**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, LOTS 2, 1.01, 9 AND 11, BOROUGH OF GLASSBORO, TO ALLOW ON-STREET PARKING FOR COMMERCIAL FARM-RELATED VEHICLES AND EQUIPMENT ALONG UNIVERSITY BOULEVARD WEST OF LEHIGH ROAD DURING RESTRICTED PERIODS WITHOUT MUNICIPAL PERMIT**

**DATED: October 20, 2016**

**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"), 500 University Boulevard, 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,** on May 16, 2013, the Gloucester County Agriculture Development Board (CADB) heard and made a motion to approve 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 winery/agricultural retail activities on the property known as Block 360, Lot 2, located in the Borough of Glassboro, Gloucester County, New Jersey. A resolution dated June 27, 2013 was passed by the CADB memorializing approval; and

**WHEREAS,** 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 known as Block 360, Lot 2, located in the Borough of Glassboro, Gloucester County, New Jersey. A resolution dated December 19, 2013 was passed by the CADB memorializing approval; and

**WHEREAS,** on August 18, 2015, the CADB heard and made a motion to approve an additional SSAMP request from Dr. Lewis DeEugenio, Jr./Summit City Farms as to expand the existing winery/agricultural retail facility by further conversion of the existing produce packing house at Block 360, Lot 2, located in the Borough of Glassboro, Gloucester County, New Jersey, with parking and other site improvements as depicted in the application and presented during testimony. This item was formally approved via a resolution of the CADB at its meeting on September 17, 2015; and

**WHEREAS,** on August 30, 2016, the CADB received correspondence from William L. Horner, Esq. requesting that the Board consider a new SSAMP request from Dr. Lewis DeEugenio, Jr./Summit City Farms, Block 360, Lots 2, 1.01, 9 and 11, Borough of Glassboro, Gloucester County, New Jersey, to allow on-street parking for commercial farm-related vehicles and equipment along University Boulevard west of Lehigh Road during restricted periods without municipal permit. The applicant's SSAMP request indicates that all the information regarding the Commercial Farm Certification, and its supporting data, have not changed as to the documentation that the Board was provided when it heard the applicant's original SSAMP request in May 2013, and the subsequent requests heard in November 2013, and August 2015. As such the applicant has requested that this previously submitted documentation be utilized in the Board's consideration of this new SSAMP request. The applicant has also provided the most recent copy of their filed 2017 Farmland Assessment Application for Block 360, Lots 2, 1.01, 9 and 11; and

**WHEREAS**, the applicant stated that the Borough of Glassboro has represented there is an ongoing problem with college student parking along municipal streets in residential neighborhoods near the Rowan University campus and such parking interferes with residential parking in those neighborhoods. The Borough's remedy has been to implement, by Ordinance 16-26, residential permit-only parking restrictions along the affected streets, effective annually between Labor Day and Memorial Day, and

**WHEREAS,** the application states that the applicant's farm is located along a one-block portion of University Boulevard west of Lehigh Road which is abutted predominantly by the applicant's orchards and pastures, and extends approximately 1,500 feet to an unimproved dead end. The applicant states that this portion of University Boulevard is not and has never been used for college student parking because it is located nearly three-quarters of a mile walking distance from the closest edge of the Rowan University campus (in the vicinity of Bole Hall, Bunce Hall, and the baseball stadium), and approximately one mile from the central campus academic buildings and library that are north of Route 322. The applicant states that despite the absence of any student parking problem on this portion of University Boulevard, the Glassboro Borough Council recently extended the parking restrictions to include it. The applicant states that the Borough's amended parking ordinance will substantially interfere with the commercial farm operations during the effective months. The application states that the applicant voiced his concerns and opposition to the expanded parking restriction at a municipally sponsored "stakeholder" meeting in the fall of 2015, but his input was disregarded. The applicant states that he has since been advised by the Mayor and Council President that the Borough Council will not consider further amending the ordinance to eliminate the restriction along the portion of University Boulevard that abuts his farm; and

**WHEREAS,** the applicant states that as shown on the copies of Glassboro Tax Map Sheets 1.05 and 1.09 which are included in the application, the one-block section of University Boulevard at issue in this application is a dead-end street extending approximately 1,500 feet west from Lehigh Road. Except for one single family residential lot having frontage of 175 feet, the south side of the street abuts only the applicant's farm. The north side of the street abuts three residential lots which have a total combined frontage of approximately 527 feet. The fourth lot on the north side, consisting of a 14 acre lot with frontage of approximately 973 feet, contains a single-family residence where the applicant's father lives and an orchard that is farmed by the applicant. The application states that for more than 90 years, the farm's owners, employees, contractors, vendors, customers, visitors, and produce transporters have regularly parked all types of vehicles and equipment along both sides of University Boulevard without incident, complaint, or municipal involvement. The street has a 75-foot right-of-way (as depicted on an attached copy of the Partial Site Plan that was submitted with the 2015 winery/farm market expansion SSAMP application), a paved width of 32 feet, and 8 to 12-foot shoulders on each side. The application states that as noted on page 6 of the CADB's September 17, 2015 resolution approving the winery/farm market expansion, the street has been determined to be "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." The applicant also states that the CADB's approvals for the winery/farm market also confirmed that sufficient off-street parking has been provided for the farm market/winery activities (also depicted on the attached Partial Site Plan). Consistent with these approvals, this application states that the applicant has installed signage at the farm directing visitors to park in the approved off-street parking areas. The application further states that the applicant is not aware of any complaints or problems relating to farm-related on-street parking; and

