

MORRIS COUNTY AGRICULTURE DEVELOPMENT BOARD

RESOLUTION 2005-03

**RECOMMENDATION OF A SITE SPECIFIC
AGRICULTURAL MANAGEMENT PRACTICE**

**MICHAEL BENE DUCE
GREAT SWAMP GREENHOUSES
BLOCK , LOT
TOWNSHIP OF LONG HILL**

WHEREAS, pursuant to the Right to Farm Act, N.J.S.A. 4:1C-1, et seq. and the State Agriculture Development Committee's Right to Farm Rules, N.J.A.C. 2:76-2.3(a), 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 August 4, 2003, the Morris County Agriculture Development Board (Morris CADB) received a written request from Michael Beneduce, owner and operator of Great Swamp Greenhouses, for a site specific agricultural management practice (AMP) for his agricultural operation; and,

WHEREAS, on August 14, 2003, pursuant to N.J.A.C. 2:76-2.3(c), the Morris CADB advised in writing the State Agriculture Development Committee (SADC) and the Township of Long Hill of Michael Beneduce's request; and

WHEREAS, on August 14, 2003, pursuant to N.J.A.C. 2:76-2.3(b), the Morris CADB requested that Michael Beneduce provide proof that his agricultural operation is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1; and

WHEREAS, on September 8, 2003, the Morris CADB received Michael Beneduce's commercial farm certification; and

WHEREAS, on September 11, 2003, at its regular meeting, the Morris CADB unanimously agreed to develop a site specific AMP for Great Swamp Greenhouses after making the following findings of fact:

1. Great Swamp Greenhouses is located in the Township of Long Hill, Morris County, at Block , Lot , commonly known as New Vernon Road, Meyersville, New Jersey; and,
2. Great Swamp Greenhouses is a commercial farm as defined at N.J.S.A. 4:1C-3 and N.J.A.C. 2:76-2.1, which produces agricultural/horticultural product worth \$2,500 or more annually and satisfies the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964; and

WHEREAS, on October 21, 2003, the Morris CADB received a revised request from Michael Beneduce for a site specific agricultural management practice (AMP) for his agricultural operation; and

WHEREAS, on November 17, 2003, the Morris CADB advised Michael Beneduce that all issues related to parking are subject to municipal standards and are outside the purview of the Morris CADB. As such, the Morris CADB would not address parking as part of the site specific AMP; and

WHEREAS, on December 17, 2003, Frank Pinto, Director of the Morris CADB, Katherine Coyle, Assistant Director of the Morris CADB, Peter Nitzsche and Pedro Perdomo, Rutgers Cooperative Extension Morris County Agents, conducted a site inspection of Great Swamp Greenhouses; and

WHEREAS, on April 21, 2004, the Morris CADB submitted a written request to Long Hill Township asking for copies of all municipal ordinances that apply to the Great Swamp Greenhouses operation, as well as municipal resolutions adopted regarding the Great Swamp Greenhouses operation; and

WHEREAS, pursuant to the SADC's Right to Farm Rules, N.J.A.C. 2:76-2.3(d), in recommending a site specific AMP, the CADB may consult with various agencies, organizations, or persons that may provide expertise concerning the agricultural practices in question; and

WHEREAS, in recommending a site specific AMP for Michael Beneduce's agricultural operation, the Morris CADB consulted with the following experts:

1. A.J. Both, Assistant Extension Specialist (Controlled Environment Agriculture), Bioresource Engineering, Department of Plant Biology and Pathology, Rutgers University
2. Peter Nitzsche, Morris County Agricultural Agent, Rutgers Cooperative Extension
3. Pedro Perdomo, Morris County Agricultural Agent, Rutgers Cooperative Extension
4. Jake Woland, Assistant Professor, Department of Landscape Architecture, Cook College, Rutgers University; and

WHEREAS, on the afternoon of July 8, 2004, Katherine Coyle, A.J. Both, Peter Nitzsche, Pedro Perdomo, and Jake Woland conducted another site inspection of Great Swamp Greenhouses; and

WHEREAS, on the evening of July 8, 2004, the Morris CADB conducted a site inspection of Great Swamp Greenhouses in accordance with the Open Public Meetings Act N.J.S.A. 10:4-6 et seq.; and

WHEREAS, on August 4, 2004, the Morris CADB received another revised request from Michael Beneduce for a site specific AMP for his agricultural operation; and

WHEREAS, on August 12, 2004, at its regular meeting, the Morris CADB reviewed the following experts' recommendations regarding Great Swamp Greenhouses: A.J. Both, Peter Nitzsche, Pedro

Perdomo, and Jake Woland; and

WHEREAS, on September 15, 2004, at its regular meeting, pursuant to Michael Beneduce’s request for a site specific AMP, the Morris CADB discussed the following items relating to the Great Swamp Greenhouses operation:

1. Hours of Operation
2. Exterior Lighting
3. Use of Farm Areas
4. Impervious Coverage (temporary greenhouses)
5. Storage of Equipment; and

WHEREAS, on September 15, 2004, the Morris CADB reviewed and discussed the following exhibits:

