

Board of Chosen Freeholders
County of Burlington
New Jersey



Department of Resource Conservation

Mailing Address:

P.O. Box 6000
Mount Holly, New Jersey 08060-6000

July 15, 2011

Location:

624 Pemberton Browns Mills Road
Pemberton, New Jersey 08068

Telephone No: (856) 642-3850
Fax: (609) 726-7333

Mr. Christopher Vaz, Administrator
Pemberton Twp
500 Pemberton – Browns Mills Road
Pemberton, NJ 08068

**RE: Giberson Farm
Pemberton Twp Block 794 Lot 7**

Dear Mr. Vaz:

As you are aware, the Burlington County Agriculture Development Board (CADB) received a request for Right to Farm protection from Mr Pat Giberson, owner of the above referenced farm in Pemberton Twp.

Through the NJ Right to Farm Act, Mr. Giberson was seeking relief from Pemberton Township ordinance 190-30. Specifically the requirements that accessory buildings be no less than 50 feet from other buildings and that accessory buildings are not permitted in the front yard areas of the residence. The Right to Farm Act does offer the CADB the ability to grant relief from municipal ordinances that may inadvertently be overly restrictive to an agricultural operation.

At the July 14, 2011 public meeting, the CADB conducted a review of the Right to Farm request submitted by Mr Giberson. Careful consideration of the municipal ordinance was weighed against the specific request of Mr Giberson to construct the proposed agricultural structure approximately 30 feet from an existing structure and in the front yard area of the residence.

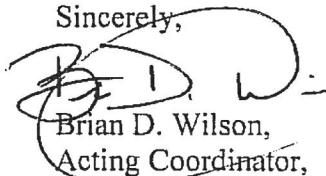
Attached you will find a copy of CADB resolution 2011-28. Ultimately, the CADB found that the Giberson Farm does qualify for Right to Farm protection and that the proposed location of the agricultural structure does constitute a generally accepted agricultural management practice. Therefore, through the authority granted to the CADB through the Right

to Farm Act, the CADB has granted relief from Pemberton Township ordinance 190-30 in regards to the two restrictions detailed above.

As detailed in the Right to Farm Act, specifically the regulations contained in N.J.A.C. 2:76-2.3, the decision of the CADB may be appealed to the NJ State Agriculture Development Committee.

As always, please do not hesitate to contact me if you have any questions regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "B. D. Wilson", written over a circular stamp or seal.

Brian D. Wilson,
Acting Coordinator,
Burlington County Farmland Preservation Program

Cc: Mayor David Patriarca, Pemberton Twp
Mary Pat Robbie, Director, Department of Resource Conservation
Jeff Rabin, Sr. Asst. County Solicitor
Mr. Craig Augustoni, Pemberton Twp Zoning Official
Mr. Owen McCabe, Pemberton Twp Planner
Brian Smith Esq., SADC Chief of Legal Affairs
David Kimmel, SADC RTF Coordinator
Mr. & Mrs. Pat Giberson, Landowners

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BURLINGTON CADB RESOLUTION # 2011-28

**Recommendation of a Site-Specific
Agricultural Management Practice
Under The New Jersey Right to Farm Act**

Block 794, Lot 7 Pemberton Township
July 14, 2011

WHEREAS, Mr. Pat Giberson of Giberson Farms has applied to the Burlington County Agricultural Development Board ("Board") pursuant to the NJ Right to Farm Act N.J.A.C. 2:76-2.3 ("Act") requesting a Site Specific Agricultural Management Practice ("SSAMP") determination as to whether or not the proposed location of an Agrichemical Handling Facility ("AHF") is consistent with generally accepted agricultural management practices; and

WHEREAS, The Pemberton Township zoning official has denied the permit for construction of the AHF because the proposed location conflicts with township ordinance 190-30 ("ordinance"); and

WHEREAS, the ordinance does not permit accessory buildings to be located in the front yard areas of the residence and requires that the distance between all accessory structures be no less than 50 feet; and

WHEREAS, the Act requires that the NJ State Agriculture Development Committee ("SADC") and the municipality be notified of the request for an SSAMP within 10 days of receipt of the request; and

WHEREAS, the SADC and the municipality have been notified in accordance with the Act; and

WHEREAS, the Board conducted its regularly scheduled monthly meeting on July 14, 2011, due notice of said meeting was given in accordance with New Jersey Statutes and the Open Public Meetings Act and a quorum of the Board being present at the meeting; the SSAMP request was heard; and