**WHEREAS**, the applicant states that in the summer of 2015 the Borough of Glassboro distributed notices to the applicant and others along the street to inform them that the Borough Council was considering extending the residential permit-only parking restrictions to include the subject portion of University Boulevard and other streets within the municipality, and inviting interested persons to attend informational meetings that were scheduled for September 15 and October 14, 2015. A copy of the meeting notice, with information fact sheet, was included in the application. The applicant states that he and others attended the October 14, 2015 informational meeting, which was chaired by the Glassboro Administrator and Police Chief, to express concerns about, and opposition to, the proposal as it related to University Boulevard west of Lehigh Road. The applicant states that at the meeting it was generally understood that the permit-only restriction, which would be effective between Labor Day and Memorial Day each year, was intended to address problems caused by college students who park on public streets. The applicant states that he and others at the meeting pointed out that college students never park

on University Boulevard west of Lehigh Road, and that the proposed restriction would only complicate a parking situation where no problem exists. Further, the application states that the applicant expressed concern about the proposed restriction's interference with his farming operation which has always involved parking on the street. The applicant states that the Administrator and Police Chief appeared to agree with these concerns and objections and said they would consider them in formulating a recommendation for Borough Council. The applicant states that there were no more informational meetings, and that he learned that the restriction had been imposed when permit-only parking signs were recently erected along his property which read as follows:

**PARKING BY PERMIT ONLY LABOR DAY TO MEMORIAL DAY**; and

**WHEREAS,** the applicant states that the ordinance (#16-26) was adopted on May 24, 2016. The application states that upon learning that the restriction had been enacted the applicant asked the Glassboro Mayor about the possibility of further amending the ordinance to eliminate the restriction from University Boulevard west of Lehigh Road. The applicant states that the Mayor responded that there would be no support from the Borough Council to hear such a request or render such relief, and that nothing would be gained by the applicant presenting the request at a Borough Council meeting. The applicant states that he also spoke with the Borough Council President who told him the Council would not amend the ordinance. The application states that no new development or uses are being proposed in connection with this SSAMP request. The application also included a copy of the CADB's approved SSAMP checklists, and has been marked to indicate items submitted and waivers sought; and

**WHEREAS**, the application states that for the above reasons the applicant's use of on-street parking for other farm-related purposes constitutes a generally accepted agricultural operation or practice for which a site-specific agricultural management practice should be recommended by the GCADB. Accordingly, the applicant requests the following:

1. *A determination that the applicant has satisfied the commercial farm eligibility requirements of N.J.S.A. 4:1C-9.*
2. *A determination that use of the portion of University Boulevard that extends west from Lehigh Road for farm-related on-street parking (e.g., the applicant's farm vehicles and equipment, farm employee and contractor vehicles and equipment, vehicles and equipment used to transport farm produce and other farm-related materials to and from the farm, and the vehicles and equipment of farm customers and visitors) conforms with applicable Right to Farm Act regulations and constitutes a generally accepted agricultural operation or practice.*
3. *A determination that the aforesaid farm-related on-street parking does not pose a threat to public health and safety, provided that the applicant must continue to display signage on his property directing visitors to park in approved off-street parking areas.*
4. *A recommendation of the aforesaid farm-related on-street parking as a site-specific agricultural management practice.*
5. *A determination that, based on the foregoing determinations and recommendations, the Borough's permit-only parking restriction may not be enforced against the aforesaid farm-related on-street parking.*
6. *A determination that the Borough of Glassboro must affix the following additional signage to each of the parking restriction sign posts that have been installed along both sides of University Boulevard west of Lehigh Road, with each additional sign to have the same background and font colors as the "parking by permit only" signs; the same font size and capitalization as the words "parking by permit only"; and to be affixed to each post just below the "parking by permit only" sign:*

***EXCEPT FARM-RELATED PARKING***

7. *GCADB retention of jurisdiction over this matter*; and

**WHEREAS**, a request to notice the public hearing to be held by the CADB on September 15, 2016, where this SSAMP is scheduled to be heard was forwarded to the South Jersey Times and advertised on September 2, 2016. Notification as to the hearing, in addition to a copy of the August 30, 2016 correspondence from Mr. Horner initiating the SSAMP request, was also provided to the applicant, Mr. Horner, the Borough of Glassboro Administrator, the Borough of Glassboro Solicitor, the Borough of Glassboro Zoning Official, and the SADC on

August 31, 2016; and

**WHEREAS,** on September 1, 2016, Mr. Horner provided correspondence to CADB Secretary Ken Atkinson and Assistant County Counsel Eric Campo regarding three letters received by the applicant from Glassboro regarding the applicant's request for reports or recommendations in connection with Glassboro's recently enacted parking restriction ordinance; and

**WHEREAS,** on September 8, 2016, Mr. Horner provided correspondence to Mr. Atkinson and Mr. Campo that contained transcripts of two Glassboro Council meetings in May of 2016 where the permit-only parking ordinance was introduced and adopted; and

