

# Hunterdon County Agriculture Development Board Meeting

March 11, 2021 @ 8:00 pm

314 Route 12 County Complex  
Building #1 | Assembly Room  
Flemington, New Jersey

## **Members in Attendance Electronically:**

Dave Bond-Chair  
Bob Hoffman-Vice Chair  
Christian Bench  
Susan Blew  
Ted Harwick  
David Kyle  
Forest Locandro  
Gerry Lyness  
John Perehynys  
Marc Phillips  
Liz Schmid

## **CADB Staff Present Electronically:**

Shana Taylor, Esq. County Counsel  
Aaron Culton, Esq., Asst County Counsel  
Bob Hornby, CADB Administrator  
Carrie Fellows, Director, Planning  
Katherine Fullerton, Supervising Planner  
Kevin Milz, Hunt. Soil Cons. Dist.

*In consideration of COVID-19 public health guidelines, this meeting was held telephonically and via Zoom and hosted by County Counsel Paralegal Samantha Gravel. CADB members and the public called in to a prearranged number or Zoom login advertised on the agenda distributed and posted electronically.*

## **Open Public Meeting Act:**

### **Chairman Bond opened the meeting at 8:00 p.m. and read the Open Public Meeting Act:**

*"This meeting is being held in accordance with the provisions of the Open Public Meeting Act. Adequate notice has been provided by prominently posting and maintaining so posted throughout the year on the first floor of the County Administration Building, Main St., Flemington, New Jersey a public place reserved for such announcements, and by mailing on or before January 15, 2021, to The Hunterdon Democrat, Star Ledger, The Trenton Times, The Courier News and The Express Times newspapers, and TAP Into it newspaper and designated by the Hunterdon County Agriculture Development Board to receive such notices, and by filing with the Hunterdon County Clerk a schedule of the times and dates of such meetings."*

## **Pledge of Allegiance:**

**Roll Call:** Dave Kyle arrived 8:10 pm

## **Approval of Minutes:**

- **Minutes of the February 11th CADB Meeting** Liz Schmid made a MOTION to approve, Susan Blew SECONDED. Ted Harwick & Forest Locandro ABSTAINED. All in favor by Voice Vote.

## **Communications and Administrative Business:**

- **CADB Staff Update** – 32 Active applications
  - **Kappus Farm** (Alexandria Twp.) – Corrective deed for County Culvert error from 1998 will be filed at closing, working on a survey correction
  - **Curtis Farm** (Delaware Twp.) – Site inspection 3/10/21 with NJCF, minor dumping along the eastern border and uncharted spring house. County will take easement after closing.

- **Thomas Farm** (East Amwell Twp.) – Survey in process by Bohren & Bohren, Title received.
  - **Furlong Farm** (Alexandria & Franklin) – Withdrawn, Franklin did not support.
  - **Onuschak Farm** (Franklin Twp.) – Survey by Bohren and Bohren in process.
  - **DuBrow Farm** (Franklin Twp.) – Letter sent from SADC covering future soil protections, awaiting response.
  - **Magnolia Creek Farm** (Franklin Twp.) – Landowner accepted, pending RCPP selection.
  - **Grochowicz Farm** (Hampton, Glen Gardner, Bethlehem) – Gotten through all local approvals and is on the SADC Agenda for March 25<sup>th</sup>. Survey work is already done, hoping to close once the SADC finals get through.
  - **Silva Farm** (Holland Twp.) – Closing review at SADC.
  - **DeSapio Farm** (Kingwood Twp.) – Survey under review. ALE Site review 3/11/21.
  - **Kollmer Farm** (Kingwood Twp.) – ALE Site visit 3/11/21.
  - **Saums Farm** (Readington Twp.) – County final approval 03/16/21 Commissioner’s meeting.
  - **Hoyer Farm** (West Amwell Twp.) – Renewed interest, possible exception area adjustment.
- **Staff Activity**
    - **PSE&G Crop Reimbursement Policy** is being reviewed by SADC and CADB staff. County Ag Agent Megan Muehlbauer is identified as an arbiter and is being consulted.
    - **PSE&G Easement** issues are being followed concerning preserved farms along the easement corridor where the lattice towers are being replaced by monopole structures.
    - **Farm Outbuildings:** Bob was contacted by an author interested in documenting small farm structures in Hunterdon County.
    - **579 Trail** is looking at spring outreach and marketing efforts, Bob is on the advisory board.
- **Communications**
- **Monitoring Update**
    - SADC released the FY2020 Monitoring Report, Bob will update the Board on Hunterdon specifics in April.
    - 139 inspections have been completed for FY2021 as of March 5.

### **SADC Updates:**

*Bob spoke on behalf of the SADC.* Bob attended the February 25<sup>th</sup> meeting electronically.

Presentation on New Jersey Energy Master Plan, with specific goals by 2035-2050. No utility scale solar (10+ megawatt) development in either the Highlands or the Pinelands, SADC analysis removed those parts of NJ, isolated lots over 50 acres across NJ that are owned by a single owner, and produced an overlay of how much of that land would have to be developed for solar to reach their goals. SADC requesting Board of Public Utilities (BPU) consider input from NJ Department of Agriculture in terms of siting solar off prime soils and smart sustainable siting. Also mention of seeding underneath the solar panels with native species. Concern about seed drift to fields near the panels. All the bills are draft form. Probably won’t show up in Real Estate appraisals quickly, then might see a jump in value. S3484 would allow dual use, you would be able to keep your farmland assessment if you turn it into a solar field providing you make the minimum for assessment. There are concerns that people will only plant the minimum and the whole solar plant would be assessed as farmland assessment and the Municipality would lose revenue on taxes.

The rest of the meeting was on Soil Disturbance Standards. Was hoping to have a draft form to pass out, but it hasn't been released yet. Would like to invite SADC Staff Jeff Everett or Dave Clapp, they are writing the standards, to attend the next CADB meeting. The basic idea is that you could have permanent soil disturbance of 6 acres or 8% of the property. When you look at the average acreage of farms in Hunterdon County 6 acres on a 40-acre preserved farm is a large percentage. There are many sides to it, something CADB should comment on and get back to SADC.

**Chair Comments:** Chairman Bond asked about the progress on the DuBrow farm, prior soil disturbance was an issue there. SADC asked them to sign a release on soil disturbance and they don't want to. Bob stated that the family has not had recent communication with him. Chairman Bond stated that it's a shame we will probably lose that farm. Bob stated that signing that release will be required on all applications that are close to the proposed limit prior to preservation. Standards will apply to all preserved farms. Chairman Bond asked for a MOTION to submit a letter to SADC that the terms of the Preservation Easement should not be altered after closing, especially in regard to Soil Standards. Christian Bench made a MOTION, Susan Blew SECONDED. Chairman Bond then asked for another MOTION to submit a letter to SADC requesting the DuBrow Family not have to sign off on the Soil Standards as the project was already approved. Dave Kyle made a MOTION, Liz Schmid SECONDED.

**Old Business:**

**NONE AT THIS TIME**

**New Business:**

**NONE AT THIS TIME**

**Right To Farm Matters:**

- **SSAMP Hearing- Beneduce Vineyards (Alexandria Block 21 Lot 41.31) No testimony will be heard. A Special Meeting will be held March 29, 2021 at 7:30 pm via Zoom.**
  - Counsel called for a motion to open Public Hearing on Beneduce Vineyard, Liz Schmid made a MOTION to Open, Susan Blew SECONDED. All in favor Voice Vote
  - Counsel called for a motion to close and carry the Public Hearing until a special meeting on March 29, 2021 at 7:30 pm via Zoom. Bob Hoffman made a MOTION to close and carry until March 29, 2021, Liz Schmid SECONDED. All in Favor by voice vote.
- **SSAMP Hearing – Hoffman Farm (Tewksbury Block 5 Lots 12.01 and 12.02.)**
  - Member Bob Hoffman recused himself for this portion of the meeting. County Counsel asked for a MOTION to Open the Hearing. Liz Schmid made a MOTION to Open, John Perehynys SECONDED.
  - Aaron Culton swore in Bob Hoffman. Aaron stated that Mr. Hoffman is seeking relief from the Tewksbury Twp. stormwater rules. Applied for construction of a 30' x 60' ag structure, was denied by Tewksbury Township and is now seeking relief for two structures on separate adjoining lots. Denied due to the size of the structure, it was over 1000 square feet. Pursuant to Tewksbury Twp. stormwater regulations, Grading and Surface Water Management Plan (GSWMP) to the township engineer is required prior to issuance of a permit. Counsel has looked at ways that Tewksbury Twp. SWMP differs from the State's rules and regulations. This board cannot override state regulations. It can, if appropriate, provide relief under Right To Farm for stormwater rules and regulations promulgated by a municipality in so far as they exceed those which are required under the state's stormwater regulations.