WHEREAS, Giberson Farms was represented by owner Mr. Pat Giberson.; and

WHEREAS, the Board received into evidence the following Exhibits:

Submitted by Board staff:

Exhibit A – Right to Farm certification form including attachments supporting eligibility

Exhibit B- Pemberton Township Ordinance 190-30 with zoning permit denial

Exhibit C – Pemberton Township Agricultural Production Zone ordinance 190-13

Exhibit D- “Plan View” design of AHF as prepared by the USDA

Exhibit E- Aerial imagery

Exhibit F- Letter submitted by Nicole Ciccaglione, USDA Natural Resources Conservation Service (“NRCS”), District Conservationist, dated July 7, 2011

Exhibit G– Letter Submitted by Ray Samulis, County Agent, Rutgers Cooperative Extension, dated July 6, 2011

Exhibit H– Photograph of proposed AHF location taken June 28, 2011

WHEREAS a site inspection was conducted on June 28, 2011 with Brian Wilson, Nicole Ciccaglione, Ray Samulis and Mr. Giberson; and

WHEREAS the Board has considered the application, the applicant’s certification and the exhibits presented and testimony presented;

NOW, THEREFORE BE IT RESOLVED that the Board makes the following findings:

The Board’s Consideration of the Eligibility of the Giberson Application under the Right to Farm Act

1. There are credible exhibits to 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 list of such products is listed in the application.
4. The farm is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964.

5. The farm is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan and Pinelands Comprehensive Management Plan.
6. The AP (Agricultural Production) Zone in Pemberton allows for agricultural as a permitted use.
7. The AP Zone in question was in place as of December 31, 1997 or thereafter.
8. A complete written application for recommending a Site-Specific Agricultural Management Practice was made to the Board.
9. With all of the criteria above having been satisfied, the Board finds that Giberson meets the eligibility criteria under the Right to Farm Act.

The Board's consideration of the SSAMP request regarding the proposed location of the AHF

10. Based on the exhibits entered and presentation by staff, the Board finds that it is a generally accepted agricultural management practice to construct new buildings within the existing farm infrastructure and as close to other buildings as is functionally possible area so as to minimize the impacts to land in cultivation.
11. The Board finds that the existing farm infrastructure is located in the front yard area of the residence.
12. The Board finds that moving the AHF to comply with the ordinance would result in additional lands removed from cultivation.
13. The Board finds that the stated purpose of the Agricultural Production Zone, as detailed in the Pemberton Township Code (190-13) is "...to limit the impact of non agricultural land uses and conserve the unique and prime soils in this area for continued agricultural use."

NOW, THEREFORE, BE IT FURTHER RESOLVED the Board grants relief to Giberson Farms from the front yard and set back requirement as detailed in the ordinance for the construction of the proposed AHF ; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that copies of this resolution shall be provided to the SADC, Pemberton Township and Giberson Farms.

7/14/11
Date

Phillip Prickett
Phillip Prickett
Chairman, Burlington CADB

Yeas: 7
Nays: 0
Abstentions: 0

(names) _____

a) is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan,

OR

b) was in operation as of July 2, 1998.

5. To the best of my knowledge and belief, my agricultural operation is in compliance with all relevant federal and New Jersey statutes, rules and regulations.

6. I understand that within 30 days of the CADB's issuance of its written recommendation, it will forward the site specific agricultural management practice to me, the State Agriculture Development Committee (SADC) and any other individuals or organizations deemed appropriate by the CADB.

7. I understand that any person aggrieved by any decision of the CADB regarding the recommendation of this site specific agricultural management practice, including myself, may appeal the decision to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from receipt of the board's final determination.

1. The decision of the SADC shall be considered a final administrative agency decision.
2. If the board's decision is not appealed within 45 days, the board's decision is binding.