**WHEREAS,** on September 12, 2016, Mr. Campo received correspondence from Allen S. Zeller, Esq., Glassboro Planning Board Solicitor, wherein Mr. Zeller advised that he was representing Glassboro on this matter, and that Glassboro objected to and opposed the applicant's SSAMP request. Mr. Zeller's correspondence stated that the CADB did not have jurisdiction under the Right-to-Farm Act to hear the request, as University Boulevard is a dedicated public street owned and maintained by Glassboro. Mr. Zeller's correspondence also states that the Right-to-Farm Act protects solely on-site farm related activities as to generally accepted agricultural management practices, and that the Right-to-Farm Act does not protect off-site activities such as those sought by the applicant due to the fact that University Boulevard is not part of the farm or part of a "farm management unit". Mr. Zeller's correspondence also references a previous SADC decision regarding Frank Bottone, Jr. t/a/ Bottone Farm, Inc. dated September 22, 2005 and argues the SADC stated that it did not have jurisdiction over off-site parking issues. Mr. Zeller's correspondence also included a copy of the SADC's decision regarding the Bottone Farm matter, and a copy of Glassboro Ordinance #16-26, which included a marked-up map of the Borough streets impacted by the ordinance; and

**WHEREAS,** on September 13, 2016, CADB Secretary Atkinson replied to Mr. Zeller via e-mail that Mr. Zeller's September 12, 2016 correspondence and supplemental attachments would be provided to the CADB as an exhibit in the SSAMP package provided to all Board members for its September 15, 2016 meeting. Mr. Atkinson also attached in his e-mail to Mr. Zeller a copy of the August 30, 2016 SSAMP request from the applicant, and indicated that a copy of the SSAMP request was included as an enclosure in the public hearing notice that was mailed by his office to the Borough Administrator, Borough Solicitor, and Borough Code Enforcement Officer on September 1, 2016; and

**WHEREAS,** the following attachments/exhibits provided by the applicant and/or other parties relative to this case.

1. *GC-1:*
    a. *August 30, 2016 correspondence from William L Horner, Esq. (SSAMP request).*
    b. *Copies of Glassboro Tax Map Sheets 1.05 and 1.09.*
    c. *A copy of the engineering plan submitted with the August 2015 SSAMP request prepared by J. Timothy Kernan, NJ Licensed Professional Engineer (GE37101), Maser Consulting, PA.*
    d. *A copy of the notice sent to the applicant and other affected Glassboro residents informing them that the Borough Council was considering extending the residential permit-only parking restrictions to include the subject portion of University Boulevard and other streets within the municipality, and inviting interested persons to attend informational meetings that were scheduled for September 15 and October 14, 2015.*
    e. *A copy of the Borough of Glassboro Ordinance 16-26.*
    f. *Gloucester CADB SSAMP checklist provided by the applicant.*
    g. *Commercial Farm Certification Form for Summit City Farms as provided in the applicant's May 2013 SSAMP request.*
    h. *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.*
    i. *Copies of the applicant's 2017 Application for Farmland Assessment form for Block 360, Lots 2, 1.01, 9 and 11, Borough of Glassboro.*
    j. *Copy of Mr. Horner's September 1, 2016 correspondence regarding three letters received by the applicant from Glassboro regarding the applicant's request for*

*reports or recommendations in connection with Glassboro's recently enacted parking restriction ordinance.*

k. *Copy of Mr. Horner's September 8, 2016 correspondence that contained transcripts of two Glassboro Council meetings in May of 2016 where the permit-only parking ordinance was introduced and adopted.*

l. *September 12, 2016, correspondence from Allen S. Zeller, Esq., Glassboro Planning Board Solicitor, indicating Glassboro's objection to the applicant's SSAMP request. This item also includes a copy of the SADC's September 2005 decision regarding Frank Bottone, Jr. t/a/ Bottone Farm, Inc., and a copy of Glassboro Ordinance #16-26 which includes a marked-up map of the Borough streets impacted by the ordinance.*

m. *A copy of the September 13, 2016 response from CADB Secretary Ken Atkinson to Mr. Zeller confirming receipt of his September 12, 2016 correspondence*; and

**WHEREAS,** Solicitor Campo stated that the Board needs to make a threshold determination that it has jurisdiction in this matter with the need for the applicant to meet the eligibility criteria to be recognized as a "commercial farm" under the Right-to-Farm Act; and

**WHEREAS**, Chairman Kandle asked for a motion to open the public hearing for testimony and comments. Mr. Eachus made the motion, which was seconded by Mr. Dean and approved unanimously by the Board; and

**WHEREAS,** Mr. Horner then introduced his client Dr. Lewis John DeEugenio, Jr., who was sworn in by Solicitor Campo. Under questioning from Mr. Horner Dr. DeEugenio testified that the present conditions of Summit City Farms still meet the conditions to be recognized as a "commercial farm" under the Right to Farm Act and have not changed from their previous appearances before the Board in 2013 and 2015. Dr. DeEugenio testified that the farming operation has been in existence in its current location since 1922 and that it consists of more than 5 acres of land. Dr. DeEugenio also testified that the farming operation generates more than $2,500 in annual income, and that they also qualify for and presently have farmland assessment. For the record Solicitor Campo reviewed the thresholds in order for a property to qualify as a "commercial farm" as per the Right-to-Farm Act, N.J.S.A. 4:1C-9, N.J.S.A. 4:1C-3. Chairman Kandle asked for a motion from the Board on the following:

*A determination that the applicant has satisfied the commercial farm eligibility requirements as per the New Jersey Right-to-Farm Act.*

Mr. Marino made a motion to approve the determination. Mr. Eachus seconded the motion; and

**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 September 15, 2016, when DeEugenio presented his case, through his attorney, William L. Horner, Esquire; and

