

**TOWNSHIP OF DENNIS
PLANNING BOARD
571 Petersburg Road
Dennisville, NJ 08214
(609) 861-9705**

OCTOBER 25, 2012

MINUTES

This meeting was published in accordance with the "Open Public Meetings Act". Notice of this meeting was published in an annual meeting notice in the Cape May County Herald and posted in Township Hall.

The meeting was called to order by Chairman Stevens. The following members were present: Mr. Stevens, Mr. Teefy, Mr. Turner, Ms. Baldwin, Ms. Morgan, Mr. Watson, Mr. Daniels and Mr. McManus. Also present were Frank Corrado, Esquire, Board Solicitor ; Andrew Previti, Board Engineer and Daniel Young, Esquire, Conflict Solicitor.

Mr. Previti was sworn in.

APPLICATIONS:

SWAN, RUSSELL AND BENJIE SWAN - Block 4, Lots 10 and 11:

Located in a Residential (R3) and Conservation (C) Zone on Route 47 in Eldora. Applicant seeking preliminary and final site plan approval, as well as a use variance, to construct a 3,000 square foot bio-medical facility and associated site improvements. Various waivers are also requested.

Due to a conflict, Mr. Corrado stepped down as Board Solicitor for this application and Daniel Young, Esquire will be acting as Conflict Board Solicitor for this application.

Mr. Young advised that the Class I and Class III members must step down for this application. Mr. Teefy stepped down.

James Pickering, Esquire appeared as the attorney for the applicants. He

advised that the applicants are seeking approval for a horseshoe crab laboratory to be constructed on the proposed site.

Mr. Young administered the oath to Benjie Swan and Lewis H. Conley.

Mr. Pickering then directed questions to Ms. Swan

In response to Mr. Pickering, Ms. Swan testified that they extract a substance from the blood of horseshoe crabs - advised the name of the substance (short name LAL), and how it was obtained. She indicated that anything injected into the human blood stream has to be checked for bacteria and their product is used for this purpose. She described what was used prior to using their produce - it was called the rabbit test as it was injected into ear vein of a rabbit. Their product is better than the rabbit test because it takes longer for a rabbit to develop a fever; there is also the cost to keep the rabbit and disposal fees; also, the rabbits have to be raised, and cannot be wild. There are only 6 companies in the US, 5 along the east coast of the United States and only their company in New Jersey. She provided her educational background. She started working with horseshoe crabs in 1985 when she finished grad school. She became owner of the company in 1992 - when her employer passed away and she decided to continue with the company, but focusing on horseshoe crabs. She has published articles. She also started a horseshoe crab survey, which counts horseshoe crabs in New Jersey and Delaware. Provided history of horseshoe crabs - they have been around about 150 million years and look about the same as they do today. They are used for bait for eel and conch; and also used for fertilizer. Crabs have open circulatory system. She bleeds them - they are collected, bled, and returned alive - and the bleeding process takes about 10 minutes. She has permits to do what she does with respect to bleeding. She also has permits to harvest the crabs. She explained operation of business - they start in the beginning of June through November 1; operate Mondays through Fridays; ad employs 6 to 8 people during that period. She is on site doing her science beyond that period of time.

Mr. Pickering then referred to the overhead projection pictures as exhibits.

Ms. Swan described the pictures. They fish all night and do a pick up in the morning so the crabs don't get stressed. Crabs need to be kept as pristine as possible to avoid injury. Crabs are then washed before entering the laboratory. Crabs are

