

**Sussex County Agriculture Development Board**

**Right to Farm Resolution**

**Recommending Site Specific Agriculture Management Practice  
For: Larry Freeborn d/b/a Tranquility Farms**

**Dated: August 21, 2017**

**WHEREAS**, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. and the State Agriculture Development Committee regulations N.J.A.C. 2:76-2.3, a commercial farm owner or operator may make a request to the Sussex County Agriculture Development Board (hereinafter "SCADB" or "Board") to determine if his or her operation constitutes a generally accepted management practice; and

**WHEREAS**, Larry Freeborn ("Applicant"), is the sole owner of record of Property identified as Block 113 Lot 3, as identified in Township of Green's tax records and a Deed dated May 5, 2017 and recorded on July 7, 2017 with the Clerk of the County of Sussex; and

**WHEREAS**, Block 113, Lot 3, is subject to a Deed of easement conveyed to the County of Sussex on December 13, 2001 and recorded on January 2, 2002, for farmland preservation purposes pursuant to the Agriculture Retention and Development Act, N.J.S.A. 4:1C-11 *et. seq.*; and

**WHEREAS**, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1 et. seq., and regulations promulgated by the State Agriculture Development Committee ("SADC") a commercial farm owner or operator may make a request to the SCADB to determine if his or her operation constitutes a generally accepted agricultural management practice; and

**WHEREAS**, the Applicant applied to the SCADB for site specific agriculture management practice ("SSAMP") pursuant to N.J.A.C. 2:76-2A-13 Agriculture Management Practices for On-Farm Marketing Facilities and attached hereto as Exhibit A-6; and

**WHEREAS**, the applicant submitted documentation including a Certification of Commercial Farm Status and a copy of the 2016 Farmland Assessment, the Board determined that the Premises met the criteria established for "Commercial Farm" as defined by N.J.S.A.4:1C-3and N.J.A.C 2:76-2.1, and the Board memorialized same by resolution dated June 19, 2017 and attached hereto as Exhibit A-10; and

**WHEREAS**, a public hearing regarding Applicant's request was noticed to take place at the June 19, 2017 Board meeting and the Applicant was instructed to provide notice pursuant to N.J.A.C. 2-76-2.8; and

**WHEREAS**, the Board held a public hearing on June 19, 2017 and August 21, 2017, in accordance with N.J.A.C. 2:76-2.10; and

WHEREAS, the Applicant was represented by Matthew Fox, P.E., a professional engineer, of Canger Engineering Associates, P.O. BOX 93, Tranquility, New Jersey, 07879 and his three children Zack Freeborn, Jessie Freeborn, and Erin Lytle whose address is 1 y  
Andover (Green), NJ 07821 and who provided sworn testimony; and

WHEREAS, the Board received into evidence the Following Exhibits:

1. Exhibit A-1: Site Plan for Tranquility Farms, prepared by Canger Engineering Associates, dated April 2017, last revised August 7, 2017.
2. Exhibit A-2: SCADB Program Manager Staff Review letter dated June 14, 2017.
3. Exhibit A-3: Sussex County Division of Engineering Review letter dated June 19, 2017 and revised letter dated August 15, 2017.
4. Exhibit A 4: Proposed Elevations and Floor Plans, dated June 16, 2017, and prepared by Engel Architects.
5. Exhibit A-5: State Agricultural Development Committee Resolution #FYR(), Farm Market Clarification – Tranquility Farm Larry & Carol Freeborn, dated February 23, 2017.
6. Exhibit A-6: Application for Certification of Commercial Farm, dated May 3, 2017
7. Exhibit A-7: Application for an SSAMP, dated June 6, 2017.
8. Exhibit A-8: Tranquility Farms Safety Checklist 2017, prepared by Tranquility Farms, undated.
9. Exhibit A-9: Correspondence from Matthew Fox, P.E., of Canger Engineering, dated August 8, 2017.
10. Exhibit A-10: SCADB Resolution Certifying Commercial Farm Status, memorialized June 19, 2017.

**WHEREAS**, the applicant currently leases land from the State of New Jersey – Department of Parks and Forests, to market their agricultural output and conduct on-farm direct marketing activities; and

**WHEREAS**, the applicant desires to relocate those facilities and activities to its own farm-management unit and to create permanent facilities for their operation; and

**WHEREAS**, the Applicant's professional and representatives provided sworn testimony to describe the nature of the proposed on-farm direct marketing facilities on the Property, including the marketing and promotion of its agricultural output, the physical layout of the building and site, and the agricultural products and output of the farm management unit; and

**WHEREAS**, testimony was provided on the applicant's diverse agricultural production and operation, including retail and wholesale vegetables, fruit, flowers, ornamental plants, field crops, pumpkins, hay, sweet corn, green beans, dairy and beef cattle; and