- CADB Staff received a letter from Tewksbury Twp. requesting the Board should require Mr. Hoffman to provide the GSWMP. They will not provide testimony beyond the letter of submission.
- Mr. Hoffman stated that he did receive a denial for the second permit. He received it via email and has not yet received a mailed copy. Was denied for the same reasons. Was advised by an Engineer that he didn't need GSWMP, says the State's stormwater requirements don't require one for structure under 10,000 sq ft. Advised to contact another Engineer to get another opinion and that Engineer confirmed he didn't need one. Contacted SADC and Department of Agriculture and they both agreed he didn't need one but said he did have to go for an SSAMP to get relief from it from the Township.
- Mr. Hoffman referred to a picture of the type of structure he wants to put up. The structure will sit on the ground, he isn't going to be doing any grading or foundation excavation. It gets anchored to the ground. He is just looking for relief from the GSWMP.
- Mr. Hoffman fielded questions from Board members. Mr. Hoffman said he sent the permit in at the end of October and was denied on November 11, 2020.
- Board member Locandro commented that the Stormwater Ordinance was adopted on November 10<sup>th</sup>, they denied him on the 11<sup>th</sup> event though the permit was submitted before the Ordinance was adopted. Mr. Hoffman said yes. Counsel stated that he looked over the Ordinance from 2012, which was the previous one, and didn't see that requiring a GSWMP for 1,000 sq ft has changed.
- Counsel stated that he noticed that Mr. Hoffman had received an email from John Shaller at the Department of Agriculture, he indicates that the NJDEP rules are overseen by Soil Conservation. Email indicates that to trigger the rules the proposed activity must be a definition of a major development which is .25 acres of impervious. The question is if the State stormwater rules even apply here. If Tewksbury is requiring these rules it is a greater requirement than the State requires.
- Discussion ensued about the type of structure, it's not a permanent structure. Mr. Hoffman fielded more questions from board members.
- Counsel stated that the hearing has been adequately noticed by Mr. Hoffman. Bob Hornby stated that he and Dave Kyle made a site visit on Feb. 23, 2021. Member Kyle described the site as essentially flat and the location made sense for ag purposes.
- Mr. Hoffman stated that he has spoken to a neighbor and he didn't have any problem.
- Counsel opened the hearing up to public comment. Barbara Sachau of Raritan Twp. she stated she thinks the rules of the Township should be observed.
- Counsel entered into evidence
  - A1 – Mr. Hoffman's SSAMP application
  - A2 – Notice of Public Hearing, Affidavit of Publication
  - A3 – Email from John Showler from NJDEP
  - A4 – NJ Stormwater Rules
  - A5 – Tewksbury Ordinance 11-2012
  - A6 – Sketch showing location of structures
  - A7- Satellite map with proposed locations
  - T1 – Letter from Tewksbury Twp.
- Counsel asked for a MOTION to close out the Public Hearing. Liz Schmid made a MOTION to close the Public Hearing. Susan Blew SECONDED. All in favor by voice vote.
- Chairman Bond asked if there were any comments from the board members. Board member Bench stated he's put up a lot of buildings through Federal cost share dollars and has had to

deal with stormwater rules, thinks that the rules of Tewksbury Twp. are only hurting the farmers. They should be following state rules.

- Member Locandro stated that he's been looking at other rulings in other counties across the state that if accessory structures are used for Agricultural purposes, it seems that every county waives a lot of the township restrictions for farmers.
- Counsel explained to the Board that the relief would be from the requirement of the Tewksbury Ordinance to provide a GSWMP as part of permit approval for the structures he's proposing. Chairman Bond asked for a MOTION to provide Hoffman Farm relief from the Tewksbury Ordinance requiring a GSWMP for the zoning permit. Forest Locandro made a MOTION, Christian Bench SECONDED. Chairman Bond asked for a roll call vote.

| <i>ROLL CALL</i>                           | <i>MOVED</i> | <i>SECONDED</i> | <i>AYES</i> | <i>NAYS</i> | <i>ABSTAIN</i> | <i>ABSENT</i> |
|--------------------------------------------|--------------|-----------------|-------------|-------------|----------------|---------------|
| <b>David Bond, Chair</b>                   |              |                 | <i>X</i>    |             |                |               |
| <b>Robert Hoffman, Jr.,<br/>Vice Chair</b> |              |                 | <i>R</i>    |             |                |               |
| <b>Susan Blew</b>                          |              |                 | <i>X</i>    |             |                |               |
| <b>Marc Phillips</b>                       |              |                 | <i>X</i>    |             |                |               |
| <b>John Perehinys</b>                      |              |                 | <i>X</i>    |             |                |               |
| <b>Gerry Lyness</b>                        |              |                 | <i>X</i>    |             |                |               |
| <b>Christian Bench</b>                     |              | <i>X</i>        | <i>X</i>    |             |                |               |
| <b>Dave Kyle</b>                           |              |                 | <i>X</i>    |             |                |               |
| <b>Liz Schmid</b>                          |              |                 | <i>X</i>    |             |                |               |
| <b>Ted Harwick</b>                         |              |                 | <i>X</i>    |             |                |               |
| <b>Forest Locandro</b>                     | <i>X</i>     |                 | <i>X</i>    |             |                |               |

**10 IN FAVOR**

**Public Comment:**

- Barbara Sachau asked what they mean by a temporary structure. Dave Bond responded that it means that it is not a permanent structure. It can be taken down and moved, won't last forever because it's a temporary structure.
- Bob Hoffman commented that he has gotten calls about warehouses going up along the Route 78 corridor.
- Mala Eselin thanked the county for the work they are doing to protect the soil.

**Adjournment:** MOTION for adjournment made by Liz Schmid, Dave Kyle SECONDED. All in favor, Meeting Adjourned

**Hunterdon County Agriculture Development Board  
Request for Site Specific Agricultural Management  
Practice Application for Hearing (Form B)**

Pursuant to the New Jersey Right to Farm Act, NJSA 4:1C-1 et seq, the Hunterdon County Agriculture Development Board (CADB) may develop and recommend site specific agriculture management practices (SSAMPs) and hold public hearings and issue findings. In addition to this form, the applicant must submit a commercial farm certification form (RTF Form C).

**Section I. General Information**

Date of Application 12/1/2020

Name of farm operator Robert Hoffman Jr.

Mailing address 9 Fairmount Rd West, Califon, N.J. 07830

Phone and Fax 908-399-2195

Name of landowner  
(if different from farmer) \_\_\_\_\_

Municipality of farm Tewksbury Township

Block and Lot of farm Block 5 Lot 12.01 & 12.02

Location of farm 9 Fairmount Rd West, Califon

**Section II. Farm Information**

- 2.1 Number of Acres *Farmed:* \_\_\_\_\_ *Owned:* 6 *Rented:* \_\_\_\_\_
- 2.2 Commodities Produced: Hay, Beef Cattle, Pork
- 2.3 How long has the farm been in operation by the current farmer? 5
- 2.4 Does the farm have a conservation plan implemented? X Yes \_\_\_\_\_ No
- 2.5 A sketch of the farm must be submitted with this application outlining the approximate location of all farm buildings and their distance to property lines in addition to any other information deemed by the applicant to be significant. The sketch must be drawn to scale.
- Has a sketch been submitted? (Yes) or No

- 2.6 Please explain the specific farm practice for which the site specific agricultural management practice determination (AMP) is requested.

Note: A **Site Specific Agriculture Management Practice** is "a specific operation or practice which has been recommended by the appropriate board...to constitute a generally accepted agricultural operation or practice" N.J.A.C. 2:76-2.1. (use additional paper if necessary).

Construct a 30x60 Fabric Structure non permitted  
will not do any grading it will be anchored to  
the ground

Explain how the proposed Practice deals with:

- a. air NA
- b. water quality control will follow state standards
- c. noise control NA
- d. pesticide control NA
- e. fertilizer application NA
- f. integrated pest management NA
- g. labor practices NA
- h. other

2.7 Provide a detailed justification for your request, including the organizations that **disagree with or oppose** your practice as it relates to the specific manner for which you seek approval. Please reference and attach any supporting information.

- a. Government Organizations; *Teaksbury Township  
office of the Zoning Enforcement officer*
- b. Farm Organizations;
- c. Professional Organizations.

2.8 Have you consulted with, or are you aware of any **recommendations or requirements** for your practice issued by:

- a. New Jersey Department of Agriculture;
- b. State Agriculture Development Committee (SADC);
- c. Agriculture Experiment Stations;
- d. Hunterdon County Agriculture Development Board (CADB);
- e. Hunterdon County Soil Conservation District;
- f. U.S. Department of Agriculture or other Federal Government entity;
- g. Any other organization or person which may provide expertise concerning the particular practice. (i.e. NJ Farm Bureau, from other farmers, other detailed information not already submitted or if practiced/used elsewhere.)

*(please reference and attach any supporting information from these organizations)*

A **list of witnesses** (if any) will be required **14 days prior to hearing**. This list shall include any witnesses testifying on your behalf and an estimation of how long they are expected to speak.

