

MINUTES OF THE MERCER COUNTY AGRICULTURAL DEVELOPMENT
BOARD MEETING HELD MONDAY, August 7, 2023
IN THE EXTENSION SERVICE
BUILDING 1440 PARKSIDE AVENUE,
EWING, N.J.

I. CALL TO ORDER

Chairman Frank D'Amico called this meeting to order at 7:30 p.m.

II. COMPLIANCE STATEMENT

Ms. Floyd announced that pursuant to the Sunshine Law, notice of this meeting was mailed to the Trenton Times, and was posted on the County Planning Department's website, including a public zoom meeting link and instructions.

III. ROLL CALL

Voting Members:

A. Voting Members:

Mr. Steve Jany, Chair – Absent
Mr. Frank D'Amico, Vice-Chair – Present
Mr. Scott Ellis – Present
Mr. Gary Mount – Absent
Ms. Theodora Wang - Present

B. Non-voting Members:

Mr. Bill Agress/County Planning Board Liaison - Absent
Ms. Meredith Melendez/Rutgers Cooperative Research and Extension – Present

C. Others Present:

Ms. Leslie Floyd/Mercer County Planning Director
David Kimmel, SADC
Susan Bacso, MCADB Attorney
Hari Patel, BAPS
Shaun Barok, BAPS
Yogesh Patel, BAPS

A legal determination was made that three (3) voting members constitutes a quorum since there are presently five (5) voting members of the CADB.

IV. APPROVAL OF MINUTES

On a motion by Mr. Ellis and seconded by Ms. Wang, the minutes of the June 5, 2023 regular meeting were unanimously approved.

V. PUBLIC COMMENT: None.

VI. CORRESPONDENCE: None

VII. NEW BUSINESS: BAPS Special Occasion Event (SOE) Application

Ms. Bacso began with a brief summary of the SOE law, referring to a legal analysis she provided to CADB members in advance of the meeting. An application must comply with the law with respect to the duration of the event(s), farm acreage to be utilized, and use limitations. Mercer County is the easement holder. This application is to use the farm as parking in connection with a cultural event being held on an adjacent property.

Hari Patel noted that the applicant is proposing 20 events between now and October 10, 2023 of 2-3 days duration each. BAPS is currently utilizing off-site parking in Hamilton with a shuttle service to their Temple. Mr. Patel indicated his belief that an SOE permits the use of 10% of the

property or a maximum of 10 acres. Ms. Bacso referred to the application which presented three different parking location options, each of which appear to be 40 acres of the 60-acre farm. She noted that the purpose of the SOE law is to permit events on the preserved farm, not to use the farm for an ancillary purpose. In addition, the application requests the use of more acres than permitted and the number of event days exceeds that permitted by law.

Hari Patel said that BAPS is aware of the limitation on area that can be used; the applicant wanted the Board to see alternate locations for the parking. They believe the number of events requested are consistent with that which is permitted during a year. They want to be compliant. Mr. Patel explained that Mr. Knapp farmed the property, harvesting corn and soybeans in spring 2023. Mr. Knapp is retiring and BAPS has signed a lease with JK Matthews (Gabert) to begin farming fall 2023. No crop is present on the farm at this time. If permitted this use, BAPS stated that they will restore the land to farm use. During the SADC's June SOE webinar, BAPS did ask a general question about parking. BAPS is willing to look at the best location on the property to minimize disturbance.

Ms. Bacso reported that in our preparatory discussion with SADC staff, the farm cannot be used for parking for an off-site event. The SADC has not promulgated SOE regulations yet. Events do not have to be farm related. There was a discussion of legislative intent. The CADB does not have the discretion to waive requirements of the law.

Mr. Ellis said that this is not a proper use of preserved farmland, referencing the legal analysis provided by counsel. Ms. Wang added that this application does not meet the intent of the law.

Mr. Ellis made a motion to deny the application, seconded by Ms. Wang. The motion to deny was approved. A resolution memorializing the action will be circulated to the Board after the meeting so the action can be formalized during the County's 90-day window for action.

At a future meeting, staff will bring forward a draft policy to govern CADB review of SOE applications.

VIII. COMMITTEE AND STAFF REPORTS

A. SADC:

David Kimmel reported for the SADC.

