# RESOLUTION OF THE MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD REGARDING A RIGHT TO FARM COMPLAINT AGAINST LOCUST HILL VINEYARD

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

regularization in the contraction of the contractio

WHEREAS, on February 19, 2013, the Township of Middletown (the "Complainant") filed a Right to Farm Complaint against Block 884, Lot 1.02, owned by Mr. James Abate of Locust Hill Vineyard (the "applicant") in the Township of Middletown; and

WHEREAS, the basis of the complaint concerns 8 foot fencing that has been installed along that portion of Block 884, Lot 1.02 bordering

Installation of the fence violated Township Ordinance 16-616 that restricts fencing in a residential zone to a maximum height of 6 feet. The property is located in the R-220 zone, which is a residential zone where agriculture is a permitted use, however, the fence height is restricted to 6 feet under the municipal ordinance; and

WHEREAS, the Monmouth County Agriculture Development Board ("MCADB" or "Board"), upon receiving a complaint, must determine if the basis of the complaint is a permissible and protected activity under the Right to Farm Act; and

WHEREAS, the fence has been installed for purposes of protecting an agricultural product from deer and other wildlife damage, which is a protected activity under N.J.A.C. 4:1C-9(e); and

WHEREAS, the State Agriculture Development Committee has approved an Agriculture Management Practice ("AMP") entitled Fencing installation AMP for wildlife control located in N.J.A.C. 2:76-2A.9 that provides standards for the Board to follow in evaluating the fence that has been installed for the purposes of deer protection; and

WHEREAS, pursuant to N.J.A.C. 2: 76-2.3(b), upon receipt of a complaint, 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, the applicant has certified that the Property is more than five acres, produces agricultural and/or horticultural products worth \$2,500.00 or more annually, and

is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964; and

WHEREAS, the applicant provided Federal tax form, Schedule F, Profit or Loss from Farming, for tax years 2009 – 2012 in order to satisfy the requirement that the operation exceeds the minimum income threshold; and

WHEREAS, the Farm Management Unit consists of approximately 9.5 acres located at

WHEREAS, the specific agricultural activities under consideration by the Board consist of:

- 1. Production of wine grapes;
- 2. Production of apples and pears; and

First Refullion of himbles understanded in 2 to 181 - And became at the First

WHEREAS, a site visit was conducted on March 18, 2013, with the Site Review Team comprised of William Sciarappa, Rutgers Cooperative Extension Service; Martin Bullock, Board Member; Patricia Butch, Board Member; Gary DeFelice, Board Member; Amanda Brockwell, MCADB Staff; Jason Greenspan, Middletown Director of Planning and Community Development and Brian O'Callahan, Middletown Code Enforcement Office; and

WHEREAS, a hearing was conducted before the Board on April 3, 2013; and WHEREAS, the Board was presented a slideshow of the farm and its operations by

MCADB staff; and

WHEREAS, there were no objectors who presented testimony or exhibits in opposition of the application and the Township was not present at the hearing; and

WHEREAS, the Board reviewed site visit reports written by William Sciarappa (see "Rutger's Report" attached Exhibit B-1) and Staff Report written by Amanda Brockwell (see "Abate Staff Report" attached Exhibit B-2; and

WHEREAS, those Board members that were present at the site visit provided additional information to the Board and provided a detailed account of considerations; and WHEREAS, considerations include:

1. Traffic safety at the corner of where driver visibility could potentially be compromised due to installation of a fence. See "Sight Triangle Plan" attached as Exhibit B-3.

WHEREAS, the fence is currently constructed of chain link material that allows visibility through the fence. The board stressed the importance of visibility at the corner of the roads and that the fence is not to be replaced at a later date with any material that would cause an impairment to the view of a driver; and

SECTION DE L'ANDRE DE LA CONTRACTION DE LA CONTRACTION DE LA CONTRACTION DE L'ARREST DE L'ARREST DE L'ARREST D

WHEREAS, during the staff review of the subject site, it was brought to the attention of the staff and Board that the fence and landscape plantings have been installed within a Sight Triangle Easement granted to the County of Monmouth and found in Deed Book 4889, Page 173; and

WHEREAS, the easement issue was brought to the attention of the Monmouth County Engineering Department for further evaluation to determine if any action is necessary with regards to removing and/or repositioning the fence and landscape plantings.

WHEREAS, the Board has considered the complaint, the applicant's certification, the AMP, documents presented concerning the application, and the report from William Sciarappa, Rutgers Cooperative Extension Agent.

# NOW, THEREFORE, the Board makes the following findings:

- 1. That the commercial farm produces agricultural/horticultural products worth at least \$2,500.00 per year.
- 3. That the Farm Management Unit consists of approximately 9.5 acres of land.
- 3. That the farm operation consists of the following: production of grapes, apples, and pears.
- 3. That the farm is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964.
- 4. That the farm is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan.
- A complete written Right to Farm Complaint was made to the Monmouth County Agriculture Development Board.
- 6. The Property is operated in accordance with accepted agricultural management

practices.

