

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING A SITE SPECIFIC AGRICULTURAL MANAGEMENT
PRACTICE DETERMINATION FOR
BLOCK 804, LOT 7 IN THE TOWNSHIP OF WALL**

Mr. Holmes offered the following resolution and moved its adoption:

WHEREAS, Allaire Community Farm (“Applicant”), a NJ nonprofit corporation, is the current owner of Block 804 Lot 7 in the Township of Wall; and

WHEREAS, the Applicant acquired the subject property on May 15, 2018, and before that the property was operated as a farm by the previous owner; and

WHEREAS, on September 18, 2018, the Applicant applied for a Site Specific Agricultural Management Practice (“SSAMP”) recommendation for Block 804, Lot 7 in the Township of Wall, that included requests for relief from certain municipal ordinances and protection for on-farm direct marketing activities on the site; and

WHEREAS, the Applicant requested relief from Wall Township’s standards for side yard setbacks, building size, impervious cover, and parking lot surface and area; and

WHEREAS, in Twp. of Franklin v. den Hollander, 172 N.J. 147 (2002), standards had been set allowing the protection given under the Right to Farm Act to trump municipal land use law when appropriate. As per the Court, when exercising primary jurisdiction, the County Agriculture Development Board (“CADB”) must first determine whether the Applicant's activities fall within the purview of agricultural management practices. Once established and, upon assuming jurisdiction, the CADB, where appropriate, must consider not only the impact of such practices on the municipality, but the standards established by local ordinances, all within the scope of the CADB's statutory obligation to consider public health and safety. If the CADB determines that the proposed activity falls within the scope of agricultural management practices, it may override the local ordinance; and

WHEREAS, the Applicant supplemented the SSAMP application with letters and enclosures dated January 7, 2019; February 24, 2019; and April 15, 2019; as well as copies of farm stand sales receipts from June 9, 2018 to October 14, 2018; and

WHEREAS, N.J.S.A. 4:1C-1 et seq. is known as the Right to Farm Act; and

WHEREAS, N.J.A.C. 2:76-2.1 et seq. details the State Agriculture Development Committee’s (“Committee”) rules; and

WHEREAS, N.J.A.C. 2:76-2A.13 details the adopted AMP for On-Farm Direct Marketing Facilities, Activities, and Events; and

WHEREAS, N.J.A.C. 2:76-2B.3 establishes rules for the eligibility of equine activities for right to farm protections; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b) the Board advised the Committee and the Township of Wall of the application and request; and

WHEREAS, the MCADB conducted a site visit to view the subject property and the proposed operation prior to scheduling a public hearing on the matter. The site visit was held on March 12, 2019 and attended by a minority of Board members, MCADB staff, Wall Township staff, the Applicant, and the Applicant’s Engineer and Counsel; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3 (c), (d), upon receipt of a request for an SSAMP, the Board must determine whether the Applicant’s agricultural operation is a commercial farm as defined by N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, on May 7, 2019, after deliberation at the public hearing, the MCADB found that the Applicant’s operation is a “commercial farm” as defined by the Right to Farm Act, set forth in N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, and memorialized its findings in Resolution No. 2019-5-1; and

WHEREAS, the Applicant now requests approval for an SSAMP determination from the Board for certain operations on the farm; and

WHEREAS, notice of the request and public hearing for the SSAMP was provided pursuant to N.J.A.C. 2:76-2.3(b) and 2:76-2.8(c); and

WHEREAS, the following documents comprise an exhaustive list of exhibits and materials submitted for the Board’s consideration prior to the May 7, 2019 hearing as well as additional documentation submitted for Board consideration prior to the July 2, 2019 SSAMP hearing:

Applicant’s Exhibits:

- Request for Right to Farm Site Specific Agriculture Management Practice Recommendation Submitted September 18, 2018 with Attachments a to g A-1
- Supplemental Submission Dated January 7, 2019 with Attachments a to g A-2
- Select Farm Stand Invoices and Receipts from June 9, 2018 to October 14, 2018..... A-3
- February 24, 2019 Letter from Sean Burney to Harriet Honigfeld Re: Clarification of Parking and Visitation at the Farm..... A-4
- Soil Erosion and Sediment Control Plan Dated February 28, 2019 A-5
- April 15, 2019 Supplemental Submission with Attachments a to h A-6

