

# MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD

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Office located at: 30 Schuyler Place, Morristown, NJ

May 17, 2007

Ms. Barbara Hertz  
P.O. Box 254  
Towaco, NJ 07082

*Via Certified Mail/Return Receipt*

Re: Right to Farm Act - Request for a Site Specific Agricultural Management Practice (SSAMP)

Dear Ms. Hertz:

On April 12, 2007, the Morris Agriculture Development Board (Morris CADB) evaluated your agricultural operation to determine whether it is a commercial farm as defined by the Right to Farm Act, N.J.S.A. 4:1C-9 and the State Agriculture Development Committee's (SADC) Right to Farm Rules, N.J.A.C. 2:76-2.1. Based on the proofs you submitted and the testimony you provided during the meeting, the Morris CADB determined that your operation is not a "commercial farm." On May 10, 2007, the Morris CADB adopted Resolution 2007-17, memorializing the Morris CADB's decision. Enclosed please find a copy of Morris CADB Resolution 2007-17.

Because your operation does not meet the eligibility criteria of the Right to Farm Act, it is not entitled to the protection of the Act and the Morris CADB lacks jurisdiction over the operation. Accordingly, the Morris CADB is unable to pursue your application for a site-specific Agricultural Management Practice (SSAMP). All activities occurring on your property are outside the purview of the Morris CADB and remain under municipal jurisdiction.

Be advised that pursuant to N.J.A.C. 2:76-2.3 et seq. (copy enclosed), any person aggrieved by the decision of the CADB may appeal the decision to the SADC within 45 days of the receipt of the CADB's decision. Any decision of the CADB that is not appealed shall be binding. The SADC may be reached at (609) 984-2504. The mailing address is: State Agriculture Development Committee, P.O. Box 330, Trenton, NJ 08625-0330.

If you have any questions, please contact me.

Sincerely,

*K. Coyle*  
Katherine Coyle, Assistant Director

Enclosures

cc: Joseph Maiella, Administrator, Borough of Lincoln Park  
Gary McNabb, Zoning Officer, Borough of Lincoln Park  
Marci Green, Esq., Chief of Legal Affairs, SADC  
W. Randall Bush, Esq., Assistant County Counsel, Morris County

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**OFFICERS:** William Roehrich, *Chairman* ♦ Loren Pfeiffer, *Vice Chairman* ♦ Jay Thomson, *Secretary*

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**STAFF:** Frank T. Pinto, Jr., *Director* ♦ Katherine Coyle, *Assistant Dir.* ♦ Peter Williams, *Program Specialist* ♦ Kelli O'Conner, *Program Specialist*

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**MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD  
RESOLUTION 2007-17  
REQUEST FOR A SITE-SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE  
BARBARA HERTZ  
BLOCK 3, LOT 22  
BOROUGH OF LINCOLN PARK, MORRIS COUNTY, NEW JERSEY**

**WHEREAS**, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq. and the State Agriculture Development Committee's ("SADC") Right to Farm Rules, N.J.A.C. 2:76-2.1, et seq., a commercial farm owner or operator may make a request to the County Agriculture Development Board to determine if his or her operation constitutes a generally accepted agricultural operation or practice; and

**WHEREAS**, on April 3, 2007, the Morris County Agriculture Development Board ("Morris CADB") received a written request from Ms. Barbara Hertz ("Applicant") dated March 29, 2007 for a site-specific agricultural management practice ("SSAMP") for her agricultural operation, Joy B's Farm, located on Block 3, Lot 22 in the Borough of Lincoln Park (A-1); and

**WHEREAS**, on April 11, 2007, pursuant to N.J.A.C. 2:76-2.3(c), the Morris CADB advised the SADC and the Borough of Lincoln Park of the Applicant's request (B-1); and

**WHEREAS**, pursuant to N.J.A.C. 2:76-2.3(b), upon the receipt of a request for a SSAMP, the Morris CADB must determine whether the Applicant's agricultural operation is a "commercial farm" as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

**WHEREAS**, pursuant to N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, "commercial farm" means (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," P.L.1964, c.48 (C.54:4-23.1 et seq.), 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," P.L.1964, c.48 (C.54:4-23.1 et seq.); and

**WHEREAS**, the Morris CADB considered the Applicant's request during the Morris CADB's April 12, 2007 meeting with the Applicant present; and

**WHEREAS**, during the April 12, 2007 meeting, the Morris CADB reviewed exhibit A-1 submitted by the Applicant; and

**WHEREAS**, during the April 12, 2007 meeting, the Morris CADB heard a presentation by the Applicant as summarized in the adopted Minutes of the Morris CADB's April 12, 2007 meeting (B-2); and

**WHEREAS**, during the April 12, 2007 meeting, a Staff Report dated April 10, 2007 (B-3) drafted

by Ms. Katherine Coyle, Assistant Director, Morris CADB, was presented to the Morris CADB by staff; and

WHEREAS, during the April 12, 2007 meeting, the Morris CADB reviewed exhibit A-1 submitted by the Applicant and exhibits B-1, B-2, and B-3 compiled by the Morris CADB.

