

March 4th, 2022

RESOLUTION 2023-01

**BERGEN COUNTY AGRICULTURE DEVELOPMENT BOARD DECISION
APPROVING A REQUEST FOR SITE-SPECIFIC AGRICULTURAL MANAGEMENT
PRACTICES (SSAMP) FILED BY PATRIOT FARM LLC FOR ITS EXISTING AND
PROPOSED AGRICULTURE OPERATIONS AND EQUINE ACTIVITIES AT [REDACTED]
[REDACTED], SADDLE RIVER, NJ 07458**

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A. Request for Commercial Farm Designation

1. Patriot Farm LLC [hereafter referred to as the "Farm" or "Applicant"] acquired nineteen (19) acres located at [REDACTED] (Tax Lot 1801 in Block 7.01) in Saddle River in the R-1 Residential zoning district ("R-1 zone") as set forth in Book 02080 at Page 0080 recorded on October 19th, 2015.
2. The Farm has submitted a request (the Application) to the Bergen County Agriculture Development Board [the "Board" or "BCADB"] pursuant to N.J.A.C. 2:76-2.3 requesting a threshold determination that the Farm is a *single entity farm management unit that qualifies as a commercial farm, in an area as of December 31st, 1997 or thereafter, agriculture is a non-conforming use under the municipal zoning ordinance, but is consistent with the master plan in operation as of July 2nd, 1998 and the property has a farmland assessment* to avail itself of Right to Farm Act protection.
3. Pursuant to N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1-C-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.)."
4. Pursuant to N.J.A.C. 2:76-2.1, a *farm management unit* means,

 "Farm management unit" means a parcel or parcels 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.
5. Pursuant to N.J.A.C. 2:76-2.1 et seq., upon the receipt of a request for a Site Specific Agriculture Management Practice ("SSAMP"), the Board must determine whether the Applicant's agricultural operation is a "commercial farm" as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.
6. The Board took notice and found at the August 18th, 2021 public hearing that the Farm has submitted proofs evidencing qualification as a Commercial Farm based upon the August 18th, 2021 testimony of Ann Marie Snyder and the following evidence that,

- a. **The Farm Management Unit meets the five (5) acre minimum requirement.**
The Farm's nineteen (19) acre property (Tax Lot 1801 in Block 7.01) is located at the end of River Farm Lane in the Borough of Saddle River. See Exhibits,
- A-2 Application
 - A-3 Site Plan
 - A-15 Agricultural Use Plan
 - Deed from Riverview Terrace to Patriot Farm recorded in Deed Book 02080 at Page 0080 on October 19th, 2015
- b. **The Farm's management unit satisfies the eligibility requirements for differential property taxation pursuant to the Farmland Assessment Act of 1964 (N.J.S.A. 54:4-23-1, et seq.).** The Farm is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964 and the Borough of Saddle River taxes the property has farmland assessment. See *Exhibit*,
- A-5 Proof of Farmland Assessment: Property tax bills from 2018 to 2021
- c. **The Farm is a single entity farm management unit that qualifies as a commercial farm, that is 1) *in an area as of December 31st, 1997 or thereafter, where agriculture is a permitted use under the municipal zoning ordinance and is consistent with the master plan in operation* or 2) *as of July 2nd, 1998 and the property has a farmland assessment* to avail itself of Right to Farm Act protection.**
- **The Farm property is located in Saddle River's R-1 Zoning District in which "Farms" are a permitted use.** The property is zoned for farming pursuant to the Borough of Saddle River's R-1 zone which permits single family homes and farms, animals and poultry. Section 210-9D(1)(b) provides that all farm animals shall be adequately housed (and, except for horses, shall be confined to the owner's property lines at all times), one (1) horse is permitted per acre and further provides that private stables are a permitted accessory uses in the R-1 zone which provisions have been in effect since at least 1975. See Exhibits,
 - A-6 Saddle River Zoning Map Dated September 1st, 1992
 - A-7 Current Saddle River R-1 Zone Ordinances.
 - A-8 Saddle River Ordinance Number 590C dated 4-19-1993, Ordinance Number 91-559-C adopted 3-7-1991 and the 1975 Borough Ordinances which lists farms as a permitted use in the R-1 Zone
 - A-9 2010 Saddle River Master Plan
- d. **The Farm's management unit has annual income in excess of \$2,500 from the sale of agriculture products.** The Farm operates a 48,495 square foot

Community Supported Agricultural (CSA) garden which produces in excess of \$2,500 in annual sales to customers who come to the Farm on a weekly basis during regular business hours to pick up their weekly allotment of pre-paid shares of the Farm's agricultural production. See Exhibit.

- *A-4* Proof of Income: Sales tax forms for the years 2018 to 2021 evidencing Farm Income of:
 - \$3,025.00 for 2021;
 - \$3,700.00 for 2020;
 - \$2,725.00 for 2019;
 - \$3,600.00 for 2018.
- e. **The Farm has an approved Conservation Plan.** The Farm's Conservation Plan prepared by Rosetree Consulting was accepted by the United State Department of Agriculture / Natural Resources Conservation Service by letter dated March 28th, 2019. See Exhibit,
 - *A-10* Soil Conservation Plan and March 28, 2019 letter from The USDA
- f. **The Farm is in compliance with an approved self-certified animal waste management plan that is incorporate into the Applicant' approved farm conservation plan, per N.J.A.C. 2:76-2A.10(d).** See Exhibit,
 - *A-11* Letter Dated December 18th, 2018, from the Department of Agriculture approving the Applicant's High Density Animal Waste Management Plan.
- g. **The Farm is operated as a single entry farm management unit.** The Farm's agriculture and equine activities are operated as a single entity farm management unit, to wit: all activities and income are conducted solely be Patriot Farm LLC. Note: See Sipos vs. Hunterdon County Agriculture Development Board, OAL DKT. No.: ADC 5173-11 Agency Ref. No.: SADC #1272 requiring each component of a farmland management unit to comply with all Farmland Assessment Act ("FAA") requirements, N.J.S.A. 54:4-23.1, et seq.
 - See August 18th, 2021 transcript testimony of Ann Marie Snyder