Allaire Community Farms Coverage Table Prepared by Leon S. Avakian, Inc. Consulting Engineers, Revised May 24, 2019.....	A-7
Site Lighting Plan Dated May 23, 2019	A-8
<u>Exhibits from the Monmouth CADB:</u>	
December 11, 2018 Letter from Harriet Honigfeld to Allaire Community Farm	B-1
Aerial Map Block 804 Lot 7 Prepared January 14, 2019	B-2
Township of Wall Schedule of Zone Requirements January 2004	B-3
January 22, 2019 Email from Harriet Honigfeld to Applicant	B-4
Site Visit Photos from October 2, 2018.....	B-5
Allaire Community Farm 2018 Select Invoices and Receipts Tally	B-6
February 22, 2019 Letter from Harriet Honigfeld to Sean Burney	B-7
Harriet Honigfeld's Notes from March 12, 2019 Site Visit to Allaire Community Farm.....	B-8
March 12, 2019 Allaire Community Farm Site Visit Photos	B-9
April 2, 2019 Letter from Nora Coyne of Wall Township	B-10
April 10, 2019 Letter from Christopher Beekman to Nora Coyne	B-11
April 23, 2019 Response from Nora Coyne to MCADB.....	B-12
<u>Exhibits from Neighbors and Opposition:</u>	
March 16, 2018 Letter from The Friends of Baileys Corner to Allaire Community Farm.....	O-1
Letter from Elizabeth Hughes to Board Members Received February 21, 2019	O-2
April 8, 2019 Email from Betsy Hughes to Harriet Honigfeld with 2 Photographs ..	O-3
May 7, 2019 Email from Kathy Sircovitch to Harriet Honigfeld with 10 Comments and Questions	O-4
May 7, 2019 Email from Kathy Sircovitch to Harriet Honigfeld with Photos a through q taken December 24, 2018	O-5
May 7, 2019 Email from Kathy Sircovitch to Harriet Honigfeld with Photos a through e taken August 20, 2018 and Later.....	O-6

May 7, 2019 Email from Kathy Sircovitch to Harriet Honigfeld with Photos
a through h taken May 6, 2019 O-7

May 7, 2019 Submission from James W. Corbin with Exhibits 1 through 12 O-8

May 7, 2019 Submission from Michael Sircovitch to the Monmouth CADB O-9

May 21, 2019 Email from Jim Carbin to Harriet Honigfeld with 4 Attached
Photographs a through d O-10

Email Exchange Between Michael Sircovitch and Matthew Zahorsky with
the Subject 1923 Baileys Corner Road May 1 through May 9, 2019 Excerpt
Forwarded to Harriet Honigfeld on May 10, 2019 O-11

June 9, 2019 Email from Kathy Sircovitch to Christopher Beekman along with
May 11, 2019 Farm to Table Hoedown Flyer Referenced in Message O-12

May 9, 2019 Email from Michael Sircovitch to Matt Zahorsky and Nora Coyne
Re: Allaire Community Farm Construction Entrance Complaint with Photos
a through e O-13

Email Exchange Between Kathy Sircovitch and Wall Township From
June 18 to 19, 2019 Regarding Animal Noises O-14

Email from Betsy Hughes to Harriet Honigfeld Dated June 19, 2019 with
associated video (a)..... O-15

Email from Kathy Sircovitch to Harriet Honigfeld Dated June 19, 2019 O-16

Email Exchange between Michael Sircovitch and Matthew Zahorsky from
June 20, 2019 to May 16, 2019 with the Subject 1923 Baileys Corner Road
with 4 Attached Photos (picks up from Exhibit O-11)..... O-17; and

WHEREAS, the MCADB heard testimony, reviewed submissions and exhibits, and considered the Applicant’s request during the Board’s public meetings on May 7, 2019; July 2, 2019; and August 6, 2019; and

WHEREAS, the Applicant was represented by Dennis A. Collins, Esq.; and

WHEREAS, Peter Avakian, a Supervising Engineering at Leon S. Avakian, Inc., served as a witness for the Applicant. He described the proposed site plan, existing and proposed structures, parking, lighting, Americans with Disabilities Act improvements, and stormwater among other topics; and

WHEREAS, Sean Burney, Chief Executive Officer of Allaire Community Farm, offered his own testimony in support of the application. Mr. Burney provided background re-

lated to the prior site in which the farm operated as well as details regarding the acquisition of the current farm. Mr. Burney then discussed in detail the different events that take place on the farm. These events include farm-to-table dinners, class trips for educational purposes, an Old-fashioned Christmas on the Farm and Poinsettia Sale during the winter/holiday season, a fall Harvest Festival, and a Farm-to-table Hoe Down. Mr. Burney explained that the larger events would be controlled through the use of Eventbrite to avoid overcrowding and make sure sufficient parking is available on site for guests. The Applicant explained its safety goal of having all customers/visitors park on the premises rather than across the street. Further, the purpose of the events is to draw attention to the farm products, and the farm itself, so as to market the agricultural output of the farm. The Applicant then explained its emergency protocol. Lastly, the Applicant discussed the lighting plans, bathroom layout, garbage pickup, and proposed times for the various events; and