**WHEREAS,** the Board received into evidence the following Exhibits:

2. *GC-1:*

a. *August 30, 2016 correspondence from William L Horner, Esq. (SSAMP request).*
b. *Copies of Glassboro Tax Map Sheets 1.05 and 1.09.*
c. *A copy of the engineering plan submitted with the August 2015 SSAMP request prepared by J. Timothy Kernan, NJ Licensed Professional Engineer (GE37101), Maser Consulting, PA.*
d. *A copy of the notice sent to the applicant and other affected Glassboro residents informing them that the Borough Council was considering extending the residential permit-only parking restrictions to include the subject portion of University Boulevard and other streets within the municipality, and inviting interested persons to attend informational meetings that were scheduled for September 15 and October 14, 2015.*
e. *A copy of the Borough of Glassboro Ordinance 16-26.*
f. *Gloucester CADB SSAMP checklist provided by the applicant.*
g. *Commercial Farm Certification Form for Summit City Farms as provided in the applicant's May 2013 SSAMP request.*
h. *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.*
i. *Copies of the applicant's 2017 Application for Farmland Assessment form for Block 360, Lots 2, 1.01, 9 and 11, Borough of Glassboro.*
j. *Copy of Mr. Horner's September 1, 2016 correspondence regarding three letters received by the applicant from Glassboro regarding the applicant's request for reports or recommendations in connection with Glassboro's recent expanded parking restriction ordinance.*
k. *Copy of Mr. Horner's September 8, 2016 correspondence that contained transcripts of the two May 2016 Glassboro Council meetings at which the expanded permit-only parking ordinance was introduced and adopted.*
l. *September 12, 2016, correspondence from Allen S. Zeller, Esq., Glassboro Planning Board Solicitor, indicating Glassboro's objection to the applicant's SSAMP request. This item also includes a copy of the SADC's September 2005 decision regarding Frank Bottone, Jr. t/a/ Bottone Farm, Inc., and a copy of Glassboro Ordinance #16-26 which includes a marked-up map of the Borough streets impacted by the ordinance.*
m. *A copy of the September 13, 2016 response from CADB Secretary Ken Atkinson to Mr. Zeller confirming receipt of his September 12, 2016 correspondence; and*

**WHEREAS**, Mr. Horner stated that over the many years that the applicant's farm in Glassboro has been in existence they have used University Boulevard west of Lehigh Road as a staging area for farm equipment and farm related vehicles. Mr. Horner stated that as a result of large recent expansions at Rowan University, Glassboro has been having problems as to student-related parking on residential streets, and as such has adopted residential permit parking only on a number of borough streets. Mr. Horner stated the new parking ordinance does not target the farm; it targets students. Mr. Horner then referred to the transcript of the May 24, 2016 Glassboro Council meeting where #16-26 was approved. Solicitor Campo then questioned Mr. Horner as to how he obtained the transcript in question, and Mr. Horner confirmed that his client obtained a copy of the audio tape of May 24, 2016 meeting from Glassboro under the Open Public Records Act (OPRA) and had it transcribed by certified court reporter. Mr. Horner then referred to specific portions of the transcript where the Borough Administrator stated the ordinance was being enacted to address student-related parking issues; that the Borough had already made accommodations to a church on University Boulevard to relax the parking restrictions for its parishioners; and that the Borough would be willing to work on other amendments to the parking ordinance to accommodate other churches and their parishioners. Mr. Horner stated that based on the transcript, the ordinance was enacted to address college parking problems and that the Borough was willing to work with other non-residents to address their concerns as to the ordinance. Mr. Horner then referred to Ordinance 16-26 itself and indicated that the impacted portion of University Boulevard does not include the portion in proximity to the church, where the restrictions on all of the other impacted streets run their entire lengths. Mr. Horner also reviewed the parking decal requirements and penalties as per the ordinance; and

**WHEREAS**, Mr. Horner then presented to the Board a packet of five (5) Google Maps showing the Borough streets in the area of the applicant's farm and Rowan College. Under questioning from Solicitor Campo, Mr. Horner confirmed that he printed out the maps and

marked them up himself. Secretary Atkinson stated the maps would be listed as exhibits and would be identified as "Applicant 1". Mr. Horner stated that the first map shows that the parking restrictions do not extend on streets south of University Boulevard, and that the parking restrictions are not in effect along the 300 Block of University Boulevard which is the location of the church. Mr. Horner stated that the second map shows that it is approximately .83 miles from the applicant's farm, which is on the 500 block of University Boulevard, to the closest building on Rowan's campus. Mr. Horner stated that the third map shows that it is approximately 1.09 miles from the applicant's farm to the center of campus. Mr. Horner stated the purpose of second and third maps was to show that it would be highly unlikely for a student to park so far away from and then walk to the campus. Mr. Horner then stated that the fourth map shows that there are a total of only 6 houses on the 500 block of University Boulevard south of Lehigh Road, with one of those houses belonging to the applicant. Mr. Horner stated that this map shows there is very limited residential development on this portion of University Boulevard. Mr. Horner then stated that the fifth map shows in greater detail the 300 and 400 blocks of University Boulevard where the parking restrictions are not in place. Mr. Horner stated these blocks contain more than 30 homes along with the church and are much more densely populated than the portion of University Boulevard where the applicant's farm is located. Mr. Horner stated this again shows that accommodations were specifically made for the church. Mr. Horner then stated that these exhibits show that the Borough was willing to make accommodations on streets that are in a much closer proximity to Rowan's campus than the applicant's farm, and that parking restrictions are not in effect at all on a number of streets that are in a closer distance to the college. Mr. Horner then referred to N.J.A.C. 2:76-2.3 which is the regulation pertaining to submittals of SSAMP requests to the appropriate CADB when a commercial farm is aggrieved by a municipal or county ordinance; and