Dated: 6/24/11


(Signature of Requestor)

APPLICATION FOR FARMLAND ASSESSMENT
REFER TO EXCERPTS OF THE LAW AND INSTRUCTIONS BEFORE COMPLETING

DIV. OF TAXATION

TAX YEAR 2011

COUNTY BURLINGTON
SECTION 1 - IDENTIFICATION INFORMATION (Please print or type all information)

(1) Owner's Name
GIBBERSON W PATRICK & JOHANNA L

(2) Mailing Address
PEMBERTON, NJ 08068

(3) Telephone () 609 726 0600

(a1) Name _____
(a2) Address _____

(4) Land Location
S PEMBERTON RD

Q:QFARM

(a1) Name _____
(a2) Address _____

(5) Block(s) Lot(s)
B:794 E:7

(c1) Telephone () _____
(c2) Telephone () _____

(6) The land is farmed solely by owner
 rented to farmer and tenant
 farmed by owner

(7) Is farm deed restricted to agriculture? Yes No # of Acres _____
SECTION 2 - BREAKDOWN OF LAND USE CLASSES (All entries and totals must be accurate)
Insert the current year's acreage in the appropriate land use class. Indicate acres to the nearest hundredth (0.00) - DO NOT USE DIMENSIONS

ACTIVELY DEVOTED LAND

- (1) Cropland harvested
- (2) Cropland pastured
- (3) Permanent pasture
- (4) Non-appurtenant woodland (See instructions before making entry)
- (5) Appurtenant woodland or wetland (See instructions before making entry)
- (6) Acres used for (don't include pastured acres)
- (7) TOTAL DEVOTED TO AGRICULTURAL OR HORTICULTURAL USE (Sum of lines 1 to 6)

(1) _____	(2) _____	(3) _____	(4) _____	(5) _____	(6) _____	(7) _____
ACREAGE						
(1) <u>18.0</u>	(2) _____	(3) _____	(4) <u>60.45</u>	(5) _____	(6) <u>240.45</u>	(7) _____
*If less than 5 acres, cite the municipality, block(s) and lot(s) of contiguous acreage in adjacent municipality.						
• Seasonal farm markets? Yes _____ No _____						
• Seasonal agricultural labor housing? Yes _____ No _____						

REFER TO DEFINITIONS OF LAND USE CLASSES UNDER "INSTRUCTIONS"
LAND NOT ACTIVELY DEVOTED

- A. FIELD CROPS (Harvested Acres)
- Irrigated Acres.....(80)
- Barley (grain).....(11)
- Corn for grain.....(12)
- Corn for silage.....(13)
- Hay (alfalfa).....(15)
- Hay (other excluding salt hay).....(16)
- Oats (grain).....(17)
- Wheat (grain).....(18)

Acres	
(11) _____	(12) <u>130</u>
(13) _____	(15) <u>10</u>
(16) _____	(17) _____
(18) _____	

- B. TREES & SHRUBS (nursery).....(30)
- Sod (cultivated).....(31)
- Christmas trees.....(32)
- Other.....(33)

(30) _____	(31) _____	(32) _____	(33) _____
------------	------------	------------	------------

- C. LIVESTOCK
- Avg. No. of Livestock
- All beef cattle.....(34)
- Daily.....(35)
- Pumpkins.....(60)
- Squash.....(61)
- Garlic.....(62)

(34) _____	(35) _____	(60) _____	(61) _____	(62) _____
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SECTION 3 - CURRENT YEAR FARMING ACTIVITY - (Indicate acreage to nearest tenth (0.0). Include Double Cropping, for example, two plantings on fifty acres should be reported as 100.0 acres.)
INSERT CURRENT YEAR HARVESTED OR TO BE HARVESTED ACRES FOR LAND ONLY IN SECTION II

Id: 014804
 Pat Giberson
 P O Box 417
 Pemberton, NJ 08068
 USA

Bordenstown Grain Elevator
 Perdue Grain & Orlseed LLC
 120 US Hwy No 130
 Bordenstown, NJ 08505
 USA

Purchase Settlement Sheet
 Commodity: W #2 Soft Red Wheat
 Date: 6/22/2011
 Settlement No.: 369856

Phone: 609-298-4100
 Fax: 609-298-7338

Contract / Ticket Summary

		US\$		
	Gross	- Discounts	- Charges	Settlement
Totals for this settlement sheet:				
Spot Ticket Summary:	3,514.15	188.60		3,325.55
	3,514.15	188.60		3,325.55

Special Discounts: 1 Insect Infested 2 Heading/Sour/Musty 3 Light Smut 4 Smutty 5 COFO 6 Heading 7 Musty 8 Sour 9 Product

Spot Ticket Detail: No. Tickets: 1

Ticket No.	Date	Unload/Share	%Split/Shrink	Bushel Applied	Grade	T	M	D	DK	F	G	S	TD	ID	V	HD	Special Disc	Price/Discount	Total Discount	Net Price/ x Applied	Total Charges	Settlement Amount	
28871	6/21/2011	635.00	100.00%						1.0	0.1								5.5900	188.60	5.2900		3,325.55	
56602		635.00	6.35	628.65		54.8	13.7											.3900				3,325.55	
SPO1		30,100	LB			2000	.1000																
Totals:		635.00	6.35	628.65	Avg: 54.8	13.7		1.0	0.1										3,325.55				3,325.55

Note: Grade Factors flagged with an "*" have their discount amounts prorated to the Applied weight.