**WHEREAS**, the applicant will also sell additional complementary products not currently produced from their operation, including lettuce, potatoes, apples, jams, pies, potting soil, mulch, potted plants and pots, donuts, yogurt, ice cream, lettuce, potatoes, onions, cheese, jams, pies, bedding plants, flowers and hanging baskets, and other value added products; and

**WHEREAS**, ag-related activities, that are accessory to their operation will take place on the Property, and include seasonal festivals, a petting zoo, rides, and other events or activities as defined and permitted in N.J.A.C. 2:76-2A.13, which will serve to increase the direct marketing of their agricultural output of their farm management unit; and

**WHEREAS**, the applicant sought the opinion of the State Agricultural Development Committee on the proposed operations' conformance to the Preservation Deed of Easement, entitled "Resolution #FYR()," and adopted on February 23, 2017 (Exhibit A-5); and

**WHEREAS**, Resolution #FYR() stated that the Applicant's proposal to operate a farm market in which at least 51% of its annual gross sales is generated from sales of the agricultural output of the farm management unit, in compliance with the On-Farm Direct Marketing AMP, is considered a common farm site activity; the processed items using the agricultural output of the farm management unit as a primary ingredient is considered the output of the farm; and the proposed agritourism activities defined in the On-Farm Direct Marketing AMP are permitted on the subject property; and

**WHEREAS**, the applicant requested that the Board determine that their operation is an accepted farm management practice and that the Applicant be permitted to construct a farm market facility to sell their agricultural output produced on the farm, complementary products whose ingredients are from their farm management unit, conduct agritourism activities defined in the "On-Farm Direct Marketing AMP" and N.J.S.A 4:1C-9; and

**WHEREAS**, thru sworn testimony presented to the SCADB during the June 19, 2017 & August 18, 2017 hearings, the applicant's representatives testified that the proposed on-farm direct marketing facility includes a 3200 SF farm market, a 100' x 50' greenhouse, and a 36-space gravel parking area with a two-way access drive from County Route 517; and

**WHEREAS**, the proposed site layout is depicted in Exhibit A-1 and attached hereto; and

**WHEREAS**, the facility, which will be open year round, contains approximately 2100 SF of interior retail sales area, a 1200 SF commercial kitchen, office space, and sanitary facilities; and

**WHEREAS**, the Applicant presented sworn testimony that the operation will comply with all of the regulations contained in the On-Farm direct marketing AMP regulations pursuant to N.J.A.C.2:76-2A.13, and that any events that will interfere with the typical movement or increase typical traffic volume will conform to their event management plan, attached hereto; and

**WHEREAS**, the applicant's representatives further testified to the following:

- Refuse and trash will be contained in an on-site dumpster with regular weekly pick-up;
- Applicant will comply with the County Engineer's review letter dated June 15, 2017 and subsequent report, as it relates to drainage and runoff.
- Applicant will comply with Township of Green Soil erosion regulations;
- Applicant will conform to the event management plan submitted as part of the application and submit said plan to Township.
- Proposed landscaping or any future signage will not be located within the County Right of Way or within the sight triangles and conform to the ON-farm Direct Marketing AMP.
- Handwashing stations will be provided near the area of the petting zoo and in the designated areas depicted in the site plan, floor plan, and event management plan.
- Sanitary facilities are provided in the proposed market building. Additional temporary sanitary facilities will be provided throughout the season and regularly maintained.
- The nature of the proposed events include hayrides, petting zoo, seasonal festivals, agriculture related educational activities, and ancillary entertainment based activities as defined in the On-Farm Direct Marketing AMP.

**WHEREAS**, the Applicant's Engineer, Mr. Fox, presented the following sworn testimony:

- The parking area & access aisle will be constructed with gravel. The applicant's existing market's drive aisle is gravel and there have been no incidents or issues and does not believe that the proposed gravel drive access presents a health or safety hazard.
- The access drive from County Route 517 is twenty-four feet in width, allowing for the safe and efficient movement of vehicular traffic in and out of the site;
- Two handicap parking spaces will be provided as depicted in Exhibit A-1 and conform to all ADA requirements;
- Thirty-six off-street parking spaces available for customers;
- Drainage and storm water measures will be managed and retained on the subject property, sheet flow onto the County Right of Way is prohibited as it presents a public safety hazard;