B. Request for Site-Specific Agriculture Management Practice

7. Pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq., and the State Agriculture Development Committee's ("SADC") Right to Farm Rules, N.J.A.C. 2:76-2.1, et seq., a commercial farm owner or operator may make a request to a County Agriculture

Development Board to determine whether the farm's operations constitute a *generally accepted agricultural operation or practice*.

8. The Farm's application includes Requests for Site-Specific Agriculture Management Practice ("SSAMP") determinations (attached hereto as *Exhibit "A-2"*) that:

- a. Its agricultural operation constitutes generally accepted agricultural management practices authorized by N.J.A.C. 2:76-2A.5 Agricultural Management Practices: Generally Accepted Operations and Practices for Commercial Vegetable Production Agricultural Management Practice

“(a) Pursuant to the authority of N.J.A.C. 1:30-2.2, the State Agriculture Development Committee hereby adopts and incorporates by reference the Rutgers Cooperative Extension “2000 Commercial Vegetable Production Recommendations” as the commercial vegetable production agricultural management practice, subject to the modifications...”

- b. Its proposed equine activities constitute generally accepted agricultural management practices authorized by N.J.A.C. 2:76-2A.10 and 2:76-2B.3 Eligibility of Equine Activities for right to farm protections including but not limited to the Boarding, keeping and training of horses:

- “Boarding” means providing horses that are not owned by the owner or operator of a commercial farm with shelter, feed, and care on a continuing basis. “Boarding” shall not be construed to mean “raising” as defined in this section
- “Keeping” means providing horses owned by the owner or operator of a commercial farm with shelter, feed, and care on a continuing basis. “Keeping” shall not be construed to mean “raising” as defined in this section

- c. Farm Labor. See N.J.S.A. 4:1C-3 Right to Farm Act, “Full-time, year-round equine-related farm employee” means any person employed by the owner or operator of a commercial farm on a full-time, year-round basis to provide proper care and ensure the safety of horses on the commercial farm, including, but not limited to, a groom or other employee working in a stable. “Full-time, year-round equine-related farm employee” shall not include a migrant, seasonal, or temporary employee

- d. On-Farm Compost Operations. Its On-Farm Compost Operations constitutes generally acceptable agricultural management practices authorized by N.J.A.C. 2:76-2A-8, N.J.A.C. 2:76-2A.10 and N.J.A.C. 2:76-2B.3.

C. Notices, Meetings, and Site Visit

9. Pursuant to N.J.A.C. 2:76-2.1 et seq., upon receipt of the complete SSAMP application, the Board forwarded same to the SADC (N-1) and the Borough of Saddle River (N-2) for their review and comment, and for their notification.
10. On August 7th, 2021 the Farm published the required notice attached hereto as A-1 (N.J.A.C. 2:76-2A.13) of the August 18th, 2021, Public Hearing being held at 7:00 p.m. in the Conference Center at the County Administration Building, Two Bergen County Plaza, Hackensack, in connection with the BCADB Hearing on the Applicant's SSAMP Application and submitted:
 - An Affidavit of Service of Notice with the attached tax list
 - A copy of the Notice actually sent to all affected property owners,
 - The original Affidavit of Publication from the Record evidencing publication of the Notice on August 7th, 2021.
11. In compliance with the Open Public Meetings Act, the Board publicly noticed its meetings at Two Bergen County Plaza Act and a quorum was present at public hearings on the application held on August 18th, 2021 and September 21st, 2021. The Board also noticed its Site Visit on September 9th, 2021 at the Farm and a quorum was present at same.
12. On August 18th, 2021, the Board held a Public Hearing at which Patriot Farm LLC presented proof of qualification of Patriot Farm as a commercial farm.
13. On September 9th, 2021, after the first public hearing, the Board conducted a site visit (noticed in compliance with the New Jersey Statutes and the Open Public Meetings Act). Attending the site visit were Board members Evelyn Spath-Mercado, James Abma Sr., Ronald Binaghi Jr., Chris James, Daryl Secor and Denny Wiggers as well Farm representatives, Ann Marie Snyder and Gary Schulze; and the Farm's attorney, Andrew Kohut, Esq. of Wells, Jaworski and Liebman. No members of the public or local public officials were present.
14. During the site visit, the attending Board and staff walked the entire farm management unit and made observations including but not limited to the location of the one (1) acre vegetable field, the CSA building for the transfer of agriculture produce to buyers, the horse barn, etc.

15. On September 21st, 2021, the Board held a second Public Hearing, with a presentation by Patriot Farm LLC on the specifics of the Farm's SSAMP Application.
16. Patriot Farm LLC was represented at both Public Hearings and the site visit by Andrew Kohut Esq. of Wells, Jaworski and Liebman.

D. Judicial Notice

17. The Board took judicial notice of the following Borough of Saddle River e Zoning Board of Adjustment's decision set forth in Resolution 19-14.