then put on a rack and moved into the area where they will be bled. In the sterile part of the laboratory they will be bled - described how this is done. Horseshoe crab blood is blue. Crabs will then be sent back outside and sent back down to the water. The blood will then be put into a centrifuge to separate out white blood cells. Portions not used are discarded. The white blood cells are then washed twice, isolated and cells are then broken open (explained process - labor intensive). Substance being sought is in the broken blood cells. Crabs are picked up in the morning and are back in the water within 2 to 8 hours. The proposed site is ideal because it is close to the water and has a dock. The extracted substance is refrigerated for 6 weeks, looked at by Ms. Swan and then shipped to a company in South Carolina that makes it more sensitive to bacteria and markets it. Gets one shipment of crabs a day. She testified that supplies are delivered usually in May and maybe again in the Fall and they get a total of 2 or 3 shipments a year. All supplies have to be tested and sterile and this is best done in large deliveries. Business does not generate much traffic. She had looked in other locations for a site to locate this business; but chose this site because it's West Creek and crabs can be released there without having to truck the crabs inland; best site for crabs to survive; and also she wanted to be able to do research - come into creeks; spawning habits; intrigued by flat area at end of creek; "horseshoe crab country." Also, the site is 140 acres so they would have room to expand. The site is also about half way between suppliers and along a highway. She spoke with the Nature Conservancy, who is neighbor across street, who is happy for them to come; she also spoke with Mr. Barber, another neighbor, who is also very welcoming. They will also be fixing up the property - cleaning up house on site that burned. Hours of operation 7:00 a.m. to 5:00 or 7:00 p.m. She discussed the proposed building - described its location on the property - would like a monitor style barn, feels it fits in; showed washing area for crabs. She referred to the proposed floor plan and described each area. The second floor is only over the center part and will contain office space and space for her to do her science.

Mr. Pickering then directed questions to Mr. Conley.

Mr. Conley advised that he is a licensed surveyor and planner in New Jersey; he also stated additional qualifications and credentials. He testified that he did a survey and other work regarding wetlands issues for this property. He referred to an aerial view of the area and described the location and surrounding areas. The Nature Conservancy is across the street; there are two NJDEP parcels in the area. The

proposed site is 140 acres. He referred to the overhead to show the 200 foot property line for notice purposes to put into perspective how large this property is. Same overhead showed wetlands in the area. He described the "footprint of disturbance" which is the area in which the DEP says some development may occur. The site actually consists of 2 parcels and is also bisected by different zones.

Ms. Swan added that the crabs are taken from the building to the water by a cart and put individually back into the water.

Mr. Pickering continued with questions to Mr. Conley.

Mr. Conley referred to the overhead pictures and picture of Route 47 taken in August, 2012 and described the area as not a high traffic area. He testified that the visibility exiting the site is very good. The entrance road to the property is gated, and they are planning to move the present gate back about an additional 75 feet to provide for the safety of those entering and leaving the site as they must get out to padlock gate. He showed picture of the access road and described same. He referred to a picture of the burned out building, which will be approximately where the parking area is proposed. He referred to other pictures and described the area of each and what exists or is proposed in that area. He referred to the overall plan and described the site and what is proposed - the location of the new building, parking, etc.. They are proposing crushed clam shells for the parking area, with concrete for handicap parking, and the parking area to be delineated by post and rail fence for a softer look. He described the trash and recycling area; delivery area; lighting. There is an existing light that can be rented from Atlantic Electric, to which a second head is proposed to be added. There will be no light pollution and light will not be leaving the area. He showed the location of the building, well and septic. He believes operations have been addressed as notes on the plan. There is one-half of one percent land coverage proposed, and 3% is permitted. No sign is proposed, only an address sign. The applicant is seeking preliminary and final site plan approval. Waivers were discussed - submission of plans to scale; certified outbound and topographic survey; grading contours; curbing; lighting; traffic impact study; environmental impact study - impacts very minor; concrete curbing and asphalt paving of parking areas (could be considered a variance request - put testimony on the record as if this request was a variance).

Mr. Pickering advised that variances were being requested, but they are not asking for: lot depth or width variance (Mr. Conley testified as to why this was not necessary). They need a variance for lot frontage (Mr. Conley testified that there was no possibility of purchasing additional property; if not granted would not be able to develop parcel and would be hardship to owner.) Also a use variance, as this is- not a permitted use in the R3 Zone.

