Resolution No. 2021-6-2

RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING A SITE-SPECIFIC AGRICULTURAL MANAGEMENT
PRACTICE DETERMINATION FOR
BLOCK 46, LOT 24, 25, 26, 27 & 27.01 IN THE TOWNSHIP OF HOWELL

Mr. Matthews offered the following resolution and moved its adoption:

WHEREAS, Three Puglisi Brothers, Inc., t/a Puglisi Egg Farms ("Applicant"), a Delaware Corporation, is the current owner of Block 46, Lots 24, 25, 26, 27 and 27.01 in the Township of Howell; and

WHEREAS, on March 10, 2021, the Applicant applied for a Site Specific Agricultural Management Practice ("SSAMP") recommendation for Block 46 Lots 24, 25, 26, 27 and 27.01 in the Township of Howell that included requests for relief from certain municipal ordinances; and

WHEREAS, the Applicant requested relief from Howell Township's standards for building height, silo and feed mill complex height, building coverage, impervious coverage, building façade and building articulation; and

WHEREAS, in Twp. of Franklin v. den Hollander, 172 N.J. 147 (2002), standards had been set allowing the protection given under the Right to Farm Act to trump municipal land use law when appropriate. As per the Court, when exercising primary jurisdiction, the County Agriculture Development Board ("CADB") must first determine whether the Applicant's activities fall within the purview of agricultural management practices. Once established and, upon assuming jurisdiction, the CADB, where appropriate, must consider not only the impact of such practices on the municipality, but the standards established by local ordinances, all within the scope of the CADB's statutory obligation to consider public health and safety. If the CADB determines that the proposed activity falls within the scope of agricultural management practices, it may override the local ordinance; and

WHEREAS, the Applicant supplemented the SSAMP application with letters and enclosures dated March 10, 2021; and

WHEREAS, N.J.S.A. 4:1C-1 et seq. is known as the Right to Farm Act; and

WHEREAS, N.J.A.C. 2:76-2.1 et seq. details the State Agriculture Development Committee's ("Committee") rules; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b) the Board advised the Committee and the Township of Howell of the application and request; and

WHEREAS, the MCADB conducted a site visit to view the subject property and the proposed operation prior to scheduling a public hearing on the matter. The site visit was held on April 23, 2021 and attended by a minority of Board members, MCADB staff, and the Applicant; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (c), (d), upon receipt of a request for an SSAMP, the Board must determine whether the Applicant's agricultural operation is a commercial farm as defined by N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, on June 1, 2021, after deliberation at the public hearing, the MCADB found that the Applicant's operation is a "commercial farm" as defined by the Right to Farm Act, set forth in N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, and memorialized its findings in Resolution No. 2021-6-1; and

WHEREAS, the Applicant now requests approval for an SSAMP determination from the Board for certain operations on the farm; and

WHEREAS, notice of the request and public hearing for the SSAMP was provided pursuant to N.J.A.C. 2:76-2.3(b) and 2:76-2.8(c); and

WHEREAS, the following documents comprise a list of exhibits and materials submitted for the Board's consideration prior to the June 1, 2021 hearing:

Applicant's Exhibits:

Request for Right to Farm Site Specific Agriculture Management Practice Recommendation Submitted March 10, 2021 with Attachments a to d A-1

Preliminary and Final Major Site Plan Dated 9/21/20 prepared by Geller Sive & Co A-1e

Building Descriptions A-1f

Floor Plan Additions Revised 9/21/20 Prepared by King Construction Co A-1g

Application for Farmland Assessment 2021 ..... A-2

Chicken House Plan Created 6/5/19 by Valco Companies A-3

Certificate of Merger/Consolidation 2018 ..... A-4

Certificate of Merger/Consolidation 2019 ..... A-5

Register Alternate Name A-6

Exhibits from the Monmouth CADB:
Aerial Map Block 46 Lots 24, 25, 26, 27 and 27.01 Prepared March 15, 2021 ..... B-1

Howell Tax Map Sheet 5.04 ..... B-2

Howell Zoning Map B-3

Township of Howell Schedule III Bulk and Dimensional Requirements B-4

Section 188-69 Agricultural Rural Estate Zones B-5

Section 188-228 General Nonresidential Architectural Design Standards B-6

December 14, 2020 Letter from Charles Cunliff, Zoning Board Engineer,
to Howell Township B-7

May 6, 2021 Puglisi Egg Farm Relief Request List B-8

Site Visit Photos from April 23, 2021 ..... B-9

WHEREAS, the MCADB heard testimony, reviewed submissions and exhibits, and considered the Applicant's request during the Board's public meetings on June 1, 2021; and

WHEREAS, the Applicant was represented by John A. Rentschler, Esq. of Sonnenblick Parker & Selvers, PC; and

WHEREAS, Robert Sive, a Licensed Professional Engineer and Planner at Geller, Sive & Company, served as a witness for the Applicant. He described the proposed site plan, existing and proposed structures, and stormwater among other topics; and