Saddle River Zoning Board of Adjustment Resolution 14-19 adopted on June 19th, 2019 Memorializing Grant of "D(1)" Variances, "C(2)" Variances, And Preliminary And Final Site Plan Approval To Allow Equine Farm Structures For An Equine Farm Allowing Horse Boarding Component For Up To eight (8) of twelve (12) Stalls Along With Private Equine Lessons And Equine Support Staff Comprised Of Live-In Grooms Within A New Barn Building, As Well As Associated Building Improvements Including An Indoor And Outdoor Riding Arena And Related Accessory Structures.

E. Procedural Background – Zoning Board of Adjustment Approval

18. Prior to submitting its application to the Board, the Applicant filed a zoning application with the Borough of Saddle River Zoning Board of Adjustment which approved variance applications in 2019 to create a twelve (12) horse equine operation with paid boarders and resident grooms on the nineteen (19) acre Patriot Farm property.
 - a. On June 19th, 2019, the Saddle River Board of Adjustment (hereafter "ZBA") memorialized Resolution 19-14 finding that the Applicant's nineteen (19) acres situated in a R-1 Zone qualified as a farm pursuant to the Borough's municipal ordinance and granted approval to allow the Boarding of up to eight (8) horses of twelve (12) horses in total on the property with a private training component only accessible to those who live on or those who Board horses on site, two (2) living spaces – one (1) single-bedroom living space and one (1) studio living space – to be located within a new barn building to serve as live-in quarters for a managing groom and an assistant groom to be employed on site in the care of the horses, an indoor riding arena attached to the barn, a new outdoor riding arena, and various new equine-related structures to be located throughout the property.

b. More specifically, the ZBA found and granted variances allowing the following equine activities;

- i. An equine farm with a “a twelve (12) stall, a 6,080 square foot barn to enable up to eight of the twelve stalls (with no more than twelve (12) horses total to be permitted to be kept on site) to be Boarded by horses whose owners do not reside on the property. The first floor of the barn would be utilized for feed, hay storage, tack rooms, and related equipment. The barn’s second floor/loft contains two living spaces – a one bedroom living space for a managing groom and a studio living space for an assistant groom, both of whom are to be employed on site to aid in the caretaking of the twelve (12) horses. Training/riding lessons and other related equine services, such as veterinary care, are to be offered only to those who have Boarded horses on the property and not to the general public.”
- ii. The training/lessons and associated services are only to be provided to the applicant’s family (those who reside on the property) and to those who board horses on the property and are not offered to the public at large (which limitation is a specific condition of the within approval set further below herein), the Board finds and determines that the training/lesson component is accessory in nature to the boarding of horses on site.
- iii. Due to the nature of the barn use, its housing of horses that are both owned by the applicant’s family and by others not residing on the property, and its functionality as to meeting the needs of the equine farm
- iv. The Board believes the testimony provided from both the equine site planning expert and equine management expert as to the “herd mentality” of horses and finds that there is a need to ensure the horses, particularly of such a caliber, are kept together to maintain the well-being of the animals and keep them balanced and fit.

F. Applicant’s Exhibits

19. The Board received, considered and admitted into evidence the Farm’s Exhibits as listed in Appendix “A” which Exhibits are incorporated herein:

A-1 Notice for the 200-foot list

A-2 SSAMP Application dated June 24th, 2021 and,

A-3 Site Plan prepared by Conklin Associates, last revised May 5th, 2019

A-4 Proof of Income: Sales tax forms for the years 2018 to 2021 evidencing income of:

- \$3,025.00 for 2021;
- \$3,700.00 for 2020;
- \$2,725.00 for 2019;
- \$3,600.00 for 2018

A-5 Proof of Farmland Assessment: Property tax bills from 2018 to 2021

A-6 Saddle River Zoning Map Dated September 1st, 1992

A-7 Current R-1 Zone Ordinances

A-8 Saddle River Ordinance Number 590C dated 4-19-1993 which lists farms as a permitted use in the R-1 Zone and 1975 Ordinances evidencing that municipal zoning allowed farms/agricultural use as of December 1997 more particularly described below:

- Ordinance 91-559-C adopted March 7th, 1991 to Amend and Supplement Section 18-12 and 18-13 Within Article 2 Entitled, "R-1 Residential Zone" of Chapter 18 Entitled "Zoning of The Municipal Code of the Borough of Saddle River, New Jersey, 1974" To Provide For Zoning Changes Within The R-1 Residential Zone.
 - "Sec. 18-12 Permitted Uses,
 - (32) The number of horses shall be limited to one (1) per acre.
- Ordinance 93-590-C adopted April 19th, 1993 To Amend Article 2. Entitled "R-1 Residential Zone" Within chapter 18 Entitled, "Zoning of The Municipal Code of the Borough of Saddle River, New Jersey, 1974"
 - Article 2. "R-1 Residential Zone."
 - Sec. 18-12 Permitted Uses
 - (5) Farms, animals and poultry.
 - ❖ The following shall be permitted uses:
 - [1] Farms, truck gardens and sale of farm products raised on the premises

A-9 Saddle River 2010 Master Plan

A-10 Approved Conservation Plan prepared by Rosetree Consulting and accepted by the United State Department of Agriculture / Natural Resources Conservation Service by letter dated March 28th, 2019

A-11 Letter Dated December 18th, 2018, from the Department of Agriculture approving the High Density Animal Waste Management Plan.

A-12 Architectural plans entitled, "Patriot Farm Barn and Arena Addition" prepared by Eldon R. Stoltzfus, Architect, dated January 9th, 2019 (five (5) sheets)

A-13 Agricultural use plan prepared by Conklin Associates last revision date of 8-26-19

A-14 Equine Area Calculations Table

A-15 Tabulation sheet

A-16 is the Equine Activities Questionnaire

A-17 Notice for September 21st meeting (standard notice and the open public meetings act notice)

A-18 High-density animal waste management plan approved by the Department of Agriculture.

