

**MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
RESOLUTION 2017-08
REQUEST FOR A SITE-SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE
LOTTA LETTUCE FARM, LLC
MONTVILLE TOWNSHIP, 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's") Right to Farm Rules, N.J.A.C. 2:76-2.3, 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 November 6, 2015, the Morris County Agriculture Development Board ("Morris CADB") received a written request from Mr. Todd Kuehm for a site-specific agricultural management practice ("SSAMP") for his operation, Lotta Lettuce Farm, LLC, Block 32, Lot 28 located in the Township of Montville (A-1); and

WHEREAS, Mr. Kuehm requested the SSAMP for the construction of a pole barn to be utilized for agricultural activities; and

WHEREAS, Mr. Kuehm requested relief from Montville Township's standards regarding front and side yard setbacks, height of accessory structures, and municipal site plan requirements for non-residential development; and

WHEREAS, on November 13, 2015, pursuant to N.J.A.C. 2:76-2.3(b), the Morris CADB informed the SADC and the Township of Montville of the receipt of Mr. Kuehm's request for a SSAMP (B-1); and

WHEREAS, on December 7, 2015, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Kuehm's application (B-2); and

WHEREAS, the Morris CADB considered Mr. Kuehm's application during the Morris CADB's December 10, 2015 meeting; and

WHEREAS, during the December 10, 2015 meeting, the Morris CADB reviewed exhibits A-1, B-1, and B-2; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(c), upon the receipt of a request for a SSAMP, the Morris CADB shall determine commercial farm eligibility and/or determine whether the operation or practice is included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9; and

Commercial Farm Eligibility:

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, because Mr. Kuehm's farm management unit consists of more than 5 acres, in order to meet the Right to Farm Act's definition of a "commercial farm," it must produce agricultural or horticultural products worth \$2,500 or more annually, and satisfy 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, according to Exhibit A-1, Lotta Lettuce Farm, LLC produces more than \$2,500 worth of agricultural products annually; and

WHEREAS, according to Exhibit A-1, Block 32, Lot 28 is Farmland Assessed; and

WHEREAS, during the December 10, 2015 meeting, the Morris CADB determined that Lotta Lettuce Farm, LLC is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3; and

Agricultural Activity:

WHEREAS, according to Exhibit A-1, Lotta Lettuce Farm, LLC produces corn; and

WHEREAS, Mr. Kuehm submitted an application for a SSAMP for the construction of a pole barn to be utilized for agricultural activities; and

WHEREAS, pursuant to N.J.S.A. 4:1C-9, the owner or operator of a commercial farm may:

"Produce agricultural and horticultural crops, trees and forest products, livestock, and poultry and other commodities as described in the Standard Industrial Classification for agriculture, forestry, fishing and trapping or, after the operative date of the regulations adopted pursuant to section 5 of P.L.2003, c.157 (C.4:1C-9.1), included under the corresponding classification under the North American Industry Classification System"; and

WHEREAS, during the December 10, 2015 meeting, the Morris CADB determined that the production, processing and packaging of agricultural products, as well as the construction of a barn, are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9; and

SSAMP Review Checklist:

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(h), "if the board determines that the farm operation is a commercial farm pursuant to N.J.S.A. 4:1C-3 and that the operation or practice is included in any of the activities permitted by N.J.S.A. 4:1C-9, then the board and/or board staff may request that the

commercial farm owner or operator provide information using a checklist adopted by the board”; and

WHEREAS, during the December 10, 2015 meeting, the Morris CADB adopted the SSAMP Review Checklist (B-3); and

WHEREAS, on December 11, 2015, the SSAMP Review Checklist was forwarded to Mr. Kuehm (B-4); and

WHEREAS, on April 26, 2017, the Morris CADB received Mr. Kuehm’s submittal of SSAMP Checklist items, including requests for waivers (A-2); and

WHEREAS, on May 24, 2017, the Morris CADB received additional documents from Mr. Kuehm (A-3); and

WHEREAS, on May 30, 2017, Ms. Coyle drafted a Staff Report regarding Mr. Kuehm’s application (B-5); and

WHEREAS, during the June 8, 2017 meeting, the Morris CADB reviewed exhibits A-2, A-3, B-4, B-5, and B-6 (final SSAMP Review Checklist), as well as a presentation by Mr. Kuehm; and

