

**MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD
RESOLUTION 2015-10
REQUEST FOR A SITE-SPECIFIC AGRICULTURAL MANAGEMENT PRACTICE
RIVER RUN STABLES
WASHINGTON 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 December 17, 2014, the Morris County Agriculture Development Board ("Morris CADB") received a written request from Anthony Sposaro, Esq. on behalf of his client, Mr. Devin Ryan, for a site-specific agricultural management practice ("SSAMP") for Mr. Ryan's operation, River Run Stables, Block 33, Lot 66, located in the Township of Washington (A-1, A-2, A-3); and

WHEREAS, Mr. Ryan requested the SSAMP for the construction of a pole barn and an addition to an indoor riding arena; and

WHEREAS, according to A-3, *Statement of Reason*, the River Run Stables application fails to conform with Washington Township zoning ordinances regarding front yard setbacks and stormwater management. Mr. Ryan sought relief from the Morris CADB with respect to both requirements; and

WHEREAS, on December 23, 2014, pursuant to N.J.A.C. 2:76-2.3(b), the Morris CADB formally notified the SADC and the Township of Washington of Mr. Ryan's application (B-1); and

WHEREAS, on January 16, 2015, the Morris CADB requested additional information and documentation from Mr. Sposaro (B-2); and

WHEREAS, on January 26, 2015, the Morris CADB received Mr. Sposaro's response (A-4); and

WHEREAS, on January 30, 2015, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Ryan's application (B-3); and

WHEREAS, on February 5, 2015, the Staff Report was forwarded to Mr. Sposaro; and

WHEREAS, the Morris CADB considered Mr. Ryan's application during the Morris CADB's February 5, 2015 meeting; and

WHEREAS, during the May 8, 2014 meeting, the Morris CADB reviewed exhibits A-1 through A-4, and B-1 through B-3; 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 must determine whether the operation is a "commercial farm" as defined in the RTF

Act, whether it meets the eligibility criteria of the RTF Act, and whether the activity or practice is included in one or more of the permitted activities set forth in N.J.S.A. 4:1C-9.

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 the River Run Stables 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, pursuant to N.J.A.C. 2:76-2B.3(e), *Eligibility of Equine Activities for Right to Farm Protection*, the following income may be used to satisfy the production requirements in the definition of "commercial farm" set forth in N.J.S.A. 4:1C-3:

- i. Income from breeding, which may include:
 - Income from insemination fees, which involves the collection of semen from horses owned by the farm operator or owner, preparation of semen for insemination, and insemination;
 - Income from selling semen collected from horses owned by the farm operator or owner;
 - Income from stallion fees; and
 - Income from the sale of a horse that has been bred from a mare owned by the farm operator or owner;
- ii. Imputed income from pasturing horses, as determined by the productivity values set annually by the State Farmland Evaluation Advisory Committee;
- iii. Income from the sale of a horse that was trained or raised on the commercial farm for at least 120 days prior to the time of sale; and
- iv. Income from fees associated with raising a horse on the commercial farm for at least 120 days; and

WHEREAS, the following income cannot be used to satisfy the production requirements in the definition of "commercial farm" set forth in N.J.S.A. 4:1C-3:

- i. Fees from boarding;
- ii. Fees from riding and driving lessons;
- iii. Fees from equine assisted therapy;

- iv. Monetary proceeds from racing; and
- v. Fees from training horses.

WHEREAS, A-2 and A-5, River Run Stables produced more than \$2,500 worth of agricultural products in 2014; and

WHEREAS, according to Exhibit A-6, Block 33, Lot 66 is Farmland Assessed; and

WHEREAS, during the February 5, 2015 meeting, the Morris CADB determined that the River Run Stables operation is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.

Commercial Farm Eligibility:

WHEREAS, pursuant to 2:76-2B.3(g), *Eligibility of Equine Activities for Right to Farm Protection*, to receive the protections of the RTF Act, a commercial equine operation must be in compliance with a farm conservation plan prepared in accordance with the Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG) and must meet the eligibility criteria set forth in the Act, including the following:

- i. The commercial farm must be 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 commercial farm is in operation as of July 2, 1998;
- ii. The operation or agricultural activity at issue shall conform to the agricultural management practice set forth in N.J.A.C. 2:76-2A.10 or in the event that N.J.A.C. 2:76-2A.10 does not completely address an agricultural activity being considered for protection under the Right to Farm Act, the activity shall comply with generally accepted agricultural operations or practices;
- iii. The operation or agricultural activity shall be in compliance with relevant Federal or State statutes or rules and regulations adopted thereto; and
- iv. The operation or agricultural activity shall not pose a direct threat to public health and safety; and

WHEREAS, pursuant to 2:76-2B.3(c), *Eligibility of Equine Activities for Right to Farm Protection*, the production area of a commercial farm must be greater than the area occupied by equine-related infrastructure as follows:

