinion he thought that the amount of waivers requested with this application was an exceptionally large amount, to which Mr. Kernan stated it was a large amount.

Mr. Zeller stated that some of the waivers were needed to properly evaluate the application, and referred to the location and dimensions of driveways opposite the property. Mr. Kernan stated that there are two residences opposite the facility and that the proposed expansion does not negatively impact them. Mr. Zeller then asked Mr. Kernan if he was aware if any of the vehicles parked on University Boulevard were college vehicles. Mr. Kernan said he didn't believe so due to Rowan College's location. Mr. Zeller then asked Mr. Kernan in his opinion how far away the College was from the facility and Mr. Kernan agreed that it was less than half a mile. Mr. Kernan then stated again that he did not draft the submitted SSAMP Checklist and couldn't comment on each individual waiver request, but that this was just an expansion of a facility that received approval from the CADB only 2 years ago. Mr. Zeller then asked Mr. Kernan about lighting for the expanded facility and Mr. Kernan stated that no additional lighting was proposed. Mr. Zeller then asked Mr. Kernan about solid waste disposal for the facility, and Mr. Kernan stated that he assumed that solid waste disposal would be necessary somewhere on-site. Mr. Kernan then reiterated that this was not a brand new facility that was starting from ground-up, but was an expansion of a facility that had already received CADB approval 2 years ago. Mr. Zeller then asked Mr. Kernan if he was aware if an Event Management Plan was prepared for the proposed facility, and if one would be appropriate due to the increased size. Mr. Kernan said that he was unaware if there was an actual Event Management Plan, but based on his observations it appeared that Dr. DeEugenio had a pretty good handle on operations at the facility. Mr. Zeller then asked Mr. Kernan if the lack of an Event Management Plan would have a negative impact on health and safety, and Mr. Kernan said that he didn't feel that it would. Mr. Zeller stated that if a fire or other emergency occurred it would have an impact. Mr. Zeller then asked Mr. Kernan if during his site visits to the property if he ever saw any tables blocking any of the parking spaces. Mr. Kernan stated that he didn't recall. Mr. Zeller then asked Mr. Kernan to look at a copy of two pictures (labeled as exhibits as B-1 and B-2) that Mr. Kernan stated appeared to be the front of the applicant's winery showing the paved parking area. Mr. Zeller then asked Mr. Kernan if the pictures showed picnic tables blocking a portion of one of the handicapped spaces and a number of the paved parking spaces. Mr. Kernan stated that the tables appeared to be partially in the parking spaces. Mr. Zeller then questioned Mr. Kernan on the length of the parking spaces and stated that one of the handicapped spaces as depicted on the plan seems shorter than the other. Mr. Kernan stated that all the spaces are the same length; however one of the handicapped spaces is not as deep as the others.

WHEREAS, Solicitor Campo then asked Mr. Zeller if he wanted the pictures to be entered into evidence as part of his exhibits, to which Mr. Zeller replied yes. Mr. Horner then asked if it could be determined who took the pictures and when. Mr. Zeller stated that it begs the issue, to which Mr. Visalli replied that the Board needs to know if the pictures were taken on a day the facility was closed, and he wants to know the date and time the pictures were taken. Mr. Zeller stated that as per New Jersey statutes it is against the law to block any handicapped spaces regardless if the facility was closed or not, even on private property. Mr. Curtis then asked Mr. Zeller what if the gate to the facility was closed, to which Mr. Zeller stated that you could speculate all you want but it doesn't matter. Mr. Horner then stated that he would withdraw his request, to which Solicitor Campo stated that the request was relevant since the pictures were being presented as exhibits; however violations were not before the board. However, the questioning should be allowed to the extent that consideration of the local parking and state parking requirements are relevant as it relates to the applicant's ability to comply with all regulations and impact on public health and safety of the community. Solicitor Campo then again asked Mr. Zeller if he knew who took the pictures, or if any member of his interested party took them, to which Mr. Zeller replied that he could not provide testimony this evening as to who took them. Mr. Zeller then cited the New Jersey handicapped parking statute and stated that he would provide a copy of it for the Board. Mr. Visalli then asked Mr. Zeller if the municipality wrote a violation for the picnic table being in the handicapped space to which Mr. Zeller replied he did not know if they did. Mr. Visalli then stated that up until tonight the municipality never wrote a violation, but regardless the Board is not hear tonight to hear any violations. Mr. Zeller stated that Mr. Visalli could make his conclusions, to which Mr. Visalli replied he is not making his own conclusions, he was asking a question. Mr. Visalli said the Board's Solicitor stated that the Board wasn't hearing a Right to Farm Complaint application about violations, so he didn't want to sit for half an hour talking about something the Board isn't deciding. Mr. Visalli said that the Board went over this case two years ago when the same exact parking spots were presented to them, and he didn't know why they were talking about the same parking spots all over again. Mr. Visalli then asked Mr. Zeller to talk about the new matters before them, not the old. Mr. Zeller stated that the applicant is saying that they have 39 spaces, but if they're blocking some of those spaces they don't have that amount. Mr. Visalli then said that if they are blocking