I SANTE CHARLES MARKETEN DE PERESONATION DE PERESONAL

7. The fence has been installed in accordance with the adopted AMP.

NOW, THEREFORE, BE IT RESOLVED that based on the aforesaid findings of fact, the Monmouth County Agriculture Development Board finds that the operation of the Property by Locust Hill Vineyard as a commercial farm constitutes an Agricultural Management Practice.

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

	Yes	No	Abstain	Absent	
Mr. Bullock	X				
Mr. Buscaglia	X				
Ms. Butch	X				
Mr. Clayton	X				
Mr. DeFelice	X				
Mr. Foster				X	
Mr. Giambrone	X				
Mr. McCarthy	X				
Mr. Potter			X		
Mr. Stuart				X	

I do hereby certify that the foregoing is a true copy of a resolution adopted by the Monmouth County Agriculture Development Board at a meeting on the 3rd of April, 2013 and memorialized at a meeting on the 1st of May, 2013.

William J. Sciarappa, Secretary

RUTGERS

New Jersey Agricultural
Experiment Station

Cooperative Extension of Manmouth County 4000 Kozfoski Road PO Bast 5033 Freehald, RJ 07728-5033

732-431-7261 4-H 733-431-7260 ADHA 732-431-7271 FCHS 732-431-7271 RUPES 732-431-7271 SAUPES 732-431-7314 Hatter Gardenet F 732-405-4113 Park

Bill Sciarappa

If there any further questions, I would be glad to provide more detail. Rulgers fact sheets for deer fracing are attached. (  $\le w < v \le e^{-\kappa \lambda}$ )

Bill Schrappa, Agriculture & Resource Management Agent schampps@nlaes.rutgera.edn 732-431-7260 Extension.7278

March 25, 2013

To Whom It Concerns:

After a preliminary overview by the owner, we than met with the travalsh officials who advised use of the concern by complainant Bind O'Callahan - Code Frioresement for Middlenow - Tow - that Bights the man complaint forward on the new Boot hall force bordering !—— The shutter of the complaint twan that this construction was done without the proper and required applications and approvabe for zoning and building from the Middlenown Code Enforcement office.

그리다면 1992년 1일 시험 속도로 당하는데 문화면에 모른 1964년 1966 대한 1967년 1867년 1 46

At this point, the entire group boured this specific raws at the site and confirmed that this 8 foot close was indeed a legislate doer feare interded to protect the several acrost of valuable voilines when garpets being genom on the properly. This area is well frown as a high density region to deer. The population would be estimated at more than 25 deer per acre which could quickly indemnet initing crops and may planting without the storie of protection. In fact, this wesa a recommendation made to Mr. Abate by this agent amount ten years ago before planting and networther.

The construction of the furax was appropriate according to Rutgets University fact sheets for furness facing deer change. Once this standard farm practice was explained to the form and investigators by our resurch party. New year pleasals to be have an independent confirmation and investigation of the standard confirmation of this exemption. This distinction is important because privary fermes have greater are restrictions in order to maintain the beauty of this rewell histor. For good reason, these restrictions is a proposed probable with the standard base of these specials residences. This is understandable and we all agreed the blood if the ADS was approve this contraction as a proprietal; there may be verbage added to distinguish such as an agricultural feare on this furnished assessed property versues some residential socied was properly without suit only procedured from the Right to Farm Act covering good agricultural management practices.

Furthermore, the group also discussed some potential future repair and additional feating that would better serve to stop deer intrusion and damage to the grapes and heirhoon applies.

Coponsing Aperins: Ruger, The Sata Lebensky of Hers/sers, U.S. Depositant of Agendum, and Courty Statis of Oroon Feebooken, Rugers Coopensions Lebension, a wit of the Rugen Hers, Inspection of Specificari Scotian, is on equal opposit als program produit and employee.

# Exhibit B-2



MONMOUTH COUNTY
AGRICULTURE DEVELOPMENT BOARD



# Monmouth CADB Members

ō:

# MEMORANDUM

Amanda Brockwell, Farmland Preservation Coordinator

Date: from: March 25, 2013

Re: Right to Farm Complaint filed by the Township of Middletown against Mr. James Abate involving installation of an 8-ft tence

The Montrouth County Agriculture Development Board (MCADB) received a camplaint from the Township of Middletown against Mr. James Abate of in Middletown on February 25, 2013.

REASON FOR COMPLAINT
The municipal fence height ordinance for residential properties is finited to 6 feet. The flownship of Maddelown will not issue a permit for the fence since the 8 foot fence accessed the height requirement for the R-200 and, Additionally, the township has concerns about the fence cavarance.

The first residual for the R-200 and Additionally, the township has concerns about the fence cavarance.

The first residual for the R-200 and Additionally, the township has concerns about the fence cavarance.