- i. The sum of the production area and the area occupied by equine-related infrastructure, as defined in this section, shall be referred to as the total usable area.
- ii. For farms where the total usable area is 150 acres or less, the area occupied by equine-related infrastructure shall not exceed 15 percent to 25 percent of the total usable area.
- iii. Concrete and asphalt area shall not exceed 15 percent of the total usable area of each non-contiguous parcel of the farm management unit; and

WHEREAS, according to Exhibits A-7 and A-8, River Run Stables has a Self-Certified Animal Waste Management Plan and a Farm Conservation Plan; and

WHEREAS, according to A-9, the area occupied by equine-related infrastructure does not exceed 25 percent of the total usable area; and

WHEREAS, during the February 5, 2015 meeting, the Morris CADB determined that the River Run Stables operation meets the eligibility criteria listed at N.J.S.A. 4:1C-3, N.J.A.C. 2:76-2.1, and 2:76-2B.3(c).

Agricultural Activity:

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, pursuant to N.J.A.C. 2:76-2B.3(e), *Eligibility of Equine Activities for Right to Farm Protection*, the following equine-related activities are eligible for the protections and benefits of the Right to Farm Act, subject to the requirements set forth in the rule:

- i. The raising, breeding, keeping, boarding, training, and rehabilitation of horses;
- ii. Complementary equine activities that are associated with the activities specified in (i) above, including, but not limited to, clinics, open houses, demonstrations, educational camps, farm events, competitions, and rodeos, as long as these activities are related to the marketing of horses that are raised, bred, kept, boarded, trained or rehabilitated on the farm, and are in compliance with municipal requirements; and
- iii. The sale and distribution of manure and composted products produced on the farm to off-farm users.

WHEREAS, according to A-2, River Run Stables produces hay and raises, boards and trains horses; and

WHEREAS, Mr. Ryan submitted an application for a SSAMP for the construction of a pole barn and an addition to the indoor riding arena; and

WHEREAS, during the February 5, 2015 meeting, the Morris CADB determined that the production of hay and raising, boarding and training of horses, as well as the construction of a pole barn and expansion of an indoor riding arena to be utilized for the agricultural activities, are included in on or more of the permitted activities set forth in N.J.S.A. 4:1C-9 and N.J.A.C. 2:76-2B.3(e); and

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.”

Site-Specific AMP Review Checklist:

WHEREAS, during the February 5, 2015 meeting, the Morris CADB directed staff to (1) develop a SSAMP Review Checklist that would enumerate the data and materials necessary for the Morris CADB to make an informed decision concerning Mr. Ryan’s application, (2) review the documentation submitted by Mr. Sposaro (A-10) to determine whether all checklist items were complete, and (3) review the Mr. Sposaro’s requested for waivers from the checklist; and

WHEREAS, Morris County Division of Planning and Preservation staff developed a SSAMP checklist to assist the Morris CADB with their review of the application (B-4). The SSAMP checklist was developed to address the applicant’s request for relief from zoning ordinances regarding (1) front yard setbacks and (2) stormwater management; and

WHEREAS, on March 9, 2015, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Ryan’s application (B-5); and

WHEREAS, on March 9, 2015, the Staff Report was forwarded to Mr. Sposaro; and

WHEREAS, during the March 12, 2015 meeting, the Morris CADB reviewed the Staff Report, which contained the SSAMP Review Checklist and documentation submitted by Mr. Sposaro; and

WHEREAS, during the March 12, 2015 meeting, the Morris CADB granted Mr. Sposaro’s request for waivers and determined that Mr. Ryan’s application and the checklist items were complete; and

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.”

Public Hearing:

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, on March 23, 2015, Mr. Sposaro provided proof of notice of the SSAMP request and the Public Hearing (A-11); and

WHEREAS, on March 30, 2015, Ms. Katherine Coyle drafted a Staff Report regarding Mr. Ryan’s application (B-6); and

WHEREAS, on March 30, 2015, the Staff Report was forwarded to Mr. Sposaro; and

WHEREAS, during the April 9, 2015 meeting, the Morris CADB reviewed the Staff Report, which contained proofs submitted by Mr. Sposaro and staff's recommendations regarding Mr. Ryan's application and request for relief from Washington Township's zoning ordinances regarding front yard setbacks and stormwater management; and

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

WHEREAS, Mr. Ryan proposes to construct an 8,640 sq. ft. pole barn and a 5,600 sq. ft. indoor arena extension (A-9). The applicant will remove an existing stable, gravel path and storage building totaling 4,798 sq. ft.; and

Front yard setbacks:

The minimum front yard setback for accessory structures is 200'. The existing indoor arena is now set back 123.2' from the front yard (A-3). The proposed addition will have the same setback. The proposed pole barn is 196.3' from the front property line. The pole barn would be located behind the indoor riding arena and its visibility would be partially blocked from the front yard.

Stormwater management:

The proposal complies with the State's stormwater regulations. Compliance with Washington Township's more stringent regulations would require the installation of seepage pits at an approximate cost of \$15,000 (A-3).