SOE Update – One question that is coming up is the extent of municipal jurisdiction. Can a municipality pass an ordinance disallowing all SOE's in their town?

There have been modifications/additions to the Agricultural Mediation Rules. Ms. Floyd asked for more information.

Soil Protection Standards – The SADC's draft rules on Soil Protection Standards will be published in the New Jersey Register on August 8 with comments due by October 6. Letters and maps will go to every preserved farm landowner in the next week or two.

The NJDA has funding in the new budget for two new staff positions focused on new farmer support.

SADC made a successful offer to preserve the 130-acre Patricelli farm (Hopewell Township) and they are now in their due diligence period. In addition, the SADC is actively working with the Ossowski property and is talking to Danch (Katz/Leake), both in Hamilton Township.

B. Land Development Activity:

There are no Land Development applications on the upcoming County Planning Board agenda within the Agricultural Development Area (ADA).

C. Farmland Preservation Updates:

Kerr Farm: Kerr counsel working to finalize pre-closing items. Closing fall 2023.

Wert Farm: Survey is being updated to SADC standards.

2023 Auctions: Auctions of Wert and Chowdhury planned for fall 2023.

VIII. OLD BUSINESS:

Farm Monitoring: Ms. Floyd recaps that several advisory and violation letters went out in June 2023. In most cases, landowners were given 10 days to respond; most responded in a timely fashion to the letters and provided updates and/or specific plans to address their outstanding issues. For the violations, no response was received from Guzikowski (County-only easement), Liang, and Gres. Gres is an unusual case in that Mr. Johnson, the contract purchaser, received approval from the SADC and CADB earlier this year to construct a driveway to the exception area, conditioned on the development and implementation of a reclamation plan for the farm. Ms. Bacso asked Mr. Kimmel to provide feedback on the reclamation plan – what is a reasonable timeline for the applicant to complete this step? What options are available to the CADB for a farm that remains non-compliant while waiting for a reclamation plan? For Guzikowski and Liang, staff is requesting an acknowledgement from the CADB that staff will move to the next step in our monitoring policy. Ms. Bacso reviewed the steps outlined in our policy and the limitations on remedies.

For the Perrine farm – the CADB did not determine that Mr. Perrine is in violation of his easement at the June meeting due to Board member conflicts. Our farm monitoring consultant reported that a large area on the farm, not within the exception area, is being used for heavy machinery storage and materials. That area also contains large sand and gravel piles; the equipment has no relation to agricultural operation. Mr. D’Amico noted that he has borrowed some of the construction equipment for use on his farm and that non-traditional equipment has a role in farming. He did not weigh in on the other items or material on the farm.

Ms. Wang made a motion to declare the Perrine farm in violation of the Deed of Easement. Mr. Ellis seconded the motion. The motion was approved with Mr. D’Amico recusing himself.

There was a discussion about moving farm monitoring back in-house. There is a need for better communication with landowners and maintaining an on-going relationship. Board members want to participate in monitoring visits again.

Bent Iron Brewery SSAMP update: A site visit was conducted on July 14. Those in attendance including Mr. Jany, Ms. Wang, Mr. Ellis, Ms. Floyd, Ms. Flanagan (NRCS) with an intern, Mr. Bamka (Rutgers Extension), and Ms. Steimle (NJDA). Mr. Brittain plans to open his operation in December 2023/January 2024. He agreed to delay his CADB public hearing to October 2, 2023. There was a discussion about the site visit and the benefits of pursuing a SSAMP (preemptive protections under Right to Farm).

Staff: Ms. Floyd reported that a new open space/farmland preservation staff member is scheduled to begin work on September 5, 2023.

X. DISCUSSION: None

XI. PUBLIC PARTICIPATION: None

XII. EXECUTIVE SESSION: None was required.

XIII. ADJOURNMENT

On a motion by Ms. Wang and seconded by Mr. Ellis, the meeting was unanimously adjourned at 9:10 pm. The next scheduled meeting of the MCADB is October 2, 2023, in person.

Respectfully submitted,

A handwritten signature in blue ink that reads "Leslie R. Floyd". The signature is written in a cursive style with a large initial "L" and "F".

Leslie Floyd