- If the applicant proposes to use more than 5 witnesses or make a presentation that will last more than one and one-half hours, the applicant and their attorney are required to participate in a conference with CADB staff and County Counsel prior to the meeting;
- If a witness is going to rely on a **report or other document**, 20 copies (11x17 or smaller) must be submitted at least 14 days prior to the meeting;

**Hunterdon County Agriculture Development Board  
Commercial Farm Certification (Form C)**

Name of Farm: Hoffman Farm LLC

Name of Farm Operator: Robert Hoffman Jr

Name of Landowner: Robert Hoffman Jr

Municipality: Tewksbury Township

Block/Lot: 5 12.01

I, Robert Hoffman Jr., hereby certify the following:  
(farm operator)

1. I am (one of) the owner(s)/operator(s) of Hoffman Farm LLC.  
(name of commercial farm)
2. I have filed or intend to file with the Hunterdon County Agriculture Development (CADB):
  - ☒ a request for the Hunterdon CADB to determine if my operation constitutes a generally accepted agricultural operation or practice; or
  - ☒ applying for a hearing on a Right to Farm dispute
  - ☒ zoning request for structure

The nature of my operation or practice is as follows:

Grow, harvest and sell hay

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

My personal involvement with the operation is as follows:

do all the work

\_\_\_\_\_

\_\_\_\_\_

My personal experience with the operation is as follows:

have purchased and managed land

\_\_\_\_\_

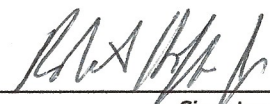
\_\_\_\_\_

3. I certify that my farm, Robert Hoffman Jr Hoffman Farm, is five acres or more, 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. A list of agricultural/horticultural commodities produced on the commercial farm is attached **and a list of quantity and value for each crop produced. If the production is less than what is expected, please explain why.** If land is farmland assessed, a copy of the filed farmland assessment form(s) is attached. If land is not farmland assessed, a copy of the tax map representing the farm acreage is attached; or, in the alternative if the commercial farm is less than five acres,

I certify that my farm, \_\_\_\_\_, is less than five acres, produces agricultural/horticultural products worth \$50,000 or more annually and otherwise satisfies the eligibility criteria for differential property taxation pursuant to the Farmland Assessment Act of 1964. A list of agricultural/horticultural commodities produced on the commercial farm is attached **and a list of quantity and value for each crop produced.** A copy of the tax map representing the farm acreage is attached.

4. I have attached proof that the farm:  
X (a) is located in an area in which, as of December 31, 1997 or thereafter, agriculture has been a permitted use under the municipal zoning ordinance and is consistent with the municipal master plan, OR  
 \_\_\_\_\_ (b) was in operation as of July 2, 1998.
5. To the best of my knowledge and belief, my agricultural operation is in compliance with all relevant federal and State statutes, rules and regulations.
6. I understand that within 30 days of the board's issuance of its written recommendation, it will forward its decision to me, the State Agriculture Development Committee (SADC) and any other individuals or organizations deemed appropriate by the board.
7. I understand that any person aggrieved by any decision of the board regarding this recommendation 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 the Uniform Administrative Procedure Rules, N.J.A.C. 1:1, within 45 days from receipt of the board's final determination.  
 The decision of the SADC shall be considered a final administrative agency decision. If the Board's decision is not appealed within 45 days, the Board's decision is binding.
8. **The CADB reserves the right to inspect the operation.**

Dated: 12/1/2020

  
 Signature of farm operator

Robert Hoffman Jr  
 Print name clearly

9 Fairmount Rd West Califon, N.J.  
 Mailing address 07830

**DENIAL OF PERMIT**  
**OFFICE OF THE ZONING ENFORCEMENT OFFICER**  
**OF**  
**TEWKSBURY TOWNSHIP**

Exhibit A-1 (p6 of 7)

Date: 11/11/2020  
Re:Application#: 2844

To:  
HOFFMAN, ROBERT JR.  
9 FAIRMOUNT RD WEST  
CALIFON NJ 07830

|                  |          |
|------------------|----------|
| Voucher/Receipt# |          |
| Check #:         | 5098     |
| Amount collected | \$ 50.00 |

Your application for a permit to:  
1,800 SF STRUCTURE FOR FARM STORAGE

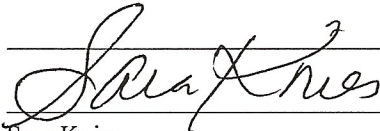
on the property at 9 FAIRMOUNT RD WEST TEWKSBURY Block : 5 Lot : 12.01  
has been denied for noncompliance with provisions of Article (s) : Sections : of the Municipal Zoning Ordinance for the following reasons:

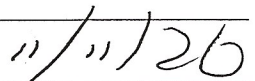
**Permit is denied for the following reason: due to size of structure (>1,000 sf), a Grading & Surface Water Management Plan is required to be submitted to the Township Engineer for approval prior to issuance of any Zoning and/or Construction permits.**

Information on procedures for an appeal of this decision to the Board of Adjustment can be obtained from the Zoning Office. It should be noted that under State Statute, notice of appeal of this decision must be filed with this office not later than twenty (20) days from the date of this notice. You can also file for a variance to the Board of Adjustment and can obtain from the Secretary of the Board of Adjustment the required forms.

The permit which you submitted has been placed in the inactive files in the Land Use Department / Zoning Department. If you have any questions please contact me at (908) 439-0022 ext. 730.

Denied by:

  
Sara Knies

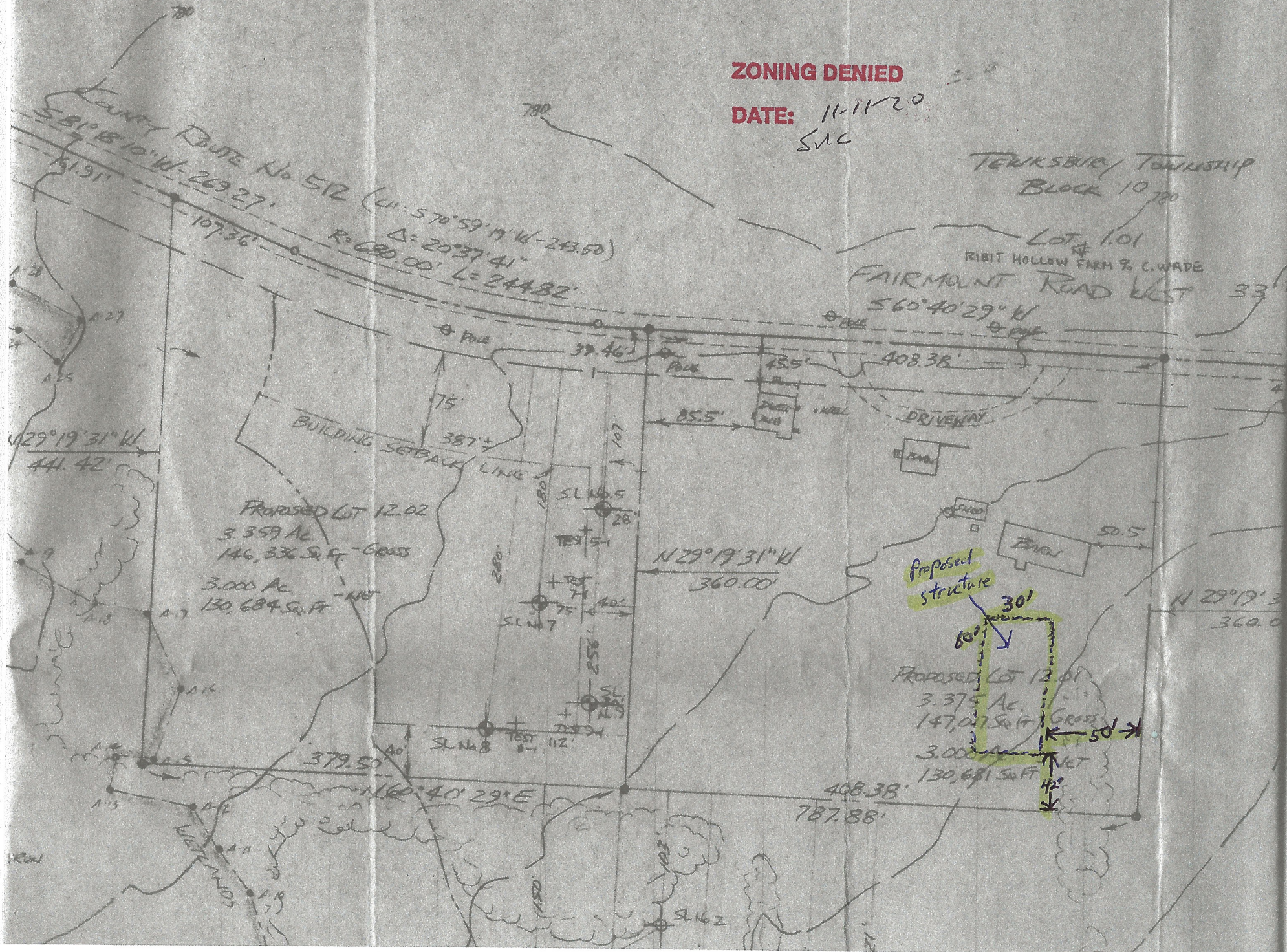
  
Zoning Official

CC: Block & Lot File

Sara Knies, Zoning Official

**ZONING DENIED**

**DATE:** 11-11-20  
SAC



# AFFIDAVIT OF PROOF OF PUBLICATION AND SERVICE

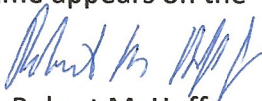
Robert M. Hoffman Jr., of full age, being duly sworn according to law, on his oath deposes and says that he did on February 27, 2021, at least ten (10) days prior to the hearing date, give public notice to all property owners within two hundred feet (200 ft.) of the properties identified on the tax map of the Township of Township as Block 5, Lot 12.01 & lot 12.02, also known as 9 & 11 Fairmount Road West, of a public hearing to be held on March 11, 2021 at 8:00 PM, to consider and take action on the following application:

Request of Robert M. Hoffman Jr. for Site Specific Agricultural Management Practice (SSAMP) approval to construct two agricultural storage fabric structures on the properties located at 9 and 11 Fairmount Rd W, Califon, NJ 07830, also known as Block 5 Lot 12.01 & Lot 12.02 in Tewksbury Township, together with any other relief, including but not limited to, relief from compliance with Tewksbury Township's Stormwater Management Regulations, which the Hunterdon County Agricultural Board may deem necessary and appropriate upon its review of the application and the matter set forth at the public hearing. All parties interested in the foregoing matter may be heard at the public hearing.