Pursuant to N.J.A.C. 2:76-2.3(k), "the board shall have no authority to determine the commercial farm owner or operator's compliance with State laws, rules, and regulations delegated to the municipality or county for administration and enforcement including stormwater management and construction code requirements, unless the municipal ordinance or county resolution, or any portion(s) thereof, effectuating the delegation exceed(s) State regulatory standards. If a municipal ordinance or county resolution, or any portion(s) thereof, exceed(s) State regulatory standards, then the board shall have the authority to determine whether the ordinance or resolution, or portion thereof that exceeds such State regulatory standards is preempted by the board's approval of the commercial farm owner or operator's site-specific agricultural management practice."

INDEX OF EXHIBITS

Exhibits from the Applicant:

December 15, 2014 letter from Anthony Sposaro to the Morris CADBA-1

November 20, 2014 Devin Ryan application for a Site-Specific Agricultural Management Practice.....	A-2
Statement of Reasons.....	A-3
January 23, 2015, letter from Anthony Sposaro to the Morris CADB	A-4
Proofs of Income.....	A-5
• January 16, 2015 letter from Barbara Rowland	
• January 23, 2014 Bill of Sale	
• IRS Schedule C of Form 1040 for tax year 2013	
• 2014 invoices and copies of deposited checks	
Applications for Farmland Assessment for Block 33, Lot 66 for tax year 2015	A-6
January 14, 2015 Self-Certified Animal Waste Management Plan	A-7
February 25, 2015 Farm Conservation Plan	A-8
October 29, 2014 Agricultural Plan prepared by Careaga Engineering, Inc. (due to size, a partial/reduced version is attached)	A-9
SSAMP checklist and supporting documentation submitted by Anthony Sposaro.....	A-10
• January 20, 2011 letter from Dave Clapp, NJDA	
• October 28, 2014 letter from David Krueger, Environmental Technology, Inc.	
• October 30, 2014 letter from Jeffrey Careaga, Careaga Engineering, Inc.	
• December 10, 2014 letter from John Showler, P.E.	
• December 11, 2014 letter from Charles Roohr, SADC	
• December 15, 2014 land development review application	
• Copy of §217-9 of the Washington Township zoning ordinance	
March 20, 2015 Notice of Public Hearing.....	A-11
 <u>Exhibits from the Morris CADB:</u>	
December 23, 2014 letter from Katherine Coyle to Susan Payne, Exec. Dir., SADC	B-1
January 6, 2015 letter from Katherine Coyle to Anthony Sposaro.....	B-2
January 30, 2015 Staff Report drafted by Katherine Coyle.....	B-3
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March 9, 2015 Staff Report drafted by Katherine Coyle.....B-5

March 30, 2015 Staff Report drafted by Katherine Coyle.....B-6

NOW THEREFORE BE IT RESOLVED, after having considered the aforementioned exhibits, the Morris CADB makes the following determinations:

1. River Run Stables is a commercial farm as defined at N.J.A.C. 2:76-2.1 and N.J.S.A. 4:1C-3.
2. River Run Stables meets the eligibility criteria listed at N.J.S.A. 4:1C-3, N.J.A.C. 2:76-2.1, and 2:76-2B.3(c).
3. The production of hay and raising, boarding and training of horses, as well as the construction of a pole barn and the expansion of an indoor riding arena to be utilized for the agricultural activities, are included in on or more of the permitted activities set forth in N.J.S.A. 4:1C-9 and N.J.A.C. 2:76-2B.3(e).
4. The construction of a pole barn and the addition to an existing indoor riding arena proposed by River Run Stables constitutes a generally accepted agricultural management practice pursuant to N.J.S.A. 4:1C-9.

BE IT FURTHER RESOLVED, that the Morris CADB grants the River Run Stables' request for relief from Washington Township's front yard setback requirements and those portions of Washington Township's stormwater management regulations, which exceed state regulatory standards.

BE IT FURTHER RESOLVED, that the Morris CADB approves the construction of a pole barn and the addition to an existing indoor riding arena as proposed by River Run Stables provided that the following condition is satisfied:

1. The construction of a pole barn and an addition to an existing indoor riding arena shall conform to all relevant federal or State statutes, rules and regulations.

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:

River Run Stables (c/o Anthony Sposaro, Esq.)
State Agriculture Development Committee
Township of Washington
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.

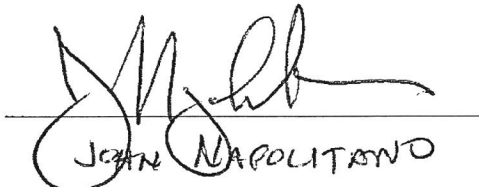


 Gregory Keller, Chairman
 Morris CADB

4/9/15
 Date

	Yes	No	Abstain	Absent
Ms. Ashley Myers	✓			
Mr. Davis	✓			
Ms. Davis	✓			
Mr. Desiderio	✓			
Mr. Keller	✓			
Mr. Ort	✓			
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 April 9, 2015.



 JEAN NAPOLITANO
 AN ATTORNEY AT LAW
 IN NEW JERSEY

4/9/15