Deduction Summary

Contract No.	Settled Qty	Total Gross	Total Discounts	Total Charges	Freight	Other	Checkoff Tax	Total Settlement	Less Advances	Net Settlement
Spot Ticket	628.65	3,514.15	188.60					3,325.55		3,325.55
Total:	628.65	3,514.15	188.60					3,325.55		3,325.55

Remit Funds To: Pat Giberson
 Pmt. Type: Check
 Transil No.:
 Amount: Payment Terms: 3,325.55
 Due Date: 6/22/2011
 Net Settlement:
 Payment Amount: 3,325.55

Perdue is an equal opportunity employer and will expect all contractors, subcontractors, suppliers, vendors, etc. doing business with Perdue to also be an equal opportunity employer as defined by Executive Order 11246, as amended.
 Perdue Grain & Orlseed LLC, P.O. Box 1537, Salisbury, MD 21802-1537, 410-543-3650, Fax 410-341-2103.

(8) See § 190-38 for additional standards.

I. Minimum off-street loading.

All nonresidential uses shall show properly dimensioned loading space(s) on the site plans as appropriate for the proposed use and separate from off-street parking areas.

J. Signs.

(1) Street number designations, postal boxes, on-site directional and parking signs, warning signs and signs posting property as "private property," "no hunting" or similar signs are permitted but are not to be considered in calculating sign area.

(2) Churches: one freestanding sign not exceeding 12 square feet, plus one attached sign not exceeding 25 square feet.

(3) Public utilities: one freestanding sign not exceeding 12 square feet.

(4) Schools and school administrative buildings: one sign not exceeding 25 square feet.

(5) Home occupations: one sign not exceeding four square feet either attached to the structure or freestanding.

(6) One temporary, nonlighted sign advertising the sale or lease of a property or structure.

(7) See § 190-41 for additional standards.

§190-13. AP Agricultural Production District

[Added 8-6-1982 by Ord. No. 16-1982]

A. Purpose. The purpose of the Agricultural Production District is to limit the impact of nonagricultural land uses and conserve the unique and prime soils in this area for continued agricultural use.


B. Principal permitted uses on the land and in buildings.

(1) Residential dwelling units on lots of 3.2 acres, in accordance with § 190-50P. [Amended 4-6-1989 by Ord. No. 11-1989]

(2) [Amended 4-6-1989 by Ord. No. 11-1989] Residential dwelling units not to exceed a gross density of one unit per 10 acres, provided that:

(a) The dwelling is accessory to an active agricultural operation.

Exhibit B


 previous
ARTICLE V - General Regulations**§190-30. Accessory buildings and structures.**

A. Accessory buildings as part of principal buildings. Any accessory building attached to a principal building shall be considered part of the principal building and the total structure shall adhere to the yard requirements for the principal building regardless of the technique of connecting the principal and accessory buildings.

B. Accessory buildings not to be constructed prior to principal buildings. No building permit shall be issued for the construction of an accessory building prior to the issuance of a building permit for the construction of the main building upon the same premises. If construction of the main building does not precede or coincide with the construction of the accessory building, the Construction Official shall revoke the building permit for the accessory building until construction of the main building has proceeded substantially toward completion. [Amended 1-31-1977 by Ord. No. 1-1977]

C. Distance between adjacent buildings. The minimum distance between an accessory building and any other building(s) on the same lot shall be as prescribed in Article IV, except that no poultry or livestock shelter shall be erected nearer than 50 feet to any dwelling on the same lot.

D. Height and area of accessory buildings. The height and area of accessory buildings shall be as prescribed in Article IV.

 E. Location. An accessory building may be erected in side and rear yard areas only and shall be set back from side and rear lot lines as prescribed in Article IV, except that if erected on a corner lot, the accessory building shall be set back from the side street to comply with the setback line applying to the principal building for that side street, and except further that no poultry or livestock shelter shall be erected nearer than 50 feet to any lot lines.

