

RESOLUTION 2012 - 03

**DECISION APPROVING AN AMENDED SITE-SPECIFIC AGRICULTURAL
MANAGEMENT PRACTICE (AMP) IN ACCORDANCE WITH THE
NEW JERSEY RIGHT TO FARM ACT**

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 to determine if a farm operation constitutes a generally accepted Agricultural Management Practice ("AMP"); and

WHEREAS, the Bergen County Agriculture Development Board (Bergen CADB and/or Board) has previously determined that the Abram Demaree Homestead Inc., (the "Farm") located in the Borough of Closter is a "commercial farm" and is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been consistent with the municipal master plan and is a permitted use under the municipal zoning ordinance, to wit: "Article IV, District No.1, Residence Area A, Section 200-6(F) Uses: Farms, nurseries or greenhouses, provided that said uses must reserve on site no less than one acre of open space."

WHEREAS, the Bergen CADB has previously adopted Resolution 2006-03 and Resolution 2006-04 approving Agriculture Management Practices for the Abram Demaree Homestead Inc.; and

WHEREAS, on November 1, 2009, the Farm applied to the Board to amend its Agricultural Management Practice to revise its sign plan and for seating inside and in front of the farmstand; and

WHEREAS, the Board is familiar with the Farm's layout in connection to site reviews conducted in connection with prior resolutions; and

WHEREAS, the Board noticed a meeting for July 23, 2012, in compliance with the Open Public Meetings Act and a quorum of the Board being present at the aforesaid meeting, the Board considered the application to amend the AMP; and

WHEREAS, the Farm, represented by Francis J. DeVito P.A., Frank Rivellini, Esq. consented to the form of this resolution; and

WHEREAS, the Borough of Closter, represented by Edward T. Rogan Esq. consented to the form of this resolution; and

WHEREAS, the Board received the following Exhibits into evidence:

A. Letter Application dated December 14, 2009 for an amended Agricultural Management Practice (Exhibit "A").

B. Aerial Photograph (Exhibit "B") showing the proposed sign locations.

C. Drawing of Table Locations (Exhibit "C") showing the locations of tables and seating for a maximum of 10 persons inside the farmstand and 20 persons on the front patio.

WHEREAS, the Board has considered the Farm's application for an amended Agriculture Management Practice plan and exhibits.

NOW THEREFORE BE IT RESOLVED, that the Bergen CADB makes the following determinations:

FINDINGS OF FACT & CONDITIONS

1. **Threshold Findings.** In deciding this matter the Bergen CADB has weighed both agricultural and municipal interests and finds that the proposed amended Agricultural Management Practice plan does not pose a direct threat to public health and safety (See N.J.S.A. 4:1C-9).

2. **Sign Plan.** A sign plan depicting the number and locations of signs is approved as follows:

A. Farmstand Building: north side facing Old Hook Road

- One *4' high x 8' wide* permanent wall-mounted sign with any of the following words: "Abram DeMaree Farm" or "The Farm Stand, Country Kitchen, Homemade Foods, Homegrown" or the like

- One *2' high x 3' wide* sign stating the hours of operation.

- Front Wall of Building - Under the Awning:

An unlimited amount as long as the current awning exists and the signs are not to be read from the road.

B. Free Standing Signs:

(1) Western Gate on Old Hook Road

- One *4' high x 8' wide* permanent free standing, *two-sided* sign

- the *western side* of the sign (facing eastbound traffic) may have any of the following words: "Abram DeMaree Farm, The Farm Stand, Country Kitchen, Homemade Foods, Homegrown, Entrance" or the like and/or an arrow pointing into the Farm

- the *eastern side* of the sign may have the words: "Abram DeMaree Farm, The Farm Stand, Country Kitchen, Homemade Foods, Homegrown" or the like

- A replaceable, two-sided verbiage sign, no larger than *10" high by 7' wide* may be hung below the free standing sign. In the alternative, two *10" high by 3.5' wide* signs may be hung below the freestanding sign.

The approved verbiage signs are set forth on the list in paragraph "C" below.

Note: this sign is currently located on the eastern side of the western driveway and shall remain at this location.

- No part of the free standing sign or its structure shall be higher than 8'.

(2) Corner of Old Hook Road and Schraalenburgh Road

- One *3' high x 6' wide* permanent free standing sign angled toward the center of the intersection of Old Hook Road and Schraalenberg Road with the words: "Abram DeMaree Farm, The Farm Stand, Country Kitchen, Homemade Foods, Homegrown, Entrance" or the like, and/or an arrow pointing to the gate on Schraalenberg Road

A replaceable, single-sided verbiage sign, no larger than *10" high by 5' wide* may be hung below the free standing sign. In the alternative, two *10" high by 2.5' wide* signs may be hung below the freestanding sign.