Said notice was given via certified mail. The certified mailing receipts are attached hereto with a copy of the notice marked "Exhibit A".

Notice was also published in the official newspaper of the county as required by law on February 27, 2021. The Affidavit of Publication is also attached and marked as "Exhibit B".

Attached to this Affidavit is a copy of the certified list of owners of property within two hundred feet (200 ft) of the affected property prepared by the Acting Zoning Officer of the Township of Tewksbury showing the lot and block numbers of each property as the same appears on the municipal tax map and marked as "Exhibit C".

  
Robert M. Hoffman Jr.



Sworn to and subscribed before me

On this 3 day of March, 2021



**DOLORES KROWL**  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires September 13, 2021

From: Showler, John John.Showler@ag.nj.gov  
Subject: RE: Storm water plan  
Date: Jan 11, 2021 at 8:50:10 AM  
To: Robert Hoffman hayman640@embarqmail.com,  
Minch, Frank Frank.Minch@ag.nj.gov

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Hello Mr. Hoffman,

By any chance do you have any form of a site plan that shows the footprint of the structure and any attendant disturbance(s) such as constructing a lane, or staging area around or adjacent to the storage facility?

NJDEP Rules designated the local soil conservation district as the review and approval agency for their (DEPs) State Stormwater Management Rule implementation. However, in order to trigger those rules, the proposed activity must meet the definition of major development which is either ¼ ac or impervious area or 1 ac of total disturbance, along with the need for local approval of some kind

It would help to answer your question more definitively if we could see what you are proposing.

Best Regards,

John E. Showler, P.E.  
NJ State Erosion Control Engineer  
NJ Department of Agriculture  
PO Box 330  
Trenton, NJ 08625  
[John.showler@ag.nj.gov](mailto:John.showler@ag.nj.gov)  
Cell: 609.775.8203  
Office: 609.292.5540

**From:** Robert Hoffman <[hayman640@embarqmail.com](mailto:hayman640@embarqmail.com)>  
**Sent:** Sunday, January 10, 2021 6:45 PM  
**To:** Minch, Frank <[Frank.Minch@ag.nj.gov](mailto:Frank.Minch@ag.nj.gov)>; Showler, John <[John.Showler@ag.nj.gov](mailto:John.Showler@ag.nj.gov)>  
**Subject:** [EXTERNAL] Storm water plan

\*\*\* CAUTION \*\*\*

This message came from an **EXTERNAL** address ([hayman640@embarqmail.com](mailto:hayman640@embarqmail.com)). **DO NOT** click on links or attachments unless you know the sender and the content is safe.  
**Suspicious?** Forward the message to [spamreport@cyber.nj.gov](mailto:spamreport@cyber.nj.gov).

Mr. Minch and Mr. Showler,  
I am Bob Hoffman and Bob Hornby, Hunterdon County CADB, passed your information

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES  
ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

N.J.A.C. 7:8

STORMWATER MANAGEMENT

Statutory Authority: N.J.S.A. 12:5-3, 13:1D-1 et seq., 13:9A-1 et seq., 13:19-1 et seq.,  
40:55D-93 to 99, 58:4-1 et seq., 58:10A-1 et seq., 58:11A-1 et seq. and 58:16A-50 et seq.

Date last amended: March 2, 2020

For regulatory history and effective dates see the New Jersey Administrative Code

THIS IS A COURTESY COPY OF THIS RULE. ALL OF THE DEPARTMENT'S RULES ARE COMPILED IN TITLE 7 OF THE NEW JERSEY ADMINISTRATIVE CODE.

"Contributory drainage area" means the area from which stormwater runoff drains to a stormwater management measure, not including the area of the stormwater management measure itself.

"Core" means a pedestrian-oriented area of commercial and civic uses serving the surrounding municipality, generally including housing and access to public transportation.

"County review agency" means an agency designated by the County Board of Chosen Freeholders to review municipal stormwater management plans and implementing ordinance(s). The county review agency may either be:

1. A county planning agency; or
2. A county water resources association created under N.J.S.A. 58:16A-55.5, if the ordinance or resolution delegates authority to approve, conditionally approve, or disapprove municipal stormwater management plans and implementing ordinances.

"Department" means the Department of Environmental Protection.

"Designated Center" means a State Development and Redevelopment Plan Center as designated by the State Planning Commission such as urban, regional, town, village, or hamlet.

"Design engineer" means a person professionally qualified and duly licensed in New Jersey to perform engineering services that may include, but not necessarily be limited to, development of project requirements, creation and development of project design and preparation of drawings and specifications.

"Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.

In the case of development on agricultural land, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Boards (CAB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.

"Disturbance" means the placement or reconstruction of impervious surface or motor vehicle surface, or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Milling and repaving is not considered disturbance for the purposes of this definition.

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## **ORDINANCE #11-2012**

### **AN ORDINANCE TO AMEND THE CODE OF THE TOWNSHIP OF TEWKSBURY BY REVISING CHAPTER 13.12, ENTITLED "GRADING AND SURFACE WATER MANAGEMENT"**

**BE IT ORDAINED**, by the Township Committee of the Township of Tewksbury, in the County of Hunterdon, State of New Jersey that the Code of the Township of Tewksbury is hereby amended by deleting Chapter 13.12, entitled "Grading and Surface Water Management" in its entirety and replacing with the following:

#### **13.12.010 Title**

This Chapter shall be known as the "Tewksbury Township Grading and Surface Water Management Ordinance."

#### **13.12.020 General Intent**

The general intent of this Chapter is to manage the increased rate and velocity of surface water runoff created by alterations in the groundcover and natural runoff patterns through proper grading and stormwater management techniques.

#### **13.12.030 Purposes**

To protect the public health, safety and welfare **and protect the property** of the citizens of Tewksbury Township and the surrounding communities, this Chapter is deemed necessary and essential in order to:

- A. Maintain the adequacy of natural stream channels and prevent accelerated bank erosion by controlling the rate and velocity of runoff discharge to these watercourses so as to avoid increasing the frequency of the bankful stage;
- B. Prevent degradation of the stream biota caused by excessive flushing and sedimentation;
- C. Prevent degradation of stream water quality due to impairment of the stream's biological function;
- D. Enhance the quality of nonpoint runoff by water retention measures;
- E. Preserve present adequacy of culverts and bridges by reducing artificially induced flood peaks;
- F. Reduce public expenditures for replacement or repair of public facilities resulting from artificially induced flood peaks;
- G. Prevent damages to life and property from flooding resulting from excessive rates and velocities of runoff;
- H. Prevent the degradation of property by enhancing the environmental character of the streams of the Township;
- I. Deter potential pollution of potable water supplies;

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- J. Provide means for groundwater recharge by utilizing NJDEP best management practices (BMP);
- K. Prevent erosion from improper channeling or discharge of stormwater runoff;
- L. Ensure that the ground adjacent to new structures is graded in a manner that will not result in adverse effects to new or existing structures from stormwater runoff;
- M. Establish minimum stormwater management requirements and controls for land disturbance projects.

### **13.12.040 Policy**

The declared policy of the Township is to accomplish the above purposes, and to administer the provisions of this Chapter, in such manner as to cause the least possible expense to applicants in complying therewith, and the requirements imposed on applicants by this Chapter shall be liberally construed so as to effect such policy, consistent with law and the purposes and provisions set forth herein.

### **13.12.050 Definitions**

"Applicant" means any person submitting a grading and surface water management plan.

"Approved plan" means a plan that depicts proposed grading and measures to control surface water runoff, approved as provided in this Chapter.

"Building" shall have the meaning ascribed to such word by the Municipal Land Use Law.

"Channel" means a watercourse with a definite bed and banks which confine and conduct continuously or intermittently flowing water.

"Development" shall have the meaning ascribed to such word by the Municipal Land Use Law – *the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or structure, any mining excavation or landfill, and any use or change in the use of any building or other structure, or land or extension of use of land, for which permission is required under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq.*

*In the case of development of agricultural lands, development means: any activity that requires a State permit; any activity reviewed by the County Agricultural Development Board (CADB) and the State Agricultural Development Committee (SADC), and municipal review of any activity not exempted by the Right to Farm Act, N.J.S.A. 4:1C-1 et seq.*

"Disturbance" for the purpose of this Chapter is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation.

"Drainageway" means any watercourse, trench, ditch, depression or other hollow space in the ground, natural or artificial, which collects or disperses surface water from land.

"Dwelling" shall have the meaning ascribed to such word by the Zoning Ordinance of the Township.

"Grading and surface water management plan" (GSWMP) means a plan consistent with the purposes and policies of this Chapter which fully indicates necessary land treatment

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measures and techniques including a schedule of implementation and all material, data and fees required as part of such plan by this Chapter.

"Impervious surface" means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water). For the purpose of this Chapter, retaining walls shall be considered impervious surfaces. (Refer to the Township of Tewksbury DRO §706 F. for "existing undersized lots" maximum lot coverage.)

