



# MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD

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Office located at: 30 Schuyler Place, Morristown, NJ

## MEMORANDUM

To: CADB Voting Members

From: Katherine Coyle, Director

Date: January 6, 2022

Re: Right to Farm Act - Request for a SSAMP  
Backer Farm  
Block 109, Lot 23  
Township of Mendham

The Morris County Agriculture Development Board (“Morris CADB”) received a request submitted by Nicole Voigt, Esq. on behalf of Backer Farm, LLC (“Applicant”) for a site-specific agricultural management practice (“SSAMP”) for the Backer Farm operation located in Mendham Township. The Applicant wishes to establish of a farm-based brewery.

On December 9, 2021, the Morris CADB determined that the Backer Farm operation is a commercial farm pursuant to the Right to Farm Act (“RTF Act”), N.J.S.A. 4:1C-3, and that the activities proposed in the SSAMP Application are included in one or more of the permitted activities set forth in the RTF Act.

### **SSAMP Review Checklist:**

Pursuant to N.J.A.C. 2:76-2.3(h), “if the board determines that the farm operation is a commercial farm pursuant to N.J.S.A. 4:1C-3 and that the operation or practice is included in any of the activities permitted by N.J.S.A. 4:1C-9, then the board and/or board staff may request that the commercial farm owner or operator provide information using a checklist adopted by the board”.

Morris County Division of Planning and Preservation staff developed a SSAMP Review Checklist to assist the Morris CADB with their review of the Backer application (B-1). Prior to the Morris CADB’s January 6, 2022 meeting, the checklist was posted on the Morris CADB website along with the SSAMP application documents submitted by the Applicant.

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**OFFICERS:** Dale Davis III, *Chairman* • Aimee Ashley Myers, *Vice Chairman* • Harvey Ort, Jr., *Secretary*

**MEMBERS:** Frank Carrajat • Thomas Galfo • Gregory Keller • Jay Thomson

**STAFF:** Katherine Coyle, *Director*

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## INDEX OF EXHIBITS

### Exhibits from the Morris CADB:

SSAMP Review Checklist ..... B-1

### **Staff Recommendations:**

1. Staff recommends that the Morris CADB should adopt the “SSAMP Review Checklist”, which will then be provided to the Applicant.
2. Staff further recommends that the Morris CADB allow staff to review all documents submitted by the Applicant in response to the SSAMP Review checklist, and to determine whether the application and checklist materials are complete.
3. Lastly, staff recommends that pursuant to N.J.A.C. 2:76-2.3(i), if the application and checklist items are deemed complete, staff should notify the Applicant to provide written notice regarding a public hearing in accordance with the hearing procedures set forth in N.J.A.C. 2:76-2.8.

## PROCEDURES

### **Public Hearing:**

Pursuant to N.J.A.C. 2:76-2.8, the procedures applicable to requests by a commercial farm for a SSAMP determination shall be as follows:

1. Written notice of the request shall be given by the commercial farm, at its sole expense, via certified mail, return receipt requested, and/or by personal service, to:
  - i. The clerk and land use board secretary of the municipality in which the commercial farm is located. If the commercial farm is located within 200 feet of an adjoining municipality, then written notice of the request shall be given as set forth in (c)1 above to the clerk and land use board secretary of the adjoining municipality;
  - ii. The owners of all real property, on the current tax duplicates, within 200 feet in all directions of the property upon which the commercial farm is located. The commercial farm shall be solely responsible to pay for and obtain a certified list of property owners in accordance with N.J.S.A. 40:55D-12.c;
  - iii. The State Agriculture Development Committee;
  - iv. The county planning board, if the commercial farm is located on property adjacent to a county road or county-owned property;