WHEREAS, Michael Puglisi, one of the owners of Applicant corporation, and his son, Thomas Puglisi, offered testimony in support of the application. Mr. Puglisi provided background related to the history of the site and the need for the relief from the Municipal Ordinances given the nature of the farm activities. The Applicant discussed the layout of the buildings and the need to evolve the buildings to meet current standards for the farm operations related egg production on the farm; and

WHEREAS, the Board carefully considered the testimony of the Applicant and witnesses in making its determination; and

WHEREAS, after considering the testimony given and the exhibits presented at the

hearing, the Board makes the following findings of fact:

1. Block 46 Lots 24, 25, 26, 27 and 27.01 in the Township of Howell comprise approximately 31.66 acres and are situated at 75 Easy Street, Howell, NJ;

2. The farm is located in Howell Township's ARE-6 zone, which permits agriculture;

3. The Applicant is engaged in the agricultural production and wholesale of eggs;

4. The SSAMP request seeks relief from municipal ordinances as follows:

    a. Building Height of Storage Building at rear of packing plant per the site plan – Proposed building height of 41', where 35' is permitted per Ordinance 188-69.a Schedule III;

    b. Silo and Feed Mill Complex Height – Silo and grain elevator are to exceed the maximum allowable height of 35' per Ordinance 188-69.a Schedule III;

    c. Building Coverage – Existing Building Coverage is 7.5%; proposed building coverage is 11.1% where 3% is permissible as per Ordinance 188-69.a Schedule III;

    d. Impervious Coverage – Existing impervious coverage is 9.6%; proposed impervious coverage is 13.1% where 5% is permissible as per Ordinance 188-69.a Schedule III;

    e. Building Façade – Limited by Ordinance 188-22.c and permission sought for one straight wall for newly constructed building as per the site plan submitted; and

    f. Building Articulation – Limited by Ordinance 188-22.c and permission sought for one straight wall for newly constructed building as per the site plan submitted for purposes of creating proper conditions for chickens housed in the building.

NOW, THEREFORE, BE IT RESOLVED, based on exhibits presented, testimony given and the aforesaid findings of fact, that the Monmouth County Agriculture Development Board makes the following determinations:

1. The building height for the Egg Carton Storage as depicted by the submitting plans is approved up to 41', a departure from Howell Township's ARE-6 zone maximum height of 35'. The deviation from the ordinance was approved based on the need for sufficient storage associated with the farm activities and output as described by the Applicant;

2. The building height for the silo and feed mill as depicted by the submitting plans is approved up to required height needed for the grain elevator of the silo, a departure from Howell Township's ARE-6 zone maximum height of 35'. The deviation from the ordinance was approved as the silo itself complies with the zone, however, the grain elevator extends beyond the maximum height allowed and is a necessary component of the silo and linked to the farming activities and production;

3. The maximum building coverage at the farm is approved up to 11.1% per the submitted plans, a departure from Howell Township's ARE-6 zone building coverage cap of 3%. The deviation from the ordinance was approved based on the need for the additional building coverage associated with the approved buildings per the submitted site plan of the Applicant. The coverage increase directly relates to the farming activities and the current needs to house the chickens; and

4. The maximum impervious coverage at the farm is approved up to 13.1% per the submitted plans, a departure from Howell Township's ARE-6 zone impervious coverage cap of 5%. The deviation from the ordinance was approved based again on the need for additional impervious coverage to incorporate the newly designed and approved buildings that meet the current standards to house the chickens, which supply the main component of production on the farm.

BE IT FURTHER RESOLVED that the activities on the farm must conform to all relevant Federal and State statutes, rules and regulations, including, but not limited to the New Jersey Department of Agriculture, the New Jersey Department of Environmental Protection, Freehold Soil Conservation District, and any other entity with jurisdiction over the farm; and

BE IT FURTHER RESOLVED the approval is contingent on the proper certification for manure management being submitted to Board Staff; and

BE IT FURTHER RESOLVED that if over time the subject Farm substantially changes its operations to deviate from the provisions agreed upon in these resolutions, the Applicant, municipality or any other aggrieved party would be entitled to return to the Board to request relief; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Applicant through counsel, the State Agriculture Development Committee, the Township of Howell, and the Applicant.

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

SADC shall be considered a final administrative agency decision. If this resolution is not appealed within 45 days, this resolution is binding.

Seconded by Ms. Butch and adopted on roll call by the following vote:

	Yes	**No**	**Abstain**	**Absent**
Mr. Bullock	X			
Commissioner Burry				X
Mr. Buscaglia	X			
Ms. Butch	X			
Mr. Clayton*	X			
Mr. DeFelice	X			
Mr. Giambrone	X			
Mr. Holmes	X			X
Mr. Matthews	X			
Mr. Potter	X			

* Alternate member in 2021

I do hereby certify that the foregoing is a true copy of a resolution adopted on June 1, 2021 and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 6th of July, 2021.

Gary DeFelice, Secretary