F. Residential storage sheds. Notwithstanding any other requirements of this chapter, storage sheds accessory to residential uses shall be located no closer than five feet to any lot line in the R-60, R-80, R-96, R-100, R-200, MH, R-I and R-A Districts. [Added 12-15-1994 by Ord. No. 8-1994]

§190-30.1. Airport Safety Zone.

[Added 5-1-1997 by Ord. No. 3-1997]

The following standards are hereby established for the Airport Safety Zone:

A. Minimum obstruction standards.

ZONING
190 Attachment 5

Schedule of Area and Yard Requirements for the AP Agricultural Production District
[Amended 4-6-1989 by Ord. No. 11-1989]

Principal building	Farms and Farm-Related Detached Dwellings	Detached Dwellings Permitted Pursuant to § 190-13B(Q) (Piney exempt)	Churches and Cemeteries	Agricultural Commercial Establishments
Minimum	10'	3,2	5	1
Lot area (acres)	250'	150'	300	150
Lot frontage (feet)	250	150	300	150
Lot width (feet)	600	300	600	150
Lot depth (feet)	150	50	100	25
Side yard, each (feet)	200'	200'	200'	75
Front yard (feet)	100	100	100	40
Rear yard (feet)				
Accessory building				
Minimum				
Distance to side line (feet)	100	50	50	25
Distance to rear line (feet)	100	50	50	25
Distance to other building (feet)	50	25	50	25
Maximum				
Building coverage of principal building (percent)	8	5	5	10
Building coverage of accessory building(s) (percent)	2	1	1	2

- NOTES:
- 1 May be reduced to 50 feet for a flag lot.
 - 2 May be reduced to 100 feet in agricultural areas or where environmental or physical limitations exist.
 - 3 Except as otherwise provided under § 190-13B.

190 Attachment 5:1

11-15-2006

*
1

TOWNSHIP OF PEMBERTON ZONING OFFICE

500 PEMBERTON-BROWNS MILLS RD.
PEMBERTON, NEW JERSEY 08068-1539
(609)-894-3330 FAX(609)-894-7976

ZONING OFFICER'S CERTIFICATION

Zoning Permit# **DENIED**

Zoning District **AP**

Issued to: **W. Pat Giberson**

Location:

Block: **794** Lot: **7**

Project: **Pole Barn**

Permitted:

Not Permitted:

Approved:

Denied:

Ordinance: **190-30**

The zoning permit is issued in accordance with the application and drawings on file in this office, subject to the Pemberton Township Zoning Code regulating the use and construction of property and buildings. This is not a building permit, nor is it authorization to proceed with construction. **CALL THE OFFICE ONCE PROJECT IS COMPLETED TO SCHEDULE INSPECTION**

Conditions: Your permit for the above project has been denied, the proposed building location and set back distance from other structures is in violation of the Pemberton Township Zoning Code. You can relocate the building to the rear yard as required by 190-30 and adjust the set back distance to the other structure to 50' as required by 190 attachment 5:1. You may also appeal my decision to the Pemberton Township Zoning Board of adjustment or apply for a variance.

City Sewer: Yes No City Water: Yes No

Area and Yard Requirements

Principal Building **Ordinance No** **Required** **Proposed**

Lot Area			
Lot Frontage			
Lot Width			
Lot Depth			
Front Yard Setback			
Side Yard Setback			
Rear Yard Setback			

Accessory Building

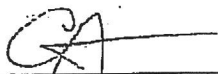
Side Yard Setback			
Rear Yard Setback			
Distance Of Building	190 attachment 5:1	50'	30'

Swimming Pool

Side Yard Setback			
Rear Yard Setback			
Distance to Other Structure			

Building Coverage

Principal Building %			
Accessory Building %			



Craig L. Augustoni, Acting Zoning Officer

*Ag Productions,
190-14.*

6/16/11
Date

Exhibit C

(8) See § 190-38 for additional standards.

I. Minimum off-street loading.

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(a) The dwelling is accessory to an active agricultural operation.