spaces it's a parking violation and it's up to the municipality to enforce the parking laws. Mr. Visalli stated that the Board is here tonight to hear the new application and it has nothing to do with the parking violations. Mr. Zeller then stated that the application is based on 5 spaces in the front parking area. Mr. Visalli then asked if the spaces are parking spots, to which Mr. Zeller replied that they are not parking spots if they're being blocked, to which Mr. Visalli replied that they are parking spots and that it's the municipality's job to write a violation. Mr. Zeller stated that he wanted to move on and didn't want to argue with the Board members. Mr. Zeller then said he had no other questions for Mr. Kernan.

WHEREAS, Mr. Zeller then questioned Ms. Anderson, who informed Mr. Zeller that she would provide him with a copy of the revised plan she earlier presented to the Board. Mr. Zeller then questioned Ms. Anderson regarding the proximity of the fire hydrants to which Ms. Anderson confirmed that there were 2 hydrants approximately 200 feet on either side of the facility. In response to a question from Mr. Zeller Ms. Anderson stated that the fire hydrants weren't shown on her plan because the plan was only of the facility itself. Ms. Anderson also stated that the proposed expansion has adequate fire exits and signage which would provide safe exit out of the building in case of emergencies.

WHEREAS, Mr. Zeller then questioned Dr. DeEugenio. Mr. Zeller asked Dr. DeEugenio to confirm that he has attended all of the music nights, to which Dr. DeEugenio replied that he had. Mr. Zeller asked Dr. DeEugenio if he recalled in his prior testimony in 2013 that if any changes were made to the winery or expansion to the uses he would again come before the Board. Dr. DeEugenio stated that he couldn't recall specifically. Mr. Zeller then read from the CADB's approved public hearing report from May 2013 wherein he quoted Dr. DeEugenio stating that he hoped the winery would draw 6-12 people night. Dr. DeEugenio stated that he didn't recall those words exactly, but it would be a fair statement. Mr. Zeller then quoted from the May 2013 public hearing report reading that Mr. Horner stated that the CADB should have on-going jurisdiction over the project, and if any agricultural activities were to take place not presented to the Board that evening the CADB would hear those items as separate requests. Dr. DeEugenio again stated that he didn't recall exactly, but it would be a fair statement as well. Mr. Zeller then quoted from the May 2013 public hearing report reading that Mr. Horner stated that the only item on the table at May 2013 meeting concerned the winery facility and that any expansion would again come before the CADB. Mr. Zeller then confirmed that this information was coming from the CADB's approved public hearing report to which Dr. DeEugenio stated that he presumed the statements were authentic. Dr. DeEugenio then confirmed that the facility opened in May 2014 and that their on-going activities include wine tasting. Mr. Zeller asked Dr. DeEugenio if there had been any other events such as country music and dancing, and the question was re-read by the stenographer. Dr. DeEugenio replied that there have been music nights throughout their operation. Mr. Zeller asked if any of those music nights also included dancing, to which Dr. DeEugenio replied that they do have people from time to time who feel that they want to dance, probably more frequently than not. Mr. Zeller asked Dr. DeEugenio if it was true that they advertised the facility as dance space, to which Dr. DeEugenio replied they did not, only wine and music events. Under questioning Dr. DeEugenio stated that there are also nights when oldies music is featured, and sometimes people will dance then also. Under questioning from Mr. Zeller Dr. DeEugenio testified that they advertise the wine and music nights on their website, they do not advertise line dancing or any other type of dancing, they list any cover charges for a specific event, and they list their hours of operation.