"Infiltration" means the process by which water seeps into the soil from precipitation.

"Land disturbance" means any activity by which or in which land is cleared, graded, transported or filled, or by which or in which the topography or vegetative cover of land is altered. This definition is not intended to encompass alteration of topography or vegetative cover generated by natural phenomena without specific human or other nonnatural intervention.

"Lot" means a lot on the official tax map of the Township, or a lot not yet placed on said tax map but which has received final major or minor subdivision approval pursuant to the ordinance of the Township, however named, requiring subdivision approvals.

"Map" means a map constituting a part of the Tewksbury Township natural resources inventory series, referenced by number which is filed at and available for reference at the Township municipal building.

"Major Development" means any "development" that provides for ultimately disturbing one or more acres of land or increasing impervious surface by one-quarter acre or more. Disturbance for the purpose of this rule is the placement of impervious surface or exposure and/or movement of soil or bedrock or clearing, cutting, or removing of vegetation. Projects undertaken by any government agency which otherwise meet the definition of "major development" but which do not require approval under the Municipal Land Use Law, N.J.S.A. 40:55D-1 et seq., are also considered "major development."

"Natural drainage pattern" means the topographical pattern or system of drainage of surface water runoff from a particular site including the various drainageways and watercourses which carry surface water only during periods of heavy rains, storms or floods.

"Nonpoint runoff" means surface water entering a channel from no definable discharge source.

"Person" means any person, partnership, joint venture, or corporation.

"Recharge" means the amount of surface water that infiltrates into the ground.

"Seasonal high groundwater table" means as depicted on the Tewksbury Township Environmental Resources Inventory (ERI).

"Structure" shall have the meaning ascribed to such word by the Municipal Land Use Law.

"Stormwater management measure" means any structural or nonstructural strategy, practice, technology, process, program, or other method intended to control or reduce stormwater runoff and associated pollutants, or to induce or control the infiltration or groundwater recharge of stormwater or to eliminate illicit or illegal non-stormwater discharges into stormwater conveyances.

"Subdivision ordinance" means the ordinance of the Township, however named, containing provision requiring subdivision and/or site plan approval.

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"Subwatershed" means an area of surface water runoff within and forming part of a watershed and related to a point of concentration.

"Surface water" means all water produced by rain, flood, drainage, springs and seeps flowing over the land or contained within a natural or artificial watercourse.

"Township" means the Township of Tewksbury, in the County of Hunterdon, New Jersey.

"Existing Undersized Lot" – please refer to the Township of Tewksbury DRO §706 F. for "existing undersized lots" maximum lot coverage.

"Watercourse" means a river, stream, brook, waterway, lake, pond, marsh, swamp, bog, or other body of water, natural or artificial, public or private, which is contained within, flows through or borders on, the Township or any portion thereof.

"Watershed" means an area of surface water runoff related to a point of concentration as shown on map watersheds overlay map No. 6 of the Tewksbury Township natural resource inventory series.

"Zoning Officer" means the Zoning Officer of the Township.

"Zoning ordinance" means the ordinance of the Township, however named, containing zoning provisions.

### **13.12.060 Applicability**

A Grading and Surface Water Management Plan (GSWMP) shall be required to be submitted to and approved by the Township Engineer prior to construction of any of the following:

A. The creation of any new impervious surfaces that exceed 1000 square feet in area, including but not limited to a new dwelling on a vacant lot, an addition to an existing dwelling, an accessory building, swimming pools, patios, driveway alterations and driveway additions. Unless constructed a minimum of 3 years apart, all new impervious surfaces shall be considered cumulatively towards the 1000 square foot threshold.

B. Any land disturbance greater than 5,000 S.F. in area, with no creation of additional impervious. Unless land disturbance occurs a minimum of 3 years apart, all new land disturbance shall be considered cumulatively towards the 5,000 square foot threshold.

Note: Land disturbances that are greater than 5,000 S.F. in area require certification from the Hunterdon County Soil Conservation District. Also, land disturbances in the Highlands Preservation Area may require compliance with the provisions of the Highlands Water Protection and Planning Act and an application to the N.J. Department of Environmental Protection under such Act. In these instances the Township requests that a copy of the application under such Act submitted to the N.J. Department of Environmental Protection be forwarded to the Zoning Officer for the record.

### **13.12.070 Administration**

A. When required as under Section 13.12.060 above, a GSWMP shall be submitted and approved as provided in this Chapter prior to issuance of any construction permit required pursuant to the New Jersey State Uniform Construction Code Act for activities in the categories

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listed in 13.12.060, or, if the construction is of a character that does not require a construction permit, then submitted and approved prior to the commencement of construction.

B. An applicant shall submit three (3) copies of the GSWMP to the Township Land Use Administrator, along with the Checklist form and any waiver request from the Checklist requirements. The foregoing official to whom the plan is submitted shall promptly forward the same to the Township Engineer for review.

C. GSWMPs shall be reviewed by the Township Engineer. The Engineer's consideration of plans shall be guided by the following factors, as more fully defined in the following Sections of this Chapter:

1. The suitability of the applicant's proposed surface water management measures, devices and planning techniques, whether involving on-site or off-site measures, or some combination thereof, in respect to the total surface water runoff, velocities and rates of discharge which the applicant's proposed construction or land disturbance may generate.
2. Existing topography, present vegetation and hydrologic soil factors.
3. Proposed grading of the property.
4. Groundwater recharge and discharge areas and wet soils.
5. Seasonal high groundwater table.
6. The design storm.
7. Natural drainage pattern throughout the subwatershed(s) affected by the plan.
8. Land uses in both the immediate vicinity and surrounding drainage region.
9. Any other applicable or relevant environmental and resource protection ordinances, statutes and regulations.

D. The Township Engineer shall make a decision to approve or disapprove the GSWMP within thirty (30) days of the submission to the proper official of a complete plan. The plan shall be approved only if the Township Engineer has determined, taking into account the foregoing guidelines, that the plan will manage surface water runoff in accordance with the standards contained in this Chapter. If the GSWMP plan is declared "disapproved," three (3) copies of revised plans shall be submitted for review with a cover letter addressing all comments. A revised plan submission without a cover letter is considered incomplete and will be returned to the applicant.

E. The Township Engineer shall communicate in writing his decision on every completed grading and surface water management plan (with reasons for any disapproval) to the official to whom the plan was initially submitted. In the event of the disapproval of a GSWMP which is being considered in conjunction with a Township Land Use Board review of a subdivision or site plan application, the Township Engineer's disapproval shall be submitted to the full membership of the Land Use Board, and, in such event, the reviewing agency shall render a decision in the matter as part of its overall review of the subdivision or site plan application. The reviewing agency may, in accordance with the purposes, policy and provisions of this Chapter, affirm or reverse the Engineer's disapproval, or grant approval on such conditions as it deems appropriate.

### **13.12.080 Standards for Grading and Surface Water Management Plan**

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A. General Standards. The plan shall be prepared by a professional engineer licensed in the State of New Jersey. In the preparation and implementation of a grading and surface water management plan, the following general standards shall be adhered to:

1. The rate and velocity of runoff from the site of the disturbance following completion of the planned development shall not exceed the pre-existing conditions. The 100-year storm shall be used for calculations.
2. "Major Development" projects must comply with the requirements in Tewksbury Township Development Regulation Ordinance – Article VI – Sections 625 and 626, and with New Jersey Department of Environmental Protection Stormwater regulations, N.J.A.C. 7:8, must receive a Request For Authorization (RFA) to discharge stormwater from the Hunterdon County Soil Conservation District, and must obtain approval if required under the Highlands Water Protection and Planning Act, if the property is within the Highlands Preservation Area.
3. Maximum use shall be made of presently existing surface water runoff control devices, mechanisms or areas such as existing berms, terraces, grass waterways, favorable hydrologic soils, swamps, swales, watercourses, woodlands, floodplains, as well as any proposed retention structure.
4. Evaluation shall be made of the nature of the subwatershed(s) of which the site is a part, the receiving stream channel capacities and point of concentration structure.
5. Surface water runoff shall generally not be transferred from one watershed to another.
6. The plan shall coordinate with the soil erosion-sediment control plan and, where applicable, to other environmental protection ordinances in force.
7. To the greatest possible extent the plan shall avoid the concentration of flow and shall provide for dissipation of velocities at all concentrated discharge points.
8. Vegetative cover shall be re-established in accordance with "Standards and Specifications for Soil Erosion and Sediment Control in New Jersey," adopted by the Hunterdon County Soil Conservation District, latest edition.
9. Timing for the plan shall establish permanent surface water management measures prior to construction or other land disturbance, including seeding and establishing sod in grass waterways.

B. Design and Construction Standards. The grading and surface water management plan shall be prepared and implemented in accordance with the following design standards:

1. All graded slopes shall be 3:1 preferred, 2:1 maximum where justifiably necessary.
2. All outfalls are to be designed in a manner to retard velocities at the outfall and provide stream channel protection.
3. All structures and land treatment practices shall conform to "Standards and Specifications for Soil Erosion and Sediment Control in New Jersey," adopted by the Hunterdon County Soil Conservation District, latest edition.
4. All water-carrying structures and/or retention areas shall be completed and stabilized prior to diversion of water to them.