### INDEX OF EXHIBITS

March 29, 2007 Application for SSAMP submitted by Barbara Hertz .....	A-1
April 11, 2007 Letter from Katherine Coyle to Susan Craft.....	B-1
Adopted Minutes of the Morris CADB's April 12, 2007 Meeting.....	B-2
April 10, 2007 Staff Report drafted by Katherine Coyle .....	B-3

**NOW THEREFORE BE IT RESOLVED**, after having considered the presentation submitted by the Applicant on April 12, 2007, and exhibits A-1, B-1, B-2, and B-3, the Morris CADB makes the following determinations:

1. Pursuant to N.J.A.C. 2:76-2.3(b), upon the receipt of a request for a SSAMP, the Morris CADB must determine whether the agricultural operation is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.
2. Pursuant to N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, "commercial farm" means (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," P.L.1964, c.48 (C.54:4-23.1 et seq.), 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," P.L.1964, c.48 (C.54:4-23.1 et seq.).
3. The Applicant's farm is greater than five acres and satisfies the eligibility criteria for differential property taxation pursuant to the "Farmland Assessment Act of 1964," P.L.1964, c.48 (C.54:4-23.1 et seq.).
4. The Applicant did not produce agricultural or horticultural products worth \$2,500 on her farm during the 2006 tax/calendar year for the following reasons:
  - a) The Applicant presented that she produces the following agricultural products: tree and bush fruits, garlic, herbs, maple syrup and honey.
  - b) The Applicant stated that during the 2006 tax/calendar year she sold \$2,907 worth of

agricultural products. \$1,887 were derived from the sales of honey and \$1,020 were derived from the sales of Community Supported Agriculture ("CSA") farm shares.

- c) As proof of income derived from the CSA farm shares, the Applicant submitted copies of checks (redacted), copies of bank deposit slips, a copy of one 2006 CSA Farm Share application (redacted), and a copy of IRS Schedule F (Form 1040) for 2006 (unsigned and undated) (A-1).
- d) As proof of income derived from the sales of honey, the Applicant submitted a copy of a handwritten log of sales and deposits, copies of three checks (two copies were redacted) totaling \$65, copies of bank deposit slips, and a copy of IRS Schedule F (Form 1040) for 2006 (unsigned and undated) (A-1).
- e) The Applicant presented that at the beginning of the 2006 tax/calendar year, twelve (12) bee hives were located on the Applicant's farm in Lincoln Park. The majority of the bee hives were destroyed by a bear. The surviving two (2) hives were moved off-site to a location at Spring Hill Road in Mine Hill. The Applicant presented that she usually begins collecting honey in April and that she usually collects honey two (2) to three (3) times per season. The honey collected in April is remainder honey from the previous year that the bees did not use during the winter. The new season for honey collection begins during the summer and ends in the fall. The Applicant presented that the only honey produced in 2006 came from the two (2) hives, which were located at the Mine Hill location, not on the Applicant's farm in Lincoln Park.
- f) According to an August 18, 2006 letter (attached to B-3) from Mr. Paul Raybold, NJ Department of Agriculture State Apiarist, to Mr. Gary McNabb, Borough of Lincoln Park Zoning Officer, as of August 1, 2006, Ms. Hertz had two (2) bee hives. The two (2) hives were located at Spring Hill Road in Mine Hill.
- g) During the 2006 honey season, zero (0) hives were located on the Applicant's farm in Lincoln Park. As a result, there was no significant honey production on the Applicant's farm in 2006. The Applicant presented that only some of the honey, which she sold during the 2006 tax/calendar year, was produced during the 2006 tax/calendar year. The honey produced during the 2006 season was not produced on the Applicant's farm; it was produced by two (2) hives, which were located at Spring Hill Road in Mine Hill.
- h) The Applicant presented that as of April 12, 2007 she has three (3) bee hives. None of the hives are located on the Applicant's farm in Lincoln Park.
- i) To meet the definition of a "commercial farm" as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3, the operation must produce agricultural or horticultural products worth \$2,500 or more annually. While the Applicant presented that she sold \$1,887 worth of honey during the 2006 tax/calendar year, the majority of the honey was not produced in 2006. Furthermore, the honey that was produced in 2006 was not produced on the Applicant's farm. Only products produced on the Applicant's farm can count towards the \$2,500 annual

production requirement pursuant to N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.

- j) The applicant has not demonstrated that she produced agricultural or horticultural products worth \$2,500 on her farm during the 2006 tax/calendar year.

**BE IT FURTHER RESOLVED**, based on the foregoing determinations, the Morris CADB finds that the Applicant's farm is not a "commercial farm" as defined by the Right to Farm Act, N.J.S.A. 4:1C-9, et seq. and the SADC's Right to Farm Rules, N.J.A.C. 2:76-2.1, et seq.


**BE IT FURTHER RESOLVED**, because the Applicant's farm is not a "commercial farm", the farm does not meet the eligibility criteria of the Right to Farm Act, is not entitled to the protection of the Right to Farm Act, and the Morris CADB lacks jurisdiction over the operation. The Morris CADB is unable to pursue the Applicant's application for a SSAMP. All activities occurring on the Applicant's farm are outside the purview of the Morris CADB and remain under the jurisdiction of the Borough of Lincoln Park and any other applicable local, state or federal agencies.

**BE IT FURTHER RESOLVED** that within 30 days of its adoption, certified copies of this resolution will be forwarded to the following individuals and agencies:

Barbara Hertz  
State Agriculture Development Committee  
Borough of Lincoln Park  
Morris County Board of Chosen Freeholders

**BE IT FURTHER RESOLVED** that any person aggrieved by this resolution may appeal the resolution 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 this resolution.

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

  
William Roehrich, Chairman

5-10-07  
Dated: May 10, 2007

	Yes	No	Abstain	Absent
Ms. Akin			✓	
Ms. Ashley Myers	✓			
Mr. Keller				✓
Mr. Pfeiffer				✓
Mr. Roehrich	✓			
Mr. Thomson	✓			
Mr. Wightman	✓			

I hereby certify the above to be a true copy of a resolution adopted by the Morris County Agriculture Development Board at a meeting held on May 10, 2007.

Frank T. Pinto, Jr., Director  
Morris CADB

Res: 2007-17