WHEREAS, James Carbin, Michael Sircovitch, Kathy Sircovitch, David Boss, and Elizabeth Hughes, neighbors of the farm, provided public comments related to the application expressing concerns about the intensity of the activities and number of guests on the farm, noise, the placement of the farm market, a lack of buffers between the farm and adjacent properties, lights from visiting vehicles, trash, fees collected, and other issues; and

WHEREAS, the Board carefully considered the testimony of the Applicant and public in making its determination; and

WHEREAS, after considering the testimony given and the exhibits presented at the hearing, the Board makes the following findings of fact:

1. Block 804, Lot 7 in Wall Township is approximately 25 acres in size and is situated at
2. The farm is located in Wall Township's Rural Residential RR-6 zone.
3. Allaire Community farm purchased Block 804 Lot 7 on May 15, 2018. The nonprofit previously leased space and ran its operation at Block 804 Lot 8.01.
4. Block 804 Lot 8.01 is a preserved farm subject to an easement held by the Township of Wall.
5. Block 804 Lot 7 was previously owned by Kayal Family Limited Partnership and operated as an equine farm.
6. Allaire Community Farm is engaged in the agriculture production of herbs, eggs, crops (e.g., tomatoes, peppers, lettuce, and cut flowers), and goats milk products.
7. The SSAMP request relates to a set of permissible activities listed in N.J.S.A. 4:1C-9, primarily:
 - a. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards; and

- b. Conduct agriculture-related educational and farm-based recreational activities provided that the activities are related to marketing the agricultural or horticultural output of the commercial farm.
8. The building designated as the farm market has been in existence for approximately one hundred (100) years and, as such, its current use as a barn is grandfathered from the Township of Wall's setback requirements (whereby an accessory farm business must be 400' from any residential property; this building lies 27' from the property line). Furthermore, the width of the property is only 299'. The Applicant plans to convert the use of the barn into a farm market that would sell the agricultural output of the farm, including but not limited to plants, flowers, soaps, vegetables, animal byproducts, eggs, medicinal and culinary herbs, bedding plants, fruits, microgreens, nuts, and hay.
9. The Applicant hosts the following activities between the hours of 6 AM and 10 PM:
 - a. Educational Activities: These activities are prescheduled, not open to the public, and have a learning component. Visitors include but are not limited to school, Scout, and camp groups.
 - b. Recreational Activities: hayrides, petting zoo, goat yoga. These activities are conducted during regular business hours as well. Goat yoga classes are scheduled within the above-referenced hours of operation.
 - c. Entertainment: Birthday parties.
 - d. Marketing: The following events for marketing purposes are currently taking place on the subject property: Harvest Festival, Old-fashioned Christmas on the Farm and Poinsettia Sale, farm-to-table dinners, Farm-to-table Hoe Down, and other special events. For larger events, patrons must preregister on Eventbrite and select one of two shifts. Moving forward, the events would be conducted as follows: The Harvest Festival is proposed for every weekend from September to the end of October and would run from 9 AM to 6 PM. The Farm to Table Hoe Down would end at 9 PM and would be conducted once a year. It is the largest event on the farm and would accommodate a few hundred people. The Old-fashioned Christmas and Poinsettia Sale would be conducted on weekends during the winter/holiday months during the normal course of business. The farm-to-table dinners would open the farm to approximately 50 to 100 guests and would run from 6 PM to 10 PM. An estimated 9 dinners would be held at different points in the year.
10. According to the "Fact Sheet for Commercial Farm Buildings Standards Under the New Jersey Uniform Construction Code" published by the New Jersey Department of Agriculture in consultation with the New Jersey Department of Community Affairs in November 2014, a UCC permit is not required for a three-sided turn-out shed (a run-in shed) used to shelter livestock provided the following guidelines are met: there is no

permanent foundation or floor; the structure is 250 square feet or less in area; the structure is 14 feet or less in height; there are no utility connections; and the structure is of sufficient weight to remain in place or must be anchored to the ground.

11. The Applicant represented, and the Board finds, that the run-in sheds and Indoor Training Facility are not designed to and will not function as facilities that will house animals. Rather they are used as protection from the weather and for training and exercising during winter periods respectively.
12. Testimony described the route of the hay ride as: in front of Building J travelling west, right turn proceeding north between Buildings L and M, left travelling west to tree line, left heading south to end of horse paddocks, left heading east to end of petting zoo, left heading north and slightly west back to Building J.