G. The Farm Property

20. Deborah Cerbone, Landscape Architect, Chris Statile, PE, and Ann Marie Snyder (Principal of Patriot Farm LLC) collectively testified to the Farm's location and structures, and the submitted Exhibits, to wit:

a. Location:

The Farm's nineteen (19) acre property is located at the end of the River Farm Lane cul-de-sac. The Saddle River is located along the site's westerly boundary and Saint Gabriel's Brook extends along the easterly boundary of the property. A total of 10.8 acres of the property are within the flood hazard area of the aforementioned State open waters, and an area of wetlands encompasses a small portion of the easternmost portion of the property. The property is generally rectangular in shape and has been used for agricultural purposes in the past and present. Access to the site is provided over a bridge which has been constructed over Saint Gabriel's Brook

b. Plans:

A-12 Architectural plans entitled, "Patriot Farm Barn and Arena Addition" prepared by Eldon R. Stoltzfus, Architect, dated January 9th, 2019 (five (5) sheets)

A-13 Agricultural use plan prepared by Conklin Associates last revision date of 8-26-19

A-14 Equine area calculations table

A-15 Tabulation sheet

A-16 Equine activities questionnaire

c. The Plans showed the following uses and structures:

- A 48,495 square foot vegetable garden
- 7,450 square foot barn (includes eaves, deck and steps)
- 17,305 square foot indoor riding arena attached to the barn (includes eaves)
- An outdoor riding arena and
- Nine turnout sheds,
- Paddocks
- Horse trailer garage,
- Farm tractor storage building
- Covered viewing pavilion and related features (including a manure composting shed) spread throughout the property.
- An approximately 7,300 square foot residential dwelling

d. Lighting, buffers, setbacks, etc.:

All lighting, fencing, signs, sanitary facilities (if required), parking, buffer areas and setbacks (i.e., the distance between structures and/or fences and neighboring properties and residences) are in compliance with the standards set forth in Saddle River Zoning Code and to the extent applicable, with N.J.A.C. 2:76-2.1 et seq.

e. No Direct Threat to Public Health:

The Farm's agriculture operations and equestrian activities does not pose a direct threat to the public health and safety.

f. Stormwater Management, Wetlands and C-1 Buffers

The Farm represented that it was in compliance with all requirements pertaining to Stormwater Management Controls, wetlands and C-1 Buffers.

H. The Farm's Agriculture Operations

21. Ann Marie Snyder testified that the Farm's agriculture and equine activities are operated as a single entity farm management unit, to wit: all activities and income are conducted solely by Patriot Farm LLC
22. Ann Marie Snyder further testified as to the SSAMP Application and associated materials and described the Farm's agricultural operation of its 48,495 sf community supported agricultural garden which harvests and sells all of the crops discussed in the attachment submitted as part of this application in accordance with On-Farm Direct Marketing Facilities, Activities, and Events for Community Supported Agriculture ("CSA") N.J.A.C. (2:76-2A.13), to wit:

"CSA market and distribution area" means an on-farm direct marketing facility used by a CSA operation to organize and dispense CSA operation members' farm product shares and to market products that contribute to farm income.

23. In accordance with the CSA, customers come to the Property on a weekly basis during regular business hours to pick up their weekly allotment of Patriot Farm's production. Patriot Farm's customers pre-pay for a share of the produce the Farm will grow that year. This allows the Farm to hire workers, buy seeds and prepare the land for the growing season. Throughout the season, each customer picks up produce on an assigned day of the week. Quantities and varieties vary each week as different vegetables come into season. Customers pick up their share of the produce at the garden shed located adjacent to the garden. There is ample parking, as shown on the submitted site plan, to address the needs of their customers.
24. The CSA hours of operation are during daylight hours seasonally between 11:00 A.M. and sunset.
25. Agriculture products sold through the CSA are listed in Exhibit A-2

26. Ann Marie Snyder noted that Patriot Farm is not proposing any other type of ancillary entertainment-based activities or on-farm direct marketing activities or events related to the CSA sale of its harvest but did note that it may be conducting:
- a. Agriculture and equine related educational activities such as hosting school trips, and hands-on farming activities.
 - b. Hosting the training of first responders such as the fire department and police personnel on how to deal with horses during a fire or emergency
 - c. Occasional equine training sessions presented by special equine trainers

I. The Farm's Equine Infrastructure Coverage

27. Deborah Cerbone, landscape architect, Ann Marie Snyder (Principal of Patriot Farm, LLC) and Christopher Statile, PE, collectively testified to the Farm's location and structures, to the Equine Infrastructure Coverage as set forth in the Farm's Equine Activities Questionnaire (attached to Exhibit A-16) and summarized them as follows:

- a. Equine Production Activities ... Pasturing (Grazing) 9.16 Acres
- b. Equine Service Activities ... Boarding 7.61 Acres
- c. Complementary Equine Activities ... Clinics 1.25 Acres
- d. Personal Equine ... Yes ... 3.75 Acres
- e. Number Of Horses
 - Number of horses that the farm owns and keeps for personal use: Minimum of four (4)
 - Number of horses that other people own that are boarded on the farm: Maximum of eight (8)

Note: To calculate the number of acres for each category the Farm added the acreage of the Permanent Paddock Pasture, Permanent Open Pasture and Equine Infrastructure Area. This totaled 11.36 acres. Based on the Saddle River ZBA Approval, at maximum eight (8) of the twelve (12) horses may be boarders. So for the purpose of these calculations the Farm assumed there were eight (8) boarded horses and four (4) personal horses. The Farm then applied 67% of the 11.36 acres to the Equine Service Activities and 33% towards Personal Equine Activities. The applicable acreage will fluctuate depending on the ratio of boarded horses to personal horses. Please note, that all horses living on the farm have access to the entire 11.36 acres.