Mr. Conley testified as to the positive and negative criteria for a use variance. The property is particularly suited for this use; he agrees with the testimony given by Ms. Swan; the Master Plan never would have anticipated such a use of which there are only 5 in the US and 6 in the world. The applicant knows what best suits her needs for the site. He explained the reasons why this site fits in the neighborhood and that he sees no negative impact. Certain commercial uses are permitted uses in a R3 Zone - he discussed several - proposed use has substantially less impact than some of those permitted uses. He discussed the purposes of zoning that would be advanced by the granting of this application. He also advised that he had contacted the DOT, who provided a letter saying they have no concerns. (Letter A-7)

Mr. Pickering advised that a list of exhibits had been given to the Solicitor at the beginning of the meeting. He reviewed that list of exhibits A-1 through A-6. (A-6 is memory stick of presentation.)

Mr. Stevens asked the Board for questions.

Mr. Daniels asked is there were any chemicals or hazardous chemicals used. Ms. Swan advised that the levels she uses are below the threshold levels and there are no large quantities of chemicals on site, so she doesn't have to report.

Ms. Morgan wanted to know if she keeps track of the number of crabs that live once they are back in the water. Ms. Swan testified that she does tag the crabs; there is about a 95% rate of survival. She does not keep track of the crabs that are brought in by the trawler as they are out of the water for up to 48 hours. They take about 10% of the crabs body weight in blood - difficult to determine how much blood that is due to their open circulatory system.

In response to Mr. Pickering, Ms. Swan advised that under one of her permits she

has to tag the crabs and if some one finds one that is tagged, they are asked to call and report it to her (information on how to do this is on the tag). She explained some of the migration areas of the crabs she has worked with.

Ms. Morgan asked about the assessment of the property, it is farmland now, and how will that change? Ms. Swan advised that right now the house area is taxed at a certain rate (about 2 acres); some of land is farmland assessment; also forestry management plan is located on the property, which she intends to keep up with. She wants to pretty much leave the property as is.

Mr. Stevens inquired whether or not the farmland assessment is part of the agreement submitted with the application. Mr. Young advised that the determination as to assessment will be made by the Tax Assessor.

Mr. Pickering said that there is no disturbance or activity planned for farmland area, and it will remain as is.

Mr. Stevens said he would like to have engineer's report at this time.

Mr. Previti presented the engineer's report.

In response to a comment by Mr. Previti, Mr. Conley advised that he is a past Deputy Chief of Town Bank Fire Company, as well as other fire-related positions. He went to the site with the local Fire Chief and advised of the applicant's plans. The legal width of the drive/roadway is now 20 feet with a 14 foot height clearance, which they will comply with. The Chief asked for a dry hydrant, but the cost is between \$5,000.00 and \$10,000.00 - the Chief didn't have a problem not having one, but was asking for it just as a convenience. The Swans have agreed to keep an open communication regarding this.

Mr. Previti asked how will the locked gate be dealt with. Mr. Conley said that the Fire Chief advised that it wasn't a problem - they would use a bolt cutter if a key was not provided to them. He described a Knox Box - which uses a universal key system - but said it would need to be Township wide in order to be effective. Mr. Previti told the Board they can make it a condition of approval that the local fire company has to be satisfied regarding access.

Mr. Previti continued with the engineer's report.

Mr. Stevens then asked the Board for questions.

Mr. McManus said he believes the Township does have a Knox Box system.

Mr. Stevens then opened the meeting to the public. There was no public comment. The meeting was then closed to the public and brought back to the Board.

Mr. Young provided an outline of what the Board would need to vote on and that a use variance requires five (5) affirmative votes. He advised the Board of the special reasons required to be met for approval of a use variance; and that the site needs to be particularly suitable for the proposed use. He suggested doing use variance first, then the other variances and then the waivers. He then presented a form of motion for approval of use variance.

A motion to approve was made by Ms. Baldwin, seconded by Mr. Watson and carried by all members voting on same.