EXHIBITS

October 13, 2003 Letter addressed to the Morris CADB from Michael Beneduce.....	A-1
August 4, 2004 Note addressed to Katherine Coyle from Michael Beneduce	A-2
June 10, 2002 Memorandum addressed to CADB Administrators from Gregory Romano, SADC	A-3
April 27, 2004 Letter addressed to Katherine Coyle from Long Hill Township.....	A-4
Summary of Long Hill Township Resolutions and Ordinances	A-5
Summary of Expert Recommendations	A-6
Letter addressed to the Morris CADB from Jake Woland.....	A-7
July 13, 2004 Letter addressed to Katherine Coyle from A.J. Both.....	A-8
August 5, 2004 Letter addressed to Katherine Coyle from Peter Nitzsche and Pedro Perdomo.....	A-9
Hours of Operation – County Survey	A-10
Morris CADB Resolution 99-18 dated November 18, 1999	A-11
State of NJ, Office of Administrative Law Decision dated June 21, 2000.....	A-12

WHEREAS, on September 15, 2004, Michael Beneduce made the following statements to the Morris CADB regarding his agricultural operation:

1. Hours of Operation – The applicant wishes to extend his hours of operation to 8 a.m. to 9 p.m. seven days per week during the period from Thanksgiving to Christmas. He is currently permitted to remain open until 6 p.m. The extended hours are necessary to accommodate customers who wish to purchase Christmas trees in the evening after work hours.
2. Exterior Lighting – The applicant stated that adequate lighting is necessary to ensure the safety of his customers.
3. Use of Farm Areas – The applicant stated that he is currently not permitted to utilize certain portions of his property, such as in front of his residence and within 10-foot property setbacks, for production and display of agricultural products. This restriction takes a substantial portion of his 11-acre property out of production, limiting his ability to produce and sell his agricultural products.
4. Storage of Equipment – The applicant stated that he is not permitted to store outdoors vehicles and equipment utilized by his agricultural operation. Construction of structures for storage of equipment is cost-prohibitive and would remove more land out of production.

WHEREAS, on November 4, 2004, the Township of Long Hill Zoning Board of Adjustment submitted written comments to the Morris CADB regarding Great Swamp Greenhouses (attached hereto as Exhibit A-13); and

WHEREAS, on November 5, 2004, Mr. Michael Noll submitted comments to the Morris CADB regarding Great Swamp Greenhouses (attached hereto as Exhibit A-14); and

WHEREAS, on November 22, 2004, the Township Committee of Long Hill submitted to the Morris CADB Resolution 04-370, entitled “A Resolution Endorsing the Report Prepared by the Long Hill Township Zoning Board of Adjustment in Reference to the Development of a Site Specific Agricultural Management Practice for the Great Swamp Greenhouse” (attached hereto as Exhibit A-15).

WHEREAS, on January 13, 2005, the following individuals testified before the Morris CADB regarding Great Swamp Greenhouses: Barry Hoffman, Esq., Kevin O’Brien, John Pidgeon, Esq., Dennis Hado, Daniel Somers, Leonard Hamilton, Kurt Alstede, Michael Horne, Michael Beneduce, Joe Paschal and Dale Davis.

WHEREAS, on January 13, 2005, Daniel Somers, Esq. submitted a copy of the Superior Court of New Jersey, Appellate Division decision in the matter of Fred McDowell, Inc. v. Board of Adjustment of the Township of Wall and the Township of Wall, 334 NJ Super 201 (App. Div. 2000) (attached hereto as Exhibit A-16).

NOW THEREFORE, BE IT RESOLVED, that the Morris CADB hereby determines the following:

1. Hours of Operation – It is generally accepted that agricultural operations, which sell Christmas trees extend their hours during the Christmas tree sale season. Great Swamp Greenhouses may be open to the public from 8 a.m. to 8 p.m., seven days a week, during the period from Thanksgiving to Christmas. During the rest of the year, Great Swamp Greenhouses may be open to the public from 8 a.m. to 6 p.m., seven days a week.
2. Exterior Lighting -
 - a) It is generally accepted that farmers utilize floodlighting to light exterior customer and display areas. Great Swamp Greenhouses may utilize existing floodlighting, which is necessary to ensure customer safety. The applicant must install glare shielding to control the spill of light and to minimize the impact of the lights on neighboring properties. The applicant may install additional lighting at the far end of the parking lot away from the farm market if such lighting is necessary to further ensure customer safety. The lighting must be directed into property and glare shielding must be utilized as described above.
 - b) It is generally accepted that farmers utilize string lighting to light Christmas trees displayed for sale. Great Swamp Greenhouses may utilize string lighting consisting of 100-watt bare bulbs to light Christmas trees displayed for sale.
3. Use of Farm Areas – It is generally accepted that farmers grow and display their products up to the property line except near the road right of way.
 - a) Great Swamp Greenhouses may utilize the property up to the property side-line for growing, display and sales of agricultural products.
 - b) Great Swamp Greenhouses may not display planting for sale and conduct other agricultural activities in front of the house.
4. Storage of Equipment – It is a generally accepted practice for farmers to store equipment outdoors. Great Swamp Greenhouses may store outside vehicles and equipment utilized by the agricultural operation. In choosing the location for outdoor storage, the applicant is also encouraged to consider the aesthetics of outdoor equipment storage to both their customers and neighbors.

5. All of the above listed activities must conform to all relevant federal or State statutes or rules and regulations and be consistent with Morris CADB Resolution 99-18, "Recommendation of a Site Specific Agricultural Management Practice – Michael Beneduce, Great Swamp Greenhouses" dated November 18, 1999.

Loren Pfeiffer, Vice-Chairman
Morris CADB

Date

I hereby certify the above to be a true copy of a resolution adopted by the Morris County Agriculture Development Board at a regular meeting of January 13, 2005.

Frank T. Pinto, Jr., Director
Morris CADB