WHEREAS, Mr. Zeller then confirmed the operating hours as listed on the website, and Dr. DeEugenio confirmed that the On-Farm Direct Marketing AMP is used as a guideline for these hours. Mr. Zeller then asked if they use Facebook or other social media for advertising, to which Dr. DeEugenio said he wasn't sure as in the past they used an outside party for advertising. Mr. Zeller then asked if they solicited any private parties, such as birthday parties, fund-raising or charity events, and Dr. DeEugenio stated that some groups have used the facility, such as the West Deptford Women's Club, but they were not solicited events. Mr. Zeller then asked Dr. DeEugenio about the pictures he showed earlier of the picnic tables shown partially in the parking spots, and Dr. DeEugenio testified that they were in the process of cutting the grass around the facility, and temporarily placed the tables there while doing so. Dr. DeEugenio then stated that they cut the grass fairly regularly, as the facility is a showpiece. Mr. Zeller then asked if the facility advertises that they are open for events, parties and private functions, to which Dr. DeEugenio replied no. Mr. Zeller then entered exhibit B-3 into evidence which he stated was downloaded from Summit City's website, which including text that the facility was advertising for meetings, events, parties, and other private functions. Dr. DeEugenio stated that this portion

of the website was utilized when they first started and that even though it mentions private events they have never solicited them. Mr. Zeller stated that this was downloaded from their website today, and Dr. DeEugenio stated that he was unaware it was on there since no one had ever contacted them for a private event based on the website, and that he will take the language regarding private events off of the website. Mr. Zeller then asked if the facility hosted any Halloween or St. Patrick's Day parties to which Dr. DeEugenio said they did not. Mr. Zeller then entered item B-4 into evidence, which showed an advertisement from the facility's Facebook page for a St. Patrick's Day Dance, to which Dr. DeEugenio replied that was an advertisement for the DJ they used to use to provide recorded music at the winery, and that he is no longer associated with the facility. Dr. DeEugenio further stated that they have had music nights when it falls on a holiday such St. Patrick's Day and Valentine's Day, and sometimes people dress to match the holiday. Mr. Zeller then entered items B-5, B-6, and B-7 into evidence and Dr. DeEugenio confirmed that they advertised oldies night at the winery, but that were from their Facebook page were again produced by the DJ they no longer use. Mr. Zeller asked if Dr. DeEugenio ever came back to the CADB for approval of those music nights to which Dr. DeEugenio stated that he wasn't aware that he had to, and Mr. Zeller stated that means "no".

WHEREAS, Mr. Zeller then entered item B-8 into evidence which advertised a Line Dance Class. Dr. DeEugenio stated that this was not associated with the winery, and that they allowed their former DJ to use their space for this one-time event while the facility was closed, and that they didn't charge the DJ for use of the space. Mr. Visalli then stated that he understands the point that Mr. Zeller is attempting to make, but was wondering if these past events were again anything that the Board had jurisdiction over. Solicitor Campo stated that by basis of the public hearing any interested parties should be granted the opportunity to have their questions answered to ensure the applicant is adhering to all regulations, but that this hearing is not a "Right-to-Farm" complaint hearing and therefore those matters are not before the Board, except to the extent that it relates to the applicant complying with regulations for public safety going forward.

Mr. Zeller then entered exhibit B-9 into evidence which advertised a Halloween dance at the winery, to which Dr. DeEugenio replied this was again generated by their former DJ, and that a music night was held on Halloween which happened to fall on one of the nights the winery was open. Mr. Zeller then entered into evidence items B-10 and B-11 which Dr. DeEugenio confirmed were from Summit City's own website advertising their summer oldies and country nights, and that he expected these events would continue to occur after their proposed expansion takes place. Under questioning from Mr. Zeller Dr. DeEugenio confirmed that they allow patrons to bring their own food to the music nights, and their own soda. Mr. Zeller then asked if Dr. DeEugenio if he was aware as to the largest capacity that they have, and Dr. DeEugenio replied 40-some patrons. Dr. DeEugenio then confirmed that the facility is not on a preserved farm, and that they do not sell non-agricultural products such as wine glasses.

