



MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD

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Office located at: 30 Schuyler Place, Morristown, NJ

March 2, 2022

Mr. Jason Gabloff, Administrator
Township of Mendham
PO Box 520
Brookside, NJ 07926

Re: Right to Farm Act - Request for Site-Specific AMP
Backer Farm
Township of Mendham

Dear Mr. Gabloff:

As you know, the Morris County Agriculture Development Board (Morris CADB) is reviewing an application for a site-specific agricultural management practice (SSAMP) for the Backer Farm (Applicant) operation located in Mendham Township. A copy of the application is posted on our website at <https://www.morriscountynj.gov/Departments/County-Agriculture-Development-Board/Meetings-Agendas-Minutes>.

Our communication with Mendham Township representatives has been and will continue to be an essential part of this SSAMP process. While the Right to Farm Act gives CADBs the authority to exempt a farmer from having to comply with certain municipal regulations, the Courts have made it clear that CADBs must balance agricultural needs against municipal regulations and public health and safety concerns. A farmer has to show a legitimate agriculturally-based reason for not complying with municipal regulations.

In the case of *Township of Franklin v. den Hollander* (2001), the Superior Court of New Jersey, Appellate Division ruled:

“...In sum, in exercising its authority under the Act, the CADB or SADC must afford a local agency comity in recognition that the municipality interests must be appropriately acknowledged and considered.”

In the case of *Township of Franklin v. den Hollander* (2002), the Supreme Court of New Jersey ruled:

“The Boards must act in a manner consistent with their mandates, giving appropriate consideration not only to agricultural practice at issue, but also local ordinances and regulations, including land use regulations that may affect the practice.”

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MEMBERS: Frank Carrajat • Thomas Galfo • Jay Thomson

STAFF: Katherine Coyle, *Director*

In addition, pursuant to N.J.A.C. 2:76-2.3(k), “the board shall have no authority to determine the commercial farm owner or operator’s compliance with State laws, rules, and regulations delegated to the municipality or county for administration and enforcement including stormwater management and construction code requirements, unless the municipal ordinance or county resolution, or any portion(s) thereof, effectuating the delegation exceed(s) State regulatory standards. If a municipal ordinance or county resolution, or any portion(s) thereof, exceed(s) State regulatory standards, then the board shall have the authority to determine whether the ordinance or resolution, or portion thereof, that exceeds such State regulatory standards is preempted by the board’s approval of the commercial farm owner or operator’s site-specific agricultural management practice.”

Accordingly, in light of the above, the Morris CADB respectfully requests written comments from Mendham Township regarding the application, including, but not limited to, the list of requested waivers from municipal regulations, hours of operation, noise and public health and safety.

As part of their application, the Applicant has provided copies of reports that were prepared by the Township’s professionals when the application was being considered by the Planning Board. Please advise whether these reports are still current or if any changes will be made or were made, please provide updated reports. Please feel free to email those reports directly to me.

Once received, the Township’s comments and reports will be reviewed by County staff and provided to the CADB members and the public for review. Following the receipt and review of the comments and reports, the Morris CADB will hold a Public Hearing regarding the application. The Applicant is required to provide written notice of the Public Hearing in compliance with N.J.A.C. 2:76-2.8. The Morris CADB requests that the Township’s representatives and their professionals attend the Public Hearing, once scheduled, to present their reports, present their comments regarding the application and to answer the CADB’s and the public’s questions.

If you have any questions or require any additional information, please contact me.

Sincerely,



Katherine Coyle
Director

Cc:

John Mills, III, Esq., Municipal Attorney, Mendham Township
Michael B. Lavery, Esq., o/b/o Mendham Township
Nicole Voigt, Esq.
Susan Rubright, Esq.
Joseph Barilla, Director, Morris County Office of Planning and Preservation
Staci Santucci, Esq., First Assistant County Counsel