See "Agricultural Use Plan (Exhibit A-13) and "Equine Related Infrastructure Calculation Worksheets" Exhibit A-14 and "Equine Questionnaire" (Exhibit A-16) which lists the structures/areas that comprise the farm's *equine-related infrastructure*:

- Indoor riding arena - 0.40
- 12 Stall Barn - 0.17 acres
- Horse Trailer Garage - 0.02 acres
- Onsite Pavement - 0.54 acres
- 145' x 185' outdoor riding arena - 0.62 acres
- 60' Round Pen w/footing - 0.06 acres
- Misc. small structures - 0.05 acres
- Outdoor viewing platform - 0.002 acres
- Manure Composting - 0.007 acres
- 9 Run In Sheds - 0.03 acres
- Dry Lots, Wash Stalls - 0.28 acres
- LF Fence/Fence Posts - 0.03 acres

J. Analysis of Equestrian Usage of Farm Property

28. N.J.A.C. 2:76-2B(3)(c)(i) provides that:

"It shall be the responsibility of each county agriculture development board (CADB) to determine the maximum permissible percentage of total usable area occupied by equine-related infrastructure based on the level of, or proximity of the farm to, non-agricultural development...*This maximum permissible percentage shall not be less than 15 percent nor more than 25 percent.*

29. During the site inspection visit, the attending Board and staff walked the entire farm management unit and made a visual on-site inspection of existing equine-related infrastructure and concrete and asphalt areas as well as observations including but not limited to the location of the vegetable fields, the horse barn, etc.

- a. After reviewing the submitted plans and hearing testimony, the Board found that the Farm's **Equine Related Infrastructure totaled 12.94% of the Total Useable Area** and that this percentage complies with the requirement *the percentage not being less than fifteen (15) percent nor more than twenty-five (25) percent* (as determined by a CADB) for equine-related infrastructure based on the level of, or proximity of the farm to, non-agricultural development as set forth in the analysis below farms where the total usable area is less than 150 acres, to wit:

- **Total Useable Area – 17.00 Acres**

- Gross Farm Area – 19.00 Acres
- Land Not Devoted to Agriculture or Horticultural Use (includes farm house) - 2.0 Acres – 87,120 SF
- Total Useable Area - 17.00 Acres

- **Production Area – 14.80 Acres 644,638 SF**

- **Equine Infrastructure Area - 2.20 Acres 87,120 SF**

- **Equine Infrastructure Percentage of Total Area - 12.94%**

Note: 12.94% complies with mandate that Equine Related Infrastructure Area shall not exceed 15-25% of Total Useable Area

- **Concrete and Asphalt Area – 0.99 Acres**

- Percent of *Concrete and Asphalt Area* attributed to Equine Activities – 5.84% of the Total Usable Area where a maximum of 15% is permitted

Note: "*Concrete and asphalt area*" means the area of the farm occupied by buildings, or the portions of buildings, which have permanent concrete or asphalt flooring and are used in support of equine activities; and paved parking, driveway, and other paved areas used in support of equine activities.

K. The Farm's Equine Activities

30. Christopher Statile, PE, and owner of an agriculture and equine farm in Sussex County, NJ, testified to Patriot Farm's SSAMP for Equine Activities set forth in N.J.A.C. 2:76-

2A.10 and described the Farm's attached Equine Activities Questionnaire which is summarized as follows:

- f. Equine Production Activities ... Pasturing (Grazing) 9.16 Acres
- g. Equine Service Activities ... Boarding 7.61 Acres
- h. Complementary Equine Activities ... Clinics 1.25 Acres
- i. Personal Equine ... Yes ... 3.75 Acres
- j. Number Of Horses
 - Number of horses that the farm owns and keeps for personal use: minimum of four (4)
 - Number of horses that other people own that are boarded on the farm: maximum of eight (8)

Note: To calculate the number of acres for each category the Farm added the acreage of the Permanent Paddock Pasture, Permanent Open Pasture and Equine Infrastructure Area. This totaled 11.36 acres. Based on the Saddle River ZBA Approval, at maximum eight (8) of the twelve (12) horses may be boarders. So for the purpose of these calculations the Farm assumed there were eight (8) boarded horses and 4 personal horses. The Farm then applied 67% of the 11.36 acres to the Equine Service Activities and 33% towards Personal Equine Activities. The applicable acreage will fluctuate depending on the ratio of boarded horses to personal horses. Please note, that all horses living on the farm have access to the entire 11.36 acres.

See "Agricultural Use Plan" (Exhibit A-13), "Equine Related Infrastructure Calculation Worksheets" (A-14) and "Equine Questionnaire" (Exhibit A-16) which lists the structures/areas that comprise the farm's *equine-related infrastructure*:

- Indoor riding arena - 0.40
- Twelve (12) Stall Barn - 0.17 acres
- Horse Trailer Garage - 0.02 acres
- Onsite Pavement - 0.54 acres
- 145' x 185' outdoor riding arena - 0.62 acres
- 60' Round Pen w/footing - 0.06 acres
- Misc. small structures - 0.05 acres
- Outdoor viewing platform - 0.002 acres
- Manure Composting - 0.007 acres
- Nine (9) Run In Sheds - 0.03 acres
- Dry Lots, Wash Stalls - 0.28 acres
- LF Fence/Fence Posts - 0.03 acres