Mr. Young then presented a form of motion with respect to the bulk variance - lot frontage; paving and curbing. A motion to approve was made by Mr. Watson, seconded by Mr. McManus and carried by all members voting on same.

Mr. Young then presented a form of motion with respect to the site plan - preliminary and final approval, with waivers. Mr. Pickering confirmed what the Board is looking for with respect to fire company recommendations and Mr. Young advised him that it would be whatever the fire company recommends. A motion to approve was made by Mr. Watson, seconded by Ms. Baldwin and carried by all member voting n same.

There followed a brief period of people clearing the room.

Other Business:

Correspondence:

Referral from Township Committee regarding ATV usage:

Mr. Stevens advised that the Board had received a referral from the Township Committee regarding ATV usage and everyone should have a copy of the letter from the Township Solicitor. Mr. Corrado summarized the Ordinance accompanying the Solicitor's letter. He advised the Board that It is a police power Ordinance. He believes the Township Committee is looking at a future Zoning Ordinance provision that contains requirements concerning ATV tracks and use on personal property. He believes that the Township Committee is looking for recommendations from this Board.

Mr. Teefy confirmed that Mr. Corrado is correct. There are a lot questions to the Township Committee as to set backs, etc. for ATV usage on private property, and that the Township Committee would like input from the Planning Board. Mr. Corrado indicated that this Board doesn't have a formal role, but it has no prohibition to give their input - nothing would be binding on the Township Committee that this Board suggests. He then asked if there was any time frame. Mr. Teefy that there was none that he is aware of, but he will find out. Mr. Corrado said that he drafted a letter a couple of years ago regarding a limited number of areas that may be used for ATV use and he will locate that letter and provide it to the Board again.

Board Discussion:

Master Plan:

Mr. Stevens indicated that a Master Plan time line has been provided by Marsha Shiffman. Mr. Previti advised that copies of that time line have now been handed out.

Mr. Corrado thinks the first priority is to see if the Board can adhere to the time table provided by Marcia Shiffman.

Mr. Previti indicated that December 6, 2012 is the suggested date for the public hearing, which is the work session date; depending if the Board is comfortable, the plan could be adopted at that meeting. If revisions are needed, another public hearing wouldn't be necessary, but revisions could be made and adopted at the December regular meeting. Mr. Corrado asked if everyone understands what Mr. Previti just said.

All members said that they did.

Mr. Watson asked if a hard copy would be available on November 2, 2012. Mr. Previti indicated that he believes it would be.

Mr. Corrado said that the regular meeting is November 15, 2012, and Marsha is looking at November 9, 2012 to have all comments. The Board would have to have a special meeting or be polled on an individual basis as to their comments, which could be forwarded to him and he would provide same to Marsha. Mr. Watson said that depending on what the comment is, he feels more discussion may be needed. Mr. Teefy thinks it should be done as a group and not individually, he doesn't like the idea of doing comments separately, and would like to have a special meeting. Mr. Stevens is in agreement.

Mr. Watson added that the Board never really discussed the Form Based Code Guidelines.

Mr. Corrado said that the Board needs to make sure that a new Master Plan is approved by the end of the year.

Mr. Teefy advised that he sees no choice but to have a special meeting on November 8, 2012. Mr. Previti believes the schedule is trying to meet the goal of adoption by the end of the year. Mr. Corrado said that he agrees with Mr. Teefy that it would be best to have a special meeting, review Master Plan the and get any comments to Maser for advertising and hearing on December 6, 2012.

Mr. Teefy made a motion for a special meeting on November 8, 2012 at 7:00 p.m. to review draft Master Plan and generate comments to Maser. The motion was seconded by Ms. Morgan and by voice vote, all members present were in favor of same.

Mr. Teefy said that he will make sure Jacky will have copies available and e-mail to all on November 2, 2012.

