

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
RECOMMENDING SITE SPECIFIC AGRICULTURE MANAGEMENT
PRACTICE UNDER THE NEW JERSEY RIGHT TO FARM ACT**

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

WHEREAS, Wendell and Leslie Nanson ("the Nansons") have applied to the Monmouth County Agriculture Development Board ("the Board") pursuant to N.J.A.C. 2:76-2.3, requesting a determination from the Board as to whether the commercial farm operated by them and known as WLN Farm and Grounds Maintenance ("WLN") at Block , Lot , in the Township of Howell, commonly known as ("the Property"), and the proposed uses of and improvements to the Property constitute a generally accepted agricultural operation or practice; and

WHEREAS, the Nansons propose to use the Property to grow perennials, annuals, flowers and shrubs primarily to supply the grounds maintenance part of their business with the plant materials needed to fulfill their grounds maintenance contracts;

WHEREAS, a site visit to the Property was conducted on October 21, 2002 ("the Site Visit"), which was attended by Wendell Nanson, Leslie Nanson, Board staff member Dan Mott, Board Chairman William McCormack, Monmouth County Agricultural Agent Richard Obal, applicants' attorney Peter R. LaFrance, Esq. and Howell Township Land Use Director Vito M. Marinaccio; and

WHEREAS, the Board conducted a hearing on the Nansons' application on

November 6, 2002, at which the Nansons were represented by Peter R. LaFrance, Esq.; and

WHEREAS, the Nansons testified concerning the farm and grounds maintenance operations and the proposed improvements to the Property to be used in connection with the farm operation; and

WHEREAS, Vito M. Marinaccio, the Howell Township Land Use Director, appeared in opposition to the application, testified and displayed a videotape of workers at the Property; and

WHEREAS, the grounds for Mr. Marinaccio's objections to the application were that product grown on the farm is used in WLN's off-site grounds maintenance operations, that most farms in Howell grow product for on-site sales and WLN does not, that product grown on the Property is taken for sale outside of Howell and often outside Monmouth County, that vehicles are sometimes taken from the Property and used in connection with the Montrose Farm operation, and that WLN "co-mingles" its farm and grounds maintenance operations; and

WHEREAS, Mr. Marinaccio testified that the aforesaid proposed activities of WLN are not, to his knowledge, expressly prohibited by municipal ordinance, statute, rule or regulation, but, as he interprets Howell's land use ordinances, it his personal opinion that they should not be permitted; and

WHEREAS, Mr. Marinaccio testified that the buildings proposed by the Nansons are satisfactory to him provided they are used in connection with an agricultural or horticultural operation; and

WHEREAS, Karen Wilkin, a neighbor, testified that she operates a 15 acre

horse breeding operation across Yellowbrook Road from the Property, she is familiar with WLN's operations, the Property is used as a farm and the farm generates less vehicle traffic than other uses in the area; and

WHEREAS, Warren Curry, a past chairman of the Farmers' Advisory Commission testified that he is familiar with WLN's operation at the Property and it is a farm use which is protected by the Right to Farm Act; and

WHEREAS, Susan Corcoran Smith testified that she frequently drops off and picks up children during business hours at the Property and she has never observed activity which could be characterized as the conduct of a grounds maintenance business; and

WHEREAS, Michael Epinger offered a notarized letter from the Nansons' next door neighbor, William Wynn, who was in Florida, supporting the application and which stated that the Nansons' have cleaned up and made improvements to the Property "which make it the nicest property on the street," he has observed the activities on the Property and knows that the farm's work day starts between 7:30 and 8:00 A.M. and the activities are either personal or farm related and almost always take place behind the house or in the fields and are not visible from the street; and

WHEREAS, a letter was offered to the Board from Roger A. Mumford, the owner of Montrose Farm, stating that WLN "performs contract tasks" on his farm and "identifies issues on the property"; and

WHEREAS, Susan McLaughlin testified that she lives across Yellowbrook Road from the Property, she opposes the grounds maintenance operation, does not

oppose the farming operation at the Property and has, on three occasions, observed two trips by vehicles from the Property to Montrose Farm and one vehicle which she followed until the vehicle reached the Raritan bridge; and

WHEREAS, Peter McLaughlin testified that he is Susan McLaughlin's husband and that the business office for the grounds maintenance part of the WLN operation is operated out of the Property, WLN has a full-time secretary and the site generates much vehicular traffic; and

WHEREAS, the Board has considered the evidence presented in support of and in opposition to the application.

NOW, THEREFORE, based on the evidence presented, including the applicants' certifications required by N.J.A.C. 2:76-2.3(b), the Board makes the following findings of fact:

1. The Property is located at Block , Lot in the Township of Howell and is commonly known as Yellowbrook Road;
2. Wendell and Leslie Nanson are the owners of the Property;
3. The Nansons purchased the Property for farming purposes on July 31, 2000;
4. The operation located at the Property trades as WLN Farm and Grounds Maintenance;
5. The Property consists of approximately 20 acres on the east side of Yellowbrook Road;
6. The following conditions at the Property were observed during the Site Visit: a new irrigation well; approximately 2 to 3 acres of newly planted nursery

liners, including a large selection of deciduous and evergreen ornamental and native trees and shrubs; trees for reforestation to be transplanted to adjoining woodland areas for timber production; approximately 1/4 acre of large nursery stock; in ground beds lining the nursery area that are filled with potted spring bulbs for harvest the following spring; an approximately 6 acre wooded area east of the nursery field, with evidence of woodland management practices which included brush cleaning for potential nursery stock expansion, woodstand thinning and harvesting; a clear graded site for proposed greenhouses; large agricultural cultivation equipment; and a large quantity of stacked firewood;