31. Deborah Cerbone, Christopher Statile, PE and Ann Marie Snyder collectively testified at to implementation of Equine practices.
32. More specifically, the Farm requests Right to Farm SSAMP practices related to the following equine activities.
 - a. Equine related facilities will house up to twelve (12) horses with a minimum of four (4) of the horses belonging to Patriot Farm. Any stall not being used by Patriot Farm may be used for boarding of horses owned by third-parties.
 - b. The equine services being provided by Patriot Farm will only be offered to Patriot Farm and those who board horses at Patriot Farm. The facilities will not be open to the general public.
 - c. The horses will be housed in a 7,450 SF footprint twelve stall timber frame barn.
 - d. In addition to the stalls, the first floor of the barn will include all the normal and customary requirements of a first-class equine facility, including feed & hay storage, two (2) wash stalls, two (2) tack rooms, laundry room, lavatory, office space and a lounge (the "Barn").
 - e. The second floor of the Barn would have a one-bedroom living area for the managing groom and a studio style living area for the assistant groom and storage areas. There is additional equine infrastructure proposed which totals 2.20-acres or 12.94% of the total usable area (17 acres). This complies with N.J.A.C. 2:76-2(B)(3)(c)(3).

L. On-Farm Compost Operation

35. On-Farm Compost Operations are governed by the generally acceptable agricultural management practices authorized by N.J.A.C. 2:76-2A-8, N.J.A.C. 2:76-2A.10 and N.J.A.C. 2:76-2B.3. During the site inspection visit, the attending Board and staff walked the entire farm management unit and made a visual on-site inspection of the existing on-farm compost operation components and had questions answered by the Farm as to the manner in which the operations would be handled. At the hearing, the Farm provided in-depth testimony regarding the manner in which the on-farm compost operations will adhere to all of the generally acceptable agricultural management practices previously referenced in this Paragraph. The Applicant also confirmed that the Farm's Conservation Plan prepared by Rosetree Consulting was accepted by the United State Department of Agriculture / Natural Resources Conservation Service by letter dated March 28th, 2019 (Exhibit A-10), as well as the Farm's High Density Animal Waste Management Plan being approved by the Department of Agriculture by letter dated December 18th, 2018 (Exhibit A-11).

M. Right to Farm Act

36. Prior to the Right to Farm Act the general rule of law was that a municipal governing body is vested with the ultimate responsibility of establishing the essential land use character of the municipality through the adoption of zoning ordinances that divide the municipality into districts, identify the uses permitted in each district, and impose general limitations on construction.
37. The Right to Farm Act (N.J.S.A. 4:1C-1 et seq.), as amended in 1998, renders its provisions *preeminent* to "any municipal or county ordinance, resolution, or regulation to the contrary," N.J.S.A. 4:1C-9. The New Jersey Supreme Court affirmed, in Twp. of Franklin v. Hollander, 172 N.J. 147 (2002), that the Farm Act's provisions are preeminent over a municipality exercising its powers under the Municipal Land Use Law, N.J.S.A. 40:55D-1 to -112...and that the Act was designed "to promote to the greatest extent practicable and feasible, the continuation of agriculture in the State of New Jersey while recognizing the potential conflicts among all lawful activities in the State." Senate Natural Res. and Agric. Comm. Statement No. 854- L. 1983, c. 31 (N.J.1998).
38. The Court acknowledged the difficulty and complexity of the agriculture Board's assignment, observing: "The potential for conflict between farming interests and public health and safety exists. Nevertheless, we repose trust and discretion in the agricultural board to decide carefully future disputes on a case-by-case basis and to balance competing interests." It also cautioned that in the exercise of jurisdiction over agricultural practices, the county agriculture development board is limited by public health and safety concerns. These issues of health and public safety must also be given due consideration by the agricultural agencies citing the appellate court's finding that:
- "We consider the statutory language in the Act which speaks to conduct that poses a '*direct threat to public health or safety*' must be considered broadly, and not as a narrow limitation in considering complaints of an aggrieved party that local land use or other relevant ordinances are being violated by the conduct of the commercial farm operator. In sum, in exercising its authority under the Act, the CAB or SADC must afford a local agency comity in recognition that the municipality interests must be appropriately acknowledged and considered."
39. The New Jersey Supreme Court recognized that the Right to Farm Act may preempt municipal regulations, but directed the CADBs and SADC to consider relevant municipal standards and, in instances where the ordinance "has a peripheral effect on farming that does not directly conflict with farming practices," defer to the ordinance. Township of Franklin v. den Hollander, 338 N.J. Super. 373 (App. Div. 2001), *aff'd*, 172 N.J. 147, 151-152 (2002). CADBs and the SADC are also required to consider the impact of the

agricultural activity on public health and safety “and temper their determinations with these standards in mind.” Ibid.

40. As a result of the Hollander case agriculture boards, such as the BCADB, have primary jurisdiction over municipal/farm disputes but do not have unlimited authority regarding issues that directly affect public health and safety. In other words the board must give appropriate consideration to municipal concerns - including but not limited to hours of operation, lighting, traffic and parking - where they are implicated and balance the commercial agricultural operation, activity or structure which conforms to agricultural management practices against the governmental regulation and any direct threats to public health and safety. N.J.S.A. 4:1C-10.
41. For a farm to receive this protection, the appropriate CADB must determine that the activity at issue conforms to agricultural management practices (AMPs) adopted by the SADC pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. or that it constitutes a generally accepted agricultural operation or practice. Thus, when an agriculture board issues an AMP, on a case-by-case basis, it creates an “irrebuttable presumption” that any activity of a commercial farm that is determined by the CAB “to constitute a generally accepted agricultural operation or practice [cannot]...be deemed to otherwise invade or interfere with the use and enjoyment of any other land or property,” provided the operation or practice “does not pose a direct threat to public health and safety.” N.J.S.A. 4:1C-10.
42. Lastly, there is an irrebuttable presumption that the actions of a farm are not nuisances, as long as its actions conform to the agricultural management practices issued by the NJ State Agricultural Development Committee, and are not a danger to public health and safety. See N.J.S.A. 4:1C-10.