WHEREAS, Mr. Horner stated that the request for a SSAMP submission allows the applicant to provide to the Board only what is necessary to make a decision, and if the Board finds that what has been submitted is sufficient to make their decisions the Board could then waive the additional items on the SSAMP checklist. Mr. Horner stated that this is a simple application for a known facility that the Board has already approved, and it's just taking a small winery and making it a little bigger. Under questioning from Mr. Horner, Dr. DeEugenio then confirmed that there is no college parking in proximity to the facility, as the college is approximately 10 blocks away. Mr. Horner then gave the definition of an "On-Farm Direct Marketing Event" as per the AMP, and stated that an Event Management Plan is only required for a larger scale On-Farm Direct Marketing Event such as a festival, and that for such an event the farmer actually has to coordinate certain items with the municipality itself. Mr. Horner then confirmed that what is occurring at Summit City is an "ancillary entertainment based activity" as defined by the AMP. Mr. Horner then stated that he doesn't know if there is any prohibition as to customers dancing at a winery under the Right-to-Farm Act, or singing for that matter, which could in fact enhance their wine drinking experience and would be beneficial to the farmer. Mr. Horner then confirmed that the picnic tables discussed earlier were moved from the parking spaces following the mowing, and Dr. DeEugenio testified that if any tables were impeding on any parking spots they also would be moved. Mr. Horner then stated that if this expansion is approved it is understood that any activities permitted to take place under the On-Farm Direct Marketing AMP could occur, and the applicant does not need to come to the back to the Board unless they undertake any activity not identified in the AMP. Mr. Horner then confirmed from Mr. Kernan that the handicapped spaces as proposed will meet all ADA requirements. Mr.

Horner then reiterated that when the Board first approved the facility in 2013 the On-Farm Direct Marketing AMP was not yet adopted, and that it was understood that anything that required approval by the Board would come before it; however activities that didn't require approval did not need to come before the Board, such as the AMP's allowances. Mr. Horner then confirmed the occupancy allowance of the facility is presently 43. Mr. Horner then stated that his earlier comments in 2013 referred to by Mr. Zeller were based on the Board maintaining jurisdiction over the 2013 SSAMP, and were not an indication that the applicant had to return to the Board every time he undertook a permissible activity. Mr. Horner then reconfirmed from Dr. DeEugenio that he has received no complaints from the municipality for any of his past activities, and that he plans to adhere to all aspects of the On-Farm Direct Marketing AMP. Mr. Horner then stated there is no prohibition on individuals bringing their own food on the premises, and that if the municipality felt that this was an issue they could bring a Right-to-Farm complaint to the Board.

WHEREAS, Chairman Kandle asked for a motion to the open the meeting for general comments from the public. Mr. Visalli made the motion, which was seconded by Mr. Dean and approved unanimously by the Board. At this point Vincent Barnardo approached the Board and was sworn in by Solicitor Campo. Mr. Barnardo stated that he is neighbor of Summit City Farms, and that Dr. DeEugenio's operation is run responsibly. Mr. Barnardo stated that he has been to many of the events and they are very well organized. He said that sometimes him and his wife sit on their back porch and can sometimes faintly hear the music and they enjoy it very much. He stated that he knows of women who walk their children down the street in front of the facility and that they all feel safe. Mr. Barnardo stated that University Boulevard is not tied up with vehicles, and that the municipality's largest fire truck could safely drive down the street even with vehicles parked on both sides. Mr. Barnardo stated that the facility is beneficial to the community and he has nothing but good things to say about it. Seeing no other member of the general public wishing to speak Chairman Kandle asked for a motion to close the meeting for comments from the general public. Mr. Curtis made the motion, which was seconded by Mr. Dean and was approved unanimously by the Board.

WHEREAS, Mr. Horner then presented his closing comments. Mr. Horner stated this isn't a complicated application; it's to make a small winery a little larger. Mr. Horner stated that his client has testified that he has every intention to follow the On-Farm Direct Marketing AMP and that there are mechanisms in place to make sure he does that. Mr. Horner said evidence was presented that shows the proposed expanded facility and the parking areas around it are safe and do not impose a threat to the general public. Mr. Horner stated that the Board has every reason to grant the requested SSAMP submission waivers based on the information presented in the application and as testified during the hearing, in addition to approving the SSAMP request itself.