7. The Property is operated as a farm and the office on-site is used in support of both the farming and WLN's grounds maintenance operations which are conducted at Newark and Kennedy Airports and other New York and New Jersey Port Authority facilities;

8. WLN employs two full-time employees and one full-time supervisor at the Property and Leslie Nanson employs one personal assistant who also performs farm-related office work at the Property;

9. The Nansons propose to plant, grow and harvest nursery stock, including greenhouse grown flowers (annuals and perennials), flowers, plants, shrubs and trees;

10. The Nansons propose to erect 2 pre-fabricated metal equipment storage sheds on existing concrete slabs as shown on the site plan/plat filed in support of the application;: Shed 1 to be 200' x 50' with a business office at one end and Shed 2 to be 190' x 28'. Shed 1 is proposed to be erected promptly and Shed 2 at

a future date as the farm's needs shall require;

11. The Nansons also propose to erect in the future, as the farm's needs shall require, three 30' x 100' non-permanent greenhouses as shown on the site plan/plat filed in support of the application;

12. The Nansons propose to perform the plantings and agriculture related work identified on the site plan/plat filed in support of the application;

13. Farm equipment is currently stored outdoors, is subject to the elements, not secured and have previously been subject to theft;

14. The Nansons propose to use the agricultural production of the Property primarily to supply the grounds maintenance part of their operation with the plant materials needed to fulfill WLN's grounds maintenance contracts;

15. The Nansons do not, and do not intend in the future to, operate a landscaping business from the Property;

16. In addition to supplying plant materials for WLN's ground maintenance operation, the Property produces and sells firewood to the public;

17. In addition to farming operations at the Property, WLN has a commercial relationship with the Montrose Farm in Colts Neck, New Jersey whereby WLN manages trees and shrubs, shears Christmas trees and makes tree sales for Montrose Farm's owner;

18. The Property produces agricultural products worth \$2,500 or more annually and the Property meets the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, P.L. 1964, c. 48 (N.J.S.A. 54:23.1, *et seq.*);

19. The Property is located in an ARE-6 zone which is 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;

20. WLN's operation at the Property qualifies as a commercial farm as defined in the New Jersey Right to Farm Act (N.J.S.A. 4:1C-3);

21. The equipment used in support of WLN's ground maintenance at Newark and Kennedy airports is stored at those facilities, although, in order to make efficient and economical use of the equipment owned by WLN, equipment from the airport operations is, when it is needed and available, often used in connection with the farming operations at the Property;

22. Workers employed in connection with the grounds maintenance part of WLN's operation do not work at and are not dispatched from the Property;

23. WLN's use of equipment, both in the farming operations at the Property and in conjunction with the off-site grounds maintenance operations, is an efficient use of capital that benefits the farming operation; and

24. The erection of equipment storage sheds as proposed is necessary to protect the equipment from the elements, theft and vandalism; and

25. The Howell Land Use Director's interpretation of the Howell Land Use Ordinances is not legally supportable, his personal opinion about what should or should not be permitted is irrelevant and the activities conducted at the Property, including selling farm-grown products off-site, selling farm-grown products outside of Howell and Monmouth County, moving farm vehicles for use at other farm locations, are not uncommon farming practices, make economic sense, and should

not be prohibited; and

26. The videotape taken at the Property on June 7, 2001, at 7:30 A.M. by Mr. Marinaccio depicts four men apparently arriving for work, meeting in the parking area, placing spades on a truck, and is of little probative value with respect to the issues involved in this application;

27. The WLN existing and proposed operation and improvements at the Property do not pose a threat to public health or safety;

28. The proposed improvements to the Property are appropriate to the agricultural use of the Property;

29. The proposed use of the Property for the nursery and other plantings proposed by the applicants are accepted agriculture management practices relative to the farming operation being conducted by WLN at the Property.

NOW, THEREFORE, BE IT FURTHER RESOLVED that, based on the aforesaid findings of fact, the Monmouth County Agriculture Development Board recommends the proposed improvements and uses as set forth in the site plan/plat filed in connection with the Nansons' application as accepted agricultural management practices within the meaning of the New Jersey Right to Farm Act and the regulations promulgated pursuant thereto, PROVIDED, HOWEVER, that the Board FURTHER RESOLVES that the proposed improvements and uses are not recommended with respect to any non-agricultural or non-horticultural use, including, but not limited to, the operation of a landscaping business at the Property.

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

YES NO ABSTAIN ABSENT

Mr. Buscaglia	X	
Mr. Hom		X
Mr. Illmensee	X	
Mr. McCarthy	X	
Mr. McCormack	X	
Mr. Potter (RECUSED)		
Mr. Pugliesi	X	
Mr. Rifkin	X	
Mr. Stuart	X	

I certify that foregoing is a true copy of the Resolution of the Monmouth County Agriculture Development Board duly adopted at a regular meeting of the Board on November 6, 2002, and memorialized on December 4, 2002.

Dated:

Richard Obal, Secretary