N. Board Findings

43. The Board, with the assistance of staff and the Bergen County Office of County Counsel, reviewed and discussed the Applicant’s SSAMP Application and all documentation relating to the matter, with guidance from the “Right to Farm Act” (N.J.S.A. 4:1C-1 et seq.) and New Jersey Administrative Code provisions related to “Agriculture Management Practice for On-Farm Direct Marketing Facilities, Activities, and Events” (N.J.A.C. 2:76-2A.13) and made the following findings.

❖ Patriot Farm LLC Qualifies as a Commercial Farm

44. At its meeting on August 16th, 2021, the Bergen CADB found that the development and use of the Property as described in the Applicant's SSAMP Application and associated documents attached hereto are in conformance with the Right to Farm Act definition of "commercial farm" (N.J.S.A. 4:1C-3) as described in Paragraph 6 hereof and summarized below:

- a) The Farm's *Commercial Farm Certification*, and its supporting data evidence Patriot Farm LLC is a single entity "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,' ... [N.J.S.A.] 54:4-23.1 et seq." N.J.S.A. 4:1C-3; see N.J.S.A. 54:4-23.1 to -23.23.
- b) Specifically, the Farm documented income in excess of \$2,500 from the annual agricultural production of agricultural or horticultural products as certified in Exhibit A-2 and demonstrated in A-4.
- c) The Farm is located in the Borough of Saddle River's R-1 Zone which as of 1991 (Ordinance 91-559-C) and 1993 (Ordinance 93-590-C) permitted farming prior to *December 31, 1997*; Exhibits A-2 / SSAMP Application dated June 24th, 2021 and A-4 / Proof of Income,
 - o A-6 Saddle River Zoning Map Dated September 1st, 1992
 - o A-7 Current Saddle River R-1 Zone Ordinances
 - o A-8 Saddle River Ordinance Number 590C dated 4-19-1993 which lists farms as a permitted use in the R-1 Zone 1975 Ordinances
 - o A-9 2010 Saddle River Master Plan
- d) The Farm property has a farmland assessment. Exhibit A-5 Proof of Farmland Assessment: Property tax bills from 2018 to 2021

❖ **The Farm's Qualification as a Commercial Farm Based on Agricultural Income Eliminates the Need to Prove a Separate Income Stream for Equine Activity as a Condition Precedent for Additional Equine Right to Farm protections.**

45. The Board finds that the Farm's proof of the annual income in excess of \$2,500 from its agriculture operations qualifies it as a commercial farm and that there is no rationale to support the submission of separate proofs of equine income in order to receive Right to Farm protection for equine activities - *provided* that the Farm is in compliance with the equine AMPs set forth in N.J.A.C. 2:76-2A.10 and 2:76-2B.3 and equine facility structures comply with relevant state laws, even if administered by the municipality in

local ordinances, and compliance includes but is not limited to the Uniform Construction Code and storm water management controls.

❖ **Approval of Site Specific Agriculture Management Practices for Agricultural Activities**

46. The Board, after reviewing the application and the testimony of Ann Marie Snyder, Deborah Cerbone, landscape architect and Christopher Statile, PE approves Patriot Farm's request for Right to Farm protection pursuant to the Site Specific Agricultural Management Practices (SSAMP) for the community supported agricultural garden, in accordance with the standards set forth in N.J.A.C. 2:76-2(A)(5) and (13).

- a. The production/processing/packaging and sale of agriculture crops. The facilities related to these activities include:
 - i. An existing 48,495 SF Garden which produces the crops as set forth on Attachment A of Exhibit A-2. The Applicant has been operating a community supported agricultural program since 2016.
 - ii. A 381 SF Garden Shed at the northeast corner of the 48,495 SF garden.
 - iii. 984 SF Farm Workshop Building
 - iv. 984 SF Farm Tractor Building
 - v. 984 SF Farm Storage Building
 - vi. 994 SF Horse Trailer Garage
- b. Replenish soil nutrients and improve soil tilth.
- c. Control pests, predators and disease of plants.
- d. Agricultural-related educational activities

❖ **Approval of Site Specific Agriculture Management Practices for Equine Activities and On-Farm Compost Operations**

47. The Board finds that the Farm's proof of the annual income in excess of \$2,500 from its agriculture operations both qualifies it as a commercial farm and that there is no need to submit separate proof of equine income in order to receive Right to Farm protection for equine activities - provided that the Farm is in compliance with the equine AMPs set forth in N.J.A.C. 2:76-2A.10 and 2:76-2B.3 and equine facility structures comply with relevant state laws, even if administered by the municipality in local ordinances, and compliance includes but is not limited to the Uniform Construction Code and storm water management controls.

