RESOLUTION

RE: Hunterdon County Agriculture Development Board

Determination for the Site Specific Agricultural Management Practice Application

Flying Change Farm, LLC

Block 10, Lot 4.01, Township of Tewksbury, County of Hunterdon

WHEREAS:

1. On June 1, 2018, a Site Specific Agricultural Management Practice (SSAMP) application was submitted by Heather Mason on behalf of Flying Change Farm, LLC (hereinafter referred to as "Flying Change Farm" or the "Applicant"), the operator/owner of a farm at Block 10, Lot 4.01, in Tewksbury Township, County of Hunterdon, to the Hunterdon County Agriculture Development Board (hereinafter referred to as the "CADB" or "Board"). In connection with the equine operations and activities at the farm, the Applicant sought relief from Tewksbury Township's Land Use Ordinance Section 709.C.11, which limits the maximum number of horses on the subject property. Specifically, the Applicant was seeking relief from this Ordinance to maintain up to thirty (30) horses at the property.

2. The Board determined that it has jurisdiction to review this application pursuant to the Right to Farm Act, N.J.S.A. 4:1C-9, and implementing rule N.J.A.C. 2:76-2.3.

3. On July 12, 2018, the Board certified the Flying Change Farm as a commercial farm prior to scheduling a public hearing on the SSAMP application. The Applicant testified and furnished proofs that the equine operation met the required standards. The farm consists of approximately 12 acres, of which 9 acres are permanent pasture and infrastructure related to the pasturing, breeding and training of horses, with 0.5 acres specifically utilized for the boarding of horses. The Applicant provided documentation regarding the farming income and proof of farmland tax assessment. The Board is satisfied that Flying Change Farm meets the acreage requirement, is currently zoned where agriculture is a principal permitted use, and generates the income required to meet the standards for Commercial Farm Certification.

4. On October 11, 2018, the CADB conducted a public hearing to determine whether the equine activities and operations at the Flying Change Farm is entitled to Site Specific Agricultural Management Practice approval and relief from the Tewksbury Township ordinance concerning the maximum number of horses maintained on a property of this size.

5. The Board is satisfied that notice of the hearing was published in the Hunterdon County Democrat and served via certified mail to all property owners within 200 feet of the Flying Change Farm.

6. At the hearing, Anthony E. Koester, Esq. of the firm of Dilts & Koester presented the application on behalf of Flying Change Farm. Heather Mason, an owner and operator of the farm, Wendy Freedman, the farm manager, and Mike Fugaro, the veterinarian for the farm, testified in support of the application. No representative for the Township of Tewksbury was present at the hearing, and no objection to the application was raised by any neighboring landowners or other members of the public, either before, during or after the hearing.

7. The Hunterdon County Farmland Preservation Program Request for Site Specific Agricultural Management Practice Application for Hearing is part of the record presented to the Board, and was marked as Exhibit A-1 at the hearing. This Application consisted of the following documents (as supplemented between the Application and the Hearing:

A. Completed Commercial Farm Certification with financial proofs to demonstrate that the farm produces income worth $2,500.00 or more annually and is eligible for differential property taxation pursuant to the Farmland Assessment Act;

B. Completed SSAMP Application Form;

C. Operating Agreement of Flying Change Farm as a New Jersey Limited Liability Company;

D. Plan of Survey for Block 10, Lot 4.01, prepared by Robert Ent, Jr., Professional Land Surveyor, dated January 27, 2017; and

E. Tewksbury Township Land Use Board Resolution #18-07.

8. The Applicant also presented Flying Change Farm LLC Register Quick Report as Exhibit A-2 at the hearing to demonstrate the frequent removal of manure at the property dating back to 2010.

9. The Applicant's position, presented to the Board at the hearing, is as follows:

- The subject property is a 12.060 acre rectangular parcel with 565 feet of frontage on Sutton Road.
- The Applicant purchased the property in 1985 and has made improvements since that time. They presently operate a horse farm, upon which they breed, train, sell and board horses.
- When making an application to Tewksbury Township for permission to install an emergency generator in 2016, it was determined by the Township zoning officer that two (2) outdoor riding rings, a run-in shed, and a stone shed had been constructed on the property without permits.
- Following the discovery of the existence of structures constructed without permits, the Applicant applied to the Tewksbury Township Land Use Board for the approval of the two (2) existing outdoor riding rings, the run-in shed, and the stone shed.
- At the time of the land use application, the Tewksbury Township Land Use Board determined that there were 20-25 horses presently boarded on site.
- Section 709.C.11 of the Tewksbury Township Development Code permits two (2) horses for the first three acres and one horse for each additional acre of property. Based on the Code, the maximum permitted number of horses at Flying Change Farm is eleven (11) horses.
- The Tewksbury Township Land Use Board approved the application for the approval of the two (2) existing outdoor riding rings, the run-in shed, and the stone shed in Resolution #18-07. However, the approval was conditioned upon the following:

- ***The applicants must receive approval for the number of horses on the site from either the County Agriculture Board as part of an application to that body or by a subsequent variance application to the [Land Use] Board.***

- The Applicant testified that they have boarded up to 30 horses at the property dating back to 1995. The farm has 5 turnout paddocks and 3 turnout sheds which house horses. And there is adequate pasture for grazing the proposed number of horses. The farm has been professionally removing/disposing of manure, and currently developing a manure management plan for approval by the Hunterdon County Soil Conservation District.

- The Resolution of the Tewksbury Township Land Use Board determined that the relief requested in that application could be granted without substantial detriment to the public good. Further, the Resolution determined that there was no need for a stormwater maintenance plan based on testing performed by the Applicant's engineer.

- Mike Fugaro, the veterinarian for Flying Change Farm, testified that the existing equine operation being conducted on a property of this size could accommodate the boarding of the proposed number of horses without any detriment to health and welfare of the horses.

- The Flying Change Farm is a commercial equine farming operation performing generally accepted agricultural management practices in conformance with N.J.A.C. 2:76-2A.10. The proposed number of horses, exceeding the maximum number permitted under the Tewksbury Township Development Code, is a sound farming practice, and the Applicant should be afforded Right to Farm protection and permitted to board the proposed number of horses.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD, AFTER HEARING THE TESTIMONY OF THE APPLICANT, AND NO OBJECTION TO THE APPLICATION HAVING BEEN MADE BY THE TOWNSHIP OR ANY OTHER PARTIES, MAKES THE FOLLOWING FINDINGS:

1. The CADB approves Flying Change Farm's Site Specific Agricultural Management Practice Application, determines that the equine operation is performing generally accepted agricultural management practices, grants the Applicant's specific request for relief from Section 709.C.11 of the Tewksbury Township Development Code, and approves the Applicant's request to board and maintain up to thirty (30) horses on the farm.

2. This determination shall be forwarded to the State Agriculture Development Committee within thirty (30) days, pursuant to N.J.A.C. 2:76-2.3(e).

3. Any person aggrieved by this decision, may appeal to the State Agriculture Development Committee, pursuant to N.J.A.C. 2:76-2-3(f).

HUNTERDON COUNTY AGRICULTURE
DEVELOPMENT BOARD

Dave Bond

Dated: November 8, 2018

DAVE BOND, CHAIRMAN