**WHEREAS**, Mr. Horner then began his questioning of Dr. DeEugenio, who stated he was advised by a Borough Police Officer who had stopped out at his farm in late August 2015 that public meetings were being held in September and October to discuss student parking concerns in the Chestnut Ridge section of the Borough. Dr. DeEugenio then presented a large map showing the Borough streets in the area of his farm and Rowan College. Dr. DeEugenio placed a string at the center point of the college and stretched it out to his farm. He then circled a radius showing there are a number of streets closer in proximity to the college, which is where students would normally park, that are not impacted by the parking ordinance and restrictions. Dr. DeEugenio said that based on this radius, approximately 60% of the streets that are closer to the college than his farm are not impacted by the ordinance. Dr. DeEugenio then stated that he and Mr. Horner attended the Glassboro Council meeting on September 13, 2016, in an attempt to bring this matter to the Council's attention once again but was not granted any relief. Mr. Horner then stated that a group of Chestnut Ridge residents meet at the subject farm on a semi-regular basis to discuss common issues, and that they have discussed student parking problems. Dr. DeEugenio stated that it is a real issue that impacts many of the Borough's residents. Dr. DeEugenio stated that he attended the public meeting in October 2015, and informed the Borough officials that no students ever park in the 500 block of University Boulevard by his farm and that he uses the street for the parking of farm-related equipment and vehicles. Dr. DeEugenio then presented a picture showing a portion of the 500 block of University Boulevard by his farm. Dr. DeEugenio stated the picture was taken from approximately the mid-point of the 500 block of University Boulevard looking towards the dead-end of the street. Dr. DeEugenio stated that the picture shows his farm manager's truck parked along the shoulder of the road and gives a good example of how they park their farm equipment and farm-related vehicles along the shoulder of the street. Dr. DeEugenio stated the parked farm equipment is used for fertilizing, upgrading and fixing irrigation, and harvesting. Secretary Atkinson then stated the larger map previously presented to Board (of which he took a photograph) would be listed as an exhibit and would be identified as "Applicant 2", and this picture presented by Dr. DeEugenio would be listed as an exhibit and would be identified as "Applicant 3". Under questioning from Solicitor Campo, Dr. DeEugenio confirmed that he took the picture identified as "Applicant 3" earlier this growing season; and

**WHEREAS**, Dr. DeEugenio then revisited the October 2015 public meeting which he attended and again indicated that he informed the Borough officials that no students ever park in the 500 block of University Boulevard by his farm and that he uses the street for the parking of farm-related equipment and vehicles, and asked that restrictions not be enforced on the 500 block. Dr. DeEugenio stated that he was told by the Borough officials that they would look into his concerns in formulating their final ordinance. Dr. DeEugenio stated he was informed that an additional open session would be held; however in the summer of 2016 the "residential permit

only" signs were placed along the 500 block of University Boulevard. Dr. DeEugenio stated that he tried to meet with the Borough police chief and other Council members to discuss the matter, but that there was no support to address his concerns. Dr. DeEugenio claimed that as far as he is aware there was never a formal traffic study done by the Borough to help in formulating the ordinance, and that he feels the current ordinance is flawed as it leaves out a number of streets that are closer to the college than his farm; and

**WHEREAS,** Mr. Horner then asked Dr. DeEugenio (the applicant) to address how the parking ordinance affects and restricts his agricultural operations. Dr. DeEugenio stated that the farm began in a time when horses and wagons still serviced it, and that as operations have expanded and new equipment has been developed over the years they have always used the shoulder of the road for parking of farm vehicles associated with the agricultural operations which include harvesting, servicing irrigation, fertilizing, etc. Dr. DeEugenio again referred to "Applicant 3", which he said shows how equipment would need to park along this portion of University Boulevard to service this portion of his farm. Dr. DeEugenio stated that his agricultural operations extend to more than 500-acres with lands in other municipalities and this parcel in Glassboro has always been utilized as the home base for all their agricultural operations, which means that equipment may be temporarily parked here before it heads to another location. Dr. DeEugenio stated that the equipment is also not spread haphazardly along the street, and stated that if a picking operation is going on, then picking equipment will be parked there; if a spraying operation is going on, then spraying equipment will be present. Dr. DeEugenio stated that the road actually ends up being a staging area for equipment and vehicles needed for the type of agricultural activity that is going on. Dr. DeEugenio stated that even though the parking restriction is only in effect from Labor Day to Memorial Day it would still affect his operations, such as his spraying operations which begin in early March. The applicant stated that by and large there is no other parking that occurs along the portion of University Boulevard. Dr. DeEugenio stated that sometimes the retail customers to his winery and farm market may park along the street, but they have placed signage directing customers to park in their off-street parking lot. Under questioning from Mr. Horner, the applicant confirmed that they actively encourage retail customers to park in the off-street lot and even hand out memos to customers requesting that they do so. Dr. DeEugenio also stated that the majority of their retail activities for the winery occur on Friday and Saturday evenings. Dr. DeEugenio then stated that the only traffic on the 500 block of University Boulevard other than his farm activities comes from the few residents on the street going to or coming from work. Mr. Horner then asked Dr. DeEugenio to address how it would burden his operations if the CADB denied his requested relief. Dr. DeEugenio reiterated that this portion of University Boulevard is used as a staging area for his farming operations, and in addition to his own equipment, suppliers, sales representatives, and tractor trailers making pick-ups or deliveries also park along the road. The applicant stated there is no other access or area for these farm-related vehicles to park, and if he had to extend or create new parking areas he would have to eradicate a large portion of his current production area. The applicant again confirmed that due to the scattered locations of their other farmlands the Glassboro parcel needs to be maintained as their home base. Dr. DeEugenio also stated that depending on the current activity the farm-related vehicles are usually parked along the street from a few hours to half a day, and that they never park any vehicles along the street overnight; and