NOW, THEREFORE, BE IT RESOLVED, based on exhibits presented, testimony given and the aforesaid findings of fact, the Monmouth County Agriculture Development Board makes the following determinations:

1. The existing frame barn (Structure D shown on Exhibit A-6a) may be converted to a retail farm market despite being 27' from Block 804 Lot 7's northern property line. This is a departure from the zone's 400' side yard setback. The use of the existing frame barn is best suited for the retail market based on its location on the property and the fact that if another building were erected in compliance with the setback it would take additional land out of production. The 1425 SF building is also granted relief from the zone's 1000 SF cap for accessory farm structures. The On-Farm Direct Marketing AMP [N.J.A.C. 2:76-2A.13g(1)-(2)] permits deviation from its 50' setback requirement if the approval is conditioned on buffering. Accordingly, this approval is conditioned on approximately 100 feet of 6'-high stockade fencing being erected along the border of Block 804.07 Lot 1 behind Building B as marked on Exhibit A-6a. Furthermore, supplemental landscaping must be installed that when combined with existing on-site vegetation will produce 75 percent screening of the farm market facility within 5 years. In addition, at least 51 percent of the annual gross sales of the retail farm market shall be generated from sales of agricultural output of the commercial farm, or at least 51 percent of the sales area shall be devoted to the sale of agricultural output of the commercial farm.
2. The maximum impervious coverage at the farm is approved up to 8.40% per Exhibits A-7 and A-6a, a departure from Wall Township's RR-6 zone impervious coverage cap of 6%. The deviation from the ordinance was approved based on the need for additional impervious coverage for ADA pathways and features to allow for easier access to those handicap and disabled adults/children that frequent the farm for events. Further, the original driveway is being altered to allow for safer ingress and egress for guests as well as sufficient room for buses to navigate when entering and leaving the farm.
3. The proposed 2-sided 68" x 63" sign located 15 feet from the edge of Baileys Corner Road is acceptable. Signage and additional advertising for the events covered by this

SSAMP are to be governed by the AMP for On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13g(1)-(2)].

4. The parking lot surface may include gravel and grass areas, as proposed in Exhibit A-6a, a departure from the municipal standard requiring paved surfaces. Gravel would be easier to remediate and return areas to production, which, in turn, would prevent farmland from being permanently removed from production.
5. Placement of the 37 gravel and 62 grass parking spaces shown on Exhibit A-6a is acceptable with the condition that the 6'-high stockade fence depicted on the plan adjacent to Block 804 Lot 5 is also erected. Further, supplemental landscaping shall be installed on the borders of the farm and Block 804 Lots 5 and 6 as far west as the larger crop area E shown on the site plan that when combined with existing on-site vegetation will produce 75 percent screening of the farm and parking areas within 5 years. The rationale for this conclusion is that there are adjacent residences on the south side of the farm, headlights may be intrusive, and the events are held at a frequency that warrants some buffering. The final plans regarding buffers shall be submitted to the County and approved by staff and/or County professionals so that the submission is in compliance with the terms of this resolution.
6. The existing chicken coop about 80 feet from Block 804 lot 8.01 and over 150 feet from lot 6 is acceptable despite the municipal requirement of a 150' side yard setback for structures that house animals. Block 804 lot 8.01 is a preserved farm so deviation from the ordinance would have little to no impact, and the chicken coop complies with the ordinance with regards to Block 804, Lot 6.
7. The Site Lighting Plan prepared by Leon S. Avakian, Inc., dated May 23, 2019 and submitted as Exhibit A-8 is acceptable. Any additional lighting for activities covered by this SSAMP is to be governed by the AMP for On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13g(1)-(2)].
8. The sanitary facilities described in the exhibits and testimony are acceptable as long as they comply with the AMP for On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13g(1)-(2)].
9. Farm-based educational activities on the farm such as classes as well as prescheduled group activities including but not limited to school, Scout, and camp group visits are approved. Hours must comply with the AMP for On-Farm Direct Marketing Facilities, Activities, and Events [N.J.A.C. 2:76-2A.13g(1)-(2)].
10. Farm-based recreation activities including hay rides and a petting zoo are customary on-farm direct marketing activities and thus approved. Also, the petting zoo is a comparable land use to the prior owner's livestock operation. Goat yoga is also an acceptable on-farm direct marketing activity since the Applicant sells value-added goat products. Based on the layout of the farm, the hay ride route chosen is the most unobtrusive path as it relates to neighboring properties.