Exhibit D

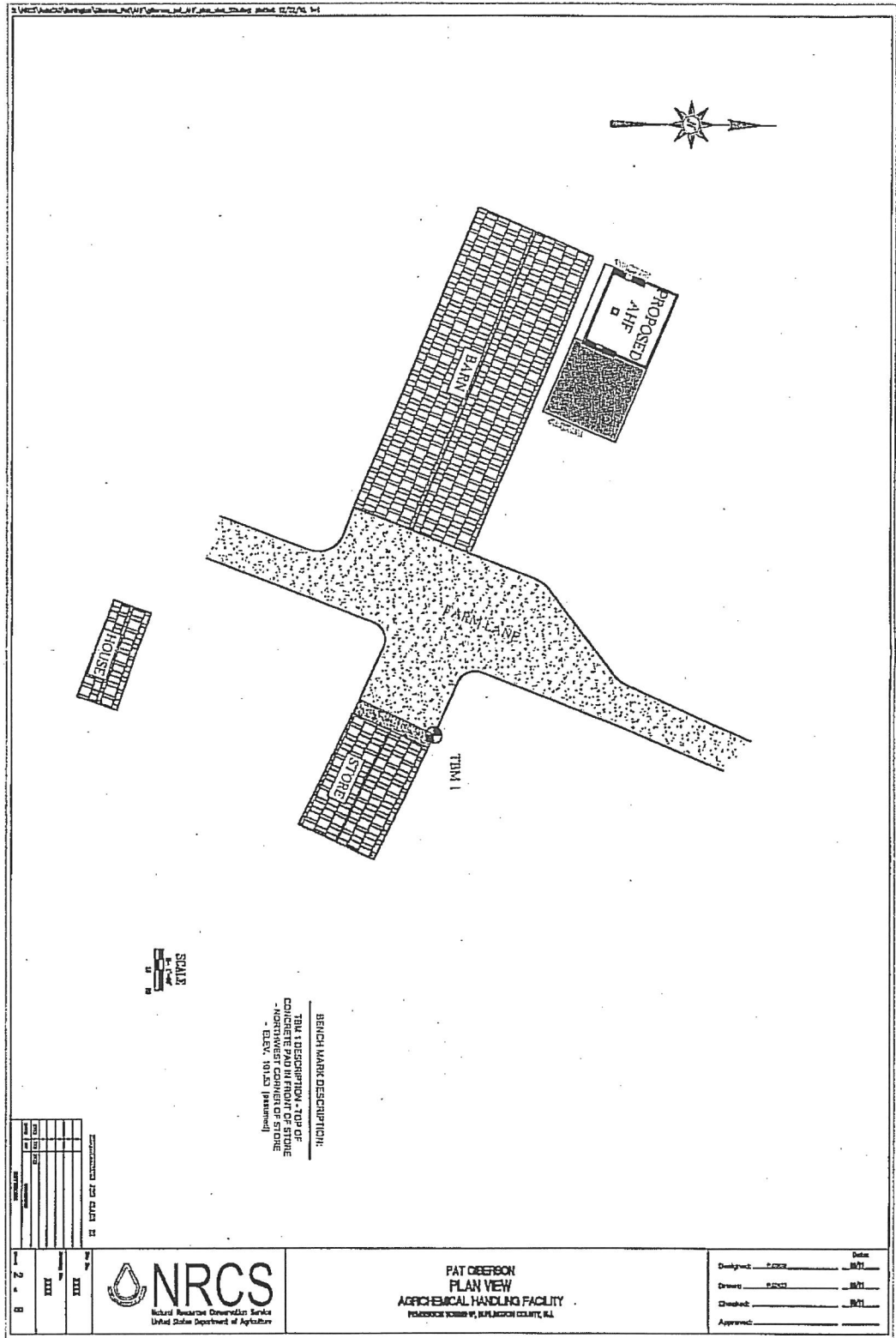


Exhibit E

Exhibit E

Proposed AHF location



Residence

Exhibit F
United States Department of Agriculture



Natural Resources Conservation Service
Columbus Field Office
1971 Jacksonville-Jobstown Road
Columbus, NJ 08022

Tel. (609) 267-1639
Fax.(609) 261-3007
<http://www.nj.nrcs.usda.gov>

July 7, 2011

To: Brian Wilson

From: Nicole Ciccaglione

Re: Pat Giberson's planned Agri-Chem Handling Facility

On June 28, 2011 You, Ray Samulis, and myself met on Pat Giberson's farm. We reviewed the NRCS approved design for the proposed Agri-Chem Handling Facility (AHF). We walked the site and looked at the proposed location for the AHF.

The AHF is planned and designed to be installed 30' away from an existing barn on Pat Giberson's farm. This facility and the proposed location are standard and normal for this agricultural practice. The AHF is far enough away from the existing barn, to not negatively impact the existing structures or the natural resources on the farm. The current purposed location is also minimizing impacts to Pat Giberson's cropland. Keeping the AHF within the original "farmstead" area is the most logical and practical.