- v. The Commissioner of the New Jersey Department of Transportation, if the commercial farm is located on a State highway;
  - vi. The public, by publication in the official newspaper of the municipality, if there is one, or in a newspaper of general circulation in the municipality.
2. The written notice set forth in (c)1 above shall state the date, time, and place of the hearing; the site specific agricultural management practice(s) that will be considered at the hearing; the identity of the property upon which the commercial farm is located by street address, if any, or by reference to lot and block number(s); the location and times at which documents in support of the commercial farm's request are available at the office of the board; and advise that the board will accept public comments at and/or prior to the hearing.
    - i. The board shall allow the applicant to respond to any written comments within such reasonable time as the board directs.
    - ii. The written notice set forth in (c)1 above shall be served at least 10 days in advance of the hearing, and proof of service of the notice, along with the certified list of property owners, shall be provided by the commercial farm to the board.
    - iii. The hearing shall not begin until satisfactory proof of notice to all appropriate individuals has been provided by the commercial farm.
  3. The board hearing shall be conducted in accordance with the Senator Byron M. Baer Open Public Meetings Act, N.J.S.A. 10:4-6 et seq.
    - i. The testimony of all parties and witnesses shall be under oath or affirmation administered by the chairperson of, or counsel to, the board. Testimony presented at the hearing may include verbal and written statements from the commercial farm operator, expert witnesses, and any other party deemed necessary by the board.
    - ii. The hearing shall not be bound by statutory or common law rules of evidence or any rule formally adopted in the New Jersey Rules of Evidence; however, the board may exclude irrelevant, immaterial, or unduly repetitive evidence.
    - iii. The hearing shall be recorded utilizing a sound recording device or a stenographer.

# Morris CADB

## SSAMP Review Checklist

### Backer Farm

B-1

#### **SSAMP Determinations – Overall process**

Pursuant to N.J.A.C. 2:76-2.3, a commercial farm owner or operator may request a site-specific agricultural management practice (SSAMP) determination from the County Agriculture Development Board (CADB). In counties where no CADB exists, a commercial farm owner or operator may submit an SSAMP request to the State Agriculture Development Committee (SADC) pursuant to N.J.A.C. 2:76-2.4.

The process begins when an SSAMP application is filed with the CADB requesting a determination whether the farm's operation constitutes a generally accepted agricultural operation or practice. The farm owner's initial submission also includes information regarding the eligibility criteria found in the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

If the CADB determines that the farm is a commercial farm pursuant to N.J.S.A. 4:1C-3 and that the operation or practice under review is included in the activities permitted by N.J.S.A. 4:1C-9, then the CADB proceeds with reviewing the substance of the application. To assist with this review, the CADB may request that the commercial farm provide information using a review checklist the CADB has adopted. The CADB has the discretion to waive, reduce, or determine the nonapplicability of any items on its checklist.

(The same review process applies to the SADC, when reviewing SSAMP requests in counties where no CADB exists.)

#### **SSAMP Review Checklist – Sections**

The model checklist includes three sections:

- General Submission Requirements
- Site Plan Elements
- Additional Studies and Plans (if applicable)

**Morris CADB  
SSAMP Review Checklist  
Backer Farm**

**General Submission Requirements:**

Item Description	Status					
	CADB Position		Applicant Action		CADB Position	
	Item Required	Item Not Required or N/A	Item Submitted	Waiver Sought	Complete Waiver Granted	Incomplete
1. Schedule of municipal zoning requirements, including lot area and dimensions (width and depth), yard setbacks, uses, building coverage, and parking	X		X		X	
2. List of requested municipal zoning or design exceptions and a detailed statement why they should be granted	X		X		X	
3. Application form and plan(s) submitted to municipal planning board, and any municipal resolutions or engineering and planning reports received in response	X		X		X	
4. Application form and plan(s) submitted to county planning board if site is located on a county road, if development will affect county drainage, or if development will result in greater than one acre of impervious surface. Include also any county resolutions or engineering and planning reports received in response.		X	X		X	
5. List of all relevant State and Federal Permits required, applied for, or obtained	X		X		X	
6. Application form and plan(s) submitted to NJDOT if access directly to a State Highway is proposed. Applicant shall submit copies of any permits issued by NJDOT		X				
7. If located in the Pinelands Region, documents submitted to the Pinelands Commission with request for a Certificate of Filing, Notice of Filing, Certificate of Compliance, or other notification that the development complies with Pinelands Comprehensive Management Plan requirements		X				
8. If located in the Highlands Region, documents submitted as part of a Highlands Council Consistency Determination, municipal determination of Highlands Exemption, NJDEP Highlands Applicability Determination, Highlands Resource Area Determination or Highlands Preservation Area Approval, or other notification that the proposal is exempt from Highlands regulation or otherwise compliant with the Highlands Regional Master Plan		X				
9. Application form and plan(s) submitted to County Soil Conservation District	X		X		X	
10. Names and addresses of witnesses, if any, and their expertise	X		X		X	
11. NJDEP Letter Of Interpretation or Letter Of Exemption where wetlands are thought to exist on site or on contiguous property owned by the applicant	X		X		X	
12. Flood hazard area applicability determination regarding proposed activities		X				
13. Other						
Notes:						