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5. Existing natural and man-made drainage related features (such as berms, terraces, grass waterways, favorable hydrologic soils, poorly drained soils, swamps, swales, water courses, woodlands, floodplains) shall be incorporated in the plan to the greatest possible extent in accordance with their functional capability.
6. Drainageways and watercourses which normally carry or receive surface water runoff shall not be overloaded with increased runoff, sediment or other pollution resulting from disturbance of soil and vegetation or incident to development, construction or other activity.
7. Surface water runoff controls shall be designated to assure that the land in question uses no more than its proportionate watershed share of the natural stream and culvert capacity.
8. Drainage swales shall be provided uphill of all structures and sewage disposal systems to divert runoff away from these features.
9. The minimum slope of all drainage swales shall be 1.5%.
10. Drywells shall be provided for all new structures in order to allow for infiltration of roof runoff into the ground. Typically, drywells shall be sized to store 3" of rainfall for the entire roof area of the structure. If drywells are proposed to receive more than 3" of rainfall, back-up calculations indicating roof area/gutter capacity/number of roof leaders required shall be submitted for approval, to demonstrate suitability/capacity of the gutters and roof leaders to collect more than 3" of runoff.
11. Drywells shall not encroach into the seasonal high water table; the minimum depth to seasonal groundwater table or bedrock shall be 2 feet from the bottom of the drywell excavation. Where a shallow water table is present, infiltrator chambers shall be utilized. Alternately, the applicant may propose to implement one or more additional approaches detailed in the "Best Management Practices" per the NJDEP design guidelines.
12. The grading shall be designed so as to provide a 6" drop in the first 10' away from all structures.
13. Where severe slopes (15-25%) or critical slopes (>25%) exist, they shall be delineated on the plan based upon analysis of the 2-foot contours. Any disturbance proposed within critical slopes shall be delineated and a computation placed on the plan to demonstrate compliance with Section 704 of the Tewksbury Township Development Regulations Ordinance 2000, or subsequent Zoning ordinance of the Township.
14. During construction, natural vegetation shall be preserved to the greatest extent possible to reduce the potential for excess stormwater runoff.

### **13.12.090 Data Required**

All grading and surface water management plans required under this Chapter (with the exception of requirements in Section 13.12.100) shall include the following:

- A. Key Map based on the Official Tax Map of the Township of Tewksbury.
- B. A topographic map of the subject lot and adjoining street with 2-foot contour intervals, based upon a field survey, and not USGS maps, for the area to be disturbed and 100 feet beyond.

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- C. The location of any existing streams, watercourses, ponds, storm sewers, delineated wetlands, delineated wetland transition areas, stormwater management facilities, and extent of slopes greater than 15% (based upon 2-foot contour intervals) within the proposed area of disturbance and 100 feet beyond.
- D. The location of all existing and proposed new structures, including, but not limited to, buildings, swimming pools, tennis courts, garages, sheds, retaining walls, decks, patios, walkways and stairs, or any other impervious surface within the entire property boundary.
- E. The location, alignment, dimensions and construction details for any existing or proposed driveways, parking and turnaround areas. Driveways shall be designed in accordance with Chapter 12.08 of the Code of the Township of Tewksbury.
- F. A driveway profile shall be submitted for each proposed driveway.
- G. The elevation of the finished garage floor, first floor and lowest floor of the proposed structures.
- H. Measures to mitigate the increase in runoff from impervious surfaces in accordance with the New Jersey Department of Environmental Protection Best Management Practices, such as swales, natural retention areas and dry wells. When used, drywells shall be constructed of precast concrete and typically sized to store three (3) inches of rainfall over the area of the structure, shall be equipped with 6" PVC overflow piping with riprap outfall protection, and shall be backfilled on all sides and bottom with minimum 12" of 1-1/2" to 2-1/2" washed gravel, and be surrounded with filter fabric excluding the bottom of the excavation. Temporary markers shall be provided so that the location of all sub-surface facilities and piping can be included accurately on the as-built plan. All drainage piping associated with dry wells is to be no less than 6" PVC, minimum Schedule 40. Permanent markers shall be provided for all drywells.
- I. The location of all roof leader drains, dry wells, water supply wells, overhead and underground utility lines, and any individual subsurface sewage disposal systems.
- J. Proposed grading at 2-foot contour intervals.
- K. Required building setback lines showing the building envelope and required buffers from environmentally sensitive areas.
- L. All existing and proposed fences. Proposed retaining walls shall be accompanied by top and bottom of wall elevations and construction details with a note stating that the maximum exposed wall height is 4 feet. Walls with heights exceeding 4 feet shall be accompanied by stability calculations performed by a New Jersey licensed engineer.
- M. Proposed soil erosion and sediment control measures to conform to "Standards and Specifications for Soil Erosion and Sediment Control in New Jersey," adopted by the Hunterdon County Soil Conservation District, latest edition.
- N. A calculation of the existing and proposed impervious coverage, and a statement indicating whether the impervious coverage meets the requirements set forth in the Subdivision and Zoning ordinance.
- O. A table showing the actual and proposed distances of existing and proposed development from property lines, and listing the bulk zoning requirements (minimum yards, setbacks, and the like) in the Zoning ordinance which are applicable to the

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- involved lot, and demonstrating that there will be no violation of the Zoning ordinance by the proposed development. A footnote shall list all impervious areas (with the square footage indicated) constructed within 3 years prior to the application for the GSWMP approval.
- P. A calculation of the area of disturbance. Note that “major development” projects must comply with the requirements in Tewksbury Township Development Regulation Ordinance – Article VI – Sections 625 and 626, and with New Jersey Department of Environmental Protection Stormwater regulations, N.J.A.C. 7:8, must receive a Request For Authorization (RFA) to discharge stormwater from the Hunterdon County Soil Conservation District, and must obtain approval if required under the Highlands Water Protection and Planning Act, if the property is within the Highlands Preservation Area.)
  - Q. Note that in accordance with NJDEP Stormwater Management Rule FAQ 2.1: “If construction associated with a single-family dwelling requires a planning and/or zoning approval and disturbs one or more acres, the proposed project is subject to the Residential Site Improvements Standards (RSIS) and the requirements of the Stormwater Management Rules. Please note that a zoning permit, which may be required as part of a building permit, is considered a zoning approval under the MLUL. Furthermore, if a new single-family dwelling requires a permit from the NJDEP Division of Land Use Regulation (DLUR) and triggers the Stormwater Management Rules under those permits, it is subject to stormwater review by the NJDEP regardless of the extent of municipal jurisdiction.”
  - R. Concerning projects in the Highlands Preservation Area – Applicants are advised of the need for Highlands Applicability Determination (HAD) – Applicants shall provide a copy of the NJDEP’s determination of whether the project is a Major Highlands Development, and thus regulated, or qualifies for an exemption from the Highlands Act. If the project is not exempt, Highlands Preservation Area Approval (HPAA) will also be required to be furnished.
- Alternatively, notes on the plan shall indicate Highlands Act applicability, and, if the design engineer can conclude that the project is not a Major Highlands Development or is exempt from the Highlands Act, notes on plan shall be provided to indicate the citation of the exemption in the Highlands Act. Proper documentation for the exemption must be provided along with a cover letter.
- S. A calculation of the Floor Area Ratio (FAR) as required by the Zoning ordinance.

Failure or inability to comply with any of the above standards or submission requirements shall be grounds for denial of the grading and surface water management plan.

**13.12.100 Data Required (for Additions to Existing Structures or New Accessory Structures with a total area of disturbance less than 1,500 square feet)**

If it pertains solely to additions to existing structures or new accessory structures with a total area of disturbance of less than 1,500 square feet, the grading and surface water management plan required under this Chapter shall include the following:

- A. An As-Built or an existing survey of the property showing all improvements existing on the property, all proposed improvements, the location of water supply wells, dry wells and subsurface sewerage disposal facilities, to scale, and any environmental constraints

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such as but not limited to streams, wetlands, and steep slopes and flood plains. The owner may sketch the proposed improvements on an existing survey. An engineered drawing is not required initially, and any environmental details are also not necessary initially.

B. Any and all documents required for the development of the property by the Construction Official and Health Department, including but not limited to, the building plans by the architect or contractor who will construct the improvement, and septic designs when applicable.

C. Color photographs of the area within and adjacent to the proposed improvements.

Upon review of the submission as set forth in this Section, the Township Engineer, in their discretion, may issue the GSWMP Permit or may require any, or all, of the plan details or requirements set forth in Section 13.12.090.

### **13.12.110 Fees**

A. Concurrent with the submission of a Grading and Surface Water Management Plan to the Township, the applicant shall furnish a review and inspection initial fee payable to the Township in one of the following amounts, as applicable to the specific project:

- \$500.00 for an addition to existing structures or a new accessory structure with a total area of disturbance of less than 1,500 square feet,
- \$500.00 for any land disturbance greater than 5,000 S.F. in area, with no creation of additional impervious,
- \$1,200.00 for a "major development" project,
- \$1,000.00 for all other GSWMP applications.

All initial review and inspection fees include:

- the review of the GSWMP plan originally submitted and of one plan revision if cover letter is provided,
- two inspections as described in Section 13.12.120 Implementation below.

In the event that more than one (1) plan revision and/or two (2) site visits are required by the Township Engineer or his representative, the Township shall bill the applicant directly in accordance with the Engineer's hourly rate schedule approved by the Township. Immediately after each notification from the Township of the GSWMP plan disapproval (other than after the initial review), the applicant shall make a deposit with the resubmitted plan in the amount of \$400 to replenish the review and inspection funds.