**WHEREAS,** Chairman Kandle then stated that he drove along the 500 block of University Avenue today, and can verify that Dr. DeEugenio's testimony as to the physical conditions of the street are accurate. Solicitor Campo then asked the applicant to confirm that the relief sought in this SSAMP request was *not* related to retail parking for the winery/farm market, and was based on equipment and vehicles related to the commercial farm activities. Dr. DeEugenio stated this SSAMP was not directed to the winery activities but that sometimes patrons may park along the street. Under further questioning from Solicitor Campo, Mr. Horner stated on behalf of his client that that the SSAMP approval granted by the Board in 2015 for the expansion of winery specifically identified adequate off-street parking for the retail facility, as required by the new On-Site Direct Marketing AMP. Mr. Horner further stated that signage is on-site directing winery patrons to park in the off-street parking lot. Solicitor Campo stated again that it is his understanding that the SSAMP request before the CADB this evening was for the parking of equipment and vehicles associated with commercial farm-related activities not winery parking. Mr. Horner asked Dr. DeEugenio that if the winery was not in existence would he still be here requesting relief from the parking restrictions. Dr. DeEugenio said yes. Solicitor Campo then asked the applicant to provide the Board with some additional details as to the loading ramp that the tractor trailers use when making or picking up deliveries. Dr. DeEugenio

stated they have regular pick-ups scheduled every day, and that often times if a truck arrives early or another is already using the loading ramp they park along the road to wait until they can access the ramp. Dr. DeEugenio stated the parking ordinance would certainly impact those deliveries and pick-ups. Solicitor Campo then asked the applicant to explain why the portion of Lehigh Road that abuts the farm and is not subject to the parking restrictions could not be used for the farm-related parking. Dr. DeEugenio stated that none of his crop fields are along Lehigh Road, as there is fencing along it. Dr. DeEugenio then stated it would be virtually impossible for a tractor trailer making or picking up deliveries at the loading ramp on University Boulevard to negotiate parking and accessing the facility off of Lehigh Road. Dr. DeEugenio also stated Lehigh Road actually has much more residential development on it then the 500 block of University Boulevard; and

**WHEREAS**, Mr. Horner then summarized his presentation to the Board by indicating that they have shown that the parking ordinance creates a restrictive burden on the applicant's agricultural operations and that if the Board did grant the requested relief it would not change the intent of Glassboro's ordinance, which they have proved was enacted to address student parking concerns; and

**WHEREAS**, Solicitor Campo asked if there were any representatives from Glassboro in attendance and noting thereafter there were not, he advised the Board to consider Glassboro's position as set forth in their letter entered into evidence dated September 12, 2016. The solicitor requested Secretary Atkinson to read into the record the September 12, 2016, correspondence from Allen S. Zeller, Esq., Glassboro Planning Board Solicitor, indicating Glassboro's objection to the applicant's SSAMP request. The full correspondence was read into the record by Secretary Atkinson is as follows:

*Re: Application of Dr. Louis J. DeEugenio, Jr./Summit City Farm*
*September 15, 2016 Hearing, Our File NO. 8021-16B*

*Dear Mr. Atkinson:*

*Please be advised that I represent the Borough of Glassboro (Boro) with regard to the above-entitled matter. By notice dated September w, 2016, the Borough became aware of a request submitted to the Gloucester County Agricultural Development Board (CADB) by Summit City Farm (SCF) for a Site-Specific Agricultural Practice Recommendation to allow "**on-street parking for commercial farm vehicles and equipment along University Boulevard during restricted periods without municipal permit.**" The Borough, however, has not been served with a copy of the specific request submitted by SCF to the Gloucester CADB.*

*Please be advised that the Boro hereby objects to and opposes the request by SCF. Please include this letter as part of the record in this matter.*

*Specifically, the Borough submits that the CADB does not have jurisdiction pursuant to the Right – To – Farm Act, N.J.S.A. 4:1C – 1, et seq. or pursuant to any other State statute to consider this request to "allow on-street parking for commercial farm-related vehicles and equipment along University Boulevard." University Boulevard is a dedicated public street owned by and maintained by the Borough. On May 24, 2016, the Boro adopted ordinance 16-26 which regulated parking and required parking permits on numerous public streets, including University Boulevard. Attached hereto is a copy of said Ordinance has not been challenged by anyone, including Mr. DeEugenio of SCF and the time within which to do so has expired.*

*In this regard, it is clear that the Right-To-Farm Act protects solely "on site" farm related activities provided that they are in accordance with generally accepted agricultural operation or practice as determined by the New Jersey State Agricultural Development Committee. See, N.J.S.A. 4:1c-9 and Township of Franklin v. Hollinder (sic), 338 N.J. Super, 373, 389 (App. Div. 2001). The Right-To-Farm Act does not protect off-site activity such as that sought by Summit City Farm to enable it to park farm related vehicles and equipment on University Boulevard which is not a part of the farm or a part of a "farm management unit" pursuant to N.J.S.A. 4:1c-3.*