Upon further review, I feel moving the AHF further away from the existing barn, would be negative and not necessary. Allowing 50' space will result in more prime farmland being impacted. The further the AHF is away from the existing building, the more cropland will be lost to the construction.

If you need any additional support documentation or information, please let me know.

Helping People Help the Land

An Equal Opportunity Provider and Employer



Exhibit G

RUTGERS

New Jersey Agricultural
Experiment Station

Rutgers Cooperative Extension of Burlington County
2 Academy Drive
Westampton, NJ 08060

Agricultural & Resource Management- 609-265-5050
Family & Community Health Sciences- 609-265-5051
SNAP/Education- 609-265-5914
4-H Youth Development- 609-265-5052
FAX- 609-265-5613

RECEIVED
Burlington County

JUL 12 2011

DEPARTMENT OF
RESOURCE CONSERVATION

July 6, 2011

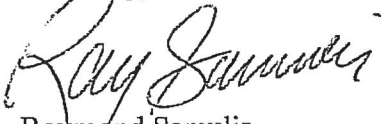
To Whom It May Concern:

This letter is to give an opinion on the location of Mr. Pat Giberson's proposed pesticide storage.

I visited the site on Tuesday, June 28, 2011 to view the building site. The building looks to be located in acceptable area that would be viable yet minimize the loss of valuable class 1 cropland. Locating the building farther away from the other barn would serve little purpose at this time. I reviewed the plans for the storage and find it well designed with maximum safety in mind. We in the extension service promote this type of storage to safeguard the environment as well as the applicator.

A location such as this for pesticide storage is very normal and acceptable to "Best Management Practices" on farms.

Sincerely,



Raymond Samulis
County Agriculture Agent

Exhibit H

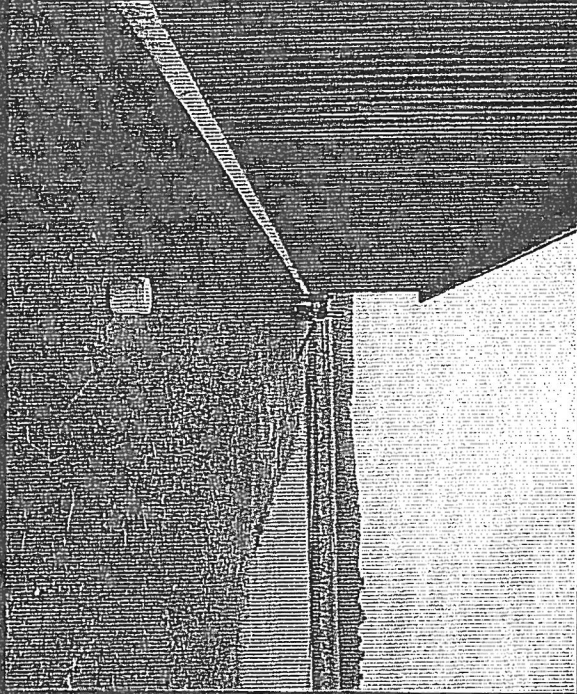
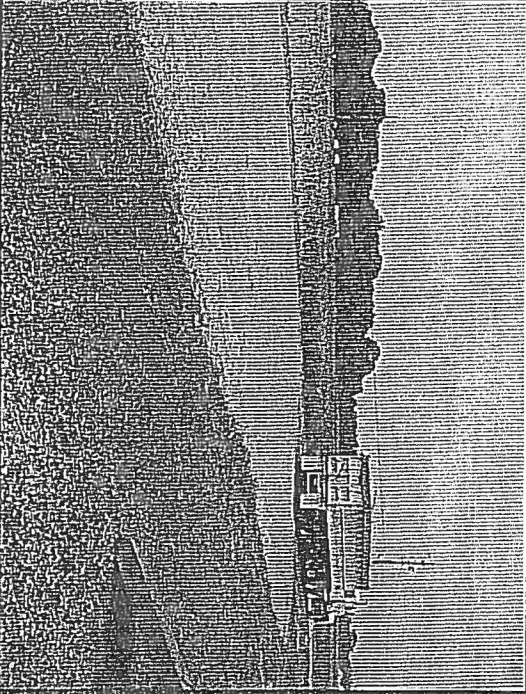


Exhibit H