**Morris CADB  
SSAMP Review Checklist  
Backer Farm**

**Site Plan Elements:**

Depending on the nature of the SSAMP application, a review of site plan elements may be necessary through an informal or formal site plan. Formal site plans shall be prepared to scale by a New Jersey licensed Professional Engineer or registered Architect based on survey, deed description, tax map, or similarly reasonable accurate data as determined by the CADB. The entire property in question shall be shown. If it is not possible to show the entire property on the required sheet, a separate map at an appropriate scale may be submitted. The site plan shall clearly show the conditions on and adjacent to the site at the time of application and the appearance and function of any proposed uses or buildings which are the subject of the SSAMP application. At a minimum, the site plan shall contain the information below unless waived by the CADB. In making decisions to waive, reduce, or determine the nonapplicability of site plan elements or other checklist items, the CADB will consider relevant site specific elements, e.g., the farm's setting and surroundings, the scale and intensity of the proposed operation(s) or practice(s), the type and use of the public road on which the operation or practice is located, and when applicable, the minimum level of improvement necessary to protect public health and safety.

Item Description	Status					
	CADB Position		Applicant Action		CADB Position	
	Item Required	Item Not Required or N/A	Item Submitted	Waiver Sought	Complete	Waiver Granted
1. Name and address of commercial farm owner and/or operator	X		X		X	
2. Name, signature, license number, seal, and address of professional involved in preparation of plan	X		X		X	
3. Title block denoting date of preparation, date(s) of revision(s), tax map sheet, county, municipality, block and lot, and street location	X		X		X	
4. If survey required, property lines shown with length in feet and hundredths, and bearings in degrees, minutes and seconds; prepared by a New Jersey Licensed Land Surveyor	X		X		X	
5. Each block and lot numbered in conformity with the municipal tax map	X		X		X	
6. Zoning district in which each parcel is located	X		X		X	
7. Names and addresses of all property owners within 200 feet of subject property	X		X		X	
8. Scale of map, both written and graphic	X		X		X	
9. North arrow	X		X		X	
10. Key map showing location of tract in relation to surrounding area	X		X		X	
11. Acreage of the commercial farm parcel(s) to the nearest tenth of an acre	X		X		X	
12. Contours to determine the natural drainage of the land. Contours shall be at 2 foot intervals (for up to 10% grades) and at 5 foot intervals (for over 10% grades)	X		X		X	
13. Location and description of survey monuments whether set or to be set	X		X		X	
14. Natural and artificial watercourses, streams, shorelines and water boundaries, and encroachment lines	X		X		X	
15. Boundary and extent of wooded areas, steep slopes, flood plains, and other significant physical/environmental features	X		X		X	

