

RESOLUTION

**RE: Hunterdon County Agriculture Development Board
Determination of Site Specific Agriculture Management Practices for
Hionis Greenhouses
Block 4, Lot 20, Township of Clinton, County of Hunterdon**

WHEREAS:

On August 9, 2012, following a hearing on a Site Specific Agriculture Management Practice application filed by Hionis Greenhouses, the owner of Block 4, Lot 20, Township of Clinton, (the "Property"), the Hunterdon County Agriculture Development Board ("CADB" or "Board"), passed a Resolution approving the construction of twenty (20) gutter connected greenhouses on the Property subject to specific conditions.

One of the conditions of the August 9, 2012 approving Resolution stated the following:

A. Hionis Greenhouses, prior to commencing further construction of greenhouses at the property, must first apply for site plan approval from the Township of Clinton. If the Township has not rendered a final decision on site plan application within 3 months after July 30, 2012, (requiring the decision to be rendered no later than October 30, 2012), Hionis Greenhouses may seek a waiver from this requirement from the CADB. If Hionis Greenhouses objects to any conditions imposed by the Township in response to the site plan application as unreasonable (specifically with regard to conditions which the CADB deliberated on and chose not to impose as reflected in Paragraph 2 below), it may seek a waiver any or all of those conditions from the CADB, which the CADB will address at that time.

On December 13, 2012, the CADB readopted the Resolution from August 9, 2012. The condition for site plan approval was amended to also include the following language:

As the October 30, 2012 deadline in this paragraph has already passed as of the date of this Resolution, this condition is amended by the CADB to reflect that Hionis Greenhouses may seek a waiver if it can demonstrate that ninety (90) days has elapsed since the date that it submitted a site plan application to the Township of Clinton.

On or about December 20, 2012, Hionis Greenhouses filed another application with the CADB seeking a waiver of the site plan approval condition of the prior Resolutions, citing the fact that the Township of Clinton had not rendered a final decision on the Site Plan application

within ninety (90) days of its submission pursuant to the August 9, 2012 and December 13, 2012 Resolutions, and that the conditions it imposed were unreasonable.

On March 14, 2013, the CADB conducted a public hearing on the application to determine whether Hionis Greenhouses was entitled to a waiver of any or all of the conditions imposed by the Township of Clinton on its site plan application, pursuant to the August 9, 2012 and December 13, 2012 Resolutions. The Board considered an objection on jurisdictional grounds made by counsel for the neighboring landowners, John R. Lanza, Esq., but determined that it had jurisdiction to hear the application.

Based on the representation by Hionis Greenhouses that there had been no material change on the farm or property since its prior application in February, 2012, the CADB determined that Hionis Greenhouses continued to be a commercial farm.

Formal notice of the public hearing was published in the Hunterdon Democrat and served on all property owners within 200 feet of the property by counsel for the applicant.

At the hearing on March 14, 2013, Anthony J. Sposaro, Esq. appeared on behalf of Hionis Greenhouses; Triska Waterbury Cecil, Esq. appeared on behalf of the Township of Clinton; and John R. Lanza, Esq. appeared on behalf of the neighboring landowners opposing the application.

The Exhibits introduced and referred to over the course of this hearing were marked as follows:

- Exhibit A-1 December 20, 2012, Letter to the Board from Anthony J. Sposaro, Esq., with attachments, presenting the application on behalf of Hionis Greenhouses;
- Exhibit A-2 July 22, 2012 site plan (revised November 28, 2012)
- Exhibit T-1 February 14, 201, Letter from Triska Waterbury Cecil, with attachments, on behalf of the Township of Clinton, opposing the application by Hionis Greenhouses;
- Exhibit T-2 On-Farm Direct Marketing AMP dated December 13, 2012;
- Exhibit N-1 March 14, 2013, Letter from John R. Lanza, Esq. on behalf of the neighbors, objecting to hearing on jurisdictional grounds;

Presentation by Hionis Greenhouses

1. Anthony J. Sposaro, Esq., presented the application on behalf of Hionis Greenhouses.

2. Mr. Sposaro stated that Hionis Greenhouses submitted an application for site plan approval to the Township of Clinton Planning Board and made good faith efforts to work with the Township. However, the conditions which were imposed by the Township were unreasonable. Specifically, Mr. Sposaro cited the application and escrow fees, along with the conditions for well monitoring and testing and stormwater management.

3. Mr. Sposaro stated that the existing well at the property was secured by a permit from NJDEP, and a well record was filed with the Hunterdon County Health Department and inspected and approved. Therefore, the Township has nothing to review.

4. Mr. Sposaro stated that jurisdiction for compliance with stormwater management regulations was with the NJDEP, and Township approval and review was overreaching. Compliance with NJDEP on this issue was already a condition of the CADB's prior resolution.

5. Concerning the appearance which was made by Hionis Greenhouses before the Township Planning Board on the site plan application, Mr. Sposaro acknowledged that the Township was willing to reduce the cost of the application and escrow fees, but they were still outrageously excessive. In addition, the Township refused to relent on conditions concerning the water supply and stormwater management which he argued were outside of its jurisdiction.

6. Mr. Sposaro offered to agree to sit down informally with the chairman of the Township Planning Board to prepare a plan for landscaping and traffic circulation with which his clients would agree to comply, but requested that the site plan approval condition be waived.

7. Mr. Sposaro argued further that the CADB could assume jurisdiction to perform the balance of the site plan review and approval.

Presentation by Clinton Township

1. Trishka Waterbury Cecil, Esq., presented the opposition to the application on behalf of Clinton Township.

2. Ms. Cecil questioned whether Hionis Greenhouses had any intention of ever complying with the terms of the CADB's prior resolutions or cooperating with Clinton Township on its Site Plan application and review, and argued that Hionis Greenhouses did not proceed in good faith on the application.