*In further support of this position, the Borough will rely upon the SADC decision rendered in the matter of Frank Bottone, Jr. t/a/Bottone Farm, Inc. dated September 22, 2005, a copy of which is attached hereto. That case also dealt with the issue of off-site parking where the SADC stated*

*that it did not have jurisdiction over off-site parking issues. The Bottone decision specifically held, at page 3, that:*
*"There is a preliminary issue regarding the off-site location of the farm stand, as right-to-farm protection cannot be extended to agricultural activity occurring off the farm." (Emphasis added.)*

*Here, SCF seeks the right to park its farm vehicles off of the farm on a public street which is regulated by ordinance to permit parking. As such, CADB has no jurisdiction to consider this request.*

*The Borough's position is that if the Board does decide it has jurisdiction, and votes to approve on-street parking, that the Borough will not recognize that decision and will continue to reserve is rights to address the matter under this police powers and jurisdiction under title 39.*

*Very truly yours,*
*Allen B. Zeller, Esquire*; and

**WHEREAS**, Secretary Atkinson stated for the record the Mr. Zeller's correspondence also included a copy of the SADC's September 2005 decision regarding Frank Bottone, Jr. t/a/ Bottone Farm, Inc., and a copy of Glassboro Ordinance #16-26 which includes a marked-up map of the Borough streets impacted by the ordinance; and

**WHEREAS**, Solicitor Campo next asked Mr. Horner if he could respond to the objections raised by Mr. Zeller in his letter. Mr. Horner stated that there is nothing in the Right-to-Farm Act that confines the CADB to make decisions for only on-site farming activities. Mr. Horner stated that in his opinion any municipal ordinance that restricts a commercial farm's ability to operate is under the jurisdiction of the CADB. Mr. Horner gave an example that if a municipality was to enact an ordinance restricting trucks over a certain weight from residential roads, and that ordinance prevented the trucks from servicing a commercial farm, then the CADB had the authority to hear the matter under the Right-to-Farm Act. Mr. Horner stated that N.J.S.A. 4:1C-9 as indicted in Mr. Zeller's letter does not limit or restrict the CADB to determine only on-site issues. Mr. Horner referenced the statute the Board has jurisdiction to hear these matters "notwithstanding the provisions of *any* municipal or county ordinance". Mr. Horner stated that even though this is not a land use matter but a traffic-based one, the CADB has the jurisdiction to hear it. Mr. Horner also stated that Mr. Zeller referenced the Township of Franklin v. den Hollander case; however according to Mr. Horner nothing in that case restricts the CADB to hearing only on-site farming activities. Mr. Horner also referred to den Hollander by stating that the case indicates there will be tensions that ultimately result between responsible commercial farmers and municipalities when ordinances are enacted that restrict agriculture operations, and one of the reasons the Right-to-Farm Act was enacted was to address these issues. Mr. Horner stated this SSAMP request is a perfect example of this. Mr. Horner then referenced N.J.A.C. 2:76-2.5c which states that if a commercial farmer believes that a municipality's standards are unduly restrictive the farmer may seek relief through an SSAMP request to the CADB. Mr. Horner stated this referred to any municipal regulations, not just those dealing with on-site activities. Mr. Horner then commented on the Bottone case as referenced in Mr. Zeller's letter, and indicated this referred to a farmer who had made a deal with the owner of private building to set-up a farm market in the building's parking lot, which also included parking in the same lot. Mr. Horner said SADC ruled it couldn't take jurisdiction of the matter unless the farmer moved the market on to his farm, including the parking area. Mr. Horner stated that this was not a case of on-street parking for farm-related equipment, which was in contrast to the SSAMP request before the Board this evening. Mr. Horner also stated the term "farm management unit" as indicated in Mr. Zeller's letter was also used out of context, as the Right-to-Farm Act refers to a "farm management unit" as any one or more parcels of land that make up a commercial farm's total agricultural operations; and

**WHEREAS**, Chairman Kandle asked for a motion to the open the meeting for general comments from the public. Sanford Tweedie approached the Board and was sworn in by Solicitor Campo. Mr. Tweedie stated that he is neighbor of Summit City Farms, and that he also Dean of Communications and Creative Arts at Rowan University, and that he can attest that the parking problems in the Borough are caused by the college students. Mr. Tweedie also stated that he can attest as to the testimony given by Dr. DeEugenio regarding the farm-related equipment parking on street, and that it has never caused any issues. Mr. Tweedie then stated that he did not feel it would be productive if the entire parking ordinance was rescinded for the

500 block of University Boulevard. Mr. Campo replied that if the CADB does grant the relief as being sought by the applicant, the ordinance would still be in effect and the Borough could still ticket vehicles parked and enforce the ordinance for its intended purpose. The commercial farm equipment- only would just be exempt under the applicant's proposal. Mr. Tweedie then asked for clarification regarding if parking associated with patrons visiting the winery is also included in this SSAMP request. Solicitor Campo stated again that it is his understanding that the SSAMP request before the CADB this evening was only for the parking of equipment and vehicles associated with commercial farm-related activities, such as sprayers, tractors, trucks, et cetera. Mr. Horner further elaborated that all attempts are made to direct wine patrons to park in the on-site parking areas. Mr. Tweedie than stated that there is in fact some student parking that occurs on the 500 block of University Boulevard; however when questioned by Mr. Horner he indicated that this parking occurs for "house parties" and is not related to actual campus parking. Mr. Tweedie also stated that he has seen no more than 6 cars or so that have parked for the "house parties"; and