जन्म सहित्रामाना प्राप्त शतक, हा स्थाप्त का वार्य संस्था ना प्राप्त सहित्र

AGRICUTURE MANAGEMENT PRACTICE (AMP) & PROCEDURE AN AMP has been approved by \$ADC entitled "Fencing installation A.W\* for wildtite control" located in \$27-\$2.As of the NUL Administrative Code. It is AMP related the other to the issue of tence height in the complaint and staff has advised Maldelerom of this fact. Based on the RET procedures, when an AMP exist for the sizus the operation must still come before the McADB to determine commercial tome eligibility and that the operations is in complaince with the standards in the AMP before granting potention under the RETA. Maldelerown has requested a formal investigation of this matter to ensure complaince with eligibility and AMP standards.

# COMMERCIAL FARM ELIGIBILITY INFORMATION

- Agriculture is an allowable use in the zone.
   The parcel is +t-9.5 acres and eligible for farmiand tax assessment.
   Staff has confirmed with the forwally and the tax records that the parcel receives farmland assessment taxation featment.



The landowner has submitted their Schedule F, Profit of Lass from Farming, form for 2009 – 2011. The form list the income from vineyard and archards on line 4 as \$8.990 for 2009, \$3.768 for 2010, \$3.112 for 2011, and \$4.240 for 2012.

SITE VISIT
On Manday, March 19 2013 of 3pm a site visit was held on the Abate property located v

W. Abote provided the group with an overview of his operation that consist of the production of grapes for producting wine and production of critical finite person and apples). The agricultural income comes mainly from the grapes that dee grown and harvested on the property. The grapes are processed attistion that which he expolanted the need for installation of 8 foot fleraring along the perimeter of the property due to the extensive deer damage that occurs to the wines and faulthing. It is not black, chain fink tence has attended to the property of the wines and faulthing the property of the wines and faulthing the property of the property of the wines and faulthing the property.

MUNICIPAL CONCERNS
The Middletown Code Enforcement officer issued a written notice to inform the landowner that Township Ordinances 16-40; 16-507; and 16-40 [6-1] are being violated.

16-401 - regulies pot approval for installation of fencing 16-507 - regulates appli tranges or inferencement two or more streets. 16-40 - 400s with the height of fences and hedges not to exceed 8° or 6° in a residencement occur.

Traffer caller of the commend for the form of the form

Sile visit unerclees includes:

Wr. Jamas Ababe, bundowner

Wr. William Kolauppa, Burgest Coperative Extension Agent – MCADB (non-voling)

Mt. Pariscia Butch, McADB Mamber

Wr. Gary Dei-Fatce, MCADB Member

Wr. Marin Buljack, MCADB Member

Wr. Marin Buljack, MCADB Member

Wr. Marin Buljack, MCADB Member

Wr. Marin Good Forman McCade Engreement Officer

Wr. Jamas Geenspan, McGalesown Director of Planning and Community Development

Mrs. Jamas Geenspan, McGalesown Director of Planning and Community Development

Mrs. Jamas Geenspan, McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George McGalesown Director of Planning and Community Development

Mrs. Jamas George Mrs. J

coner of ) disconding the control of located where the centerfore meet) and a second sight honge easiment pocated at the coner of the property fine). The fence encreaches upon the sight trangle easiment held by the Country of Monmouth (cla 488), pg 01731 that spans the rimer of the armority fine. Additionally, the fence has been intalled sightly over the individual of the country Right of Way area along the control of the municipal right of Way area of the country and the c

Eance Placement Concerns, w. Jason Geeinspan, Middletown Director of Planning, questioned the need for the fence to span the entre perimeter of the property when currently the harpested area accupies mainly the middle perimeter of the procel. Mr. Abdie explained that he has plans to expand the orchard area (into the terrating open area of the property and thereitor fencing the entire perimeter is necessary to expand his operation at a future adde.

- Exceeding the municipal height ordinance from 6' to 8' seems a clearly protected activity for commercial time. Force height of 8' to 10' are considered standard for protection of arops from deer damage.

  The fence has been installed within a Dead of Essement (10 ABP), pg 0173 incl has been granted to the County of Mormouth for sight thoughe and right of way purposes, installation of a fence and landscape planting over 30 inches in height within the sight thoughe essement violates the linear of the essement to provide drives with a clear view of traffic softly acasans. Into their gator, and continues the county of the softly casans. Into their gator, and continues are observed in the softly acasans. Into their gator, and the county of the softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and the softly acasans. Into their gator, and the softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and the softly acasans are softly acasans. Into their gator, and acasans are softly acasans are softly acasans. Into their gator, and the softly acasans are softly acasans are softly acasans. The softly acasans are softly acasans are softly acasans. In the softly acasans are softly acasans are softly acasans. The softly acasans are softly acasans are softly acasans are softly acasans and acasans are softly acasans. The softly acasans are softly acasans are softly acasans are softly acasans and acasans are softly acasans are softly acasans are softly acasans.

문제공편 (1865년 첫번째 - 5. 1865년 1965년 1963년 1967년 1월 1865년 1967년 1일 1866년