3. Ms. Cecil acknowledged that no further testing was necessary for the well, and this condition could have been waived previously by the Township if Hionis Greenhouses had simply submitted the requested permit to the Township.

4. Ms. Cecil maintains that the balance of the Township requests set forth in the Planning Board's completeness review (attached as part of Exhibit T-1) were reasonable and justified.

5. Ms. Cecil stated that the Clinton Township Planning Board has no way of knowing if the applicant will ever comply with the stormwater management regulations. All the Township has ever been provided with on this issue is an unsigned draft of a proposed administrative consent order from the New Jersey Department of Environmental Protection.

6. John Higgins, Chairman of the Clinton Township Planning Board, testified on behalf of the Township and summarized the events that transpired between the Planning Board and Hionis Greenhouses on the application which was presented to the Township Planning Board. He stated that it remained vital for the Township to have site plan approval on the Township records in order to maintain some oversight on the property.

7. Mr. Higgins was willing to stipulate that Hionis would only be charged for professional fees by the Township Engineer and the Township Attorney for work in connection with a site plan application. He further indicated a willingness to reduce the application fees.

8. Mr. Higgins agreed that the well issue was now moot and that the stormwater management condition would likely be waived by the Township if the NJDEP has exercised jurisdiction and Hionis Greenhouses complied with all NJDEP conditions.

Neighboring Landowner Opposition

1. John R. Lanza, Esq. presented the opposition to the application on behalf of the neighboring landowners residing in the area of Glen Eagles Drive and Muirfield Lane.

2. The crux of the opposition for the neighboring landowners remained the safety of the roads in the vicinity which they maintain is compromised by the increased truck traffic from the operations at the Hionis property. In addition, the residents argued that it was vital for Hionis to acquire site plan approval from the Township in order for them to be held accountable at the Township level.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD MAKES THE FOLLOWING FINDINGS OF FACT:

1. The property in question is known as Block 4, Lot 20 in the Township of Clinton.

2. Farm and agricultural uses are permitted in the zone in which the farm is located.

3. Hionis Greenhouses runs a commercial farming operation on the property. The farm was certified by the Hunterdon County Agricultural Development Board as a commercial farm on March 10, 2012. The farm was recertified by the CADB as a commercial farm on March 14, 2013.

4. Following the August 9, 2012 Resolution by the CADB which approved the Hionis Greenhouses Site Specific Agricultural Management Practices Application for the construction of 20 gutter connected greenhouses on the property, Hionis Greenhouses made an application for site plan approval to the Clinton Township Planning Board. Hionis appeared before the Planning Board on August 20, 2012.

5. On September 4, 2012, the Clinton Township Planning Board issued a completeness review Resolution on the site plan application filed by Hionis.

6. Hionis Greenhouses and the Township of Clinton have reached an impasse concerning the site plan application for reasons which include, but are not limited to:

(1) the Township application and escrow fees for the Hionis site plan application; and,

(2) the refusal of the Township to grant waivers requested by Hionis Greenhouses, specifically on the issues concerning the existing well and stormwater management compliance.

7. Based on the testimony by Hionis Greenhouses, there is a legitimate dispute over the application and escrow fees associated with the site plan application, as well as the costs associated with complying with the conditions imposed by the Township in its completeness review.

8. Based on the testimony provided by the Township, there are legitimate concerns with the efforts of Hionis Greenhouses intent to work in good faith with the Township to address site plan concerns, and with compliance by Hionis Greenhouses with stormwater management rules and regulations.

9. Based on testimony on behalf of neighboring landowners who reside near or on Muirfield Lane, there are legitimate concerns with regard to the impact on the neighboring community if Hionis Greenhouses receives a complete waiver of the site plan condition previously imposed by the CADB.

NOW, THEREFORE, BE IT RESOLVED THAT THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD, AFTER REVIEWING THE TESTIMONY, AND BALANCING THE COMPETING INTERESTS OF THE APPLICANT, THE TOWNSHIP OF CLINTON, AND THE OBJECTING NEIGHBORS AFFECTED BY THE FARMING OPERATION, MAKES THE FOLLOWING FINDINGS:

1. The conditions for site plan approval from the Clinton Township Planning Board relating to the existing irrigation well and stormwater management are unreasonable, and the CADB waives these conditions provided that NJDEP maintains jurisdiction over stormwater management for the property, and the applicant fully complies with all regulations and conditions imposed by the NJDEP relating to stormwater management.

2. Hionis Greenhouses must return to the Clinton Township Planning Board on its Application for site plan approval for the following issues: Landscape buffering, setbacks, lighting, and onsite traffic circulation, loading and unloading,

3. The Township Planning Board may charge reasonable application fees and professional review fees for the limited site plan application and review.


4. The balance of the conditions set forth in the August 9, 2012 and December 13, 2012 resolutions of the CADB for the approval of the construction of twenty (20) gutter connected commercial greenhouses on the property remain in full force and effect.

5. If the Township has not made a final decision on the Site Plan Application within forty-five (45) days of submission of all outstanding items requested by the Township Planning Board relating to landscape buffering, setbacks, lighting, and onsite traffic circulation, loading and unloading, then Hionis Greenhouses may seek a waiver from the conditions imposed in this Resolution from the CADB, which the CADB will address at that time.

6. This determination shall be forwarded to the State Agriculture Development Committee within 30 days pursuant to N.J.S.A. 2:76-2.3(e).

7. Any person aggrieved by this decision may appeal to the State Agriculture Development Committee pursuant to N.J.S.A. 2:76-2.3.

HUNTERDON COUNTY AGRICULTURE
DEVELOPMENT BOARD



DAVE BOND, CHAIRMAN

Dated: 4/11/13