11. Birthday parties hosted by the Applicant are an acceptable means of on-farm direct marketing as long as guest activities relate to agriculture and promote the sale of products from the farm.
12. The revised event management plan dated April 15, 2019 marked as Exhibit A-6h is acceptable with regards to parking and pedestrian safety measures, sanitary measures, emergency management, and other logistics. This approval is only for the logistics described within the plan and not an automatic approval of any of the activities depicted in Exhibit A-6h.
13. The Applicant's Harvest Festival, Old-fashioned Christmas on the Farm and Poinsettia Sale, and farm-to-table dinners are approved as on-farm direct marketing activities as long as there is sufficient nexus to products grown on the farm. The standard of 51% of the farm's own products being sold or used shall apply. Events such as the Farm to Table Hoe Down would not comply with this standard due to the number of attendees and limits to the farm's production capacity. In addition, outside vendors must be agriculture-related. Any events that do not meet these parameters shall fall within Wall Township's jurisdiction.
14. Oversight of the annual Farm to Table Hoe Down shall be deferred to the Township of Wall as the event is primarily a fundraiser for the nonprofit organization.
15. Oversight of Mental Health Day and Special Needs Day may be deferred to the municipality if a significant number of nonagricultural vendors are present on the site, as that would fall outside of the jurisdiction of the Right to Farm Act.
16. The Applicant's High Density Animal Waste Management Plan, submitted as Exhibit A-2f and reviewed by the NJ Department of Agriculture, appears to be compliant with N.J.A.C. 2:91 with the condition that plan be fully implemented by November 20, 2021 per instructions from Kelly Semple in her November 20, 2018 letter to the Applicant.
17. Oversight of the proposed equine riding arena, therapeutic riding lessons, the equine run-in sheds, and other equine matters shall be deferred to the municipality as the Applicant does not meet the eligibility criteria for equine activity right to farm protections under N.J.A.C. 2:76-2B.3.
18. In addition to the buffers outlined above, there is a need to provide additional protection to the Applicant's neighbors to prevent noise, lighting, etc. and to mitigate unreasonable adverse impacts on adjacent properties.. The Board considered the impact the events on the farm would have on the neighbors and sought to lessen said impact by supplementing existing buffers. Aside from the aforementioned 100'-long buffer behind the retail farm market, the Applicant shall buffer the boundary of Block 804.07 Lot 1 starting from the eastern corner of the 2-story garage to the corner of the 2-story brick dwelling with either a stockade fence or supplemental landscaping that when combined with existing on-site vegetation will produce 75 percent screening of the farm and parking areas. In addition, a supplemental landscaping buffer must extend

from the proposed stockade fence along lot 1 to the western corner of lot 2. Buffers needed for Block 804 Lots 5 and 6 are detailed in item 5 above. The final plans regarding buffers shall be submitted to the County and approved by staff and/or County professionals so that the submission is in compliance with the terms of this resolution. The rationale for this conclusion is based on the nature of the existing adjacent properties, the nature and scale of the commercial farm's on-farm direct marketing facilities, activities and events, the frequency of the commercial farm's activities and events, the presence or absence of existing on- or off-farm buffers, and the economic feasibility of using buffers.

BE IT FURTHER RESOLVED that the activities on the farm must conform to all relevant Federal and State statutes, rules and regulations, including, but not limited to the New Jersey Department of Agriculture, the New Jersey Department of Environmental Protection, and Freehold Soil Conservation District; and

BE IT FURTHER RESOLVED that if over time the subject Farm substantially changes its operations to deviate from the provisions agreed upon in these resolutions, the Applicant, municipality or any other aggrieved party would be entitled to return to the Board to request relief; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the Applicant through counsel, the State Agriculture Development Committee, the Township of Wall, and the Applicant.

BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal 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 the receipt of this resolution. The decision of the SADC shall be considered a final administrative agency decision. If this resolution is not appealed within 45 days, this resolution is binding.

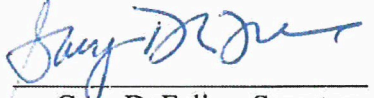
Seconded by Mr. Foster and adopted on roll call by the following vote:

	Yes	No	Abstain	Absent
Mr. Bullock	X			
Mr. Buscaglia	X			
Ms. Butch	X			
Mr. Clayton *	X			
Mr. DeFelice			X	
Mr. Foster	X			
Mr. Giambrone				X

Ms. Grbelja	X			
Mr. Holmes	X			
Mr. Matthews*	X			
Mr. Potter	X			

* Alternate members in 2019

I do hereby certify that the foregoing is a true copy of a resolution adopted and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 3rd of September, 2019.


 Gary DeFelice, Secretary