

RESOLUTION

**RE: Right to Farm, N.J.A.C. 2:76-2.2
Request for Site Specific Agricultural Management Practices
In the Matter of Old York Cellars (a/k/a DW Vineyards, LLC)
Block 17, lot 16.03; Township of East Amwell, County of Hunterdon**

WHEREAS:

On November 20, 2009, a Right to Farm (“RTF”) Application for a Site Specific Agricultural Management Practice determination was submitted to the Hunterdon County Agriculture Development Board (“CADB”), by David Wolin, owner of Old York Cellars a/k/a DW Vineyards, LLC (Block 17, Lot 16.03; East Amwell Township), a farm that is operated as a vineyard and winery. The RTF Application requested approval from the CADB for the following: 1) public wine tasting in a building designated as a “Tasting Room”; 2) private wine tasting by appointment in a building designated as a “Tasting Room”; 3) winery and vineyard tours; 4) winery promotional events; 5) retail sale of wine; 6) marketing and promotional activities; and 7) renovations and expansions to the existing Tank Building, Tasting Building, Group Wine Tasting Building; and the Log Home as Site Specific Agriculture Management Practices.

At its December 10, 2009 meeting, the CADB discussed the application and determined that Old York Cellars/DW Vineyards, LLC was a commercial farm operation in accordance with N.J.A.C. 2:76-2.3. It was determined a site visit would be necessary and a Right to Farm hearing was scheduled for January 14, 2010.

On January 11, 2010, the CADB conducted a site visit at the Old York Cellars/DW Vineyards property.

On January 13, 2010, the CADB, through its Administrator, wrote to the SADC and to East Amwell Township notifying them that the application had been filed.

On January 13, 2010, the CADB, through its legal counsel, wrote to the SADC and notified it of the application and asked whether SADC would be assuming jurisdiction in the matter.

On January 14, 2010, the CADB held a public hearing. At the commencement of the public hearing, the applicant represented that it had informally applied to East Amwell Township for approvals and permits and the Township directed the applicant to appear before the CADB. The Township indicated that the farmer's operation conformed with local zoning in all but three (3) respects:

- 1) Public/private wine tasting room;
- 2) Retail store; and,
- 3) Winery promotional/marketing activities.

Therefore, since there appeared to be no conflict with the Township regarding the remitting of the application, the CADB indicated to the applicant that it would limit its determination to the following issues:

- 1) Whether public wine tasting and private wine tasting by appointment in a building designated as a “Tasting Room” constituted a generally accepted agricultural practice;
- 2) Whether retail sales of wine constitute a generally accepted agricultural practice; and,
- 3) Whether winery marketing and promotional activities constitute a generally accepted agricultural practice.

Regarding the applicant’s plan for specific improvements on the site, the applicant was instructed to appear before the designated Township Board for an informal site plan review. In addition, the farmer must obtain any Uniform Construction Code permits which are required.

Proof of formal notice and publication was submitted to the CADB on January 7, 2010. Formal notice of the hearings was published in the Hunterdon County Democrat on December 24, 2009 and served via certified mail on all landowners within 200 feet of the subject property. An Affidavit of Proof of Publication and Notice was provided.

Daniel L. Haggerty, Esq. appeared on behalf of Old York Cellars/DW Vineyards. No one appeared to object to the granting of the application.

The applicant submitted a narrative and a list of proposed activities, as well as the plans for renovations/expansions on the existing buildings in support of its application.

Documents that were provided to the Board are as follows:

A1. Request For Site Specific Agricultural Management Practice Application for Hearing dated November 20, 2009;

A2. Old York Cellars Narrative;

A3. Site plan drawings prepared by Stephen M. Risse, PE of Bayer-Risse Engineering, Inc.;

A4. Elevation and floor plan drawings prepared by Christopher Pickell, AIA of Pickell Architecture, LLC; and,

A5. Christopher Pickell, AIA Narrative Memorandum dated October 5, 2009; and,

A6. Commercial Farm Certification (RTF Form C and 11/20/09 Certification), together with a copy of the Ordinance for the Amwell Valley Agricultural District.

A7. Affidavit of Proof of Publication and Notice which includes ownership list within 200 feet provided by Franklin Township, copy of the notice in the newspaper, certified mailing receipts and Proof of Publication in the December 24, 2009 Hunterdon Democrat;

David Wolin, the owner and sole member of the Limited Liability Company, provided testimony in support of the application. He provided a brief history of the farm, as well as past and current operations in each of the areas in which an SSAMP was requested. He also testified as follows:

1. That Old York Cellars and DW Vineyards are Limited Liability Companies. He is the sole member of the LLCs.

2. The property is located in a zone that permits agriculture.

3. The property was put into permanent farmland preservation in November of 2009.

4. He had previously met informally with East Amwell Township officials and was told by the Township that a variance would be needed for the wine tasting room, retail store, and promotional/marketing activities of the farm. Tricia Waterbury, Esq., the attorney for the East Amwell Township Planning Board, advised him to appear before the Hunterdon County Agriculture Development Board under the Right to Farm Act.

5. The wine tasting activities would be substantially similar to that of the previous owner and other wineries.

Scott Gares, the winemaker and general manager of the operation, provided testimony in support of the application. He provided a brief history of the farm, as well as past and current operations in each of the areas in which an SSAMP was requested. He also testified as follows:

1. The operation currently has a farm winery license and is in the process of applying for a permanent Plenary Liquor License.

2. Currently seven (7) acres are used for growing grapes and the farmer plans to plant grapes on approximately ten (10) more acres in the future.

3. At least 51% of the grapes used to make the wine sold by the farmer are grown on the property.

The CADB discussed the matter and considered the submissions and testimony of the applicant.

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 17, Lot 16.03 in the Township of East Amwell.

2. Old York Cellars/DW Vineyards runs a commercial farming operation on the property and is entitled to protection under the New Jersey Right-to-Farm law.

3. The property is located in a zone that permits agriculture.

4. The applicant informally applied to East Amwell Township for approvals and permits and was directed to the CADB.

5. The farmer represented the Township had indicated that the farming operation conformed with local zoning in all but the following three (3) areas: 1) public and private wine tasting rooms; 2) retail wine store; and, 3) winery promotional and marketing activities.

6. The activities of 1) public and private wine tasting rooms; 2) retail wine store; and, 3) winery promotional and marketing activities are ancillary support services to a farm winery operation.

NOW, THEREFORE, BE IT RESOLVED BY THE HUNTERDON COUNTY AGRICULTURE DEVELOPMENT BOARD AS FOLLOWS:

A. The request for Site Specific Agricultural Management Practices determination submitted by Old York Cellars/DW Vineyards is approved for the following activities as follows:

- 1) The utilization of a room or rooms on the premises for wine tasting; and,
- 2) The retail sale of wines on the premises made principally from grapes grown on the applicant's farm, and the sale of other ancillary retail items;
- 3) Winery marketing and promotional activities.

B. The above listed activities are ancillary support services to a farm winery operation and as such are permitted uses on the property under the Right to Farm Act.

C. The farmer's plans for specific building improvements to the site are referred to the appropriate board in East Amwell Township for an informal expedited review.

D. This determination shall be forwarded to the State Agricultural Development Committee within thirty (30) days, pursuant to N.J.A.C. 2:76-2.3(e).

E. Any person aggrieved by this decision, may appeal to the State Agricultural Development Committee, pursuant to N.J.A.C. 2:76-2.3(f).

Dated: _____, 2010

DAVE BOND, Chairperson