Where additional inspections are required due to non-compliance with the approved plan, or additional inspections are requested by the applicant or his representative (contractor or engineer) for various reasons, applicant shall make deposits of \$150 for each additional inspection to replenish the review and inspection funds.

All outstanding fees shall be paid prior to issuance of a construction permit and approval of the GSWMP. Furthermore, in cases where a GSWMP is prepared as part of a site plan submitted for review and approval under the Subdivision ordinance, if said GSWMP is approved as part of the site plan approval process, no additional GSWMP is required for construction which is part of the

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approved site plan. In the case of subdivisions which have been submitted for review and approval under the Subdivision ordinance, GSWMPs for individual lots shall be submitted pursuant to this Chapter unless an individual lot GSWMP has been submitted and approved as part of the subdivision approval process and is adhered to for individual lot construction.

### **13.12.120 Implementation**

A. Timing. The construction and/or installation of grading and surface water management improvements shall be in accordance with the schedule of sequence of installation as approved.

In order to assure compliance with the terms of the GSWMP, a total of up to-two (2) inspections of the site development operations shall be made by the Township Engineer or his/her representative as required during the course of the work: the stormwater management measure(s) construction/installation and the final site inspection prior to the Certificate of Occupancy issuance. In the event that additional site visits are necessary, the Township will bill the applicant for additional fees directly in accordance with the Engineer's hourly rate schedule approved by the Township.

B. Violations. The failure of an owner of property to comply with an approved GSWMP for such property, including any temporary measures to be taken during the performance of GSWMP activity or construction work, shall constitute a violation of this Chapter and the property owner and/or applicant will be subject to penalties as prescribed by this Chapter.

C. Maintenance. The property owner shall be responsible for maintenance of all stormwater control and storage devices on their property, and not the Township.

### **13.12.130 Certificate Of Occupancy**

A final zoning approval shall not be issued by the Zoning Officer for any property that is the subject of a GSWMP until the Township Engineer has inspected the property and has certified in writing that the property conforms to the GSWMP.

An as-built drawing shall be submitted to the Zoning Officer and Township Engineer and a final inspection shall be requested one (1) week prior to the CO request. The as-built must be signed and sealed by a licensed surveyor, and shall show all improvements, including but not limited to dwellings, driveways, decks, sheds, sidewalks, and swimming pools. In addition, the as-built map shall contain an analysis of the lot coverage in accordance with the Zoning ordinance. The Township Engineer or his representative shall conduct a final inspection and issue a report within seven (7) days of applicant's request for the final inspection. Should the site inspection findings indicate aspects of the final construction that are not in conformance with the approved GSWMP, the Township Engineer may request additional work in order to demonstrate compliance with the approved plan, or the posting of such performance guarantee sufficient to cover the cost of the corrective measures (see below).

In the event that the Township Engineer determines that current weather conditions do not permit the completion of the required work to effectuate full compliance with the GSWMP, the Township Engineer may authorize the Zoning Officer to issue a final zoning approval upon the posting with the Township of a cash deposit in an amount equal to 120% of the estimated cost of the work remaining to be performed. The Township Engineer shall determine the cost of the remaining work to be performed. In the event the work is not completed in a timely fashion,

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the Township shall have the right to have the work performed and the cost thereof paid from the cash deposit pursuant to the terms of the cash deposit agreement.

### **13.12.140 Exemptions**

Notwithstanding any of the provisions of this Chapter, the requirement for obtaining a GSWMP permit shall not apply to:

- A. An existing developed lot except as otherwise required in Section 13.12.060.
- B. Non-residential lots which have already received site plan approval.
- C. Activities exempt from regulation under this Chapter by the Right to Farm Act.
- D. Property owned by the Township of Tewksbury, the Tewksbury Township Board of Education or other governmental body.

The exemptions provided by this Section shall not be construed to preclude the obligation for compliance with any other municipal, county, federal and/or state regulations as required by law.

### **13.12.150 Appeals**

Appeals from decisions of the Township Engineer disapproving a GSWMP, provided the GSWMP is not submitted in conjunction with an application for subdivision or site plan approval, may be made by the applicant within ten (10) days of the Township Engineer's decision by notice in writing, specifying the grounds of appeal, filed with the Township Clerk within such ten (10) day period. A hearing of such appeal shall be scheduled before the Township Committee for a date within forty-five (45) days of such notice of appeal, and the applicant shall be given ten (10) days notice of the time and place of such hearing. Such appeal shall be decided by the Township Committee only upon the record before the Township Engineer. The Township Committee may affirm, reverse, or modify the Township Engineer's decision, and shall make its decision within fifteen (15) days of the hearing before it, and furnish a copy thereof to the applicant.

### **13.12.140 Violation – Penalty**

A. Any person, firm or corporation violating any provision of this Chapter, including failure to comply with an approved GSWMP, shall be subject to the general penalty set forth in Section 1.08.010 of the Code of the Township of Tewksbury.

B. In addition to the above, the Township Engineer is empowered, after making personal inspection of the site in question, to issue written notice to any property owner on whose property a land disturbance occurs prior to submission and approval of a plan under this Chapter, or to any person causing or creating such land disturbance, ordering such owner or person immediately to cease, or cause to be ceased, such land disturbance, and further requiring such owner or person immediately to take such measures as may, in the Township Engineer's discretion, be reasonably necessary to protect the public health, safety and welfare, consistent with Section 13.12.030 of this Chapter. Compliance with any such order may be enforced under the police power of the Township, and any person, firm or corporation violating any such order shall be subject to the penalties set forth above.

Ordinance #11-2012  
Introduced 08-14-12  
Adopted

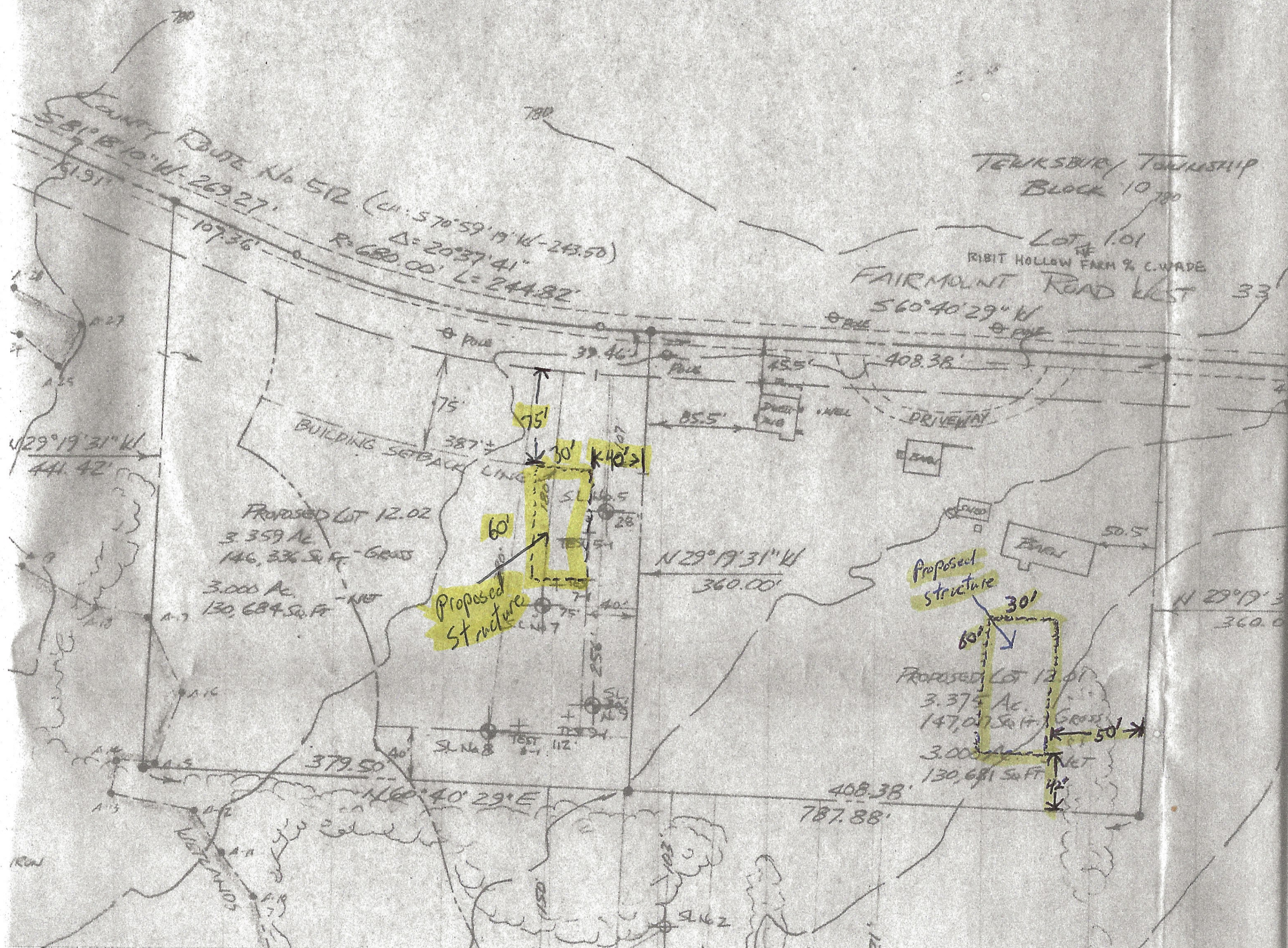
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Dana Desiderio  
Mayor