**Morris CADB  
SSAMP Review Checklist  
Backer Farm**

**Site Plan Elements (cont'd):**

Item Description	Status						
	CADB Position		Applicant Action		CADB Position		
	Item Required	Item Not Required or N/A	Item Submitted	Waiver Sought	Complete	Waiver Granted	Incomplete
16. Soil types as per the NRCS Soil Survey Geographic Database (SSURGO), indicating:	X		X		X		
a. Important Farmland Soil Classification (Prime, Statewide, Statewide if drained, Local, Unique or Other)							
b. Agricultural Land Capability Classification & Subclass							
c. Suitability for irrigation							
d. Erosion hazard							
e. Limitation for septic tank absorption field							
f. Limitations for dwellings with / without basements							
g. Hydric Rating							
h. Depth to water table							
i. Slope							
j. Soil depth to bedrock and/or restrictive layers of soil							
k. Permeability of the soil by layers							
l. Limitation for local roads and streets							
17. Location and extent of areas to be disturbed by grading and construction	X		X		X		
18. Location of existing or proposed easements, rights of way, or dedications including power lines and farmland preservation exception areas	X		X		X		
19. Location of existing railroads, bridges, culverts, drainpipes, water and sewer mains, and other man-made installations	X		X		X		
20. Location and dimensions of any existing or proposed uses or structures (including wells and septic systems) with all setbacks dimensioned, including any buildings or structures to be removed	X		X		X		
21. When applicant intends to use a conventional septic disposal system, include the location of test pits, test results, and approximate location of the intended disposal field	X		X		X		
22. Location and dimensions of proposed utility layouts, such as sewers, storm drains, drainage basins, or other water conservation devices and/or structures, water, gas, communications, and electric, showing feasible connections to existing or proposed utility systems	X		X		X		
23. Location, dimensions, and names of all existing and proposed streets abutting and within 200' of the property	X		X		X		
24. Locations, dimensions, and arrangement of all ingress and egress areas, off-street parking areas, methods of separating traffic, and loading and unloading areas	X		X		X		
25. Parking detail showing spaces (dimensions and surface), aisle width, islands, curb cuts, sidewalks, access areas, and dimensions. Indicate whether areas are or will be permanently or temporarily devoted to parking.	X		X		X		

**Morris CADB  
SSAMP Review Checklist  
Backer Farm**

**Site Plan Elements (cont'd):**

Item Description	Status					
	CADB Position		Applicant Action		CADB Position	
	Item Required	Item Not Required or N/A	Item Submitted	Waiver Sought	Complete	Waiver Granted Incomplete
26. Location and dimensions of driveways adjacent to and opposite the property, and street intersections	X					X
27. Location of traffic control devices including lights, signs, pavement markings, parking prohibitions, and fire lanes	X		X		X	
28. Sight triangles	X					X
29. Demonstration of compliance with barrier-free subcode requirements, N.J.A.C. 5:23-7.1 et seq.	X		X		X	
30. Lighting details, including location, type, height, direction, intensity, and area of illumination	X		X		X	
31. Sign locations, type and intended use, square footage, and setbacks from paved street right of way (if on-farm direct marketing-related, see N.J.A.C. 2:76-2A.13(g))	X		X		X	
32. Location of containers for solid waste, including recyclables, and design/detail of containers	X		X		X	
33. Location and extent of existing and proposed landscaping, buffering, and screening, indicating names of plants and trees and dimensions	X					X
34. Location of nearest existing and proposed fire hydrant within 500 feet of property	X		X		X	
35. Other:						
Notes:						



**Morris CADB  
SSAMP Review Checklist  
Backer Farm**

**Additional Studies and Plans (if applicable):**

Item Description	Status					
	CADB Position		Applicant Action		CADB Position	
	Item Required	Item Not Required or N/A	Item Submitted	Waiver Sought	Complete Waiver Granted	Incomplete
1. Soil Erosion and Sediment Control Plan	X		X		X	
2. Stormwater Management / Drainage plan showing location, size, elevation, drainage calculations, and profiles of all proposed and existing storm drains, drainage swales, and recharge and retention basins or other water conservation devices and/or structures and streams	X		X		X	
3. Farm conservation plan prepared by the United States Department of Agriculture-Natural Resources Conservation Service (USDA-NRCS) and approved by the soil conservation district, or documents showing active efforts to obtain a farm conservation plan in a timely manner	X		X		X	
4. Traffic impact study prepared, signed, and sealed by a registered professional engineer of New Jersey	X		X		X	
5. Event management plan prepared in accordance with N.J.A.C. 2:76-2A.13(n) or a special events permit, or its equivalent, from the municipality	X					X
6. Preliminary architectural floor plans and/or elevations prepared by a licensed architect	X		X		X	
7. Other detailed structural, mechanical, or electrical systems plans	X					X
6. Review showing evaluation of N.J.A.C. 2:76-2B.3(c) for equine operations		X				
8. Other:						
Notes:						