WHEREAS, Mr. Zeller then presented his closing statement. Mr. Zeller stated that the regulations of the On-Site Direct Marketing AMP do not permit the concept of any activity or event which attracts customers to a farm or winery be entitled to Right-to-Farm protection if it does not constitute a generally accepted agricultural management practice. Mr. Zeller stated that is not what this regulation advises, and that there must be a clear link between any event held and the marketing of the farm. Mr. Zeller stated these events were unilaterally expanded in May or June 2014 after the applicant promised that if they were going to undertake any kind of expansion they would return to the Board, as per the previous May 2013 public hearing report. Mr. Zeller stated that the applicant also could have asked the municipality as to its position on those expansions. Mr. Zeller said that the applicant doesn't do that and they feel that they have carte blanche under the Right-to-Farm Act to do whatever they want to do. Mr. Zeller stated that the only event that they testified about that would be permitted under the Right-to-Farm Act is probably the jazz night. Mr. Zeller stated that the On-Farm Direct Marketing regulations talk about examples of ancillary based activities being live or recorded background music, and that is not what's occurring at the facility. Mr. Zeller stated that the applicant is having major events to bring people in not related to the wine, and that's why Glassboro is opposing this. Mr. Zeller stated that the applicant has requested waivers on a lot of critical items as he mentioned that are needed for the Board to make a well-informed, intelligent decision on what the applicant proposes to do. Mr. Zeller stated that Board should have known that in advance and that he should have known that in advance. Mr. Zeller stated that this is hearing by ambush and that is why he is objecting.

WHEREAS, Chairman Kandle asked for a motion to the close the public hearing to all comments and testimony. Mr. Curtis made the motion, which was seconded by Mr. Dean and

approved unanimously by the Board. At this point Chairman Kandle asked for any comments from the Board members, to which Mr. Curtis stated for the record that when the Board adopted the use of the SSAMP checklist it was with the understanding that certain items would be eligible to be waived based on the application before the Board, and that there would be cases where applicants would seek waivers for a large portion of the indicated items. Mr. Curtis stated that the SSAMP checklist was adopted at the encouragement of the State, and that it would be on-going process in using it.

WHEREAS, the Board has considered Dr. DeEugenio/Summit City Farms' request (application), supporting certification, and the exhibits presented and testimony presented, along with the interested parties exhibits, testimony, et cetera by and through Allen S. Zeller, Esq. on behalf of Glassboro Planning Board, and members of the public appearing;

WHEREAS, in addition to the finding above, that DeEugenio/Summit City Farms operates a commercial farm at the Property, and in accordance with the requirements of N.J.S.A. 4:1C-9; the Board makes the following findings and determinations;

NOW, THEREFORE, BE IT FURTHER RESOLVED, the applicant's proposal to expand the existing winery/agricultural retail facility by further conversion of the existing produce packing house at Block 360, Lot 2, with parking and other site improvements as depicted in the application and presented during testimony, conforms with applicable Right to Farm Act regulations and constitutes a generally accepted agricultural operation or practice pursuant to N.J.S.A. 4:1C-9;

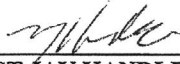
NOW, THEREFORE, BE IT FURTHER RESOLVED, the applicant's proposal does not pose a threat to public health and safety.

NOW, THEREFORE BE IT FURTHER RESOLVED, the applicant's proposal to expand the existing winery/agricultural retail facility by further conversion of the existing produce packing house at Block 360, Lot 2, with parking and other site improvements as depicted in the application and presented during testimony constitutes a site-specific agricultural management practice pursuant to N.J.A.C. 2:76-2.3 and N.J.A.C. 2:76-2A.13.

NOW, THEREFORE BE IT FURTHER RESOLVED, based on the applicant's proposal and the testimony presented, the development and use do not require a zoning permit, site plan, variance, or other municipal approval for issuance of construction or building permits.

NOW, THEREFORE BE IT FURTHER RESOLVED, the CADB retains jurisdiction over the matter.

NOW, THEREFORE BE IT FURTHER RESOLVED, that the Board shall forward a copy of this Resolution as its written recommendation of these site specific agriculture management practices to the State Agriculture Development Committee, the Borough of Glassboro, and DeEugenio, within thirty (30) days.


**WEST JAY KANDLE, III, CHAIRPERSON
GLOUCESTER COUNTY AGRICULTURE
DEVELOPMENT BOARD**

YES: 4
NO: 0
ABSTAIN: 1
ABSENT: 0

CERTIFICATION

I, Kenneth Atkinson, Secretary to the Gloucester County Agriculture Development Board, do hereby certify the foregoing to be a true and accurate copy of the Resolution adopted by the Gloucester County Agriculture Development Board at a meeting of said Committee held on September 17, 2015.

SEAL:




KENNETH ATKINSON, BOARD SECRETARY