

WARREN COUNTY AGRICULTURAL DEVELOPMENT BOARD
THE DEPARTMENT OF LAND PRESERVATION
500 MT PISGAH AVE, P.O. BOX 179
OXFORD, NJ 07863

RESOLUTION NO. 17-15

On motion by Mr. Baduini, and seconded by Mr. Menegus, the following resolution was adopted by the Warren County Agricultural Development Board at a meeting held November 16, 2017.

**RESOLUTION OF THE WARREN COUNTY AGRICULTURE
DEVELOPMENT BOARD APPROVING THE APPLICANT'S REQUEST FOR A
SITE SPECIFIC DETERMINATION IN THE MATTER OF SUN HIGH FARMS
RIGHT-TO-FARM APPLICATION FOR PERMIT TO CONSTRUCT A
40' X 80' LIVESTOCK CNMP BUILDING**

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 County Agriculture Development Board (hereinafter "Board") to determine if his or her operation constitutes a generally accepted agricultural management practice; and

WHEREAS, on September 29, 2017, Christopher J. Mulch owner of Sun High Farms, (hereafter "Applicant"), Block 66 Lot 2.17 in Knowlton Township, (hereafter "Property") made a request in writing to the Board for a site-specific agriculture management practice (hereinafter, "SSAMP") for permit to construct a 40' x 80' Livestock CNMP Building; and

WHEREAS, on September 28, 2017, pursuant to N.J.A.C. 2:76-2.3(c), the applicant advised in writing the State Agriculture Development Committee and the Township of Knowlton of their request; and

WHEREAS, on August 25, 2017, pursuant to N.J.A.C. 2:76-2.3(b), the applicant provided proof that their agricultural operation is a commercial farm as defined at N.J.S.A. 4:1-C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, on September 21, 2017, Applicant provided proof to the Board in the form of a commercial farm certification, including supporting documentation that the property is 5 acres or more and produces agricultural and/or horticultural products worth \$2,500 or more annually, and is eligible for differential property taxation pursuant to the Farmland Assessment Act of 1964, that the farm is located in the R-1 Zone, an area in which as of December 31, 1998 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, and that the Property is a "commercial farm" as defined by N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1, and the Board memorialized same by resolution on October 19, 2017; and

WHEREAS, a public hearing regarding Applicant's request was noticed to take place at the October 19, 2017 Board meeting and the Applicant was instructed to provide notice to all property owners within 200 feet as suggested by the Court in *Curzi v. Raub*, 415 N.J. Super 1 (N.J. Super. App. Div. 2010); and

WHEREAS, appropriate proof of service and publication of the Notice of Hearing was provided and the Board was found to have jurisdiction to proceed with the hearing on October 19, 2017; and

WHEREAS, in accordance with the procedure set forth in N.J.A.C. 2:76-2.10, a public hearing was held on October 19, 2017, when the Applicant presented his case and provided sworn testimony under oath. No representation from the Township of Knowlton was present and no other interested party appeared to express their concerns; and

WHEREAS, the Applicant provided sworn testimony under oath that the Township of Knowlton denied his permit application to construct a 40' x 80' Livestock CNMP Building because it violated the Township's Zoning Ordinance #11-299(4): The maximum square foot area of all accessory buildings on any single residential lot shall not exceed 1,200 square feet for lots less than two acres, 1,500 square feet for lots

not less than three acres, 1,800 square feet for lots not less than five acres and 2,300 square feet for lots not less than 10 acres. This calculation shall include the square footage of accessory nonagricultural structures and agricultural structures; and Zoning Ordinance #11-296 R: The maximum square footage allowed for all farm structures on a single lot shall not exceed 1% of the total square footage of the lot with a maximum size of any single structure to be more than 20,000 square feet. The Applicant stated that he was therefore seeking a determination by the CADB to allow the construction of the 40' x 80' Livestock CNMP Building for agricultural purposes. Responding to questioning by the Board, the Applicant stated that this building was approved by the NRCS 590 Nutrient Management Plan and that the building will have a roof, two sides, a concrete floor, a 10' enclosed feeding bunk, will house 10-15 cattle in Winter, and will be located on the 16 acre farm parcel next to the existing agricultural buildings.

NOW, THEREFORE BE IT RESOLVED, that based upon the evidence submitted and testimony presented by the Applicant the Board finds as follows:

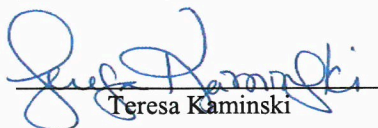
- 1) That the Board previously determined that Applicant operates a commercial farm in accordance with the requirements of N.J.S.A. 4:1C-9; and
- 2) That the Applicant is engaged in a generally accepted agricultural operation or practice pursuant to N.J.A.C. 2:76-2B.2; and
- 3) That the Board retains jurisdiction of this matter; and
- 4) That the Applicant has a legitimate farm based reason not to comply with Knowlton Township's Zoning Ordinances #11-299(4) and #11-296 R regarding the proposed 40' x 80' Livestock CNMP Building and is a reasonable agricultural activity; and
- 5) That the noticed neighbors, the Township of Knowlton, and the surrounding community would not be adversely affected by the proposed greenhouse expansion; and
- 6) That the Applicant will not implicate any health, safety, and welfare issues; and
- 7) That the Township of Knowlton shall permit the Applicant to proceed with the proposed 40' x 80' Livestock CNMP Building.

BE IT FURTHER RESOLVED, that the Board shall forward a copy of its written recommendation of the SSAMP Resolution to Sun High Farms (Christopher J. Mulch applicant), the Township of Knowlton, the State Agriculture Development Committee (SADC), and any other individuals or organizations deemed appropriate by the Board within 30 days of the memorialization of this recommendation.

Roll Call: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mr. Burke – yes;
Mr. Dempski – yes; Mr. Menegus – yes

CERTIFICATION

I, Teresa Kaminski, Secretary to the Warren County Agriculture Development Board, do hereby certify the foregoing to be a true and accurate copy of a Resolution adopted by the Warren County Agriculture Development Board at a meeting of said Board held on November 16, 2017 to memorialize the Board's action on October 19, 2017 in which a motion was made by Mr. Baduini and was seconded by Mr. Dempski and Roll Call at said meeting was as follows: Mr. Schnetzer – yes; Mr. Bodine – yes; Mr. Baduini – yes; Mr. Burke – yes; Mr. Dempski – yes; Mr. Menegus – yes.


Teresa Kaminski