48. More specifically, the Board, after reviewing the application and the testimony of Ann Marie Snyder, Deborah Cerbone, Landscape Architect and Christopher Statile PE, approves Patriot Farm's request for Right to Farm protection pursuant to the Site Specific Agricultural Management Practices (SSAMP) for the following equine activities consistent with N.J.A.C. 2:76-2(B)(3) and N.J.A.C. 2:76-2A.10

a. Keeping, Boarding & Training of Horses

i. Patriot Farm is proposing to keep twelve (12) horses on the property with up to eight (8) boarded horses. Patriot Farm will be offering riding and training for their horse as well as, for a fee, the horses (and their equestrian owners) being boarded on the Property. These services will be provided by Patriot Farm through third-party contractors. This will include lessons and training rides. The boarding and keeping of the horses will meet the agricultural practice for the care and well-being of the horses. There will be a fee associated for these services for those horses being boarded on the property. Lastly, as shown on the site plan provided as part of this application, there will be extensive land dedicated to the pasture of the horses.

ii. The facilities related to the equine activities will include:

- The Barn
- A 17,305 SF wood frame indoor riding arena
- Nine (9) 144 SF three-sided roofed turnout sheds
- A 145'x185' outdoor riding area
- A 96 SF covered viewing pavilion at the south end of the fenced 145'x185' outdoor riding area
- Three board fenced enclosures for the equestrian purposes include:
 - Twelve (12) paddocks
 - 60' diameter round pen
 - 50' x 50' grass turn-out

iii. All other site improvements required for operation (parking, etc.)

b. Complementary Equine Activities

Patriot Farm will offer surrounding school districts, and other non-profit organizations, the opportunity to visit the farm for the purposes of educating and/or providing therapy to their members by allowing them to interact with the horses. This will not be a regularly scheduled activity. There will also be one-day clinics where outside trainers come to the Property and provide specialize instruction to a small group of horses and riders. These clinics will be available to third-parties who are not resident borders.

c. Sale and distribution of composted products

- i. Patriot Farm will sell and distribute the composted products generated on the farm. All composted material will be made from materials generated on the farm (manure and excess garden production). With regard to the Agricultural Management Practices for composting, Patriot Farm will comply with all requirements and standards set forth in N.J.A.C. 2:76-2(A)(8). Patriot Farm and their professionals will testify to the composting procedure they will apply on site. As shown on the site plan submitted as part of this application, the facilities related to the composting will include:
- ii. All O2 composting activities will comply with On-Farm Compost N.J.A.C. 2:76-2.10, 2:76-2A.8 and 2:76-2B3(b)3. More specifically, the manure will composted on a concrete slab on the east side of the Indoor Arena in accordance with the best practices.

❖ **Approval of Site Specific Agriculture Management Practices for Labor Housing**

49. The second floor of the Barn will have a one-bedroom living area for the managing Groom and a studio style living area for the assistant groom. The grooms will be residing on the Property full-time, year round and will be responsible for the daily well-being and health of the horses. These two (2) residences will be separated from the portion of the Barn used to board the horses in accordance with proper fire rating for separation between a residential and non-residential use in accordance with the Uniform Construction Code. In addition, these residences will have separate ventilation systems from the portion of the Barn used to board the horses, all in accordance with N.J.S.A. 4:1C-9.3.

See: N.J.S.A. 4:1C-3 Right to Farm Act, "Full-time, year-round equine-related farm employee" means any person employed by the owner or operator of a commercial farm on a full-time, year-round basis to provide proper care and ensure the safety of horses on the commercial farm, including, but not limited to, a groom or other employee working in a stable. "Full-time, year-round equine-related farm employee" shall not include a migrant, seasonal, or temporary employee.

O. Administration: Terms and Conditions

50. In deciding this matter the Board has weighed both agricultural and municipal interests. In accordance with N.J.S.A. 4:1C-1 et seq. the Board has considered the relevant municipal public health and safety standards including those which might have a peripheral effect on equestrian activities but do not directly conflict with equestrian practices. The Board finds the Farm's agriculture operations and equestrian activities does not pose a direct threat to the public health and safety

51. The Board has also considered the concerns of the parties, exhibits and stipulations and, after weighing the facts and circumstances, makes the following additional findings and rulings:

- The testimony and proofs given by the Applicant at the aforementioned public hearing and the Board's finding of fact and conclusions of law as set forth above are incorporated herein by reference and form the basis of this Board's determination herein.
 - In the event of any material deviation or change from the testimony, representations or findings of fact the Board reserves the right and option to modify, alter, change or revoke the within approval.
 - If terms and conditions agreed to on the record below are omitted from this resolution, the Applicant and the Borough are nevertheless bound to abide by same pursuant to Fieramosca v. Barnegat Tp., 335 N.J. Super, 526, 533-534 (Law Div.2000)).

52. The applicant shall comply with State laws, rules, and regulations delegated to the municipality or county for administration and enforcement including stormwater management and construction code requirements.

53. Pursuant to N.J.A.C 2:76-2.3 Right to Farm,

- The Board shall forward a copy of this Resolution as its written recommendation to the State Agriculture Development Committee, the Borough of Saddle River and Patriot Farm LLC within thirty (30) days.
- Any person aggrieved by this resolution may appeal the resolution 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 Procedures Rules, N.J.A.C. 1:1, within 45 days from receipt of this resolution.
 - The decision of the SADC shall be considered a final administrative agency decision.
 - If the Bergen CADB's resolution is not appealed within 45 days, the resolution is binding.

MEMBERS	AYE	NAY	ABSTAIN	ABSENT
Abma	✓			
Binaghi	✓			
James	✓			
Secor				✓
Wiggers	✓			
Spath-Mercado, Chairwoman	✓			
TOTALS				

I certify that the foregoing is a true copy of the Resolution of the Bergen County Agriculture Development Board, duly adopted at a regular meeting of the Board on January 26th, 2023.

Evelyn Spath-Mercado
 Evelyn Spath-Mercado, Chairwoman
Chairwoman

1/26/2023
 Date: