

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING JURISDICTION OVER A REQUEST FOR A SITE-SPECIFIC
AGRICULTURAL MANAGEMENT PRACTICE FOR SEVEN BRIDGES
WINERY**

Ms. Butch offered the following resolution and Mr. DeFelice moved its adoption:

WHEREAS, on February 9, 2013, Seven Bridges Winery, LLC (the "Applicant") applied for a Site Specific Agricultural Management Practice ("SSAMP") recommendation for Block 66, Lots 16 and 16.2 in the Borough of Little Silver; and

WHEREAS, the SSAMP request asked the Monmouth County Agriculture Development Board ("MCADB" or "Board") to evaluate its grape products and prior hay and flower production; and

WHEREAS, the Applicant requested the Board to affirm that the tasting and retail sales of the products produced is an accepted farm management practice and that the Applicant be permitted to package the agricultural output and establish a farm market facility for tasting the products produced; and

WHEREAS, Block 66, Lots 16 and 16.2 in Little Silver are located in a Residential zone and agriculture is not a permitted use; and

WHEREAS, the proposed expansion in its operations would create an extension in a non-conforming use; and

WHEREAS, the Applicant approached the Borough of Little Silver to request a zoning change or variance that would enable the proposed expansion, but the parties could not reach an agreement and the matter never proceeded to a formal hearing before the municipal zoning board; and

WHEREAS, the Applicant now requests approval for a SSAMP from the Board; 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 et seq. details the State Agriculture Development Committee's rules; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(b), upon receipt of a request for a 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 whether the

Board has jurisdiction to hear the matter pursuant to N.J.S.A. 4:1C-9; and

WHEREAS, N.J.S.A. 4:1C-9 states in pertinent part:

Notwithstanding the provisions of any municipal or county ordinance, resolution or regulation to the contrary, the owner or operator of a commercial farm, located in an area in which, as of December 31, 1997, or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or which a commercial farm is in operation as of the effective date of P.L. 1998, c. 48 (C:4:1C-10.1 et. al.), and the operation of which conforms to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedures Act," P.L. 1968, c. 410 (C.52:14B-1 et. seq.), or whose specific operation or practice has been determined by the appropriate county board, or in a county where no county board exists, the committee, to constitute a generally accepted agricultural operation or practice, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto, and which does not pose a direct threat to public health and safety may...

c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards... .; and

WHEREAS, N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3 define a commercial farm as either:

- (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, or
- (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964; and

WHEREAS, N.J.S.A. 4:1C-1 et seq., the Right to Farm Act, defines a farm market as:

"Farm market" means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51% 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% of the sales areas shall be devoted total the sale of agricultural output of the commercial farm...”

WHEREAS, the MCADB conducted a site visit on March 18, 2013 that was attended by the Rutgers Cooperative Extension agent, MCADB Members, MCADB staff and MCADB counsel. The focus of this site visit was to view the subject property and the proposed operation prior to scheduling a public hearing on the matter; and

WHEREAS, MCADB staff conducted a follow-up site visit on June 19, 2013 to take additional photographs and view a proposed new ingress; and

WHEREAS, the MCADB heard testimony, reviewed exhibits, and considered the Applicant’s request as well as objections presented by the Borough of Little Silver and the public, during the Board’s public meetings on August 7, 2013, October 2, 2013 and February 11, 2014; and

WHEREAS, the Applicant and objectors submitted legal briefs and exhibits addressing the applicant’s ability to meet the requirements of N.J.S.A. 4:1C-9; and

WHEREAS, the Board reviewed In Re Tavalario, 386 N.J. Super. 435 (App. Div. 2006), and the argument advanced by objectors that the applicant must produce proof they have engaged in agriculture production worth a minimum of \$2,500 annually from 1998 to the present due to the fact that the farm is a non-conforming use in a residential zone that does not allow agriculture (N.J.S.A. 4:1C-9); and

WHEREAS, the Applicant was asked to substantiate that it produced on the farm management unit more than \$2,500 of agricultural or horticultural products within the prior calendar year, to substantiate it was a Commercial Farm, defined in N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, the MCADB heard testimony, reviewed exhibits, and considered the Applicant’s submissions, as well as the objectors’ submissions, during its public hearings on August 7, 2013, October 2, 2013 and February 11, 2014; and

WHEREAS, the following exhibits were entered into evidence during the public hearings:

- Exhibit A-1: SSAMP application, property tax records, IRS Form Schedule F for 2010-2012, and correspondence from Borough counsel.
- Exhibit A-2: Correspondence from opposing counsels.
- Exhibit A-3: Survey of the property dated January 16, 2008 and prepared by Yorkanis & White, Inc.
- Exhibit A-4: Trip Generation Estimate.
- Exhibit A-5: Copy of a processed check from Cream Ridge Winery, Inc. paid to

Dr. Richard DeBlasi, dated 10/23/2008.

- Exhibit A-6: Copy of three signed statements from Robert N. Leach stating that he had purchased grapes from Seven Bridges Winery in October 2009, 2010 and 2011.
- Exhibit A-7: Copy of three signed statements from Jody Pittman stating that grapes were purchased from Seven Bridges Winery in 2009, 2010 and 2011.
- Exhibit A-8: Copy of a signed statement from Robert Felle stating that grapes were purchased from Seven Bridges Winery in October 2010.
- Exhibit A-9: Copy of two signed statements from The Jersey Shore Farms from Chuck Boyce stating that grapes were purchased from Seven Bridges Winery in 2011, 2012 and 2013.
- Exhibit A-10: Aerial photos of the parcel.
- Exhibit A-11: Survey plat from Geller Sive and Company, dated July 2, 2013 and signed by Michael Geller.
- Exhibit A-12: Correspondence from Patrick Accisano (counsel for the Applicant) dated September 3, 2013.
- Exhibit A-13: Correspondence between CADB staff and Division of Engineering, Report from Geller Sive & Company; written public comments and photos from neighbors and various neighboring stakeholders; correspondence from Borough counsel.
- Exhibit A-14: Correspondence dated January 6, 2014 from the Applicant's counsel, IRS Schedule F from 1998.
- Exhibit A-15: Correspondence dated January 23, 2014 from Borough counsel with attachments.
- Exhibit A-16: Correspondence dated January 23, 2014 from opposing counsel with attachments.
- Exhibit A-17: Correspondence dated January 31, 2014 from the Applicant's counsel.
 - A-17a: IRS Schedule F's from 1998-2013 for the Applicant's property in Little Silver, NJ.
 - A-17b: IRS Schedule F's from 1998-2013 for the Applicant's property owned in the Locust section of Middletown, NJ.
 - A-17c: Additional supporting documentation provided by the Applicant including pictures and an excerpt from the *Wine Grape Production Guide for Eastern North America*, published by Virginia Tech University.
- Exhibit O-1: Aerial photo.
- Exhibit O-2: Survey dated January 7, 1985 and prepared by Leon S. Avakian Inc.

WHEREAS, the landowner and his consultant, Al Natali, testified about the unique site conditions that exist on the property, which added to the challenges of finding a successful grape variety for the conditions; and

WHEREAS, the Board heard testimony from Dr. William Sciarappa, the Rutgers Cooperative Extension agent, Secretary and a non-voting member of the Board, explaining his professional involvement in providing recommendations to the Applicant

during the time in which the Applicant was transitioning the operation to grape production, and concurring with the Applicant's testimony about the challenges on the site; and

WHEREAS, it is customary for the Rutgers's Cooperative Extension Agent to provide testimony and advise the Board and farmers, including Applicant, on issues related to farming and the Right to Farm Act in his normal course of responsibilities.

THEREFORE BE IT RESOLVED, after having considered the testimony given and exhibits presented on August 7, 2013, October 2, 2013 and February 11, 2014, the MCADB makes the following findings of fact:

1. The Applicant's property is located in a residential zone in which agricultural is not a permitted use, as such, the Applicant must meet the requirements of N.J.S.A. 4:1C-9 for the Board to consider whether the Applicant also qualifies as a Commercial as defined by N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.
2. Pursuant to N.J.A.C. 2:76-2.3, upon the receipt of a request for a SSAMP, the MCADB must determine whether the 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 also, if the property is a non-conforming use that it must also satisfy the threshold requirements of N.J.S.A. 4:1C-9.
3. The Applicant's farm is greater than five acres, as supported by the tax records submitted as Exhibit A-1 and the survey submitted as Exhibit A-3.
4. The farm was in operation prior to July 2, 1998, according to Applicant's tax records identified in Exhibits A-17a and A-17b, as well as testimony provided by the Applicant about his farm practices since 1998.
5. The Board considered whether the applicant meet the statutory requirements of N.J.S.A. 4:1C-9 and finds that the Applicant satisfied its burden of proof for the following reasons:
 - a. The Applicant testified that it has been engaged in agricultural production since before 1998 and produced agricultural or horticultural products worth \$2,500 in 1998, and a majority of years thereafter to the present, based on the sale of grapes, hay, and flowers. The testimony was further supported by receipts, signed statements from purchasers, and the submission of IRS Form Schedule F's for the years leading up to the current application.
 - b. The Applicant has demonstrated that the property is eligible for

and receives differential property taxation pursuant to the Farmland Assessment Act of 1964.

- c. The Board considered the objectors' argument that the Tavalario decision required the Applicant to show it produced at least \$2,500.00 in actual income from farm related products from 1998 to the present. The Board is concerned that accepting that strict interpretation of Tavalario, supra, requiring the Applicant to provide 16 years or more of financial records for this application is onerous. The Board takes notice that financial records are typically retained for a period of seven years, and it did not hear this application until 2013. As years pass such a task would be increasingly difficult, if not impossible, for legitimate farms to meet this requirement, and it would be counter to the intent of Right to Farm legislation. Further, the Board determined that grape production and transitioning from flower and hay to grape crop is distinguishable from the agricultural use in Tavalario, supra, as well as In the Matter of Joseph P. Arno (Appeal of Resolution issued by the Monmouth County Agriculture Development Board), SADC ID Number 1328-02, OAL Docket No. ADC4748-03 (February 26, 2004).
- d. The Applicant demonstrated through testimony that the application met the \$2,500 threshold from the years 1998 through the date of application, except for the period from 2002 to 2007; however the applicant demonstrated that it was an allowable period of transition in which the Applicant sought to change production from hay and flowers to grapes, which is permitted according to the New Jersey Right to Farm Act. During this transitional phase, the Applicant maintained justifiable farming activities to meet its burden of proof to establish that it was producing agricultural or horticultural products worth \$2,500 or more annually.
- e. Further, the Applicant provided an academic publication, submitted into evidence and identified as Exhibit A-17c, to substantiate that after planting grapes for wine production, it can take 3-5 years for the crop to mature before it is recommended to harvest the grapes and that also during the transition period, the Applicant engaged in other agricultural production; and
- f. Applicant's testimony about the maturation of a grape crop was further supported by testimony from the Rutgers Cooperative Extension Agent.

BE IT FURTHER RESOLVED that the Applicant's operation satisfies the provisions of N.J.S.A. 4:1C-9, the MCADB has jurisdiction over the operation.

BE IT FURTHER RESOLVED, the Agricultural operation does not pose a direct threat to public health and safety.

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the State Agriculture Development Committee, Borough of Little Silver, Erik Anderson, Esq. and the Applicant.

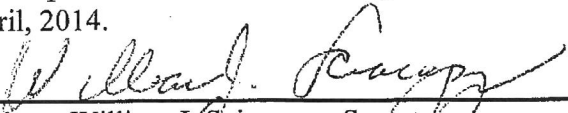
BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from the receipt of this resolution. 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. DeFelice and approved 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. McCarthy	X			
Mr. Potter	X			

* alternate member

I do hereby certify that the foregoing is a true copy of a resolution adopted on October 2, 2013, amended on February 11, 2014 and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 1st of April, 2014.



 William J. Sciarappa, Secretary

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING COMMERCIAL FARM ELIGIBILITY FOR A REQUEST FOR
A SITE-SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE FOR
SEVEN BRIDGES WINERY**

Ms. Butch offered the following resolution and Mr. Giambone moved its adoption:

WHEREAS, on February 9, 2013, Seven Bridges Winery, LLC (the "Applicant") applied for a Site Specific Agricultural Management Practice ("SSAMP") recommendation for Block 66, Lots 16 and 16.2 in Little Silver; and

WHEREAS, the SSAMP request asked the Monmouth County Agriculture Development Board ("MCADB" or "Board") to evaluate its grape products and prior hay and flower production; and

WHEREAS, the Applicant requested the Board to affirm that the tasting and retail sales of the products produced is an accepted farm management practice and that the Applicant be permitted to package the agricultural output and establish a farm market facility for tasting the products produced; and

WHEREAS, Block 66, Lots 16 and 16.2 in Little Silver are located in a Residential zone and agriculture is not a permitted use; and

WHEREAS, the proposed expansion in its operations would create an extension in a non-conforming use; and

WHEREAS, the Applicant approached the Borough of Little Silver to request a zoning change or variance that would enable the proposed expansion, but the parties could not reach an agreement and the matter never proceeded to a formal hearing before the municipal zoning board; and

WHEREAS, the Applicant subsequently requested approval for a SSAMP from the Board; 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 et seq. details the State Agriculture Development Committee's rules; and

WHEREAS, pursuant to N.J.A.C. 2: 76-2.3(b), upon receipt of a request for a

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 whether the Board has jurisdiction to hear the matter pursuant to N.J.S.A. 4:1C-9; and

WHEREAS, N.J.S.A. 4:1C-9 states in pertinent part:

Notwithstanding the provisions of any municipal or county ordinance, resolution or regulation to the contrary, the owner or operator of a commercial farm, located in an area in which, as of December 31, 1997, or thereafter, agriculture is a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, or which a commercial farm is in operation as of the effective date of P.L. 1998, c. 48 (C:4:1C-10.1 et. al.), and the operation of which conforms to agricultural management practices recommended by the committee and adopted pursuant to the provisions of the "Administrative Procedures Act," P.L. 1968, c. 410 (C.52:14B-1 et. seq.), or whose specific operation or practice has been determined by the appropriate county board, or in a county where no county board exists, the committee, to constitute a generally accepted agricultural operation or practice, and all relevant federal or State statutes or rules and regulations adopted pursuant thereto, and which does not pose a direct threat to public health and safety may...

c. Provide for the operation of a farm market, including the construction of building and parking areas in conformance with municipal standards... ; and

WHEREAS, N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3 define a commercial farm as either:

- (1) a farm management unit of no less than five acres producing agricultural or horticultural products worth \$2,500 or more annually, and satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964, or
- (2) a farm management unit less than five acres, producing agricultural or horticultural products worth \$50,000 or more annually and otherwise satisfying the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964; and

WHEREAS, N.J.S.A. 4:1C-1 et seq., the Right to Farm Act, defines a farm market as:

"Farm market" means a facility used for the wholesale or retail marketing of the agricultural output of a commercial farm, and products that contribute to farm income, except that if a farm market is used for retail marketing at least 51% 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% of the sales areas shall be devoted total the sale of agricultural output of the commercial farm...”

WHEREAS, the MCADB conducted a site visit on March 18, 2013 that was attended by the Rutgers Cooperative Extension agent, MCADB Members, MCADB staff and MCADB counsel. The focus of this site visit was to view the subject property and the proposed operation prior to scheduling a public hearing on the matter; and

WHEREAS, MCADB staff conducted a follow-up site visit on June 19, 2013 to take additional photographs and view a proposed new ingress; and

WHEREAS, the MCADB heard testimony, reviewed exhibits, and considered the Applicant’s request as well as objections presented by the Borough of Little Silver and the public, during the Board’s public meetings on August 7, 2013, October 2, 2013 and February 11, 2014; and

WHEREAS, the Applicant and objectors submitted legal briefs and exhibits addressing the applicant’s ability to meet the requirements of N.J.S.A. 4:1C-9; and

WHEREAS, the Board reviewed In Re Tavalario, 386 N.J. Super. 435 (App. Div. 2006), and the argument advanced by objectors that the applicant must produce proof they have engaged in agriculture production worth a minimum of \$2,500 annually from 1998 to the present due to the fact that the farm is a non-conforming use in a residential zone that does not allow agriculture (N.J.S.A. 4:1C-9); and

WHEREAS, the Applicant was asked to substantiate that it produced on the farm management unit more than \$2,500 of agricultural or horticultural products within the prior calendar year, to substantiate it was a Commercial Farm, defined in N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

WHEREAS, the MCADB heard testimony, reviewed exhibits, and considered the Applicant’s submissions, as well as the objectors’ submissions, during its public hearings on August 7, 2013, October 2, 2013 and February 11, 2014; and

WHEREAS, the following exhibits were entered into evidence during the public hearing:

- Exhibit A-1: SSAMP application, property tax records, IRS Form Schedule F for 2010-2012, and correspondence from Borough counsel.
- Exhibit A-2: Correspondence from opposing counsels.
- Exhibit A-3: Survey of the property dated January 16, 2008 and prepared by Yorkanis & White, Inc.
- Exhibit A-4: Trip Generation Estimate.
- Exhibit A-5: Copy of a processed check from Cream Ridge Winery, Inc. paid to

Dr. Richard DeBlasi, dated 10/23/2008.

- Exhibit A-6: Copy of three signed statements from Robert N. Leach stating that he had purchased grapes from Seven Bridges Winery in October 2009, 2010 and 2011.
- Exhibit A-7: Copy of three signed statements from Jody Pittman stating that grapes were purchased from Seven Bridges Winery in 2009, 2010 and 2011.
- Exhibit A-8: Copy of a signed statement from Robert Felle stating that grapes were purchased from Seven Bridges Winery in October 2010.
- Exhibit A-9: Copy of two signed statements from The Jersey Shore Farms from Chuck Boyce stating that grapes were purchased from Seven Bridges Winery in 2011, 2012 and 2013.
- Exhibit A-10: Aerial photos of the parcel.
- Exhibit A-11: Survey plat from Geller Sive and Company dated July 2, 2013 and signed by Michael Geller.
- Exhibit A-12: Correspondence from Patrick Accisano (counsel for the Applicant) dated September 3, 2013.
- Exhibit A-13: Correspondence between CADB staff and Division of Engineering, Report from Geller Sive & Company; written public comments and photos from neighbors and various neighboring stakeholders; correspondence from Borough counsel.
- Exhibit A-14: Correspondence dated January 6, 2014 from the Applicant's counsel, IRS Schedule F from 1998.
- Exhibit A-15: Correspondence dated January 23, 2014 from Borough counsel with attachments.
- Exhibit A-16: Correspondence dated January 23, 2014 from opposing counsel with attachments.
- Exhibit A-17: Correspondence dated January 31, 2014 from the Applicant's counsel.
 - A-17a: IRS Schedule F from 1998-2013 for the Applicant's property in Little Silver, NJ.
 - A-17b: IRS Schedule F from 1998-2013 for the Applicant's property owned in the Locust section of Middletown, NJ.
 - A-17c: Additional supporting documentation provided by the Applicant including pictures and an excerpt from the *Wine Grape Production Guide for Eastern North America*, published by Virginia Tech University.
- Exhibit O-1: Aerial photo.
- Exhibit O-2: Survey dated January 7, 1985 and prepared by Leon S. Avakian Inc.

THEREFORE BE IT RESOLVED, after having considered the testimony given and exhibits presented on August 7, 2013, October 2, 2013 and February 11, 2014, the MCADB makes the following findings of fact:

1. The Applicant's property is located in a residential zone in which agricultural is not a permitted use, as such, the Applicant must meet the

requirements of N.J.S.A. 4:1C-9 for the Board to consider whether the Applicant also qualifies as a Commercial as defined by N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.

2. The Board determined that the Applicant satisfied its burden of proof according to N.J.S.A. 4:1C-9 and, accordingly, adopted MCADB Resolution No. 2013-10-2.
3. Pursuant to N.J.A.C. 2:76-2.3, upon the receipt of a request for a SSAMP, the MCADB must determine whether the 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.
4. The Applicant's farm is greater than five acres, as supported by the tax records submitted as Exhibit A-1 and the survey submitted as Exhibit A-3.
5. The farm was in operation from 1998 to the present, according to applicant's tax records identified in Exhibits A-1, A-17a and A-17b, as well as testimony provided by the Applicant about his farm practices.
6. The Applicant has demonstrated that it has produced agricultural or horticultural products worth \$2,500 during the 2012 calendar year based on the sale of grapes, hay, and flowers as testified to by the Applicant and further supported by the submission of IRS Form Schedule F's for the preceding years leading up to the current application.
7. The Board considered whether the Applicant meet the statutory requirements of N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3 and finds that the Applicant satisfied its burden of proof to qualify as a Commercial Farm for the following reasons:
 - a. The Applicant testified that it has been engaged in agricultural production since 2010 and produced agricultural or horticultural products worth \$2,500 in 2010, 2011 and 2012, based on the sale of grapes, hay, and flowers. The testimony was further supported by receipts, signed statements from purchasers, and the submission of IRS Form Schedule F's for the years leading up to the current application.
 - b. The Applicant has demonstrated that the property is eligible for and receives differential property taxation pursuant to the Farmland Assessment Act of 1964.

BE IT FURTHER RESOLVED that based on the foregoing determinations, the Applicant's operation is a "commercial farm" as defined by the Right to Farm Act.

BE IT FURTHER RESOLVED that because the Applicant's operation does qualify as a "commercial farm" under the Right to Farm Act, the MCADB has jurisdiction over the operation.

BE IT FURTHER RESOLVED that the MCADB can proceed with the SSAMP application; and

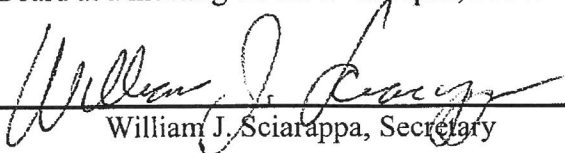
BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the State Agriculture Development Committee, the Borough of Little Silver, Erik Anderson, Esq. and the Applicant;

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. Giambrone and approved 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				
Mr. Holmes	X				
Mr. McCarthy	X				
Mr. Potter	X				
Mr. Stuart	X				

I do hereby certify that the foregoing is a true copy of a resolution adopted on October 2, 2013, additional determination was considered on February 11, 2014, and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 1st of April, 2014.



 William J. Sciarappa, Secretary

**RESOLUTION OF THE
MONMOUTH COUNTY AGRICULTURE DEVELOPMENT BOARD
RECOMMENDING A SITE-SPECIFIC AGRICULTURAL MANAGEMENT
PRACTICE FOR SEVEN BRIDGES WINERY**

Ms. Butch offered the following resolution and Mr. Bullock moved its adoption:

WHEREAS, on February 9, 2013, Seven Bridges Winery, LLC (the "Applicant") applied for a Site Specific Agricultural Management Practice ("SSAMP") recommendation for Block 66, Lots 16 and 16.2 in the Borough of Little Silver; and

WHEREAS, the SSAMP request asked the Monmouth County Agriculture Development Board ("MCADB" or "Board") to evaluate its grape products and prior hay and flower production; and

WHEREAS, the Applicant requested the Board to affirm that the tasting and retail sales of the products produced is an accepted farm management practice and that the Applicant be permitted to package the agricultural output and establish a farm market facility for tasting the products produced; and

WHEREAS, Block 66, Lots 16 and 16.2 in Little Silver are located in a Residential zone and agriculture is not a permitted use; and

WHEREAS, the proposed expansion in its operations would create an extension in a non-conforming use; and

WHEREAS, the Applicant approached the Borough of Little Silver to request a zoning change or variance that would enable the proposed expansion, but the parties could not reach an agreement and the matter never proceeded to a formal hearing before the municipal zoning board; and

WHEREAS, the Applicant now requests approval for an SSAMP from the Board; 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 et seq. details the State Agriculture Development Committee's rules; and

WHEREAS, pursuant to N.J.A.C. 2: 76-2.3(b), 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 whether the

Board has jurisdiction to hear the matter pursuant to N.J.S.A. 4:1C-9; and

WHEREAS, the MCADB found pursuant to Resolution No. 2013-10-2, that the Applicant met the requirements of N.J.S.A. 4:1C-9 and had jurisdiction to determine whether the sale of wine is an accepted farm management practice and that the Applicant be permitted to package the agricultural output and establish a farm market facility for tasting the products produced; and

WHEREAS, the MCADB further found, pursuant to Resolution No. 2013-10-3, 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

WHEREAS, the MCADB conducted a site visit on March 18, 2013 that was attended by the Rutgers Cooperative Extension agent, MCADB Members, MCADB staff and MCADB counsel. The focus of this site visit was to view the subject property and the proposed operation prior to scheduling a public hearing on the matter; and

WHEREAS, MCADB staff conducted a follow-up site visit on June 19, 2013 to take additional photographs and view a proposed new ingress; and

WHEREAS, the MCADB heard testimony, reviewed exhibits, and considered the Applicant's request as well as objections presented by the Borough of Little Silver and the public, during the Board's public meetings on August 7, 2013, October 2, 2013 and February 11, 2014; and

WHEREAS, this property is located on the east side of Seven Bridges Road (Monmouth County Rt. 33) immediately north of the bridge over Parkers Creek, and opposite the intersection with Silverside Avenue. The current entry to the property is directly across from Silverside Avenue. High hedges on the property line along Route 33 impede visibility of traffic entering and leaving the site. Both the municipality and citizens fear a negative impact on safety from this proposal; and

WHEREAS, citizens have testified that the proposed winery is not appropriate in this fully developed, residential neighborhood; that increased traffic would create health and safety issues; that traffic unfamiliar with the neighborhood could park on local streets and endanger children at play or en route to a nearby school; and generally infringe on the peaceful enjoyment of their homes and property. There is also a concern that after tasting the wine drivers might be driving under the influence of alcohol; and

WHEREAS, the Applicant's expert witness testified that locating the sales and tasting facility off site in some nearby commercial area would be prohibitively expensive and would create significant management problems; and

WHEREAS, the following exhibits were entered into evidence during the public hearing:

- Exhibit A-1: SSAMP application, property tax records, IRS Form Schedule F for 2010-2012, and correspondence from Borough counsel.
- Exhibit A-2: Correspondence from opposing counsels.
- Exhibit A-3: Survey of the property January 16, 2008 and prepared by Yorkanis & White, Inc.
- Exhibit A-4: Trip Generation Estimate.
- Exhibit A-5: Copy of a processed check from Cream Ridge Winery, Inc. paid to Dr. Richard DeBlasi, dated 10/23/2008.
- Exhibit A-6: Copy of three signed statements from Robert N. Leach stating that he had purchased grapes from Seven Bridges Winery in October 2009, 2010 and 2011.
- Exhibit A-7: Copy of three signed statements from Jody Pittman stating that grapes were purchased from Seven Bridges Winery in 2009, 2010 and 2011.
- Exhibit A-8: Copy of a signed statement from Robert Felle stating that grapes were purchased from Seven Bridges Winery in October 2010.
- Exhibit A-9: Copy of two signed statements from The Jersey Shore Farms from Chuck Boyce stating that grapes were purchased from Seven Bridges Winery in 2011, 2012 and 2013.
- Exhibit A-10: Aerial photos of the parcel.
- Exhibit A-11: Survey plat from Geller Sive and Company dated July 2, 2013 and signed by Michael Geller.
- Exhibit A-12: Correspondence from Patrick Accisano (counsel for the Applicant) dated September 3, 2013.
- Exhibit A-13: Correspondence between CADB staff and Division of Engineering, Report from Geller Sive & Company; written public comments and photos from neighbors and various neighboring stakeholders; correspondence from Borough counsel.
- Exhibit A-14: Correspondence dated January 6, 2014 from the Applicant's counsel, IRS Schedule F from 1998.
- Exhibit A-15: Correspondence dated January 23, 2014 from Borough counsel with attachments.
- Exhibit A-16: Correspondence dated January 23, 2014 from opposing counsel with attachments.
- Exhibit A-17: Correspondence dated January 31, 2014 from the Applicant's counsel.
 - A-17a: IRS Schedule F's from 1998-2013 for the Applicant's property in Little Silver, NJ.
 - A-17b: IRS Schedule F's from 1998-2013 for the Applicant's property owned in the Locust section of Middletown, NJ.
 - A-17c: Additional supporting documentation provided by the Applicant including pictures and an excerpt from the *Wine Grape Production Guide for Eastern North America*, published by Virginia Tech University.
- Exhibit O-1: Aerial photo.

- Exhibit O-2: Survey dated January 7, 1985 and prepared by Leon S. Avakian Inc.

WHEREAS, after having considered the testimony given and exhibits presented on August 7, 2013, October 2, 2013 and February 11, 2014, the MCADB makes the following findings of fact and conclusions of law:

1. Retail sales and tasting rooms are customary in the wine business, and in New Jersey would meet the definition of a farm market and be subject to the proposed Agricultural Management Practice (AMP) for On-Farm Direct Marketing that is scheduled for final publication in the NJ Register in the Spring of 2014.
2. Seven Bridges Road, Monmouth County Route 33, is a county road and ingress and egress is under the jurisdiction of Monmouth County.
3. In response to issues raised, the Applicant has agreed to create a new driveway proposed near the northerly property line, approximately 540 feet north of the existing site driveway across from Silverside Avenue, with site triangles and removal of existing hedges to be approved by the Monmouth County Planning Board and/or Monmouth County Division of Engineering application process.
4. Applicant has shown a willingness to work with the County Engineers to minimize any threat to traffic safety and must satisfy the requirements set forth through the county site plan review process.
5. The Applicant proposes (8) parking spaces on-site.
6. The New Jersey Alcohol Beverage Control (ABC) limits the amount of wine that can be distributed under a tasting license.
7. The proposed hours of operation would be 11:00 AM to 5:00 PM with extended hours during daylight savings time.
8. There would be no hosting of weddings, festivals, or similar large events.
9. There would be no food service other than bread, cheese, or similar snack items that are customarily provided as an accompaniment to wine tasting.
10. Other allowable items for sale would be wine drinking accoutrements, such as cork screws, wine glasses, coasters, etc.

NOW, THEREFORE, BE IT RESOLVED that based on the aforesaid findings of fact and conclusions of law, the Monmouth County Agriculture Development Board

makes the following determinations:

1. The packaging and sale of wine and the establishment of a farm market facility for tasting the products produced on the subject property is a generally accepted farm management practice and is a permissible activity for a Commercial Farm, under the New Jersey Right to Farm Act.
2. The Board recognizes that this proposal is an extension of a non-conforming use and that allowing the operation of a farm market in a developed residential area requires limits in terms of scale and scope of the operation. The Applicant has testified that the site produces less than one ton of grapes per acre, which will only produce approximately 250 cases of wine annually. Based on New Jersey standards, a winery producing less than 5000 cases annually is considered small in size. State law allows additional sales of wine made from grapes grown off-site and anticipates sales would still remain under 500 cases annually, satisfying the definition of a small winery.
3. This Board grants approval for the proposed farm market subject to the proposed Agricultural Management Practice (AMP) for On-Farm Direct Marketing that is scheduled for final publication in the NJ Register in the Spring of 2014; and

BE IT FURTHER RESOLVED that as a condition of this Resolution, the applicant must apply to the Monmouth County Planning Board and proceed through the subdivision and site-plan process to address any traffic issues as the Development Review section of the Monmouth County Division of Planning coordinates with the County Engineering Department and is better equipped to analyze the traffic impact on the roads surrounding the subject premises and provide input and recommendations to maintain safety and prevent traffic congestion; and

BE IT FURTHER RESOLVED that the implementation and usage of the Winery with regards to production and sale/service of wine 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, the United States Department of Agriculture and the Division of Alcohol Beverage and Control of the State of New Jersey; and

BE IT FURTHER RESOLVED that the marketing of wine is permissible under the New Jersey Right to Farm Act, and in connection with marketing, the tasting room established on the subject property is the equivalent of a farm market and also permissible under the Right to Farm Act; and

BE IT FURTHER RESOLVED that if over time the winery 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 come back to the Board to request relief; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the State Agriculture Development Committee, Borough of Little Silver, Erik Anderson, Esq. and the Applicant; and

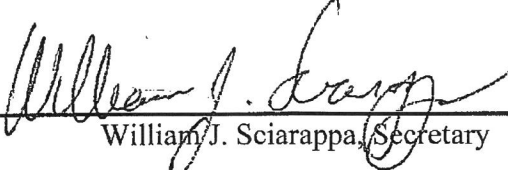
BE IT FURTHER RESOLVED that any person aggrieved by this resolution may appeal to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from the receipt of this resolution. 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. Bullock and approved 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			
*Mr. Holmes	X			
Mr. McCarthy	X			
Mr. Potter	X			
Mr. Stuart		X		

* alternate member

I do hereby certify that the foregoing is a true copy of a resolution adopted on October 2, 2013, amended on February 11, 2014 and memorialized by the Monmouth County Agriculture Development Board at a meeting on the 1st of April, 2014.


William J. Sciarappa, Secretary