The approved verbiage signs are set forth on the list in paragraph "C" (verbiage signs) below.

- No part of the free standing sign or its structure shall be higher than 6'.

(3) Gate on Schraalenburgh Road

- One *4' high x 6' wide* permanent free standing sign with any of the following words: "Abram DeMaree Farm, The Farm Stand, Country Kitchen, Homemade Foods, Homegrown, Entrance" or the like, and/or an arrow pointing into the Farm.

Note: this sign shall be: (a) a minimum of seven (7) feet from the curb; (b) is to be located in proximity to the driveway; and (c) may be located on either side of the driveway provided that proper sight distances are provided for as hereinafter set forth.

Note: no part of the freestanding sign or its structure shall be higher than 6'.

A replaceable, double-sided verbiage sign, no larger than *10" high by 5' wide* may be hung below the free standing sign. In the alternative, two *10" high by 2.5' wide* signs may be hung below the freestanding sign.

The approved verbiage signs are set forth on the list in paragraph "C" (verbiage signs) below.

C. Verbiage Signs.

Replaceable *10" high* verbiage signs, in the lengths specified herein, may be hung below the freestanding signs as set forth herein for all farm related products sold at the farm including but not limited to:

Annuals
Apples
Chicken Pot Pies
Coffee
Cookies
Corn
Food
Fresh Corn
Homemade Pies
Hot Dogs
Perennials
Pies
Plants
Roses
Tomatoes

Homemade Ice Cream
Hot Soup
Cider
Donuts

Additional verbiage referring to farm products or products commonly sold at farm stands will be permitted but nothing herein shall prevent the Borough from challenging same and the Bergen CADB ruling on same de novo.

D. Internal & Traffic Control Signs.

The existing internal signs and traffic signs are approved:

“No left turn” in or out at each of the Old Hook Road driveways.
“Entrance” with an “arrow” inside the Schraalenburgh Road gate
“Exit” inside the east gate on Old Hook Road
“Exit” on the internal farm road leading to the gate on Schraalenburgh Road.
“Exit” at the driveway leaving the park lot to exit at Schraalenburgh Road.
“Exit” inside the gate on Schraalenburgh Road

E. Illuminated Signs.

Both sides of the signs described in 2 (b) (1), (2) & (3), the permanent free standing signs and the permanent wall-mounted sign may be illuminated - provided that the lighting complies with the Borough's zoning ordinance.

F. Other Signs.

The Farm is allowed to have 4 sandwich signs (“Sandwich Signs”) on any day that the Farm is open for business provided they comply with Section 173-83 E. 7 (a), (b), (c), (d) and (e) of the Borough's ordinance, as it is written on March 8th, 2010 and comply with the sight distance requirements of paragraph 4 below, and are not handwritten signs.

G. Restriction.

The signs approved herein are the only signs allowed and the Farm is prohibited from erecting any additional signs including but not limited to additional sandwich signs which would otherwise be allowed in section 173-83 E 7 of the Borough's ordinance.

3. Sign Setbacks from Curb.

- A. All permanent signs on Old Hook Road shall be a minimum of fifteen (15') feet (the width of the County's right of way) from the existing curb.
- B. All permanent signs on at the corner of Old Hook and Schraalenberg Road shall not be in the County's right of way.
- C. Subject to compliance with the sight distance requirements set forth in paragraph 4B hereafter and subject to the rights of the County of Bergen to require the removal of said signs in its right of way, all permanent signs on Schraalenberg Road shall be a minimum of seven (7') feet (the width of the County's right of way) from the existing curb.
- D. It is the intent that none of the Farm's signs shall be in the County Right of Way and that this requirement shall be enforceable only by the County of Bergen.

4. Sight Distances.

- A. No sign shall interfere with sight distances for vehicles entering or exiting the property. For sight distances purposes, the position of a driver exiting the Farm is set at a point fifteen (15) feet behind the exiting curb line of the County road. The driver's eye level is set at a point 3.5 feet above the pavement.
- B. A driver entering or exiting from Schaalenburg Road shall be capable of seeing an object two (2) feet high placed in the center of all lanes for a distance of 400 feet (i.e., 100' for every ten miles of speed) on Schraalenberg.
- C. A driver entering or exiting from Old Hook Road shall be capable of seeing an object two (2) feet high placed in the center of all lanes for a distance of 500 feet (i.e., 100' for every ten miles of speed).