Mr. Corrado said that a notice of hearing has to be published 10 days prior to the hearing. He will take care of notices to newspaper. Notices will also have to be supplied to municipalities, and he will ask Eileen to handle.

Mr. Stevens advised that he has an obligation on November 15, 2012 that he must attend; and is asking that Mr. Watson to chair that meeting.

Mr. Corrado confirmed the schedule with a special meeting on November 8, 2012; the regular meeting on November 5, 2012 to hear applications; and a public hearing will be held on December 6, 2012. Mr. Teefy said he will make sure that this schedule is put on the Township's web site.

Mr. Corrado further advised that the November 8, 2012 meeting will not have any public input; public input will be on December 6, 2012.

A discussion of time line and dates followed. Mr. Corrado said that the draft Master Plan will be provided to the Planning Board on November 2, 2012; the Board will meet on November 8, 2012 to formulate comments to Maser on November 9, 2012; Maser will have ready for November 15 2012; public hearing will be on December 6, 2012 with public comment and possible adoption or adoption following at meeting.

Resolutions:

PERRY, THOMAS E. - Block 121, Lots 18.04 and 19:

A motion to approve was made by Mr. Watson, seconded by Mr. Stevens and carried by those members voting on same.

GALIA, JOHN F. - Block 119, Lot 19.01:

A motion to approve was made by Mr. Watson, seconded by Mr. Stevens and carried by those members voting on same.

PINE HAVEN, LLC - Block 251, Lots 8, 9, 13, 14, 15, 16, 18, 22, 103, 105 and 106:

A motion to approve was made by Mr. Watson, seconded by Mr. Stevens and carried by those members voting on same.

Minutes:

A motion to approve the minutes of September 27, 2012 was made by Mr. Daniels, seconded by Mr. Turner and carried by all voting members.

Bills:

A motion was made by Mr. Teefy, seconded by Ms. Morgan and unanimously carried to pay all outstanding bills.

Mr. Stevens asked if there was any public comment.

Ed Kelly (Hagen Road) inquired about the time line and the origin of same. He said there was a brief discussion by the Township Committee; and he thought there were some discussions regarding septic permits and CAFRA permits.

Mr. Previti advised that Mr. Corrado will address Mr. Kelly.

Mr. Corrado advised that this Board is only talking about the adoption of the Master Plan, and has nothing to do with CAFRA permits. The Master Plan has to be done every 10 years under Statute or the Township's zoning becomes presumptively unreasonable. He continued by saying that the Master Plan needs a complete revision as it has been 10 years since the last one, plus there are State regulations that need to be considered.

Mr. Kelly said he feels the process is being dictated to by Maser. Mr. Previti

advised that Maser was waiting for a decision from the Township as to whether or not money was available and whether or not they were authorized to move forward. That decision was just made. If the Master Plan is not adopted by the end of the year, it is basically out the door and some one can come in and challenge the zoning.

Mr. Corrado said that this is not a Maser situation. Mr. Kelly said that all of the information he gets comes from Maser. Mr. Previti advised that they take the comments and put them in a document; the document goes back and forth for revisions; and the document out there today will be further revised after additional comments.

Mr. Kelly then asked if there have been reductions in Clermont. A discussion followed regarding what changes have been made in the Clermont area.

Mr. Kelly wanted to know if the November 2, 2012 document will be available for review by the public. Mr. Watson advised that it would not, that the Board will review it on November 2, 2012 and it won't be available to the public because it is a draft and not a final document yet. Mr. Corrado added that it is not a public document until the Board deems it is what they agree with.

Mr. Kelly confirmed with the Board that there will be a possible adoption on December 6, 2012 and, if not then it will be December 20, 2012. He then thanked he Board for listening to him and feels that Board is trying to do the right thing.

There being no further business to come before the Board, a motion to adjourn was made, seconded and unanimously carried to adjourn meeting.

Meeting adjourned at 9:58 p.m.

Carla A. Coffey

Carla A. Coffey, Secretary
Dennis Township Planning Board

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