Attest:

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Roberta Brassard  
Municipal Clerk





**Hoffman Farm**  
**9 Fairmount Road West**  
**Tewksbury Township**  
**Block 5 Lots 12.01 and 12.02**  
**Highlands Preservation Area**  
**100% Prime Soils**

Preserved  
Tewksbury/Young  
MPIG 2009

PROPOSED  
30' x 60'  
Fabric Structure #2

PROPOSED  
30' x 60'  
Fabric Structure #1

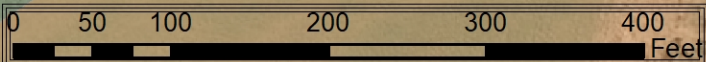
Lot 12.02

Lot 12.01

Preserved  
Wade  
MPIG 2005

FAIRMOUNT RD WEST

RMH 03/01/21





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jmarshetta@iwwt.law  
*Admitted in NJ, NY, TX & DC*

March 5, 2021

**Via Email (bhornby@co.hunterdon.nj.us)**

Hunterdon County Agriculture Development Board  
314 State Route 12  
Flemington, New Jersey 08822

Attn: Mr. Bob Hornby, Administrator

**Re: Application of Robert Hoffman, Jr.  
Township of Tewksbury; Block 5, Lots 12.01 and 12.02  
9 Fairmount Road West**

Dear Mr. Hornby,

I serve as Township Attorney for the Township of Tewksbury (the "Township"). The Township Committee and Land Use Board are in receipt of the above referenced application submitted by Robert Hoffman, Jr. (the "Applicant") to the Hunterdon County Agriculture Development Board (the "CADB"), which has scheduled this matter for a hearing on March 11, 2021. This letter shall serve as the Township's objection to the Application.

Applicant is seeking relief from Township ordinances and the CADB's approval of two (2) fabric structures, each consisting of 1,800 square feet, to be built on the above-referenced lots (collectively, the "Site"). As is explained more fully below, the Township has serious concerns regarding the Applicant's attempt to circumvent reasonable grading and surface water management plan review requirements, as well as New Jersey Department of Environmental Protection (NJDEP) mandated stormwater control regulations.

By way of background, on November 11, 2020, the Township Zoning Officer denied the Applicant's request to construct a single 1,800 square foot fabric structure on Lot 12.01 of the Site. Due to the size of the proposed structure (in excess of 1,000 square feet), the Applicant was required to submit grading and surface water management plans ("GSWMP") to support his application pursuant to Township Code of Ordinances § 13.12. The submission of a GSWMP is intended to confirm an applicant's compliance with specified site disturbance limits, as well as Township and State-mandated stormwater control rules. Rather than submit the required

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March 5, 2021  
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GSWMP, the Applicant instead filed his Application with the CADB as he is entitled to do under the Right to Farm Act, N.J.S.A. 4:1C-1, *et seq.* (the “Act”).

Recently, Applicant submitted to the Township an application for a zoning permit with respect to a second 1,800 square foot fabric structure to be built on Lot 12.02 of the Site. Applicant did not submit the required GSWMP with this second zoning permit application, which is currently under review by the Township. Applicant is now proposing to construct a combined 3,600 square feet of structure without any consideration given to site conditions, environmental factors, water quality or stormwater control.

Our courts have long held that an agriculture development board must “act in a manner which gives appropriate consideration not only to the agricultural practice at issue, but to local ordinances and regulations as well, including land use regulations which may impact on the agricultural practice”. Twp. of Franklin v. Hollander, 388 N.J. Super. 373, 390-91 (App. Div. 2001). “[T]he [Act’s] legislative imperative requiring attention to public health and safety also imposes a limitation on such jurisdiction and requires the respective [agriculture development] boards to consider the impact of municipal land use ordinances”. Id. at 392.

Pursuant to N.J.S.A. 4:1C-9, to be entitled to relief from the CADB, the Applicant must demonstrate that the operation of the commercial farm in question conforms to “all relevant federal or State statutes or rules and regulations”. It is where a municipal regulation is more restrictive than the underlying federal or State regulation that an applicant may be entitled to relief. See Hollander, supra, 388 N.J. Super. at 392.

On November 10, 2020, the Township Committee adopted Ordinance 12-2020 (the “Ordinance”) which amended the Township’s stormwater management regulations bringing them into full compliance with NJDEP’s current stormwater management rules (as of March 2020). The Ordinance’s definition of the term “development,” which mirrors that set forth in N.J.A.C. 7:8-1.2, as it pertains to development on agricultural land, is “any activity . . . reviewed by the County Agricultural Boards . . . and municipal review of any activity not exempted under the Right to Farm Act, N.J.S.A. 4:1C-1, *et seq.*”. Ordinance § 1(B). Because the construction of structures is not a specifically exempted commercial farming activity under the Right to Farm Act (N.J.S.A. 4:1C-9), and this matter is currently under review by the CADB, the Application meets the definition of “development” under both NJDEP and Township stormwater control regulations, and is subject to the requirements of both the State and municipal regulations.

However, the Applicant has not identified a single provision of the Ordinance which is more restrictive than the current NJDEP stormwater control regulations and from which he would be entitled to relief from the CADB. In fact, the Applicant cannot identify any such section because it simply does not exist. The Ordinance is not any more or less restrictive than

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the current NJDEP regulations. Accordingly, the CADB should deny Applicant's request for relief from compliance with the requirements of the Township's stormwater control regulations.

With respect to the Applicant's attempt to avoid submitting a GSWMP for review by the Township Engineer, the Township has significant concerns about the potential impact of the proposed structures on the environment and surrounding lands. "[T]he use of such structures and coverage may properly be considered relevant agricultural management practices, but the impact of those practices on, for example, **water run-off, stream encroachment, and the creation of impervious areas** may also directly impact on public health and safety so as to compel the CAB or SADC to temper its determinations with these standards in mind". *Hollander, supra*, 388 N.J. *Super.* at 392 (emphasis added). Pursuant to Township Code of Ordinances Section 13.12.060:

A "grading and surface water management plan (GSWMP) shall be required to be submitted to and approved by the township engineer prior to construction of any of the following:

- A. The creation of any new impervious surfaces that exceed one thousand (1,000) square feet in area, including but not limited to, a new dwelling on a vacant lot, an addition to an existing dwelling, **an accessory building**, swimming pools, patios, driveway alterations and driveway additions (emphasis added).

Clearly, Applicant's two proposed 1,800 square foot enclosures fall within the criteria of accessory buildings for which a GSWMP is required. It is notable, however, that Applicant again fails to state from what particular requirement of Township Code of Ordinances Section 13.12 he is seeking relief. Moreover, the Application indicates "water quality control – will follow state standards," but the Application lacks any detail to demonstrate how such compliance will be achieved.

The GSWMP requirement is not simply another hoop through which the Township requires applicants to jump. In fact, the stated intent of the Township's GSWMP requirement is to "manage the increased rate and velocity of surface water runoff created by alterations in the groundcover and natural runoff patterns through proper grading and stormwater management techniques," which management is deemed essential to "protect the public health, safety and welfare and protect the property of the citizens of Tewksbury Township and the surrounding communities". Township Code of Ordinances §§ 13.12.020-030. With the overwhelming majority of its landmass in the Highlands Preservation Area, and having several classified waterways in its jurisdiction, the Township is an area of the State containing a large number of environmentally sensitive areas. Not surprisingly, Township officials are highly concerned about any disturbance of existing site conditions, as well as water quality and runoff. The Township

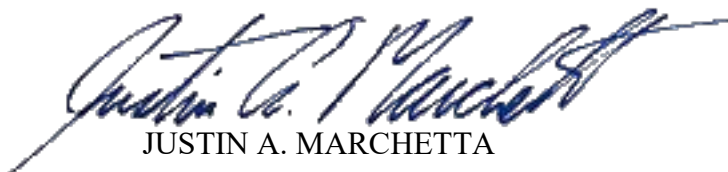
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has active Green Team and Stormwater Control Subcommittees which are deeply involved in these issues on an ongoing basis. These groups, which are a collaboration of Township personnel, professionals and community volunteers, work hard to ensure the protection of the Township's environmental features and water quality.

If the CADB were inclined to grant relief from the Applicant's compliance with Township GSWMP requirements, the Township respectfully requests that the CADB require the Applicant to, at a minimum, submit documentation sufficient to both establish existing conditions on the Site and demonstrate that the construction of the proposed structures will not adversely impact those conditions. Because the Site is surrounded by preserved farmland, the Township has a significant interest in ensuring that any building on the Site will not adversely impact the environmental conditions on neighboring lands.

The Township respectfully requests that the CADB add this letter to the record of its proceedings with respect to the Application. We thank the CADB for its consideration in this regard.

Respectfully submitted,



JUSTIN A. MARCHETTA

cc: (via Certified Mail, R.R.R.)  
Robert Hoffman, Jr.  
9 Fairmount Road West  
Califon, New Jersey 07830

(via Electronic Mail)  
Mayor Dana Desiderio  
Township Committee Members  
via Jennifer Ader, Acting Township Clerk  
Township Land Use Board Members  
via Shana Goodchild, Land Use Administrator  
James Barberio, Township Administrator