5. Plants & Shrubs: Plants and shrubs within 15 feet of the curb on Old Hook Road and 7 feet of the curb on Schraalenburgh Road shall be limited to a height of two (2) feet so as to maintain vehicle sight distance standards for all driveways.

6. Seating Plan. The Farm shall be allowed to have tables and chairs for the use of the patrons of the farm stand as set forth on Exhibit "C" which shows the locations of tables and seating for a maximum of 10 persons inside the farmstand building and 20 persons in the front area subject to the regulations of the local Board of Health, if any.

7. **Incorporation of Exhibits, etc.** The exhibits, testimony and proofs given by the Applicant at the aforementioned public hearing and the Bergen CADB's finding of fact and conclusions of law as set forth above are incorporated herein by reference and form the basis of this Bergen CADB's determination herein.

A. In the event of any material deviation or change from the testimony, representations or findings of fact the Bergen CADB reserves the right and option to modify, alter, change or revoke the within approval.

B. If terms and conditions agreed to on the record below are omitted from this resolution, the Applicant and the Borough are nevertheless bound to abide by same pursuant to Fieramosca V. Barnegat Tp., 335 N.J. Super, 526, 533-534 (Law Div.2000).

8. **Amendments.** Nothing herein shall prevent the Farm from applying in the future to the Bergen County Agricultural Board for a change or amendment to this Resolution for a decision subject to the discretion of said Board.

9. **Sign Permit Application.** The Farm shall complete a Borough of Closter sign permit application with this Resolution attached and pay a nominal fee and shall be granted a permit for the signs described herein. The purpose of this sign application and permit is to provide the Borough of a record of the signs so approved to avoid confusion in the future as to the signs permitted.

NOW, THEREFORE, IS IT FURTHER RESOLVED that, based on the aforesaid findings of fact, the Bergen County Agriculture Development Board approves an amended Agricultural Management Practice for the operation of the Abram Demaree Homestead.

PROVIDED FURTHER THAT, the signage approvals and restrictions set forth herein supersede the signage provisions in all prior resolutions, which prior signage provisions are nul and void.

PROVIDED FURTHER THAT, all provisions of Resolution 2006-03 and 2006-04 which are not modified herein remain in full force and effect.

YES: Abma, James, Secor, Spath-Mercado
NO: None
ABSTAIN: Wiggers
ABSENT: Binaghi

I certify that the foregoing is a true copy of the Resolution of the Bergen County Agriculture Development Board, duly adopted at a regular meeting of the Board on July 23, 2012.

Dated: July 23, 2012


Evelyn Spath-Mercado
Chairperson

EXHIBIT "A"

Francis J. DeVito, P.A.

*(S) Professional Corporation
Counsellors at Law*

*661 Main Street
Hackensack, N.J. 07601*

(201) 487-7575

Fax (201) 487-1646

FRANCIS J. DEVITO*
FRANK RIVELLINI*
KAREN M. REIS
MICHAEL NATHIELLO*
*N.J. & N.Y. BARS
*N.J. & FL BARS

NEW YORK ADDRESS:
150 BROADWAY - SUITE 1107
NEW YORK, NY 10038
(212) 501-7899

REPLY TO NEW JERSEY OFFICE

December 14, 2009

Bergen County Agricultural Development Board
One Bergen County Plaza
Hackensack, NJ 07601
Attn: Robert Abbatomaro, Executive Director; Kevin Funibashi, Counsel

Re: Abram Demaree Homestead - Proposed Amendment to AMP

Dear Mr. Abbatomaro:

This office represents the Abram Demaree Homestead, Inc. (AD)

The Bergen County Agriculture Development Board granted Agricultural Management Practice (AMP) site plans to the Farm as set forth in Resolutions 2006-03 dated May 23, 2006 and Resolution 2006-04 dated September 26, 2006

Please accept this letter as a formal request to amend the above referenced AMP site plans to allow seating at the farmstand and to simplify and modify the signs allowed by the Farm

I enclose a proposed seating plan for the farmstand and an aerial exhibit of the Farm

Please be advised that the Farm continues to be a charitable organization and is assessed for real estate tax purposes as a farm, generates over \$2,500 00 in sales each year and is of the required acreage for a farm and continues to qualify as a farm for purposes of the Right to Farm Act adopted in the State of New Jersey

Please consider this request at your earliest convenience

Very truly yours,

FRANCIS J. DEVITO, P.A.

Frank Rivellini
FR/mg
Cc:Encl
Mr. Edward Rogan Esq
Mary Crain

EXHIBIT "C"

EXISTING GROUND FLOOR PLAN