**WHEREAS**, Chairman Kandle asked Solicitor Campo to address the Board as to the ability of the board to hear the application. As per his reading of the Right-to-Farm Act and the den Hollander case, the Board does in fact have the authority and the jurisdiction to hear this SSAMP request when there is a determination made that an agricultural management practice is at issue. Solicitor Campo further stated the CADB is actually the proper body to hear SSAMP requests from commercial farmers when their agricultural operations are at odds with a municipal regulation or ordinance. The Right to Farm act encompasses the Board hearing requests involving recognized agricultural management practices notwithstanding *any* municipal ordinance or regulation, even if it pertains to on-site or off-site issues. Solicitor Campo confirmed this does not mean the applicant will automatically be granted the relief that he seeks, as another requirement of the Right-to-Farm Act is that the CADB must consider the position of the municipality and the public health and safety, which why he wanted to ensure that Mr. Zeller's correspondence was read into the record and considered by the Board. The applicant must show a legitimate agricultural-based reason to depart from the local ordinance. Solicitor Campo stated that municipalities have every right to regulate parking and other activities that occur on municipal streets; however the Right to Farm Act does provide a means for commercial farmers to seek relief from these regulations if those regulations unduly restrict the commercial farm's agricultural activities that are part of a recognized agricultural management practice. Solicitor Campo then stated that it is the CADB's obligation to balance the competing interests of the commercial farm and the municipality in rendering these decisions. Solicitor Campo referred to N.J.S.A. 4:1C-2 for further confirmation and clarification of these obligations. Solicitor Campo then stated that in the den Hollander case the Supreme Court recognizes that there will be cases that come before CADB's where there are regulations that don't directly refer or relate to farming operations but can still impact them. If so, the local ordinance deserves even greater deference, but that the competing interests can still be resolved in favor of the recognized agricultural management practice. But, a legitimate agriculturally based reason must be found to depart from the local ordinance. Solicitor Campo said the matter before the Board this evening is a clear example of the Supreme Court's observation that each case should be decided on a case by case basis and balancing the competing interests, which is the CADB's obligation in this application; and

**WHEREAS**, seeing no other members of the public wishing to address the Board, 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. Marino and approved unanimously by the Board. With no other comments from any members, the Board addressed the specific items as indicated in the SSAMP request. Secretary Atkinson confirmed that the first item, that being confirming commercial farm eligibility as per the Right-to-Farm Act, was already approved; and

**WHEREAS**, Board Member Mr. Romick then asked a question as to the CADB's ability to enforce this requirement. Solicitor Campo then stated that in order to ensure that relief is carried out, it was within the Board's authority to approve this specific item, as the Board also does have the authority (as noted in the den Hollander case) under the Right-to-Farm Act to regulate signage on commercial farms, in addition to having jurisdiction over municipal ordinances that would unduly restrict the operations of a commercial farm. In order to carry out the intent and purpose of the Act, notice would have to be given to the public and also for municipal enforcement. Secretary Atkinson stated any parties aggrieved by any actions imposed by the Board has the ability to appeal said actions to the SADC, and that the SADC will

determine if in fact the Board had the authority to enact such actions; however the Board itself does not have enforcement power. Secretary Atkinson confirmed that if the Borough does not comply with this specific item it is the responsibility of the applicant to initiate any actions, up to and including court action, which may be necessary in order to confirm compliance; and

**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; and

**NOW, THEREFORE, BE IT FURTHER RESOLVED,** the applicant's proposal that use of the portion of University Boulevard that extends west from Lehigh Road for farm-related on-street parking (e.g., the applicant's farm vehicles and equipment, farm employee and contractor vehicles and equipment, vehicles and equipment used to transport farm produce and other farm-related materials to and from the farm, and the vehicles and equipment of farm [non-winery] customers and visitors) conforms with applicable Right to Farm Act regulations and constitutes a generally accepted agricultural operation or practice pursuant to N.J.A.C. 2:76-2.3 and N.J.A.C. 2:76-2.5c.

**NOW, THEREFORE, BE IT FURTHER RESOLVED**, the aforesaid farm-related on-street parking does not pose a threat to public health and safety, provided that the applicant must continue to display signage on his property directing winery visitors to park in approved off-street parking areas.

**NOW, THEREFORE BE IT FURTHER RESOLVED**, the applicant's proposal regarding the aforesaid farm-related on-street parking constitutes a site-specific agricultural management practice.

**NOW, THEREFORE BE IT FURTHER RESOLVED,** based on the foregoing determinations and recommendations, the Borough's permit-only parking restriction may not be enforced against the aforesaid farm-related on-street parking.

**NOW, THEREFORE BE IT FURTHER RESOLVED** the Borough of Glassboro must affix the following additional signage to each of the parking restriction sign posts that have been installed along both sides of University Boulevard west of Lehigh Road, with each additional sign to have the same background and font colors as the "parking by permit only" signs; the same font size and capitalization as the words "parking by permit only"; and to be affixed to each post just below the "parking by permit only" sign: **EXCEPT FARM-RELATED PARKING**.

**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:**
**NO:**
**ABSTAIN:**
**ABSENT:**

## 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 October 20, 2016.

**SEAL:**

**KENNETH ATKINSON, BOARD SECRETARY**

KENNETH P. ATKINSON
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES MAY 20, 2018