WHEREAS, during the June 8, 2017 meeting, the Morris CADB granted Mr. Kuehm’s request for waivers and determined that his application and the checklist items were complete; and

Public Hearing:

WHEREAS, pursuant to N.J.A.C. 2:76-2.3(i), “if the board determines that the application and checklist items are complete, then the board shall hold a Public Hearing in accordance with the hearing procedures set forth in N.J.A.C. 2:76-2.8”; and

WHEREAS, pursuant to N.J.A.C. 2:76-2.8, written notice of the SSAMP request and the Public Hearing shall be given by the commercial farm, at its sole expense, via certified mail, return receipt requested, and/or by personal service, to individuals and agencies specified at N.J.A.C. 2:76-2.8(c); and

WHEREAS, pursuant to N.J.A.C. 2:76-2.8(c)iii, “the hearing shall not begin until satisfactory proof of notice to all appropriate individuals has been provided by the commercial farm”; and

WHEREAS, Mr. Kuehm provided proof of notice of the SSAMP request and the Public Hearing (A-4); and

WHEREAS, on July 12, 2017, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Kuehm’s application (B-7); and

WHEREAS, during the July 13, 2017 meeting, the Morris CADB reviewed exhibits A-4 and B-7; and

WHEREAS, no public comments were submitted to the Morris CADB prior to or during the Public Hearing; and

INDEX OF EXHIBITS

Exhibits from the Applicant:

November 6, 2015 Lotta Lettuce Farm, LLC Application for a Site-Specific Agricultural Management Practice	A-1
April 26, 2017 SSAMP Checklist items and requests for waivers	A-2
May 24, 2017 additional documentation.....	A-3
Public Hearing Notice, Proof of Service/Publication	A-4

Exhibits from the Morris CADB:

November 13, 2015 letter from Katherine Coyle to Susan Payne	B-1
December 7, 2015 Staff Report drafted by Katherine Coyle	B-2
SSAMP Review Checklist	B-3
December 11, 2015 letter from Katherine Coyle to Carl Klotz, Esq.	B-4
May 30, 2017 Staff Report drafted by Katherine Coyle (without exhibits).....	B-5
SSAMP Review Checklist (Final)	B-6
July 12, 2017 Staff Report drafted by Katherine Coyle (without exhibits)	B-7

NOW THEREFORE BE IT RESOLVED, after having considered the presentation submitted by Mr. Kuehm and exhibits A-1 through A-4 and B-1 through B-7, the Morris CADB makes the following determinations:

1. Lotta Lettuce Farm, LLC is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.
2. The production, processing and packaging of agricultural products, as well as the construction of a barn, are included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9.
3. The construction of a pole barn for agricultural use as proposed by Mr. Kuehm constitutes a

generally accepted agricultural management practice.

BE IT FURTHER RESOLVED, that the Morris CADB grants Mr. Kuehm's request for relief from Montville Township's standards regarding front and side yard setbacks, height of accessory structures, and municipal site plan requirements for non-residential development provided that the following conditions are satisfied:


1. The applicant shall submit a plan to the Morris County Soil Conservation District prior to applying for building permits.
2. The construction shall conform to all relevant federal or State statutes, rules and regulations, and

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-2.3(l), within 30 days of its adoption, copies of this resolution will be forwarded to the following individuals and agencies:

Todd Kuehm
State Agriculture Development Committee
Township of Montville
Morris County Soil Conservation District
Morris County Board of Chosen Freeholders

BE IT FURTHER RESOLVED that pursuant to N.J.A.C. 2:76-2.3(m), any person aggrieved by the decision of the Morris CADB may appeal the decision to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and 52:14F-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 decision is not appealed within 45 days, the decision is binding.


Dale Davis III, Chairman
Morris CADB
Gregory T. Keller, Secretary
Date 9/14/2017

	Yes	No	Abstain	Absent
Ms. Ashley Myers				✓
Mr. Davis				✓
Mr. Desiderio				✓
Ms. Hammond	✓			
Mr. Keller	✓			

Mr. Ort					✓
Mr. Thomson					✓

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 September 14, 2017.

W. Randall Furse
 Attorney at Law State of New Jersey

RECEIVED

2017 SEP 19 A 10:00

NJ STATE AGRICULTURE
 DEVELOPMENT COMMITTEE