- Overflow parking access will be provided via the proposed parking area, with overflow parking in the field to the left of the proposed building.
- Lights will typically be extinguished by 10PM, except for some security lighting near building and may be temporarily extended to 11P.M. in conjunction with a seasonal on-farm direct marketing sales, activities, or events as permitted by the on-Farm Direct Marketing AMP.
- Proposed lighting will be building mounted, designed to minimize light spill, and not more than a 2/10 foot-candle; Lighting will provided for safe pedestrian & vehicular access in, out, and throughout subject property.
- Proposed Farm Market building conforms to all setback requirements in the On-Farm Direct Marketing AMP.
- All events will be setback at least 25 feet.
- Screening is provided by existing apple orchard and vegetation.
- Applicant will submit event management plan to Township of Green.
- Septic and well are proposed for the site and the applicant will have sanitary facilities in compliance with State or Local health regulations.
- Facility will conform to all health and safety regulations as required.
- Applicant will comply with Soil Erosion and Sediment Control Act and will apply to the Sussex County Soil Conservation District
- Applicant will submit revised plans showing sight distance triangles or line of sight in conformance with AASHTO standards.
- Obtain any Road Opening or Access Permits, as necessary, and issued by the County's Department of Engineering & Planning.
- Applicant will conform to all applicable building, fire safety, and health codes, as necessary; and

**WHEREAS**, the meeting was opened to the public and no comments were received at the meeting or submitted prior to the meeting; and

**WHEREAS**, the Township of Green Clerk and Land Use Board were noticed of said application in accordance with the regulations, and did not provide the SCADB with any input or comments on the aforementioned application; and

**WHEREAS**, the Board having reviewed the Memorandum (Exhibit A-2) prepared by Autumn Sylvester, Program Manager for the SCADB and Memorandum (Exhibit A-3) prepared by Robert D. Ayers, Confidential Assistant, Division of Engineering, copies of which are attached hereto and made a part hereof, and

**WHEREAS**, the Board reviewed and discussed the Freeborn's request, certification, exhibits, submitted documents, and testimony presented at the June 19, 2017, and August 18, 2017 public meetings.

**NOW THEREFORE IT BE RESOLVED**, based on the evidence and testimony presented before the Board through the application, plans, reports, and sworn testimony at the aforesaid hearings described above, the Board finds as follows:

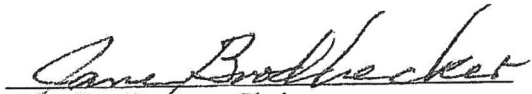
1. That Larry Freeborn operates a commercial farm in accordance with the requirements of N.J.S.A. 4:1C-3 as determined by the Board's Commercial Farm Resolution, memorialized June 19, 2017.
2. The applicant's current and proposed agriculture practices and operations, as described in testimony and additional documents presented in the SSAMP application and site plan, are a generally accepted agricultural management practice in accordance with N.J.S.A. 4:1C-9.
3. That there is a legitimate farm based reason for not complying with the Township of Green's requirement that the proposal be subject to site plan approval from the Township of Green Planning Board, to construct an agricultural retail market, with parking and site improvements, for the agricultural use on the Property.
4. That there is a legitimate farm based reason for not complying with the County of Sussex's requirement that the proposal be subject to Planning Board approval or standards, to construct an agricultural retail market, with parking and site improvements, for the agricultural use on the Property.
5. That the applicant will develop and use the subject property in conformity with the specifics described in their SSAMP application, site plan, event management plan, and testimony provided during the public hearings.
6. That the applicant will abide by the conditions described above.
7. That in granting the applicant's request, the SCADB has sought and balanced the legitimate interests of the local government, members of the public, as well as the impact of the proposal with any impact to the public health and safety.
8. That the Applicant's proposal to construct an agricultural retail market, with parking and site improvements, for the agricultural use on the Property, and as indicated in the submittal, will not compromise the public's health, safety, or welfare.
9. That, to the extent required, the Applicant is to be granted all necessary approvals and permits by the Township of Green, County of Sussex to construct an agricultural retail market, with parking and site improvements, for the agricultural use on the Property; and

**BE IT FURTHER RESOLVED**, that the SCADB grants relief to Larry Freeborn d/b/a Tranquility Farms, to construct an agricultural retail market, with parking and site improvements, for the agricultural use on the Subject Property, and as set forth in the above findings, and that all necessary and required permits shall be issued to extent required under the Right to Farm Act; and

**BE IT FURTHER RESOLVED**, that a copy of this resolution be sent to the Applicant, the State Agriculture Development Committee, the Township of Green, the County of Sussex, and the Applicant's engineer; and

**BE IT FURTHER RESOLVED**, that pursuant To N.J.A.C. 2:76-2.3(M), any person aggrieved by the decision of the SCADB may appeal the decision to the SADC in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14-B-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 decisions. If this resolution is not appealed within 45 days, this resolution is binding.

Certified as a true copy of the  
Resolution adopted by the Sussex  
County Agriculture Development  
Board on the 18<sup>th</sup> day of September 2017.



Jane Brodhecker, Chairperson  
Sussex County Agriculture Development Board

Approved: August 21, 2017  
Memorialized: September 18, 2017